

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2022-00005

IN RE: ALICO CROSSING MPD

PROCEEDINGS: PUBLIC HEARING

BEFORE: Donna Marie Collins
Chief Hearing Examiner

DATE: April 27, 2023

TIME: 1:00 p.m. to 3:00 p.m.

LOCATION: Lee County Hearing Examiner
Hearing Room, Second Floor
1500 Monroe Street
Fort Myers, FL 33901

REPORTER: Deborah M. Bruns
Florida Professional Reporter

ORIGINAL

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12 ALSO PRESENT:

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14 Ted Treesh, TR Transportation
John Wojdak, DeLisi Fitzgerald/RESPEC

15 Marcus Evans, Lee County
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P R O C E E D I N G S

1 HEARING EXAMINER COLLINS: Good afternoon. My
2 name is Donna Marie Collins. I am the Hearing Examiner
3 that will be presiding over this zoning request, which
4 is a request to rezone property from commercial planned
5 development to mixed-use planned development. The
6 details of the request will be explained by the
7 Applicant.
8

9 All testimony and evidence that we accept during
10 these hearings will be under oath. I will administer
11 the oath to everyone in the room at one time.

12 I want to tell you that the cutoff date for
13 getting a hearing before the Board of County
14 Commissioners prior to their summer break is in three
15 weeks. My goal is to get through this hearing today
16 and get a recommendation sent out before that date so
17 that you will have your final Board hearing before the
18 Board before they go on their break. This is my goal.

19 MS. MONTGOMERY: We like that goal.

20 HEARING EXAMINER COLLINS: Okay. I'm not going to
21 go into too much more detail or introductory remarks
22 because the member of the public that's here is very
23 familiar with our process. So I will administer the
24 oath to everyone now.

25 Please raise your right hand. Do you swear or

1 affirm the testimony and evidence you give in this
2 hearing will be the truth?

3 (Participants sworn en masse.)

4 HEARING EXAMINER COLLINS: Okay, thank you.
5 I'm -- I'm ready.

6 MS. MONTGOMERY: With that we'll call Mr. DeLisi,
7 our expert in planning and zoning.

8 MR. DELISI: Thank you.

9 MS. MONTGOMERY: I did mention he's an MIT grad?

10 MR. DELISI: So for the record, my name is Dan
11 DeLisi. I am a land use planning consultant for the
12 Applicant.

13 I'm going to go through, give a -- kind of the
14 general presentation. In the middle of that -- and the
15 presentation on -- on consistency with the Land
16 Development Code and the Comp Plan. In the middle of
17 that, John Wojdak is going to come up, talk to you
18 about stormwater; then I'm going to come back up and
19 finish my presentation; and then we'll talk more about
20 the deviation, the one area of disagreement with Staff.

21 So --

22 HEARING EXAMINER COLLINS: I'm not going to
23 abbreviate your presentation, but I want to tell you
24 that I'm very familiar with this area. I've done at
25 least a half a dozen cases in this area. I've been

1 here many times so, you know, you can -- I don't want
2 you to abbreviate, but I want you to know that I'm
3 familiar with the site and the recent plan amendments
4 in the last five years to get us to the point where
5 you're introducing residential.

6 MR. DELISI: All right. That's helpful. And for
7 the record, I assume you're familiar with literally
8 every site in Lee County, just giving history.

9 HEARING EXAMINER COLLINS: Finger on the pulse.

10 MR. DELISI: You are not new to this county.

11 All right. So these are all the people here today
12 that are going to present (indicating).

13 All right. So the subject property is located on
14 the west side of 75 just north of Alico Road, which is
15 right here. Here is the Three Oaks Extension. You can
16 see the development going on here. I have a better
17 aerial of that in a moment.

18 As you had noted, this property was initially
19 submitted concurrent with a small-scale Comp Plan
20 amendment, which has since been approved. Prior it was
21 in the industrial commercial interchange land use
22 category. It was changed now to the general
23 interchange future land use category, and the reason
24 for that was simply just to add residential to the use.
25 The two land use categories are, for the purposes of

1 this property, identical. There are some, you know,
2 minimums for industrial if you're in different
3 properties up here. It had to do with the Comp Plan
4 amendment that was done a long time ago up here. But
5 for the purposes of this property, the two land use
6 categories are identical except for general interchange
7 allows for residential.

8 I will note that at the Board hearing, when that
9 came before, there were really two comments that I want
10 to note: one was from the Planning Staff who talked
11 about their recommendation of approval as being
12 something positive for the County, just locating
13 residential so close to a growing employment center to
14 the north, having residential units very close to a job
15 base is something people wanted to see, and that was
16 echoed by the Commission. It wasn't a long hearing.
17 It was very quick. One commissioner comment was we
18 liked it because the residential will be close to an
19 employment center, and it allows that decrease in trip
20 length and better interactivity of land uses. So it
21 was approved.

22 The entitlement history, this was originally zoned
23 as commercial planned development in 2003. It was
24 amended again in 2008 to accommodate the I-75
25 right-of-way taking. I just copied and pasted the --

1 the entitlement from the CPD itself because it gets
2 kind of confusing with all of the language in there,
3 but essentially 300,000 square feet of retail, 51,000
4 square feet of office, and 125 hotel units is what it's
5 entitled for today.

6 The proposal is broken up into submitted
7 PowerPoint --

8 (Applicant Exhibit 1 submitted.)

9 MR. DELISI: Thank you, Neale.

10 Sorry, for the record, that's the PowerPoint
11 presentation --

12 HEARING EXAMINER COLLINS: I didn't want to slow
13 you down so I didn't bring it up.

14 MS. MONTGOMERY: Well, I saw you kind of looking
15 so I tried to sneak it in.

16 MR. DELISI: You were very stealthy, thank you.

17 So the proposal consists of two different master
18 concept plans: Master Concept Plan A and Master
19 Concept Plan B. Both of them are the same along the
20 Three Oaks Parkway Extension. They both have the same
21 main access to Three Oaks Park Extension; they both
22 have this reverse frontage road that connects the
23 property to the north and connects the property to the
24 south. The difference is, on Master Concept Plan B
25 there are two commercial areas, one here along I-75,

1 and then similar commercial along Three Oaks; whereas,
2 Master Concept Plan A has this large lake area and the
3 residential, and the commercial is only along Three
4 Oaks.

5 HEARING EXAMINER COLLINS: So is the hotel like in
6 the commercial pod?

7 MR. DELISI: Yes.

8 HEARING EXAMINER COLLINS: Okay. So it's
9 commercial and hotel in the C pods?

10 MR. DELISI: Yes, yes.

11 MR. GELDER: (Nods head.)

12 HEARING EXAMINER COLLINS: So can I see the
13 other --

14 MR. DELISI: Yeah. Master Concept Plan B -- and
15 the reason for this is exactly that, you know, having a
16 hotel with exposure to I-75 would be the goal of this
17 master concept plan, and your typical retail and office
18 would be along here. And you could have an office
19 building back here, but this would have a boulevard
20 going through, residential on each side. Really more
21 of a walkable community mixed-use feel to it. Although
22 I will say given this developer's apartments that they
23 have built -- and you'll see some of their site plans
24 and their developments later -- they do a lot of
25 mixed-use where there are strong connections between

1 residential and commercial anyways.

2 HEARING EXAMINER COLLINS: Okay. So now under
3 this plan, the hotel would be alongside the road?

4 MR. DELISI: That's right, yeah.

5 HEARING EXAMINER COLLINS: And there would be more
6 residential perhaps?

7 MR. DELISI: There is, yeah. So on this plan you
8 have 475 multi-family units on 37.2 acres. On this one
9 you have less residential, 425 on 30 acres. So the
10 residential area is less, and the total request for
11 residential is less.

12 And the density -- the density is greater on this
13 one, just less area, less units, but the density is a
14 little higher. It's 13.9 units, still within that
15 maximum 14 units per acre density range. On this one,
16 more acres that are counted towards the residential
17 portion, more units, slightly less overall density.

18 HEARING EXAMINER COLLINS: Okay.

19 MR. DELISI: So with that I'll have Mr. Wojdak
20 come up.

21 HEARING EXAMINER COLLINS: Good afternoon.

22 MR. WOJDAK: Good afternoon. For the record, John
23 Wojdak with DeLisi Fitzgerald, and I just wanted to --

24 MS. MONTGOMERY: Registered professional engineer
25 in the state of Florida?

1 MR. WOJDAK: A registered professional engineer.
2 I have testified here before.

3 And I just wanted to briefly go over the
4 stormwater management for the project. It sounds like
5 you're familiar with the site. It's part of a larger
6 600-plus-acre Environmental Resource Permit for the
7 Three Oaks Parkway and Oriole Road extensions that goes
8 from basically Alico Road up to the airport canal, and
9 west almost to -- to Lee Road.

10 And that's one master permit so this site will
11 simply connect to the existing system, and the existing
12 permit sets parameters for how much additional storage
13 is required for this parcel. And that's depicted by
14 the kind of double arrow between the lake and the swale
15 that is -- the existing swale is part of the master
16 system, and the lake would simply connect to that and
17 provide some additional storage.

18 And then the entire system flows to the west and
19 outfalls into the Alico ditch, which is ultimately to
20 the Ten Mile Canal.

21 HEARING EXAMINER COLLINS: So what is this -- the
22 "P" on the south side?

23 MR. WOJDAK: Indigenous preserve.

24 HEARING EXAMINER COLLINS: Okay. But no
25 bird-attracting plants?

1 MR. WOJDAK: No, there's actually a deviation
2 related to that --

3 HEARING EXAMINER COLLINS: Right, I saw that.

4 MR. WOJDAK: -- for the lake. So, yeah, the -- no
5 bird-attracting littorals or anything, you know, for
6 the lake due to the airport.

7 HEARING EXAMINER COLLINS: So is this preserve
8 associated with a wetland?

9 MR. WOJDAK: There are no wetlands on-site. It is
10 indigenous upland and being used to satisfy the
11 indigenous requirements.

12 HEARING EXAMINER COLLINS: Okay, thank you.

13 MR. WOJDAK: Uh-huh.

14 MR. DELISI: Dan DeLisi for the record again.

15 All right. So the criteria for approval of the
16 planned development is outlined in Section 34-145, and
17 that's the criteria there. You're well familiar with
18 them and so I'm going to go through this generally.

19 The proposed planned development is in compliance
20 with the Lee Plan. As I mentioned before, both Master
21 Concept Plan A and B are within the density range of 8
22 to 14 units per acre. We could go higher, up to 20,
23 with Affordable Housing or TDRs, Pine Island TDRs,
24 but -- but the standard density range is 8 to 14, and
25 that's what's being proposed. And, again, we're also

1 proposing a mix of commercial, which is what the
2 general interchange land use category calls for.

3 HEARING EXAMINER COLLINS: I didn't see that the
4 general interchange category was a receiving site for
5 Pine Island. I only saw wetlands and DR/GR, Southeast
6 Lee. Is that an oversight on my part?

7 MR. DELISI: It might be a misstatement on my
8 part.

9 HEARING EXAMINER COLLINS: Okay.

10 MR. DELISI: I --

11 HEARING EXAMINER COLLINS: I'll track it down.

12 MR. DELISI: For some reason I seem to remember
13 actually talking about Pine Island TDRs on another
14 general interchange site. That's why I mentioned it
15 but --

16 HEARING EXAMINER COLLINS: Because I went looking
17 for that in the plan before the hearing --

18 MR. DELISI: Uh-huh.

19 HEARING EXAMINER COLLINS: -- but then I didn't
20 find anything. But that doesn't mean that it's -- you
21 know.

22 MR. DELISI: I might be wrong on that.

23 HEARING EXAMINER COLLINS: But with TDUs from
24 either wetlands or Southeast Lee County, or potentially
25 Pine Island, you can go as high as --

1 MR. DELISI: 20 units an acre.

2 HEARING EXAMINER COLLINS: -- the maximum possible
3 density, right.

4 MR. DELISI: Uh-huh, yeah.

5 Policy 5.1.3 directs higher densities to areas
6 near employment centers. Again, as I had talked about
7 before, that's one of the -- the reasons why the Comp
8 Plan amendment was approved earlier this year. There
9 are a lot of employment centers in the immediate
10 proximity both adjacent to the site to the north and
11 also on the east side of I-75 -- TCU, the RSW
12 airport -- and we expect this area to continue to grow
13 with more employment uses.

14 Policies 135.1.9 and 158.1.9 require mixed housing
15 types. The Applicant is proposing -- general
16 interchange requires multi-family; and even though the
17 County doesn't regulate this, the Applicant is
18 proposing an apartment-style development. So that's
19 what they're familiar with; that's what they do --

20 HEARING EXAMINER COLLINS: What is the
21 construction that's underway right there? I don't know
22 if it's a hotel or apartments.

23 MR. DELISI: It's -- it's multi-family -- you're
24 talking about this right here?

25 HEARING EXAMINER COLLINS: Yeah, it's --

1 MR. DELISI: That is multi-family, right?

2 MR. GELDER: Multi-family on the parcel to the
3 north, that U-shaped -- that C-shaped structure, and
4 then below it is a Floor & Decor large retail big box.

5 MR. DELISI: And, yeah, I'll -- so that -- that's
6 all part of the Vintage CPD, which was rezoned I
7 think -- I want to say 2019, if I'm remembering
8 correctly, and it was the same thing. They -- they
9 went into the general interchange land use category in
10 order to have the option for multi-family at this
11 location. So we tried to model our proposal consistent
12 with what they were doing.

13 Policy 5.1.2, there is some discussion of this in
14 the Staff Report. There is a condition. It talks
15 about prohibiting residential in areas where hazards
16 exist. The property is not within a flood zone or the
17 coastal high hazard area. We are entirely outside of
18 Noise Zones A and B where residential is prohibited.
19 In Noise Zone C, you have to provide notice to
20 residential uses about potential noise, which is one of
21 the conditions in the Staff Report.

22 I do want to point out where Noise Zone C is.
23 It's within this yellow line here. It just nicks that
24 northwest corner of -- of the property, but this is
25 right around where the residential starts. So this

1 tiny little area is where that noise zone nicks the
2 residential parcel. So even though there's a condition
3 for notice to residents, the vast majority of
4 residential uses are going to be outside of Noise Zone
5 C anyways.

6 HEARING EXAMINER COLLINS: And the Code does not
7 permit -- does not prohibit residential in Noise Zone
8 C?

9 MR. DELISI: It does not. It prohibits it in
10 Noise Zones A and B.

11 Compatibility. We have, as I mentioned before,
12 commercial R&D office uses to the north; residential
13 right here in this commercial planned development to
14 the south; and then more commercial; on the west side
15 is vacant future industrial and commercial lands.

16 As far as heights go, we're right in the midst
17 of -- the zone height here is, on the south side, 85
18 feet; up here it's 65; we're at 75 for the commercial.
19 We're right in between them. So it goes 85, 75, 65,
20 which makes sense from a planning standpoint. The
21 residential here, I looked it up. I couldn't find the
22 height but four-story multi-family residential.

23 The property has sufficient access. As I pointed
24 out before on the master concept plan, the main access
25 point is to Three Oaks. In total there are three

1 access points in and out of the development: one to
2 the north; one to the south along the frontage road
3 providing that interconnectivity on the east side of
4 Three Oaks Parkway; and then the main access on Three
5 Oaks Parkway. We are, as you can see on the aerial
6 that I've shown, just a half a mile from the
7 interchange as you would drive down. So a half-a-mile
8 drive right -- right out to the interchange so the
9 access is -- is very, very good.

10 This site is mostly cleared. There is that wooded
11 area on the south where we've located our indigenous
12 preserve. This area is heavily infested with exotics,
13 and a lot of this area doesn't meet the definition of
14 indigenous due to its exotic infestation. So a
15 preservation requirement is being met by a combination
16 of both preserve and then restoration of some of the
17 exotic areas, pulling out the exotics and making them
18 meet --

19 HEARING EXAMINER COLLINS: Localized in that area.

20 MR. DELISI: Absolutely, yeah, localized, and it's
21 this portion of that area.

22 And as far as urban services go, here is the
23 letter of availability from Lee County Utilities. As
24 part of the Comp Plan amendment process, we did need to
25 get letters of service availability from all the

1 various service providers; but, you know, we're in an
2 urban area; we're surrounded by urban uses to the east,
3 south, and north; and so urban services are available.

4 So with that I will move on to the deviations.

5 We are in agreement, I believe, with Staff on
6 Deviations 1 through 3. Those deviations were
7 requested to ensure compatibility with airport
8 operations to make sure we're not planting any
9 herbaceous plants that would attract wildlife around
10 the lake area, so we asked for Deviations 1, 2, and 3.
11 In the past those deviations were given to me by Staff,
12 and so that's why we included them all. They are
13 identical with a recent hearing I just went through,
14 but we understand Staff's request to withdraw Deviation
15 2, which we're fine with, as long as we can hear from
16 Staff on the record that it is truly not needed. I
17 just don't want any change in interpretations --

18 HEARING EXAMINER COLLINS: It seems like there was
19 an overlap with 3 anyway.

20 MR. DELISI: There was, yeah --

21 HEARING EXAMINER COLLINS: Okay.

22 MR. DELISI: -- absolutely. Yeah, and, I mean, 2
23 allows for not planting any herbaceous plants along the
24 littoral shelves, and then 3 --

25 HEARING EXAMINER COLLINS: (Sneezing.)

1 MR. DELISI: Bless you.

2 MS. MONTGOMERY: Bless you.

3 HEARING EXAMINER COLLINS: Thank you.

4 MR. DELISI: -- 3 provides a conversion of
5 herbaceous plants to -- to --

6 HEARING EXAMINER COLLINS: So they're saying that
7 you don't need both. They're recommending denial of
8 the first one?

9 MR. DELISI: Withdrawal of the first one.

10 HEARING EXAMINER COLLINS: Withdrawal, so it's
11 withdrawn. So the request is now for three deviations?

12 MR. DELISI: We will withdraw it as soon as Staff
13 says --

14 HEARING EXAMINER COLLINS: That's cleaner.

15 MR. DELISI: -- yeah, you can withdraw it. And
16 then we have it in the record if someone at DO says,
17 wait, you need a deviation for that. Just an abundance
18 of caution since they were originally given to me by
19 Staff as "ask for this."

20 So -- so that's Deviation 2. That should
21 be pretty easy.

22 Deviation 4, to review this, I'm going to talk
23 about the portion of the deviation request to reduce or
24 eliminate the requirement for parking for the
25 clubhouse. We're going to have Ted and Keith talk

1 about the overall parking reduction: Keith, in his
2 experience operating apartment developments; Ted, based
3 on the study he did. So I'm going to limit mine just
4 to the clubhouse.

5 HEARING EXAMINER COLLINS: So is there no longer a
6 provision in the Code that allows for a reduction in
7 parking for multi-use/multi-family? I thought it could
8 be reduced up to ten percent.

9 MR. DANLEY: Do you want me to answer that one?

10 MR. DELISI: (Inaudible.)

11 MR. DANLEY: The way that the Code reads today,
12 and has, is specifically for nonresidential uses that
13 ten percent reduction is --

14 HEARING EXAMINER COLLINS: Okay.

15 MS. MONTGOMERY: I'm with you. It should be
16 changed, but that's why we're here.

17 MR. DELISI: So -- so let me just talk about the
18 clubhouse for -- for a moment.

19 The clubhouse -- I want to say -- I forget what --
20 I need to look in my notes for the exact requirement.
21 I want to say it's four spaces for 1,000 square feet of
22 clubhouse area, which for us comes out to an estimated
23 80 spaces, which is a lot.

24 This is kind of a worst-case scenario detail of
25 how the property would be developed. You have the

1 clubhouse at essentially the edge -- one of the edges,
2 so you're looking at proximity to the residential use.
3 Now, understand --

4 HEARING EXAMINER COLLINS: Okay. Hang on a
5 second.

6 MR. DELISI: Yeah.

7 HEARING EXAMINER COLLINS: I need orientation here
8 because I thought the site plan shows open space pod on
9 the south end and commercial on the west end.

10 MR. DELISI: So --

11 HEARING EXAMINER COLLINS: So is this just a
12 zoom-in of that little area there?

13 MR. DELISI: Yeah, a zoom-in of this residential
14 parcel here.

15 HEARING EXAMINER COLLINS: Okay. And that's
16 Option B?

17 MR. DELISI: Option A, I want to say -- Option A.

18 HEARING EXAMINER COLLINS: Option A?

19 MR. DELISI: Yeah. So Option A, which is the most
20 likely option, is the -- is the one that I'm talking
21 about with the clubhouse. But either way, let me just
22 say -- and you'll see the dimensions on the detail I'm
23 showing from wherever you put the clubhouse, you're
24 still just looking at a maximum quarter-mile walk. I
25 mean, it would be less on this one because you have the

1 commercial here. Within a quarter-mile walk from any
2 residential unit to the clubhouse, which from a
3 planning standpoint is walking distance. That's what
4 we typically look at for walking distance.

5 But -- and as Keith goes through the developments
6 they've built -- and even on this site plan -- I mean,
7 what you'll see is it -- it makes no sense to provide
8 parking if the unit is closer to the clubhouse than the
9 parking area is to the clubhouse --

10 HEARING EXAMINER COLLINS: But this is conceptual.
11 This isn't --

12 MR. DELISI: Absolutely, it's conceptual, but,
13 again, look, a quarter-mile distance. It's --
14 everything is going to be -- so --

15 HEARING EXAMINER COLLINS: 90-degree summer day,
16 they're going to hike it from over there to the
17 clubhouse?

18 MR. DELISI: Absolutely.

19 HEARING EXAMINER COLLINS: Okay.

20 MR. DELISI: Yeah. I mean, if I'm going to the
21 pool, do I care when I'm about to jump into the water?
22 I'm not going to go in an air-conditioned car, travel
23 for 700 feet -- essentially from one parking spot to
24 another. I mean, if you're living here, where are you
25 going to park that's --

1 HEARING EXAMINER COLLINS: So how big --

2 MR. DELISI: -- any closer?

3 HEARING EXAMINER COLLINS: -- is this clubhouse
4 that it requires 80 spaces? And do you know that
5 already?

6 MR. DELISI: Those are -- when we sized the
7 clubhouse, I mean, they're thinking about the design of
8 the community, what they typically do for the clubhouse
9 area. That's what we're projecting --

10 HEARING EXAMINER COLLINS: It's a piazza. It's
11 big.

12 MR. GELDER: Big, it is.

13 MR. DELISI: Yeah.

14 HEARING EXAMINER COLLINS: Okay. So you're saying
15 not 80. What are you saying?

16 MR. DELISI: We're saying one parking requirement
17 for -- for the entire development because we don't
18 believe people will drive in any significant number
19 from their unit to a clubhouse which is really, by and
20 large, either right next door, closer than the parking
21 spaces would be, or just a few hundred feet away.

22 HEARING EXAMINER COLLINS: All right.

23 MR. DELISI: But, again, I just think about how
24 small this area is. And I just want to contrast --
25 we're not saying this requirement is ridiculous,

1 because if you have a -- a community like The Place or
2 like Verdana Village or any number of the typical
3 residential communities we do that are larger, a square
4 mile, or, you know, a thousand acres, you have to have
5 a parking requirement for the clubhouse because in
6 those cases most people will drive. But in a
7 multi-family apartment-style development --

8 HEARING EXAMINER COLLINS: (Indicating.)

9 MR. DELISI: -- it's a different scenario so...

10 MR. GELDER: Good afternoon. My name is Keith
11 Gelder. I'm with Stock Development. First, I want to
12 start, just a bit about our company, and then I'll
13 touch on my experience and qualifications.

14 Stock Development has been in business for 22
15 years. We've been building throughout Southwest
16 Florida and the state of Florida for that period of
17 time. We've built a combination of high-end
18 single-family homes, custom homes, apartments, and
19 commercial developments. I've had the privilege of
20 working for our organization for going on 17 years, so
21 it's been a great experience.

22 In terms of my personal qualifications, I've got a
23 Bachelor's in Finance from the University of Florida,
24 as well as a Master's in Business. I'm a licensed
25 building contractor in the state of Florida, as well as

1 real estate broker, and I'm the broker of record for
2 (unintelligible) real estate companies.

3 And in 2015 we launched our apartment housing --
4 Luxury Apartment Living division. We started as
5 primarily a developer and home builder and have sprung
6 off into other lines of business. So since that time
7 we have over 3,000 units in various stages of design,
8 permitting, construction, and stabilization. Several
9 of these projects are local. Spectra was our first
10 project right here in Fort Myers at Alico and 41, and
11 we have several others completed and under
12 construction, as well.

13 Here's just a variety of other local projects,
14 notable projects we've completed both in the home
15 building side of our business and the apartments. I
16 mentioned Spectra. Corsa is actively under
17 construction on Corkscrew Road, at Corkscrew and I-75,
18 and we recently delivered one of our commercial
19 projects, as the property owner and landlord for
20 Cooper's Hawk. So if you haven't been there, I highly
21 suggest it.

22 Now I just want to walk through -- you know, maybe
23 I'll show you a couple images of our apartment
24 portfolio just to give you an idea of -- of, you know,
25 how high-quality they are and some of the finishes and

1 lifestyle.

2 This was Spectra at Alico and 41 that I mentioned.
3 You can see a lot of commonalities in this site plan.
4 So the concept plan that Dan showed earlier in the
5 multi-family world has proven to be very successful:
6 clubhouse at the entry, free-flow circulation, and then
7 the rest of the buildings, you know, typically
8 scattered throughout. On our next couple projects I'll
9 show, we have larger garden buildings with pool views
10 that people come to enjoy. So it's a combination of
11 each.

12 HEARING EXAMINER COLLINS: How many stories is
13 this one?

14 MR. GELDER: So Spectra was three stories, 324
15 units.

16 HEARING EXAMINER COLLINS: And what is this one
17 going to be?

18 MR. GELDER: I think -- I think we're up to four
19 stories. We're requesting four stories so -- and I'll
20 touch on that just briefly because we -- four stories
21 is relevant because elevators are not required for
22 three stories and below, but they are for four stories
23 and greater. We believe strongly in -- in providing
24 that just from a livability standpoint. So nearly
25 every new project that we have is fully elevated to all

1 floors so...

2 So this is a three-story project. This is Inspira
3 in Naples and (unintelligible) resort. This has a very
4 similar site plan and layout to what Dan showed
5 earlier. This is a four-story product with a --

6 HEARING EXAMINER COLLINS: So this is a little bit
7 closer to what we'd see at this --

8 MR. GELDER: This --

9 HEARING EXAMINER COLLINS: -- location?

10 MR. GELDER: -- this is very similar. Yeah, this
11 is very similar so --

12 HEARING EXAMINER COLLINS: And when I looked at
13 that depiction of the apartment buildings around the
14 clubhouse --

15 MR. GELDER: Yeah.

16 HEARING EXAMINER COLLINS: -- it would mimic this?

17 MR. GELDER: Yeah, that's that -- you know, you
18 have a certain -- a certain percentage of people love
19 the vibrancy and want to be, you know, near the pool
20 and the action --

21 HEARING EXAMINER COLLINS: Sure.

22 MR. GELDER: -- and then a certain percentage that
23 likes a little more quiet and be on a preserve or be,
24 you know, a little bit further away for privacy and
25 noise.

1 But, you know, all of our projects typically have
2 a resort-style pool. This clubhouse here is
3 approximately -- you know, it's two-story,
4 approximately 20,000 square feet. So we build large
5 clubhouses outfitted with -- you know, we typically
6 have a big gym and yoga, Spin, Fitness on Demand,
7 lifestyle and rec amenities.

8 I'll just flip quickly through some other
9 projects.

10 This one is in Sarasota. Again, this one had
11 four-story buildings, two-story clubhouse around the
12 pool, and you can see some of the imagery.

13 Similar here, this is one of our most recent
14 projects. This -- this one is fully stabilized, and we
15 still own and operate. And this one we actually put
16 two full-size bowling lanes and golf simulator and
17 movie theater and all sorts of other fun amenities in
18 that clubhouse.

19 And then these are future projects. We have
20 future projects in Wesley Chapel, active project in
21 St. Petersburg, and then we have a site out in Bozeman,
22 Montana, in our development portfolio.

23 I wanted to mention -- you know, so that is a good
24 summary of our development experience. So in addition
25 to that, our preferred third-party leasing and

1 management company is Gray Star Real Estate Partners.
2 Gray Star is the number one, the largest leasing and
3 management property (sic) in the country. They manage
4 over 700,000 units across the nation. So -- you know,
5 so in addition to our development experience, you know,
6 we leverage their experience, as well, from an
7 operational standpoint, and that's what really gets us
8 back to the deviation. From operating these
9 communities -- you know, we've built several of these
10 in a similar configuration in Southwest Florida, so we
11 have the ability to see how they operate once they're
12 full. So we feel like we have a strong sense of, you
13 know, what the real practical parking occupancy is.

14 HEARING EXAMINER COLLINS: So the data that was
15 used in the parking study that's part of the Staff
16 Report, a Staff exhibit, that data was collected from
17 your projects or the projects that this management
18 company oversees?

19 MR. GELDER: So I'll answer the first question,
20 and then maybe anything further I'll defer to Ted
21 Treesh. But I believe we surveyed six local
22 properties, and one of them was one of our properties.
23 The rest are owned by others, but they're all in
24 Southwest Florida. So just -- just one of ours so it
25 wasn't necessarily, you know, a subset of just ours.

1 HEARING EXAMINER COLLINS: I see.

2 MR. GELDER: There were others, as well.

3 So just, you know, with Gray Star's experience
4 operating properties, we think that's very important.
5 We have a member of Gray Star here to answer any
6 questions. She's not a part of our formal presentation
7 but is able to speak from her experience, as well, in
8 terms of, you know, what they consider the industry
9 standard. They represent dozens and dozens of
10 developer clients aside from us.

11 And then just on top of that, you know, I guess
12 I'll state the obvious, these are tremendous
13 investments, right? We're going to make a \$100 million
14 investment in this property when it's all said and
15 done. And, you know, for our rental communities, we
16 really would not be here asking for this if we felt it
17 was going to be an impairment to the property or our
18 investment. So we spent a lot of time and money
19 preparing the survey or the study that Ted submitted
20 and feel it really supports the deviation request, and
21 we feel it's warranted.

22 So with that I hope you'll --

23 MS. MONTGOMERY: Let me just clarify for the
24 record. In your expert development and management
25 experience, is it your professional opinion that the

1 deviation from 2 spaces to 1.75 spaces will not be
2 detrimental to the development?

3 MR. GELDER: That's correct.

4 MS. MONTGOMERY: And you support the 1.75 spaces
5 per unit?

6 MR. GELDER: I do.

7 MS. MONTGOMERY: Thank you.

8 MR. GELDER: With that I hope you'll support the
9 deviation and allow us to continue building beautiful
10 projects in Lee County.

11 HEARING EXAMINER COLLINS: Thank you.

12 Ted, I have a question for you.

13 MR. TREESH: Yes.

14 HEARING EXAMINER COLLINS: I reviewed your TIS
15 that was in the Staff Report, and it said it was for a
16 CPD and not the MPD. So I need you to clarify on the
17 record, is there a supplemental document I need to
18 refer to to see the reanalysis of the MPD trip
19 generation versus the initial CPD that was included? I
20 flipped back and forth trying to find it, but I
21 couldn't locate it. It seemed like the TIS that was
22 submitted with the Staff Report was prepared in
23 conjunction maybe with the Comp Plan amendment?

24 MR. TREESH: Yes. No, that may have been just an
25 error on my part. It was for this application. I

1 perhaps should have labeled it MPD rather than CPD. It
2 was for the retail office, hotel, and multi-family.

3 HEARING EXAMINER COLLINS: Okay.

4 MR. TREESH: I perhaps just called it the wrong --

5 HEARING EXAMINER COLLINS: Thank you.

6 MR. TREESH: -- CPD instead of the MPD.

7 MS. MONTGOMERY: Now, as long as you're --

8 HEARING EXAMINER COLLINS: So I'm free to rely on
9 it -- I'm free to rely on it is what you're saying?

10 MR. TREESH: Correct.

11 HEARING EXAMINER COLLINS: There is no need to
12 supplement it?

13 MR. TREESH: No.

14 MS. MONTGOMERY: Can you go to page 5, table 3.

15 MR. TREESH: Of? What's the cover page?

16 MS. MONTGOMERY: The -- your TIS because I think
17 that table clarifies it for the record.

18 MR. TREESH: Page 5 --

19 MS. MONTGOMERY: Table 3.

20 MR. TREESH: -- table 3, yes. Okay. Yes, that
21 identifies the uses, the retail, office, hotel, and
22 multi-family, which is the mixed -- mixed uses, yes.

23 HEARING EXAMINER COLLINS: Okay, thank you.

24 So parking.

25 MR. TREESH: First let me just comment on the TIS,

1 the level of service, no level of service, adverse
2 level of service impacts. It's Level of Service C and
3 D on the adjacent roadway so just to get that on the
4 record from the MPD standpoint. So we can get that out
5 of the -- out of the way.

6 HEARING EXAMINER COLLINS: So I was confused by
7 the intersection analysis that seemed to say that the
8 project entrance would be LOS F. What was that about?

9 MR. TREESH: Well, that was -- where was that at,
10 do you know?

11 HEARING EXAMINER COLLINS: In the section that
12 talked about intersections.

13 MR. TREESH: Was that from the Staff Report?

14 HEARING EXAMINER COLLINS: It was -- yeah, it was
15 your attachment. It's Attachment N, I think it was.

16 MR. TREESH: That may have been because it's an
17 unsignalized intersection. So typically at an
18 unsignalized intersection where you have larger volumes
19 on the main line, the delay on the side street will
20 show a poor level of service just because it's a stop
21 condition. But as volumes increase on the side
22 street -- and going back -- if I can go back to an
23 aerial. You can see Three Oaks was set up with median
24 openings by the County as it develops -- our main
25 access is right here.

1 HEARING EXAMINER COLLINS: Uh-huh.

2 MR. TREESH: And it aligns with this large project
3 to the west. So that's a full median opening. So it
4 was spaced appropriately that a signal could
5 potentially be there in the future if warranted. So
6 that would solve that level of service issue. So the
7 poor level of service is most likely just the left turn
8 out, but all the movements on Three Oaks are an
9 adequate level of service. It was probably just that
10 outbound left-turn movement was a level of service --
11 poor level of service because of the delay. But the
12 volume-to-capacity ratio, which is what we look at
13 also, was under 1.0, which means the capacity is still
14 fine. It's just the delay of that person waiting to
15 turn left was just over the threshold.

16 But the median openings were set up by Lee County
17 DOT when Three Oaks was constructed. So we'll have a
18 connection again -- we'll connect to properties to the
19 north as this develops to get to another connection to
20 the north. This connection is now built to the south.
21 We'll connect to it to get to these driveways further
22 to the south, as well, to allow a dispersement (sic) of
23 that traffic so we're not just accessing that one
24 driveway. So as all these properties develop on the --
25 on the east side, it will allow better distribution of

1 traffic all up and down that east side of Three Oaks
2 Parkway.

3 HEARING EXAMINER COLLINS: I'm thinking it's not
4 going to be an issue until they connect Three Oaks
5 through. Then you're going to have that continuous --

6 MR. TREESH: Right.

7 HEARING EXAMINER COLLINS: -- south-traveling
8 traffic.

9 MR. TREESH: Right. And more people will -- right
10 now everybody is going to turn left out because no one
11 is going to go north; but as Three Oaks is connected to
12 the north, then more people will be able to turn right
13 and go to the north.

14 And just to point out, as indicated, this is an
15 apartment community under construction. This is Floor
16 & Decor. McDonald's is going in here. This is Home
17 Depot that's under construction. This is Wawa that's
18 now under construction. So there's a lot of activity
19 happening now at this -- at this corner. And now Three
20 Oaks is -- Lee County is constructing the Three Oaks
21 Parkway connection to Daniels. It is funded. The
22 first phase being over the canal, and then the second
23 phase being the connection up to Daniels, which is
24 scheduled for 2025.

25 MS. MONTGOMERY: And doesn't FDOT have

1 improvements that they're going to do in conjunction
2 with that?

3 MR. TREESH: Yeah. Lee County and FDOT are
4 coordinating in 2025. Lee County's connection to
5 Daniels with the Daniels widening, and then FDOT's
6 improvements to I-75 at Daniels Parkway with the
7 interchange.

8 So that's my traffic comments, if you had any
9 more...

10 HEARING EXAMINER COLLINS: No, I'm ready to hear
11 about the parking.

12 MR. TREESH: Okay. So the parking study -- you
13 know, as indicated, we did do a parking study to
14 support the deviation request. And this parking study
15 actually started back in 2020 when we met with the
16 Staff on another zoning application for another case to
17 talk about a similar request. We met with Staff, had a
18 methodology meeting, and conducted surveys at three
19 communities, Class A -- we call them Class A apartment
20 communities, which are the market rental communities in
21 Lee County. That application for the deviation was
22 withdrawn for that -- for that zoning application. So
23 that never proceeded to the public hearing.

24 We then had another property in another
25 application that had a request. We had another

1 methodology with Staff and conducted additional surveys
2 in 2022, and surveyed those properties again since
3 those -- those properties were surveyed right -- right
4 at the beginning of COVID, when COVID happened. And so
5 we surveyed those properties again, and we surveyed
6 three additional properties. So now we've surveyed
7 six -- six different properties in total, plus the two
8 original properties twice. So we've got a lot of data.

9 That property -- that request on that property
10 never -- never came to fruition. That property -- that
11 application that came into the -- their request was
12 withdrawn. They went into the -- they changed their
13 future land use category so they didn't need the
14 parking deviation.

15 So then came this request. So we had a
16 methodology meeting with Staff and said, okay, we've
17 collected all this data at these six properties. You
18 know, here's the data. Can we formulate this data and
19 submit the report, you know, and address -- the Staff
20 had reviewed the data as part of the original study,
21 but let's -- let's submit those -- address those
22 questions that were originally submitted, and then
23 submit this new data, and then let Staff review and
24 submit it as part of this request. So that -- that put
25 us here today where we are.

1 They reviewed the report, asked some questions.
2 We addressed some questions that they had in response,
3 addressed those questions, and now we are here where
4 we're at today.

5 HEARING EXAMINER COLLINS: So no consensus on
6 that?

7 MR. TREESH: No consensus.

8 So let me -- really, the data is the data. And
9 this table that is shown here is from Mr. Evans' memo
10 that he prepared in response that's part of the Staff
11 Report where he gathered some information from
12 surrounding counties -- and he'll speak to it if he
13 testifies as part of the Staff's testimony but -- that
14 provides some information on parking rates of
15 surrounding areas. And you can see that, obviously,
16 Lee County is one of the highest in terms of parking
17 requirements, and that's why we're here today, because
18 they are one of the highest.

19 And you've heard Mr. Gelder say, as the operator
20 in -- of these type of units, that's why they're asking
21 for this deviation, because as an operator, we don't
22 need this amount of parking for this type of -- for
23 this type of use, and that's what our data shows.

24 So if you look at our data -- this is the
25 information from our report. The upper left table, the

1 way Lee County calculates parking is based on the
2 dwelling unit -- the primary parking demand or parking
3 count is based on the dwelling unit -- besides the
4 clubhouse and guests. So we surveyed the six
5 properties, and contrary to the information in the
6 Staff's memo, what I did is we surveyed each property
7 in the middle of the night after -- after midnight.
8 There were some times that we visited the site before
9 midnight. There were six -- six times out of the 36
10 visits of those properties that we visited before
11 midnight. One -- the earliest was at 11:00 where my
12 technician did visit the site at 11:00. He just
13 happened to get there early. But the other times were
14 at 11:30, 11 -- the other four were at 11:45 or later,
15 so 15 minutes before midnight, statistically really
16 not -- I don't think it would have made much difference
17 if he would have waited another 15 minutes. Maybe one
18 or two more cars may have showed up, but it wouldn't
19 have made a difference in that bottom number -- perhaps
20 maybe a little bit, but statistically probably not
21 change it much but -- and I'll talk about that in a
22 minute.

23 But to get to this number, I didn't take the
24 average out of all those data points. I took the
25 highest. So out of the Springs at Six Mile on the top,

1 out of all the times we visited the Springs at Six
2 Mile, the highest number we ever counted was 393. That
3 wasn't the average. That was the highest number we
4 counted of all the visits. And for each site below
5 that the number listed in that middle column was the
6 highest number of spaces we counted. If they have
7 garages on the site, which most of them do -- again, we
8 got with the management company at each site because we
9 had to get permission to get on the property because
10 most of them are gated. So I had to work with the
11 management company of each property to get on the
12 property, especially after midnight to drive around.
13 We couldn't get in each garage, nor did I want to be
14 peeking in each garage to see if there was a car. We
15 made an assumption if there was a vehicle in the
16 garage. If you've rented an apartment recently, and if
17 you live in Florida, which we all do, most garages
18 aren't used to park a car. They're used to store all
19 your junk. I don't remember the last time I parked my
20 car in my garage. But I made an assumption on garages.
21 I assumed a very high percentage of the garages had a
22 car in them. Even though in discussions with all the
23 managers at the apartment communities, they all said
24 the majority of our garages have junk in them. They
25 don't have cars in them. But I assumed 75 percent of

1 the garages had a car in them to go into that highest
2 parking -- number of spaces. So even that accounted
3 for a worst-case number.

4 So then I took the average of that highest number
5 of occupied spaces -- that's what you see, the 1.36,
6 1.54, 1.49, 1.75, 1.77, 1.86. That's the highest
7 number of spaces occupied on each one of those
8 properties, and then that 1.63 is the average of those
9 highest spaces per unit of each one of those six
10 properties. So the three sites that we surveyed twice,
11 those numbers -- that's the highest number of those
12 sites that we surveyed on -- on the two times we
13 visited those sites. So it's not the average.

14 The table below -- because in the Staff memo they
15 talked about ITE recommending the 85th percentile, so I
16 looked at the 85th percentile of the -- of the data
17 sets. It actually came out with a lower number if I
18 use the 85th percentile of the survey values. So I
19 think going with the highest number is a little more
20 conservative.

21 The table on the lower right here was something
22 that Staff wanted to see even though the County doesn't
23 calculate the demand based on the number of bedrooms.
24 Some communities look at parking based on the number of
25 bedrooms. The City of Fort Myers Code looks at parking

1 based on the number of bedrooms. The nationwide
2 industry looks at -- basically, the industry average is
3 one unit -- or one space per bedroom. That's what the
4 industry says is pretty much the demand, and that's
5 what our survey showed. I think that's with the
6 error -- I did have an error in the table. In the
7 actual report I had 0.93 in that table. Actually, the
8 average of those numbers is 0.98, which is basically
9 one unit -- or one space per bedroom. We don't have
10 the exact number of bedrooms yet on this property. We
11 don't have the final design yet; but, again, it lines
12 up with the industry average of one space per bedroom.
13 If you talk to the industry experts in what this type
14 of -- what this type of community -- what this type of
15 apartment-type unit generates in terms of a parking
16 demand -- and this is a demand. This isn't the supply.
17 There's a difference between demand and supply. Those
18 are two different things.

19 HEARING EXAMINER COLLINS: So what is the rate
20 you're proposing?

21 MR. TREESH: 1.75. And the question was asked in
22 the memo, well, if you're so sure 1.63, why didn't you
23 ask for 1.63? Well, you don't build, you know, your
24 shopping center for -- you know, based on just what the
25 demand is. Otherwise, the day after Thanksgiving comes

1 around, you're not going to have any parking spaces.
2 We don't do that. That's why we asked for 1.75, so for
3 those times, we do have a little bit of excess parking
4 available. That's why we ask for 1.75, to provide for
5 that little bit of excess that we're more than
6 comfortable with in providing.

7 HEARING EXAMINER COLLINS: Well, I'm open to a
8 parking deviation. I'll tell you what troubles me. I
9 look at two projects on your list with identical unit
10 numbers, and there's a 117-space differential in what's
11 occupied by two projects with the same -- that Springs
12 at Six Mile and then Veeve or Vive?

13 MR. TREESH: Vive.

14 HEARING EXAMINER COLLINS: They're both 288 units.
15 One only generated higher -- the highest occupied space
16 is 393; the other one is 510.

17 MR. TREESH: Right.

18 HEARING EXAMINER COLLINS: And then you see a
19 similar differential between Venetian and Decorum where
20 you really only have a one-unit differential, but over
21 a 100-unit space difference between those two projects
22 once occupied.

23 MR. TREESH: Yeah. And, again, these properties
24 are all -- if you look at the -- if you were to visit
25 each one of these properties, they're all very similar

1 in terms of -- the only one that's -- the Springs at
2 Cape Coral is at the intersection of Pine Island --
3 basically just east of US 41; Vive is in The Forum;
4 Decorum is on Six Mile Cypress at Colonial, basically;
5 Venetian is at Six Mile and Colonial; Longitude 81 is
6 in Estero; Springs at Six Mile is at Colonial and --
7 I'm sorry, at Six Mile and 41. So they're all on major
8 arterials, you know, similar to where this property is,
9 very similar demographics in terms of located near
10 major arterials, not far from, you know, large
11 shopping, employment centers.

12 And, again, we met with Staff as recently as last
13 week, and, again, you can talk to -- we offered, you
14 know, something a little higher than the 1.75 as a
15 compromise.

16 HEARING EXAMINER COLLINS: Is that the 1.86?

17 MR. TREESH: We offered that.

18 HEARING EXAMINER COLLINS: I just want to
19 understand where we stand right now. Where do we stand
20 right now?

21 MR. DELISI: So we had offered 1.9. It's the
22 1.86, which is the highest of anything surveyed, plus a
23 little bit. I mean, the goal with the Applicant is
24 just to not have to build a lot of unused parking
25 because that can be utilized for something else --

1 HEARING EXAMINER COLLINS: I understand.

2 MR. DELISI: -- open space, lake area. So, you
3 know, whether it's 1.86 to be super safe, or 1.9 to
4 round it up, I mean, they're fine with that, and that's
5 what we had offered.

6 HEARING EXAMINER COLLINS: So you offered 1.9, and
7 Staff was recommending denial. I just want to know
8 where we stand when I hear from Staff. That's all.

9 MR. DELISI: That's correct, yeah.

10 MS. MONTGOMERY: Okay. Ted, can I ask you a
11 question? You made a point about the fact that the
12 data you used was the highest parking rate, and for
13 some of those communities you looked at them three
14 times --

15 MR. TREESH: Twice.

16 MS. MONTGOMERY: Okay, three meetings, two
17 surveys.

18 MR. TREESH: Right.

19 MS. MONTGOMERY: Okay. You also made a mention of
20 Black Friday. Do you park retail or any other use at
21 the highest parking rate? Would you ever build or
22 recommend that someone build a retail center with
23 parking designed for Black Friday?

24 MR. TREESH: No.

25 MS. MONTGOMERY: How is it normally done? Highest

1 or average?

2 MR. TREESH: Average.

3 MS. MONTGOMERY: So when you suggest that you're
4 willing to go with the highest parking rate, that
5 already exceeds what normally is required for parking.

6 MR. TREESH: Yes.

7 MS. MONTGOMERY: And it -- well, the Hearing
8 Examiner had a concern about why there's a difference
9 between some of those projects. The one on Six Mile is
10 kind of behind Home Depot; right?

11 MR. TREESH: That's correct.

12 MS. MONTGOMERY: So it's back off the road and
13 potentially a different demographic.

14 MR. TREESH: Well, there's some outparcels out
15 front. You've got the -- a couple -- the -- what's
16 Tiger Woods' golf facility?

17 MS. MONTGOMERY: The Popstroke.

18 MR. TREESH: Popstroke.

19 MS. MONTGOMERY: If I could, I'd like to ask
20 Mr. Gelder a question because Ted said he didn't know.

21 Mr. Gelder, do you have an average percentage of
22 your units that are single-family -- or single unit or
23 efficiencies? Or one-bedroom --

24 MR. TREESH: One bedroom.

25 MS. MONTGOMERY: -- I should have said.

1 MR. GELDER: Is this mic live?

2 MR. TREESH: Yes.

3 MR. GELDER: Yeah, every project is a little
4 different; but if you looked at the majority of new
5 construction market rate properties, you'll typically
6 see somewhere in the range of like a 45 percent
7 one-bedroom, 45 percent two-bedroom, and a 10 percent
8 three-bedroom, and that's, yeah, generally the unit mix
9 that we do on all our new construction properties.

10 HEARING EXAMINER COLLINS: Okay.

11 MS. MONTGOMERY: And based on your survey and your
12 data that you generate and your management company
13 generates, of those tenants, you have some idea what
14 percentage only has one vehicle?

15 MR. GELDER: We do, and it's really the
16 one-bedroom units that creates the excess parking,
17 let's call it, because the spaces per unit is done kind
18 of globally. I mean, in layman's terms, for folks that
19 live in a one-bedroom unit, you have a lot of single
20 folks, and you have couples, and it's -- it's probably
21 half and half. It's not all couples, I will say, for
22 sure, and we have data at our Allura stabilized project
23 to -- to support that.

24 MS. MONTGOMERY: And so the one thing you don't
25 know for those is what the differential is on

1 single-bedroom units, but given Mr. Gelder's percentage
2 of single-bedroom units, do you have any concern that
3 the parking won't be accommodated based on your study
4 and his information at 1.75 spaces per unit? Does that
5 make sense?

6 MR. TREESH: You're asking me?

7 MS. MONTGOMERY: Yes.

8 MR. TREESH: Say that again.

9 HEARING EXAMINER COLLINS: It's 1.9 though.

10 MR. TREESH: 1.9.

11 HEARING EXAMINER COLLINS: We're at 1.9.

12 MS. MONTGOMERY: Well, his study is at 1.75.

13 So considering what your data shows, and knowing
14 now what percentage they anticipate of single-bedroom
15 units, do you, from an expert traffic and parking
16 analysis standpoint, have a concern that the 1.75 would
17 not be sufficient?

18 MR. TREESH: No.

19 MS. MONTGOMERY: Okay. So in your expert opinion,
20 based on all the data you've assembled, it supports the
21 1.75?

22 MR. TREESH: Yes.

23 MS. MONTGOMERY: And has the Staff provided you
24 with any data that they've generated?

25 MR. TREESH: No.

1 MS. MONTGOMERY: Thank you.

2 HEARING EXAMINER COLLINS: Okay. I don't have any
3 questions.

4 MR. TREESH: Okay, thank you.

5 HEARING EXAMINER COLLINS: Thank you.

6 MS. MONTGOMERY: Dan does have, I think, a little
7 follow-up, doesn't he?

8 MR. DELISI: Yeah, I -- I failed to mention in my
9 presentation of deviation criteria, which I kind of
10 just spit out right before, it does enhance the planned
11 development. If we're able to reduce the parking, you
12 have less asphalt, you have some other value-generating
13 thing on-site, whether it's open space or additional
14 lake area. It's -- it's really just one or the other.
15 So we do believe it meets the criteria, you know.
16 Certainly as much or more so than just about any
17 deviation we ask for, it enhances the PD. We don't
18 believe it has a negative impact to health, safety, and
19 public welfare, and that's it.

20 MS. MONTGOMERY: Thank you.

21 HEARING EXAMINER COLLINS: Okay, thank you.

22 Any more witnesses?

23 MS. MONTGOMERY: We do not at this time. We
24 reserve the right, obviously, for rebuttal.

25 HEARING EXAMINER COLLINS: Okay. Dirk, I'm ready

1 to hear your testimony.

2 MS. MONTGOMERY: Do you have an extra?

3 MR. DANLEY: Oh, yeah, here. Sorry, I meant to
4 stop with --

5 MS. MONTGOMERY: You just kind of forgot all about
6 us. You were in the zone.

7 MR. DANLEY: Hi. Dirk Danley, principal planner
8 with the Zoning section of Lee County Community
9 Development. I have previously been accepted as an
10 expert witness in the Lee County Land Development Code
11 and Lee Plan, and I'd like to do so again today.

12 HEARING EXAMINER COLLINS: Yes, please proceed.

13 MR. DANLEY: Okay. We'll breeze right through a
14 lot of this and get to the meaty part of the parking
15 deviation, but I will have to put stuff on the front
16 end first.

17 This is a request to rezone approximately 46.7
18 acres as a mixed-use planned development. And as the
19 Applicant stated, there was a previous CPD approval on
20 the site, and it had been amended twice. Those are all
21 attached to the Staff Report.

22 I just wanted to provide a little extra context.
23 I think it was stated in the Applicant presentation,
24 but just so it's clear, the Applicant -- the way the
25 two master concept plans are designed is to allow

1 connection to both -- both projects to the north and
2 the south, and that goes for MCP A and MCP B. You can
3 almost see how it lines up with Vintage Commerce. This
4 road still needs to be cut through, but it's lining up
5 right here ready to go.

6 So they do -- are asking for two different MCP
7 alternates. Really, the substantial change is on the
8 eastern, let's say, two-thirds of it where they're
9 going from single tract to two residential tracts and a
10 commercial outparcel along the interstate. Staff finds
11 that aside from that change, there's really not a lot
12 of substantial differences between the two.

13 Just to go through the decision-making criteria,
14 and as I'm sure you're already aware, with the
15 exception of the two deviations that have been
16 discussed today, the Applicant -- or Staff finds that
17 the Applicant did prove those decision-making criteria,
18 and we are recommending approval with the exception of
19 those two deviations. And the one deviation I think
20 we're all in agreement that --

21 HEARING EXAMINER COLLINS: It's been withdrawn.

22 MR. DANLEY: That will be for the -- the
23 herbaceous plantings in the littoral areas.

24 As already stated, the Applicant -- by the
25 Applicant, Objective 1.3.2 establishes the general

1 interchange category. An important note is that this
2 does consider more of a commuting traffic type set of
3 uses. It does include the retail/commercial uses and
4 the office uses proposed by the Applicant, as well as
5 up to 14 units per acre.

6 This is at the convergence of several major
7 corridors: the Alico corridor at Three Oaks -- as it
8 will be at Three Oaks Extension, and then Interstate
9 75. The only nearby residential uses are to the south
10 that are being constructed today at Vintage Commerce
11 Center, and they do propose a similar development
12 pattern between the two. So Staff didn't really find
13 the mix of uses at Vintage Commerce created
14 incompatibility -- or, sorry, the mix of uses for Alico
15 Commons created incompatibility with Vintage Commerce
16 Center to the south since they are proposed to have
17 similar sets of development intensities and uses.

18 Staff found that they're consistent with Goal 6,
19 as well, as it pertains to these commercial uses, and
20 there isn't really very much disagreement between
21 Applicant and Staff about those commercial uses and how
22 they're reviewed against the Lee Plan.

23 And then Goal 135 speaks to the proliferation of
24 the mix of housing uses throughout the county. This
25 area is an emerging area with several different types

1 of uses that haven't really been considered in other
2 areas of the county. Our Economic Development office
3 is considering this more of a headquarter alley along
4 Three -- Three Oaks Parkway. Scotlynn, NewGenomics, I
5 believe Frantz Eyecare, are all located along the
6 corridor just north of here, along with Best Home
7 Services. So having a mix of residential uses in an
8 area where there is significant employment Staff does
9 find to be consistent with this goal.

10 And going back to the commercial uses, Staff finds
11 that the proposed schedule of uses is consistent with
12 Goal 158, to expand and diversify the economy in Lee
13 County.

14 So as previously stated, Goal 1 and 3 Staff and
15 the Applicant are in agreement. Deviation 2 withdrawn.
16 And then --

17 MS. MONTGOMERY: Wait, wait, before you leave
18 that --

19 MR. DANLEY: Yes.

20 MS. MONTGOMERY: -- can we make the declaration
21 that will make --

22 MR. DANLEY: Yes.

23 MS. MONTGOMERY: -- make Dan uncomfortable?

24 MR. DANLEY: We find it to be -- that the intent
25 of Goal -- or the third deviation encompasses Deviation

1 2, and we didn't want to have something that
2 communicates at the development order stage -- that
3 basically didn't require them to convert any plantings
4 into trees as required by Deviation 3.

5 MS. MONTGOMERY: Thank you.

6 MR. DANLEY: Right.

7 I wanted to clarify some of the conversation
8 around the parking. The request -- or the required --
9 the Code-required parking is two spaces per unit plus
10 ten percent for guest parking, and then there's an
11 additional calculation for clubhouse parking. The
12 reason why the calculation for clubhouse parking, as
13 we've already stated, is for commuting traffic -- not
14 commuting but folks that are further away from the
15 clubhouse coming to the clubhouse area, and they want
16 to drive. But then also there's a real estate sales
17 office; there's management, property management.
18 There's other uses that go into the clubhouse that
19 aren't just residential uses.

20 I do want to put on the record, we have considered
21 a deviation for a reduction in parking just recently of
22 another residential project. The way that that was
23 considered was taking away the areas that were
24 noncommercial uses within the clubhouse and reducing
25 the parking requirement there, but the entire

1 development ended up being about a two percent
2 reduction, not anywhere near what they're proposing
3 today.

4 So what's being proposed today is not 2 down to
5 1.9, as you stated, but rather 2.2 plus whatever the
6 parking is for the clubhouse down to 1.9 or .75,
7 depending on where we land.

8 And just to clear the air on why we didn't come
9 back up to the 1.9 and became more amicable (sic) to
10 that is really the context of the request. As you've
11 seen, the MCPs don't show a lot of detail. We can't
12 take a design review of this and say we'll okay this.
13 There is plenty of -- as the Applicant said, there's
14 plenty of ways that the clubhouse is actually closer to
15 the dwelling units. We don't have that on our master
16 concept plan. We don't have that detail to review, and
17 we didn't -- we were not provided that as part of the
18 review of the deviation request.

19 A couple of other things to consider, the
20 Applicant did talk about the number of bedrooms, and
21 then also briefly brought up the demographic behind the
22 Home Depot. Staff, I believe a couple years before I
23 started -- so 2012, 2013 -- changed the way parking was
24 calculated for residential uses in Lee County. We went
25 from a stratified one-, two-, three-, four-bedroom

1 parking calculation down to a universal just two spaces
2 plus ten percent per dwelling unit. That doesn't
3 consider age, that doesn't consider number of bedrooms,
4 that doesn't consider any other type of demographic.

5 So going back to the design of the site, without
6 having anything to review, we didn't really feel
7 comfortable with the negotiation beyond what they were
8 originally requesting at the 1.75 without having
9 anything to support why that number is any different
10 than the 1.9 that they were requesting later on in our
11 conversations.

12 I did also want to bring up, I think many of the
13 other commercial uses -- or, sorry, many of the other
14 multiple family uses were along other types of transit
15 or transportation alternatives. Whether there will be
16 transit routes -- I'm not sure, along the entire length
17 of Six Mile, whether or not there's transit. I don't
18 have that map pulled up or available right now, but I
19 can look that up. But the transit lines do not make it
20 to this property.

21 And although there is a -- a bike system, I
22 believe, along Alico, it's limited in the scope of what
23 you can get to in a short distance, and so that doesn't
24 necessarily provide the kind of relief that we'd expect
25 to see if you're saying, well, this is a different

1 context that we don't need to have vehicles here. And
2 just to put an extra layer on top of that, the future
3 land use category really is considering a
4 commuter-focused residential use here, as well.

5 None of these policy -- or none of this analysis
6 has anything to do with the actual numbers. We can
7 bring up Marcus if you wanted to talk about the
8 numbers, but that's just from a high-level zoning
9 perspective. And then on top of that, because we have
10 a fixed rate for parking for residential uses, Staff
11 doesn't want to get in the way of the public health,
12 safety, welfare issue should there be a problem with
13 the parking not allowing for somebody who lives in a
14 unit to be able to safely get to their home in
15 inclement weather, too hot weather, or anything else
16 like that. And other situations where they would park
17 on neighboring properties we don't want to be
18 encouraging, as well. So there's a potential for
19 external impacts; there's a potential for health/safety
20 components, at least Staff's perspective.

21 It's my understanding that Staff is still -- as I
22 stated at the beginning of this, we have considered
23 administrative deviations in the past. At least
24 there's one recently. Staff is still open to
25 considering at least some reduction administratively

1 after the course of this hearing; but with the
2 information that we were provided, without the context
3 of actually having detailed master concept plans to be
4 able to make findings on whether or not they really
5 need the parking, or they're eligible for a reduction
6 in parking, Staff is still under the impression that we
7 would recommend denial of the deviation, and the
8 Code-required parking should be what's provided
9 on-site.

10 I wanted to speak a little bit briefly on the
11 48-hour letter. If you'll permit me, I'll log back in
12 here.

13 The Applicant brought up the removal of the 8B.
14 8A and 8B are airport compatibility -- or airport
15 compatibility conditions. 8A is required by Code to be
16 placed in the actual zoning resolution; 8B is not. We
17 generally do place it in there; but with the
18 Applicant's request to remove it, we don't find that
19 the Code requires it to be placed in there and it's
20 still required by the Land Development Code, so we're
21 open to the removal of that condition.

22 MS. MONTGOMERY: Thank you.

23 MR. DANLEY: We already talked about Deviation 2.

24 And with that, with the exception of those two
25 deviations, Staff does recommend approval.

1 I am here with any questions you have, and I
2 believe Marcus is here if you want to discuss any of
3 the details of the deviation for parking reduction.

4 MS. MONTGOMERY: I have a question, if you want me
5 to go ahead and start.

6 The Hearing Examiner asked earlier about the
7 administrative parking deviation, and I believe you
8 said that only applies to nonresidential, but it does
9 allow for -- as I understand it, one of the things you
10 can do is provide extra bicycle parking, and you can
11 get up to a ten percent reduction. So it looks at a
12 variety of things. One is bike parking, and another is
13 proximity to transit. You've already indicated that
14 that ten percent reduction is not available for
15 transit, but it would seem -- you pointed out,
16 rightfully so, that we're -- we're on headquarter way.
17 And I wouldn't expect anybody to take the bus anyway
18 from the apartment to Scotlynn or NeoGenomics or
19 anything, but you might expect them, even in 90-degree
20 weather, to -- to ride their bike. So I don't know --
21 but we're not allowed to do that under the Code. It
22 doesn't allow us to do the ten percent reduction that
23 you would allow for commercial; right?

24 MR. DANLEY: Correct.

25 MS. MONTGOMERY: But the same logic should apply

1 to residential that applies to nonresidential; right?

2 MR. DANLEY: Well, you know, we've briefly, I'll
3 say, joked about inclement weather. The difference is
4 leaving versus arriving. And so in a commercial area,
5 say a retail commercial use, we can provide a
6 commercial reduction for parking because on a normal
7 day, when it's not raining or it's not particularly
8 cold outside, you may be able to take your bike there;
9 where if you need to leave your house, if your only
10 means of transport is a bicycle, then you're stuck and
11 not able to commute like you would if you had a
12 vehicle. The commercial area you may not need to
13 actually travel to.

14 MS. MONTGOMERY: But people -- the people that are
15 riding their bikes to the commercial are coming from
16 somewhere, so they're coming from home; and if you
17 discount whether -- for the nonresidential where
18 they're arriving -- it seems like the same logic should
19 apply to where they're leaving from.

20 MR. DANLEY: I don't necessarily agree with that,
21 but I -- I can -- note taken.

22 MS. MONTGOMERY: Okay, thank you.

23 MR. DANLEY: And just to speak briefly on the --
24 the parking reduction, there is a -- there's a
25 statement in the Land Development Code for

1 administrative review, for what can be done
2 administratively, which has a catchall at the end of it
3 that says "or other similar requests." The deviation
4 that was approved for the residential use did
5 consider -- or was considered in that "other similar
6 requests" where it's -- it's not quite the same thing
7 as a commercial use, but taking away the parking
8 calculation because it was tied to the residential
9 use --

10 HEARING EXAMINER COLLINS: And so have you, in the
11 past, approved an administrative deviation for a
12 residential multi-family project like this?

13 MR. DANLEY: Not for the base number of dwelling
14 units but for the clubhouse specifically. So the two
15 spaces plus ten percent, we've been holding the line on
16 that.

17 MS. MONTGOMERY: Okay, but --

18 HEARING EXAMINER COLLINS: Okay, my turn.

19 MS. MONTGOMERY: Okay.

20 HEARING EXAMINER COLLINS: With regard to the
21 clubhouse, what percentage reduction did you permit?
22 Because I've got to tell you, I have personal
23 experience with having trouble getting parking at
24 clubhouses. When I go to the clubhouse at some of
25 these developments, people are having baby showers

1 there or wedding showers or what have you. I've
2 attended events, dinners, fundraisers, whatever, and
3 it's an issue. Parking can be an issue, not always --

4 MR. DANLEY: Right.

5 HEARING EXAMINER COLLINS: -- can be an issue. So
6 I understand the desire to lump them together. It
7 seems appropriate in this case because, if they follow
8 the conceptual design they've presented, you know,
9 you've got three whole buildings that basically are not
10 going to be driving to the clubhouse, right, of however
11 many buildings they're going to do. So I was
12 interested in what percentage did you reduce it by, or
13 what was the formula that you applied to reducing the
14 clubhouse? Because I'm less inclined to combine
15 them -- I'm open to the deviation though. I will share
16 that I am open to the deviation.

17 MR. DANLEY: Uh-huh. Without pulling it up -- and
18 we can provide that as written testimony afterwards, if
19 that's something that you're interested in.

20 HEARING EXAMINER COLLINS: Okay. Let me say it
21 another way. Typically, when an application comes in,
22 and you're doing the development order, you calculate
23 parking for the clubhouse separate --

24 MR. DANLEY: Yes.

25 HEARING EXAMINER COLLINS: -- from the number of

1 units.

2 MR. DANLEY: Yes.

3 HEARING EXAMINER COLLINS: So they say we're doing
4 300 units, you calculate 2.2. That's how many parking
5 spaces they have to apply. And our clubhouse is 2,000
6 square feet, you run that calculation, and that's what
7 they have to provide.

8 MR. DANLEY: Uh-huh.

9 HEARING EXAMINER COLLINS: Okay.

10 MR. DANLEY: So on that 2,000 square feet, let's
11 say in your hypothetical situation, 500 square feet of
12 that is management office and -- and rental/leasing
13 office area. That still had a parking requirement
14 associated with it. The area that was the
15 1,500-square-foot gym and seating area did not have a
16 parking calculation associated with it. That was the
17 part that was reduced, and then that was applied as a
18 total reduction for the entire planned development --
19 or for the entire residential project.

20 HEARING EXAMINER COLLINS: And so that adjusted
21 the number from --

22 MR. DANLEY: The entire -- I'm not sure what the
23 clubhouse amenity --

24 HEARING EXAMINER COLLINS: That didn't change the
25 rate, though, that you applied to the units.

1 MR. DANLEY: No.

2 HEARING EXAMINER COLLINS: I see, yes, okay. So
3 you reduced the parking maybe for the clubhouse by 50
4 percent or more.

5 MR. DANLEY: Right, but that still only reduced
6 the entire project by about two percent.

7 HEARING EXAMINER COLLINS: Okay. And the 1.9
8 would be more than two percent?

9 MR. DANLEY: Yeah, that would be 15 percent,
10 notwithstanding anything with the clubhouse.

11 HEARING EXAMINER COLLINS: Let me tell you what my
12 concern is. I'm open to the deviation. I think 1.9
13 may be reasonable based on the data you collected. I'm
14 not comfortable with including the clubhouse in there.

15 That said, based on the hypothetical size of your
16 clubhouse, it seems like 80 is a lot, maybe excessive.
17 And I'm trying to figure out if there's a way we can
18 postpone that decision to when you come in with actual
19 plans, and you show, you know, 80 percent of this
20 clubhouse is devoted to resident amenities, and these
21 people can walk, ride their bike, or get there in
22 another way; and this 20 percent is business services
23 more geared toward business service, you know, tenant
24 generation or whatever, and we're going to make sure we
25 have enough parking to support that.

1 MS. MONTGOMERY: Yeah, and -- and I hear what
2 you're saying. I think -- I heard what Dirk said, that
3 we don't have specificity, but I want to harken back to
4 Mr. DeLisi's testimony that this site is limited in
5 size. So whether I move the clubhouse from at the end
6 of the cul-de-sac or the roundabout to over here, the
7 distance -- he did the --

8 HEARING EXAMINER COLLINS: I'm not worried about
9 that. I'm off that now.

10 MS. MONTGOMERY: Okay.

11 HEARING EXAMINER COLLINS: I've moved on from
12 that.

13 MS. MONTGOMERY: Okay.

14 HEARING EXAMINER COLLINS: That's not my
15 consideration. My consideration is the clubhouse. You
16 know, it's pouring down rain --

17 MS. MONTGOMERY: Well, I --

18 HEARING EXAMINER COLLINS: -- I'm teetering on
19 high heels, juggling gifts, and I can't get a parking
20 space because --

21 MS. MONTGOMERY: Well, you can get one. It's just
22 not close. I got it.

23 Okay. Well -- and maybe we should ask Ted to
24 address this, but the reason they lumped it and came up
25 with the 1.75 per unit, which included, you know,

1 clubhouse and managerial staff parking, is because when
2 they did the study, they didn't break it down by units
3 and the clubhouse. They just did an overall parking
4 analysis so it encompassed both the units and the
5 clubhouse. Does that make sense?

6 HEARING EXAMINER COLLINS: Yes.

7 MR. DELISI: Well, let me just make one point on
8 that, if I could.

9 HEARING EXAMINER COLLINS: And in the middle of
10 the night when Ted's guys were out there, nobody was
11 using the clubhouse.

12 MR. DELISI: Exactly --

13 MS. MONTGOMERY: But they didn't --

14 MR. DELISI: -- that's exactly the point --

15 MS. MONTGOMERY: -- because that was the way they
16 asked for it to be done.

17 MR. DELISI: Yeah -- well, because that's the peak
18 time when residents are parking. So there is, you
19 know, an overlap, if you will, kind of like a shared
20 parking situation between a commercial and residential
21 use where you have an overlap in timing of when your
22 peak hours are for parking.

23 So there's that, there's the design of the
24 community, but the one thing I would be a little
25 concerned about just with the clubhouse is I think the

1 unfortunate situation we're in is that -- and Staff can
2 correct me if I'm wrong, but I don't believe they allow
3 for deviations to be requested for a residential
4 clubhouse at the time of development order. It's
5 only -- they were able to do it in that case because
6 they looked at the commercial aspects of the clubhouse,
7 and you're allowed to ask for a deviation
8 administratively for a commercial use only. So we
9 couldn't be able to come in and say based on the design
10 of this community -- which, again, even if it's
11 raining, and you're in high heels and walking, I mean,
12 the design of the community will be such that the
13 clubhouse is physically closer for a lot of those units
14 than the parking area. So if you wanted to drive to
15 the clubhouse, you'd actually have to walk to your car,
16 which is farther from the clubhouse, if you looked at
17 those pictures that Keith was showing.

18 So it just -- it puts us in a quandary based on
19 how the Code is written. We kind of have to do what
20 we're doing.

21 HEARING EXAMINER COLLINS: Okay. Well, I'm
22 troubled by your conceptual plan that looks like they
23 had ten spaces in front of this colossal clubhouse that
24 you're planning, a 20,000-square-foot clubhouse, which
25 I think is wonderful for the development -- I mean,

1 that's what people want now, they want the amenities --
2 but ten spaces in front of a clubhouse that's --

3 MS. MONTGOMERY: Bup, bup, bup --

4 HEARING EXAMINER COLLINS: -- 20,000 square
5 feet --

6 MS. MONTGOMERY: -- wait a minute. Mr. DeLisi did
7 that to make a point. He did a worst-case pictorial
8 demonstration to prove a point that he just made
9 about --

10 HEARING EXAMINER COLLINS: Listen --

11 MS. MONTGOMERY: -- even if everybody --

12 HEARING EXAMINER COLLINS: -- listen, I want to --
13 I want to get to a solution. So I'm open to the
14 deviation on the numbers of units, but you need to
15 rethink the clubhouse. And I am open to -- I'm the
16 first to say 80 seems like too much, okay? I mean, the
17 amount of the clubhouse that's devoted to banquet
18 facilities and offices and what have you, it seems like
19 there could be room there, but I think there needs to
20 be a separate number thrown out for that. Also, you
21 know, you're going to have groundskeepers and -- and,
22 you know, maintenance people and everything. They're
23 going to have to park somewhere. That didn't get
24 registered during the middle-of-the-night number
25 counting of cars in the lot.

1 So I feel like there needs to be a separation
2 between the units and this clubhouse that is basically
3 the nerve center for the commercial operation of
4 running a multi-family community of this type.

5 MS. MONTGOMERY: How about can we do this? I know
6 you want to put Marcus on, and we want to respond to
7 what you've said and what you've said. And we're
8 mindful of the -- the clock is ticking, and we've got
9 three weeks. Can we take like a 15-minute break and
10 have a conversation?

11 HEARING EXAMINER COLLINS: Sure.

12 MS. MONTGOMERY: Do you want us to do that before
13 or after Marcus testifies? I'm guessing he's going to
14 not say anything different than his report and what
15 you've said.

16 HEARING EXAMINER COLLINS: Well, wait, I can cut
17 this testimony from Marcus to the chase.

18 Did you perform your own investigation of
19 developments within the county, multi-family
20 developments and parking?

21 MR. EVANS: (Shakes head.)

22 HEARING EXAMINER COLLINS: Okay. I'm going to
23 give you the break now.

24 MS. MONTGOMERY: Okay, thank you.

25 (Recess from 2:32 p.m. to 2:45 p.m.)

1 HEARING EXAMINER COLLINS: We're back on the
2 record.

3 MS. MONTGOMERY: We call Mr. Treesh. And I'm
4 going to show this to you, but I'm going to have Ted
5 hand it to you. It's buried in the middle of his
6 report, and you have to have bread crumbs to find it
7 so...

8 (Applicant Exhibit 2 submitted.)

9 HEARING EXAMINER COLLINS: This is Applicant
10 Exhibit 2. The PowerPoint was Exhibit 1.

11 This is a page out of the --

12 MS. MONTGOMERY: Yes.

13 HEARING EXAMINER COLLINS: -- parking study?

14 MR. TREESH: This is in the appendix of my parking
15 study. It's simply an excerpt of the ITE parking
16 generation manual. ITE also publishes a parking
17 generation manual similar to their trip generation
18 manual where they publish parking studies, and I
19 reference it in our parking study, as well. It's an
20 hourly distribution of parking studies -- similar to
21 ITE's trip generation, they've also conducted parking
22 studies. There's parking studies of this use that have
23 been submitted to ITE, and they publish a manual that
24 says here is all the summaries of parking studies
25 conducted for multi-family.

1 If you flip the table over -- or the page over, it
2 shows the summaries of the trip -- of the parking
3 generation rate for multi-family for this use. This is
4 for mid-rise multi-family, and the last row is the
5 suburban category. It has multi-family, you know, city
6 center, dense, and then suburban, and then the far -- I
7 believe the far right column is -- it shows an average
8 parking rate of 1.7 spaces per dwelling unit.

9 MS. MONTGOMERY: For suburban.

10 MR. TREESH: For suburban --

11 MS. MONTGOMERY: And that's what we are.

12 MR. TREESH: -- multi-family.

13 So go back to the other side, that shows the
14 hourly distribution of the parking occupancy. So
15 during the middle of the day is when your maintenance
16 folks are on the site. That's when the occupancy of
17 the parking lot is around half. And those folks are
18 parked by the maintenance facility. They don't park by
19 the clubhouse.

20 My wife's in the multi-family industry. She
21 manages -- she managed apartment communities for years.
22 If a maintenance person parked by the clubhouse, they
23 got yelled at. They don't park by the clubhouse. The
24 maintenance building is typically away in the back of
25 the community, and those folks park out by the

1 maintenance building. And those folks are on-site
2 during the middle of the day when the -- you can see,
3 during the middle of the day, the parking occupancy
4 rates are in the low -- low 50s, high 40s, and then it
5 starts to pick up as you get in the later evening
6 hours.

7 MS. MONTGOMERY: So tell me again the ITE trip
8 generation, what -- the parking demand it suggests.

9 MR. TREESH: The average parking demand for this
10 type of use is 1.7 spaces --

11 MS. MONTGOMERY: Okay.

12 MR. TREESH: -- per dwelling unit.

13 MS. MONTGOMERY: So that's in line with your 1.75.

14 MR. TREESH: Correct.

15 MS. MONTGOMERY: Okay.

16 MR. TREESH: And that was the thing that Staff
17 also asked for, is how do our surveys align with the
18 ITE recommended --

19 MS. MONTGOMERY: Okay.

20 MR. TREESH: And that's what a lot of
21 municipalities look at, when they're looking at parking
22 codes, is how does -- what does ITE say for parking for
23 the various types of land uses.

24 MS. MONTGOMERY: So the same as what they do, as
25 you pointed out, for trip generation. We --

1 MR. TREESH: Correct.

2 MS. MONTGOMERY: -- rely on ITE.

3 MR. TREESH: Correct.

4 MS. MONTGOMERY: Okay. I'd like to recall
5 Mr. Gelder.

6 MR. GELDER: (Indicating.)

7 MS. MONTGOMERY: Yes, sir.

8 Mr. Gelder, on that same issue on maintenance,
9 Mr. Treesh testified to what his normal experience is.
10 What do you typically do with your maintenance
11 facilities?

12 MR. GELDER: Yeah. From a design -- sorry, for
13 the record, Keith Gelder.

14 Typically for the design of our communities,
15 typically the maintenance building is a freestanding
16 detached building, and it's typically not at the front
17 or by the clubhouse. It's typically further -- further
18 away towards the back of the community. And as
19 Mr. Treesh testified, the maintenance staff parks in
20 that location, and they do not park in the clubhouse
21 spaces.

22 MS. MONTGOMERY: Would they get yelled at, too?

23 MR. GELDER: We -- correct. Management makes sure
24 that those spaces are not parked by maintenance staff.

25 MS. MONTGOMERY: And in regard to your clubhouse,

1 the pictures that you showed us, they were all
2 two-story clubhouses, and what is the top floor of all
3 those clubhouses used for? Is there some consistency?

4 MR. GELDER: Yeah. So in like our most recent
5 community, Allura that we -- that we showed the images
6 of, the entire first floor is fitness. So it's
7 weights, yoga, Spin, Fitness on Demand, stretching
8 rooms, CrossFit. So the entire first -- I'm sorry, the
9 entire second floor is fitness.

10 MS. MONTGOMERY: So the area for the birthday
11 parties and that sort of thing is -- that would invite
12 guests is limited?

13 MR. GELDER: I don't think anybody would have a
14 birthday party in the gym --

15 MS. MONTGOMERY: Okay.

16 MR. GELDER: -- correct.

17 MS. MONTGOMERY: All right, thank you.

18 MR. GELDER: Okay.

19 MS. MONTGOMERY: Last we'd like to call -- recall
20 Mr. DeLisi.

21 Mr. DeLisi, did you have a chance to confirm that
22 LDC does not allow administrative parking deviations
23 for residential?

24 MR. DELISI: Yeah, and I've been told that before
25 by Staff, and I think we -- we confirmed that.

1 MS. MONTGOMERY: In light of the comments made by
2 the Hearing Examiner, having had a conversation and
3 looked at the numbers, do you have a recommendation on
4 how to address the Hearing Examiner's concern about
5 providing the appropriate number for the units and the
6 appropriate amount for the clubhouse considering
7 that -- a lot of resident amenities?

8 MR. DELISI: Yeah. So our suggestion would be --
9 so given that -- you know, Keith talked about the types
10 of stuff that they provide in clubhouses, bowling
11 alleys, whatever, you know, that creates a lot of extra
12 square footage in a clubhouse that you don't need
13 parking for. Instead of four per thousand square feet,
14 let's do -- we were suggesting two per thousand square
15 feet. In this case it would drop the anticipated
16 parking requirement from around 80 spaces to 40. You'd
17 still have a lot. I mean, I think the -- and that's
18 over and above what we had originally asked for, 1.75
19 spaces per unit, which includes an assumption for an --
20 an allowable parking area. I mean, so the places
21 surveyed had clubhouses; but, again, the peak demand of
22 all those places -- people are away during the day, you
23 know, or, you know, the peak demand at night when all
24 the cars are parked, that's what you have.

25 So it already includes it, but we're kind of --

1 we're adding additional as a safety factor. So you
2 have the 1.75, plus the additional spaces for the
3 clubhouse, and I think you can break it up like that,
4 and I think we get at a number that's safely over what
5 the demand study shows.

6 MS. MONTGOMERY: So just to be clear, the 1.75
7 study that you did originally combined the clubhouse
8 guests and unit parking, the 1.75 rate. So now we're
9 having a clubhouse rate, decoupling that, and having
10 the 1.75 per unit?

11 MR. DELISI: My only correction is Ted did the
12 study --

13 MS. MONTGOMERY: Okay, I'm sorry. I'm not meaning
14 to diminish Mr. Treesh.

15 MR. DELISI: Yeah.

16 You know, I think the last thing I would suggest
17 is -- I mean, if you could -- you can -- I don't know
18 if we can pull up the site plan --

19 MR. DANLEY: Do you want yours back up?

20 MR. DELISI: Yeah. I mean, because -- and I don't
21 even need to look at our site plans. We could just
22 look at how similar buildings are built -- yeah, in my
23 presentation, thank you. Yeah, thank you. I'll go to
24 Keith's stuff so you can see the actual stuff built.

25 I mean, these are park -- this is under parking in

1 Lee County. Spectra is the Alico Road one --

2 MR. GELDER: Correct.

3 MR. DELISI: So this is under Lee County's parking
4 requirement. So the clubhouse is here, right, and the
5 parking is here and throughout. You know, again, and
6 it's one parking requirement. So it's not like you
7 have dedicated parking spaces to the clubhouse. The
8 way the parking requirement is done it's all within the
9 overall area.

10 MS. MONTGOMERY: And this separate building here
11 is the maintenance building; correct?

12 MR. DELISI: Yeah, so maintenance building,
13 parking for the maintenance; you have residential,
14 parking for the residential; all part of the same
15 parking -- overall parking requirement. But in between
16 there -- I mean, the -- you know, this guy, they're not
17 going to use -- they're not going to park for the
18 clubhouse. This guy isn't going to park for the
19 clubhouse. All of these people -- it's only very
20 limited circumstances where you might see someone that
21 wants to go from here, drive --

22 HEARING EXAMINER COLLINS: I understand.

23 MR. DELISI: -- into this parking spot.

24 HEARING EXAMINER COLLINS: I understand.

25 MS. MONTGOMERY: And there is a sidewalk, right,

1 from all the units around the lake?

2 MR. DELISI: Yeah. I mean, these are designed to
3 be pedestrian-oriented.

4 HEARING EXAMINER COLLINS: Okay. So we're no
5 longer at 1.9 now. We're at a different number.

6 MR. DELISI: Yeah, 1. -- 1.75 is what the data
7 shows. We were looking at 1.9 to give an extra safety
8 factor. If you do 1.75 with an extra safety factor and
9 do 40 -- you know, the two per thousand -- I mean, at
10 this point pick whatever number you want --

11 HEARING EXAMINER COLLINS: Okay. I have enough --
12 I have enough information --

13 MR. DELISI: Okay.

14 HEARING EXAMINER COLLINS: -- thank you.

15 MS. MONTGOMERY: I just want to make sure the
16 numbers are supported by the data and --

17 MR. DANLEY: Can I --

18 HEARING EXAMINER COLLINS: Yeah, because I haven't
19 heard from Staff yet.

20 MR. DANLEY: Can I ask just a question real quick?

21 MR. DELISI: Yes, please.

22 MR. DANLEY: To your knowledge, was Spectra --

23 THE REPORTER: I can't hear you.

24 HEARING EXAMINER COLLINS: Yeah, we can't hear
25 you.

1 MR. DANLEY: Sorry. I said, "To your knowledge,
2 was Spectra parked to Code-required parking?"

3 MR. DELISI: Yes, absolutely.

4 MR. DANLEY: Okay.

5 MR. DELISI: And just to be clear, we can park the
6 Code-required parking. There's nothing -- there's no
7 constraint on the site that says we can't do it. It's
8 just a trade-off. We could have -- if we did a
9 deviation, we could have had more green space on this
10 site or a nicer lake area or something else. So, I
11 mean, that's what we'd like to do here, is just a nicer
12 design.

13 HEARING EXAMINER COLLINS: Where is Spectra on
14 this table?

15 MR. DELISI: It's not. It wasn't one of the
16 surveyed sites.

17 HEARING EXAMINER COLLINS: Because you met Code?

18 MR. DELISI: No, because Ted just didn't survey
19 that site. I don't -- I don't know why Ted didn't
20 survey that site.

21 MR. DANLEY: Just to make a few points of
22 clarification, once again Dirk Danley.

23 I was able to print out a copy of that
24 administrative approval, for the record ADD2022-00167.
25 And based on some conversation that was had by the

1 Applicant prior to our break, the parking was reduced
2 for the noncommercial uses for a total parking
3 reduction of about three percent. So I wanted to
4 submit this on the record so you have access to it,
5 too --

6 HEARING EXAMINER COLLINS: This was clubhouse
7 specific or --

8 MR. DANLEY: Yes.

9 HEARING EXAMINER COLLINS: Three percent?

10 MR. DANLEY: Three percent for the entire
11 development, but the reduction was only located
12 within -- or for the uses in the clubhouse.

13 (Staff Exhibit 3 submitted.)

14 HEARING EXAMINER COLLINS: Okay. This is Staff
15 Exhibit 3, and it is an administrative amendment to a
16 planned development.

17 MS. MONTGOMERY: Okay. Just to make sure I've got
18 it down right, 2022-00167?

19 MR. DANLEY: Yeah. I don't have any copy anymore.

20 MS. MONTGOMERY: Okay.

21 MR. DANLEY: And just to make a couple other
22 points, Staff's analysis was based on the lack of
23 context for the overall development. So Staff takes
24 issue with not having -- it could be 1.75, it could be
25 1.9, but without having -- I'm not saying that we would

1 support those, but that being -- the request kind of
2 being open-ended at this point, without applying it to
3 a contextualized site plan, we still are in the stance
4 where we would put a --

5 HEARING EXAMINER COLLINS: Okay, so you don't
6 support the deviation. By way of illustration you're
7 saying it is potentially possible to get a deviation on
8 the parking at the development order stage through an
9 administrative amendment. Historically it's been done
10 once, and it was a three-percent reduction?

11 MR. DANLEY: Yes.

12 HEARING EXAMINER COLLINS: Okay, thank you, I
13 understand.

14 MR. DANLEY: Thank you.

15 MR. DELISI: I'm sorry, I want to -- for
16 clarification because they've told me something
17 different in the past.

18 Can you get an administrative deviation for
19 residential?

20 MR. DANLEY: The clubhouse is what got the
21 reduction. It wasn't the -- it wasn't the -- the rate
22 for residential --

23 MR. DELISI: So we can't go in and submit it --

24 MR. DANLEY: That was 2.2 per --

25 HEARING EXAMINER COLLINS: I got it.

1 MR. DANLEY: Okay.

2 MR. DELISI: All right.

3 HEARING EXAMINER COLLINS: Okay. I'm ready to go
4 to public...

5 MR. DANLEY: Okay.

6 HEARING EXAMINER COLLINS: Members of the public
7 that are present, if you'd like to put remarks on the
8 record, please come to the podium, state your name.

9 MR. FREEMAN: For the record, I'm Alan Freeman.
10 We developed Three Oaks to the south of this project
11 and have the adjacent Florida Gulf Coast Business
12 Center, which is offices to the north. As they
13 explained, the development has a lot of -- in a
14 650-acre area there with Three Oaks Parkway and Oriole
15 Road, a lot of businesses. We think the residential is
16 a good use to help support that and to shorten trip
17 lengths.

18 We've done development here for a long time.
19 We've dealt with the Stock Development Group in a
20 number of places, and their developments are
21 first-class. They're very good people. I can say that
22 in front of Keith. Brian Stock isn't here, but I'd
23 like to say it for him, as well. And they do a good
24 job. So we think the quality of the development will
25 be very good.

1 I'm not an expert on parking deviations and the
2 clubhouse, although I would expect there's probably
3 some answer there that somebody more intelligent than I
4 can handle.

5 Again, we appreciate your time. I just noticed
6 that, you know, there was two extra minutes, and we
7 needed to fill that so we didn't leave too early. And
8 I will go to my other meetings after this.

9 Thank you very much for your time.

10 HEARING EXAMINER COLLINS: Okay, thank you.

11 I'm going to go back to the parties -- is there
12 another member of the public that would like to speak?

13 MS. GOREN: (Indicating.)

14 HEARING EXAMINER COLLINS: State your name for the
15 record, please.

16 MS. GOREN: Heather Goren, and I'm employed by
17 Gray Star.

18 I just wanted you to know that on our new deals,
19 1.8 is currently what the industry standard is for
20 parking, and two of the assets that were brought up, I
21 manage two of them, Vive and Decorum, and they have no
22 parking issues.

23 HEARING EXAMINER COLLINS: Okay. Thank you very
24 much.

25 MS. MONTGOMERY: Okay. When you say 1.8, is that

1 just for the units or the units and the clubhouse? I
2 just want to make sure I understand it.

3 MS. GOREN: Just the units.

4 MS. MONTGOMERY: Okay.

5 HEARING EXAMINER COLLINS: Okay. Could you say
6 that into the microphone because --

7 MS. GOREN: It's just the units.

8 HEARING EXAMINER COLLINS: Okay, thank you.

9 MS. GOREN: Thank you.

10 HEARING EXAMINER COLLINS: Does anyone else, any
11 of the parties want to put additional testimony or
12 evidence on the record?

13 MS. MONTGOMERY: Not unless you want us to.

14 HEARING EXAMINER COLLINS: No, I have a good
15 understanding of this project, the request, the area,
16 and the dispute, and I will do my best to get a
17 recommendation out before the three-week deadline so
18 that you can have a final public hearing before the
19 Board --

20 MS. MONTGOMERY: Thank you.

21 HEARING EXAMINER COLLINS: -- before they take
22 their summer break.

23 Thank you for coming.

24 (Proceedings concluded at 3:04 p.m.)

25

1
2 CERTIFICATE OF REPORTER3
4 STATE OF FLORIDA)5 COUNTY OF LEE)
6

7 I, Deborah M. Bruns, Florida Professional
8 Reporter, do hereby certify that I was
9 authorized to and did report the foregoing
10 proceedings, and that the transcript, pages 1
11 through 84, is a true and correct record of my
12 stenographic notes.

13
14 Dated this 4th day of May, 2023.

15
16 
17 _____
18 Deborah M. Bruns, FPR

19
20 (This transcript was electronically signed.)
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