

1 THE OFFICE OF THE LEE COUNTY

2 HEARING EXAMINER

3 CASE NO.: DCI2020-00010

4 IN RE: LEE COUNTY HOMES ASSOCIATES, I, LLLP,
5 (BUCKINGHAM 345 RPD)6 _____/
7 PROCEEDINGS: PUBLIC HEARING8 BEFORE: AMANDA RIVERA
9 Hearing Examiner

10 DATE: February 11, 2021

11 TIME: 9:00 a.m. to 10:49 a.m.

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P R O C E E D I N G S

HEARING EXAMINER RIVERA: Good morning. My name is Amanda Rivera. I'm the Hearing Examiner for today's hearing. Today is February 11, 2021, and this is case DCI2020-00010. It is an amendment to the Buckingham 345 RPD.

Because this is a quasi-judicial hearing, all evidence and testimony must be taken under oath. So if you intend to speak today, if you could please raise your hand.

(Witnesses sworn en masse.)

HEARING EXAMINER RIVERA: Thank you.

Do we have any members of the public here this morning?

MEMBER OF THE PUBLIC: (Raises hand.)

HEARING EXAMINER RIVERA: Thank you, sir. Would you like for me to go through the procedure of how things will proceed this morning?

MEMBER OF THE PUBLIC: If you could, please.

HEARING EXAMINER RIVERA: Certainly.

First we're going to hear from the Applicant. They will provide their case in chief and present any witnesses that they may have to support the request that they have before us.

After that, we will hear from the Staff. They

1 will go over their Staff report and their
2 recommendation in this case, and they are recommending
3 approval with the exception of one deviation, to my
4 knowledge. We'll hear about that as they go forward.

5 After that, it will be the public's opportunity to
6 speak. So at that time I will call you forward. There
7 is a form to fill out by the door. If you have an
8 opportunity to complete that and hand it to the staff
9 person, then I can call you by name. There is only one
10 opportunity to speak, so I would encourage you to take
11 notes as we go through things this morning so that you
12 can make the most of your time at the podium.

13 After the conclusion of that, we will go back to
14 the Staff and the Applicant for any closing comments
15 that they have and any rebuttal that they might want to
16 address.

17 We will take breaks as we go through this morning,
18 so we'll break about every two hours or so depending on
19 how much testimony we have; and we will break for
20 lunch, if that's necessary, and resume in the
21 afternoon.

22 So with that, we can begin with the Applicant.

23 MR. HARTSELL: Thank you, Madam Hearing Examiner.
24 My name is Steve Hartsell. I am with Pavese Law Firm.
25 And I am here on behalf of the Applicant and the owner

1 of the property, Lee County Homes Associates I, LLLP.
2 They're an affiliated entity of GL Homes, a company
3 that you might be more familiar with.

4 We're here today with regard to the RPD amendment
5 for the Buckingham 345 RPD. It was first approved in
6 2000, then it was later amended in 2005. This RPD
7 amendment is running concurrently with a comp plan
8 amendment and a text amendment that changes the
9 existing sub-outlying suburban land use on the property
10 to the outlying suburban land use category, permits,
11 basically, a slight increase from two units to three
12 units per acre.

13 We submit that the application demonstrates
14 compliance and consistency with the proposed outlying
15 suburban land use category, and it will show the
16 compatibility through a graduated increase in density
17 away from the adjacent Buckingham Rural Preserve.

18 With me today are the team members, as you can see
19 on the screen. Representing GL Homes and sitting in
20 the audience is Kevin Ratterree, the vice president,
21 and John Asher, our project manager, in the back. Also
22 on the project team: Tina Ekblad, planning director at
23 Morris-Depew; Heather Urwiller, principal planner with
24 Morris-Depew; Ted Treesh, president of TR
25 Transportation; Lauren Edinger of Passarella &

1 Associates, our ecologist; and Bill Morris, project
2 engineer, also with Morris-Depew.

3 As I said, our request is simply to amend the
4 existing RPD, which -- as you understand, but for the
5 benefit of the gentleman from the public -- it's
6 already been found consistent with the comprehensive
7 plan with regard to actually putting a planned
8 development in this location. So we're beginning with
9 what I'll call a little momentum from the existing
10 approval so the propriety of the development itself
11 really isn't at issue here. What we're really looking
12 to address are the changes from the additional 325
13 units that are being proposed.

14 At this time I am going to introduce Heather
15 Urwiller to orient you and provide some of the project
16 background and urban services analysis. Just to keep
17 things moving, when Heather is done, Laura Edinger will
18 be up to address the environmental issues, then Ted
19 Treesh will address transportation, and Tina Ekblad
20 will wrap it up with the Lee Plan analysis and discuss
21 the conditions that we've agreed with Staff.

22 One of the benefits here is that at this stage,
23 with the 48-hour letter, Staff has informed us that
24 they agree with the minor revisions that we've provided
25 in the 48-hour letter. Tina Ekblad will be addressing

1 that and those exhibits, so I'll wait until she gets
2 there.

3 What I would like to do, perhaps, to speed things
4 along with regard to qualifying the expert witnesses, I
5 don't believe that the Staff has any objection to the
6 witnesses that we have proposed who will be testifying
7 as experts in their field. I provided them as experts
8 on the witness list. And so at this time I would
9 submit all of the professional consultants as experts
10 in the field with regard to the expertise that I
11 outlined on the witness list.

12 HEARING EXAMINER RIVERA: Thank you.

13 Did Staff have any objections --

14 MR. BADAMTCHIAN: No.

15 HEARING EXAMINER RIVERA: -- or any questions?

16 I think the only person that I didn't have the
17 resumé on file for was Kevin Ratterree; is that
18 correct?

19 MR. HARTSELL: Yes.

20 HEARING EXAMINER RIVERA: So I'll go ahead --
21 we'll submit that as part of the record -- this is
22 already an exhibit -- into our records, but just so you
23 know we'll have that on file now for the HEX --

24 MR. HARTSELL: Excellent.

25 HEARING EXAMINER RIVERA: -- list of witnesses.

1 And do you have a copy of the PowerPoint that
2 you'll be submitting this morning?

3 MS. URWILLER: (Nods head.)

4 MR. HARTSELL: Yes, I do. Would you like --

5 HEARING EXAMINER RIVERA: Could I go ahead --

6 MR. HARTSELL: -- that now?

7 HEARING EXAMINER RIVERA: -- and get that, please?
8 Thank you.

9 MR. HARTSELL: Heather will provide that to you
10 right now.

11 HEARING EXAMINER RIVERA: That will be Applicant's
12 Exhibit 1. Thank you.

13 (Applicant's Exhibit 1 submitted.)

14 MR. HARTSELL: So if we have qualified all of them
15 as experts --

16 HEARING EXAMINER RIVERA: Yes.

17 MR. HARTSELL: -- then I won't do that six more
18 times.

19 HEARING EXAMINER RIVERA: Thank you. I appreciate
20 that for efficiency.

21 MR. HARTSELL: At this time I will turn it over to
22 Heather.

23 HEARING EXAMINER RIVERA: Good morning.

24 MS. URWILLER: Good morning. My name is Heather
25 Urwiller. I am a principal planner with Morris and

1 Depew. I have been previously qualified as an expert,
2 and I'm here just to provide a general background on
3 the property.

4 MR. BADAMTCHIAN: Sorry, ma'am.

5 MS. URWILLER: Okay. There we go. Okay.

6 Okay. This application, this is located about a
7 mile and a quarter south of the Palm Beach Boulevard
8 intersection with Buckingham Road. We're in the
9 Caloosahatchee Shores Planning Community, and this is
10 the subject property here.

11 You'll recognize the property above here as
12 Portico, and this southern boundary here is just the
13 boundary line between the Caloosahatchee Shores
14 Planning Community and the Buckingham Planned
15 Community.

16 This is an existing residential planned
17 development. It was -- it's been -- it's been zoned
18 planned development since 2000, and at this time there
19 are 690 units that are currently approved for the
20 property shown here in red. It's approximately 344
21 acres.

22 Again, this is a -- you have to have a concurrent
23 and complementary set of comprehensive plan amendments.
24 There's a map amendment and a text amendment. And the
25 existing future land use category on that property was

1 sub-outlying suburban. It is being requested to go to
2 outlying suburban. This was transmitted by the Board
3 of County Commissioners on January 20th, 2021, and is
4 currently under review by the -- by the Department of
5 Economic Development.

6 Again, we're in the Caloosahatchee Shores
7 subdivision. This graphic is just provided to kind
8 of -- to orient you. This is the Portico project here,
9 River Hall on the other side of that. Down in this
10 corner is Lehigh Acres.

11 And this project essentially provides -- it's
12 located in an area of existing -- existing development
13 within Caloosahatchee Shores. It has -- it's
14 consistent with the adjacent residential developments,
15 which are all clustered developments. It's
16 providing -- it's maintaining consistency with the
17 existing surrounding development pattern.

18 Urban services. The urban services that are
19 listed here for reference for the locations that are
20 serving the site, essentially the urban services are
21 sufficient to provide all of the public facilities
22 necessary to sustain the development. For -- excuse
23 me. We're -- along with this particular PD, we've also
24 submitted the letters of availability that were
25 actually provided as part of the comprehensive planning

1 amendment application, which are part of the package,
2 which confirms that these facilities are -- are
3 available to serve the site.

4 This is the LDC zoning criteria. We'll be
5 providing these throughout the presentation. This is
6 just -- we -- our opinion here is that based on the
7 criteria of the code, Madam Hearing Examiner, you have
8 the -- you have finding here to meet the requirement
9 for urban services that are available to this facility
10 or to this property.

11 And I'm just going to kind of go briefly through
12 the components of our comp -- residential planned
13 development request here. Essentially, again, this is
14 an existing planned development that will be utilizing
15 the requested outlying suburban future land use, and we
16 will be looking to add, as a result of that future land
17 use, an additional 325 units to the property. That is
18 not the maximum density that we can -- we can actually
19 put on this property based on that outlying suburban
20 future land use. That's 1,035 units. We're only
21 asking for 1,015 units here. So we're not actually
22 asking for the maximum density that we can given the
23 concurrent planned develop -- concurrent comprehensive
24 plan amendment, but the density here will be 2.9
25 dwelling units per acre, which is consistent with the

1 Portico site to the north, and the other residential
2 planned developments either are higher density or in
3 very close proximity to that 2- to 3-unit per acre
4 density.

5 Essentially what we're doing with this master
6 concept plan is we're clarifying the locations of the
7 various uses. We have, basically, classified three
8 different development tract areas, which we'll go into
9 a little bit more -- just a little bit more -- into a
10 little bit more detail a little bit later. We're
11 amending the location for the amenity area, and we're
12 also redesigning the transportation network from what
13 was previously approved. And one of the -- one of
14 those issues will be discussed later, which had to deal
15 with the access.

16 Essentially what's -- what's spurring this is the
17 conditions in the area for the surrounding uses has
18 somewhat changed. As a result of that, we're looking
19 to update the existing planned development, provide
20 internally additional units; however, the boundary of
21 the property has not changed. It still remains the 344
22 acres that it was previously approved for in 2005.

23 And essentially what we're looking to do here is
24 really just reflect the changes that have happened in
25 the surrounding area and really create a consistent

1 project that will fit well within the existing projects
2 that are in the area.

3 Again, this is just to demonstrate the surrounding
4 uses, and this is based on the densities to kind of
5 show the -- to demonstrate the densities. Essentially,
6 the density in this area and this area is much higher.
7 These are suburban land uses that allow for much higher
8 densities. The Buckingham community to the -- to the
9 south is a different planning community -- it has a
10 little bit different pattern -- however, it's still
11 residential uses that are predominantly there. And
12 then the River Hall property here, and there's a couple
13 of small -- smaller PDs here actually have lower
14 densities. So essentially the north and west and the
15 south and east have the higher densities, where the
16 lower densities are found to the southwest and the
17 northeast.

18 And, again, this project demonstrates infill
19 development. It's in a suburban area. It's a
20 transitional area. There's existing services available
21 there. We're requesting the units in an existing
22 planned development, which will be -- remain inside
23 that existing boundary. We're trying to promote,
24 basically, the -- the best use -- or best and highest
25 use for the public facilities and infrastructure that

1 are there, and the availability of land, and provide
2 for the appropriate infill development.

3 And, again, based on our opinion, Madam Hearing
4 Examiner, you have the finding -- or you have the
5 ability to meet (sic) the findings here for the
6 property is, in fact, compatible with the existing and
7 planned uses in the surrounding area as the density is
8 consistent and is, in fact, an infill project.

9 And with that, I'd like to introduce our
10 ecologist, Lauren Edinger, to provide a little bit of
11 background on the natural resources of the site.

12 HEARING EXAMINER RIVERA: Do you actually have an
13 enlarged version of the revised master concept plan
14 that was submitted? I printed it on a larger size, but
15 it printed very blurry. Thank you.

16 MS. URWILLER: I think we've got one.

17 HEARING EXAMINER RIVERA: Okay. That will be
18 Applicant's Exhibit 2 then. Thank you so much.

19 (Applicant's Exhibit 2 submitted.)

20 MS. URWILLER: You bet.

21 HEARING EXAMINER RIVERA: Good morning.

22 MS. EDINGER: Good morning, Madam Hearing
23 Examiner. My name is Lauren Edinger. I'm a senior
24 ecologist with the ecological consulting firm
25 Passarella & Associates.

1 So today I'm just going to kind of go over the
2 natural resources within the subject site. So to start
3 with, the existing site conditions, what you see here
4 is a FLUCFCS map. We'll go into a little more detail
5 in the following slides. But the primary features, in
6 lay terms, of this site is that it's an active
7 agricultural operation. Right now it's used for hay
8 production. There's some agricultural support
9 infrastructure designated as rural land over here,
10 which just consists of some barns and structures and an
11 unpaved gravel road here entering the site.

12 There's also some disturbed upland and wetland
13 habitat down here in the southwest corner, and a small
14 area down here along the southern boundary, but, in
15 general, about 95 percent of the site is considered
16 nonindigenous according to the Land Development Code
17 definition of indigenous habitat. It's surrounded by
18 development, as Heather outlined a little earlier, so I
19 won't go into too much detail on that; but the site
20 wetlands have altered hydrology due to that surrounding
21 development and existing agricultural uses on the site,
22 and it's pretty heavily infested by exotic vegetation
23 in some areas.

24 So according to the Florida Land Use, Cover and
25 Forms -- also known as FLUCFCS -- map, the site totals

1 about 345 acres. 333 acres, or 97 percent of the
2 project site, consists of uplands; about 11 acres
3 consists of wetlands, which is about three percent of
4 the total project site; and then there's about one acre
5 of other surface waters or ditches, which are less than
6 one percent.

7 We did receive a South Florida Water Management
8 District wetland jurisdictional determination in
9 September, so the South Florida Water Management
10 District went ahead and signed off on this wetland
11 delineation.

12 To break it down in a little more detail by
13 uplands, OSWs, and wetland habitats, again, the uplands
14 are about 333 acres. They're primarily man-made or
15 man-altered, used for hay production and support
16 facilities. There's also some disturbed land. There
17 is Brazilian pepper, which is just an exotic
18 monoculture primarily located down here. And there's
19 some hardwood/conifer mixed habitat generally located
20 in this area.

21 The OSWs, again, they consist mainly of ditches
22 which are throughout this area here. There's also some
23 along the western boundary here and up here.

24 MR. HARTSELL: Just for the record, OSWs?

25 MS. EDINGER: I'm sorry. "Other surface waters"

1 is just a term for open body of water.

2 MR. HARTSELL: Thank you.

3 MS. EDINGER: Thank you, Steve.

4 So the wetlands total about 11 acres. The wetland
5 habitat consists of cypress, pine, cabbage palm, mixed
6 habitats up here, and then there's some cypress heads
7 in the center here and here, and then there's a small
8 willow head down here. There's also some hydric
9 Brazilian pepper, which is just an exotic monoculture
10 of Brazilian pepper along the edges of the farm fields
11 here, which is typical when you have disturbance on the
12 edge of a wetland, and some hydric disturbed land here.

13 This is just a breakdown of the habitats that we
14 just discussed with regards to whether they're
15 indigenous or nonindigenous. There's about 17 and a
16 half acres, or 5 percent of the project site, which
17 consists of indigenous vegetation. About 9 and a half
18 acres are upland, and about 8 acres are wetlands.

19 The upland indigenous habitat is the mixed
20 hardwood/conifer, and it's denoted here in this
21 orangish brown color. The 8 acres of indigenous
22 wetlands are that cypress/pine/cabbage palm mixed
23 habitat, cypress, and willow. They're in green here,
24 down here at this southwest corner, and a tiny little
25 tenth of an acre of willow head down here along the

1 southern boundary. Conversely, about 95 percent of the
2 project site is nonindigenous, or 317 acres.

3 We did perform a protected species survey on the
4 project site. Lee County protected species, or their
5 sign which were observed, included two limpkin up here
6 actually near the agricultural structures, and we did
7 not directly observe a Florida black bear, but we did
8 document a scratched tree. We also observed cardinal
9 air plant and giant air plant, which are not designated
10 protected by Lee County; however, they are designated
11 by the State as endangered.

12 All the locations of the listed species down here,
13 with exception of the limpkin, are located within areas
14 that are proposed as indigenous preserve. And although
15 we're not preserving the rural support structures where
16 the limpkins were located, we are preserving cypress
17 habitat which will provide habitat for the limpkin in
18 the future.

19 With regard to natural resources and the master
20 concept plan, I would submit that we've concentrated
21 the development within these previously disturbed areas
22 and maintained the majority of the indigenous areas on
23 the site. We have minimized impact consistent with the
24 Lee Plan and as required by the state agencies, as
25 well, by preserving about 98 percent of the indigenous

1 wetlands over here.

2 The wetland impacts are limited to that roughly
3 tenth-of-an-acre willow head down here along the
4 southern boundary, which was isolated and low-quality
5 surrounded by hydric Brazilian pepper habitat. So
6 we -- also, we'll be providing mitigation to offset any
7 wetland impacts, whether they be indigenous or
8 nonindigenous, as required by the Water Management
9 District.

10 So it's my professional opinion that this project
11 would not adversely affect environmentally critical
12 areas, which is consistent with the finding in the
13 Staff report, as well.

14 And that concludes my presentation. I'll be here
15 if you have any questions.

16 HEARING EXAMINER RIVERA: Thank you.

17 MS. EDINGER: Thank you.

18 MS. URWILLER: Okay. I just wanted to provide a
19 little bit of -- a little more detail on some of the
20 major components of the residential planned development
21 to really discuss some of the particulars of what's --
22 what's happening to make this site -- to kind of
23 elucidate a little bit more the compatibility of this
24 site and the development that we're proposing.

25 So essentially what's happening, as I said

1 previously, we broke this site into three different
2 development areas. The first being the R-3 tract right
3 along the southern boundary here with the Buckingham
4 community -- again, this is the Caloosahatchee Shores
5 boundary. This is the Buckingham community below.
6 This area that is shown here in pink, that area right
7 there is the R-3 development tracts. Those are the
8 larger lots that we've proposed.

9 Again, right above that is then the R-1 tracts in
10 this yellow color, and they're predominantly kind of in
11 the middle of the layer cake. If you think about this
12 as a layer cake, right at the bottom of the layer cake,
13 starting from the southern boundary, is that larger R-3
14 lot size. Then we get into a little bit -- a little
15 bit smaller lot size with this middle area in the -- in
16 the R-1 area. And then, finally, in the northern
17 portion of the property is the R-2 tract, which has the
18 smallest of all of the lot sizes, which is consistent
19 with the surrounding land use here, which is Portico.
20 Portico kind of intrudes into the site. It has a
21 similar development pattern as what's being proposed
22 with these lots in the orange color here.

23 The other tract that we have here, again, is we've
24 relocated the amenity tract. That's what this little
25 green tract here is. That essentially has been more

1 centrally located to all of the different development
2 tracts so everybody will have a better ability to
3 utilize that site. Additionally, that plat being
4 located right adjacent to the preserve area provides
5 additional buffering for that preserve area from
6 incoming traffic and some of the -- and some of the
7 larger -- some of the smaller lots.

8 We've also maintained the existing school site
9 that was reserved in the original zoning approval in
10 2005. That reservation remains, and that is located
11 right here. That's a 13-acre reservation site. And,
12 again, this is the preserve area here.

13 HEARING EXAMINER RIVERA: Not to interrupt you.
14 That reservation site, what is the legal status of
15 that? It wasn't clear. And I went back to the 2005
16 Hearing Examiner discussion, and I couldn't delve much
17 more out of it. I know the condition was carried
18 forward pretty much as it was previously written, but
19 is there some commitment that's been made to the School
20 District?

21 MR. HARTSELL: Only -- Steve Hartsell for the
22 record -- only that the site has been reserved, but
23 it's not dedicated to the School Board, or there's
24 no -- it's just there for them if they are interested
25 in purchasing it.

1 HEARING EXAMINER RIVERA: So is there some
2 triggering mechanism to know at what point you will
3 know, as the developer, whether it's going to go to the
4 School Board or whether you'll be putting residential
5 units on it?

6 MR. HARTSELL: I think the answer to that is when
7 they tell us they are either going to purchase it or
8 not. I'll let Tina elaborate.

9 HEARING EXAMINER RIVERA: Good morning.

10 MS. EKBLAD: Good morning. Tina Ekblad, for the
11 record.

12 I did speak to a representative of the School
13 District earlier this week. In terms of the immediate
14 future, they have two other sites that they currently
15 own and are prioritizing for construction of elementary
16 schools. In order for this site to come online and be
17 purchased, it would have to be put into the work plan,
18 which is updated so many years very similar to the way
19 we handle transportation. So that would be the
20 triggering mechanism for the School District to begin
21 working with the property owner.

22 HEARING EXAMINER RIVERA: Okay. Because the
23 build-out like for traffic purposes was 2028. So is
24 there some time between now and 2028 that the School
25 District would make that determination so that you

1 know, as a developer -- my concern was the way that
2 it's written -- and, again, I understand it was carried
3 forward, but the way that that condition is written
4 removes the 13.2 acres, if it is given to the School
5 District, but the density doesn't change, which
6 actually puts you over -- it's like 3.06 or 3.07 units
7 per acre. So if that -- if that site actually is
8 conveyed out to the School District, I think there's a
9 density concern that I have for the remainder of the
10 site.

11 So I could see it being written in the
12 alternative, that if it's given to the School District,
13 that it would be removed, and that can be done
14 administratively certainly. But to use it for the
15 calculation, and then just say it might be developed or
16 it might not seems a little unclear.

17 MR. HARTSELL: Let me address that because
18 essentially it's -- I mean, it's still part of the
19 development, and the development shouldn't be penalized
20 for providing for, you know, other public uses. I
21 mean, if we were dedicating right-of-way, we don't get
22 dinged for not being able to have the density. In much
23 the same way here, even though it's possible that it
24 could get sold to the School Board, the developer
25 should still -- the owner of the property should still

1 be able to use the density from that.

2 HEARING EXAMINER RIVERA: Well, is it going to be
3 platted? Like when you do your platting, I assume that
4 would be maybe the last phase that you would do. So it
5 will just be reserved for a future school site until
6 the last phase, and then at which point you'll decide
7 you're either going to put residential units or you're
8 not.

9 So I guess the question is -- I'm sure you can
10 appreciate where I'm coming from. If you subtract 13
11 acres out of your overall acreage, you are, in effect,
12 clustering the density over the course of the other 330
13 acres. And so I'm trying to get to the point where I
14 understand if there's a way to write the conditions
15 that there's some assurance that that's not going to
16 happen and that it doesn't get reserved otherwise.
17 Because the way it's written -- you can't put units on
18 that piece to exceed your 1,015 --

19 MR. HARTSELL: Yes.

20 HEARING EXAMINER RIVERA: -- the way that it's
21 currently written. So if it's the last phase, and
22 you've waited until the very last possible moment to
23 put your units on it, you still can't exceed the 1,015.

24 MS. EKBLAD: Correct.

25 MR. HARTSELL: Yes.

1 HEARING EXAMINER RIVERA: Right. So -- but at
2 some point you, as the developer, are going to have to
3 make the decision whether you're going to use that site
4 or not; and if it's not going to be used for it, what
5 is going to go there? Is it just going to remain a
6 platted open lot to be used for the School District?
7 We don't have to get into it now. I don't want to
8 disrupt --

9 MR. HARTSELL: Yeah. If we could -- could look at
10 that, but I understand your question with regard to
11 what about the future uses. We have agreed that 1,015
12 is the maximum number of units available for the entire
13 site. So that's where I just wanted it to be clear
14 that even if it's used for a school site and
15 subsequently conveyed, we're still limited to the
16 1,015, which is less than the 3 units per acre for our
17 total site.

18 HEARING EXAMINER RIVERA: Certainly. And I'll
19 address it with Staff, too. We don't have to have a
20 full conversation now. But since it was mentioned, I
21 wanted to ask it because it was a curiosity that I had,
22 and I could not locate anything in the prior record
23 that got into too much more about it. But it does seem
24 to me if you're conveying out 13 acres, then now
25 you're -- you're reducing the acreage of your RPD, by

1 virtue of this condition, to 330, and now you've got
2 1,015 units on 330 acres instead of 1,015 units on 345
3 acres. So that's where my concern is coming from. Are
4 you following or not --

5 MS. EKBLAD: I am.

6 HEARING EXAMINER RIVERA: Okay.

7 MS. EKBLAD: From a planning perspective, I am.
8 What I'd like to say is your question is twofold, in my
9 opinion: One is a timing issue, and the other is the
10 density issue?

11 HEARING EXAMINER RIVERA: Correct.

12 MS. EKBLAD: So if we could, I can try to address
13 some of it during my presentation, but I'd like to take
14 a break so I can pull Kevin in from the timing
15 perspective, as well.

16 HEARING EXAMINER RIVERA: Certainly, yes, and we
17 don't have to get to it now because it's something I
18 wanted to ask Staff about, as well. I recognize this
19 was a prior condition that was approved and carried
20 forward, which was my curiosity; but, again, it's
21 something I wanted to mention because we were talking
22 about the school site now. So definitely we can --

23 MS. EKBLAD: Yes.

24 HEARING EXAMINER RIVERA: -- get more
25 clarification.

1 MS. EKBLAD: Okay.

2 HEARING EXAMINER RIVERA: Thank you.

3 MS. URWILLER: With that, I'm going to kind of go
4 through the lots, and we'll just kind of discuss this
5 later case that we've been -- we've been talking about
6 as far as the -- the development for the residential
7 tracts.

8 So, again, the area that -- it's hard to see here,
9 but the area that we are talking about in this R-3
10 tract is this location here in the pink. This is the
11 lot typical shown there. Now, this lot typical is kind
12 of upside down from the way it will actually appear
13 here on the actual land. This is the area here where
14 you're adjacent to the Buckingham community up here,
15 and then this would be the internal roadway down here.
16 So, again, Buckingham is down here so just imagine this
17 upside down.

18 And the reason why we're discussing it upside down
19 is because one of the things that we're trying to
20 accomplish here is to provide a physical separation
21 between our development and that additional Buckingham
22 community down here for compatibility. And so we are
23 proposing a lot size that is an 80 by 70, which is a
24 13,600 square feet lot, which is a really good size
25 lot, and we are additionally also providing a 45-foot

1 setback between the future building and below -- and
2 the actual property line with Buckingham. Actually,
3 this isn't even the property line with Buckingham.
4 That's the outer property line. There will actually be
5 a buffer, as well, provided. So you'll -- you can see
6 that here in the green. That is the buffer that runs
7 the entire length, and we'll talk about that a little
8 bit more as we move through the section. But
9 essentially there's that buffer area that will be
10 provided, then there will be the 45-foot setback, then
11 there will be the line that kind of runs with the lots
12 that will be this rear -- this rear -- this rear line.
13 So that 45-foot separation provides that initial
14 physical separation between the Buckingham community
15 and basically where our lots will start.

16 And the density of just this particular area is
17 about 2.2 dwelling units per acre, which is a little
18 bit more consistent with actually the suburban -- the
19 existing sub-outlying suburban future land use;
20 however, across the site the density is -- you know,
21 it's the gross density that we do across the site, so
22 just this area is a little bit -- it's at the 2.2
23 dwelling acres (sic).

24 Okay. Getting into the next layer, this is the
25 R-1 shown again in the yellow here. That R-1 size is

1 quite a bit -- it's quite a bit smaller. It's a 50 by
2 130. That's a 7,500-square-foot lot, and the density
3 there is 2.5 dwelling units per acre. This will
4 have -- this won't have that exact 45-foot separation.
5 It's more of a -- more consistent with what you see in
6 Portico, the lot sizing in Portico, that essentially it
7 will have a 10-foot setback. That's what you're going
8 to see here in that yellow area.

9 THE REPORTER: Excuse me. Could you slow down a
10 little bit? With the mask it's sometimes hard --

11 MS. URWILLER: Sure.

12 THE REPORTER: -- to hear.

13 MS. URWILLER: I'm sorry. I forgot this was even
14 on.

15 THE REPORTER: Sometimes I'm not catching
16 everything.

17 MS. URWILLER: Okay. Going the wrong way.

18 Okay. The last lot size, again, this was the R-2
19 lot areas shown here in the orange here. This is the
20 smaller lot -- the smallest of all of the lot sizes,
21 and it's a 45 by 100-foot lot size, so that's a
22 5,500-square-foot lot. And the density for this area
23 here is 3.6 dwelling units per acre. And just to kind
24 of put a caveat here, this excludes -- the densities
25 all exclude that school site. We are not factoring the

1 school site for these area densities that we're working
2 on. We're assuming that that has kind of been
3 reserved, and there's not going to be residential
4 development on it; however, the condition, as we've
5 discussed, does provide for lots to go there should the
6 school site not -- should the school not take -- take
7 us up on the offer for that site.

8 Okay. And so here's just a really quick overview
9 of the open space. Lauren did a great job kind of
10 going over what's happening in the preserve areas. So
11 this is the preserve area, and this is the recreational
12 amenity. There are some other areas as far as buffers
13 and things adjacent to other areas of the community
14 that are factored into this 40 percent open space, but
15 we are consistent with the requirement of the Land
16 Development Code to provide that 40 foot -- or that 40
17 percent open space. Our preserve is actually being
18 maintained from the existing -- it's slightly
19 different -- and there was a jurisdictional
20 determination done, too, for the limits of the
21 wetlands. So at this point that is the open space
22 areas predominantly in this area.

23 HEARING EXAMINER RIVERA: On the recreational
24 amenity tract, the commercial uses that are
25 contemplated for there, is that more of like paseo

1 concept where there's going to -- the idea would be
2 that there'd be like a common marketplace? Because
3 there's restaurants, there's consumption on premises,
4 there's a number of commercial uses that are --

5 MS. URWILLER: Agreed. We're trying to get that
6 concept to -- to provide a little bit of flexibility so
7 that when they actually go in and build out this area,
8 they can do something similar to that, provide those
9 more convenient-type uses instead of just the typical
10 clubhouse amenity, to provide, you know, things that
11 are just -- just unique to this subdivision, you know,
12 that just the residents of the subdivision would be
13 utilizing those facilities.

14 HEARING EXAMINER RIVERA: How is that policed? Is
15 there a gate entry that's --

16 MS. URWILLER: Yeah, this is gated -- this is a
17 gated entry. There will be a gated entry here. That's
18 what this little bubble area is here. That's -- the
19 gate will be in this area for the primary access. And
20 the secondary access, as they'll discuss later, also
21 has a gate. So those -- both those entrances will be
22 gated.

23 HEARING EXAMINER RIVERA: Okay. Thank you.

24 MS. URWILLER: Okay. So just to kind of go
25 quickly through the buffering that's being provided

1 here, this is the Buckingham roadway, and this shows
2 the two access points. Again, this is -- the gate will
3 be down here. The gate's a little bit -- a little bit
4 closer up here, but essentially this is the area right
5 here where the buffer will run. And this particular
6 buffer is an enhanced buffer, and essentially it's
7 enhanced for two reasons: One, it's wider than what's
8 required; and, two, the plantings are a little bit --
9 are more enhanced than what's required. What we're --
10 what we're proposing here -- and this was actually
11 carried over from the previous approval, as well, is
12 we're proposing that 25-foot Type D buffer with 10 oak
13 trees per 100 linear feet, and there will be a berm and
14 wall combination. So I kind of want to draw attention,
15 because this is a common theme throughout all the
16 buffering that's happening throughout the -- the
17 project is we're providing that berm area and then the
18 fence on top of the berm area. So ultimately this
19 whole combination ends up being 8 feet -- a minimum of
20 8 feet. And that berm -- this may be a wall, or it may
21 be a fence. So we're reserving the right to request
22 fences, although there are areas of the subdivision
23 that are required to have walls, and we'll get into
24 that.

25 And this is really just to, again, provide that

1 additional atmosphere for the Buckingham community,
2 because the idea along Buckingham Road is that you're
3 in a rural community. We want to preserve that as much
4 as possible so we are doing that here with those. And,
5 again, the entryways have been pushed back slightly,
6 you know, making the attempt to try to provide that
7 real appearance of a rural environment still along
8 Buckingham. And this is -- all of this is consistent
9 with Condition 9B.

10 Okay. This is the southern buffer, and this is --
11 this, again, is -- I alluded to this when we were
12 talking about this R-3 area here. This R-3 area,
13 again, is that area that's adjacent to the Buckingham
14 community, and this buffer here, what was originally
15 approved was a 25-foot buffer. We have actually
16 increased that by 5 feet. There's now a 30-foot buffer
17 here. This 30-foot buffer, along with the 45-foot
18 setback that we're requesting for that R-3 category,
19 provides a 75-foot separation before you even get to
20 the lots within the R-3 area. So that's really what's
21 happening here.

22 And, again, this is an enhanced buffer.
23 We've increased it to 30 feet. There's 10 oaks
24 provided per 100 linear feet, and then unbroken hedge
25 with shrubs. And, again, it's got that same similar

1 berm and wall feel. So you're going to have the wall
2 or fence on top of that berm with a max height of -- a
3 minimum eight of 8 feet from the bottom of the berm to
4 the top of the wall or fence.

5 MR. HARTSELL: I'm sorry. Can -- Steve Hartsell
6 for the record.

7 Can I get you to go back to that? And I
8 apologize, I might have missed it. Did you point out
9 the distance between the property line and the building
10 would be a --

11 MS. URWILLER: Yes. The property line -- with
12 the -- with the 30-foot buffer here --

13 MR. HARTSELL: Right.

14 MS. URWILLER: -- this is a 30-foot buffer, and
15 with the additional 45-foot buffer, that will be -- or,
16 sorry, the 45-foot separation that will be provided as
17 that rear setback within the R-3 category, that total
18 physical separation between the Buckingham community
19 and the start of the actual building envelopes for
20 the -- for the housing in the R-3 tract will be 75
21 feet.

22 MR. HARTSELL: Okay. Thank you. I just wanted to
23 make sure that was clear.

24 MS. URWILLER: We talked about the last one. All
25 right. I think we're on -- okay.

1 So now we're talking about the northern part of
2 the site. Again, this is that R-2 tract in the north
3 part of the site, and there is a buffer provided
4 adjacent to the northern boundary along the boundary
5 line here. It's a type -- it's a 15 Type B (sic)
6 buffer, and it's adjacent to the school -- to an
7 existing Buckingham exceptional school here, as well as
8 there is a shared facility with the school buses in
9 that area -- so this is a bus yard back here -- and
10 we're providing that buffer between our community and
11 that site to, again, provide for some consistency.

12 And then the final buffer that we're providing is
13 this enhanced 20-foot Type C buffer, and that's being
14 provided along this area with Portico because of this
15 primary road. Where this primary road is coming, this
16 is closer than 100 -- 125 feet to the Portico
17 community, to a residentially committed property. So
18 as a result, we are providing that buffering there at
19 the -- at the 20-foot Type C buffer. And with that, we
20 are going to provide a berm, but in this case it will
21 have a wall. We've confirmed that it's a wall that's
22 required by the Land Development Code so we're being
23 consistent with the Land Development Code in providing
24 that berm and wall here. There will be plantings on
25 both sides of that buffer, and that's what's provided

1 in the -- it's typical down here.

2 And with that, I'd like to introduce Ted Treesh to
3 talk about our transportation analysis. Thank you.

4 HEARING EXAMINER RIVERA: I'm going to take one
5 minute, Ted -- I'm sorry -- before you get up. I'm
6 going to grab my glasses.

7 MR. TREESH: Okay. No problem.

8 (Brief pause in proceedings)

9 (Applicant's Exhibit 3 submitted.)

10 HEARING EXAMINER RIVERA: All right. We're back
11 on the record. This will be Applicant's Exhibit 3, I
12 believe. It's a projection -- projected 2028 level of
13 service analysis. Thank you.

14 MR. TREESH: Ted Treesh with TR Transportation
15 Consultants. We conducted the transportation analysis
16 as part of this application.

17 Again, we looked at the impacts of the full
18 development on the project, but also specifically the
19 impact of adding the increased units from what is
20 currently approved, as was previously indicated.

21 We looked at 2028 -- and, again, we started this
22 analysis back in 2019. The traffic study was submitted
23 and dated April of 2020. So it has a little bit of
24 older data in the traffic analysis that was submitted,
25 and I want to submit some updated data as the County

1 produces new traffic data every year. So that's what
2 this slide is going to represent.

3 We did not specifically take into account the
4 Portico project. As indicated, that project borders
5 our site to the north. It's approved. It went through
6 a very similar process that we're going through in
7 terms of a comp plan amendment and a density request
8 increase which was approved, and that project now is
9 proceeding through development. I believe Lennar is
10 developing that project. But we did look at the
11 combined projects in the comp plan analysis, so it has
12 been looked at for the long-range transportation
13 planning impacts.

14 This -- this table that I have included is
15 basically an updated analysis that looks at the 2019
16 data, which is the most updated data we have from Lee
17 County for the roadways, and it projects the volumes
18 out to 2028. And what I have shown on the right-hand
19 columns are the level of service analysis based on the
20 approved 690 units, which is kind of in the -- I don't
21 even know what color you would call that. I should
22 probably pick yellows that I can describe.

23 MR. HARTSELL: Call it yellow.

24 MR. TREESH: I'll call it light green.

25 And then the light blue is the level of service

1 analysis with the increase from 690 -- but, again, I
2 did the zoning TIS based on 1,035 units because that's
3 what we were asking for initially, but that request has
4 been reduced to 1,015 units. So it would be slightly
5 less than the volumes I have shown on this analysis,
6 but overall the results are -- remain the same.

7 So you can see in the 690, there's a couple
8 roadways that are shown to operate at level of
9 service F. And, again, reminding the Hearing Examiner,
10 transportation concurrency is no longer a regulatory
11 measure in the County. This is more of an informative
12 analysis for the project for the County to determine
13 what roadways in the future are going to need to be
14 looked at in terms of capacity improvements to
15 accommodate the growth.

16 And that's exactly what's happened, as well, since
17 we have done our original study back in 2020. And the
18 County has been looking at this area, you know, for the
19 last five to -- five to eight years, going back to when
20 the original zonings of Portico and Buckingham 345 were
21 approved. They knew that this -- these projects were
22 coming.

23 So some things have happened since then. In
24 December of last year, the Lee County transportation
25 planning organization (sic), the MPO, adopted the new

1 updated 2045 long-range transportation plan. Again,
2 they update that periodically to look at what
3 improvements are going to be needed in the future to
4 accommodate growth.

5 And that -- that long-range plan now includes
6 improvements to all of these segments that are shown in
7 this table that are shown to operate at level of
8 service F. Specifically, on this slide Buckingham
9 Road -- and this graph I have shown to you was
10 presented to the Board of County Commissioners on
11 February 2nd at their workshop, that Buckingham Road is
12 now in a -- what they call the Tier Three project,
13 meaning that it's on the radar for the County. They
14 don't have funding allocated yet. But as time
15 progresses, Tier Two becomes projects that are
16 obviously more important, and then Tier One projects
17 are projects that are actually funded in their capital
18 improvement program. So they are beginning the process
19 of -- of looking at improvements to Buckingham Road
20 from State Road 80 down to Orange River Boulevard -- or
21 Orange River Road. That improvement includes widening
22 the road from two to four lanes, and that will address
23 the level of service issue on Buckingham Road.

24 HEARING EXAMINER RIVERA: And by "address," that
25 will resolve it? It will --

1 MR. TREESH: Yes.

2 HEARING EXAMINER RIVERA: -- reduce it below F?

3 MR. TREESH: Yes.

4 HEARING EXAMINER RIVERA: Do you know what level
5 it would be at?

6 MR. TREESH: I believe the last time I looked it
7 was a C. I believe I looked at -- in the comp plan I
8 looked at that. I believe it was a C. The four-lane
9 operated at a C.

10 HEARING EXAMINER RIVERA: Thank you.

11 MR. TREESH: The State also has -- and the MPO
12 also has the widening of State Road 80 from Buckingham
13 Road to State Road 31. That's currently a four-lane
14 road -- well, actually it's a five-lane road. The
15 center lane isn't paved, a directional turn lane. They
16 have that segment, as well, in the long-range plan to
17 widen from four to six lanes. So those two
18 improvements in the long-range plan will help address
19 some transportation issues that everyone knows has been
20 coming based on the growth in this area of Lee County.

21 Okay. What did I just do? I hit the wrong
22 button. Did I turn it off?

23 MR. BADAMTCHIAN: Yes.

24 MR. TREESH: There we go. I was done. Let's wrap
25 it up.

1 Again, site-related improvements will be looked at
2 at the time of development order. That includes turn
3 lanes at our site access drive intersections pursuant
4 to the Administrative Code requirements that the County
5 has.

6 We are continuing with the 20-foot-wide
7 reservation along the full length of the project along
8 Buckingham Road, and that will help, again, facilitate
9 the future widening of Buckingham Road by the County.

10 And as the impact fees that are currently adopted,
11 this project is estimated to pay about \$5.6 million in
12 impact road fees which, again, will go to help offset
13 and mitigate the impacts to Buckingham Road and the
14 roadways in the area. And, again, that's at the
15 current 55 percent impact fee reduction rate.
16 Obviously, that expires in March of '22 when the Board
17 looks at the impact fees again. So if they go back to
18 100 percent impact fees, you know, it could be over \$11
19 million for the entire project.

20 So this project is consistent with the plans --
21 the goals and objectives of the Lee Plan and the Land
22 Development Code, and I'd be more than happy to answer
23 any questions --

24 HEARING EXAMINER RIVERA: Do you happen to have --

25 MR. TREESH: -- and that concludes my comments.

1 HEARING EXAMINER RIVERA: -- a copy of the TIS? I
2 apologize. It wasn't included in my --

3 MR. TREESH: I saw that it wasn't. I have my
4 original.

5 HEARING EXAMINER RIVERA: Okay.

6 MR. TREESH: I can have one either -- you can have
7 this and have her copy it, or I can have one emailed.
8 I presume -- I don't know if we're going to keep the
9 record open.

10 HEARING EXAMINER RIVERA: I can leave the record
11 open for written submissions to obtain that. It's just
12 a matter of receiving it. I just don't have it in my
13 documents.

14 My only other question was the -- your statements
15 were that it was failing with and without the project
16 on the slide that you showed, but the infrastructure
17 planning memo seem to suggest that it was a result --
18 it would be failing as a result of the proposed
19 development. Do you --

20 MR. TREESH: Right. And that's --

21 HEARING EXAMINER RIVERA: -- know what that's
22 based on?

23 MR. TREESH: -- that's why I wanted to refer to
24 this page. Without any of the units, without any of
25 the 690, there are no level of service issues, and the

1 Staff is correct in that, but the 690 are already
2 approved.

3 HEARING EXAMINER RIVERA: Okay.

4 MR. TREESH: So this slide was meant to show that
5 with the entitlements that exist today -- and, again,
6 we didn't take into account Portico, as well. Portico
7 is even a larger project than this, and their only
8 access is to Buckingham Road.

9 So the roadway is going to fail with the -- with
10 the improved entitlements of both Portico and this
11 project. So is it caused by this project? I think
12 it's caused by the cumulative development of the
13 projects in the area that are accessing that roadway.

14 HEARING EXAMINER RIVERA: Thank you --

15 MR. HARTSELL: Just --

16 HEARING EXAMINER RIVERA: -- for that
17 clarification.

18 I think Steve had a question.

19 MR. HARTSELL: Well, yes. I just wanted to make
20 sure that the record was clear that the proposed
21 amendments to this project are not triggering the
22 failure of the road; is that correct?

23 MR. TREESH: That is correct.

24 MR. HARTSELL: Okay. So it fails with or without
25 our proposed amendments.

1 MR. TREESH: Correct.

2 MR. HARTSELL: And you've coordinated that with --
3 or you've confirmed that with Lili Wu --

4 MR. TREESH: Yeah, I mailed this to Staff
5 yesterday so they would have the updated -- which is
6 typical if time lapsed between the time we did our
7 study and new County data came out, we usually like to
8 update it with the most current information.

9 MR. HARTSELL: So, yes, we'll provide you with a
10 copy of that.

11 MR. TREESH: An emailed copy to your staff?

12 HEARING EXAMINER RIVERA: Yes, that would be fine.

13 MR. TREESH: All right.

14 HEARING EXAMINER RIVERA: Thank you.

15 MR. TREESH: Thank you.

16 MR. HARTSELL: Thank you.

17 Ted, I'm sorry, could you click through two more
18 slides?

19 MR. TREESH: Two more slides?

20 MR. HARTSELL: One more. Is it your professional
21 opinion, as an expert, that the expected impacts on
22 transportation facilities will be addressed by the
23 existing County regulations and conditions of approval,
24 and that this project meets all of the Land Development
25 Code and the Lee Plan requirements?

1 MR. TREESH: Yes, it is my opinion.

2 MR. HARTSELL: Thank you very much.

3 MR. TREESH: Thank you. I didn't know I had that
4 slide.

5 MR. HARTSELL: Thank you.

6 HEARING EXAMINER RIVERA: Good morning.

7 MS. EKBLAD: Good morning. For the record, Tina
8 Ekblad with Morris-Depew Associates.

9 You've heard a lot about what I would describe as
10 the more standard elements of the residential planned
11 development being requested today. I would like to
12 take a step back and kind of talk about some of the
13 revisions that have been made since the time the Staff
14 report was published and the 48-hour letter was
15 submitted.

16 As Attorney Hartsell mentioned, and I believe
17 Chahram can confirm, we did have some communication
18 back and forth, and Staff is in agreement with the
19 revisions to the master concept plan, which would
20 effectuate a revision to division 5 -- excuse me,
21 Deviation 5. So I'm going to just kind of generally
22 walk through that, as well as the cleanup we are
23 proposing to the conditions, and the Lee Plan
24 consistency.

25 So the first thing is revising the master concept

1 plan. There are kind of two points in terms of the
2 land plan that I want to point out. I think the first
3 you've heard about already, which is the secondary
4 access that's been added here. I'll get into the
5 details of why this occurred, but it also promoted the
6 R-1 tract here being extended. So there's more acreage
7 to the R-1 tract in this vicinity that is helping us to
8 also maintain our open space calculations to meet the
9 minimum requirements.

10 So before we get to why we made the changes we
11 made, I just want to put a reminder out that our
12 initial proposal was to maintain the single access
13 point that was approved in the current zoning
14 resolution. According to the condition that was
15 written, that primary -- single primary access point
16 could be maintained if emergency-only access was
17 provided, so in the original master concept plan we had
18 that located here. It was a stabilized access point,
19 so it was just grass, and that's one of the reasons why
20 it caused a change in open space.

21 The Staff report was published with a denial of
22 that deviation on the premise that there was plenty of
23 frontage. That may be true in terms of looking at the
24 entire project. There is 2,286 feet of frontage for
25 the entire project; however, approximately 859 feet of

1 that frontage is reserved for the school site. We
2 didn't feel comfortable reducing that or changing the
3 primary point of access. So when you maintain those
4 two pieces, you're left with 1,295 feet of linear
5 frontage to place those two access points. You'd need
6 a little over 13,000 (sic) to maintain the 660 feet
7 required by the Land Development Code.

8 MR. HARTSELL: You mean 1,300?

9 MS. EKBLAD: Yes.

10 MR. HARTSELL: Thank you.

11 MS. EKBLAD: Sorry. I'm like in the wrong place.

12 So we started looking at the internal
13 configuration of the master concept plan, again,
14 considering the existing frontage that was reserved for
15 the school, and also some of the other conditions and
16 the actual written text of the Land Development Code.
17 What we came up with was an extension of this -- it was
18 previously a T intersection -- to create a second
19 access here. That access has some conditions that are
20 proposed to it, which I will get into on the -- the
21 next slide, but what it does is it enables us to
22 maintain at least 500 feet of separation from this
23 existing access point associated with the development
24 to the north, and it also gives enough separation to
25 our primary access to the south.

1 So this was the best location we could provide in
2 between these two -- I'll call this an existing access
3 to our property and the existing constructed access to
4 the development to the north. That means Deviation 5
5 has become an access connection/separation deviation.
6 Instead of allowing 660 feet, we're asking for 503.

7 The design of the second access point is to allow
8 exiting of residents only but ingress and egress of
9 emergency access. Part of that is to be able to reduce
10 conflicts on Buckingham Road. You don't want residents
11 turning into this access point conflicting with our
12 proposed access point to the south. So this would be
13 egress only.

14 We've provided 110 feet of stacking for the
15 residents that would be exiting. That shouldn't
16 necessarily be necessary because they're exiting, but
17 we are providing that. The gate will be a minimum
18 of -- set back a minimum of 25 feet from where our
19 right-of-way designation occurs. One of the conditions
20 is that we provide right-of-way for Buckingham Road as
21 part of this zoning approval. That would allow an
22 ambulance to pull in and sit while using what's known
23 as a Knox box to allow the gate to open so that
24 emergency services could access the community.

25 Because this is a fairly specific design, we have

1 proposed additional language to Condition 13 whereby
2 the separation and the Knox box are required so that
3 when we do come in for the development order, Staff
4 that are reviewing those plans can make sure the
5 correct design is provided.

6 What this proposal would do is it would meet the
7 intent of the Land Development Code, which states that
8 subdivisions over five acres must provide ingress or
9 egress. It would also enhance the planned development
10 by providing that second access point for emergency
11 services and exiting residents.

12 So I believe, while this was done through the
13 48-hour letter, a finding can still be made that it
14 enhances the planned development and promotes public
15 health, safety, and welfare to approve the deviation.
16 It's also my opinion, Madam Hearing Examiner, that you
17 can make the finding that the access is appropriate for
18 the level of additional development that will be within
19 the community.

20 Before I move on from there, did you have any
21 questions about that revised access?

22 HEARING EXAMINER RIVERA: No.

23 MS. EKBLAD: Okay.

24 MR. HARTSELL: Just, Tina --

25 MS. EKBLAD: Yes.

1 MR. HARTSELL: -- Steve Hartsell -- just to
2 clarify so that we don't leave it off, or it's not
3 clear. This is egress only, and that's important with
4 regard to kind of the compromise of eliminating -- I'm
5 sorry, of adding another access, which doesn't require
6 ingress. It just requires either ingress or egress.
7 And from a security standpoint and from the design of
8 the community, we can add the egress but not an ingress
9 point.

10 So if there are questions, we'll be glad to
11 address those, but just wanted to make that clear on
12 the record, that it is egress only.

13 HEARING EXAMINER RIVERA: Thank you.

14 MS. EKBLAD: Okay.

15 MR. HARTSELL: Thank you.

16 MS. EKBLAD: So moving on from there, we did have
17 a few other revisions to the proposed conditions in the
18 Staff report. I consider these mostly to be cleanup
19 and consistency items.

20 So the first is the schedule of uses for the
21 different tracts. We put in the square footage for the
22 lot size just because otherwise you're relying on the
23 typicals in the master concept plan, and we wanted
24 everybody to be on the same page.

25 9.A.2 is part of the buffer condition -- one more

1 time.

2 MR. HARTSELL: I'm sorry. Steve Hartsell again.

3 Again, just for clarification with regard to this
4 particular slide, we've got a typo for the Residential
5 R-3, which is --

6 MS. EKBLAD: Oh, that was --

7 MR. HARTSELL: -- 13,600 square feet. That isn't
8 a second R-2. It's supposed to be a 3. Thank you.
9 Sorry.

10 MS. EKBLAD: I had my notes on the wrong slide, so
11 sorry about that.

12 So the items on the bottom of the slide are
13 related to the buffer deviation to -- excuse me, the
14 buffer conditions. In 9.A.2., Ms. Urwiller talked a
15 little bit about the minimum 8-foot berm wall
16 combination. On this particular cross section, we have
17 it noted that it could be a wall or a fence, so we are
18 proposing to add "or a fence" for clarity with the
19 cross section on the master concept plan.

20 And then again, as she mentioned, the buffer
21 that's adjacent to Portico actually is required to have
22 a wall by the Land Development Code because our
23 internal road is less than 125 feet. So we were
24 proposing to strike "or fence" in this location to
25 demonstrate consistency with the LDC.

1 The last item for cleanup is the Condition 15
2 related to the public school site. We are proposing to
3 add "school site reserved area" in all locations where
4 the school site is referenced because it is basically a
5 reserve. The School District has not chosen to
6 purchase it. We wanted it to be very clear that they
7 would need to purchase it, and it's simply on reserve.

8 We also wanted to add that R-3 lots could be put
9 in that location should the School District decide not
10 to purchase the property.

11 I do have your questions about the density on
12 note. I would still like to take a break and come back
13 and address those.

14 HEARING EXAMINER RIVERA: Certainly.

15 MS. EKBLAD: Okay. So moving on from there, just
16 to get into the Lee Plan consistency, as Ms. Urwiller
17 noted in the beginning of the presentation, we do have
18 a concurrent map amendment to outlying -- outlying
19 suburban future land use that is accompanied by a text
20 amendment to address population accommodation. The
21 requested amendment to the residential planned
22 development is consistent with the density provided by
23 outlying suburban, and I would like to note that it
24 does provide what I would describe as a transition
25 between the surrounding densities. So as we mentioned

1 earlier, in the northwest and southeast we have 6 units
2 to the acre, and on the northeast and southwest side we
3 have a range of 1 to 2 to 3. We're landing squarely in
4 the middle at just under 3 dwelling units to the acre
5 with this planned development. The testimony earlier
6 was that it was 2.9 dwelling units.

7 For the record, the comprehensive plan amendments
8 were submitted on March 4th of 2020, and they were
9 transmitted to the Department of Economic Opportunity
10 on January 20th. It is our expectation that this
11 planned development and the comp plan would go to the
12 Board for approval at the same time.

13 HEARING EXAMINER RIVERA: Was that January 20th of
14 this year or January --

15 MS. EKBLAD: Yeah, it should say 2021.

16 HEARING EXAMINER RIVERA: Okay. Thank you.

17 MS. EKBLAD: I haven't caught up with the new year
18 yet.

19 HEARING EXAMINER RIVERA: I know. I do that,
20 also.

21 MS. EKBLAD: So moving on generally through the
22 Comp Plan Goal 2 is -- of the Lee Plan is for growth
23 management to simply ensure that the development being
24 proposed in certain areas of the -- of the county is
25 meeting the availability of infrastructure. It is my

1 professional opinion that this residential planned
2 development amendment is consistent with Goal 2 and its
3 supporting objectives and policies. Because we did a
4 comprehensive plan amendment, we did receive letters of
5 availability from all of the urban service providers
6 demonstrating that either infrastructure was
7 constructed and available or could be expanded to have
8 capacity for this development. We did submit those as
9 part of the record for this planned development.

10 It is also my opinion that this project meets the
11 definition of infill as described by the Lee Plan. You
12 saw the graphic earlier in Ms. Urwiller's presentation
13 that we are squarely within a number of existing
14 planned developments with similar development patterns
15 in terms of roadway network and location of residential
16 lots. And also through the conditions that are
17 proposed to be carried forward and some of the new
18 enhancements, we are continuing to preserve and promote
19 rural character within the Caloosahatchee Shores
20 community and along that boundary with Buckingham,
21 which is a consistency item within the Lee Plan, as
22 well.

23 Moving on to Goal 4, which is the general
24 development standards related to public water and
25 sewer, the availability of reuse water for irrigation

1 and environmental resources. We did receive a letter
2 of availability from Lee County Utilities. There is
3 central water and sewer infrastructure available for
4 the 1,015 units that are proposed.

5 While reuse water is something that is evaluated
6 at the time of DO due to the capacity demand, we will
7 commit to be consistent with that.

8 And in terms of environmental, you have the
9 testimony of Ms. Edinger to rely on, but we also did go
10 through the process of getting a jurisdictional
11 determination from the Water Management District, and
12 we are preserving a majority of those wetlands on-site.
13 And most of the protected species on-site will occur
14 within that indigenous preserve area, as you heard
15 during Ms. Edinger's presentation.

16 Goal 5 in the Lee Plan outlines the standards
17 regarding residential development. It is my
18 professional opinion that we are consistent with this
19 goal. We are accommodating known population growth in
20 an existing approved residential subdivision. There
21 are no known physical constraints related to
22 development on this property, I would say, other than
23 the wetlands, which we've demonstrated that we are
24 preserving a majority of those.

25 There is a mass transit route along Buckingham

1 Road, and there is a commercial node at the
2 intersection of Palm Beach and Buckingham. We are in
3 proximity to that should people need to get out into
4 the greater county for employment, or if they happen to
5 work at that corner.

6 While we have revised the internal layout, we are
7 meeting all the requirements related to open space. We
8 have maintained and enhanced many of the buffering
9 conditions to promote compatibility. And as you saw
10 earlier in Ms. Urwiller's presentation, we did adjust
11 the location of the amenities to promote additional
12 recreation adjacent to the buffer. So it is my opinion
13 that we are consistent with Goal 5 with this planned
14 development amendment.

15 The subject property is within Caloosahatchee
16 Shores Planning Community. The general goal of that
17 planning community is to maintain and enhance rural
18 character, but also maintain and enhance residential
19 development where it is currently approved. It is my
20 opinion that we are consistent with that goal and
21 Objective 21.3. We are currently a residential planned
22 development. We're simply proposing an amendment to
23 allow additional units.

24 I do want to note Policy 21.1.2 suggests that any
25 deviations from landscaping, buffering, signage, or

1 architectural standards would require us to meet
2 variance criteria. For the record, we are not
3 requesting deviations from any of those elements so
4 there is not a consistency issue here.

5 We did host a public information session, as
6 required, on July 6th. That was to present the
7 comprehensive plan amendment and the planned
8 development to the community. There -- there were
9 people in attendance. They were mostly from Portico
10 wanting to understand what we were doing on the
11 property. There weren't any major issues. Most of the
12 conversation centered around buffers.

13 This project is a little bit unique in the sense
14 that because we border the Buckingham planning
15 community, there are some requirements in terms of
16 public meetings and site design. So, generally
17 speaking, the Buckingham planning community is similar
18 to Caloosahatchee Shores in that they are trying to
19 maintain their rural character and residential
20 development in place. The -- they have their own
21 future land use category known as Rural Community
22 Preserve, which is in the general location south of our
23 property, and the density is 1 unit to the acre.
24 Because of that, Buckingham prioritized cluster
25 development and seeks to reduce the intensity of

1 residential.

2 It also requires any project along Buckingham
3 Road, even if they are not within the Buckingham
4 planning community, to host a community meeting. We
5 did that on July 7th. There were a few folks in
6 attendance. There were some general questions about
7 drainage, but that would be something that we would
8 more appropriately address at the time of development
9 order and environmental resources permit.

10 There is one specific element that I do need to
11 address related to the Buckingham planning community as
12 it relates to our site plan, and that is Policy 20.1.6,
13 which seeks for communities adjacent to the boundary of
14 Buckingham, specifically the Rural Community Preserve,
15 to graduate their density. So you heard Ms. Urwiller
16 describe the R-3 residential tract and the larger lot
17 size, and kind of go through how the lot sizes reduce
18 the further we get from that southern property
19 boundary. That was the foundational argument to the
20 consistency with this policy.

21 So what we've done is a couple of things -- and,
22 again, the Rural Community Preserve exists along our
23 entire southern boundary. As a result of that, we have
24 an enhanced 30-foot buffer. That's that berm with a
25 wall or a fence and the increased plantings. We're

1 maintaining the plantings from the existing approval.
2 We're increasing the width of that buffer as part of
3 this project. So what we believe that will do is
4 provide a visual separation between Buckingham and our
5 project.

6 Once you get past the buffer, you reach the R-3
7 tract where we have that extended rear setback of 45
8 feet to the physical residential home that is expected
9 to be on the R-3 lots. When you take those two pieces
10 together, we have 75 feet of separation between the
11 Rural Community Preserve and a structure on our site.

12 The other factor in the R-3 lot typical is that
13 the lot coverage is only 55 percent because those lots
14 are so much larger. And we have colored this graphic
15 so that you can physically see where each of these
16 individual lot types are. So you have R-3 at 13,600
17 square feet -- do I have the comma in the right place?

18 MS. URWILLER: Uh-huh.

19 MS. EKBLAD: Okay. Then we have the R-1, which is
20 6,500, and then R-2 in kind of the darker orange at
21 4,500 square feet. So you can see we're reducing that
22 lot size the farther we get from the Buckingham
23 community to demonstrate consistency with Policy
24 20.1.6.

25 (Sotto voce between Ms. Ekblad and Mr. Hartsell)

1 MS. EKBLAD: Okay. So generally, moving on to
2 transportation, you heard Mr. Treesh's presentation
3 whereby, unfortunately, Buckingham Road fails with or
4 without the project, but we will be contributing to
5 roadway impact fees to address that situation.

6 Impact fees are one of the many programs that, per
7 the Lee Plan, Lee County is required to implement to
8 ensure the transportation network is meeting the demand
9 of development in the area. Some of the other measures
10 are -- and we talked about this in the Portico case, is
11 that growth increment financing. This property will go
12 from an agricultural exemption to residential. The
13 increase in property value (sic) can be, for lack of a
14 better term, skimmed off by the County for special
15 projects. Roadways are one of the projects that are
16 allocated for that.

17 MR. HARTSELL: I'm sorry. The taxes associated
18 with the increased property values --

19 MS. EKBLAD: Yes.

20 MR. HARTSELL: -- are what gets skimmed off.

21 MS. EKBLAD: I missed that very important word
22 sorry.

23 MR. HARTSELL: That's all right. Thank you. Just
24 wanted it to be clear.

25 MS. EKBLAD: Yes, the taxes that the County

1 collects will increase incrementally.

2 And then moving on to Policy 39.2.2, outlying
3 suburban is a future suburban area. It is expected
4 that transportation will most -- mostly occur through
5 vehicles, but that connective should also be provided
6 for transit and bicycle and pedestrians. I talked a
7 little bit already about the LeeTran route that runs
8 along Buckingham that we have access to. Buckingham
9 Road is also required to have sidewalks. At the time
10 of development order, we would expect to interconnect
11 into that existing system. And our roadway cross
12 sections also include sidewalks internally, so there
13 will be movement of residents through walking and
14 biking, as well.

15 So with that, that concludes my presentation on
16 Lee Plan consistency. It is my professional opinion
17 that the proposed amendment does comply with the Lee
18 Plan and meet the intent of the outlying suburban
19 category.

20 I would also suggest, Madam Hearing Examiner, that
21 you can make the findings required in 34-145 for a
22 rezoning in a planned development. We've tried to
23 touch on each one of these items as the testimony was
24 given. And while I only touched on Deviation 5, given
25 that Staff and the Applicant were in agreement on the

1 others, I do believe that they enhance the planned
2 development and will promote public health, safety, and
3 welfare.

4 So with that, just some final notes. We are
5 limiting our density to 1,015 dwelling units. There
6 are existing urban services to support the existing
7 approved units, as well as what we're proposing to add
8 through this amendment.

9 We are consistent with those surrounding planned
10 developments, and we are maintaining the rural
11 character in Caloosahatchee Shores, as well as
12 promoting compatibility with the Rural Community
13 Preserve.

14 The presentation today demonstrates that the
15 project is consistent with the requested future land
16 use amendment and the Lee Plan, and we are not
17 negatively impacting open space, wetlands, natural
18 resources, or surface and groundwater.

19 With that, that concludes my presentation. I'm
20 happy to take any questions. I don't know if you want
21 to take a break now, or if you want the County Staff to
22 present first.

23 HEARING EXAMINER RIVERA: Did you have any
24 questions, or does that complete Applicant's
25 presentation?

1 MR. HARTSELL: Yes. Steve Hartsell for the
2 record.

3 I only wanted to add a clarification. And I know
4 that Chahram is going to address it, as well.

5 On page 4 of 6 in the Staff report are proposed
6 findings and conclusions that provide a list of Lee
7 Plan policies with which the project is consistent.
8 And given that Tina has just addressed this, I would
9 also ask to clarify that that list should include
10 Policy 1.1.6, Policy 20.1.6, Policy 21.1.2, and Goal
11 21. Those are related to the slides that she just
12 finished up with on Buckingham and rural preserve and
13 the Caloosahatchee Shores. I think now is a good time
14 to put that --

15 HEARING EXAMINER RIVERA: Yes --

16 MR. HARTSELL: -- into the record.

17 HEARING EXAMINER RIVERA: -- thank you. I
18 appreciate that.

19 Does Staff have any questions of the --

20 MR. BADAMTCHIAN: That's fine.

21 HEARING EXAMINER RIVERA: -- Applicant?

22 MR. BADAMTCHIAN: I mean, what he say is like they
23 are in compliance with the Lee Plan requirement.
24 Specifically, he had mentioned some of them, but that's
25 fine if we are adding more.

1 HEARING EXAMINER RIVERA: Okay.

2 MR. BADAMTCHIAN: They are in compliance with
3 those policies.

4 HEARING EXAMINER RIVERA: Thank you.

5 MR. HARTSELL: Thank you.

6 HEARING EXAMINER RIVERA: I do want to take a
7 quick break now then. We'll just do a ten-minute break
8 until 10:30, and then we'll start with Staff.

9 (Recess from 10:21 a.m. to 10:34 a.m.)

10 (Applicant's Exhibit 4 submitted.)

11 HEARING EXAMINER RIVERA: All right. We are back
12 on the record, and we can begin with the Staff's
13 presentation.

14 MR. BADAMTCHIAN: Thank you. Can I do it from
15 here?

16 HEARING EXAMINER RIVERA: Yes.

17 MR. BADAMTCHIAN: Thank you.

18 Good morning. Chahram Badamtchian from Lee County
19 Zoning. My resume is on file. I was recognized as
20 expert in zoning issues in the past. I would like to
21 be recognized as such.

22 HEARING EXAMINER RIVERA: Yes, thank you.

23 No objection?

24 MR. HARTSELL: No objection.

25 HEARING EXAMINER RIVERA: Thank you.

1 MR. BADAMTCHIAN: Thank you.

2 The request is to amend an existing RPD zoning
3 because they are changing the future land use
4 designation from outlying suburban to suburban, from 2
5 dwelling units to 3 dwelling units. And 344 acres,
6 right now they're approved for 690 units. They are
7 asking for 225 more units for 1,015.

8 And they -- the project is on Buckingham Road, and
9 I'm not going to go through all the presentation that
10 you just saw.

11 And they are requesting seven deviations. And
12 after we recommended denial of one deviation, they came
13 up with a different deviation which makes more sense,
14 and Staff recommends approval of this deviation because
15 there's no other way to provide the second access that
16 Staff is asking for.

17 And egress is just fine because the Land
18 Development Code says ingress or egress, it doesn't say
19 "and," and they are providing that.

20 Policy 20.1.6 requires -- which is Caloosahatchee
21 Shores policy, requires them to graduate the density,
22 which they are doing it. Actually, it says when
23 possible graduate the density, but they are doing it,
24 and the Staff is satisfied with that.

25 For most of the conditions, they were carried over

1 from the old approval, and some modified, some
2 basically the exact same way they -- they were in the
3 old resolution.

4 Staff has no problem with the changes they are
5 proposing in the 48-hour letter. Actually, the size of
6 the lots that they were proposing, they were -- on what
7 they gave me, I took them out because they really
8 belong in the development regulations section which --
9 but if that makes them feel better to have them in the
10 schedule of uses, that's fine. The schedule of uses
11 has two different sections for residential, and so we
12 usually refer to the development regulations right
13 there.

14 Beside that, when it comes to density with the
15 school property, the definition of density in the Land
16 Development Code basically says that they can get
17 density for road right-of-ways and parks, and it also
18 says schools. So I don't know if that means that's a
19 small school for the neighborhood or public schools,
20 but it says school. So if you agree with that
21 definition, and you think it is appropriate to give
22 density for this School District, then that's fine.
23 Otherwise, the density without the school property
24 should go about 992, something like that, and keep 22,
25 23 units for the school property. I'm sure they will

1 not build 1,015. The development always has some units
2 that they don't build. But the way the density
3 definition basically -- it's not really clear what that
4 means.

5 With that, they are in compliance with all the
6 requirements of the Lee Plan, which are listed in the
7 Staff report and their presentation, all relevant
8 policies, goals, and objectives, and Staff recommends
9 approval of this request and approval of the seven
10 deviations as amended here with conditions listed in
11 the Staff report.

12 And I only had one email in opposition, and I
13 assume the gentleman -- I only had one person opposing
14 this project. His argument was not about the density
15 or anything else. His argument was about we didn't
16 advertise it correctly, which we did.

17 And that concludes my presentation.

18 HEARING EXAMINER RIVERA: What was the definition
19 of density that you were referring to right now?

20 MR. BADAMTCHIAN: The definition of the density --

21 MR. HARTSELL: Is it the definition of density, or
22 is it in Section 34-1492 that you're talking about?

23 MR. BADAMTCHIAN: The one that talks about the
24 school.

25 MR. HARTSELL: Yes. That would be -- I'm sorry,

1 Steve Hartsell for the record -- Land Development Code
2 Section 34-1492(1)(c), schools are included in the
3 residential density calculations. And then while
4 you're there, 34-1493(1)(a)(1) requires us to
5 incorporate all of the land in our density
6 calculations.

7 HEARING EXAMINER RIVERA: My question with that --
8 and I agree with you. My concern was that that
9 condition required them to remove the parcel if it's
10 given to the school, and that's where I was getting
11 the --

12 MR. HARTSELL: In the previous approval, the --
13 where the school site reservation took place, it's a
14 345-acre parcel, and 690 units are approved, which is 2
15 units per acre on the entire 345. So the 13 acres or
16 so of the school site wasn't deducted from calculation
17 for the density there, and we submit that the Code
18 essentially says if you do a residential development,
19 you get credit for -- one, you're supposed to use all
20 of the land in order to calculate the density; and if
21 there's a school, you include the school site as part
22 of the residential density. That's what happened
23 before. That's what should happen here, as well.

24 I know Chahram mentioned, hey, whenever you build,
25 you always end up not building quite as many as you

1 expected to approve or to build. While that may be the
2 case, in this particular instance I will point out that
3 1,035 units is available at 3 units an acre. We're
4 only requesting 1,015. So we've already accounted for
5 the deduction there.

6 But the Code essentially says all of the units are
7 available -- or, I'm sorry, density is available for
8 all of the acres that the property owner owns.

9 But a good point that Kevin pointed out to me
10 during the break, if the property owner were penalized,
11 as it were, by not being able to use density on a site
12 that they intended to reserve for a future use, a
13 school, there would be a disincentive for anybody to
14 ever do that. So that's why we don't believe that
15 there is any reason in the Code or kind of, I would
16 say, logically to deduct that.

17 Have I answered your question?

18 HEARING EXAMINER RIVERA: Yes.

19 MR. HARTSELL: Good.

20 HEARING EXAMINER RIVERA: Yes, you have.

21 Was there any other Staff presentation that you
22 had today?

23 MR. BADAMTCHIAN: No, ma'am.

24 HEARING EXAMINER RIVERA: Thank you.

25 And I agree with you, I think the gentleman left.

1 But are there any members of the public that are here
2 today that wish to speak? Okay. So we'll close public
3 comment, and then we'll come back to the Applicant.

4 MR. HARTSELL: The only closing comments that I
5 would have at this stage -- if you don't have any other
6 questions. We'll be happy to respond to any questions
7 that you might have.

8 I would ask you to take judicial notice of the
9 Portico Hearing Examiner recommendation. I actually
10 took the time this morning to read through that and
11 realized that, frankly, many of the same questions were
12 addressed there and sort of first went through. They
13 were addressed very thoroughly. So that might be
14 helpful. So I would ask that to be incorporated as
15 part of the record. I know you already have a copy so
16 I won't give you the 500-page Portico, but I would ask
17 you to just look at that.

18 We would submit that we have demonstrated that the
19 proposed amendments are consistent with the Land
20 Development Code and consistent with the proposed
21 outlying suburban land use category. And,
22 specifically, we were required to demonstrate that we
23 meet the Caloosahatchee Shores' requirement that -- the
24 Buckingham Rural Preserve requirement, the graduated
25 density away from the Buckingham Rural Preserve, is

1 shown through our planned development. And that's why
2 Tina spent so much time and we showed the exhibits that
3 did that. We would submit that we addressed that
4 requirement, as well, which will be looked at when the
5 comp plan amendment comes back for adoption by the
6 Board.

7 We are happy to address any questions you might
8 have. We believe that the 48-hour letter, with the
9 proposed conditions and revisions there, have been
10 accepted by the Staff, as well. So between the
11 conditions proposed by the Staff and the 48-hour
12 letter, I believe we provided you with a complete set
13 of revisions.

14 HEARING EXAMINER RIVERA: And I believe all of my
15 questions got answered as we went through. I'll check
16 my notes one more time.

17 And I did receive a copy of the TIS, so thank you,
18 so I will accept that as Applicant's Exhibit 4.

19 I was given two copies. Was one of those for
20 Staff?

21 MR. TREESH: No.

22 HEARING EXAMINER RIVERA: Oh, it's your original?
23 Okay. I'll be sure you get that returned to you.

24 MR. TREESH: Okay.

25 HEARING EXAMINER RIVERA: There were a few

1 references that were made in the request narrative by
2 the Applicant that there was a separate document with
3 strike-through and underline of conditions that wasn't
4 in the Staff report. I assume that's because the Staff
5 report conditions, and then as subsequently modified by
6 your 48-hour letter, are the correct version of the
7 conditions we should be using?

8 MR. HARTSELL: Yes, the 48-hour letter has that.

9 HEARING EXAMINER RIVERA: Thank you.

10 And then the TIS was the only other question I
11 had, I believe, that didn't get answered.

12 I did appreciate the carrying forward of the
13 Buckingham Road enhanced buffer. That was something
14 that I looked at. I reviewed Portico and Oak View and
15 the several that are along there, and that's something
16 that's been continuing. So I do appreciate you
17 bringing that forward. I had questions about that, but
18 they were all answered either in the record or in the
19 presentation today. So I believe that that's the
20 extent of my questions.

21 I'll go back to Staff one more time. Did you have
22 any questions of the Applicant before we conclude?

23 MR. BADAMTCHIAN: No, no issues.

24 MR. HARTSELL: The only other thing that I did
25 want to address, since Chahram brought it up and there

1 was a question about whether proper notice of the
2 Hearing Examiner hearing had been provided. Since we
3 spent time yesterday chasing all of that down, I've
4 gotten an emailed copy of that notice, if I could send
5 that to your office --

6 HEARING EXAMINER RIVERA: Okay.

7 MR. HARTSELL: -- and make that part of the record
8 just in case somebody in the future wonders whether it
9 was done.

10 HEARING EXAMINER RIVERA: That would be helpful.

11 MR. HARTSELL: It was done properly.

12 HEARING EXAMINER RIVERA: Yes. The HEX@leegov.com
13 email would be the appropriate place for that. Thank
14 you.

15 MR. HARTSELL: I will send that to the general --

16 HEARING EXAMINER RIVERA: Going back to that,
17 Chahram, were there any written comments that that
18 member of the public asked you to submit for the
19 record, or there was --

20 MR. BADAMTCHIAN: No.

21 HEARING EXAMINER RIVERA: -- simply conversation?

22 MR. BADAMTCHIAN: No, it was just an email
23 complaining about advertising not being proper, and the
24 room being too small for the public hearing, and things
25 like that.

1 HEARING EXAMINER RIVERA: Okay. So nothing -- it
2 sounds procedural. It doesn't sound like there was
3 anything --

4 MR. BADAMTCHIAN: Correct.

5 HEARING EXAMINER RIVERA: -- substantive. Okay.

6 Thank you.

7 MR. BADAMTCHIAN: Sure.

8 HEARING EXAMINER RIVERA: Okay. With that, then I
9 don't need to leave the record open because I believe
10 Mr. Hartsell is emailing that as we speak.

11 MR. HARTSELL: Yes, ma'am.

12 HEARING EXAMINER RIVERA: And the TIS was already
13 submitted. So we will close the hearing for today.

14 Thank you, everyone, for coming. Please stay safe and
15 stay healthy.

16 MR. HARTSELL: Thank you very much.

17 (Hearing concluded at 10:49 a.m.)
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3 CERTIFICATE OF REPORTER
4

5 STATE OF FLORIDA)

6 COUNTY OF LEE)
7

8 I, Deborah Bruns, Florida Professional
9 Reporter, do hereby certify that I was
10 authorized to and did report the foregoing
11 proceedings, and that the transcript, pages 1
12 through 75, is a true and correct record of my
13 stenographic notes.
14

15 Dated this 18th day of February, 2021.
16
17

18 Deborah M. Bruns
19 Deborah M. Bruns, FPR
20

21 (This transcript was electronically signed.)
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