

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2022-00048

IN RE: BAYSHORE PINES PLANNED DEVELOPMENT

PROCEEDINGS: PUBLIC HEARING

BEFORE: Donna Marie Collins
Chief Hearing Examiner

DATE: March 30, 2023

TIME: 9:00 a.m. to 12:39 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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8 ALSO PRESENT:

9 Gary Fluharty, Applicant
 10 Tim Keene, P.E., Keene Engineering
 Alexis Crespo, AICP, RVi
 11 Ted Treesh, TR Transportation Consultants
 Church Roberts, environmental consultant
 12 Josh Kelley, landscape architect

13 Camryn Siverson, Staff

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P R O C E E D I N G S

HEARING EXAMINER COLLINS: Good morning, my name is Donna Marie Collins. I'm the Hearing Examiner that will be presiding over this morning's zoning hearing. Applications to rezone property in Lee County go through two steps: The first is a hearing before the Hearing Examiner where testimony and evidence is accepted, documents and expert testimony; and at the conclusion of that hearing, as the Hearing Examiner, I prepare a recommendation to the Board of County Commissioners. The Board of County Commissioners are the final decision-makers in this case.

If you would like an opportunity to speak to the Board of County Commissioners at the final hearing, you must participate by putting testimony or evidence into the record at the Hearing Examiner level. That's the hearing that we're having here today.

All testimony and evidence will be accepted under oath, which I will administer to the entire room at one time. If you intend on speaking at the podium, I ask you to please raise your hand when that time comes.

For those of you who may not be familiar with the process of a zoning case, we will start with the Applicant. They are representing the property owners or the contract purchasers in this matter. They will

1 present their request, which in this case is an
2 application to rezone property to the residential
3 planned development district. The reason why they're
4 requesting that district is it affords more flexibility
5 in site design while still complying with the Lee
6 County Land Development regulations.

7 Their presentation may take some time. Oftentimes
8 the Applicant's presentation involves more than one
9 witness, sometimes expert witnesses. There will be a
10 PowerPoint and exhibits entered into the record.

11 At the conclusion of their presentation, the
12 County Planner that reviewed the application and
13 prepared the Staff Report will speak. They will come
14 to the podium. They will address -- they will not
15 repeat the Applicant's presentation, but they will
16 address the high points and maybe some specific
17 conditions and the reasoning behind those recommended
18 conditions during their presentation.

19 At the conclusion of Staff's presentation, I may
20 ask questions of the parties, but then after that I
21 will go to the public. We will open up the floor for
22 members of the public that wish to speak. If you
23 haven't already, I urge you to fill out one of these
24 public participation forms. I will go through these
25 one at a time. When I get to the bottom, I'll ask

1 again if there's anyone in the room that would like to
2 speak, and we'll go from there.

3 The reason why I encourage you to fill this out is
4 it gives us the correct spelling of your name; and if
5 you provide your email address, we can give you a copy
6 of my recommendation once it's issued, or we can notice
7 you of further action on this case. For instance, if
8 we don't finish this case by noon today, and it gets
9 continued to another day, you will receive notification
10 of that. After my recommendation comes out, you will
11 receive further notifications of the final Board
12 hearing on this case so that you have an opportunity to
13 decide whether you want to attend that hearing.

14 If you don't have an email address, if you put
15 your mailing address, we will send it to you via mail.

16 Just a few words about public participation.
17 Please try to organize your thoughts. You will get
18 only one opportunity to speak; and during your
19 opportunity to speak, that's your chance to ask any
20 questions you may have regarding the application,
21 clarifications of issues you may not understand, and
22 concerns you may have with the recommendation.
23 Oftentimes I find in cases like this that the public
24 may not be totally in favor or opposed to the
25 application, but they have specific concerns. If you

1 share those concerns with us, you give us an
2 opportunity to perhaps address those concerns through
3 conditioning, or you allow the Applicant the
4 opportunity to clarify certain issues for you that may
5 give you a heightened comfort level.

6 I know it's not easy to speak in front of a group.
7 I will assure you we are very friendly here. You may
8 speak as long as you want; but, again, you'll have only
9 one opportunity to speak. There will be no raising
10 your hand afterwards, no requesting to come back to the
11 podium. We have to keep the momentum of the hearing
12 going, especially since we have so many people here.

13 I anticipate that there is a possibility we will
14 not finish today. My staff has prepared three
15 alternative dates where we may continue this hearing
16 to. I hope to get to public input today, and at least
17 get most of you on the record; but if we don't, and you
18 didn't get an opportunity to speak, you will have an
19 opportunity to speak at the next hearing.

20 Okay. I'm going to administer the oath to
21 everyone in the room that intends on speaking. Do you
22 swear or affirm the testimony and evidence you enter
23 into the record will be the truth?

24 (Participants respond en masse.)

25 HEARING EXAMINER COLLINS: Okay, thank you.

1 And I'd like to welcome everyone from the public
2 that's here. I am excited to see so much participation
3 and look forward to your comments.

4 MS. MONTGOMERY: Thank you. To the administrative
5 point that you just raised, your office did provide us
6 with dates. Friday, May 5th, is the date that all of
7 our witnesses can attend.

8 HEARING EXAMINER COLLINS: Okay.

9 Staff, have you had an opportunity to check your
10 schedule?

11 MR. BADAMTCHIAN: No, I have not.

12 HEARING EXAMINER COLLINS: Okay.

13 MR. BADAMTCHIAN: I will let you know shortly.

14 HEARING EXAMINER COLLINS: So can I assume the
15 other two dates are not going to work at all?

16 MS. MONTGOMERY: They don't work.

17 HEARING EXAMINER COLLINS: Okay. So I'm going to
18 ask my staff to please come up with two additional
19 dates just in case this doesn't work out for you,
20 Chahram.

21 He may have hearings or something else going on
22 that day.

23 MS. MONTGOMERY: Chahram, will you move me to the
24 next slide, if you would?

25 MR. BADAMTCHIAN: Oh, the clicker doesn't work?

1 MS. MONTGOMERY: Not yet.

2 Good morning. While we're having technical
3 difficulties, for the record, my name is Neale
4 Montgomery. I'm the attorney for the Applicant.

5 With us today we have Gary Fluharty -- I saw him
6 in the audience -- the Applicant; Tim Keene is a
7 registered professional engineer in the state of
8 Florida; Alexis Crespo is an expert in planning; Church
9 Roberts is our ecologist; Ted Treesh is our expert in
10 transportation; and Josh Kelly, landscape architect.

11 One of the differences about today's case from
12 others you might see a lot of times, the property is
13 zoned agricultural, and that's kind of been a holding
14 pattern for the County. In this case the property
15 already has zoning. It has C-1, which is an old
16 commercial zoning that was there before the beginning
17 of time; and RS-1, which is a standard single-family
18 zoning. We're asking to change, as the Hearing
19 Examiner noted, to a residential planned development to
20 allow 180 multi-family units, which include 89 bonus
21 densities.

22 And with that, and before I turn it over to
23 Ms. Crespo, I did want to say that we want to make sure
24 that all the information that's in the Staff Report is
25 officially part of the record and competent,

1 substantial evidence. Thank you.

2 HEARING EXAMINER COLLINS: Okay, thank you.

3 And one word to your consulting team, because we
4 have so many members of the public here, if they can go
5 into extra detail in explaining the way the stormwater
6 management system works. You know, most people aren't
7 familiar with that. When it's usually just, you know,
8 people like Staff here, it's not necessary because we
9 all --

10 MS. MONTGOMERY: Mr. Keene is going to help us
11 with that --

12 HEARING EXAMINER COLLINS: Okay.

13 MS. MONTGOMERY: -- so thank you for reminding us.

14 HEARING EXAMINER COLLINS: The same thing,
15 Mr. Treesh, if you're here -- I don't see you but --

16 MR. TREESH: (Indicating.)

17 HEARING EXAMINER COLLINS: You're in the back?
18 Please, if you could go into a little bit more detail
19 regarding how traffic is -- is estimated for a project
20 such as this, and manuals that are published based on
21 information that's collected from other similar
22 projects throughout the country, a little more
23 attention to that so that our public can be more
24 informed about the documents that were relied upon for
25 the recommendations and conclusions that were made in

1 this case.

2 Good morning, Alexis.

3 MS. CRESPO: Good morning, Alexis Crespo with RVi
4 Planning representing the Applicant. May I present you
5 with the PowerPoint presentation and some 11-by-17s of
6 our master concept plan?

7 HEARING EXAMINER COLLINS: Okay, thank you. The
8 PowerPoint will be Applicant Exhibit 1, and the
9 enlarged master concept plan --

10 MS. CRESPO: Yes.

11 (Applicant Exhibits 1 and 2 submitted.)

12 HEARING EXAMINER COLLINS: -- will be Exhibit 2,
13 thank you. Give me a moment here, Alexis.

14 MS. CRESPO: We also have the master concept plan
15 aerial in 24-by-36 format, if you would like that, as
16 well.

17 HEARING EXAMINER COLLINS: Okay, thank you. Yes,
18 I would.

19 (Applicant Exhibit 3 submitted and all marked.)

20 HEARING EXAMINER COLLINS: Thank you, you may
21 proceed.

22 MS. CRESPO: Thank you.

23 As Neale noted, we're here to request rezoning of
24 this nine-acre infill subject property from RS-1 and
25 C-1 to a unified residential planned development. We

1 are in agreement with your Staff on recommendation for
2 approval, that this is consistent with the Land
3 Development Code and the Lee Plan as we'll outline
4 today.

5 And the only item outlined in our 48-hour letter
6 was an enhanced setback that we'll walk through. I
7 think the public would be very interested in hearing
8 how we've moved the buildings further into the site as
9 part of that last 48-hour letter we submitted. The --
10 sorry.

11 HEARING EXAMINER COLLINS: Do you by any chance
12 have exhibits on like what the view will look like
13 standing on the ground --

14 MS. CRESPO: Yes, ma'am, we have --

15 HEARING EXAMINER COLLINS: -- and looking at the
16 site?

17 MS. CRESPO: -- line of sights (sic) that
18 Mr. Kelley will present.

19 HEARING EXAMINER COLLINS: Excellent, thank you.

20 MS. CRESPO: The subject property is outlined in
21 yellow. This is a bona fide infill development
22 project. As you can see very clearly, we have
23 development on all three sides, and we front a State-
24 maintained arterial roadway, which is Bayshore Road or
25 State Road 78.

1 Uses surrounding us include Carriage Village to
2 our north and east, and then we have single-family
3 subdivision to our west.

4 We have substantial frontage on Bayshore Road;
5 however, a lot of that frontage is just a little flag
6 lot portion of the property, not very usable except --
7 anything for indigenous, as you'll see.

8 The property is well within the future urban area
9 per the Lee Plan. It is within your central urban
10 future land use category. We are also governed by the
11 North Fort Myers Planning Community and those Lee Plan
12 policies and Land Development Code regulations, which
13 we are in full compliance with.

14 We've noted the existing mix of commercial and
15 RS-1 zoning.

16 And this property was proposed for rezoning back
17 in 2008, and it took several years. It was proposing a
18 commercial planned development of 85,000 square feet of
19 retail, which is also consistent with the central urban
20 future land use category. That ultimately was
21 withdrawn, apparently a victim of the recession. But
22 the site has been looked at over the years for a
23 variety of both commercial and residential uses.

24 This slide depicts the future land use map. You
25 can see the property outlined in blue is entirely

1 within central urban, and all surrounding lands are
2 within central urban, which is a designated future
3 urban area per the Lee Plan. This is where the
4 policies direct new development and growth as it is
5 serviced by infrastructure, public services, close to
6 employment, and areas with existing development.

7 From the zoning standpoint, you can see we are
8 largely RS-1 zoning. The strip along Bayshore Road
9 that I referred to as the flag lot portion of it is C-1
10 zoning. Our surrounding zoning districts include RS-1,
11 mobile home to the north and east, and then commercial
12 lining the Bayshore Road frontage to our south.

13 Before we get into the details of the master
14 concept plan, we wanted to also just set up again the
15 context of the site within the future urban area of Lee
16 County, as well as within this dynamic and developing
17 Bayshore Road corridor.

18 So you can see, again, the property outlined in
19 blue. All land surrounding us, with the exception of
20 some conservation areas, are within central urban,
21 again, areas where the County is looking to direct and
22 accommodate new growth.

23 Then as you step east towards the interstate, you
24 still have suburban future land use, which allows for
25 densities of up to six units per acre. So this is not

1 an area intended for low density forms of development,
2 and actually quite the opposite per the future land
3 use.

4 Along those lines, this corridor is, again,
5 progressing through the development process. You can
6 see many properties that front State Road 78 are within
7 existing approved planned developments, some of them
8 very large-scale as you approach the interstate. And
9 this is just indicative of the level of existing
10 development approvals along the corridor and the
11 appropriateness for this site to be converted from
12 vacant, underutilized lands to an infill multi-family
13 project to accommodate a variety of housing types in
14 this area.

15 So getting into the details of our proposed
16 residential planned development, as Neale noted, we are
17 seeking a maximum of 180 multi-family dwelling units.
18 We are allowed ten units per acre by right or by
19 standard based density range within central urban,
20 which gets us to about 91 units, and then we're
21 proposing 89 additional units via bonus density. And
22 to get to that level of density, we have to utilize the
23 Greater Pine Island TDU program, which was a program
24 created by Lee County and really incentivizes -- this
25 is the highest bonus density you can get because

1 they're really looking to conserve the rural coastal
2 areas that are subject to flooding in coastal high
3 hazard areas, and directing, again, new growth to these
4 inland sites that are well served by infrastructure
5 along evacuation routes, et cetera. So we're fully
6 meeting the intent of the County provided for when
7 adopting that program back in 2015.

8 We have access directly to Bayshore Road so we're
9 not routing traffic through our lower density neighbors
10 to the north, east, or west, certainly, based on those
11 development patterns.

12 We are seeking a four-story maximum building
13 height as the upper limit of building height that could
14 go on the site.

15 Unlike many multi-family projects I've worked on,
16 and certainly any bonus density project, we are not
17 seeking any deviations from parking. That's a pretty
18 common deviation. It can be hard to fit when you're
19 trying to fit in this number of units, but this project
20 does fully comply with the multi-family parking and
21 guest parking requirements per the Land Development
22 Code.

23 We have buffers along all property lines. Josh
24 Kelley has renderings of what those buffers will look
25 like. But where we abut single-family and Carriage

1 Village, we are doing the 30-foot-wide Type F landscape
2 buffer. That is the widest buffer with the most
3 plantings in this Land Development Code. So certainly
4 meeting the Code fully there in terms of screening,
5 lower density uses that we'll get into in a little bit
6 more detail.

7 Along our northern boundaries we have 15-foot Type
8 B buffers, and along the roadway we do have the
9 enhanced North Fort Myers 20-foot-wide Type D buffer.

10 We also have indigenous open space and 45
11 percent -- 45 percent open space on the property,
12 whereas the Code only requires 40 percent.

13 So I'll walk you through some of these components.
14 Sometimes I feel like it's good to summarize some of
15 those key points and then actually show you where all
16 those -- those items are.

17 So we have a single point of access from Bayshore
18 Road. Because of the width of this area, of the
19 parcel, we can't accommodate another access point and
20 have that connect into the site. So this frontage is
21 basically unusable from an access standpoint. We met
22 with FDOT, and they were not supportive of two points
23 of ingress/egress to their arterial roadway. It would
24 not meet spacing requirements so we have a wide
25 entrance, as well as a gated entry, but also an

1 emergency entry here at this location. We have
2 corresponded with the Lee County Sheriff, as well as
3 the Fire District, and they have indicated their
4 recommendation of approval for this proposed design
5 based upon the site constraints and based upon Tim
6 Keene's design of this entry area that can facilitate
7 ingress/egress should -- should something get blocked
8 in that area.

9 There is a transit stop directly in front of the
10 property along Bayshore Road. So we're looking for
11 higher densities, and where do you want to put those
12 higher density multi-family types of housing? You want
13 to put that in your transit so that people can readily
14 access those services and get in and around the county
15 not only by using their vehicle but also by transit
16 so --

17 HEARING EXAMINER COLLINS: Where is the stop?

18 MS. CRESPO: The stop will be right here.

19 HEARING EXAMINER COLLINS: On the same side of the
20 road?

21 MS. CRESPO: Yes, ma'am. And it's -- it's an
22 existing stop. We are proposing to enhance it by
23 adding a bike rack and expanding the -- the pad where
24 people can stand and wait for the bus. So that will be
25 located there.

1 I mentioned our buffers -- I'll pause a moment.

2 We have our 20-foot-wide Type D buffer. Because
3 we're in the North Fort Myers overlay, they do require
4 a wider Type D buffer. We have our Type F here where
5 we're abutting Carriage Village because they are
6 basically -- they're treated as a single-family use per
7 the buffering Code. So that, again, is the widest,
8 most heavily vegetated buffer within the Code. We are
9 also implementing that type of buffer here in order to
10 screen the single-family residents to our west.

11 We could have proposed a 15-foot Type C with a
12 wall, but a lot of the design that we worked through
13 with the Applicant was to push everything to the center
14 of the project and try to put as much separation --
15 spatial separation between our neighbors as possible;
16 and then with the vegetation that will be installed,
17 there will be a high level of screening based on those
18 planting requirements.

19 On our northern boundary we do a Type B buffer
20 where we have a stormwater management lake abutting
21 adjacent properties. We are seeking a deviation for
22 the stormwater management lake to be 30 foot from the
23 property line instead of 50 feet. This allows us to do
24 more indigenous restoration over on the northwest side
25 of the site and just make better use of the property.

1 But we will have the Type B buffer installed here with
2 trees and hedges in order to provide physical
3 separation between the lake and the adjacent property.

4 Our indigenous open space areas are in this
5 northwest corner and along this strip on Bayshore Road.
6 We are at 1.76 acres of indigenous open space. That's
7 one percent below the requirement. We worked with
8 Staff to maximize those areas, and we are proposing
9 restoration to offset the one percent reduction in
10 indigenous that we are seeking.

11 In terms of the actual development, we have four
12 buildings shown up to a maximum of 4 stories or 60 feet
13 in height. The surrounding parking fully meets the
14 Land Development Code and was designed along the
15 perimeter so the buildings would be as far into the
16 site as possible. What you saw in your 48-hour letter
17 was increased setbacks of these buildings into the
18 site. We had corresponded with Staff. We had sought a
19 20-foot setback for the buildings at our initial
20 submittal. Staff recommended a 40-foot setback for
21 those 60-foot-tall buildings, and we took another look
22 at our site plan and the constraints and actually
23 submitted to you that we'll increase that to 60 feet.
24 So all buildings that are -- all buildings and all
25 property line buildings will be a minimum of 60 feet

1 from the PD perimeter if they are built to 60 feet
2 tall. If they are 40 feet tall, there would be a
3 40-foot setback. So it's a one-to-one ratio there of
4 setback to building height, which is really double the
5 standard in the Land Development Code. Chapter 34
6 prescribes that the minimum PD setback is either the
7 buffer yard or half the building height, whichever is
8 greater, and we're actually doing the full setback
9 based on the building height, so really double what the
10 Code says achieves compatibility.

11 We do have gating shown at our entrance in order
12 to provide security for our residents and surrounding
13 neighbors, as well. You'll note there's -- there's no
14 amenity on-site. The area is emerging. It's adjacent
15 or proximate to a neighborhood center within North Fort
16 Myers. The US 41 corridor is rapidly redeveloping.
17 So, really, the urban area that is coming along in this
18 area will be the amenity for these residents, and that
19 actually allows us to be more dense with the project,
20 and then also mitigate a potential nuisance to our
21 neighbors, as oftentimes you hear residents not wanting
22 a clubhouse pool amenity close to their existing home.
23 So we won't have that issue with the site as we're not
24 proposing an amenity.

25 HEARING EXAMINER COLLINS: Okay. Would you mind

1 clarifying for me what's in the southeast corner of the
2 site, these markings?

3 MS. CRESPO: That is a wall -- oh, are we looking
4 here?

5 HEARING EXAMINER COLLINS: Right here.

6 MR. KEENE: The whole entrance.

7 MS. CRESPO: So that's the entry that curves.

8 HEARING EXAMINER COLLINS: So what are these
9 markings here?

10 MS. CRESPO: Those are -- those are medians,
11 concrete areas to guide traffic in and out to create
12 lane separation.

13 MR. KEENE: Be like a residence -- would you like
14 me to --

15 MS. CRESPO: Would you like Tim Keene to --

16 HEARING EXAMINER COLLINS: Yes. I need a better
17 understanding of what all these markings are.

18 MR. KEENE: For the record, Tim Keene, engineer
19 for the project.

20 So we have three lanes, two lanes coming in and
21 one lane exiting. So one would be like a residents'
22 bypass lane; one would be like a guest lane where it
23 might take more time for someone to key into the
24 project; and then one is an exit lane. And then we
25 have a break in the median so people, you know, who

1 need to turn around, they can't get in, then they can
2 exit the project.

3 HEARING EXAMINER COLLINS: Okay. So this gate
4 here, is that a pedestrian gate or --

5 MR. KEENE: No, so that -- so that is the
6 mitigation we're offering for not having two access
7 points onto Bayshore Road. We are offering a
8 separate -- an emergency access gate available only to
9 the EMS and first responders.

10 HEARING EXAMINER COLLINS: So that's the emergency
11 access gate?

12 MR. KEENE: Yeah, yeah. So it would either be --
13 it would either be a slide gate or a swing gate, and
14 access would be provided. There are various methods,
15 such as EVAC radios or Knox locks. Knox is a brand of
16 locks that the EMS and the fire departments and the --
17 have a key, too, so they can get through that gate. It
18 would not be a -- a gate traveled through by residents.

19 HEARING EXAMINER COLLINS: So the -- all the
20 traffic will be coming in, turning west --

21 MR. KEENE: Left, yes.

22 HEARING EXAMINER COLLINS: -- and going through --

23 MR. KEENE: Either -- either lane, depending on
24 whether they're a resident or a guest.

25 HEARING EXAMINER COLLINS: Right. And no manned

1 gatehouse or anything like that?

2 MR. KEENE: No, no manned gatehouse. In these
3 days a lot of them are remotely manned. They have a
4 little -- you know, they have -- through WiFi
5 communications, you know, someone can appear on a
6 screen and things like that, and so they are manned in
7 a way, but not -- not in person.

8 HEARING EXAMINER COLLINS: Okay. Thank you for
9 clarifying that.

10 MR. KEENE: No problem at all.

11 MS. CRESPO: And those -- those are really the
12 main components of the master concept plan to discuss,
13 talked about the perimeter buffers, the 60-foot setback
14 if the buildings are 60 feet high. We do have four
15 deviations: one for the proposed access from State
16 Road 78, Bayshore Road; one for the lake setback, a
17 30-foot off Carriage Village; one percent reduction to
18 indigenous open space; and then the last one is the
19 location of this Type B buffer wall here. Because this
20 is a drive aisle entry road, and it's proximate to
21 single-family and Carriage Village -- a mobile home and
22 Carriage Village, the requirement would be to put the
23 wall 25 foot off the property line. We're proposing to
24 place it a minimum five feet off the property line,
25 still -- still installing all the Type B, but because

1 that's kind of a pinch point, we do need to locate the
2 wall different than the Code applies (sic) for, but
3 still meet all the buffering requirements.

4 HEARING EXAMINER COLLINS: Okay, thank you.

5 MS. CRESPO: With that I'm going to turn it over
6 to Josh Kelley to talk about the buffers, and I'll be
7 back to talk about Lee Plan compliance and the LDC
8 after their presentation.

9 MR. KELLEY: For the record, Joseph, or Josh,
10 Kelley, landscape architect.

11 MS. MONTGOMERY: Could you state your
12 qualifications for the record before you...

13 MR. KELLEY: Okay. I believe you have my résumé
14 on file. I've been a landscape architect for 20 years
15 in Lee County, and I've been accepted as an expert
16 witness in this forum before.

17 HEARING EXAMINER COLLINS: Okay, thank you. You
18 may proceed.

19 MS. MONTGOMERY: We're going to submit a current
20 one just to make sure you have it in the record.

21 HEARING EXAMINER COLLINS: All right, thank you.
22 (Mr. Kelley's résumé submitted.)

23 HEARING EXAMINER COLLINS: You go by "Josh," is
24 that what you were --

25 MR. KELLEY: Yes.

1 HEARING EXAMINER COLLINS: -- explaining?

2 MR. KELLEY: You can thank my parents for that.

3 Okay. So is there a -- can I get back to the
4 master concept plan?

5 MS. CRESPO: Yeah, just go back -- yeah.

6 MR. KELLEY: There we go, okay.

7 On the eastern, northern, and western boundaries
8 of the property, we abut single-family residential.
9 Multi-family and single-family requires a Type B
10 buffer, which is 15 feet. We have gone with a
11 different buffer on the east and west sides because we
12 may have parking that's closer than 125 feet to
13 adjacent residential. So that puts us into a Type E or
14 a Type F buffer, which is a 30-foot buffer with a wall
15 and some extra trees.

16 This is a Type F buffer, which is -- that's 30
17 foot in width, it has 66 shrubs that are 48 inches at
18 time of planting and maintained at 60 inches as a
19 minimum, and it has ten trees -- and this is per 100
20 linear feet. The trees are ten foot in height, a
21 four-foot spread of two-inch caliper at time of
22 planting.

23 HEARING EXAMINER COLLINS: And where will that
24 buffer be featured?

25 MR. KELLEY: That buffer will be featured on the

1 eastern boundary and on the western boundary over here.

2 HEARING EXAMINER COLLINS: Okay. And will it be
3 for the entire length of the eastern boundary and the
4 entire --

5 MR. KELLEY: It will not be for the entire length.

6 HEARING EXAMINER COLLINS: Okay. Can you --

7 MR. KELLEY: Only where the parking may be 125
8 feet from the residential -- say this corner here, you
9 would go 125 feet in from there, and to the end would
10 be a Type B buffer. Also on this side, 125 feet away
11 from the nearest point of that parking is somewhere up
12 in here, and then you have Type E buffer --

13 HEARING EXAMINER COLLINS: Do you have an
14 illustration of a Type B buffer?

15 MR. KELLEY: I do not. A Type B buffer is much
16 like a Type F except that it's a shorter buffer. It's
17 half the width, so 15 feet, and 5 trees rather than 10,
18 and there's also 66 shrubs which would be 24 inches at
19 the time of planting.

20 HEARING EXAMINER COLLINS: Okay, thank you.

21 MR. KELLEY: We've got some site distance here.
22 This is from the -- on the eastern side, eastern
23 boundary, and you see the 30-foot buffer linked right
24 here with the plantings, and then this would be a group
25 of people (indicating) about six feet high, 15 feet

1 back, so that would be close to where the residences
2 are.

3 So the view from there then, if you have to look
4 over that buffer, you're -- you're going to miss the
5 building. So the buffer will cover the building from
6 that distance.

7 HEARING EXAMINER COLLINS: Okay. So that gray
8 shaded tree, what does that represent?

9 MR. KELLEY: The gray shaded tree -- because this
10 buffer is a little different from the western buffer.
11 The eastern buffer is not only indigenous preserve
12 area, but it's also a buffer. So we're going to
13 preserve the existing trees that are in that area, and
14 then we're going to enhance that buffer to bring it up
15 to whatever level needed to make a Type F buffer. So
16 we'll have -- and those will be all native plants, so
17 it will be more like an indigenous restoration which
18 acts as a buffer.

19 HEARING EXAMINER COLLINS: So what does the gray
20 tree represent?

21 MR. KELLEY: The gray tree represents existing
22 pine trees that are in that area, which are fairly
23 large.

24 HEARING EXAMINER COLLINS: And this is along the
25 eastern property line?

1 MR. KELLEY: That's along the eastern property
2 line. So on this side would be the -- the trailer
3 park, and then this side would be the building.

4 HEARING EXAMINER COLLINS: And that's for the
5 length of the parking aisle?

6 MR. KELLEY: That's correct.

7 HEARING EXAMINER COLLINS: Okay.

8 MR. KELLEY: Well, anywhere that we're 125 feet
9 away from the parking -- away from the pavement of the
10 parking lot.

11 HEARING EXAMINER COLLINS: Well, where are you 125
12 feet away from --

13 MR. KELLEY: That would be along that -- this is
14 the parking area here, so anywhere that this
15 residential area is 125 feet away from that. So
16 probably somewhere around here all the way down to
17 here.

18 HEARING EXAMINER COLLINS: And then what does it
19 drop off to?

20 MR. KELLEY: Well, then it goes to a 15-foot Type
21 B buffer. Once you get up in here -- this is the
22 retention lake here. So once you get up in here you've
23 got 15 feet of just trees and shrubs, 5 trees per 100
24 feet, and 66 shrubs.

25 Also, the northern boundary is going to -- could

1 be a Type B, as well, but it also has the lake and the
2 indigenous preserve, also, buffering these lots up
3 there.

4 HEARING EXAMINER COLLINS: And what about along
5 the west side?

6 MR. KELLEY: Along the west side -- along the west
7 side it's just a straight Type F buffer. So it's a
8 30-foot buffer with the 10 trees and 66 large shrubs
9 per 100 feet.

10 HEARING EXAMINER COLLINS: So how is that
11 different from the east side?

12 MR. KELLEY: It is the same as the east side
13 except the east side also has some indigenous
14 vegetation --

15 HEARING EXAMINER COLLINS: So there's no
16 indigenous on the west side?

17 MR. KELLEY: There's no indigenous on the west
18 side.

19 HEARING EXAMINER COLLINS: Okay, I see.

20 And then in this example, can you explain the site
21 view of the people on the ground?

22 MR. KELLEY: Sure -- whoops.

23 This is the property line right here --

24 HEARING EXAMINER COLLINS: And this is adjacent to
25 the single-family project to the west?

1 MR. KELLEY: That's correct, yeah, these guys over
2 here.

3 So you have a property line, and there's a 15-foot
4 yard, and then would be people standing in their lanai
5 or on their back deck. And this shows where the
6 vegetation -- and I want to note that the trees shown
7 here are at mature growth, so about five years' growth.
8 So they would -- this would completely block a 60-foot
9 building from -- from their view.

10 HEARING EXAMINER COLLINS: In five years.

11 MR. KELLEY: Yes. Okay?

12 Then on the south side, along the south side here,
13 this is a 20-foot Type D buffer, which is basically the
14 same as a Type B buffer. It's 5 trees and 66 shrubs
15 per 100 linear feet. The difference is, because of the
16 overlay, this is 20 feet instead of 15 feet.

17 And this piece right here really doesn't require a
18 buffer because it's open space. It's going to be
19 existing and restored indigenous area.

20 HEARING EXAMINER COLLINS: Okay. And what does it
21 mean when you say "restored indigenous"?

22 MR. KELLEY: The indigenous areas in here -- and
23 the environmental guy can explain this a little better,
24 but they've been distressed by exotics that have grown
25 in -- Brazilian pepper, melaleuca, things like that.

1 Once those are removed, they'll leave open spaces and
2 gaps that are going to have to be replanted and
3 restored.

4 HEARING EXAMINER COLLINS: And is that anticipated
5 in that strip along --

6 MR. KELLEY: Yes.

7 HEARING EXAMINER COLLINS: -- Bayshore?

8 MR. KELLEY: I believe half of it is -- can just
9 be preserve, but this half over here has to be -- has
10 to be restored, and we have a plan for that.

11 HEARING EXAMINER COLLINS: So after the exotic
12 vegetation is removed, the developer will go back in
13 and plant --

14 MR. KELLEY: They'll go back in and replant with
15 native vegetation, and it's vegetation that's specific
16 to this environmental...

17 HEARING EXAMINER COLLINS: Trees and shrubs, or
18 mostly shrubs?

19 MR. KELLEY: Trees, shrubs, ground covers,
20 grasses.

21 HEARING EXAMINER COLLINS: So it will have a very
22 natural appearance?

23 MR. KELLEY: Very natural appearance. It will be
24 attuned for this specific place and the types of
25 wildlife that are expected to still be there or to move

1 in.

2 HEARING EXAMINER COLLINS: Thank you.

3 MR. KELLEY: Then we have this section -- do you
4 want me to talk about the Deviation 5 about the entry?

5 MS. MONTGOMERY: (Nods head.)

6 MR. KEENE: Um, I can -- do you want me to do that
7 when --

8 MR. KELLEY: Okay.

9 MS. CRESPO: Did the Hearing Examiner need more
10 discussion on that wall placement right at the entry
11 road?

12 HEARING EXAMINER COLLINS: Whoever is the best
13 person to speak to that can speak to it during their
14 presentation time.

15 MR. KELLEY: Okay. So that completes my
16 presentation of the buffers.

17 HEARING EXAMINER COLLINS: Okay, thank you.
18 (Discussion at podium)

19 MR. KELLEY: I have one slide to show you, that
20 under the current zoning, single-family, we would be
21 able to build a two-story house within 35 feet of the
22 property line that would have a pool enclosure and no
23 buffer, because single-family to single-family does not
24 require a buffer, and there is no open space
25 requirement for single-family development. So if we

1 chose to just develop this as the zoning that's
2 currently there, this would be the sight line right
3 into the back of the house from the adjacent property.

4 HEARING EXAMINER COLLINS: Okay, thank you.

5 MR. KEENE: For the record, Tim Keene,
6 professional engineer. Keene Development is my company
7 name, and I've been tendered as an expert in this forum
8 previously.

9 HEARING EXAMINER COLLINS: Engineering, right?

10 MR. KEENE: Engineering.

11 HEARING EXAMINER COLLINS: Okay.

12 MR. KEENE: I'm also a contractor, but
13 engineering --

14 HEARING EXAMINER COLLINS: Okay, thank you.

15 MR. KEENE: As -- as an expert witness in
16 engineering.

17 MS. MONTGOMERY: And you're also the chairman of
18 the City of Fort Myers Planning Board; right?

19 MR. KEENE: Currently sitting as the chair of City
20 of Fort Myers Planning Board, yes. I've been on that
21 Board for about 15 -- 15 years.

22 HEARING EXAMINER COLLINS: Thank you, you may
23 proceed.

24 UNIDENTIFIED SPEAKER: Is that a conflict of
25 interest?

1 HEARING EXAMINER COLLINS: That's a different
2 governmental entity -- who asked that?

3 UNIDENTIFIED SPEAKER: (Indicating.)

4 HEARING EXAMINER COLLINS: Okay. You can ask that
5 during the public time.

6 UNIDENTIFIED SPEAKER: Okay.

7 MR. KEENE: My -- my role in that is a volunteer
8 role as a layperson on that Board. It's not -- I'm not
9 an employee --

10 HEARING EXAMINER COLLINS: Well, it's a different
11 governmental entity --

12 MR. KEENE: Yes, but I'm not an employee of the
13 City of Fort Myers.

14 HEARING EXAMINER COLLINS: It's not unincorporated
15 Lee County, it's the City of Fort Myers, but I'd like
16 to continue --

17 MR. KEENE: Yeah, yeah.

18 HEARING EXAMINER COLLINS: -- with the momentum of
19 the presentation.

20 MR. KEENE: Okay.

21 To pick up a little bit on the entry question that
22 you had asked earlier, I want to -- I want to give a
23 little bit of clarification. And I don't know -- I'm
24 sure it's in the Staff Report, but I'm going to hand
25 you the schedule of deviations that we presented in our

1 application, and we prepared on the second page --

2 (Applicant Exhibit 4 submitted.)

3 HEARING EXAMINER COLLINS: This will be Applicant
4 Exhibit 4.

5 Do you have a slide of this?

6 MR. KEENE: Unfortunately we did not put this in
7 our slide. I apologize.

8 (Applicant Exhibit 4 marked.)

9 HEARING EXAMINER COLLINS: Well, maybe you can
10 just walk me through it --

11 MR. KEENE: Yes. I'll --

12 HEARING EXAMINER COLLINS: -- using that --

13 MR. KEENE: -- I'll step -- I'll walk you --

14 HEARING EXAMINER COLLINS: Okay, thank you.

15 MR. KEENE: -- through -- I'll point, I guess.

16 So our entry is located kind of -- due to spacing
17 requirements on FDOT. So this is a -- this is a
18 five-lane -- well, it's a four-lane road with a -- with
19 a bidirectional median so there's no median in the
20 roadway. So when we plan entrances, we like to
21 align --

22 (Discussion in audience)

23 HEARING EXAMINER COLLINS: Okay. Can I ask
24 everyone to please be quiet. If you need to speak to
25 your neighbor, please step outside and come back in.

1 MR. KEENE: So when we -- when we plan entrances,
2 we like to align them so that we don't have any left
3 turn -- overlapping left turn conflicts. So we placed
4 this entrance here as -- as it aligns with the opposing
5 road and meets the space it's FDOT spacing
6 requirements. As mentioned previously, we can't have
7 two entrances because we would not meet the FDOT
8 spacing requirements.

9 So aligning it here causes us to -- to have a
10 buffer problem along this little pinch point here at
11 the corner. So the exhibit that I showed you -- or
12 that I presented you just now is a blowup that was in
13 our -- in our application --

14 HEARING EXAMINER COLLINS: Right.

15 MR. KEENE: -- showing how we would put an
16 eight-foot concrete wall. The minimum -- the minimum
17 pinch point would be about five feet. We would put all
18 the required landscaping in, and all the trees would go
19 in --

20 HEARING EXAMINER COLLINS: Well, what does that
21 entail, for the benefit of the public?

22 MR. KEENE: So, again, the buffer requirement
23 is -- is a double hedge row, which is 66 shrubs per 100
24 linear feet planted at 3 foot on center, and you
25 typically pick a shrub that, you know, will grow to a

1 nice height to create the buffer effect. And then 10
2 trees per 100 linear foot. So it's a fairly dense
3 buffer planting as far as all of our buffers that we
4 typically put in.

5 HEARING EXAMINER COLLINS: Do you have an exhibit
6 that shows what that will look like standing on the
7 ground for the people in Carriage Park --

8 MR. KEENE: At this particular --

9 HEARING EXAMINER COLLINS: -- Carriage Village?

10 MR. KEENE: -- point?

11 HEARING EXAMINER COLLINS: Yes.

12 MR. KEENE: We do not have a line of sight exhibit
13 for that little point right there, no. I apologize.

14 MS. MONTGOMERY: If we carry over to the 5th,
15 we'll put that on our list of things to bring.

16 HEARING EXAMINER COLLINS: I think it would be
17 beneficial to have it from every boundary.

18 MR. KEENE: So the -- but what -- on the exhibit
19 that I did present to you, the nearest -- the nearest
20 home is 60 feet away from that -- that -- that corner,
21 that common corner right there. So the nearest -- in
22 this case it's a trailer home -- is 60 feet away from
23 that common corner. So we would be 65 feet -- 67 feet,
24 roughly, that wall would be 67 feet from --

25 HEARING EXAMINER COLLINS: Right, but the idea is

1 they're going to use their back yard, so it's not --
2 you know, it would be nice to be able to see it from
3 the back yard.

4 MR. KEENE: Yeah, but it's not something that
5 we -- that we really have in our control --

6 HEARING EXAMINER COLLINS: Right. You're at the
7 mercy of Florida DOT.

8 MR. KEENE: Right.

9 HEARING EXAMINER COLLINS: They're telling you
10 where you can have your access so you're trying to
11 accommodate --

12 MR. KEENE: Correct, so we're trying --

13 HEARING EXAMINER COLLINS: -- with the wall and
14 the landscaping to block the --

15 MR. KEENE: Exactly.

16 HEARING EXAMINER COLLINS: -- the headlights
17 coming in from the neighbors.

18 MR. KEENE: Exactly.

19 So the -- and addressing the deviation -- let's
20 see. We've talked about the access point. We've
21 talked about the little buffer deviation.

22 Okay. Move on -- so water service for this site
23 is available from Lee County Utilities. There is a
24 waterline running along the front of the property.
25 Sanitary sewer service is available from Florida

1 Governmental Utility Authority. There is a force main
2 on the south side of Bayshore Road, but it's west of
3 the site. We would have to go under Bayshore Road
4 and extend the force main along the south side of
5 Bayshore Road to the west. It's roughly at the
6 location where -- I don't know if it's Daughtrey's
7 Creek or Powell Creek bypass comes under Bayshore Road
8 just to the west side of the single-family homes that
9 are adjacent to us. They do not have sewer. They have
10 water but not sewer --

11 HEARING EXAMINER COLLINS: So you're going to
12 extend the infrastructure to serve the project?

13 MR. KEENE: To serve this project, yeah. There
14 will just be a force main extension --

15 HEARING EXAMINER COLLINS: Water you could just
16 tie in --

17 MR. KEENE: Correct, the water main's right in
18 front of the site, but on the south side -- not -- and
19 I'll -- let me think.

20 So there was -- there was a realignment of
21 Bayshore Road at some point, and that's why we have
22 this little thin piece of property left over. So they
23 took right-of-way from the north side of Bayshore Road,
24 so down in this -- this is -- the Lee County Co-op's
25 offices are right here. Here's the -- the drainage

1 bypass that comes under -- so the sewer is roughly in
2 this area. So there's actually a nice, clean piece of
3 right-of-way where the road roughly used to run that
4 will allow us to bring a force main, not too far. We
5 don't have to go too far to get to the sewer. It will
6 only be like a four-inch force main for a project like
7 this.

8 HEARING EXAMINER COLLINS: Okay.

9 MR. KEENE: So I'll use this also for water
10 management.

11 In our investigation of the site, this -- the
12 Carriage Village neighborhood drains into this bypass
13 over here on the west, and there's a set of drainage
14 inlets along our north property line. They're like
15 right on the property line. And their roadways
16 basically tie into those drainage inlets, and then that
17 drainage is taken westerly over here to the bypass.
18 The inlets are right on the property line. We're not
19 proposing to modify them, change them, tie into them.
20 We're not draining into them or anything like that.
21 There will be actually a berm between us and the edge
22 of --

23 HEARING EXAMINER COLLINS: So their flooding
24 situation will get no better or worse.

25 MR. KEENE: Yeah, our plan is not to aggravate

1 or -- or cause them to get any worse.

2 HEARING EXAMINER COLLINS: And that's achieved by?

3 MR. KEENE: That's achieved by basically berming
4 our drainage off from them. So we do not tie into
5 them; we do not flow their way. We will be bringing
6 all of our drainage to the FDOT right-of-way.

7 The -- they have a similar situation here. There
8 actually is a -- like a concrete flume along here for a
9 way, then it ties into a pipe, and it brings it over to
10 the entrance to Carriage Village, and then down to an
11 FDOT pipe under their entrance. It appears that they
12 have -- that flume was installed by the -- the mobile
13 home park at some point to handle their -- their
14 drainage issues.

15 We don't -- we don't -- we don't plan to aggravate
16 this -- and this little -- this little panhandle
17 section, we're going to remove the exotics; we're going
18 to do the restoration. We are not changing the grade
19 in that area. We are not proposing to build it up.
20 We're not proposing to make a water management area out
21 of it. It's about 40 feet in depth. We are leaving
22 it -- actually, it's going to be nicer than it is today
23 because it is -- you know, about 60 percent of it is
24 Brazilian pepper, and the other part of it is mixed
25 vegetation with some exotic that we'll have to remove.

1 When Church Roberts comes up, he can go over the
2 FLUCCS map and kind of give a description of that. We
3 spent a lot of time on the site identifying in pretty
4 good detail the -- the land use areas, the cover areas.

5 So this area is going to just, basically from a
6 grading standpoint, remain as is, and then we're just
7 going to enhance the planting in this area here. And
8 that will, you know, maintain the buffer between the
9 trailer park and Bayshore Road. So we're not going to
10 take this out; we're not going to -- you know, we have
11 to -- to take -- to take the exotics out. That will
12 open it up for a period of time, but then the
13 vegetation will be planted so that it grows back.

14 HEARING EXAMINER COLLINS: Okay. So their
15 stormwater management system will operate as it always
16 has --

17 MR. KEENE: Correct, correct.

18 HEARING EXAMINER COLLINS: -- for good or for bad.

19 MR. KEENE: We're not -- we are not going to
20 impact it. We're not going to -- you know, we don't
21 really have a way to bring it into our site.

22 So our only outfall, we can't go -- we can't go
23 west to the single-family; we can't go north or east
24 into Carriage Village; so we have to come out to the
25 right-of-way of FDOT.

1 HEARING EXAMINER COLLINS: Okay. So stormwater
2 falls on your property --

3 MR. KEENE: Correct, it stays on our property.

4 HEARING EXAMINER COLLINS: Explain -- why don't
5 you bring up your site plan, explain how the stormwater
6 is routed once it hits your property.

7 MR. KEENE: So typically --

8 HEARING EXAMINER COLLINS: Do you have your master
9 concept plan?

10 MR. KEENE: We have -- we have this one right
11 here.

12 HEARING EXAMINER COLLINS: Okay.

13 MR. KEENE: It didn't --

14 HEARING EXAMINER COLLINS: So it's going to hit
15 the impervious areas --

16 MR. KEENE: It's going to hit the impervious area;
17 it will be collected in stormwater pipes. We do have a
18 little bit of a drainage swale over here. It will
19 bring it around here. This basically -- the swale is
20 intended to provide some of our water quality
21 pretreatment before we discharge into our pond. And
22 our pond -- the reason we're showing a small pond
23 here -- it's about a half-acre pond. It's the minimum
24 size allowed by the Water Management District. Ponds
25 are good at removing nutrients -- certain types of

1 nutrients. Dry pretreatment areas are good at removing
2 other types of nutrients. And then this pond will have
3 a pipe that exits out the front of the project.

4 Now, this isn't -- none of this is designed yet.
5 It's something that would come in the future as we go
6 through a development order and FDOT permitting
7 process. But there will be a control structure on the
8 lake, and then the outfall would come to the
9 right-of-way of Bayshore Road; and then from what I can
10 tell so far, the drainage goes east, continues east and
11 then crosses near Hart Road, crosses underneath
12 Bayshore Road, and then makes its way to the river.

13 HEARING EXAMINER COLLINS: Okay, so back to the
14 site. It's going to collect on the impervious areas.

15 MR. KEENE: Correct.

16 HEARING EXAMINER COLLINS: It's going to be
17 directed to the western boundary to a swale, a pipe --

18 MR. KEENE: A pretreatment system, yeah, yeah.

19 HEARING EXAMINER COLLINS: It's going to -- the
20 water is going to get filtered out; it's going to make
21 it to the dry retention area; but there's going to be
22 no spillage because there is a berm along the north --

23 MR. KEENE: Correct.

24 HEARING EXAMINER COLLINS: -- boundary.

25 MR. KEENE: And that's what I wanted to show.

1 We're illustrating the berm right here, and the -- and
2 the buffer would be planted at the top of the berm. It
3 helps make the buffer taller.

4 The height of this berm hasn't been decided yet,
5 hasn't been engineered, but typically they're at least
6 two feet, could be three feet or more depending on how
7 the drainage calculations work out.

8 This is an interceptor drainage swale, and this
9 would be -- this would be sort of the west boundary,
10 and this would take the water north around the -- the
11 indigenous preserve area into the pond.

12 HEARING EXAMINER COLLINS: Okay, thank you.

13 MR. KEENE: This is -- on this area, this is --
14 this is the -- the side adjacent, Carriage Village --

15 HEARING EXAMINER COLLINS: The east side?

16 MR. KEENE: The east side -- yeah, the east
17 boundary where we have an indigenous preserve planned
18 as part of that buffer. This drainage would be brought
19 back into the site. This is -- the only thing that
20 would be -- this area here would just stay like it is
21 today. The drainage -- but the drainage for all the
22 developed area would be brought back into the site.

23 Again, we would be getting permits from the Water
24 Management District, from FDOT for drainage, FDOT for
25 access, FDOT for utilities, Lee County development

1 order permits, all the -- all the standard stuff.

2 I'm trying to think if there's anything else I can
3 fill you in on on the site design.

4 Part of the site design -- and Alexis alluded to
5 this earlier. You know, we tried to concentrate the
6 buildings in the middle of the site. Part of that also
7 has to do with fire protection. So it allows fire --
8 you know, emergency vehicles to get all the way around
9 the buildings through the project. And due to the
10 height of these buildings, it's most likely that these
11 buildings would be fire -- would have fire sprinkler --
12 fire suppression systems built into them because of the
13 height. Usually something over two stories typically
14 is -- is sprinkler, and, again, because it's
15 multi-family, as well.

16 I think that's it for my portion at this time.

17 HEARING EXAMINER COLLINS: Okay, thank you. I'm
18 ready for the next witness.

19 Good morning.

20 MR. ROBERTS: Good morning, I'm Church Roberts,
21 for the record.

22 Did they need a copy of my résumé?

23 MS. MONTGOMERY: Yes, please.

24 MR. ROBERTS: I have been approved as an expert
25 witness before, but here is a copy of my résumé.

1 (Applicant Exhibit 5 submitted.)

2 HEARING EXAMINER COLLINS: Thank you. This will
3 be Applicant Exhibit 5.

4 (Applicant Exhibit 5 marked.)

5 MR. ROBERTS: And I've been an environmental
6 consultant in the Fort Myers/Southwest Florida area for
7 30 years -- 29 years this coming August. For 23 of
8 those years I worked at Johnson Engineering, where I
9 was the director of their environmental department for
10 16 years; and for the last six years I've been out on
11 my own.

12 I did the work on this property. That work
13 consisted of the habitat mapping, the listed species
14 survey, and the native tree survey. And during the
15 listed species survey, I identified, I believe it was,
16 15 gopher tortoise burrows, which are identified on
17 that map with the red dots; and we identified some
18 coontie plants that I think are on a different slide.

19 When you do the protected species survey, you
20 know, you estimate the area coverage by -- you know,
21 you walk a transect; you take the length of that
22 transect, and then you estimate how many feet you can
23 see on either side, and that gives you an area. So for
24 the County, they require 80 percent coverage of all
25 suitable habitats. For comparison, if you were in an

1 incorporated area within the county, you would only
2 have to meet the standard requirements by the Fish and
3 Wildlife Commission, which is only 15 percent. So
4 there's a much more stringent survey cover area by the
5 County. As I said, I also did the native tree survey
6 on the property, so I am 100 percent certain I covered
7 the minimum 80 percent of the survey area required.

8 HEARING EXAMINER COLLINS: Okay. So if we could
9 just clarify. That means you were on site, and you
10 walked the length of it, and you looked on either side;
11 and then you walked over a few steps and walked down
12 again, looked on either side, and basically did that
13 for the whole site?

14 MR. ROBERTS: That's correct, and the transects
15 walked are illustrated on the report that was provided
16 to the --

17 HEARING EXAMINER COLLINS: Right. I'm trying to
18 explain for the public how the project was examined for
19 environmental issues. That's why I'm asking you to
20 clarify.

21 MR. ROBERTS: Yes, you're correct. I walked
22 transects --

23 HEARING EXAMINER COLLINS: I'm very familiar with
24 the Staff Report, but they are not.

25 MR. ROBERTS: Right, right.

1 HEARING EXAMINER COLLINS: Okay.

2 MR. ROBERTS: And so with regards to the
3 management plan for the gopher tortoises, because
4 there's not enough or sufficient capacity on-site, the
5 tortoises would be relocated and moved off-site. And
6 so how that works is 90 days prior to development
7 hearing, you have to do a resurvey, which is 100
8 percent, resurvey the entire area; you submit that to
9 the Fish and Wildlife Commission. You get a relocation
10 permit, and then you relocate the gopher tortoises to
11 an off-site certified recipient site. So there will be
12 no harm at the end of the day to the gopher tortoises.

13 HEARING EXAMINER COLLINS: Okay. So will any of
14 the gopher tortoises remain on-site?

15 MR. ROBERTS: You know, unless there's tortoises
16 on the adjacent lots, all the tortoises within the
17 property will be moved off-site.

18 HEARING EXAMINER COLLINS: Okay, thank you.

19 MR. ROBERTS: Those within the development areas
20 and the preserve areas.

21 HEARING EXAMINER COLLINS: Okay, thank you. And
22 then what type of site is it relocated to?

23 MR. ROBERTS: It's an approved -- it's a permitted
24 approved recipient site by the Fish and Wildlife
25 Commission, and that's based on availability at the

1 time when you go to -- actually need to relocate the
2 gopher tortoises. And there's a fee associated with
3 that, and that fee has gotten real high. When I
4 started in this business down here, you wouldn't have
5 to pay anything -- you would pay a fee but not to
6 relocate them. You would just pay an incidental take
7 fee. Now you're paying up to \$6,000 for gopher
8 tortoises, just to move them to that approved recipient
9 site.

10 HEARING EXAMINER COLLINS: What does that truck
11 even look like that takes these -- just wondering.

12 MR. ROBERTS: Just a basic vehicle.

13 So that's the gopher tortoises. Do you have any
14 other questions on the gopher tortoises?

15 HEARING EXAMINER COLLINS: (Shakes head.)

16 MR. ROBERTS: And then we did do a detailed
17 habitat map of the property, you know, the edge of the
18 property -- and which one of these is the pointer?

19 (Discussion at podium)

20 MR. ROBERTS: So along the edges of the property
21 over in here, you know, it's disturbed habitat. You
22 have a lot of escaped ornamentals from landscaping
23 yards. Some of that is beneficial to gopher tortoises.
24 You get the grasses -- the bahiagrass and stuff like
25 that that the tortoises feed on, but much of the

1 property is also infested with Brazilian pepper. There
2 was talk about this area. That area is largely
3 Brazilian pepper. That will be planted and restored.
4 And then the area that is less exotics, up in this area
5 here, is your 1 point, basically, 7-acre area that will
6 serve as your indigenous preserve.

7 And then these -- this map here just shows where
8 the coontie is located --

9 UNIDENTIFIED SPEAKER: Where the what is?

10 MR. ROBERTS: Coontie right here, the plants. And
11 there's actually coontie over in here. So somebody who
12 lives over here plants it because that's all over
13 there, too.

14 HEARING EXAMINER COLLINS: Okay. So what --

15 MR. ROBERTS: But anyway --

16 HEARING EXAMINER COLLINS: -- what is coontie?
17 Explain what that is and why we're talking about it.

18 MR. ROBERTS: So coontie is a plant. It's listed
19 as protected by Lee County, and so when we go do the
20 development in this case, it will be easily relocated
21 into the preserve area.

22 HEARING EXAMINER COLLINS: Okay.

23 MR. ROBERTS: Did I answer that question?

24 MR. KEENE: It's a small shrub, right?

25 MR. ROBERTS: Yeah, it's a shrub plant. It's a

1 small evergreen-type plant.

2 HEARING EXAMINER COLLINS: Okay. So it will be
3 preserved, it's not going to be leveled. It will be
4 moved into your open space area.

5 MR. ROBERTS: Yes, those relocate very well, yeah.
6 And then I don't -- I think that's it on my
7 slides.

8 MR. KEENE: There's another one that shows --

9 MR. ROBERTS: Okay. Oh, this is the tree survey
10 that I did with the help of one of Tim Keene's folks.
11 And so the purpose of this survey is a native tree
12 survey. All those dots represent trees with either a
13 minimum of four-inch DBH -- diameter of breast
14 height -- for the tree size, and then a DBH -- a
15 20-inch DBH is your heritage tree survey requirement.
16 So the triangular areas would be the heritage trees. I
17 think we had oaks and pines that qualified as heritage
18 trees on the site.

19 HEARING EXAMINER COLLINS: Okay. So can you
20 explain which ones will be preserved as part of the
21 site plan?

22 MR. ROBERTS: Well, the example given is on this
23 border over in here which showed that pine tree. And
24 so you can see the red dots are all your pine trees.
25 So that's how it was built into that buffer, you know,

1 when you get that line of sight view where you have the
2 existing pine trees.

3 HEARING EXAMINER COLLINS: Okay. And what's going
4 to happen with the heritage live oak and laurel oak and
5 pines?

6 MR. ROBERTS: Well, they're going to be preserved
7 to the extent practicable. They can be relocated --
8 like we'll probably relocate a lot of the cabbage palms
9 on the property, to the extent practicable; and if not,
10 then you offset the taking of that tree with the
11 replanting.

12 HEARING EXAMINER COLLINS: Okay. Okay, thank you.

13 MR. TREESH: Good morning, Ted Treesh with TR
14 Transportation Consultants. We did the transportation
15 analysis as part of this rezoning application.

16 And for the benefit of the public, I'll go into a
17 little more explanation than I typically do for this
18 process, but we look at the -- we look at the Institute
19 of Transportation Engineers report, which is a
20 compilation of a number of surveys collected all over
21 the country for this type of land use -- for this
22 specific land use. It is a multi-family land use
23 category, which for this project is a multi-story
24 project.

25 Typically a multi-family project -- as I testified

1 in this forum yesterday, a multi-family project
2 generates less traffic than a single-family home
3 because a single-family home typically has more -- more
4 vehicles, more residents, more people living in a
5 single-family home than a multi-family use. So a
6 multi-family product generates generally about half the
7 amount of traffic than a single-family use generates.

8 HEARING EXAMINER COLLINS: And this is based on
9 surveys that are the source of this published
10 information --

11 MR. TREESH: Yes.

12 HEARING EXAMINER COLLINS: -- and this manual.

13 MR. TREESH: Yes.

14 HEARING EXAMINER COLLINS: And you rely on this
15 manual to estimate the trips that will be generated by
16 this project.

17 MR. TREESH: Yes. And that manual is accepted
18 methodology that's accepted and required for us to
19 use -- that's required for us to use by the County, by
20 FDOT, and required by the Administrative Code and the
21 Land Development Code here in Lee County. So it's
22 generally accepted practices here in the state of
23 Florida, Lee County, and all over the country. So
24 these practices are well practiced throughout the state
25 of Florida and the United States.

1 So the methodologies are accepted practice here in
2 the County, and the study was reviewed by Staff and
3 accepted by Staff, and there is a memo that is part of
4 the Staff Report that Lee County Staff produced that
5 summarizes the results of our analysis, and we're in
6 agreement with those comments that are made in the
7 Staff Report that summarizes our -- the conclusions
8 that are included in our traffic study.

9 But basically the analysis indicates that there's
10 sufficient capacity on the roadway to accommodate our
11 project. As you are aware, Lee County no longer has
12 transportation concurrency in the county, so the level
13 of service is more for informational purposes; but the
14 roadway will operate at an acceptable level of service
15 at build-out of this project. Bayshore Road is a State
16 roadway, as you're aware, so we did meet with the
17 Florida Department of Transportation at the very onset
18 of this project to talk about access and the location
19 of access. As Alexis said, even though the County
20 requires two points of access for this size of project,
21 because of the State access regulations, they would
22 only permit us to have one point of ingress and egress
23 to this access because of their access management
24 restrictions on this corridor, and so that access
25 location was selected about midpoint of this project

1 where it's shown on the master concept plan.

2 And Mr. Keene indicated that -- in his testimony
3 that Bayshore doesn't have a median. What he indicated
4 is it doesn't have a raised median. There's no raised
5 island on Bayshore. It does have a median; but as you
6 can see in the photograph, it's just a -- a center
7 median used for a center turn lane on Bayshore.
8 Although FDOT is currently -- I believe they've put it
9 out for bid recently. They are coming through with an
10 access management project to install a raised median on
11 Bayshore through this section to restrict access at
12 certain locations, so there will be restrictions.
13 We're not quite sure -- they haven't designed it yet.
14 So there will be restrictions at these driveways in the
15 near future. We're not quite sure where the left turns
16 will be permitted and not permitted. So we could have
17 a right-in/right-out at this location, or we could have
18 left turns, but we're still working with FDOT. And
19 that will be worked out as we move forward in the
20 design and development order process.

21 HEARING EXAMINER COLLINS: So until this
22 improvement is installed, the access allows for all
23 turning movement?

24 MR. TREESH: Correct.

25 MS. MONTGOMERY: Mr. Treesh, let me ask you a

1 couple questions. Does the County have a Land
2 Development Code or Administrative Code requirement
3 that tells you how to do your zoning analysis?

4 MR. TREESH: Yes.

5 MS. MONTGOMERY: And the Staff agrees that your
6 analysis was done in conformance with the regulations?

7 MR. TREESH: Yes.

8 MS. MONTGOMERY: And you mentioned ITE, and that
9 is, as you indicated, a standard that's accepted
10 everywhere in the country?

11 MR. TREESH: Yes.

12 MS. MONTGOMERY: And when you do the analysis,
13 everybody always worries that we're getting more and
14 more people that move here, and we're not taking them
15 into account. When you do your analysis, do you
16 consider the background traffic, what's there now, as
17 well as what's going to come before your project builds
18 out?

19 MR. TREESH: Yes. One of the things we do is we
20 look at the project traffic; we look at the volumes on
21 Bayshore as they exist today; we look at the trip
22 generation of this project; and then we increase the
23 traffic on Bayshore Road based on historical growth
24 patterns; and then we estimate, based on the build-out
25 year -- and I believe for this project we looked at

1 2025 projections based on historical growth rates, and
2 looked at the build-out year at 2025 conditions. So we
3 looked at -- we looked at a future build-out year, not
4 just the current conditions.

5 MS. MONTGOMERY: And when you go to pull a
6 development order for the project, will you have to
7 again do a traffic analysis that follows the County
8 rules to look at the impacts?

9 MR. TREESH: That's correct. At the time of
10 development order, we'll have to do additional traffic
11 studies for both Lee County and FDOT, for both the Lee
12 County development order application and the FDOT
13 access connection permit application.

14 MS. MONTGOMERY: And when FDOT looks at your
15 analysis when you go to get your right-of-way permit,
16 are they going to look at the turning movements and
17 dictate what kind of turn lanes are needed?

18 MR. TREESH: Yes. At the time of the FDOT permit
19 application, we'll determine if a right-turn lane will
20 be needed at the driveway access location; and, again,
21 working with DOT with the current project, if a
22 left-turn lane -- if they're going to install a median,
23 a raised median, if we can -- if we could provide a
24 left-turn lane if one is not going to be provided in
25 the current construction project.

1 MS. MONTGOMERY: And when they look at the turn
2 lane, the length of that turn lane, is that the length
3 they believe is necessary to provide for public safety?

4 MR. TREESH: That's correct.

5 MS. MONTGOMERY: And when they look at your access
6 points and your turn lanes, are they mindful of other
7 people's access and not creating problems for their
8 access?

9 MR. TREESH: Yes, that's correct.

10 MS. MONTGOMERY: So we know there's a lot of folks
11 here from the mobile home park who are concerned that
12 somehow this access is going to hurt theirs --

13 (Audience member approached Ms. Montgomery.)

14 MS. MONTGOMERY: I'm sorry, ma'am.

15 Did you get past that question --

16 MR. TREESH: Yes.

17 MS. MONTGOMERY: -- before I was interrupted?

18 MR. TREESH: Yes. They -- FDOT is -- FDOT is
19 continually evaluating their system; and when a project
20 comes in, they look at everything, how it impacts
21 their -- their system and access, and how it impacts
22 their roadway and access drives upstream and
23 downstream.

24 MS. MONTGOMERY: Because their number one priority
25 isn't our access. Their number one priority is public

1 safety?

2 MR. TREESH: Public safety in their roadway
3 network, yes.

4 MS. MONTGOMERY: Okay, thank you.

5 (Discussion at podium)

6 MR. BADAMTCHIAN: Try now.

7 MR. TREESH: Was that it? I think that was it.
8 Do you have any other questions for me?

9 HEARING EXAMINER COLLINS: Can you advance the
10 slide for them?

11 MR. BADAMTCHIAN: (Complies.)

12 MS. MONTGOMERY: You're going backwards. There we
13 go.

14 MR. TREESH: Yeah, that was me. That's all for me
15 unless you have any other questions.

16 HEARING EXAMINER COLLINS: Okay, thank you.

17 MR. TREESH: Thank you.

18 HEARING EXAMINER COLLINS: And you'll be here to
19 hear the questions of the public?

20 MR. TREESH: Yes, I will.

21 HEARING EXAMINER COLLINS: Okay. All right, thank
22 you.

23 And I just want to tell everyone --

24 MR. TREESH: I think we ran this out of battery
25 yesterday. We had quite a crowd.

1 HEARING EXAMINER COLLINS: I just want to let
2 everyone know that we have to conclude the hearing
3 today at noon because another hearing is scheduled at
4 1:00. If you don't get an opportunity to speak today,
5 you will get an opportunity to speak on the continued
6 hearing day. If you have an issue, and you won't be
7 here on the continued hearing day, speak among your
8 neighbors because I'm going to go in the order I have
9 these sheets; but if some of you can only speak today
10 and on no other occasion, maybe you can work it out
11 with your neighbors here so that those of you who
12 cannot return can speak first.

13 Thank you, Alexis.

14 MS. CRESPO: Thank you. And we're almost done.
15 We just have three more slides. So thank you,
16 everyone, for your patience.

17 HEARING EXAMINER COLLINS: Take your time.

18 MS. CRESPO: I neglected to tender myself as an
19 expert in land use planning and Lee Plan compliance,
20 Land Development Code.

21 HEARING EXAMINER COLLINS: Please proceed.

22 MS. CRESPO: Thank you.

23 So to close out our presentation, we wanted to
24 just tie all these facts and information together and
25 discuss how this project is consistent with your Lee

1 Plan, as well as the criteria in your Land Development
2 Code not only for residential planned development
3 zonings, but also the bonus density we're seeking.

4 First and foremost, we are subject to Policy
5 1.1.3, which is your central urban future land use
6 category. This category encourages redevelopment --
7 infill redevelopment like this. It encourages a
8 variety of housing types, including multi-family. It
9 allows for up to 20 units per acre explicitly through
10 bonus density and the Greater Pine Island TDU program
11 to direct growth where it should be, where you have
12 urban services, and protect other areas of the county
13 that should not be developed as intensely.

14 That goes along with Objective 2.2 and the
15 underlying policies. On that area of the Lee Plan, it
16 talks about smart growth, timing of development, and
17 ensuring the infrastructure is available. As the
18 experts have outlined, the project connects to existing
19 water and sewer or will connect to water and sewer
20 facilities. There is capacity on the roadway to serve
21 the project. We abut a transit corridor with a transit
22 stop that we will enhance. For the use of our
23 residents there are schools, EMS, fire, the North Fort
24 Myers Regional Park facility. So we are right in that
25 urban core and have all the necessary services

1 available to us to provide for the proposed density
2 being requested.

3 This is also in compliance with Standard 4.1 and
4 4.2 related to centralized utilities for higher density
5 projects.

6 Policy 5.1.3 is an explicit policy about when you
7 go to the higher end of your density range in a future
8 land use category, and it states that you should locate
9 that near employment centers and really focuses on
10 availability of infrastructure to serve the proposed
11 density, and only allow that multi-family higher
12 density where that exists. And certainly our
13 application materials and testimony today demonstrates
14 consistency with that policy.

15 Probably the most important when you're doing
16 infill development and when you have a mix of
17 single-family and mobile home lots around you is Policy
18 5.1.5, and that's about neighborhood compatibility.
19 When you come in with a new project, you need to be
20 compatible with your neighbors. The Lee Plan defines
21 compatibility not as the same land uses, meaning you
22 have to put single-family next to existing
23 single-family. It doesn't say that. It says whatever
24 you do put next to an existing development, existing
25 homes, needs -- you need to make sure you're not

1 communicating negative impacts to that property owner.
2 That means visual impact of a large building towering
3 over their single-story structure; that could mean
4 noise, light, all the different impacts that a
5 development can bring.

6 Certainly when looking at the commercial uses that
7 could go on this property, residential is much more
8 compatible with the surrounding neighborhood just
9 inherently through similar land uses.

10 This property fronts on an arterial roadway so it
11 will just inherently be developed at a density or
12 intensity that is greater than surrounding
13 single-family uses because that road has grown over
14 time, it's proposed for further improvements, and this
15 general area has expanded into an urbanized area of the
16 county.

17 So what we've described to you is how we will
18 mitigate and prevent negative impacts to our neighbors.
19 First and foremost, the significant setback of those
20 buildings to -- one foot of setback per building height
21 so that these units are well within the property, and
22 their -- the views of the neighbors from their back
23 yards will be of vegetation, and as Josh showed, barely
24 the roofline of these structures. If a single-family
25 home was built to the current RS-1 zoning in these

1 areas, they would have a pool cage within only a few
2 feet from their property line, and all the noise
3 impacts and visual impacts that would go along with
4 that, because a buffer would not be required if we were
5 developing single-family homes.

6 So what we -- what we've proposed is buffering
7 that will screen visual impact. It will screen any
8 lighting within our parking areas. We don't have an
9 amenity facility that would generate noise impacts.
10 All of our traffic is being routed to State Road
11 80 (sic), so certainly not routing traffic through any
12 of the surrounding residential areas. And all
13 combined, this produces consistency with Policy 5.1.5.

14 We're also consistent with the North Fort Myers
15 Community Plan policies outlined in Objective 30 of the
16 Lee Plan. A couple of items of note is locating
17 additional housing options in this community. They did
18 have an early development previous to the Lee Plan at
19 lower densities; and with emerging corridors and
20 redevelopment along this 41, they are looking to
21 increase the diversity of housing; and this project
22 will certainly do that. It also talks about locating
23 these types of housing near their neighborhood centers,
24 which this is within 600 feet of a designated
25 neighborhood center oriented towards the 41

1 intersection with Bayshore.

2 And then the last policies we've cited in
3 Objective 123 there -- we also have additional policies
4 in our narrative, as well as in the Staff Report. We
5 won't belabor all of them, but the site does meet all
6 of the policies related to environmental protection.
7 That's relocating the gopher tortoises in compliance
8 with State standards, on-site indigenous preservation,
9 water quality pretreatment through our stormwater
10 management system, and 45 percent open space, above and
11 beyond the 40 percent required.

12 The application is consistent with your Land
13 Development Code criteria, as well, Chapter
14 34-145(d)(4)(a)(1). As just noted, the application is
15 fully compliant with your Lee Plan, and we are in
16 agreement with your Staff on this item.

17 We have sought four deviations. We also have a
18 recommendation for approval and explained those today,
19 how they will not be a detriment to the public safety
20 and welfare, and have been reviewed not only by Lee
21 County Staff, but the Sheriff's Office and Fire
22 Department where applicable.

23 Through our buffers, enhanced setbacks, we will be
24 compatible with the existing uses surrounding the site.

25 We have sufficient access to support the proposed

1 development. And as Ted noted, there's acceptable
2 level of service on the roadways to support the 180
3 units.

4 Will not adversely impact environmental resources,
5 and we are well within that urban defined area per the
6 Lee Plan.

7 Lastly, under bonus density, there's five criteria
8 for seeking bonus density that you must meet. First
9 and foremost is you've got to use the program, either
10 affordable housing -- which we heard loud and clear the
11 community did not want, and we are seeking the Pine
12 Island TDR bonus density through this application,
13 which is consistent with item (a) in this Code section.
14 This is infill residential with adequate public
15 facilities and infrastructure and with conditions in
16 place to ensure compatibility. We are not requesting
17 assisted living facilities, which are precluded from
18 bonus density. We are not on a coastal island or
19 barrier island, and furthermore are using a system that
20 will protect those lands on coastal islands. And
21 similarly, we are not within a coastal high hazard
22 area, which would be an inappropriate place to locate
23 increased density.

24 So to summarize, we are in agreement with your
25 Staff on the recommendation of approval with

1 conditions. We have no proposed changes to any of
2 those conditions. We've outlined three today. This is
3 a compact infill project. We've worked hard on the
4 site plan to ensure compatibility with our neighbors
5 through the different design parameters. We
6 demonstrated urban services are available to serve the
7 project, and we are consistent with your Lee Plan, as
8 well as your Land Development Code.

9 And with that, I will respond to any questions you
10 may have.

11 HEARING EXAMINER COLLINS: Yes, I have a few
12 questions. Regarding the proposed height, which is a
13 maximum of 65, I understand that you may not go that
14 high, but you have the option of going that high. Have
15 you surveyed the heights of buildings in the general
16 area, and are there other buildings in the area that
17 are constructed at that height?

18 MS. CRESPO: We are seeking 60 feet as opposed to
19 65. I would like to review my notes and then address
20 that at rebuttal, if possible.

21 (Laughing)

22 HEARING EXAMINER COLLINS: Okay. Excuse me,
23 please, if we can be civil and allow the presentations
24 to be -- go forward without interruption.

25 My other question is have you surveyed North Fort

1 Myers regarding whether there's any similar offerings
2 of this type of housing -- multi-story, multi-family
3 housing -- in the North Fort Myers community? To your
4 point of this is expanding options in the community for
5 different residential types, have you surveyed the
6 community to see if there's any similar offerings like
7 this?

8 MS. CRESPO: I can speak to two specific
9 multi-family projects that are coming online in the
10 area that are infill redevelopment. One is
11 redevelopment at Merchants Crossing. I believe that's
12 under construction, if not fully constructed, of
13 multi-family units on a portion of that previously
14 commercial use area. And our office is also working on
15 a multi-family project at Hancock Bridge Parkway and
16 US 41.

17 HEARING EXAMINER COLLINS: And what are the
18 proposed heights on those projects?

19 MS. CRESPO: I will need to review that and --

20 HEARING EXAMINER COLLINS: Okay, if you can get
21 back to me on that?

22 MS. CRESPO: Yes.

23 HEARING EXAMINER COLLINS: And then did you do a
24 survey of density on the surrounding residential
25 properties north and south of Bayshore Road?

1 MS. CRESPO: We did not.

2 HEARING EXAMINER COLLINS: Okay. I am interested
3 in that. If you need time, you can handle it during
4 your rebuttal.

5 MS. CRESPO: Yes.

6 HEARING EXAMINER COLLINS: And can you tell me
7 roughly when the surrounding residential communities
8 were developed?

9 MS. CRESPO: I might defer that to Tim Keene. I
10 believe in the 1970s.

11 HEARING EXAMINER COLLINS: Okay. If there's
12 another witness that's more able to speak to that with
13 personal knowledge --

14 MS. CRESPO: Yeah.

15 HEARING EXAMINER COLLINS: -- I'd be interested in
16 knowing that, because the character of that road
17 corridor has changed over time, and I think there is
18 some relevance to when the surrounding communities were
19 constructed relative to the state of that roadway, and
20 whether single-family product is suitable for that
21 property.

22 Okay. Those are all the questions I have. We are
23 going to take a break, and then we're going to resume
24 the hearing with Staff's presentation. Staff's
25 presentation may involve one or more witnesses. When

1 they have completed their presentation and responded to
2 any questions I may have, or the Applicant and Staff
3 may have, we will open up the floor to public input.
4 Thank you. We're going to take a ten-minute break.

5 (Recess from 10:26 a.m. to 10:38 a.m.)

6 HEARING EXAMINER COLLINS: Okay. We're back on
7 the record. We're ready to begin with the Staff's
8 presentation of their Staff Report.

9 MR. BADAMTCHIAN: Good morning, Chahram
10 Badamtchian from Lee County Zoning. My résumé is on
11 file. I was recognized as expert in zoning issues.
12 Thank you.

13 Well, the request is to rezone nine acres from
14 RS-1 and C-1 to RPD. Part of the request is to add 89
15 bonus density units. The -- on the land use
16 designation of the site, they are entitled to up to 10
17 dwelling units per acre, which amounts to 91 units.
18 They are asking for 180 units. Basically they are
19 asking for 89 additional units through Afford -- not
20 Affordable Housing, through bonus density plan. We
21 have requirements for that. Land Development Section
22 2-147 has a set of criteria.

23 The only one that they may have some issue, there
24 may be some concern, is the one that says, "The
25 resulting development will be compatible with existing

1 and planned surrounding uses." Technically,
2 surrounding uses are residential. Residential is
3 considered compatible with residential. The issue
4 comes down to height of the building. Number of units,
5 yes, they are going to be high, but one of the
6 criterion here, actually number one, it says that the
7 additional traffic is not going to go through other
8 neighborhoods, which in this case it will not. It will
9 go directly to Bayshore.

10 Well, the issue of the height was brought up at
11 the beginning of our review, and the way we tried to
12 resolve it, since they want that many units, is to push
13 everything to the center, to have larger setbacks, to
14 make it less visible, less intrusive to their
15 neighbors. The setback -- the proposed setback was 20
16 feet. We doubled that to 40. And this morning I hear
17 that they are willing to increase it to 60.

18 And about the density -- like the development that
19 surrounds it on the west and north side, they're about
20 10 to 1 units per acre, but that's an older
21 development. And Lee Plan has certain requirements,
22 and Lee Plan encourages higher density in the central
23 urban area.

24 And the other issue we have was with the access
25 being -- being like real close to someone's property;

1 but, unfortunately, we have no say on that. It's a
2 State requirement, it's a State road, and they decide
3 where they're going to grant the access point.

4 So they -- they asked for four deviations. Staff
5 recommends approval of those deviations subject to
6 conditions. We have conditions for each deviation,
7 basically.

8 They are in full compliance with the requirements
9 of the Lee Plan and the Land Development Code. The
10 only concern Staff still has is basically the height of
11 the buildings.

12 HEARING EXAMINER COLLINS: I share that concern
13 because at 60 feet we're talking five or six stories;
14 correct?

15 MR. BADAMTCHIAN: We are talking four stories,
16 they are saying.

17 HEARING EXAMINER COLLINS: Four?

18 MR. BADAMTCHIAN: Four stories. With 12-foot
19 ceiling you could get away with 50, 40 or 45. 60 seems
20 a little bit high for the area. And I understand that
21 they have larger setbacks, that it is going to help;
22 but, nonetheless, if you look around, there's nothing
23 that high.

24 HEARING EXAMINER COLLINS: Yeah. When I did my
25 pre-site -- prehearing site check, I specifically had

1 an eye out for that, and I noticed that this would
2 really, you know, be very obvious in this area where
3 everything is basically one story.

4 MR. BADAMTCHIAN: But on the other hand, central
5 urban, if you look at the maximum building height, they
6 can go up to 125 feet.

7 HEARING EXAMINER COLLINS: So your recommendation
8 is approval, so am I to understand that you balanced
9 all the factors, and your conclusion is that you
10 support the 60-foot requested height?

11 MR. BADAMTCHIAN: I -- we came to the conclusion
12 that with the additional setbacks, that will not be a
13 detriment to the neighborhood, but still a concern --
14 still a concern, but Staff still recommends approval of
15 this with the additional setbacks, as they agreed this
16 morning to increase it to 60 feet.

17 HEARING EXAMINER COLLINS: So you feel comfortable
18 with the additional setbacks and the enhanced buffers,
19 that that will ameliorate the height differential from
20 the surrounding development?

21 MR. BADAMTCHIAN: To a certain extent we believe
22 it would, yes. You cannot make a 60-foot building
23 invisible, but it will ameliorate the situation by
24 planting trees and shrubs and providing additional
25 setbacks, the buildings are pushed to the center and

1 all the trees around --

2 HEARING EXAMINER COLLINS: Right. The Code does
3 not require the buildings to be invisible. The Code --

4 MR. BADAMTCHIAN: Correct, it does not.

5 HEARING EXAMINER COLLINS: -- just requires
6 compatibility with adjacent development. And we are in
7 an urban area where it's not unheard of to be able to
8 see development on adjacent properties, so I want to
9 zero in on --

10 MR. BADAMTCHIAN: Correct. It's central urban.
11 It's one of the highest intensity uses you can find in
12 the County.

13 HEARING EXAMINER COLLINS: Right, but you also
14 take into account surrounding development in that
15 context specifically when you're dealing with infill.

16 MR. BADAMTCHIAN: Correct. But surrounding
17 properties, tomorrow they can change, too. They can
18 change the zoning and get something different. We have
19 to balance existing land use pattern with the future
20 land use designation of the property and the
21 infrastructure that we have. Staff tried to come up
22 with something better, but that's the best we could
23 come up with. And Staff supports this project with the
24 additional setbacks, the language that you had in the
25 48-hour notice. It would have been nice if Applicant

1 agreed to reduce the height.

2 HEARING EXAMINER COLLINS: Do you have anything
3 further?

4 MR. BADAMTCHIAN: Just wishful thinking.

5 HEARING EXAMINER COLLINS: Yes. Do you have
6 anything further?

7 MR. BADAMTCHIAN: No, ma'am.

8 HEARING EXAMINER COLLINS: Okay, thank you very
9 much.

10 Are there any other witnesses on behalf of the
11 County?

12 MR. BADAMTCHIAN: Do you want --

13 MS. SIVERSON: I only have it if the public -- we
14 need it later.

15 HEARING EXAMINER COLLINS: If you're going to
16 speak, you have to come to the podium. I'm sorry.

17 (Sotto voce between Hearing Examiner and reporter)

18 HEARING EXAMINER COLLINS: Yeah, we need your name
19 for the record.

20 MS. SIVERSON: Okay.

21 (Discussion at podium)

22 MS. MONTGOMERY: We wandered off with it, sorry.

23 HEARING EXAMINER COLLINS: Good morning.

24 MS. SIVERSON: Good morning, my name is Camryn

25 Siverson. I have been previously approved as an expert

1 in the Land Development Code, Chapter 10.

2 I'm here this morning to kind of give a brief
3 presentation of the environmental side of this project.
4 If any of the public has any further questions in the
5 future, I'll be able to answer them, as best as I can
6 to my ability.

7 So here is the master concept plan. As Tim Keene
8 and Mr. Church (sic) have already given a presentation,
9 they have provided several indigenous areas on-site.
10 As you can see down here, there's an indigenous area
11 one, indigenous area two, indigenous area three, and
12 indigenous area four. This area right here is a
13 restoration area that they have provided a restoration
14 plan for.

15 Now, they do have environmentally sensitive areas
16 on-site, but they have agreed to do gopher tortoise
17 relocations per FWC regulations. They do have an
18 up-to-date FLUCCS map, and with that FLUCCS map the
19 indigenous areas are classified by 10-701, indigenous
20 and they also have a Florida coontie map, which they
21 have provided a relocation plan for.

22 Now, for multi-family residential developments,
23 they are required to provide 40 percent open space.
24 The Applicant is actually providing 45, which is 4.09
25 acres. The Code requires half of the required open

1 space as indigenous. They have requested a deviation
2 for it. 1.83 acres or 20 percent is required. The
3 Applicant is actually utilizing credits and providing
4 1.76 acres, which is 19 percent. So they're pretty
5 close to their indigenous open space requirement, and I
6 have provided a breakdown here with the credits.

7 The environmental science landscaping is as
8 follows: The north is required to provide a 15-foot
9 Type B; the south is required to provide a 15-foot Type
10 B; but with the overlay, they actually are providing a
11 20-foot Type D, as conditioned.

12 The east is required to provide a 15-foot Type
13 D -- or B, sorry. They are providing a 30-foot Type F
14 where roads and parking are within 125 feet, which is
15 following the Code requirements.

16 And to the west they are also providing the
17 15-foot Type B requirement as a 30-foot Type F, which
18 is where the 125-foot rule comes into play.

19 The only area that they are requesting a deviation
20 for is that FDOT area, which I have blown up here on
21 the PowerPoint. Although they are not able to meet the
22 minimum landscaping from that area, from the Code,
23 Staff has proposed a condition to maintain shrub height
24 at 72 inches instead of the normal 60. This will
25 provide some screening to the residents and follow the

1 5.1.5 policy in the Lee Plan.

2 The proposed conditions are as follows:

3 Provide a coontie management plan at time of
4 Development Services;

5 Provide a restoration plan for indigenous area
6 one, which they have agreed to;

7 Provide an 8-foot solid wall with shrubs installed
8 at 48 inches and maintained at 72, and that is with
9 demonstration (sic) to Policy 5.1.5;

10 And to provide a 25-foot Type D buffer along
11 Bayshore Road. Even though that's required, we're just
12 installing it as a condition so no further changes can
13 occur.

14 And that's all I have to add to that presentation.

15 HEARING EXAMINER COLLINS: Thank you. Do you have
16 an extra copy of that PowerPoint so that I have an
17 exhibit?

18 MS. SIVERSON: No. I can get it to you though.

19 HEARING EXAMINER COLLINS: Okay, please do.

20 Are there any other witnesses --

21 MR. BADAMTCHIAN: No, ma'am.

22 HEARING EXAMINER COLLINS: -- on behalf of Lee
23 County Staff?

24 MR. BADAMTCHIAN: No.

25 HEARING EXAMINER COLLINS: Okay. I am going to

1 open up the floor to public input. A few words: I ask
2 that there be no clapping and no jeering. Let each
3 person say their piece. Everyone will have an
4 opportunity to speak once. You may speak as long as
5 you like, but remember, once you're at the Board, when
6 you speak to them, you will be limited to three
7 minutes. So when you get to the Board hearing, you
8 want to make sure you're just hitting the bullets of
9 your concern. Here you can speak as long as you like.

10 Please, if you have questions, ask them. I will
11 tell you what our protocol is regarding questions. We
12 take in all the questions -- particularly when we have
13 a large group like this, because oftentimes there's
14 repetition in the type of question. We take in all the
15 questions, and then when we close public input and go
16 back to the parties, they will then respond to the
17 questions that were raised by members of the public.

18 Okay. I think that's everything.

19 So I'm going to start with these papers. Once
20 again, I'm going to say I must conclude this -- this
21 hearing at noon because we have another hearing
22 scheduled for this afternoon, and we need time to clean
23 the room and get it ready for the next hearing.

24 We have provided alternate dates to the parties.
25 I'm hoping they've had an opportunity review that.

1 Can we turn to that just for a minute and see if
2 we can identify one or more dates that works for both?

3 MS. MONTGOMERY: We had identified the 5th. That
4 didn't work?

5 MR. BADAMTCHIAN: The 5th is fine, fine.

6 HEARING EXAMINER COLLINS: Okay. So I just -- I
7 know the other two dates weren't any good so I asked my
8 Staff to provide others. So we're all good with the
9 5th?

10 MR. BADAMTCHIAN: Yes.

11 HEARING EXAMINER COLLINS: Okay. Members of the
12 public, this hearing will likely resume on the 5th. If
13 we have not concluded public input, I will continue to
14 take public input on that day.

15 At the conclusion of public input, we'll resume
16 with the parties. They will respond to questions,
17 clarify any issues that were raised, and then they'll
18 move to their closing remarks.

19 Okay. First person, Richard Hampton.

20 Would you please state your full name for the
21 record.

22 MR. HAMPTON: Richard Hampton, 385 Santa Fe Trail.

23 First, I have a background in construction and
24 worked for Dupont for ten years in their engineering
25 department.

1 I've got a couple of concerns. First, the word
2 "bonus density," if -- for clarification, that just
3 means they're trying to double what the actual
4 requirement is for land use; is that correct?

5 HEARING EXAMINER COLLINS: Right. In certain land
6 use categories they have ranges for how much density
7 you can have, including bonus density, but you have to
8 request -- actually request the bonus density to
9 achieve the maximum that could be permitted in the
10 category.

11 MR. HAMPTON: One of my first concerns is the
12 egress into the development. They're stating that it
13 would possibly be a gated community of some degree.
14 We, at our park, have had discussions about doing a
15 gated community, and with the stacking requirements
16 that's -- we were told...

17 I didn't see their plan for stacking of cars going
18 in and out, in addition to if there was a larger truck
19 that entered that, no way for them to get out once they
20 were in there, in the plan that was shown.

21 So we're not going to get answers at this time.
22 We're just giving you questions --

23 HEARING EXAMINER COLLINS: Posing questions, and
24 the parties are making notes of these questions, and
25 then we'll circle back and respond.

1 MR. HAMPTON: One of the other things, at the
2 pinch point where they're going to be coming into the
3 development, their parking design --

4 HEARING EXAMINER COLLINS: Could we bring up the
5 master concept plan for this gentleman?

6 MR. BADAMTCHIAN: (Complies.)

7 MR. HAMPTON: I really like your -- we could see
8 yours. We couldn't see the overall plans. So if it
9 brings hers up, it gives us a little bit more detail.

10 MR. BADAMTCHIAN: This?

11 MR. HAMPTON: That will work.

12 Where we're coming into this development, and
13 you're making a left turn, to be stacked up there --
14 one thing on the developments that I have done before,
15 especially when you're building a multi-story unit like
16 this, we always had to go to our local fire departments
17 for the length of our ladder trucks and what would be
18 able to get into the development. And I can assure
19 you, with this plan, a ladder truck would have a
20 difficult time to service a fire on a four-story
21 building. And we're talking -- that has to be
22 addressed.

23 One thing that wasn't discussed was on the new
24 development here in Lee County, the elevation of the
25 property where they're going to construct a new

1 building, that elevation for our flood zones is going
2 to be raised. So instead of being 60 foot, it could be
3 65 or 68. We have yet to know what the elevation
4 change on this property would be; and when you're
5 talking about not messing the berm up with the growth
6 that's there in the trees, that will impact the future
7 growth of these indigenous products that are there. So
8 we need to know how much that elevation will be changed
9 before they started the construction, to give you what
10 you were asking about height, and the concern that the
11 Board had about the overall height of a new four-story
12 structure.

13 We had a discussion from the transportation person
14 about the number of vehicles egressing this property,
15 or turns, and I know he used some standards that he
16 went by. What he failed to inform us was if you have
17 single residences, and they're doing a number of what
18 they call turns in and out every day, three or four
19 times, yes, a multi-unit like this has less turns; but
20 the overall number of vehicles in a complex with this
21 number of units increases the amount of traffic. It
22 doesn't decrease. You have to take into consideration
23 the small area with this many residents, so that number
24 he gave us is kind of shaded.

25 And we do have a member in our community that

1 could address this a lot better than me. He is an
2 expert on transportation, and hopefully he'll have an
3 opportunity to address that.

4 That summarizes some of my first concerns being a
5 resident close to this area. Thank you for your time.

6 HEARING EXAMINER COLLINS: Thank you for coming
7 today.

8 Morgan Hess?

9 MR. HESS: I have nothing to say right now.

10 UNIDENTIFIED SPEAKER: You have to say something
11 now.

12 MR. HESS: My name is Morgan Hess. I live at 114
13 Conestoga Trail, Carriage Village.

14 And the basic thing I wanted to address is -- or
15 have questions on, the gentleman with the
16 Transportation Department was talking about a left turn
17 lane into this new piece of property. We had a
18 discussion, I believe it was two weeks ago, with the
19 Department of Transportation discussing the
20 modifications that you're going to be doing on Bayshore
21 Road. And basically they're just going to have two
22 turn lanes, and we will, in our community, not have a
23 turn lane. We will have to go all the way up to Hart
24 Road, make a U-turn to come back down into our
25 community, which in our way of looking at it, would be

1 the same reason that Rich just said about emergency
2 vehicles. Since we will not have a turn lane to go
3 into our community -- which we have 396 units in there,
4 and you're talking about 180 units on this small piece
5 of property. So we have almost twice the amount of
6 automobiles going into our property as what's going to
7 be going into this new piece of property. And in order
8 for us to get into our community, like I said, we have
9 to go all the way up to Hart Road, make a U-turn -- and
10 this is what we were told -- to come back down to get
11 into our community.

12 The study that the Department of Transportation
13 had for the presentation that they gave to us two weeks
14 ago was from 2015 to 2019, and the gentleman that was
15 here was saying he took a survey that projected it to
16 be -- the traffic to be 2025, I believe. And the
17 traffic right now, compared to what they did in 2015 to
18 2019, there is no comparison.

19 I have pictures on my phone right now at quarter
20 to 5:00 -- or quarter of 6:00 of an evening where the
21 traffic turning left onto Hart Road, or trying to get
22 into our community, was backed up all the way to
23 Evalena Street (sic). So the amount of traffic that's
24 going to be added, when you add these units, is just
25 going to be phenomenal. It's not even going to be

1 close to what it is right now.

2 That's all I have to say, thank you.

3 HEARING EXAMINER COLLINS: Thank you.

4 Ross (sic) Lachman?

5 MR. LACHMAN: Close enough.

6 HEARING EXAMINER COLLINS: Please share with me
7 how I butchered your name.

8 MR. LACHMAN: Russell Lachman, 156 Santa Fe Trail,
9 and I apologize because I'm not fancy, technical, or
10 whatever.

11 I'm a resident there in Carriage Village, and I
12 have to dispute the environmental study, first off. I
13 agree with Morgan on his bit there with the traffic
14 coming in and out. It is absolutely crazy. Where that
15 gentleman got that picture of Bayshore with three cars
16 on it, I don't know what planet he got that from.

17 I have some photos here regarding the 15
18 tortoises -- tortoise mounds. These pictures were
19 taken -- I have 11 photos here. These pictures are
20 taken between -- 150 feet from Tim Michel's and Gary
21 Griffin's -- our back yards into the preserve. These
22 are all active. I've had as many as five at one time
23 in my yard. Gary's had four. There's numerous,
24 numerous -- I have -- go to your -- go to this picture.
25 The other one here with just all the vegetation -- I

1 did not walk tracts. What I'd like to show you is what
2 I did.

3 Can you put that other screen --

4 HEARING EXAMINER COLLINS: Yeah, they're working
5 on it.

6 MR. BADAMTCHIAN: I'm trying.

7 HEARING EXAMINER COLLINS: They're working on it.

8 MR. LACHMAN: I'll give you these.

9 HEARING EXAMINER COLLINS: Okay. This is
10 Lachman --

11 MR. LACHMAN: Yeah.

12 HEARING EXAMINER COLLINS: -- Composite Exhibit 1.
13 (Lachman Exhibit 1 submitted and marked.)

14 HEARING EXAMINER COLLINS: We'll make copies of
15 this for the Applicant.

16 MS. MONTGOMERY: Thank you.

17 MR. LACHMAN: Okay. A lot of the guys -- people
18 here know me. I have two cats, and one of them likes
19 to get away. I am here at 156. I have walked this
20 from here through here, almost to Bayshore. I've
21 walked it to here -- not little two-foot sections.
22 I've walked it all the way over here. There's a lot
23 more than 15 mounds within that. I guarantee you that.
24 The pictures there will show it. If somebody wants to
25 walk in there with me, I'll take them around, but you

1 better wear long pants and a sweatshirt and everything
2 else, and you're still going to get cut up. But
3 that's -- that's what -- that's that part.

4 But with the road safety, huh-uh. If you
5 physically would walk the -- just the sidewalk from
6 Evalena to Hart and look out into the street on
7 Bayshore, there's nothing but brake marks. There's car
8 pieces laying all over the place. And constantly -- at
9 least once -- I'd say once a day at Hart, there's a
10 wreck there every day. And in front of -- right in
11 front of our village, which we still have an entrance
12 right now. There's wrecks there once -- once a week
13 right in front of the village, constantly. And you're
14 going to -- you've got Del Webb coming in from the
15 east, and you want to put all these other units in here
16 right next to us? It's basically a death trap. That's
17 the way I put it.

18 That's it.

19 HEARING EXAMINER COLLINS: Thank you.

20 Alice Lachman?

21 MS. LACHMAN: He spoke for me so --

22 HEARING EXAMINER COLLINS: Okay, thank you.

23 Daniel Inabnitt?

24 MR. INABNITT: Oh, that was good. You did a good
25 job. You get a passing grade for that.

1 Daniel Inabnitt, I live at 234 Santa Fe Trail. I
2 just moved there. We lost our place in South Fort
3 Myers so, you know, we're enjoying it up here, not
4 being flooded.

5 Richard Hampton alluded to me being a traffic
6 expert, and I don't know if I'm an expert -- I don't
7 know if anybody is an expert anymore after COVID hit
8 because traffic just changed a whole lot.

9 But that's my main concern, is the traffic on
10 Bayshore Drive (sic). Florida DOT says that the ADT
11 for the average annual daily -- average daily traffic
12 for that road is 3,850. I don't know. I would like --
13 instead of -- that count was in 2021. Don't know, it
14 seems like to me it's a -- it's a whole lot more than
15 that.

16 With the left turn that Mr. Hess was alluding to,
17 that's what -- we won't be able to make left turns, and
18 neither will this development. They're not going to be
19 able to make left turns. There's going to be an
20 unmannable (sic) median all the way down through there.
21 Everyone is going to have to go down -- including the
22 people from the new development, down to Hart Road and
23 make a U-turn and go back. So that -- I mean, that
24 doubles everybody that goes on -- on Bayshore, that's
25 going to double the traffic for everybody that's

1 turning -- turning left into that unit (sic).

2 That's all I got.

3 HEARING EXAMINER COLLINS: Thank you. Just let me
4 know if you have any questions.

5 Dan Pence. Good morning, thank you for coming.

6 MR. PENCE: Good morning, thanks for letting me be
7 here. I get thrown out a lot. My name is Dan Pence.
8 I'm at 212 Santa Fe Trail.

9 And we hear a lot about the traffic, and now we've
10 got the turtles. My concern is the utilities. Lee
11 County has got a history, if we look at Cape Coral, in
12 allowing zone changes and construction in areas where
13 utilities haven't been updated to meet those
14 requirements. And we have on the news all the time --
15 I'm not an expert, I don't have anything in writing,
16 but we hear all the time about people in Cape Coral not
17 having any water pressure, their electrical is failing
18 all the time, and it just -- and the sewage. They
19 don't have the proper size equipment and stuff to get
20 rid of the sewage.

21 And if we -- if you look at the area, you know,
22 how condensed the houses and everything are, and you
23 add to it another 180 units, I'm afraid, in my opinion
24 anyway, that we're going to have the same issues in our
25 area as they have in Cape Coral. They're going to put

1 all these houses on the City water and the sewer and
2 the electric, and then we're going to have issues all
3 over, and I think it's something that need to be
4 considered. And that's it.

5 HEARING EXAMINER COLLINS: Thank you.

6 MR. PENCE: Thank you very much.

7 HEARING EXAMINER COLLINS: Victoria Adams. Good
8 morning, thank you for coming.

9 MS. ADAMS: Thank you for moving things along so
10 we get to speak a little bit.

11 I'm Victoria Adams. I live at 1950 Chisholm. I
12 am the president of the Board of Directors of Carriage
13 Village. Our village is extremely concerned about the
14 traffic. We went to PennDOT (sic). We talked to them.
15 We didn't get any indication that they were going to
16 change their plan. I don't know when you did your
17 stuff. I know their traffic studies are out of date.
18 2020, which is what I think he said, was COVID. How
19 many cars did you have on the road in COVID? Certainly
20 not what you've got now. People are happy to be out
21 and about, and they are doing it. Our traffic is
22 terrible.

23 We actually paid over \$30,000 to open a back gate
24 so that we could make a left -- a right -- right-hand
25 only -- I do it all the time -- and go out Hart Road to

1 turn because you could sit in our driveway for 15
2 minutes trying to make a left. So we've spent a lot of
3 money trying to help that.

4 Now they're coming in with a solid median where we
5 can't get in. We have trash trucks that come in; we
6 have fire trucks that come in. Unfortunately, we're 55
7 plus. We have a lot of ambulances. If they start
8 backing up there, it's never going to work.

9 When we have -- we have -- and they're talking
10 about a bus stop, and I'm confused about that because
11 there is one by our entrance, and now they're saying
12 there's going to be one by their entrance, I believe,
13 if I took it correctly. I have seen traffic back up
14 from that bus stop with one active, healthy individual
15 climbing on the bus, and traffic has backed up past the
16 stop sign.

17 So you're not talking lightweight traffic. If
18 they did a study that came up with that, it was during
19 COVID, it was not during rush hour, because rush hour
20 has extended from 4:00 to 3:30 and down.

21 I've been here 19 years, and he's saying predicted
22 studies in 2025. I'll bet you beans we're past there
23 now in 2023. So that's one of the primary concerns.

24 I'm also concerned about the utilities. The
25 houses down from us, they don't have sewer. Why would

1 this one come in and get sewer when people that
2 currently live in the area don't have sewer? We have
3 pump-out plants that we have to keep going, and I'm
4 guessing they'll have to have the same. I haven't
5 heard anything about that. It concerns me that they
6 say the engineering on some of the berming and stuff
7 like that isn't completed because you can't hide a
8 60-foot building. And you can tell us you're going to
9 do your best, and I do appreciate that, but I think
10 it's going to stick out like a sore thumb.

11 Del Webb is 800 plus units just a little ways up
12 the road. There are four or five new multistory
13 structures going in just past -- and I'm guessing
14 that's what they're calling Merchants Crossing, but
15 that's a huge development, and that's just down the
16 road from us. There is a limit to -- this road can't
17 handle that. It truly can't.

18 I'm trying to think if I forgot anything. I
19 didn't think you were going to get to me today.

20 So I truly appreciate being able to speak. We do
21 have a lot of questions about how they're going to try
22 and fit into this -- if this was commercial and
23 single-family, your density would be ever so much
24 lower. You can say that multi-family usage is less
25 than single-family, but not when you're going from a

1 few properties to 181.

2 And I don't understand some of the -- where
3 they're offsetting with things in different areas. If
4 you offset your density in our area, and you put
5 something someplace else, that's all well and good, but
6 it doesn't help us.

7 We have, as Morgan said, close to 400 units with a
8 lot of people. Every unit has to have one person 55
9 plus. So -- and we've been there for 40 years. We
10 don't want to be crowded out. And a lot of people are
11 saying if the traffic gets that heavy, I don't know
12 what we'll do, and that's the truth. So thank you.

13 MS. MONTGOMERY: May I ask a --

14 HEARING EXAMINER COLLINS: Thank you.

15 MS. MONTGOMERY: -- question? You indicated --

16 MS. ADAMS: Can she ask a question?

17 HEARING EXAMINER COLLINS: Yes, members of the
18 public can be questioned.

19 MS. ADAMS: Okay.

20 MS. MONTGOMERY: You indicated that you analyzed
21 an alternative access on Hart Road. Did you say that
22 was put in?

23 MS. ADAMS: We did put it in. We got all the
24 permits. We had a long -- it took us almost a year to
25 get it. It's been in the works for several years.

1 That allows us to exit only on Hart Road.

2 MS. MONTGOMERY: Okay.

3 MS. ADAMS: A left -- a right-hand turn exit
4 only --

5 MS. MONTGOMERY: Okay.

6 MS. ADAMS: -- onto Hart Road.

7 MS. MONTGOMERY: That's what I was wondering.

8 MS. ADAMS: And the reason we did that is because
9 the traffic on Bayshore is so heavy we could not make a
10 left. So now you're saying we can't come in. We're
11 going to have to go and make a U-turn, and that seemed
12 pretty firm on that, and we also argue their traffic
13 studies. COVID traffic versus today's traffic, they
14 don't compare. They don't compute; they shouldn't be
15 used.

16 MS. MONTGOMERY: Okay. So that was FDOT's study
17 you're talking about though.

18 MS. ADAMS: I'm talking about the FDOT study --

19 MS. MONTGOMERY: Okay.

20 MS. ADAMS: -- which will definitely affect your
21 development. They're only proposing two points. They
22 call them conflict points. So they're trying to
23 reduce -- and your expert -- your -- he knows better
24 than I do, but they're only proposing two spots that
25 you can turn, one to the south side of the road, and

1 one to the north side of the road. Between Avelina and
2 Hart Road, there will only be two. It's not going to
3 work well. We were upset before you even entered into
4 the picture. So it's not going to work well. All
5 right?

6 HEARING EXAMINER COLLINS: Thank you --

7 MS. MONTGOMERY: Thank you.

8 HEARING EXAMINER COLLINS: -- for coming.
9 Vicki Davis-Adams.

10 MS. ADAMS: We're not related.

11 HEARING EXAMINER COLLINS: No relation to the
12 prior speaker?

13 MS. DAVIS-ADAMS: No, but I am Vicki Adams, III,
14 in Carriage Village. There are three of us.

15 HEARING EXAMINER COLLINS: In the community?

16 MS. DAVIS-ADAMS: Yes. I live at 206 Harvest
17 Lane, and my parents were here long ago so I'm familiar
18 with the area. We have only resided there since --
19 this is our second winter.

20 But I have the same concerns as everybody else,
21 the traffic, the emergency vehicles. At least -- I
22 would say at least three times a week there's an
23 ambulance coming in, you know, and I just don't
24 understand where they get this that it will be less
25 vehicles to have 180 units.

1 HEARING EXAMINER COLLINS: They're comparing it to
2 that number of residential single-family dwellings.
3 They're not saying that it's less cars than are
4 currently on the road. They're comparing the trips
5 generated by a multi-family unit versus a single-family
6 unit.

7 MS. DAVIS-ADAMS: Well, they probably each got two
8 cars. Everybody does nowadays. So that's over 300 --
9 almost 400 more vehicles, if they only go once a day.

10 I would like to see studies of even our park
11 entrance and -- but that's with the FDOT.

12 The thing I'm concerned about is, of course, the
13 environment, the turtles, the runoff. I mean, where is
14 all of this going to go? You know, I was not --

15 HEARING EXAMINER COLLINS: Were you present for
16 the engineer's presentation?

17 MS. DAVIS-ADAMS: Yes, I was. I was present for
18 that, but I just don't think it's going to compute --

19 HEARING EXAMINER COLLINS: Okay, thank you.

20 MS. DAVIS-ADAMS: -- with that many people.

21 So thank you very much.

22 HEARING EXAMINER COLLINS: Thank you.

23 John Tope.

24 MR. TOPE: Hi, my name is John Tope. I live at
25 1374 Lincoln Avenue, which is across -- south side of

1 Bayshore.

2 The photograph the traffic engineer showed with
3 three cars on Bayshore Road, he must have been there at
4 5:00 in the morning because traffic is backed up from
5 Hart Road to Evalena during rush-hour traffic. It
6 takes me sometimes 15 minutes to get out of my street,
7 and it's going to be directly across the street from
8 this development. And they're talking having left
9 turns going in and right. It's going to be such a
10 traffic impedence it's amazing.

11 You've asked for comps on comparable buildings?
12 On Hancock Bridge and 41, that's a commercial area.
13 There's no -- no residential.

14 As far as Merchants Crossing, again, commercial
15 area, no residential. This is in the middle of a
16 residential neighborhood. It's not going to work.

17 I mean, the drainage is the biggest issue that I
18 see. They're going to direct that water to Bayshore
19 Road. They're going to put it down Bayshore, across
20 Hart, going to the Caloosahatchee. We have septic in
21 our neighborhood. When it rains, our toilets don't
22 work. The culverts completely fill up with water with
23 over an inch of rain. They're going to direct that
24 water to the drainage which ours is supposed to go to.
25 It's not going to drain even worse. I mean, I don't

1 know what we were thinking about, but sometimes you
2 wait a day to flush the toilet, and they're proposing
3 putting all their water into the drainage to the
4 Caloosahatchee. It's not going to work.

5 You people really need to consider what you're
6 doing here. This ain't going to work for our
7 neighborhood.

8 HEARING EXAMINER COLLINS: Thank you.
9 Kathleen Colley? Caughley?

10 MS. CAUGHEY: It's Caughey but --

11 HEARING EXAMINER COLLINS: It's C-A-U-G-H-E-Y?

12 MS. CAUGHEY: I never said I would speak.

13 UNIDENTIFIED SPEAKER: She's not speaking.

14 HEARING EXAMINER COLLINS: Not speaking?
15 Greg Foy?

16 MR. FOY: I don't have anything. What he just
17 said was what I was worried about, the water runoff.
18 There ain't no place for it to go.

19 HEARING EXAMINER COLLINS: Okay. If you're going
20 to speak, you have to come to the podium.

21 MR. TOPE: Can I add something?

22 HEARING EXAMINER COLLINS: Did you -- did you
23 already speak?

24 MR. TOPE: Yeah, could I add one point? Our
25 neighborhood was slated for sewage years ago by the

1 development --

2 HEARING EXAMINER COLLINS: You have to come to
3 the -- sir, you have to go to the podium.

4 MR. TOPE: What's that?

5 HEARING EXAMINER COLLINS: You need to go to the
6 podium if you're going to speak, sir. This is still
7 John Tope.

8 MR. TOPE: This is still John Tope, I'm sorry. I
9 appreciate your time.

10 Our neighborhood was supposed to have sewers put
11 in years ago after -- I called about the drainage, and
12 they said it was proposed because the drainage was
13 supposed to flow south, and it tends to flow north.
14 This needs to be addressed. I mean, they want to build
15 this thing. Why don't you take care of the taxpaying
16 residents so we have adequate sewers and septic in our
17 neighborhood before you allow them to build and
18 compound the problem?

19 HEARING EXAMINER COLLINS: Okay, thank you.

20 Randall White.

21 UNIDENTIFIED SPEAKER: I thought Greg was coming
22 up.

23 HEARING EXAMINER COLLINS: He chose not to -- Greg
24 Foy chose not to speak.

25 MR. FOY: Right.

1 HEARING EXAMINER COLLINS: Randall White, followed
2 by Rhonda White.

3 MR. WHITE: My name is Randy White. I live at 210
4 Captains Walk.

5 I have been in a residential rental unit for 40
6 some years. I assume that these are going to be all
7 rental properties, including the 89 bonus units --

8 HEARING EXAMINER COLLINS: Okay. We'll ask
9 them -- we'll ask them to clarify that when we get back
10 to them.

11 MR. WHITE: There have been two projects -- I'm
12 from Indiana -- in my hometown that were high-density
13 rental units.

14 MS. MONTGOMERY: Hometown, Fort Myers?

15 MR. WHITE: No, hometown, Lafayette, Indiana.

16 These high-density rental units ultimately led to
17 extensive police and fire protection, so much so that
18 one of them got condemned by our mayor. It was about a
19 400-unit complex. It totally got condemned.

20 As I said, I've been in a residential rental unit
21 for many years.

22 I actually hired kids or young adults from the
23 second complex to work for me, and in saying that,
24 these guys that worked for me had to carry knives,
25 guns; drug use was prolific in the neighborhood. And

1 this is the second compound, and that one is on its way
2 to being condemned by the mayor.

3 I want to know if these are residential rental
4 units, if they're low-income residential units, and
5 those 89 bonus ones, and how that is going to cause the
6 public -- fire protection, police protection,
7 et cetera, to be overloaded.

8 HEARING EXAMINER COLLINS: Okay. We ask that the
9 parties make a note of that question and respond to
10 that. Thank you.

11 MR. WHITE: Thank you.

12 HEARING EXAMINER COLLINS: Rhonda White?

13 MS. WHITE: No, he said it.

14 HEARING EXAMINER COLLINS: This one time he speaks
15 for you?

16 Ivan Lam?

17 MR. LAM: I'll pass.

18 HEARING EXAMINER COLLINS: Okay, thank you.

19 Betty Lam? Thank you for coming.

20 MS. LAM: Thank you. I'm Betty Lam, 131 Chisholm
21 Trail.

22 I have the same concerns that all the other ones
23 have had. So whenever you come up with all these
24 parking spaces, they're allowing two cars to a unit?

25 HEARING EXAMINER COLLINS: Okay. We'll ask that

1 they supply that information.

2 MS. LAM: Okay. But I am concerned about
3 everything that the other ones had so it's no use for
4 me to repeat the questions.

5 HEARING EXAMINER COLLINS: Okay. And just as an
6 aside, and they'll get into detail with this, with
7 regard to the number of parking spaces, that's driven
8 by the Land Development Code that says you need to
9 provide X number of parking spaces per unit.

10 MS. WHITE: Okay.

11 HEARING EXAMINER COLLINS: Thank you.

12 MS. LAM: Thank you.

13 HEARING EXAMINER COLLINS: Carol Robinson.

14 MS. ROBINSON: I'll pass.

15 HEARING EXAMINER COLLINS: Denise Sexton.

16 MS. SEXTON: I'll pass.

17 HEARING EXAMINER COLLINS: Frank Mendoza?

18 MR. MENDOZA: I'm also a resident of Carriage
19 Village, 381 Santa Fe Trail. All the bases were
20 covered on what I was going to talk about. I just want
21 to go on record so in case I find something else, at
22 the next meeting I can talk -- and what was it, May 5th
23 or April 5th?

24 HEARING EXAMINER COLLINS: Well, the continuation
25 of this hearing will be May 5th --

1 MR. MENDOZA: Okay.

2 HEARING EXAMINER COLLINS: -- but if you already
3 spoke as a member of the public, you will not be given
4 a second opportunity. We will go through the names of
5 the people who did not speak.

6 MR. MENDOZA: Okay. Well, I just misunderstood
7 that. I just wanted to go on record. Thanks.

8 HEARING EXAMINER COLLINS: Thank you.
9 Teresa Inabnitt.

10 MS. INABNITT: I'm Teresa Inabnitt in Carriage
11 Village, 234 Santa Fe.

12 My concern will be the crime increasing in our
13 area with that many units going in. And I'm concerned,
14 like everybody else is, about the traffic and -- and
15 the -- everything overflowing when there's that much
16 more put in there.

17 Also, the pond will create more mosquitoes, and
18 will that be taken care of? And that's all I have.

19 MS. MONTGOMERY: I'm sorry, what will the pond
20 create?

21 MS. INABNITT: Mosquitoes.

22 MS. MONTGOMERY: Oh, mosquitoes.

23 HEARING EXAMINER COLLINS: The next name is
24 "Birdie."

25 MS. RICH: Yeah.

1 HEARING EXAMINER COLLINS: Can you state your full
2 name for the record, ma'am.

3 MS. RICH: Birdie Jane Rich, and I'm at 157
4 Overland Trail in Carriage Village.

5 I haven't heard too much about the turtles. I'm
6 concerned about them. I don't know how they anticipate
7 to get every single one of them.

8 And like they were saying, with Del Webb, if we
9 have to make -- if we have to go all the way up to Hart
10 Road to turn -- do a U-turn and come back into our
11 park, with the Del Webb, 800 units, there's going to be
12 gobs of traffic, and you might have to sit out there
13 for hours.

14 The same with our emergency vehicles. How are
15 they supposed to get there? And adding that, it's not
16 going to help. It's only going to make it worse.
17 That's all.

18 HEARING EXAMINER COLLINS: Thank you for coming,
19 ma'am.

20 Linda Jarrell? Linda Jarrell?

21 MS. JARRELL: I'll pass.

22 HEARING EXAMINER COLLINS: Okay.

23 Even if you didn't speak, if you provided your
24 email or mailing address, you will receive a copy of
25 further notices in connection with this hearing, and

1 also a copy of my recommendation and notice of the
2 final Board hearing.

3 Tim Latorre?

4 MR. LATORRE: Tim Latorre, 1578 Santa Fe Drive,
5 and I'm concerned about the height of the buildings
6 being I back right up to the property, and there's no
7 way you can hide a four-story building behind my house.
8 I don't care how tall the trees are.

9 And...

10 MS. MONTGOMERY: Tim, can I ask you, are you to
11 the north of the project or to the west of the project?

12 MR. LATORRE: I am right here.

13 And a 60-foot barrier isn't that far. I mean, the
14 width of my property is 50 foot. So we're not talking
15 that much difference between height and buildings, 50
16 feet.

17 And my personal opinion is it should be left as
18 residential single-family homes. I can live with
19 somebody backed up to my house, not a four-story
20 building. So I don't know where they come to a
21 four-story building is better than a single-family
22 home.

23 So that's all I got to say.

24 HEARING EXAMINER COLLINS: Thank you.

25 Cheryl Buss? Good morning.

1 MS. BUSS: Good morning. My name is Cheryl Buss.
2 I live at 205 Shenandoah, also in Carriage Village.

3 There is one question that I would like to ask,
4 and that has to do with the units themselves. Are they
5 going to be rental units, or are they going to be owned
6 units?

7 HEARING EXAMINER COLLINS: Okay. I will ask them
8 to make a note of that, and they will address that when
9 we go back on the record, for them to supplement their
10 presentation.

11 MS. BUSS: Okay, thank you.

12 The other thing is if these are multi-family,
13 meaning there's probably going to be children involved
14 with this situation, is there going to be a limit to
15 the number of children that are allowed, or it depends
16 upon the bedrooms that are in each unit?

17 The other concern then has to do with traffic. If
18 you have children here, they're going to have to go to
19 school; so now you've got a school bus involved in this
20 traffic situation that we're already very concerned
21 about. If they have to go and make a U-turn at Hart
22 Road, how is that going to impact -- besides our bus
23 schedule, and them stopping and backing up traffic, the
24 school bus is going to definitely back up traffic
25 because everybody has to stop.

1 Unfortunately for myself, I have not had an
2 opportunity or taken the opportunity to walk through
3 this to see about the tortoises, but I do feel like
4 that is a big issue for the environmental safety.

5 So back to the children, if you're going to have
6 kids living in this unit, where is an area for them to
7 have a basketball court or have some kind of outdoor
8 activity? Is that going to be in one of the indigenous
9 zones, or, you know, where might that be? Is this
10 going to be someplace that we're going to have a
11 basketball court in somebody's back yard listening to
12 the kids?

13 I don't have a thing against kids, I have several,
14 and have lots of grandkids. I'm just saying we're a
15 retirement community now, 55 and over. So it's always
16 nice to see the grandkids, but it's sometimes even
17 nicer when they go home.

18 Also, as far as the drive in and out of this
19 proposed unit or these proposed units, if we have
20 traffic issues that are backing up onto Bayshore, how
21 long is this drive? Is this drive going to be one that
22 can accommodate six, eight, ten cars trying to get out
23 because of rush hour traffic or -- what are their plans
24 for that?

25 Other than that, I really appreciate the

1 opportunity to speak and the opportunity --

2 HEARING EXAMINER COLLINS: Well, we appreciate
3 that you came today.

4 MS. BUSS: -- to be here. Thank you so much.

5 HEARING EXAMINER COLLINS: Thank you.

6 Steve Foster, followed by Bev Foster.

7 MR. FOSTER: You know, I signed -- I signed "no"
8 to that sheet, but after listening to several people
9 talk, I'm going to go ahead and say, yes, I'll speak.

10 HEARING EXAMINER COLLINS: Okay. That "yes" or
11 "no" is for the office use, but that's okay.

12 MR. FOSTER: My name is Steve Foster. I'm at 206
13 Carriage Lane, and our house backs right up to the
14 woods, okay?

15 Concerning the traffic, I understand when the
16 fella here, with the expertise in the traffic and so
17 forth, mentioned putting a median strip -- maybe he
18 didn't, but I heard that the median strip was going to
19 go down Bayshore Road, which at first I thought, well,
20 that's not a bad idea, and I'll tell you why. Because
21 as it is right now coming out and making a left turn,
22 there's been two serious accidents already. One car
23 was totaled, as I remember, and another one was hit
24 real bad, and somebody was hurt pretty bad trying to
25 make a left turn.

1 So if you put the median strip down there, they no
2 longer can go over the median strip and make a left
3 turn. So going down the other way and making a U-turn
4 to come back might be the solution; but in the same
5 token, if you have that many people going out to the
6 right and then having to make a U-turn to go to the
7 left -- because the way I understood it there's not
8 going to be any entranceway to Carriage Village, as
9 well as the new complex. That's the way I understood
10 it. I'm not sure I understood it right.

11 But anyway, if you're going to make a right turn,
12 then you've got to make a U-turn to go left the other
13 way. Now you got two ways to -- two places that you
14 have to make a U-turn. Going out and coming back,
15 you're going to have to make a U-turn.

16 And, again, I -- I go along with the other
17 comments as far as the traffic situation, the way it is
18 now, and the U-turn. I think there will be a lot more
19 accidents happening with U-turns. And when it comes to
20 emergency vehicles, and they have to make the U-turns,
21 and then traffic coming from the other way have to make
22 U-turns, I think it's -- I think it's really a bad idea
23 with the -- with the traffic situation. That's the
24 main thing.

25 The height of the buildings, the only thing I can

1 say about that, being backed up to the woods, is the
2 light shining down from the back of the apartments.
3 And if they shine down from that side of the
4 apartments -- I have no idea where the windows will be
5 put or anything else, but I think this will be
6 something else that people won't be too satisfied with
7 that live close to the woods, as we do.

8 So those two things I'm concerned about.

9 I didn't know anything about the drainage problem,
10 but I did hear -- we went to the meeting, the first
11 one, and heard about the elevation. I think that's
12 also something that I'd like to find out about, what
13 the elevation is going to be, and how much water is
14 going to be -- the first meeting they said, oh, that
15 won't have any effect. It will drain off of there and
16 into these pipes they're talking about that goes around
17 the back and back into the other.

18 But I'm also very happy to hear the gentleman that
19 talked about the sewage and the water problem coming
20 down in -- into Hart Road. I was unaware of that. I
21 was unaware that people's toilets -- because ours
22 doesn't back up so far, and so I was -- I was very
23 interested in what he said about the problems that they
24 have already, and is this going to be addressed before
25 this ever happens?

1 That's all I have to say.

2 HEARING EXAMINER COLLINS: Thank you.

3 MR. FOSTER: Thank you.

4 HEARING EXAMINER COLLINS: Bev Foster?

5 MS. FOSTER: No.

6 MR. FOSTER: She passes.

7 HEARING EXAMINER COLLINS: Bev, you filled out
8 two.

9 Gary Griffin? Gary Griffin?

10 MR. GRIFFIN: I pass.

11 HEARING EXAMINER COLLINS: Ken Eaton?

12 UNIDENTIFIED SPEAKER: He's gone.

13 UNIDENTIFIED SPEAKER: He left for a funeral.

14 HEARING EXAMINER COLLINS: Susan Fritsch?

15 UNIDENTIFIED SPEAKER: She left, too.

16 HEARING EXAMINER COLLINS: Judith Peterson?

17 MS. PETERSON: My name is Judith Peterson. I live
18 at 1665 Overland Trail.

19 I'm opposed to the rezoning of DCI2022-00048
20 Bayshore Pines. I am a homeowner in the Carriage
21 Village community, which is located just east of the
22 project.

23 My concerns center around the increase in an
24 already dangerous traffic situation on Bayshore. The
25 current speed rate is 50 miles an hour, and that road

1 is currently utilized to the maximum.

2 I also do not believe a 90- or 180-unit apartment
3 complex fits into the existing single-family home
4 esthetically in our neighborhood.

5 Thank you for your consideration.

6 HEARING EXAMINER COLLINS: Thank you for coming.

7 Gary Peterson?

8 MR. PETERSON: Also at 165 Overland, Gary
9 Peterson.

10 My concern is the building -- proposed building
11 height of four stories. I believe that a two-story
12 building would be more acceptable, less apartments, so
13 less traffic, less density.

14 And the gentleman that talked about would you
15 rather be backed up to a home with a pool cage or an
16 apartment building. I think most people that live in a
17 single-family home would rather back up to a
18 single-family home and a pool cage as opposed to facing
19 a four-story apartment building. I believe that it's
20 not in -- in tune with the community around it.

21 Thank you.

22 HEARING EXAMINER COLLINS: Thank you.

23 Mike Welkovitch.

24 MR. WELKOVITCH: I pass.

25 HEARING EXAMINER COLLINS: Bernadine Welkovitch?

1 MS. WELKOVITCH: I pass.

2 HEARING EXAMINER COLLINS: Robert Edmunds?

3 MR. EDMUNDS: Robert Edmunds, 26 Carriage Lane.

4 We were in just -- this is a nice little
5 community, and this is going to be just atrocious to
6 what we have. I mean, there's no other buildings like
7 this going up around our area. Down at Weaver Corners,
8 that's the commercial area so that's a lot different.
9 This is a residential area, you know.

10 The -- the crime rate is what really concerns me,
11 you know. We're a retirement community. We're living
12 there, and we're very, very happy with what we've got,
13 and this is going to upset us an awful lot.

14 The size of the building is way too big.
15 God bless.

16 HEARING EXAMINER COLLINS: Thank you.

17 Shana Cain?

18 UNIDENTIFIED SPEAKER: She left.

19 UNIDENTIFIED SPEAKER: She had to leave.

20 HEARING EXAMINER COLLINS: Angela Smith? Good
21 morning, thank you for coming.

22 MS. SMITH: Thank you.

23 Angela Smith, 205 Santa Fe Trail. I just want to
24 add, the people that you've been calling that had to
25 leave, we had a guy pass away. He was at his church,

1 fell off a ladder and -- and died. So that's where
2 they went. So they'll probably be back for the next
3 meeting.

4 And I'm not going to be one of those persons that
5 says I agree -- you know, agree with that guy and that
6 guy. I'm going to kind of rehash everything that I'm
7 concerned about.

8 First of all, I, like Russ, have been back there
9 in the turtle preserve, and it's like a condo
10 association for turtles. There are mounds and mounds
11 of turtles back there. There are not just 15. I would
12 say it's closer to a hundred, seriously.

13 Drainage. We already have flooding in our -- in
14 our park in the summertime. If it rains an inch in 15
15 minutes, we're underwater. And our roads -- we have a
16 great drainage system in there, and pumps that pump it
17 out to Bayshore and to the ravine that's directly
18 across from me, which I will point out in a second.

19 If -- last year, actually, I was stuck in the
20 front of our park for over an hour because the water
21 was deeper than the hood of my car. If the State does
22 not come out and clean that drainage ditch between
23 Bayshore and us, if they don't keep that totally
24 cleaned, there is nowhere for the water to go.

25 Now you're talking about putting in four-story

1 buildings on a raised amount of dirt -- which we don't
2 know what that is, but when you do that, where do you
3 think that watershed is going to go? It's not only
4 going to go into their little lake back there that
5 they're talking about. It's going to come towards us,
6 and it's going to go towards the neighbors on the west
7 side, also. There's already an issue, okay? I just
8 want you guys to really think about that part.

9 Traffic. Can I have a better -- can I have that
10 one picture that has the area, but it shows Bayshore?
11 Maybe even the one with the few cars.

12 MS. CRESPO: Do you want an aerial?

13 MS. SMITH: Can you go back?

14 HEARING EXAMINER COLLINS: Did you see --

15 MS. CRESPO: There's those big aerials that
16 show --

17 HEARING EXAMINER COLLINS: That's a pretty good
18 one.

19 MS. SMITH: That's a pretty good one. All right.
20 Can I come up here?

21 HEARING EXAMINER COLLINS: Yes, of course.

22 MS. SMITH: All right. So this is us. I live
23 down this way. There is right now what I call a
24 suicide lane in the middle of Bayshore, where you can
25 come in to turn left or right, and sometimes you meet

1 head-on traffic. I don't like that part.

2 Before the FDOT meeting, I was under the
3 impression they were going to put that in, and it was
4 going to make it safer. They were going to give us a
5 left-turn lane, okay? They're not. They're giving
6 Shirley, which is down around here, a left-turn lane.
7 There's 15 houses in there, okay? They're not going to
8 give us a left turn lane to get into our park. We have
9 390 some units in our park, okay? So we're going to
10 have to go down to Hart, with two lanes of traffic
11 here, fit into that turn lane to make a U-turn to come
12 back and into our park. That is a problem on its own
13 without adding 189 units here. We already have Del
14 Webb going in, 850 units, single-story, thank you, but
15 there's another 850 houses that probably have two cars.
16 They're just starting to fill them up back there. So
17 we have that traffic issue.

18 I'm on the Board, also. I'm the head of refuse.
19 I have huge trash trucks that come in to pick up our
20 refuse. They're not going to be able to make this
21 U-turn. None of them are going to be able to make that
22 U-turn to come into our village, and now we're going to
23 add more traffic for them to get into us to get our
24 garbage picked up? That's going to be an issue.

25 If we have another hurricane, and the FEMA trucks

1 come in to pick up stuff -- they're really big. They
2 couldn't even get down some of our streets because of
3 the lower power lines. So thank God our community came
4 together, and they put it back in the compound, and I
5 was finally able to get FEMA to come in and get them in
6 the compound to pick it up. And we took Bobcats and
7 went to the back residences of people to get their
8 stuff to bring up there so we could get that taken care
9 of. But a FEMA truck is never going to get in there.

10 And there's not really -- the only -- the only
11 choice we would have is there's like a 7-Eleven here, a
12 Winn-Dixie -- I don't know when this photo was taken.
13 I guess that's the Winn-Dixie, and this is 7-Eleven
14 here. So the only opportunity for them to do anything
15 is come, take a right into New Post Road, go into the
16 parking lot here at Winn-Dixie to come back out here to
17 get to our village, because they are not going to make
18 this.

19 A problem, too, ambulances and fire trucks. Like
20 somebody said, there is not a fire truck in North Fort
21 Myers that has the ability to put out a four-story
22 fire, okay?

23 Probably, I want to guess six years ago, a
24 gentleman who I know very well, his house burnt to the
25 ground because the fire truck took 30 minutes to get to

1 our village, so we watched it burn down to the ground.
2 Because back then, even with that traffic, we could not
3 get them there soon enough, and they're not that far
4 down Bayshore. How many -- how many houses are going
5 to be in that jeopardy, where the fire trucks can't
6 even get in without all this mess, and now we're going
7 to put more problems in their way? I really have a
8 concern about that.

9 The drainage. Like I said, there's a ditch that
10 goes along here between Bayshore and the back of our
11 buildings there -- our homes. We have pumps in
12 different areas that pump things out. We also have
13 a -- this is the -- this is the back part of our area,
14 and I'm about right here. So this is a channel ditch
15 that collects rainwater, and we also have pumps that
16 pump into that. That goes down to Bayshore and gets
17 sent to the Caloosahatchee. Now we're going to put in
18 this many more houses and have a raised area for that
19 water to be flowing off towards us and these guys? And
20 that water is going to go where when it's already full
21 in the summertime? And this ditch is up high; all
22 these stay full. It's a problem. It's a real problem.

23 The -- I don't understand exactly from their --
24 their talk and their screens what -- what is the berm?
25 I don't know whether they're putting solid walls up 15

1 feet high, or if they're just talking the pine trees
2 and stuff that are already there and adding some bushes
3 to it. Well, those pine trees that are already here
4 only have foliage in the top. There's sticks on the
5 bottom so they're not going to give anybody any sight
6 barrier.

7 HEARING EXAMINER COLLINS: Okay. We'll have them
8 explain what a berm is and how that relates to the
9 landscaping they're going to install.

10 MS. SMITH: Okay. Because I would like to hear
11 more about that.

12 HEARING EXAMINER COLLINS: Okay. I think --

13 MS. SMITH: Where solid walls are going to be;
14 where they're just putting trees. Because if they're
15 just leaving this and putting a few bushes, there's
16 never going to be any sight barrier whatsoever.

17 HEARING EXAMINER COLLINS: Okay.

18 MS. SMITH: So I -- I don't mind having this
19 built, but I do think they need to keep it the single
20 level to match everything that's around here. I know
21 none in Fort Myers -- in North Fort Myers that is more
22 than one story. I know none. Merchants Crossing,
23 that's in Cape Coral. It's not North Fort Myers.
24 Literally, I can't think of any building that's more
25 than one story. So like I said, I don't mind if they

1 build in there, but we need to decrease the ratio a
2 lot.

3 HEARING EXAMINER COLLINS: Okay, thank you.

4 MS. SMITH: Thank you.

5 HEARING EXAMINER COLLINS: Okay. I'm going to
6 break there for public input. I do have more sheets.
7 Those people who did not have their name called, you
8 will have an opportunity to speak on May 5th.

9 I want to make a few comments before we conclude
10 the hearing for today. I direct it at Staff and the
11 Applicant, additional information I would like
12 presented when we close public input and go back to
13 you:

14 I would like a detailed explanation of how the --
15 what the site elevation is now and how much fill will
16 be brought in, and where is the height of this 60-foot
17 building going to be measured from, existing grade or
18 filled as necessary to comply with flood regulations.

19 I would like to know whether this is going to be
20 an age-restricted community; and if not, where on the
21 site plan you are accommodating a school bus dropoff
22 and pickup.

23 I would like, as I requested before, an analysis
24 of the density of surrounding development, both north
25 and south of Bayshore Road. Also, regardless of

1 whether it's age-restricted or not, I want to revisit
2 the subject of an amenity area, particularly if it's
3 not going to be age-restricted. I just want more
4 information on the design of the site and how we are
5 accommodating the bus stop and potential amenity area
6 for children that may be living there.

7 And let me just check my other notes for a moment,
8 if you can bear with me.

9 Okay. A little more information from the
10 transportation expert, I mean, that seems to be a main
11 concern. So if perhaps he can contact FDOT and get
12 more information. He didn't seem to be very
13 knowledgeable on the potential for the installation of
14 a barrier. I think that's going to be important. And
15 how is that factoring in or going to factor into site
16 design at the development order stage in terms of
17 leaving, your turn lanes in and out and all that, just
18 a little bit more information since the surrounding
19 property owners seem to be very concerned about safety
20 and traffic.

21 And I think that's it for now. When we resume on
22 the 5th -- hang on a second -- we will go back to this
23 list of public that filled out these forms. I will
24 call each person that has not already spoken.

25 Members of the public, if you have already spoken,

1 you will not be given a second opportunity to speak.
2 So get with your neighbor who hasn't already spoken, if
3 you have an additional question, so that they can ask
4 on your behalf. Yes?

5 UNIDENTIFIED SPEAKER: You didn't mention the
6 utilities, what their plans are for operating that.

7 HEARING EXAMINER COLLINS: Hang on. My -- these
8 are my questions.

9 UNIDENTIFIED SPEAKER: Right.

10 HEARING EXAMINER COLLINS: They had to take notes
11 of all your questions, and I am expecting them to
12 address all the issues raised by the public when we get
13 back to Staff and the Applicant. So just because I
14 didn't ask for that, doesn't mean it's not going to be
15 addressed. These were things that came to my mind as I
16 was listening to you, and I wanted to make sure that
17 they had the opportunity to supplement the record with
18 more information on that. Yes?

19 UNIDENTIFIED SPEAKER: I'm sorry, I forgot to
20 bring up one thing is --

21 HEARING EXAMINER COLLINS: Okay, hang on. Did you
22 already speak?

23 UNIDENTIFIED SPEAKER: Yes, I spoke.

24 HEARING EXAMINER COLLINS: Okay. You're done.
25 Does anyone else have a question about the procedure?

1 UNIDENTIFIED SPEAKER: Can you give us a list of
2 the names who haven't spoken so we can make sure we get
3 the additional concerns --

4 HEARING EXAMINER COLLINS: You can contact my
5 secretaries -- I'll give you the number of our
6 office -- and they can scan these sheets and send it to
7 you via email, if you provide your name. The number
8 for my office is 533-8100. And if you need a copy of
9 the Staff Report or names of people who have not spoken
10 yet or whatever, my staff will be happy to provide you
11 with that.

12 UNIDENTIFIED SPEAKER: Thank you.

13 UNIDENTIFIED SPEAKER: Are you going to send out
14 notification of the time for the next meeting?

15 HEARING EXAMINER COLLINS: Yes, you will receive
16 an email if you provided your email to us.

17 UNIDENTIFIED SPEAKER: Okay.

18 HEARING EXAMINER COLLINS: Yes?

19 UNIDENTIFIED SPEAKER: I had a question. Many of
20 the residents at Carriage Village are seasonal so we
21 won't be here for the May 5th meeting. Is there any
22 way we can access online?

23 HEARING EXAMINER COLLINS: There's going to be no
24 way for you to participate unless you want to send
25 written comments to me, but this will not secure you an

1 opportunity to speak before the Board. That's why I
2 announced early on if there's anybody that's not going
3 to be available to speak after today, please allow them
4 to go first, but I don't have --

5 UNIDENTIFIED SPEAKER: But not even to view it or
6 watch --

7 HEARING EXAMINER COLLINS: Oh, can you watch these
8 proceedings?

9 MR. TREESH: Yes, you can view it online.

10 HEARING EXAMINER COLLINS: You can view it online.
11 Please call my office, 533-8100. They'll explain to
12 you exactly how you can do that.

13 UNIDENTIFIED SPEAKER: Thank you very much.

14 MS. SMITH: So I just wanted to make sure that --
15 because they heard my question about the barriers, that
16 they come back with a lot more detail about --

17 HEARING EXAMINER COLLINS: They are going to
18 address the questions raised by the public.

19 MS. SMITH: Okay.

20 HEARING EXAMINER COLLINS: Thank you.

21 Does anyone else have questions about the
22 procedure?

23 I look forward to seeing you all on May 5th.
24 Thank you for coming. That concludes the hearing.

25 (Proceedings concluded at 12:39 p.m.)

1
2 CERTIFICATE OF REPORTER
3

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 127, is a true and correct record of my
12 stenographic notes.
13

14 Dated this 16th day of April, 2023.
15

16 
17 Deborah M. Bruns, FPR
18

19
20 (This transcript was electronically signed.)
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23
24
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