

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2022-00002

IN RE: DANIELS PARKWAY SOUTH MIXED USE PLANNED DEVELOPMENT

PROCEEDINGS: PUBLIC HEARING

BEFORE: Donna Marie Collins
Chief Hearing Examiner

DATE: May 4, 2023

TIME: 1:00 p.m. to 5:10 p.m.

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

REPORTER: Deborah M. Bruns
Florida Professional Reporter

ORIGINAL

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12 ALSO PRESENT:

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14 Barry Ernst, Lennar
15 David Brown, RESPEC
16 Ryan Shute, Morris-Depew
Ted Treesh, TR Transportation

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P R O C E E D I N G

1
2 HEARING EXAMINER COLLINS: Good afternoon. My
3 name is Donna Marie Collins. I'm the Hearing Examiner
4 that will be presiding over this afternoon's zoning
5 hearing.

6 The case is called Daniels South Mixed-Use Planned
7 Development, and the plan is to rezone the existing
8 vacant property to a land use district that permits
9 commercial, residential, and other uses; and that's why
10 it's called "mixed-use planned development."

11 All testimony and evidence that I take during
12 these hearings must be put into the record under oath
13 because this is a quasi-judicial hearing. I will
14 administer the oath to everyone in the room at one time
15 when I conclude my introductory remarks; and that way,
16 when it comes time for you to come to the podium,
17 there's no need to administer the oath to you then.

18 The order of proceedings will be as follows: The
19 Applicant and their team will present the case. They
20 will explain the request in detail and then cover how
21 the request complies with the governing criteria for
22 approving changes to zoning districts. Their testimony
23 may involve the testimony of more than one witness.
24 Some may be experts in specific fields of study.

25 Following their presentation the planner that

1 works for Lee County, who prepared the Staff Report and
2 reviewed the application, will also make a
3 presentation. The County planner in this case is
4 recommending approval, and the rationale for that is
5 outlined in the Staff Report, which is a public record,
6 if you're interested in obtaining a copy.

7 Following presentation by Staff, which may also
8 include more than one witness, I will open up the floor
9 to members of the public who wish to be heard on the
10 application. I will go through the public
11 participation forms that have been completed over here.
12 I'll take one at a time. Please at that time come to
13 the podium, state your name. You can tell me where you
14 live in relationship to the property, although that's
15 not necessary. That is your time to express any
16 concerns or support you have with the application, and
17 also your opportunity to ask questions, and I urge you
18 to do so.

19 Try to organize your thoughts so that you have
20 your questions ready to be asked. We will take in all
21 the questions at one time, and then when we go back to
22 the parties, we'll ask them to address all the
23 questions that have been raised by members of the
24 public. This way we keep the momentum of the hearing
25 flowing without a lot of interruptions, and we can

1 avoid having the same question asked more than once.

2 They will keep track of all the questions that are
3 posed, and then when we get back to the parties, they
4 will address those questions.

5 When you come up to the podium, please state your
6 name, and I would like you to speak for as long as you
7 like. There's no limitation on the amount of time that
8 you can speak at these hearings, although I do urge you
9 to organize your thoughts in advance. I tell you this
10 because at the next hearing, the final hearing before
11 the Board of County Commissioners, you will be limited
12 to three to five minutes. But at this hearing you can
13 speak as long as you want, and I will take all your
14 comments into consideration and try to summarize them,
15 to some degree, when I make my recommendation to the
16 Board.

17 The way I'll conduct the hearing is we'll take
18 testimony for about an hour and a half, then I
19 typically take like a ten-minute break, and we will
20 resume in that fashion. That gives me an opportunity
21 to stretch my legs, and the court reporter to rest her
22 hands, but then we'll get right back to it. I urge you
23 to please come in in a timely manner so that we don't
24 have a lot of interruptions in the hearing room.

25 Please take a second now and silence your mobile

1 devices.

2 And I am ready to begin, so I'd like to administer
3 the oath. If you intend on speaking on the record or
4 entering documents into the record of this case, I ask
5 that you please raise your right hand. Do you swear or
6 affirm the testimony and evidence you enter into the
7 record will be the truth?

8 (Participants respond en masse.)

9 HEARING EXAMINER COLLINS: Okay, thank you.

10 MR. HARTSELL: Good morning, Madam Hearing
11 Examiner. My name is Steve Hartsell. I'm with Pavese
12 Law Firm. I'm here on behalf of the owner, Jared
13 Holes, who is trustee, and the Applicant, which is
14 Lennar Corporation.

15 With me today are the team members: Tina Ekblad,
16 our senior planner with Stearns Weaver Miller; Ryan
17 Shute, our project engineer with Morris-Depew &
18 Associates; Ted Treesh, project traffic planner with TR
19 Transportation; Shane Johnson, our project ecologist
20 with Passarella & Associates; David Brown, our project
21 geologist; and Scott Edwards and Barry Ernst with
22 Lennar Corporation.

23 The first thing that I would like to do is -- with
24 the 48-hour letter, I indicated that we would also have
25 a PowerPoint presentation and a large copy of the site

1 plan, and I would like to submit both of those to you.

2 (Applicant Exhibits 1 and 2 submitted.)

3 HEARING EXAMINER COLLINS: Thank you. The
4 PowerPoint will be Applicant Exhibit 1, and the
5 enlarged site plan will be Exhibit 2.

6 MS. EKBLAD: One is for the court reporter, and
7 one is for Staff -- yeah, the court reporter and Staff.

8 (Sotto voce between Hearing Examiner and reporter)

9 HEARING EXAMINER COLLINS: Okay. Hold on a second
10 so I can do some marking here.

11 MR. HARTSELL: Sure.

12 HEARING EXAMINER COLLINS: Thank you.

13 MR. HARTSELL: Thank you.

14 Just as a matter of expediting things, all of the
15 witnesses that we submitted with the 48-hour letter,
16 with the exception of Scott Edwards, have already been
17 accepted as experts, and their résumés are on file with
18 you. At this time I would submit each of them as an
19 expert in the field that we've indicated on the 48-hour
20 letter, and would request that they be accepted as
21 experts in their respective fields.

22 HEARING EXAMINER COLLINS: Yes, thank you.

23 MR. HARTSELL: And to the extent that Mr. Edwards
24 testifies, we'll qualify him at that time.

25 HEARING EXAMINER COLLINS: Okay, very good.

1 MR. HARTSELL: Thank you very much.

2 Tina Ekblad will introduce the project. She'll be
3 followed by Shane Johnson, who will address the
4 wildlife, environmental, and wetland issues; David
5 Brown will then follow Shane to address the
6 hydrogeology; Ted Treesh will address transportation;
7 and Ryan Shute will address the drainage and water --
8 stormwater management. Tina will then come to wrap up
9 the planning aspects of it.

10 So at this point in time --

11 HEARING EXAMINER COLLINS: Okay. So just a point
12 of clarification, I read through the 48-hour memos from
13 Staff and the Applicant, and I understand that all
14 outstanding issues have been resolved, with the
15 exception of the items that are highlighted in yellow?

16 MR. HARTSELL: That is correct.

17 HEARING EXAMINER COLLINS: Okay, good work.

18 MR. HARTSELL: Thank you very much.

19 Tina.

20 MS. EKBLAD: Good afternoon, Madam Hearing
21 Examiner. For the record, Tina Ekblad, Director of
22 Planning with Stearns, Weaver, Miller.

23 We'll try to get started here. There we go.

24 The property before you today is approximately --
25 well, a little over 1,200 acres located at the

1 intersection of Immokalee Road and Daniels Parkway, as
2 outlined in yellow on the graphic to the left of the
3 slide. The property is currently owned by the Jared
4 Holes Trust. Lennar is the Applicant. There is a
5 contract for purchase on the entire property.

6 In the immediate vicinity of the subject property,
7 off the aerial here to the north, is Lehigh Acres.
8 These properties are within the central urban future
9 land use in the Lehigh Acres Community Planning area.
10 We'll get into how that interplays with the site in a
11 few slides.

12 To the east, on Shawnee Road, we do have wetlands
13 and DR/GR future land use, and generally these
14 properties are estate residential.

15 To the south is the Southwest Florida
16 International Airport also within the DR/GR and
17 wetlands future land use.

18 And then to the west of Daniels Parkway is the
19 Timber Creek community, which you may recall was before
20 you in a very similar process quite a few years ago.
21 That property is within the Lehigh Acres and the
22 Gateway Planning Community. So it has a similar -- I
23 call it a mash-up of planning overlays, just as this
24 property does.

25 We are going through the process to amend the Lee

1 County Comprehensive Plan concurrently with this
2 planned development. The applications for amendments
3 were transmitted by the Board of County Commissioners
4 last month. Specifically, the sub-outlying suburban
5 area in yellow here is being changed from DR/GR to
6 sub-outlying suburban. That's approximately 149 acres.

7 We are extending the Lee County Utility service
8 area to cover the entire portion of the property within
9 Southeast Lee, so this will allow the planned
10 development to connect to central water and sewer
11 services.

12 We obviously have corresponding amendments to
13 Table 1B to address population, and also text
14 amendments to Policy 33.2.2. That text amendment is to
15 allow us to calculate the density off the entire 1,233
16 acres. It also requires us to provide 60 percent open
17 space, which we are doing through this planned
18 development process.

19 So I generally talked a little bit about the
20 proposed land use. Just to kind of fill in the gaps
21 there, the northern portion of the property at the
22 intersection of 82 and Daniels is currently within the
23 central urban future land use, and it's also within the
24 Lehigh Acres Planning Community. This corner will
25 remain as is, in its urban category. As I mentioned,

1 we're adjusting 149 acres into sub-outlying suburban.
2 The remainder of the uplands to the east will stay
3 within the density reduction/groundwater resource
4 future land use, and then we did secure a
5 jurisdictional determination from the Water Management
6 District for 532 acres of wetlands. So the wetland
7 future land use is being amended to what you see on the
8 screen here, which reflects that jurisdictional
9 determination.

10 As a point of clarification -- David Brown will
11 get into this later in the presentation, but this
12 dividing line here between the two future land use
13 categories is a feature on the site that causes
14 drainage to move in different directions and changes
15 the underlying characteristics of the property.

16 So to give you a brief overview of our text
17 amendment, I have copied it here. The majority of the
18 text is an addition which allows property adjacent to
19 the mixed-use community -- again, our central urban
20 portion here in Lehigh Acres -- is within a mixed-use
21 overlay. That overlay is specific to Lehigh Acres.
22 It's not the same mixed-use overlay as the rest of the
23 county. It allows us to sum the density across the
24 entire property, and then spread the density out so
25 that we can create an appropriate transition from the

1 historical platted community of Lehigh, which is just
2 off the image here -- the master plan communities of
3 Timber Creek and Gateway -- onto the property, and
4 transition appropriately into the greater DR/GR future
5 land use category.

6 One of the criteria that we have to meet in order
7 to be able to accomplish that is that a planned
8 development be filed -- obviously that is why we are
9 before you today -- and that the project maintain a
10 minimum of 60 percent open space, which the master
11 concept plan demonstrates that we are meeting.

12 For our density calculations utilizing the future
13 land use, we -- including -- so our wetland impacts are
14 not calculated in this. Without wetland impacts, we
15 are allowed to have a maximum density of 1,625 units on
16 the property. We do have some wetland impacts that
17 bring us down to -- I believe it's 1,612. The case
18 before you today is asking for a maximum of 1,600
19 dwelling units. So we're within our allowed maximums
20 for the subject property.

21 As I mentioned, we are asking for a maximum of
22 1,600 dwelling units. We are proposing those units to
23 be single-family, two-family attached, and
24 multi-family. You'll see on the master -- the colored
25 master concept plan here, those attached unit types are

1 proposed to be within the Lehigh Acres Planning
2 Community at the northern end of the project, and also
3 along Daniels Parkway here. The remainder of the
4 residential land area would be single-family. So,
5 again, to try to address that -- that transition and
6 different lot sizes, and to ensure that we have
7 single-family uses adjacent to existing residential.

8 There is 350,000 square feet of commercial that is
9 proposed -- you'll see that on the colored master
10 concept plan in red here -- immediately at the
11 intersection of 82 and Daniels Parkway. That's within
12 that central urban category. We are proposing retail
13 and general office. There is an opportunity for 70,000
14 square feet of that commercial to be medical office.

15 We also, in our work on the Timber Creek project
16 and dealing with Lee County Emergency Services,
17 understand that there is a need for a station in this
18 area. So we are proposing an Emergency Service parcel
19 here along Daniels Parkway that will address that --
20 that need.

21 You can see from the green on the screen, we are
22 providing 60 percent open space. Mr. Johnson is here
23 from Passarella & Associates, and he will explain that
24 55 percent of that required open space is indigenous
25 preservation and restoration.

1 And then we have deviations to address our water
2 management lakes in the southern portion of the
3 property here, generally in this location, and also
4 here, due to the fact that those are within the
5 10,000-foot hazardous wildlife buffer to the airport.
6 And then we also have some deviations to ensure that we
7 can have a consistent roadway cross section between the
8 urban and nonurban future land use categories. We are
9 providing sidewalks on at least one side of the road.
10 In some instances there may be two. So that's what
11 those additional deviations are for.

12 We talked a little bit about the master concept
13 plan just to give you a broader overview of some
14 additional concepts. The continuous flow intersection
15 that has been constructed and is operational at
16 Immokalee -- State Road 82 and Daniels Parkway
17 eliminated the opportunity for access for vehicles from
18 the project site to State Road 82. So all of our
19 vehicular access is proposed to occur onto Daniels
20 Parkway. These location points are consistent with the
21 controlled access management plan for Daniels.

22 So this large arrow here indicates full turning
23 movement, and same thing down here, full turning
24 movement. Because we are consistent with the CAMP, we
25 are also aligned with the access points to Timber Creek

1 across the street. We do have some right-in/right-out
2 entrance points for the commercial and the emergency
3 services parcel to address those additional movements.

4 The black and white large copy of the master
5 concept plan that you have, and also this graphic which
6 is a little hard to see, does denote the 10,000-foot
7 hazardous wildlife buffer here. It arcs across the
8 southern portion of the property, which is why we have
9 significantly limited development to that area.

10 And then we also have the noise zones. This is
11 Noise Zone B, which, again, is on the master concept
12 plan in the large version in front of you. And as a
13 result of this, you'll see that we don't have any
14 residential proposed in that area.

15 We do have some residential amenities. We do
16 agree with the conditions that staff proposed, that the
17 construction in that area and the ongoing lighting and
18 events need to be coordinated with the Port Authority
19 in that amenity area to make sure that we're consistent
20 with the various requirements of the Comp Plan and the
21 Land Development Code.

22 HEARING EXAMINER COLLINS: Is the rest of the
23 property in Zone C or --

24 MS. EKBLAD: Yes --

25 HEARING EXAMINER COLLINS: Okay.

1 MS. EKBLAD: -- yes. Zone C is this dotted line
2 here.

3 HEARING EXAMINER COLLINS: Okay.

4 MS. EKBLAD: And so that was also one of the
5 conditions we added back in, consistent with the LDC,
6 is that disclosures need to be made at point of sale
7 and on the plat and such. We recognize that that's a
8 repeat of the Land Development Code, but we felt it was
9 important to include.

10 We are in an area with full urban services to
11 serve the existing and proposed development. We are in
12 a unique position where the property will be served by
13 the Lehigh Acres and South Trail Fire District. I
14 talked about the additional Emergency Services parcel
15 that we're providing to address response times. Lee
16 County Sheriff's Office also has capacity to service
17 the site. And then Lee County Solid Waste and
18 Utilities are providing service, and we are within the
19 east zone for the School District. Letters of
20 availability were secured for the Comprehensive Plan
21 amendment and demonstrated that capacity was available
22 to serve the project.

23 So I believe with that information, you can make a
24 finding that the project will be served by urban
25 services and that we are consistent with the Lehigh

1 Acres Community Plan Policy 25.9.2, that new
2 development be directed to areas where public services
3 and infrastructure are available.

4 Did you have any questions on that one?

5 HEARING EXAMINER COLLINS: No, I just -- you
6 clarified it. I was curious as to whether FGUA was
7 perhaps servicing part of the site, but you clarified
8 it in your presentation.

9 MS. EKBLAD: Okay.

10 So just to hit some Comp Plan policies right off
11 the bat, based on the surrounding uses, it is my
12 professional opinion that this planned development will
13 promote compact and contiguous growth given that we are
14 infilling an agricultural parcel within existing
15 historically platted and master plan communities.

16 We have demonstrated that we have available urban
17 services for the existing surrounding uses, as well as
18 what is proposed here today.

19 The map amendments to extend the Lee County
20 Utility service area addresses the potable water and
21 sanitary sewer standards 4.1.1 and 4.1.2.
22 Additionally, we have provided those letters of
23 availability as part of the case file, I believe, that
24 went to you as part of your packet demonstrating
25 capacity.

1 And then with regard to Policy 4.1.4 and the
2 preservation of sensitive resources, as I mentioned, we
3 are providing 55 percent of that open space as
4 indigenous. That exceeds the current Land Development
5 Code requirements. Currently, a residential project
6 would be required to provide 40 percent open space,
7 whereas we're providing 60; and then half of that 40
8 percent would need to be indigenous, which would be 20,
9 and we're obviously providing 50.

10 Mr. Johnson is here and will provide some
11 additional information regarding what is on site and
12 how that restoration works.

13 We have had extensive communications with the Port
14 Authority throughout the Comprehensive Plan and zoning
15 process. They have reviewed all of the restoration
16 plans. I would note that that is one of the reasons
17 why, unlike in other locations in the DR/GR, you will
18 not see significant enhancements regarding water flow
19 and those regional flow-ways, is because of the
20 proximity to the airport; but we are trying to meet the
21 intent of the DR/GR and some of those environmentally
22 sensitive overlays by providing that 55 percent
23 indigenous and working with the Port Authority through
24 the construction activities.

25 With that, I think that's a good segue to

1 Mr. Johnson from Passarella & Associates to discuss the
2 environmental resources on-site.

3 MR. JOHNSON: Afternoon. For the record, Shane
4 Johnson, Passarella & Associates. I have been accepted
5 as an expert I understand. And I'm vice president and
6 senior ecologist with the firm here to discuss the
7 ecology of the project today.

8 Starting with the historical perspective, so
9 basically agricultural development in the form of row
10 crops first appeared on the project around 1953, or
11 perhaps a little bit before, in the northern portion of
12 the site and down here along the southwestern property
13 boundary. And also there's wetland disturbance, as you
14 can see. This wetland here has basically been bermed
15 off presumably for pumping into that area to drain the
16 farm fields areas. So this wetland here has been
17 bermed off, and you can see down here this wetland here
18 has also been bermed off. So that has kind of led to
19 hydrologic disturbance, again, back -- going back as
20 far as 70 years now or perhaps before that time.

21 And also, as Tina mentioned, there's this elevated
22 farm field road that was constructed by this time which
23 bisects the property, the western side of the property
24 from the eastern side, and the southern property.
25 Where historically these wetlands worked together in

1 harmony and all connected with each other, this farm
2 field has completely precluded the hydrologic
3 connectivity between that western side and the eastern
4 side of the property.

5 And also you can see on top, there's a portion of
6 this coat hanger feature. This is a U.S. Army Corps
7 target range in the north here. This was constructed
8 for training during World War II.

9 So fast-forwarding to 1972, you can see that the
10 agricultural activities have expanded in the north and
11 along the southeastern boundary by this time. So where
12 we had row crops up here, this is now expanded further
13 south into almost the central portion of the property,
14 and also along the southeastern boundary here. And
15 this has led to extensive ditching throughout the
16 project and an expansion of the road network,
17 obviously, to service these farm field areas.

18 And also by 1972, as Tina pointed out, you can
19 start to see some development here along the eastern
20 property boundary, including roads and single-family
21 homes.

22 So the point of talking about the project from an
23 historic perspective is that this site is not new to
24 disturbance. It's been happening for at least 70
25 years, going back to 1953, and that has led to not only

1 the hydrologic disturbance and alteration on the
2 property, but also, you know, significant levels of
3 exotic vegetation that really thrive in pioneer areas
4 that have been disturbed.

5 So fast-forwarding once again to 2022, this is a
6 2022 aerial. The agricultural boundaries are similar
7 to that in 1972. They really haven't changed much from
8 '72 to current -- current day, but the uses changed.
9 It's no longer row crop, it's pasture. So cattle
10 grazing is prevalent throughout the entire property,
11 not just the pasture areas. They have free rein,
12 essentially, over the entire property.

13 So pasture is the dominant land use totaling
14 approximately 51 percent of the site. The balance of
15 the property is a mixture of native and nonnative
16 uplands and wetlands, and the nonnative total across
17 the site is approximately 72 percent. So, again,
18 that's the pasture areas and areas of the existing
19 vegetation that do not meet Lee County's definition of
20 indigenous, which is greater than 75 percent exotic
21 vegetation.

22 Continuing on with existing conditions, the site
23 contains approximately 670 acres of uplands, the area
24 shown in orange. The dominant habitat types or land
25 uses, again, improved pasture is by far the dominant

1 type; but we also have palmetto prairie, pine, pine
2 flatwoods, hardwood/conifer mixed, which all have
3 varying degrees of exotic vegetation infestation.

4 The slide shows the wetlands in green, which Tina
5 indicated were field-reviewed and approved by the South
6 Florida Water Management District, and a formal wetland
7 JD was issued for the project in May 2022. So the
8 wetlands total approximately 532 acres, and the
9 dominant wetland types include hydric melaleuca, which
10 is a nonnative wetland; mixed wetland hardwoods;
11 cypress; hydric pine; freshwater marsh; again, all with
12 varying degrees of exotic vegetation.

13 Also shown on the map in blue are the ditches that
14 were created as part of the past agricultural
15 activities and have led to the hydrologic degradation
16 across the site.

17 This is an interesting graphic. This also shows
18 the wetlands in green, but it also shows the locations
19 of the berms that have been created. So oftentimes
20 when you have ditches, you have parallel berm systems.
21 And what you can see on this graphic is that the berms
22 have really contributed to the hydrologic alteration,
23 essentially creating subbasins within the overall
24 wetlands, and isolating these features so they do not
25 interact with each other hydrologically. So you can

1 see this system here is completely bermed off, so this
2 wetland is -- is isolated from this wetland here, which
3 is isolated from this wetland, which is isolated from
4 this wetland, and so forth. It's a pattern you see on
5 this project site. I've never really seen this before
6 on other project sites, the way it kind of cascades in
7 a north/south fashion like this. But, again, this has
8 really led to the hydrologic degradation where we had,
9 in historic maps we saw, the hydrology connecting all
10 together at one point, with the system functioning as
11 one system, and has now been basically parsed into
12 multiple wetlands.

13 And this -- excuse me -- this photograph was taken
14 on-site approximately in this area, in the central
15 portion of the site. This is me walking a berm right
16 through the middle of a wetland area, and you can see
17 how this separates the wetland into two different
18 wetlands.

19 Regarding the indigenous management plan on the
20 property, again, the total conservation area is
21 approximately 679 acres. As Tina indicated, that's --
22 the minimum is going to be 55 percent indigenous open
23 space on the site; so the site cannot fall below that
24 55 percent. That's the commitment.

25 Very similar to other projects that were approved

1 in the DR/GR, in the environmental enhancement and
2 preservation overlay, this project is slightly
3 different -- and, again, Tina touched on this a little
4 bit. The other projects in the DR/GR were heavily
5 earth-moving projects that were creating flow-ways and
6 excavating flow-ways from farm fields. This project is
7 not doing that. It has a lot of existing vegetation
8 that we're preserving, enhancing, and restoring, and
9 it's a good thing because of the proximity of the
10 project to the airport. And I'll talk more about that.

11 Can I have a water back there?

12 So this map is color-coded based on the activity
13 types:

14 The light green here is areas of existing
15 indigenous wetland areas that will be preserved and
16 enhanced, essentially subjected to exotic removal.

17 The darker green areas are nonindigenous wetland
18 areas that will be subjected to exotic removal and
19 replanting.

20 Similarly, the light tan areas on the map here are
21 a -- are existing indigenous uplands that will be
22 subject to exotic removal.

23 And the orange areas are upland restoration,
24 existing nonindigenous areas that will be subjected to
25 exotic removal and replanting.

1 The other color-coded types here are the berms and
2 ditches that will be restored to either uplands or
3 wetlands, depending on their location in the landscape,
4 and that will function kind of a bigger -- as part of a
5 bigger picture hydrologic restoration on the site.

6 So when we talk about hydrologic restoration,
7 again, we're not talking about mass grading; we're not
8 talking about creating wetlands; we're not talking
9 about impounding water to increase hydroperiods. We're
10 simply talking about opening up the berms, eliminating
11 those berm systems, backfilling the ditches to
12 essentially reconnect the wetlands throughout the
13 project, as they did historically.

14 You also can see this -- these blue arrows here.
15 So this was the elevated farm field road that will
16 basically be eliminated once the development is
17 constructed. So there will be a pipe system to
18 reconnect these wetlands under this connector road to
19 the eastern side of the property, and this will
20 eventually flow south, as it did historically. So
21 reestablishing this connection that's been severed by
22 the elevated farm field road.

23 So the indigenous management plan is discussed in
24 Condition 8 in the Staff Report, and it's also provided
25 as Exhibit A in the Staff Report.

1 So Tina also mentioned the 10,000-foot hazardous
2 wildlife buffer. That's this buffer shown on the map.
3 So this created a challenge for us on this project
4 because we needed to, you know, restore these areas,
5 this 679 acres of conservation lands on the project in
6 accordance with the Lee Plan; but how do we do that but
7 also not increase wildlife hazards and attractants?
8 That was a challenge that we'll talk more about here in
9 just a minute.

10 But first on to protected species. Passarella &
11 Associates conducted a Lee County protected species
12 survey in May and June 2021. The results of that
13 species survey found six listed wildlife species and
14 five listed plants. The wildlife consisted of gopher
15 tortoise, crested caracara, wood stork, sandhill crane,
16 big cypress fox squirrel, and Florida panther tracks;
17 and the plants consisted of giant wild pine, common
18 wild pine, northern needleleaf, butterfly orchid, and
19 ridged orchid.

20 Now, because we have known listed wildlife
21 utilization of the project site, we prepared a
22 protected species and human-wildlife coexistence plan
23 for the project. That is included as Exhibit 8 in the
24 Staff Report. And that provides management activities
25 for the species, as well as the human-wildlife

1 coexistence elements, to minimize adverse interactions
2 between project residents and wildlife.

3 So the map that you see here is a map from our
4 protected species management plan. This shows the
5 wildlife fencing, the lake buffers, and the wildlife
6 crossings proposed as part of the project, and the blue
7 area represents the 679 acres of conservation lands.

8 So the orange areas represent, again, the
9 perimeter fencing, which is along the
10 preserve/development interface and along the connector
11 roads -- around the entire project, essentially, except
12 where we have buffer lakes. So these are intended to,
13 you know, preclude medium-size and large-size wildlife
14 species from entering the development area, but also
15 allowing free access to -- to the conservation areas.
16 And the two connector roads in the north, here and
17 here, we also have wildlife crossings. These are sized
18 primarily for small- and medium-size wildlife, not
19 necessarily for large wildlife, but they could also
20 potentially be utilized by, say, panther and bear.

21 Now, addressing the 10,000 foot hazardous wildlife
22 buffer, again, on this map it's shown in red. Policy
23 47.2.5 basically introduces the 10,000-foot hazardous
24 wildlife buffer and how it's associated with the
25 requirements and the recommendations of the FAA's

1 advisory circular, 150/5200-33B, or as otherwise
2 amended. So site improvements on or near the Port
3 Authority's airports must be designed to minimize
4 attractiveness to wildlife, which can provide ideal
5 locations for feeding, loafing, reproduction, and
6 escape.

7 So, again, this leads into the number of
8 minimization measures that were incorporated into the
9 project. So as Tina indicated, we as a team did work
10 extensively with Lee County Staff, as well as Lee
11 County Port Authority Staff, to incorporate a number of
12 hazardous wildlife minimization measures and best
13 management practices into both of our management plans,
14 the indigenous management plan and the protected
15 species management plan, and I think that's outlined
16 very well in the conditions. But we will tackle those
17 as we go along here.

18 So Condition Number 9 relates to the 10,000-foot
19 hazardous wildlife monitoring. That's one of the
20 commitments the Applicant has made, to prepare a
21 monitoring plan that will be implemented at the time of
22 construction and initial exotic removal activities.
23 And I'll go through that here.

24 That will include observations during construction
25 of horizontal infrastructure to identify and reduce

1 potential wildlife hazards; provides adherence to the
2 Lee County Port Authority's compatible native plant
3 list, which is referenced in Condition Number 11. So
4 essentially that plant list is a list of plants that
5 essentially don't produce seeds, nuts, and berries that
6 would attract large amounts of wildlife, particularly
7 big birds. So they have this native plant list that
8 we've agreed to implement, and is actually in our
9 indigenous management plan as an exhibit, and we will
10 implement that for plantings required within this
11 buffer zone.

12 The monitoring plan will also include criteria for
13 construction contractors and personnel. Just for
14 example, if a dead animal is found in the construction
15 area, that could attract vultures and caracara and
16 other species that -- that feed on carrion. So they're
17 required to bury those or remove that immediately from
18 the site so that attractant is minimized or eliminated.

19 Also, stormwater design standards, for example,
20 lakes that will be constructed within the buffer zone
21 will not be planted with littoral plantings, and also
22 they will be either steep-sloped or hardened --
23 hardened shorelines in place of littoral plantings.

24 Hazardous wildlife and environmental conditions,
25 as I mentioned, Condition Number 8 discusses the

1 indigenous restoration management plan, which basically
2 does not entail any creation of wetlands within that
3 buffer zone, as we discussed. The on-site habitat
4 restoration will be conducted in a like-for-like manner
5 to maintain existing habitat types. I'll expand on
6 that further in the next couple slides, what that
7 means.

8 Hydrologic restoration within the site is focused
9 on interconnecting wetland systems and not creation of
10 new wetlands or increasing hydroperiods, as I
11 previously discussed.

12 And conservation easement is required to be
13 recorded within five years of the DO approval.

14 And the plan will also include details related to
15 exotic vegetation or removal and installation of native
16 plantings, and that will include the Port Authority's
17 compatible -- compatible native plant list.

18 Condition Number 3 regarding lighting and airport
19 compatibility, photometric plans will be submitted with
20 the DO and will be reviewed by the Lee County Port
21 Authority Staff.

22 Condition 7, again, we talked about the 55 percent
23 minimum indigenous open space requirement that will be
24 met.

25 Condition 10 is the protected species, includes

1 our protected species management plan, the results of
2 our protected species survey, and the human-wildlife
3 coexistence element.

4 HEARING EXAMINER COLLINS: So just to clarify --

5 MR. JOHNSON: Yes.

6 HEARING EXAMINER COLLINS: -- the open space --
7 the project is going to be required to provide 60
8 percent open space, of that 55 percent of the open
9 space is going to be indigenous; right?

10 MR. JOHNSON: Looking at the planner --

11 HEARING EXAMINER COLLINS: Not 55 percent of -- so
12 most --

13 MR. JOHNSON: Correct.

14 HEARING EXAMINER COLLINS: -- most of the open
15 space will be indigenous. That's what you're trying to
16 tell me --

17 MR. JOHNSON: Yes.

18 HEARING EXAMINER COLLINS: -- not a percentage of
19 the open space is --

20 MR. JOHNSON: Correct.

21 HEARING EXAMINER COLLINS: Okay.

22 MR. JOHNSON: And that is, again, consistent with
23 those projects that were approved as part of the
24 environmental enhancement and preservation overlay
25 along Corkscrew Road.

1 HEARING EXAMINER COLLINS: So it's more like 95
2 percent of the actual open space is going to be
3 indigenous; right?

4 MS. EKBLAD: Correct.

5 HEARING EXAMINER COLLINS: Okay, thank you. And
6 that will either be enhanced, what's there, or
7 restored. If there's too many exotics that come out,
8 you would have to do a planting plan?

9 MR. JOHNSON: That is correct, yes.

10 HEARING EXAMINER COLLINS: Okay.

11 MR. JOHNSON: And Condition Number 17, which is
12 actually a part of our protected species management
13 plan, is a requirement to utilize bear-proof trash
14 receptacles.

15 So like-for-like habitat restoration, so what does
16 that mean? So, again, we're trying to minimize
17 wildlife attractants, and the purpose of this is to not
18 change the structural composition of the project. So
19 where we have, say, monocultures of melaleuca forest
20 here, that will essentially be restored to a forested
21 system like cypress, which is an approved in the Lee
22 County Port Authority's approved compatible plant list.

23 Similarly, freshwater marsh here on the left, this
24 is dominated by torpedo grass, another nasty exotic
25 species; and, again, keeping the like-for-like habitat

1 type where you restore to a native marsh system, more
2 of a heterogeneous type of system with multiple plants
3 instead of dominated by one exotic plant -- again,
4 plants that would be consistent with the Lee County
5 Port Authority's compatible plant list.

6 So back to Policy 47.2.5, again, which establishes
7 the 10,000-foot hazardous wildlife buffer and promotes
8 compliance with the FAA's advisory circular. So the
9 current circular is this extension 33C. This is -- so
10 this is what we evaluated and -- for Staff because
11 Staff asked for -- during the Comp Plan amendment
12 review process, Staff asked for a review or assessment
13 of poli -- this Policy 47.2.5.

14 So the policy is basically focused on compliance
15 with the circular. So we took a look at the most
16 current circular, and we identified those sections of
17 the circular that were applicable to projects outside
18 of airport facilities, and we provided that analysis
19 for Staff.

20 So Section 2.3.2 relates to new stormwater
21 management facilities, recommends the use of
22 steep-sided riprap or concrete-lined, narrow,
23 linear-shaped water detention basins. That goes back
24 to my previous point, how we're going to implement
25 either steep-sided or hardened shoreline slopes

1 within -- for the lakes that occur within the buffer,
2 and we will not plant them with littoral zones. So we
3 won't plant them, but if, you know, by natural
4 recruitment, if we start to have some vegetation
5 emerging, we will eliminate that. So consistent with
6 Section 2.3.2.

7 Section 2.4.1, regarding existing wetlands on or
8 near airport property, hazards identified during
9 construction need to be coordinated with Lee County
10 Port Authority Staff. Again, we had -- in the very
11 beginning of this project, which conversations started
12 well over two years ago, in fact, with Staff on this
13 project before we submitted an application, we talked
14 extensively about these things, and then subsequently
15 talked extensively with the Port Authority about these
16 things, incorporating these minimization measures and
17 BMPs into our plans.

18 But also this corresponds to the monitoring plan
19 that we agreed to prepare and implement at the time of
20 construction. So essentially a component of that is
21 going to be if we, as the monitor, ecologically, if we
22 see any hazards on-site, we're required to have that
23 open line of communication with Lee County Staff and
24 Lee County Port Authority Staff to address those
25 issues, identify those issues, and eliminate them as

1 soon as possible.

2 HEARING EXAMINER COLLINS: What would that look
3 like? I'm not sure -- what would be a hazard that
4 would show up on the site?

5 MR. JOHNSON: Sure, large flocks of birds -- and
6 we're talking about hazardous wildlife. It involves
7 all wildlife necessarily, but we're talking mainly
8 about birds, large concentrations of bird species.

9 HEARING EXAMINER COLLINS: So then after
10 consultation, you would implement something to change
11 what's happening?

12 MR. JOHNSON: If it's a construction-related
13 issue, we will work with the construction folks on the
14 ground, open up that line of communication with Lee
15 County Staff, the Port Authority Staff, you know, make
16 them aware of the issues, and address it as soon as
17 possible. That's part of the monitoring plan.

18 So, again, consistent with this section of the
19 circular.

20 And lastly here, Section 2.4.3.2 simply says you
21 shall not increase wildlife hazards or attractants.
22 Again, we've implemented numerous BMPs, no littoral
23 zones, steep-sided lake banks or hardened lake banks --

24 HEARING EXAMINER COLLINS: The planting list isn't
25 going to produce --

1 MR. JOHNSON: The planting list, exactly, no
2 creation of wetlands within the buffer and so forth, so
3 consistent with this section.

4 Expanding on Condition 9 here which discusses the
5 hazardous wildlife monitoring program, so this is the
6 actual condition -- or at least most of the
7 condition -- or perhaps all of it, but it shows the
8 strike-through/underline, the changes that the
9 Applicant has proposed.

10 So when we're talking about the monitoring
11 program, we're really talking about activities --
12 construction activities, dewatering, initial exotic
13 vegetation removal activities, and other site
14 preparation activities. That's essentially when
15 monitoring would occur, while these activities are
16 occurring.

17 HEARING EXAMINER COLLINS: So is that what is
18 considered horizontal infrastructure?

19 MR. JOHNSON: Yes, yes, and initial exotic
20 vegetation removal activities, right.

21 So we agreed with Staff that once horizontal
22 infrastructure is completed, that would complete
23 monitoring in that -- that portion of the site.

24 But, again, the point of having this slide up here
25 is to identify the strike-through/underline changes

1 that were made, and Staff essentially agreed with all
2 the changes except for one, and that's related to the
3 actual geographic scope of the monitoring. The
4 Applicant is proposing to monitor within the
5 10,000-foot hazardous wildlife buffer. Staff is
6 wanting to expand that to the entire property, the
7 entire project site.

8 Now, just reflecting back on initial conversations
9 that we had with Staff and Lee County Port Authority
10 Staff, I recall that some of the initial concerns
11 brought up, you know, during construction was mainly
12 dewatering -- not the only issue but dewatering, the
13 movement of water from one place to another that could
14 potentially attract hazardous wildlife or become an
15 attractant.

16 From my experience on -- in doing construction
17 observations on projects that are actively under
18 construction and actively dewatering, those impoundment
19 areas are very steep sloped, much more steep sloped
20 than would be a lake that we're proposing to create
21 within the buffer. So I don't necessarily see that as
22 a potential wildlife attractant; however, we have
23 agreed to monitor those activities within the buffer.
24 We're just proposing to not monitor those types of
25 activities outside of the buffer. Does that make

1 sense?

2 So in conclusion here, based on my review of
3 historic aerials, existing site conditions, surrounding
4 land uses, available protected species and habitat
5 data, and published guidance from the FAA and proposed
6 Daniels South development -- the proposed Daniels South
7 development will benefit the property compared to
8 existing conditions and improve natural resources.

9 It is my professional opinion that the requested
10 mixed-use planned development is consistent with the
11 Lee Plan, Land Development Code, and the data and
12 analysis demonstrate the proposed changes will not
13 cause any significant harm to natural resources and
14 wildlife.

15 So I'll be available for questions.

16 HEARING EXAMINER COLLINS: Thank you. I don't
17 have any at this time.

18 MR. JOHNSON: Okay, thank you. David Brown is
19 next.

20 MR. BROWN: Good afternoon, Madam Hearing
21 Examiner. My name is David Brown. I'm a professional
22 geologist. I'm also on the national practice league
23 for my firm, RESPEC, and my office is located in
24 Sarasota, Florida, and I have been accepted as an
25 expert prior. This afternoon I want to go through some

1 of the ground and surface water resources of this
2 subject project.

3 First I'm going to start off with an historical
4 perspective, similar to what Mr. Johnson did. The
5 DR/GR in which the project is located, the density
6 reduction/groundwater resource area, has five
7 subwatersheds, predevelopment subwatersheds, and the
8 project is located -- if I can do this -- how do you
9 highlight on this one?

10 MS. EKBLAD: The red button is the laser, on the
11 top.

12 MR. BROWN: There we go, okay.

13 The project is located up in the northwest corner
14 of the DR/GR. You can see it hatched in black. And
15 I've outlined the various subwatersheds in various
16 colors.

17 So within the five subwatersheds, we have the Six
18 Mile Cypress watershed; we have Estero River
19 subwatershed; Flint pin (phonetic); the Imperial River;
20 and the Corkscrew subwatershed. The watershed -- the
21 Six Mile Cypress subwatershed represents only half of a
22 percent of the entire DR/GR. So it's a very small
23 area, again, located up here in the extreme northwest
24 corner. And if you look at it, the predevelopment
25 flows within the DR/GR, the Six Mile Cypress

1 subwatershed flows to the west, whereas, as shown by
2 the black arrows, all these other subwatersheds flow to
3 the south or southwest.

4 Looking at the historical perspective in regards
5 to hydrology, prior to any of the agricultural
6 development, the project site was characterized as open
7 range land, pine flatwoods, with the interspersed wet
8 prairies and shallow freshwater marshes. These marshes
9 show up as these dark gray areas, and the uplands in
10 the lighter gray areas, and so they're fairly easy to
11 discern as you look at a property.

12 There is also this prominent -- as was discussed
13 before, these prominent triangular-shaped features up
14 here. There's one of these that occurs in the extreme
15 northern part of the property. Again, those are the
16 earthen berms that were associated with the World
17 War II military exercises. And a cross section of that
18 berm, these things across their side here are
19 approximately 150 foot wide and about 10 foot high; and
20 then in LINK they're about 1,000 to 1,300 feet long.
21 So these are large features and kind of points to the
22 disturbance on the northern part of the property.

23 Again, continuing with the historical perspective
24 with a 1944 aerial image, and zooming into the
25 property, which is outlined in red, the predevelopment

1 basin boundary between Six Mile Cypress and Estero
2 River, is what I characterize as -- as leaky. This is
3 not a defined hard boundary. It's more of an
4 interfingering of these wetland systems. And that's
5 sort of shown here in this yellow box that I've put on
6 here with yellow hatches.

7 And you can see with these wetland systems,
8 there's kind of this faint kind of flow path that I've
9 highlighted in blue right here, and then I've
10 highlighted this to a larger degree over to the right.
11 So basically water was able to exchange between those
12 two subwatersheds at this location. If you look at it
13 currently, this is what that same area looks like.
14 That entire connection and everything about it has been
15 obliterated.

16 Moving forward in time to 1958, as again was
17 testified to, the interior of the property was being
18 developed heavily for agricultural row crops with
19 ditches and berms and rim ditches and access roads,
20 and, again, this formed kind of a network or a matrix
21 of individual subbasins within the property. And the
22 most prominent feature, again as described, was this
23 elevated farm road that basically bisected the
24 property. And this image, you can see very well that
25 this kind of lobe of this wetland system was severed by

1 that road. So that was the connection that was
2 basically stopped by the elevated farm road. And,
3 again, that was constructed by the farming operation so
4 they could have year-round access to this farming
5 operation to the south, but it effectively eliminated
6 any communication and severed that historic connection
7 between these two subwatersheds.

8 So now looking at existing conditions -- and the
9 graphic to the left kind of summarizes a lot of what
10 I've talked about so I'll walk through it really
11 quickly here. These yellow dash lines are the
12 predevelopment subbasins defined by the South Florida
13 Water Management District. Okay. This large purple
14 area is the Estero River subwatershed. They've kind of
15 just graphically shown kind of a cartoon of what the
16 Six Mile Cypress subwatershed is, and then you also see
17 that they've also included this farm road as part of
18 the basin divide. So you can see even in this graphic
19 how it separated these two watersheds and kind of
20 severed that segment of the Six Mile Cypress watershed.

21 We explored this elevated farm road. We've walked
22 along its whole length, I've traversed it a number of
23 times during the rainy season, and we did not see any
24 connection, any flow-way or any way for water to move
25 from one side to the other. So it still effectively

1 serves as a separation between those two hydrologic
2 features.

3 You can look -- it's even more evident if you look
4 at recent aerial photographs. So, again, in this
5 image, this is that same elevated farm road I showed
6 before; and if you look at the drainage ditches that
7 were installed by -- when they were growing row crops
8 out here, you can see all of these are in a direction
9 of kind of southeast to northwest; whereas, on the
10 other side of this road, you can see these run from
11 northeast to southwest. So there is a very distinct
12 change in the hydrology when they created this road and
13 that was facilitated by all the farming operations.
14 And so you have these main ditches, and then there's
15 all of this internal network of drainage ditches.

16 And then this was talked about before. This
17 particularly large wetland feature was bermed around it
18 and was used as kind of a temporary reservoir to pump
19 all this surface water into. So, again, it is --
20 hydrologically is very, very altered. And, basically,
21 this kind of isolates this side of the property, the
22 western side, completely from the eastern side of the
23 property.

24 So now let's talk a little bit about the proposed
25 hydrologic enhancements of the project. First we're

1 going to have an interconnection. We're going to
2 restore -- that's exactly where it occurred. We're
3 going to restore this interconnection between the
4 western side of the property and the eastern side of
5 the property. That's going to be a subsurface
6 connection so we won't create any wildlife habitat,
7 but, again, will allow these two subwatersheds to
8 actually interchange water during large storm events.

9 Also, the proposed design for irrigation of the
10 development will use both groundwater and recycled
11 stormwater or surface water for irrigation. The
12 predominant source for irrigation of the project will
13 be stormwater that will be within the numerous
14 stormwater lakes that are on the property. The use of
15 the -- the seasonal use of those surface water and
16 groundwater is consistent with the South Florida Water
17 Management District's Lower West Coast Water Supply
18 Plan and also with Lee Plan policies. And, again, this
19 type of irrigation system basically optimizes the use
20 of the water supply from each source; and, therefore,
21 by using both of these sources, you don't adversely
22 impact either one of them.

23 The irrigation system will be a master controlled
24 system so no individual homeowner will be able to
25 control the timing and duration of irrigation events.

1 And this is really critical when you get into times
2 where you have irrigation restrictions because you have
3 a single entity that can control those restrictions
4 over the entire development.

5 Also, the development's design and stormwater pond
6 significantly increase recharge to the underlying
7 aquifer. We ran an integrated model, a surface and
8 groundwater model using a 25-year/3-day rainfall event.
9 In looking at it -- and this is some of the -- the mesh
10 or some of the details from the model itself. So
11 here's pre development and here's post development.
12 And, basically, looking at the existing conditions
13 model as compared to the proposed conditions, we'll
14 have a net increase of 94 acre feet of recharge, which
15 equates to 30 -- over 30 million gallons of recharge in
16 15 days.

17 Also, in regards to the use of groundwater, the
18 groundwater will also be sourced from two different
19 aquifer systems, okay? Six wells will be finished into
20 the sandstone aquifer, and two of the wells will be --

21 THE REPORTER: Okay, you're going to have to start
22 that again. "Six wells will be finished" --

23 MR. BROWN: Oh, I'm sorry. I talked too fast.

24 Six wells will be finished into the sandstone
25 aquifer, and two wells will be finished into the lower

1 or the Mid-Hawthorn -- I'm sorry, for the deeper
2 Mid-Hawthorn aquifer, and that is illustrated on the
3 graphic here to the left --

4 HEARING EXAMINER COLLINS: And this is for the
5 purpose of irrigating the developed areas?

6 MR. BROWN: For -- for augmentation of the
7 irrigation system. The stormwater --

8 HEARING EXAMINER COLLINS: Right. You said the
9 first source is the lake --

10 MR. BROWN: Correct.

11 HEARING EXAMINER COLLINS: -- and it would only
12 resort to this to supplement if there wasn't sufficient
13 in the lake.

14 MR. BROWN: That's correct, yeah.

15 And this is a graphic of the depth of the
16 sandstone type wells, where they will be located, with
17 casings -- well casings somewhere around 100 feet, and
18 they'll penetrate down to about 130 or 140 feet below
19 land surface, whereas the Mid-Hawthorn -- the deeper
20 Mid-Hawthorn wells will have casings that extend down
21 to approximately 230 feet below land surface and extend
22 down to depths of approximately 300 feet.

23 So, again, we're using two sources of irrigation,
24 surface water and groundwater; and then with the
25 groundwater we're using two different aquifer systems.

1 So we really ameliorate or basically eliminate any
2 adverse impacts to any of these systems.

3 Both of the aquifers are confined, which also
4 precludes any drawdowns to wetland systems on-site.

5 We also authored an ELMP, enhanced lake management
6 plan. The ELMP was very detailed. It includes BMPs
7 for deep lake management so that we don't have a
8 separation of oxygen levels within that lake; nuisance
9 and exotic vegetation control; littoral vegetation
10 preservation only in those areas outside of the
11 wildlife buffer area, okay? Within the wildlife buffer
12 they must maintain those hardened measures that were
13 done to eliminate wildlife. So you have to do both.

14 Fertilizer applications, only licensed applicators
15 licensed through Lee County will be authorized to apply
16 fertilizer. No individual homeowner can apply
17 fertilizer.

18 The ELMP includes measures for erosion protection
19 and lake bank maintenance.

20 We have measures regarding pesticide, herbicide,
21 and fungicide applications.

22 Again, we've incorporated the airport land use
23 restrictions. We have BMPs regarding the commercial
24 area adjacent to Highway 82, and we also incorporated a
25 very detailed surface water quality program that

1 mandates sampling three times per year: One time
2 during the dry season, two times during the wet season,
3 at six separate locations.

4 Currently there's a -- a cattle operation on-site.
5 So as part of the development plan, we will retire the
6 permitted cattle groundwater permit that is out there.
7 There is a permit that exists on-site for the cattle
8 operation. We will eliminate the existing internal
9 drainage ditches, thereby improving the potential for
10 recharge to the water table aquifer. That's because
11 we're holding water on-site and not pushing it off
12 through all that -- that drainage network.

13 Lee County Utilities will provide both potable and
14 wastewater services. We will have improved surface
15 water quality through the elimination of the cattle
16 grazing and the creation of the engineered stormwater
17 management treatment facilities.

18 And obviously the development will adhere to Lee
19 County's fertilizer ordinance, whereas the existing ag
20 operation does not have to abide by it.

21 Again, as stated before, we'll have a master
22 controlled irrigation system that regulates the
23 initiation and overall duration of irrigation. No
24 individual homeowner can control the timer.

25 We have enhanced recharge, as I talked about

1 before, through the creation of the stormwater
2 management system, and we have substantial
3 environmental restoration, as described before, and the
4 conversion of the active cattle grazing operation into
5 open space, including the preservation of the on-site
6 forested conservation areas.

7 And another aspect is we'll finally remove that
8 earthen berm associated with World War II military
9 exercises.

10 HEARING EXAMINER COLLINS: So are there potential
11 contaminants associated with that portion of the site
12 that was used for those military exercises, do you
13 know?

14 MR. BROWN: I've looked at -- on other properties
15 that have had those, where they went in with a phase
16 one and phase two, and there's not. They actually
17 weren't using lead to some -- you know, the ammunition.
18 It was copper and brass, as I recall. So, I mean,
19 there could have been some other activities there, but
20 I have not seen any that have resulted in contamination
21 from those military exercises.

22 HEARING EXAMINER COLLINS: Okay. And in
23 connection with the surface water management system,
24 once that's installed, it's going to outfall into the
25 wetland areas?

1 MR. BROWN: Basically --

2 HEARING EXAMINER COLLINS: It's going to be
3 pretreated, and then what's going to happen there?

4 MR. BROWN: Ryan Shute will come up and talk
5 exclusively --

6 HEARING EXAMINER COLLINS: Okay.

7 MR. BROWN: -- about the stormwater management
8 system, but it basically will allow water to kind of
9 breathe between both sides of the property, and he'll
10 show you where the outfall is located.

11 HEARING EXAMINER COLLINS: But you spoke of
12 monitoring. That's why I --

13 MR. BROWN: Oh, yeah --

14 HEARING EXAMINER COLLINS: -- asked.

15 MR. BROWN: -- we'll be monitoring at outfalls, at
16 critical areas along the project boundary, correct.

17 HEARING EXAMINER COLLINS: Okay --

18 MR. BROWN: Correct.

19 HEARING EXAMINER COLLINS: -- thank you.

20 MR. BROWN: Yeah.

21 All right. We do want to talk a little bit about
22 Condition Number 6 on the ELMP. And, again, you see
23 kind of the strike-through and underline language that
24 we've added, and I'll go through this quickly.

25 Submittal of water quality monitoring results must

1 be provided to the Division of Natural Resources
2 annually after issuance of the first development order,
3 and that must include a report comparing on-site data
4 to State water quality standards where applicable.
5 Some of the things that we're looking at don't have --
6 necessarily have a State guideline, but we're
7 monitoring them anyway. There will be plots and graphs
8 and statistics done on those data, and conclusions and
9 recommendations for any additional sampling or
10 different constituents or also, you know, what the
11 quality of the water that we're monitoring is.

12 And then five years after issuance of the final
13 certificate of compliance, and after meeting State
14 water quality monitoring standards, consistently
15 meeting it, we would like to be able to request to
16 eliminate the water quality monitoring reporting
17 requirements, you know, with review and approval by the
18 Division of Natural Resources, you know, again, if
19 those monitoring results show that we're consistently
20 meeting State water quality standards.

21 All monitoring data will be provided to Lee County
22 while we're monitoring, in a format that they approve,
23 electronic data deliverable, and formatted in a -- in a
24 way that they can also look at that data.

25 HEARING EXAMINER COLLINS: So I understand from

1 the 48-hour submittal that there's a point of departure
2 between Applicant and Staff on when this five-year
3 basically starts; and it appears that the Applicant is
4 advocating toward five years from the issuance of
5 certificate of compliance, the DO for the
6 infrastructure, and Staff is proposing, I'm assuming,
7 the last final CO in a pod?

8 MR. BROWN: Right, right.

9 HEARING EXAMINER COLLINS: So what is --

10 MR. BROWN: Depending on the phasing of the
11 project, that could be a -- a long period of time,
12 depending on market conditions. And so we feel
13 confident that as we're monitoring this project,
14 looking at the results, interacting with Lee County,
15 that we can safeguard the resources without having to
16 monitor it for decades or some aspect --

17 HEARING EXAMINER COLLINS: Well, I'm just confused
18 by this because the property isn't going to be
19 developed in one fell swoop.

20 MR. BROWN: Correct.

21 HEARING EXAMINER COLLINS: Even the infrastructure
22 isn't going to be put in in one fell swoop. So there
23 will be a pod that will be done, and then as market
24 demands, another section, another section. So when
25 does this actually start? At what -- you don't start

1 monitoring until basically build-out in terms of DOs
2 go?

3 MR. BROWN: No, we will -- we will start
4 monitoring after issuance of the first development
5 order right here --

6 HEARING EXAMINER COLLINS: And then stop five
7 years after the final?

8 MR. BROWN: After the final, correct.

9 HEARING EXAMINER COLLINS: So it's almost
10 perpetual.

11 MR. BROWN: Yeah, it's nearly there. So that --
12 depending on market conditions. And so we're trying to
13 get a more defined timeline in which we can do this,
14 because it's a very aggressive monitoring plan. And,
15 again, it's all predicated on if we're meeting State
16 water quality standards through that entire time frame,
17 you know, why do we need to keep monitoring, if we're
18 proving that we're meeting State water quality --

19 HEARING EXAMINER COLLINS: And the Land
20 Development Code does not provide for the opportunity
21 to apply to abbreviate or cease the monitoring?

22 MR. BROWN: It depends -- we just want to clarify
23 that in this -- in this condition, just to make sure
24 that all parties understand that this is kind of how it
25 will operate.

1 MR. HARTSELL: And -- Steve Hartsell for the
2 record -- just for further clarification, because it
3 sort of gets lost in the middle of the paragraph there,
4 as David pointed out, the monitoring starts right away,
5 and then five years after the issuance of the last --

6 MR. BROWN: Yeah.

7 MR. HARTSELL: -- CC.

8 HEARING EXAMINER COLLINS: Yeah, I get it. I get
9 it.

10 MR. HARTSELL: No, you -- but continue down to
11 where it says, "The developer may request to
12 eliminate." This doesn't say --

13 MR. BROWN: Yeah.

14 MR. HARTSELL: -- it's eliminated.

15 MR. BROWN: Right.

16 MR. HARTSELL: At that late date, we're allowed to
17 ask to eliminate it.

18 HEARING EXAMINER COLLINS: I understand that. And
19 my question is isn't that something that's offered to
20 you by virtue of the Land Development Code anyway?
21 Seems like an amendment might be worth considering in
22 that regard, but I digress.

23 MR. HARTSELL: Staff hasn't had a chance to speak
24 to that either --

25 MR. BROWN: Right.

1 HEARING EXAMINER COLLINS: Yeah.

2 MR. HARTSELL: -- so I don't want to --

3 HEARING EXAMINER COLLINS: No, you -- this is not
4 the first project where I have encountered this
5 request. This is --

6 MR. BROWN: Right.

7 HEARING EXAMINER COLLINS: -- a repetitive
8 request.

9 MR. BROWN: Right, right.

10 HEARING EXAMINER COLLINS: So I went looking for
11 it in the Land Development Code once or twice before
12 and couldn't find it, but that doesn't mean anything,
13 and that's why I wanted to ask. It seems when an issue
14 comes up repetitively, it might be time to revisit. I
15 throw it out there in the for-what-it's-worth column.

16 MR. BROWN: And our firm has been monitoring a
17 half a dozen of these type projects within the DR/GR,
18 and all of these have started out as an ag operation
19 and then moved to development. We've seen an
20 improvement in water --

21 HEARING EXAMINER COLLINS: Right, right.

22 MR. BROWN: -- quality, okay? So that -- that's
23 all documented, and that's the reason why we take that
24 baseline sample, to get an idea of what it is prior to
25 any development occurring whatsoever.

1 HEARING EXAMINER COLLINS: I mean, intuitively you
2 have a surface water management system that's
3 collecting everything, holding everything, which is not
4 happening now.

5 MR. BROWN: Correct.

6 HEARING EXAMINER COLLINS: Things are filtering
7 down, then they're bleeding off, and eventually they're
8 passing through all this other vegetation --

9 MR. BROWN: Correct.

10 HEARING EXAMINER COLLINS: -- that you have and
11 wetlands. We're really only looking for -- some kind
12 of a tanker turns over or something and somehow impacts
13 your system, is what I'm thinking.

14 MR. BROWN: We're looking at that, and we're also
15 maintaining compliance with nutrients and everything
16 that's -- that's -- you know, that -- that may be part
17 of the development. And so we're not only monitoring
18 the change from historic to -- to future conditions or
19 proposed conditions, but we're also making sure that --
20 that the development is adhering, you know, to Lee
21 County requirements. So it serves both purposes --

22 HEARING EXAMINER COLLINS: Right. And this is a
23 heightened requirement particularly since we're dealing
24 with the DR/GR, and I don't want to diminish that.

25 MR. BROWN: Right.

1 HEARING EXAMINER COLLINS: I understand what the
2 position is.

3 MR. BROWN: Okay.

4 HEARING EXAMINER COLLINS: And we're looking at
5 like a 15-, 20-year build-out on this project?

6 MS. EKBLAD: (Nods head.)

7 MR. BROWN: Could be, yes, depending on market
8 conditions.

9 HEARING EXAMINER COLLINS: All right, that's fine.
10 You can continue.

11 MR. BROWN: We just -- I think, Madam Hearing
12 Examiner, you nailed it when you said we don't want it
13 to be perpetual.

14 All right. And, again, to -- in regards to Lee
15 Plan consistency, we are consistent with Policy 1.4.5
16 in regards to the density reduction/groundwater
17 resource future land use category. We are also
18 consistent with Objective 60.3 regarding critical
19 areas. And how are we meeting that? Central reuse,
20 number one, is not available for the project in this
21 area, and so we have to have another source of
22 irrigation. And, again, as offered, we have a hybrid
23 approach of using stormwater and groundwater, and the
24 groundwater is being derived from two different aquifer
25 systems. We also are proposing a sandstone aquifer

1 monitoring well on the property to help in a network of
2 monitoring wells that basically surround Lehigh Acres.
3 This will be tied into a monitoring well that is also
4 on Timber Creek to the west.

5 HEARING EXAMINER COLLINS: So what are you
6 checking for, drops in levels?

7 MR. BROWN: Water levels, correct, yeah.

8 And, again, that can be tied in with the USGS, as
9 well as the existing monitoring well at Daniels South.
10 And our monitoring at Daniels South, we can kind of
11 compare and contrast water levels that are in the areas
12 that are further away from Lehigh, in this particular
13 vicinity, and compare those to other monitor wells that
14 are either within or right adjacent to Lehigh, and we
15 have better resource conditions in this area. We're
16 not surrounded by a lot of wells and a high density of
17 wells, and we can see that in the groundwater levels.
18 And we fully anticipate adding to that network as -- as
19 part of this project.

20 And, again, as I said before, we performed an
21 integrated surface and groundwater model, and showing
22 that we have significant improvement to overall water
23 resources due to a significant amount of recharge that
24 will happen as part of the stormwater system.

25 We're also consistent with Policy 125.1.2, Policy

1 125.1.4, and Policy 126.1.4. And, again, through the
2 Condition 6, enhanced lake management plan, again, to
3 kind of reiterate:

4 We'll have a total of eight irrigation wells, two
5 of which will be from a deeper aquifer.

6 We have a very detailed surface water quality
7 monitoring plan, as well as groundwater level
8 monitoring.

9 We're going to collect a single baseline sample
10 prior to any construction.

11 Surface water will be sampled three times per year
12 at six separate locations.

13 And, again, all of this data will be provided, as
14 well as published data. This is the first time we're
15 actually going to be submitting our irrigation
16 quantities in published data, which we'll be required
17 to submit to the South Florida Water Management
18 District; we'll also be providing that data to Lee
19 County in our annual report.

20 So in conclusion, based on my review of the
21 historic aerial photographs, published hydrogeological
22 reports, South Florida Water Management District
23 regulator documents, reports and maps obtained from Lee
24 County, my own personal detailed inspections of the
25 property and adjoining properties, it's my professional

1 opinion that the Daniels South development will benefit
2 the property itself compared to existing conditions,
3 and improve overall water resources within the DR/GR.

4 It is my professional opinion that the mixed-use
5 development is consistent with the Lee Plan, Lee
6 County's Land Development Code, and the data and
7 analysis that I have performed demonstrate the proposed
8 changes will have no adverse impacts to the water
9 resources.

10 And if you have any questions, I'll --

11 HEARING EXAMINER COLLINS: I don't, thank you. I
12 may later --

13 MR. BROWN: Okay.

14 HEARING EXAMINER COLLINS: -- after I hear the
15 surface water expert.

16 MR. BROWN: Absolutely, thank you.

17 MR. SHUTE: Good afternoon, Madam Hearing
18 Examiner. I'm Ryan Shute with Morris-Depew Associates.
19 I'm serving as the project engineer on this project,
20 and I want to discuss water -- surface water management
21 today.

22 I'm going to start with the master concept plan
23 and the status of the South Florida Water Management
24 District ERP for the project. We concurrently for this
25 project have applied for a conceptual environmental

1 resource permit that is very much the same as the
2 master concept plan. We have gone to lengths to
3 parallel the permits, and anything that Staff has come
4 up with, we have incorporated into the Water Management
5 permit application.

6 At this time the ERP application has been --
7 according to Staff has been deemed sufficient. We
8 believe the permit is going to be issued in a couple of
9 weeks based on the time frames that govern the Water
10 Management District permit time frame. So we're
11 hopeful to have the permit by the end of the month.

12 I'm going to also hit on the similar things that
13 David Brown and Shane Johnson mentioned. Again, the
14 project is within two subwatersheds of Lee County. As
15 David Brown mentioned, we kind of straddle the Six Mile
16 Cypress and the Estero River watershed. At the top of
17 the property is State Road 82, which is also the top of
18 the watershed, so there is not water that comes from
19 Lehigh through the project other than just
20 incidental -- whatever falls off the back of State Road
21 82.

22 Based on current conditions, the farm road we've
23 discussed previously divides the property, and existing
24 flows on the Estero River side, the right side of this
25 site, flow generally to the south, and then it flows on

1 the west side of the site, or in the Six Mile Cypress
2 basin, and they flow generally west/southwest toward
3 some culvert crossings under Daniels Parkway.

4 This is a schematic of the master drainage plan
5 for the project. It's based on one of the -- the
6 master drainage plan that we submitted to the South
7 Florida Water Management District. Basically, the
8 system is comprised of interconnected lakes that are
9 designed to provide water quality treatment and water
10 quantity attenuation for the project. The lakes are
11 set at a wet season water table, as established by the
12 adjacent wetlands that we're preserving. So we set the
13 control elevations, the design high-water elevations of
14 the lakes the same elevations of the adjacent wetlands.

15 The arrows in red show the general depiction of
16 the interconnects between the lakes. The black
17 arrows -- whoops -- the black arrows depict some of the
18 outfall -- the outfall locations proposed for the site,
19 and these outfall locations discharge into the on-site
20 wetlands. The primary outfall will be this one at this
21 location, and this small subbasin will have a primary
22 outfall here. And then as this lake (unintelligible),
23 they also discharge at the other locations, as well.

24 These control structures, these weirs, have been
25 balanced to maintain the allowable discharge rates into

1 each of the water management subwatersheds. So
2 therefore, we have the allowable discharge that goes to
3 the Six Mile -- this is the approximate location of the
4 farm road. So the allowables discharge out of these
5 two control structures go towards Six Mile Cypress. We
6 do not increase the runoff. And then discharge from
7 these structures go into the Estero River watershed and
8 do not increase the historical discharge rates. In
9 fact, we have done a pre- and post-development model,
10 and by building these water management system lakes,
11 and comparing them to the predevelopment conditions of
12 the predevelopment model, we actually decrease the peak
13 runoff rates for the property. And with decreasing the
14 peak runoff rates, that helps alleviate potential
15 flooding. It doesn't guarantee nothing -- things won't
16 flood, but it definitely reduces the potential for
17 flooding downstream of the property.

18 Incidentally, this -- David Brown and I
19 coordinated, the monitoring locations for his water
20 quality monitoring program will be the outfall
21 structures that are shown with the black arrows. Those
22 are the locations that are proposed for the water
23 quality monitoring.

24 The blue arrows depict the general flow of water
25 through the wetland system.

1 There's a schematic that show the general
2 locations where the water is to go.

3 And then the 24-inch hydrologic connection is
4 located in this general area right here by that little
5 black pipe, and I have detail for that shortly.

6 So this is a detail of the previously mentioned
7 interconnection pipe between the two watersheds. It's
8 depicted in this location on the master concept plan,
9 and we have created this conceptual detail to kind of
10 describe what is to occur. I have an 11-by-17 version
11 of this to review.

12 HEARING EXAMINER COLLINS: So can you show me
13 where it is on that upper corner example?

14 MR. SHUTE: Sure.

15 (Applicant Exhibit 3 submitted.)

16 HEARING EXAMINER COLLINS: This is Applicant
17 Exhibit 3, wetland connection exhibit.

18 MR. HARTSELL: Steve Hartsell for the record. To
19 the extent that it helps you, it's also slide 50.

20 THE REPORTER: Did you say 50?

21 MR. HARTSELL: 50, yes.

22 MR. SHUTE: So it's depicted by this colored line
23 here, and obviously it will have a few bins (phonetic)
24 to go around the development area. This arrow is the
25 left side of the -- of the system, and these houses are

1 a schematic, are intended to represent the houses that
2 will be here -- it's not going under the houses. It's
3 actually behind them, but we're trying to show the
4 general location the houses are on.

5 Similarly, it's not going through the lake. It's
6 going behind this lake, but we, on the schematic, show
7 how it goes around --

8 HEARING EXAMINER COLLINS: And this is
9 interconnecting the basins?

10 MR. SHUTE: It's interconnecting the
11 subwatersheds, and it's to promote the -- as Mr. Brown
12 mentioned, to re -- allow some water to cross two
13 watersheds. We've set it at high water conditions. We
14 don't want this flowing all the time. We don't want to
15 impact existing flows, but we do want to have the
16 ability, if high water gets in these areas, that it can
17 go -- and it's designed to go to the Estero River
18 watershed from the Six Mile --

19 HEARING EXAMINER COLLINS: And this was happening
20 historically based on the earlier aerials that --

21 MR. SHUTE: Correct, pre farm road --

22 HEARING EXAMINER COLLINS: Pre farm road.

23 MR. SHUTE: -- pre farm road.

24 HEARING EXAMINER COLLINS: So you're restoring an
25 historical condition by doing that.

1 MR. SHUTE: Correct, correct.

2 Again, we set the control -- the control elevation
3 of this structure at a higher elevation to allow this
4 side, the Six Mile Cypress side, to flow into the
5 Estero River side during peak flow conditions -- high
6 flow conditions.

7 I'm going to hit on some of the Comprehensive Plan
8 policies. We comply with Policy 1.4.5 regarding
9 historic levels using hydrologic monitoring. David
10 Brown did the hydrologic monitoring based on the
11 surface water model that I prepared, and we designed
12 the water levels in the lakes to maintain the levels
13 that are currently there.

14 Additionally, Policy 60.4.2, we've designed the
15 water management system to flow into the existing
16 wetlands. We have not incorporated them into this site
17 because we do not want to increase the hydroperiod of
18 the on-site wetlands due to Port Authority concerns.
19 So we are designing the surface water system to
20 continue to flow into the existing on-site wetlands.
21 This is also Policy 61.2.4, as well, and 61.3.6
22 regarding the hydroperiod and the natural water flow
23 conditions.

24 Policy 126.1.1, we are providing water quality
25 treatment in the lakes. And, again, we are not

1 changing the ground water levels.

2 And then Policy 126.1.4, we are maintaining and
3 improving the actual surface flow conditions by
4 reducing the peak runoff rates from the existing
5 condition to the proposed conditions.

6 In conclusion, based on my review of historical
7 photographs, published hydrogeological reports, South
8 Florida Water Management District permitting documents
9 and criteria, reports, site visits, maps obtained from
10 Lee County, and other inspections of the site and
11 adjoining properties, it is my opinion that the
12 proposed Daniels South development will benefit the
13 property compared to the existing conditions, and
14 improve the overall water resources.

15 It's my professional opinion that the proposed
16 mixed-use planned development is consistent with the
17 Lee Plan, the Land Development Code, and the data and
18 analysis demonstrate the proposed changes will not
19 cause any significant harm to present or future public
20 water resources.

21 HEARING EXAMINER COLLINS: Thank you. I don't
22 have any questions.

23 MR. HARTSELL: Ted Treesh will be coming next.

24 HEARING EXAMINER COLLINS: We're going to take a
25 break after Ted's testimony for ten minutes.

1 MR. HARTSELL: Thank you.

2 MR. TREESH: Good afternoon, Ted Treesh, TR
3 Transportation Consultants.

4 The analysis we conducted for this mixed-use
5 application looked at 1,600 single-family dwelling
6 units. Even though ultimately it will probably be
7 developed with a mix of residential unit types, for our
8 worst-case analysis, for our trip generation, we looked
9 at all the units as single-family, as a single-family
10 house generates a higher trip generation than a
11 multi-family -- multi-family residential unit. So we
12 looked at all the residential units as single-family.
13 As well as the commercial component that's at the
14 corner of State Route 82 and Daniels, it says 280,000
15 square feet of retail and 70,000 square feet of medical
16 office. We looked at, again, medical office because it
17 generates a higher trip generation than your general
18 office uses.

19 So, again, we looked at -- this is, again, a
20 30,000-foot view of a traffic analysis conducted at
21 this level at a zoning stage. As the project proceeds
22 to development order, just for the public's benefit,
23 there will be additional traffic studies, just as we've
24 done with Timber Creek. I've been involved in the
25 Timber Creek project since the beginning of that

1 project, working on the traffic for that project, as
2 well --

3 HEARING EXAMINER COLLINS: Okay. So just to
4 recap, you assume worst-case scenario in all respects.
5 All commercial, with the exception of medical office,
6 will be retail because that generates more trips than
7 office?

8 MR. TREESH: Correct.

9 HEARING EXAMINER COLLINS: And then medical office
10 because that generates more trips --

11 MR. TREESH: Than general office.

12 HEARING EXAMINER COLLINS: -- than general office.

13 MR. TREESH: Correct.

14 HEARING EXAMINER COLLINS: Okay.

15 MR. TREESH: So our analysis for this report
16 looked at a build-out year of 2031. So what we do is
17 we take existing traffic counts, adjust those counts to
18 peak season conditions, if they weren't conducted
19 during peak season, based on FDOT -- Florida Department
20 of Transportation and Lee County Department of
21 Transportation information that we have. So everything
22 is done based on peak season, peak season analysis.
23 All our intersection -- all our arterial level of
24 service analysis is based on peak season analysis. And
25 then we prepare the report; the report is reviewed by

1 Staff. We went through several reviews, and then the
2 report is accepted. And when the Staff reviews it --
3 and their memo is attached as part of the Staff Report,
4 and we are in agreement with that attachment that is
5 in -- included as part of the Staff Report that
6 summarizes the traffic study.

7 All the roadways in the area will operate at an
8 acceptable level of service, with the exception of the
9 segment of Daniels that's in front of our project.
10 That's the last segment of Daniels that's the
11 four-lane -- an existing four-lane segment of Daniels
12 Parkway, and that segment is a fairly long stretch of
13 Daniels. There's no traffic signals on that segment
14 except at State Route 82 and at Gateway Boulevard; and
15 if you've been out in that area, you'll know that FDOT
16 recently completed the widening of State Route 82 to
17 six lanes. As part of that project, they changed the
18 intersection configuration of Daniels and 82 to what's
19 called a continuous flow intersection that
20 significantly changed the way that intersection
21 operates; and then as part of the project, widening
22 State Route 82 to six lanes.

23 One thing -- Lee County has been monitoring
24 Daniels through the years, and they do have on their
25 long-range transportation plan the future widening of

1 Daniels Parkway, but one thing that they're looking at
2 that is programmed is the Alico connector. And that --
3 the Alico connector is this -- I have illustrated on
4 this. This is from the Lee County -- they made a
5 presentation -- this was last year's presentation to
6 the Board. This project is right now in the
7 design-build phase. Lee County anticipates
8 construction starting soon, in the next year on the
9 first phase of this roadway, that will extend Alico
10 Road -- right now Alico Road extends east from Ben Hill
11 Griffin, and then it turns south, as you -- as you go
12 east, and connects to Corkscrew. At that bend where it
13 turns south, the extension -- the connector will go --
14 continue to the east, and then turn north through the
15 mine property, and then continue up to the north, and
16 then hit State Route 82 at Sunshine Boulevard. This is
17 Sunshine Boulevard right at this location. Here's our
18 project right here. This is Daniels Parkway.

19 So basically what this is going to do is create
20 another east-west -- north-south and then east-west
21 connector to Lehigh Acres community, which if you've
22 lived in Lee County for a very long -- for any length
23 of time, you know that the Lehigh Acres community has
24 grown, and there's very few east-west corridors
25 connecting the Lehigh Acres community to points to the

1 west that cross I-75. Daniels Parkway is one of the
2 limited corridors -- Colonial Boulevard, there's
3 extensive improvements going on on Colonial Boulevard
4 right now.

5 The County has plans to widen Daniels just west of
6 the interstate. I testified to that project here in
7 this forum previously. FDOT has plans to make
8 improvements to the I-75 interchange at Daniels
9 beginning in 2025. So there's things happening in the
10 area that are going to help traffic patterns along --
11 in the Daniels corridor. And I think -- even though
12 the County doesn't have the program of widening this
13 segment of Daniels to six lanes yet, they are keeping
14 an eye on it. And one of the things that's going to
15 impact it is this road right here that will
16 significantly relieve some trips on that segment of
17 Daniels by allowing the population of East Lehigh
18 Acres a way to get --

19 HEARING EXAMINER COLLINS: So is the segment
20 failing with and without your project --

21 MR. TREESH: Yes.

22 HEARING EXAMINER COLLINS: -- at your build-out?

23 MR. TREESH: Yes.

24 HEARING EXAMINER COLLINS: Is that what you're
25 saying?

1 MR. TREESH: Yes, it's failing. It's failing
2 before we put a blade of dirt (sic) in the ground. So
3 it's a preexisting -- a preexisting condition.

4 HEARING EXAMINER COLLINS: So that cannot be
5 attributed to your project --

6 MR. TREESH: Correct.

7 HEARING EXAMINER COLLINS: -- by law.

8 MR. TREESH: And, again, the County no longer has
9 transportation concurrency so it's not a regulatory
10 issue like it was before. The Comprehensive Plan was
11 changed.

12 But, again, this project is going to pay a large
13 amount of road impact fees, and those impact fees --
14 that's what those road impact fees are going to be used
15 for, potentially, is the widening of Daniels Parkway
16 and other improvements within this road impact fee
17 district.

18 HEARING EXAMINER COLLINS: And what about the
19 intersections at your project entrances?

20 MR. TREESH: As Tina indicated before, when we
21 started this project, we had very little frontage on
22 the State Route 28 frontage; and because of the way
23 FDOT improved that intersection, that limited our
24 access onto State Route 82.

25 This -- this drawing actually shows a potential

1 connection across this land to the east to -- what's
2 the name of that road?

3 MS. EKBLAD: Shawnee.

4 MR. ERNST: Shawnee.

5 MR. TREESH: Shawnee Road. But, again, this is
6 Lee County-owned property so this is just a concept
7 that will be explored in the future. This has to be
8 worked out at some future date.

9 But right now this project doesn't have any access
10 to State Route 82; so this project is fully limited to
11 access onto Daniels Parkway, which is a controlled
12 access facility by Board adoption, by a controlled
13 access resolution. The access drives we're showing on
14 the MCP align with the adopted controlled access
15 resolution locations. The main access drives are shown
16 at full median openings on the resolution. This access
17 is -- the western access aligns with the main Timber
18 Creek access to the residential; then our eastern
19 access aligns with another existing access to Timber
20 Creek. That will be the combination of a residential
21 and commercial access to our property, is also a
22 combination of access to Timber Creek and their
23 commercial -- they also have a very similar, if you
24 recall, master concept plan where they have a
25 commercial pod at their corner, as well, where they

1 share access with the commercial. That commercial pod
2 actually does have an access onto State Route 82 so...

3 The -- there is a condition that we've been going
4 back and forth with Lee DOT. We did have a
5 conversation with Rob Price. Jillian is here from Lee
6 County DOT, and she'll -- she'll testify, but we are
7 going to have some further discussions after this
8 hearing. So we'll probably leave the record open after
9 the hearing to work out the final details. This is
10 what we put forward today, but DOT isn't quite
11 satisfied with this language.

12 We are in agreement that we will be participating
13 with a proportionate share payment of future
14 signalization improvements at one or both of these
15 intersections, if and when signal warrants are met.
16 It's just a matter of working out the details of this
17 language and the timing of when those improvements will
18 happen, and the language that Lee County DOT is
19 comfortable with and working out that final condition
20 and that signalization agreement. Signalization
21 agreements were kind of common back in 2008 and 2009,
22 and they kind of went away, and now DOT is kind of
23 resurfacing them. So we've got to kind of smooth out
24 the language again to where it works for the Applicant,
25 as well as Lee County DOT, to where everyone is

1 comfortable with it.

2 But I think we're all in agreement that at
3 build-out, or some point before that, we'll probably
4 need a traffic signal at one or both of these
5 driveways. We'll probably need a signal at this
6 driveway if and when that commercial pod develops at
7 that intensity. You know, will it develop at a level
8 of that intensity -- I mean, that's pure speculation at
9 this point -- without direct access to 82? You know,
10 that -- that -- I'm not a commercial developer, but,
11 you know, it's just speculative on what -- we don't --
12 we're not commercial -- Lennar is not commercial
13 developers, obviously, so they're developing this tract
14 here as residential. But as the commercial tract
15 develops, that will be the primary entrance for the
16 commercial. The rest of the residential probably, as
17 is Timber Creek, will be gated. So the commercial
18 traffic will not have access to this far western access
19 so -- but, again, as those improvements come online,
20 we'll work out the language with Lee County DOT, as the
21 record is left open to come back with a condition that
22 both parties are satisfied with in terms of
23 intersection improvements.

24 The developer will be responsible for turn lane
25 improvements, left and right turn lanes at the

1 entrances to accommodate the turning movements into and
2 out of the project, as required by the Land Development
3 Code.

4 MR. HARTSELL: Ted, just as a final clarification,
5 the signalization wouldn't take place until such time
6 as the warrants are met to require the signals; is that
7 right?

8 MR. TREESH: That's -- that's custom, I mean, but
9 that's still, again, in final discussions with Lee
10 County DOT. But typically signals aren't installed
11 until the traffic is present, and the warrants are met.

12 MR. HARTSELL: Okay, thank you.

13 MR. TREESH: And that's all I had unless you --

14 HEARING EXAMINER COLLINS: Okay. So the record is
15 going to be left open to allow for additional
16 discussion on the wording of Condition 12?

17 MR. TREESH: Yes.

18 MR. HARTSELL: Yes.

19 You've got one more slide.

20 MR. TREESH: Oh, I've got one more slide. Oh,
21 yes.

22 It is my professional opinion that this mixed-use
23 development meets the requirements, is consistent with
24 the Lee Plan and the Land Development Code, and the
25 data demonstrates that the changes will not cause the

1 roadways to operate below the minimum standards, again,
2 other than Daniels Parkway that's already projected to
3 operate below the minimum level of service prior to the
4 project.

5 HEARING EXAMINER COLLINS: Okay. Thank you, Ted.

6 MR. TREESH: Thank you.

7 HEARING EXAMINER COLLINS: We're going to take a
8 break. We'll resume at 3:00.

9 (Recess from 2:43 p.m. to 3:02 p.m.)

10 HEARING EXAMINER COLLINS: Okay. We're back on
11 the record.

12 MS. EKBLAD: Okay. For the record, Tina Ekblad,
13 Director of Planning with Stearns, Weaver, Miller.

14 I'm just going to wrap up the Applicant's
15 presentation with some Lee Plan consistency and some
16 points of clarification. There was a lot of discussion
17 with Lee County and the Port Authority during the
18 break.

19 So to start with consistency with Lehigh, a point
20 of clarification here. This graphic was -- this is a
21 color version of the MCP. It was prepared for the
22 community meeting that occurred -- when was that --
23 that occurred in April of 2022. Obviously some time
24 has passed. Since that point in time, the
25 right-in/right-out here that's depicted on this

1 conceptual and the interconnect to Shawnee Boulevard,
2 has been pulled from the master concept plan. So we
3 apologize, this graphic was not updated, but we
4 acknowledge that those access points are not part of
5 what you would be recommending approval on.

6 As I noted in the beginning, the northern portion
7 of the site is within the Lehigh Acres Planning
8 Community. I've generally depicted that here with this
9 yellow line. There is a firm demarcation noted on the
10 master concept plan between the planning communities
11 for reference.

12 The portion of the property within the Lehigh
13 Acres Planning Community is approximately 84 acres, and
14 it's within the central urban future land use, which is
15 known as the urban core, and it is where we are
16 proposing to place the more intense activity on the
17 site. So we have 350 (sic) square feet of commercial
18 uses, along with multi-family, and there is a
19 corresponding residential amenity near the entry here.

20 The development that is proposed in this area is
21 consistent with the Lehigh Acres Community plan.
22 Specifically, Goal 25 states that Lehigh Acres should
23 be a vibrant residential and commercial community, but
24 also that it should start shifting away from its
25 traditional single-family platted nature and

1 incorporate attached or multi-family products, and also
2 a more integrated commercial development versus the
3 standard strip commercial that we would see along, for
4 example, Lee Boulevard.

5 That is also emphasized in Objective 25.3 and
6 Policy 25.3.1, which seeks to identify undeveloped land
7 that can accommodate a larger development footprint
8 with a balance of uses, and support diversifying the
9 economic base, again, away from that more traditional
10 bedroom community into some office, more enhanced
11 commercial, et cetera.

12 While the traffic impact statement was based on
13 commercial and medical office, this commercial site is
14 large enough that we do expect other uses to occur, and
15 that's why you see a very robust schedule of uses as
16 part of the zoning.

17 Additionally, the Lehigh Acres plan does go into
18 depth about controlled access management plans. Again,
19 as I mentioned, our main entry point -- with a large
20 arrow here -- is consistent with the CAMP, as
21 Mr. Treesh testified to, and that is consistent with
22 Policy 25.8.2, which requires that CAMP consistency.

23 That entry point will be shared between the
24 commercial and residential communities, which is
25 consistent with Policy 25.84, which requires those

1 shared connections. And then as I mentioned at the
2 beginning of the presentation, we do have deviations to
3 ensure that there is pedestrian connectivity provided
4 on all of our internal roadways, and that is consistent
5 with 25.1.4, to promote a pedestrian-friendly mixed-use
6 development as part of the Lehigh Community Plan. So
7 it is my professional opinion that we are consistent
8 with that community plan.

9 And then also the Lee Plan has Goal 6, which is
10 specific to commercial development. It requires that
11 commercial rezonings be evaluated for traffic access,
12 landscaping, detail site planning, screening,
13 buffering, et cetera.

14 We have incorporated these design features, to the
15 maximum extent possible, into the master concept plan.
16 You will not find a buffer in between the commercial
17 and the multi-family because that is discouraged from
18 occurring in the Lehigh Community Plan, but you will
19 find an enhanced buffer from the commercial along this
20 eastern property boundary. That is conditioned in
21 Condition Number 11. That is because this property,
22 while it is owned by Lee County, is zoned for
23 single-family development. So we wanted to make sure
24 that we had that appropriate screening and buffering to
25 demonstrate consistency with Policy 6.1.1.

1 With regard to the access and the urban services,
2 we've talked about that in the last slide, being
3 consistent with the CAMP; and earlier in the
4 presentation, the capacity of all of the urban services
5 being available in the area.

6 And so with that, this design is consistent with
7 Policy 6.4.1, and it's also consistent with 6.1.7 and
8 6.1.8 because we are not opening a new area to
9 commercial development. This particular portion of the
10 property is identified within the Lehigh plan for a
11 mixed-use activity center, which encourages that more
12 intense commercial, so we are consistent with these
13 policies.

14 And then with regard to addressing traffic
15 capacity, by virtue of being a planned community, we
16 are clustering the activities. As I mentioned, we only
17 have a single shared access point for commercial and
18 residential, and so we are limiting and sharing that
19 access. And obviously you heard from Mr. Treesh,
20 there's discussion about signalization to address the
21 impact of these commercial uses and further promote
22 consistency with Policy 6.1.5.

23 I briefly talked about our community meetings. We
24 were required to host meetings in the Lehigh Acres
25 Planning Community, as well as Southeast Lee. That

1 meant we had to have two meetings. They took place
2 back to back, one at the East Lee County Regional
3 Library and one at Sunny Grove Landscaping. It's
4 amazing how difficult it is to have a meeting in
5 Southeast Lee that's not in an existing residential
6 subdivision. So we went to Sunny Grove.

7 We advertised those meetings in a local newspaper.
8 We notified Staff of them, as well. Unfortunately, no
9 members of the public attended, but we were prepared to
10 discuss the Comp Plan amendment, as well as the planned
11 development. So we are consistent with Objective 17.3
12 and the Lehigh Acres requirements to Chapter 33.

13 The rest of the property is within Southeast Lee
14 County, which, as we know, seeks to balance development
15 with environmental preservation and conservation.

16 We do have a portion of the Emergency Services
17 parcel within Southeast Lee, as well as this
18 multi-family piece here. We felt the multi-family was
19 appropriate given its proximity to Daniels Parkway.

20 Southeast Lee County does encourage residential.
21 It does not prohibit an attached product from being
22 located on an arterial roadway.

23 Within Southeast Lee, we have two main future land
24 use categories in the uplands, that's the DR/GR, which
25 we talked about in Policy 1.5 and demonstrating

1 compatibility with maintaining water levels. You heard
2 the testimony from Mr. Brown and Mr. Shute that that
3 integrated surface and groundwater model demonstrates
4 the pre conditions and post conditions that are
5 maintenance of water levels consistent with that
6 policy. You also heard Mr. Brown talk about the
7 conditions in the zoning that will ensure our water
8 levels are monitored and that they are maintained at an
9 appropriate level throughout the construction of the
10 development.

11 And the western portion of the site is within
12 sub-outlying suburban future land use, provided that
13 our map amendment is approved by the Board of County
14 Commissioners. This future land use category is
15 characterized by low-density residential and where
16 there is a desire to retain low-density community
17 character. So what we're doing here is acknowledging
18 the features of the site that Mr. Brown talked about
19 that are not consistent with the DR/GR, but also
20 maintaining a low-density future land use so that we
21 can provide an appropriate transition from the master
22 plan communities to the west of Timber Creek and
23 Gateway to the more estate residential on the east of
24 Shawnee Boulevard. And so our planned development is
25 consistent with Policy 1.1.11.

1 Overall, Goal 33 is what outlines the objectives
2 of the Southeast Lee Community planning area. We've
3 talked about the allowable uses. Specifically, Map 2-D
4 allows overlay areas to be established, and Policy
5 33.2.2 is what identifies those Southeast Lee mixed-use
6 communities on Map 2-D. Those communities seek to
7 concentrate residential density, promote connection to
8 central water and sewer, and permit specific commercial
9 square footage. We are taking that intent to the
10 maximum extent possible and applying it to this
11 property. Our commercial is obviously not subject to
12 the limitations in 33.2 because we're in a different
13 planning community.

14 We have multiple conditions that propose
15 protection of on-site natural resources related to
16 Mr. Johnson and Mr. Brown's testimony, so the
17 indigenous restoration and management plan, the
18 enhanced lake management plan, monitoring of
19 groundwater, the open space and landscaping conditions
20 from the Environmental staff; and then as we talked
21 about earlier, that out of the 60 percent of open space
22 that is provided, 55 percent of that open space is
23 indigenous preservation and restoration.

24 So we are consistent -- the design of the planned
25 development and the location of the uses is consistent

1 with the Southeast Lee Community planning area.

2 Due to the extensive testimony of Mr. Brown and
3 Mr. Shute, I just kind of summarized the surface and
4 groundwater considerations. Across multiple goals and
5 policies within the Lee Plan is this theme of
6 incorporating and mimicking natural systems throughout
7 the development. We have done that. We are preserving
8 95 percent of the wetlands on-site; the surface water
9 management system does incorporate the wetlands to
10 maintain those water levels; and, again, our integrated
11 model demonstrated that pre- and post-development
12 conditions will not negatively impact surrounding
13 properties; and we are continuing to monitor that water
14 quality and water levels in the future, consistent with
15 Objective 60 and its supporting policies, Policy 61.2.4
16 and Policy 126.1.4, all of which suggest that those
17 natural systems should be maintained and mimicked. And
18 then Policy 125.1.4 and 126.1.6, which encourage
19 monitoring of water quality and the maintenance of
20 existing water quality that is not below State
21 standards.

22 Any amendment to the DR/GR future land use is
23 required to make a finding by the Board of County
24 Commissioners that there is no significant impact on
25 present or future water resources. The Board did make

1 that finding during the transmittal hearing as a result
2 of the -- mainly the conditions and the proposal of the
3 planned development. So primarily the fact that we are
4 eliminating individual potable water wells and septic
5 on the site, as would be required under the DR/GR
6 without that extension of Lee County Utilities, so that
7 will improve groundwater resources right off the bat.
8 We are promoting central water and sewer.

9 As David Brown mentioned, central reuse is not
10 available in this area. So we have a hybrid approach
11 that primarily relies on the stormwater management
12 lakes and only uses the aquifer for relief where
13 necessary. So, again, we're going to improve those
14 groundwater resources. And then also through the
15 monitoring programs that are proposed and the
16 additional wells that would be put in for monitoring.

17 So the culmination of the integrated model that
18 was prepared, and then the conditions that will be
19 implemented through this zoning, the BoCC was able to
20 make a finding that there is no significant impacts on
21 present and future water resources. As a result, the
22 planned development is consistent with Policy 2.3.1 and
23 2.3.2.

24 There's been a lot of discussion about the airport
25 and development in the vicinity of the airport. So

1 what I've done here is mark up the Port Authority's
2 property boundary in orange at the bottom of the
3 aerial, and then the 10,000-foot hazardous wildlife
4 buffer on top of the conceptual plan here.

5 Before I get into this, I want to note, based on
6 the discussion after break, we know this hearing is not
7 going to close today. We had a very good discussion
8 with the Port Authority during the break. We would
9 like to continue working with the Port Authority on the
10 10,000-foot wildlife monitoring condition and bring
11 that back to you at the next day of hearing. So I'm
12 not going to harp on that too much because we had some
13 very positive discussions. We're hoping to bring it to
14 a resolution.

15 HEARING EXAMINER COLLINS: So you'll give a more
16 detailed presentation at the next hearing?

17 MS. EKBLAD: Yes. I'm just going to touch on the
18 fact that generally Objective 47.2 relates to land use
19 compatibility. Residential is allowed within the
20 hazardous wildlife buffer and proximate to the airport.

21 We talked about the noise zones and what's allowed
22 and what's not allowed.

23 We do have the deviations related to the
24 stormwater management lakes to increase the slope,
25 eliminate the littorals, to also eliminate the wildlife

1 hazards that could be created by those water management
2 lakes. And so the design of the planned development is
3 consistent with Objective 47.2. There are a number of
4 conditions that will ensure that we're consistent with
5 that in perpetuity regarding, as we mentioned earlier,
6 the purchaser notifications and other things.

7 This also relates to the theme of Goal 5 and
8 Policy 5.1.2, where we're not supposed to put
9 residential where physical hazards exist.

10 We have appropriately adjusted the design of this
11 development to only have the residential where it's
12 allowed outside of the noise zone.

13 The amenity has appropriately been limited.

14 The conditions require during construction that
15 lighting plans go back to the Port Authority, and so we
16 have that appropriate balance to have consistency with
17 5.1.2, as well, and -- excuse me, 5.1.4 regarding the
18 prohibition of residential as a result of meeting the
19 objective for compatibility related to airports.

20 In tandem with that, I mentioned all of the
21 conditions that we are in agreement with. We will
22 continue working on Condition 9 to demonstrate
23 consistency with Division 12 and airport compatibility
24 in the Land Development Code. Most of that relates to
25 land uses. Again, construction is a temporary use.

1 Division 12 mostly relates to that permanent land use,
2 and so we are consistent with that through the design
3 of the master concept plan.

4 Other items related to residential and Goal 5,
5 generally speaking, residential should be located near
6 existing residential but also where commercial and
7 employment consists.

8 Appropriate open space and buffering and
9 recreation should be provided for residential
10 developments, and amenities in open spaces should be
11 functionally related to the units and accessible via
12 pedestrian and bicycle pathways.

13 We are consistent with the remaining policies
14 under Goal 5 based on the design of the master concept
15 plan; the cross sections that implement pedestrian
16 connectivity, the extensive preservation that is being
17 provided through open space on this project, the
18 enhanced residential amenities that occur throughout
19 the site, and the proximity of the residential to that
20 robust commercial area that I talked about earlier in
21 the northern portion of the site.

22 So, Madam Hearing Examiner, I believe, based on my
23 testimony, you can make a finding that Lee Plan (sic)
24 development complies with the Lee Plan:

25 We are meeting the Code and other County

1 regulations. Our deviations are recommended for
2 approval. They will enhance the planned development
3 given the unique characteristics of the site.

4 We are compatible with the existing and planned
5 uses and the surrounding area, as I explained and
6 testified throughout the presentation.

7 Mr. Treesh explained how the expected impact to
8 Daniels Parkway would be addressed and that we were
9 going to continue our conversations with Lee County
10 Department of Transportation to further address that.

11 Mr. Johnson's testimony explains how we are not
12 adversely affecting environmentally critical or
13 sensitive areas.

14 And then also I talked about how all of the urban
15 services are available to provide -- or, excuse me, are
16 available and have the capacity to service the proposed
17 development.

18 The mix of uses is appropriate at the location
19 given the objectives of the Lehigh plan and Southeast
20 Lee County. I think we've explained at length how the
21 conditions help to implement various aspects of the
22 Comprehensive Plan and protection to the public
23 interest.

24 And then, again, the deviations demonstrate an
25 enhancement to the planned development and maintenance

1 of public health, safety, and welfare.

2 So it is my professional opinion that the planned
3 development has made proper applications, and we've met
4 all the standards in the Land Development Code and
5 demonstrated consistency with the Lee Plan. And we
6 have, through the written and verbal testimony today,
7 provided a record that enables us to have a
8 recommendation of approval to the Board of County
9 Commissioners, and we would respectfully request that
10 recommendation.

11 I'm happy to answer any specific questions that
12 you may have at this time.

13 HEARING EXAMINER COLLINS: I don't have any.

14 MS. EKBLAD: Okay.

15 HEARING EXAMINER COLLINS: Thank you.

16 MS. EKBLAD: Uh-huh.

17 HEARING EXAMINER COLLINS: Does that conclude
18 Staff's (sic) presentation for today?

19 MS. EKBLAD: Yes --

20 MR. HARTSELL: The Applicant's presentation, yes,
21 ma'am.

22 HEARING EXAMINER COLLINS: Applicant, I'm sorry.

23 MR. HARTSELL: That's okay.

24 As noted in the 48-hour letter, there were
25 basically three highlighted sections of the conditions

1 where Staff and the Applicant were still not in
2 agreement, and Staff I'm sure will address it.

3 The other changes to the Staff proposed
4 conditions, I believe that Staff and the Applicant are
5 in agreement with the changes that are in the 48-hour
6 letter.

7 HEARING EXAMINER COLLINS: So if it's underlined
8 it's new and agreed to; if it's underlined and
9 highlighted in yellow --

10 MR. HARTSELL: It needs further discussion.

11 HEARING EXAMINER COLLINS: -- you're going to
12 continue your discussions between now and the next
13 hearing date?

14 MR. HARTSELL: Yes. Those are Conditions 6 and 9,
15 which are just a couple of words, and Condition 12 with
16 regard to the signalization that we need some further
17 work on.

18 HEARING EXAMINER COLLINS: Okay. Well, hopefully
19 you can get those resolved.

20 MR. HARTSELL: We'll work on it, thank you.

21 HEARING EXAMINER COLLINS: My secretary has
22 provided additional dates in June. The month of July
23 is completely free except for Mondays. Do you want to
24 take a quick peek at that -- those dates?

25 MR. DANLEY: The dates?

1 HEARING EXAMINER COLLINS: Yeah.

2 (Off-the-record discussion)

3 HEARING EXAMINER COLLINS: Okay. Well, why don't
4 we get going with Staff, and we'll take a break and
5 revisit this.

6 MR. HARTSELL: Thank you.

7 HEARING EXAMINER COLLINS: Dirk?

8 MR. DANLEY: My name is Dirk Danley. I'm a
9 principal planner in the Zoning Division of Lee County
10 Community Development. I have previously been accepted
11 as an expert witness in the Lee County Land Development
12 Code and Lee Plan, and would like to do so again today.

13 HEARING EXAMINER COLLINS: Yes.

14 MR. DANLEY: Just to begin with to set the stage,
15 and to concur with the Applicant, everything that's not
16 highlighted in the 48-hour letter we've been
17 coordinating with since the publishing of the Staff
18 Report to try to find agreement on those other
19 conditions. Those are the three outstanding items.

20 HEARING EXAMINER COLLINS: Very good.

21 MR. DANLEY: To avoid overlap with the Applicant's
22 presentation, I might jump through a couple slides, but
23 will try to fill in what we feel like is necessary to
24 put on the record.

25 This is a rezoning request for approximately 1,233

1 acres to allow up to 1,600 dwelling units and up to
2 350,000 square feet of commercial uses.

3 This is the subject property in the context of
4 Gateway, the Timber Creek subdivision, Lehigh Acres,
5 and the Southwest Florida International Airport.

6 Also to reiterate what the Applicant stated in the
7 final parts of their testimony, the graphic that they
8 were using wasn't the master concept plan, but rather
9 just a depiction of the development from an earlier
10 phase of the application. There is no access point
11 proposed here, and there is no proposed connection to
12 Shawnee.

13 There is a condition recommended that if the
14 controlled access management plan were to allow an
15 additional access point here, that they could seek that
16 administratively as part of an amendment.

17 HEARING EXAMINER COLLINS: So there would have to
18 be an amendment first to the controlled --

19 MR. DANLEY: Yes.

20 HEARING EXAMINER COLLINS: -- access plan, and
21 then administratively they can add a
22 right-in/right-out?

23 MR. DANLEY: Yes. At this point, no
24 considerations are being made for the connection to
25 Shawnee. That was originally submitted. That's not

1 part of this application, and as of right now we don't
2 have any provisions to include that administratively.

3 Just to provide a little context, this is what the
4 site plan would look like, the master concept plan,
5 with the connection point with Timber Creek here, and
6 then their other access point here. And it does
7 provide a little context of the airport runway to the
8 closest points of development.

9 Accompanied with this zoning case are two Comp
10 Plan amendments, CPA21-17 and 21-18. They're kind of
11 setting the stage for what's being requested today.
12 The first piece of it is to redesignate 153 acres from
13 DR/GR to sub-outlying suburban. There's also an
14 amendment to Map 4-A and 4-B to allow -- or to put the
15 property within the future water service and future
16 sewer service area. And then amend Policy 33.2.2 to
17 allow that density transition across the future land
18 use line and planning community lines.

19 This is from the Staff Report for the Comp Plan
20 case, which I believe is included with the Zoning Staff
21 Report, but this just shows a map of what's proposed to
22 be changed, all of it on this western portion around
23 the wetland areas depicted here.

24 And these are just the two changes to the future
25 water and sewer maps, as well. Everything highlighted

1 in red is what's proposed to be added as part of this
2 application.

3 And then the language that's being proposed to be
4 changed within the Lee Plan does speak to the
5 commercial uses within Southeast Lee County and that
6 the commercial uses within this project wouldn't
7 necessarily count towards the limitations in Southeast
8 Lee County. And then also to allow the movement of
9 those dwelling units across the boundary lines provided
10 they meet certain conditions.

11 Just for context, this is the -- the Lehigh Acres
12 Planning Community area, and the rest of this is
13 Southeast Lee County. Just to show a little bit
14 better -- although this area may be generating a lot of
15 density, it may be -- it may trickle out to the
16 Southeast Lee County areas.

17 And the Applicant has already put on the record,
18 but just to reiterate, any development pattern in the
19 DR/GR area is effectively limited to single-family uses
20 only except along Daniels Parkway.

21 This is the density calculations. The Applicant's
22 already brought this up. Although it allows for 1,625,
23 I believe a total of 1,600 is being proposed by the
24 Applicant.

25 These are the decision-making criteria for planned

1 development rezonings. We'll go through them as part
2 of this application. The Applicant already has gone
3 through them quite extensively so we don't try to
4 belabor the points. And then additionally for planned
5 development rezonings, these are the additional
6 criteria for consideration for the Hearing Examiner.

7 We did speak about the small portion of the
8 property that's in the Lehigh Acres Planning Community.
9 The Applicant's gone through and explained how it's
10 intended to be more of a mixed-use area, intended to
11 support Lehigh Acres with different types of
12 development patterns that are less traditional for
13 Lehigh, away from the typical single-family
14 quarter-acre lot subdivisions. And Staff finds that
15 the proposed use, particularly in the area, is -- on
16 the northern tip of this property is consistent with
17 this goal.

18 And then Goal 33, Southeast Lee County, the
19 Applicant's gone on at length going through these
20 provisions within the goal. But this property --
21 although Southeast Lee County is intended to protect
22 large-scale ecosystems, and then also restoration of
23 critical lands within Southeast Lee County, there's
24 actually designations for what that critical land area
25 is in the Lee Plan and Land Development Code. This

1 area is not in those priority restoration areas, but it
2 is located in the Southeast Lee County Community Plan
3 and is designated DR/GR, so we do have to consider most
4 of those provisions.

5 The conditions of the CPA21-17 and 21-18 do
6 require additional 60 percent open space. That 55
7 percent open space needs to be indigenous preserve, and
8 so that, as you had sorted through before, is really
9 like 95 percent of the required 60 percent open space
10 needs to be preserved or restored. That also includes
11 the removal of exotic vegetation, interconnection of
12 wetlands, as the Applicant's shown on their
13 presentation, and then the improvement of groundwater
14 recharge.

15 Objective 33.2 and 33.2.7 just goes to the
16 restoration of historic flow-ways and groundwater.
17 Surface and groundwater modeling provided by the
18 Applicant demonstrates that the proposed development
19 minimizes those groundwater levels, and the conditions
20 that we provided aim to protect that more extensively.
21 Specifically, what we've discussed is the irrigation
22 measures, and as we are in agreement with those
23 conditions today, we feel like that would meet the
24 intent of Objective 33.2.

25 Just to speak briefly to the different future land

1 use categories, the portion that's in the Lehigh Acres
2 Community Plan is in the central urban future land use
3 category. This is designated as like the urban core of
4 Lee County, considers a mix of commercial, public,
5 semi-public, and light industrial land uses. The
6 Applicant's schedule of uses really encapsulates the
7 intent of this future land use category.

8 And then the light yellow parts that were part of
9 the future -- or, sorry, the Comp Plan case allow for
10 up to two dwelling units per acre, and are in all
11 areas -- sorry, in all areas are considered here --
12 aside from the commercial along Daniels Parkway are
13 intended to be predominantly single-family for
14 preservation areas.

15 The Applicant's spoken to Objectives 2.1 and 2.2.
16 I won't belabor the point. We do find that there are
17 sufficient urban services available, particularly with
18 the inclusion of the Emergency Services parcel within
19 the planned development, and then the extension of the
20 water and sewer to the subject property.

21 Policy 5.1.5 speaks to protecting existing and
22 future residential areas from the encroachment of
23 areas (sic) that are potentially destructive to the
24 character and integrity of residential development.
25 There is a significant residential community both to

1 the west and to the north -- or to the east of the
2 subject property. The eastern property off Shawnee
3 Lane are large-lot, single-family subdivision -- is a
4 large-lot, single-family subdivision, with a mix of
5 agriculture uses and residential uses.

6 The MCP depicts more of an open space concept
7 between those residential uses on the planned
8 development and those existing residential uses, and so
9 Staff finds that -- particularly in that area, that
10 they are protecting those residential uses to the
11 greatest extent possible.

12 The Applicant went through these policies so I
13 won't go through it, but the commercial uses along
14 State Route 82 in the Lehigh Acres Community Plan area
15 are consistent with these policies. They will be
16 reviewed further at time of development order, but
17 Staff did find those commercial uses consistent with
18 Goal 6.

19 Goal 11 just speaks to mixed-use development.
20 This is intended to be that, a single, cohesive
21 development that includes a mix of commercial and
22 residential uses. So Staff finds that they're
23 consistent with this goal, as well.

24 And Goal 135 encourages a mix of housing uses
25 within Lee County. This planned development in its own

1 right, at least right now, is conceptually considering
2 multi-family uses, two-family attached townhouse-style
3 uses, and single-family uses, and so we find them
4 consistent with this policy, as well, and goal.

5 And then Goal 158 establishes the intent to
6 diversify and stabilize Lee County's economy in adding
7 more commercial uses in an area that's really
8 residentially focused. It does help provide that
9 diversification this goal is looking for.

10 I want to speak to the points of airport
11 compatibility that aren't in this agreement, just to
12 put on the record what they're doing to provide that
13 level of compatibility with the -- due to their
14 proximity to the airport.

15 The Applicant did go on the record and explained
16 the uses that are taking place in the Airport Noise
17 Zone B. We worked with the Applicant to ensure that
18 they were meeting the intent of that. There's only
19 going to be recreational spaces and a clubhouse. There
20 are conditions for consideration in Attachment C about
21 lighting and noise and other construction activities in
22 this area, as well, that would need to be coordinated
23 with the airport. So we believe that they're compliant
24 with this requirement in the Code.

25 And then the Airport Noise Zone C, they are

1 providing the -- the required notification in our
2 conditions, and that will be required as part of their
3 platted documents, as well, the homeowners association
4 documents.

5 Any -- and moving forward, as they go through the
6 development pattern, any other structures that meet the
7 requirement for tall structure permits, they will need
8 to be -- required to coordinate with LCPA. As of right
9 now we don't have any reason to believe that they're
10 going to trip this requirement, but they have an
11 understanding that they are going to comply with this
12 if it comes to that point.

13 Just to put on the record, as it's written today,
14 we're in disagreement with how they're proposing it,
15 but we are working with the Applicant on that
16 10,000-foot wildlife hazardous -- or the wildlife
17 monitoring program. As we proposed it, it wasn't for
18 10,000 feet, and they're bringing it back to that
19 10,000 feet, and we'll come back to you when we have a
20 better agreement. I didn't know if Ms. Dixon wanted to
21 put anything on the record at this point about that.

22 MS. DIXON: I'm happy to present my slide, but I
23 don't need to if we can come to an agreement.

24 HEARING EXAMINER COLLINS: If we're going to
25 circle back and address this at the next hearing day,

1 why don't we just do that, because you may all be in a
2 different place by then, and that way the presentation
3 will be tailored to where we are at that point.

4 MR. DANLEY: Right, understood, so I'm going to
5 jump through a couple slides here.

6 There are five deviations sought -- the PowerPoint
7 says four, but it was five. Applicant is -- or Staff
8 is in agreement with the Applicant that -- all the
9 deviations being sought we are recommending approval
10 for.

11 HEARING EXAMINER COLLINS: Okay. So they are
12 mainly driven by the proximity to the airport --

13 MR. DANLEY: Yes.

14 HEARING EXAMINER COLLINS: -- with the exception
15 of the last one?

16 MR. DANLEY: Correct, yeah, and that -- they
17 provided an exhibit of where they wanted to allow
18 this -- or allow this portion to be constructed this
19 way, and we're in agreement that they're meeting
20 that -- or that they would meet the decision-making
21 criteria for a deviation.

22 There are two remaining issues that we're aware
23 of. The first is the traffic signalization. I believe
24 that we're coordinating with that one, as well, and
25 we'll come back to you on that one.

1 And then we do have some Natural Resources Staff
2 here to talk about the duration of time for the water
3 quality monitoring, if you want to put that on the
4 record, or we can provide that at the second hearing.

5 HEARING EXAMINER COLLINS: If you're going to
6 continue to speak after today on the subject, then I
7 prefer to put it off. If you've reached a part of you
8 can't go any further, then I'll hear it today.

9 MR. DANLEY: Okay. My suspicion is we might come
10 back around on the second day for this one, as well.

11 HEARING EXAMINER COLLINS: Very good. I encourage
12 you to do that.

13 MR. DANLEY: Okay.

14 That being said, with the exception of those three
15 remaining points, we do find that the request meets or
16 exceeds the decision-making criteria for planned
17 development rezonings, and we do recommend approval.

18 HEARING EXAMINER COLLINS: Okay, thank you very
19 much. I don't have any questions.

20 I'd like to go to the public, unless you have
21 something you want to ask Mr. Danley.

22 MR. HARTSELL: No.

23 HEARING EXAMINER COLLINS: I'm going to go through
24 these sheets that have been completed by members of the
25 public that are present. If you did not fill one out,

1 fear not. I will ask again, invite folks up, if they
2 didn't get a chance to fill it out. So everyone who
3 wants to speak will have an opportunity to speak.

4 The first person I have is Mariela --

5 MS. ELLIS: I think she's gone for the day.

6 HEARING EXAMINER COLLINS: Okay. Derek Felder?

7 UNIDENTIFIED SPEAKER: I think Derek has gone, as
8 well.

9 HEARING EXAMINER COLLINS: Marcia Ellis?

10 MS. ELLIS: Oh, yes, that's me, thank you. I'm
11 just going to get my paperwork together.

12 HEARING EXAMINER COLLINS: And just to let
13 everyone know, I'm going to continue with accepting
14 input from the public until 4:45, at which point I will
15 break the hearing, and we will resume, if we haven't
16 completed public input, at the next hearing.

17 MS. ELLIS: Okay.

18 HEARING EXAMINER COLLINS: If we finish it today,
19 then at the next hearing we'll resume with the parties,
20 and there will be no further public input at that
21 point.

22 Should I invite someone else up so you can have a
23 chance --

24 MS. ELLIS: No, it looks like I pretty much have
25 everything. I may be short on -- and I apologize --

1 for one of my copies, but I wanted to pass that to the
2 transcriptionist, and I have some letters I'm sharing,
3 and copies of the PowerPoint I'm going to share with
4 the Applicant.

5 MR. HARTSELL: Thank you.

6 MS. ELLIS: You're welcome.

7 HEARING EXAMINER COLLINS: Is this for me as part
8 of the record?

9 MS. ELLIS: No, that's for the transcriptionist,
10 and this is for you, Madam Examiner.

11 HEARING EXAMINER COLLINS: Okay, hang on a second.
12 (Ellis Exhibit 1 submitted.)

13 MS. ELLIS: So let me see, I think I have one,
14 two -- and I'm short -- I apologize, I will bring it
15 next time -- for another copy on one of my PowerPoints.

16 HEARING EXAMINER COLLINS: Okay. So this will be
17 Ellis Composite Exhibit 1. Let me just get this
18 marked, and then you can begin.

19 MS. ELLIS: Thank you. And just so I know, I'm
20 going to use the clicker, and it's going to be the
21 arrow to the right?

22 MR. DANLEY: Let's test it. Yes.

23 MS. ELLIS: Okay, thank you.

24 Thank you. My name is Marsha Ellis, and, Madam
25 Examiner, I appreciate the opportunity to present

1 information today about this zoning case. I had spoken
2 at the CPA amendment on April 19th recently, and I
3 included, as part of my submittal packet, the letter
4 that I presented at that time, which is included. I
5 also presented the majority of this PowerPoint, though
6 I did add a letter that has recently been compiled by
7 Eyes on Conservation 20/20 that may have relevance to
8 this case.

9 So I have several snips from part of the submittal
10 packet that is part of this -- that's associated with
11 this case, and I want to point out that it is located
12 at the intersection of Daniels Road and State Road 82,
13 which is really important because we have a Lee County
14 road, but we also have a State road. And as we know,
15 when we talk about traffic elements that include State
16 roads and access modification, et cetera, that those
17 have additional enhancements for public involvement.

18 So I am -- became very interested in this case in
19 an interesting way. I became interested because I live
20 to the south of the subject property, and through
21 participation in another zoning matter, I learned about
22 Florida Panther 257. And Florida Panther 257 was a
23 seven-year-old female who began her life down in my
24 neighborhood, south of Wild Turkey off of Green Meadow.
25 And over the course of her seven years, she meandered

1 around conservation lands of Wild Turkey; she meandered
2 around the mining lakes up CEMEX, up to the subject
3 property; and eventually she was hit and killed by a
4 car on Chamberlain Parkway. Through my learning about
5 this panther and having a personal association with
6 this area and a connection, I placed a public records
7 request.

8 I'm going to call out right now, we have Objective
9 123.4, endangered and threatened species in general, to
10 protect the habitats, and I'm just going to focus in on
11 what that word "habitat" means. Habitat -- is very
12 different than a corridor -- of endangered and
13 threatened species and species of special concern -- of
14 which we have learned about today from Mr. Johnson's
15 presentation -- in order to maintain or enhance
16 existing population numbers and distributions of these
17 listed species.

18 So I became -- wanted to look more into the data
19 associated with Florida Panther 257 because she is one
20 of the rare panthers who has -- was collared, and we
21 had such a unique opportunity to learn about her
22 movements, as it informs development in this area,
23 including the Alico connector that was referred to
24 earlier, Alico Road expansion, development of public
25 infrastructure proposed, and also the protection of our

1 Conservation 20/20 lands and resources.

2 So here it is from the Panther Pulse that she was
3 hit -- that would be March 25th, 2021 -- in addition to
4 some other deaths of panther around this general area
5 where they're moving back and forth along Corkscrew and
6 Alico, along State Road 82 at Rod and Gun, and Terminal
7 Access Road at the intersection of Treeline -- because
8 we have panther that are roaming among these large
9 tracts of lands in this area.

10 So when I reviewed the documents associated with
11 the Passarella report, it did verify, in addition to
12 the telemetry data from Florida Panther 257, that there
13 were tracks observed. Also, it pointed out that in
14 order to limit those adverse interactions, that the
15 perimeter would have fencing. It would also have
16 perimeter buffer lakes to separate it from the airport.
17 I will say that one of the questions I had was about
18 that fencing, in fact, and -- and the wildlife
19 crossings. Initially it looked like they were going to
20 fence off the whole subject property so I was relieved
21 to see that wasn't the case. I am sadly disappointed
22 that the current plan, as it stands, only makes a
23 provision for small mammal movement among the remaining
24 wetlands of the subject property as presented.

25 It notes that they plan on going in and preserving

1 and enhancing the habitat that remains and to produce a
2 higher quality of habitat for the Florida Panther,
3 which I find somewhat amusing since the habitat will no
4 longer be connective for the panther to move across,
5 nor will it remain a large intract -- intact piece of
6 habitat for the panther.

7 And, again, this is reviewing and looking at that
8 plan. It seems like some of the new documentation does
9 a better job of delineating and showing the difference
10 in that color, which I appreciate, and I was happy,
11 though disappointed -- happy to learn, but disappointed
12 some details about that -- those crossings were
13 known -- especially I'm concerned about the -- where
14 the hydrological connection is. It seems like that
15 would be a great place to have a connection for the
16 panther to be able to have some movement between those
17 two sections.

18 One of the reasons that I wrote the letter to the
19 Board of County Commissioners regarding this -- the
20 Comprehensive Plan amendment is because the overall
21 trend of developing of large tracts of land in the
22 DR/GR, whether those be historically agricultural
23 tracts or mining tracts, those lands have been acquired
24 by Conservation 20/20 in the past. When the densities
25 increase, and these developments are approved, the

1 motivation for landowners of large tracts to commit
2 lands to Conservation 20/20 or other measures
3 decreases; and as that happens, the habitat lands
4 become more fragmented because the parcels that have
5 previously been connected from Wild Turkey to the
6 airport to the 3,000 acres of conservation land of Wild
7 Turkey, those -- those are no longer connected. So
8 currently we have an intact large swath of habitat for
9 the panther that will be fragmented by this plan.

10 Recognizing the obligations and the special role
11 that this area plays to the endangered -- the
12 federally-endangered panther, the Fish and Wildlife
13 Commission has proposed some federal protections, and
14 they are -- have a scoping period and planned future
15 meetings regarding the acquisition of conservation
16 lands in this area. And that, in addition to our own
17 Conservation 20/20 program and some State programs, is
18 another opportunity for these large tracts to be --
19 continue to be protected so that we can make sure that
20 the habitat that is currently existing -- which is just
21 fine for the panther. I know some of the people out
22 here at Shawnee like myself down on the south end of
23 Wild Turkey have had the utmost privilege of seeing
24 panthers in their neighborhoods, in the -- in the small
25 farms and the agricultural lands where we live on our

1 residential estates. So I just want to point out that
2 this opportunity is available to our region.

3 Again, we can see the subject property and where
4 the panther herself was struck over on Chamberlain.

5 I followed up, as I stated in the last zoning
6 hearing I was in, and I filed a records request with
7 FWC to get more information about Florida Panther 257.
8 That request was delayed over a period of three months,
9 and that was unfortunate because those actions
10 prevented me from taking public advocacy measures to
11 protect this Florida panther as the Comprehensive Plan
12 amendment was making its way through the process of Lee
13 government, and it's prevented me from making the
14 connections with my neighbors, who also live on the
15 other side of Wild Turkey to the north, so that we can
16 coordinate and work together to protect this resource
17 that we both value.

18 So I want to -- just got a quick email here
19 regarding the controversy with FWC on whether or not to
20 release this information regarding a panther that was
21 dead, and I thought it was very interesting, even
22 though a new panther has likely moved into the space.
23 So Florida Panther 257, a seven-year-old female, I'm
24 sure her offspring are roaming around in the same area,
25 and it is valuable data that can be used to inform

1 corridors and land development issues.

2 There she is right here.

3 Currently -- well, after 3/27 -- I think it was
4 filed -- yeah, 3/27/23, the Sierra Club and
5 Earthjustice renewed a court action in regard to State
6 Road 82, as well as State Road 80 -- State Road 29,
7 basically saying that a NEPA action may be necessary in
8 order to protect the panthers regarding the number of
9 hot spots, the number of panthers that are being
10 killed, and the lack of protections and methodology
11 that was used to inform previous decisions. So this is
12 a renewed motion to protect the panther that are known
13 to be living and are falling victim to the fact that
14 inadequate corridors are available to these panther in
15 this area, and I find it relevant to this particular
16 case.

17 Now, we have the Eyes on Conservation letter that
18 was submitted on March 14th, and among the issues is --
19 I will call your attention to the bullet point. Here's
20 a partial list of other items conveniently left off the
21 agenda for CLASAC, which is the advisory committee that
22 oversees their conservation acquisition and management,
23 and that bullet point says, "The use and removal of
24 wildlife cameras to establish wildlife corridors on
25 2020 land."

1 So I find the stonewalling that I experienced at
2 FWC, and the potential removal of cams informing land
3 management practices to be troubling, and I find that
4 these measures could stifle, in a way, the -- the
5 data-informed, science-driven decision-making that is
6 necessary to manage a federally endangered species in
7 my neighborhood.

8 So I'm going to go on now. Can you pull up the
9 second PowerPoint?

10 The second half of this is focusing more on the
11 other land use issues separate -- separate from the
12 panther. As you know, I had a limited amount of time
13 in front of the Comp -- at the Comp Plan hearing. So
14 this gets into more detail about the aquifer and the
15 stress on -- particularly on the sandstone aquifer in
16 this general vicinity.

17 MR. DANLEY: There it is.

18 MS. ELLIS: All right.

19 But starting out, again, there have been concerns
20 about the number of the access points and their
21 location on the master concept plan, and this is an
22 evolving issue that looks like it's moving forward, and
23 some questions are being answered and plans are
24 changing here. I know that as a -- as a resident
25 living on a private road, if I were to have a

1 commercial -- a commercial -- 350,000 square feet of
2 commercial development hook up to my private road, I
3 would be very concerned about that.

4 Again, we have access to two arterial roads here;
5 and as noted, that the State Road 82 and Daniels
6 Parkway will not fall below the recommended minimum
7 level of service thresholds. That's because the
8 Daniels road is already there. You know, as someone
9 who commuted going, fortunately, in the opposite
10 direction out to Lehigh for ten years, I've seen that
11 traffic for a decade, and it's not moving.

12 When we take a look right here, the existing
13 conditions are an F; 2031 -- an F in the past; 2031, it
14 looks like it's going to be an F on Daniels Parkway
15 south of State Road 82. So it's F, F, and F, and I
16 don't know how that cannot be a huge factor in
17 determining the appropriateness and the timing of
18 this -- of this development. When we look at these
19 road conditions, and we also look at the inadequacy of
20 the planning for -- and the provision for the panther,
21 it really raises some concerns for me.

22 Again, looking at the signalization and the
23 future, we know a current F, F, more Fs, lots of Fs for
24 the signalization, and with some mention of some
25 conclusion, it will not have a detrimental impact on

1 this road -- surrounding roadway system. I don't think
2 that that is an accurate statement. I think that just
3 because the system has failed doesn't mean that we fail
4 it more.

5 When we take a look here, it does not currently
6 have the County's approval as determined -- oh, this is
7 the TIS review in referring to the Shawnee connection,
8 which has continued to become clarified, and -- and for
9 the residents who are here today and for myself, that's
10 been a big issue.

11 Again, I have some questions about how the density
12 is going to play out long term, and the acquisition of
13 parcels that are contiguous not requiring scrutiny to
14 be added to this development concerns me, especially in
15 relation to the conservation lands, the airport lands,
16 and the existing residential on Shawnee. I don't
17 really know how that's going to play out. I'm not sure
18 about how the total densities -- with up to five
19 densities for transferable development units affects
20 the future of the DR/GR in that area.

21 I say that because when we take a look at this
22 parcel, we have the same owner, Jared Holes, who owns
23 properties that are really close by; and so the
24 prospect of additional acreage being added to this
25 development is concerning to me if the -- if the

1 oversight and the having to come back through zoning,
2 et cetera, and then it having less scrutiny, if that
3 becomes easier through these amendments, I don't think
4 that that's necessarily fair to the people who have
5 been living in the DR/GR for a long time, including the
6 neighbors right over there to the east, that have been
7 following the rules, that these densities and these
8 processes become easier for these developments to
9 become larger and larger and larger, especially in
10 sensitive conservation areas like this.

11 We take a look right here. I just wanted to point
12 out the number of wetlands, and typically that wetlands
13 are limited to one dwelling unit per 20 acres; and,
14 hey, whenever you just visually take a look at it, that
15 looks like what the majority of the land is, I mean,
16 certainly 50 percent; and I think that plays out with
17 the acreage -- some of the acreage numbers.

18 When we talk about the uses that were identified
19 in the report from the project narrative under the
20 Southwest -- the DR/GR conservation wetland airport --
21 previous agricultural activities in unimproved lands
22 and the airport. And even in Mr. Johnson's
23 presentation, I felt like he was focusing on the
24 historical disturbance rather than the fact that we do
25 have a gem, we have conservation lands that are next to

1 this development, and that is a really important asset,
2 and I consider it to be relevant, though it's not noted
3 here. I think that sometimes the reason that we tear
4 it apart, and we criticize it, is to get our own way
5 and make it out like we're going to make something
6 better when it's just awesome right as it is.

7 Now I'm going to be pulling from the South Florida
8 Water Management meeting regarding the Lower West Coast
9 water supply, and from a meeting -- that information is
10 here for you to follow up on further, as well, from a
11 couple of different times.

12 The reason I'm talking about this is because the
13 sandstone aquifer is in peril in this area, and there
14 are concerns about the amount of water that's being
15 drawn from it and the effect that it could have on the
16 DSS users, the direct supply users that have wells
17 throughout this area, and most of them are on the
18 sandstone, including myself, south of there.

19 So I'm including some comments from water --
20 former Waterkeeper -- retired Waterkeeper John Cassani
21 about the use of surface water ponds or stormwater
22 ponds for irrigation, and that interrelation between
23 those ponds, and supplementing those lake levels in the
24 dry season, just at the worst possible time.

25 MR. HARTSELL: Madam --

1 MS. ELLIS: Yes?

2 MR. HARTSELL: Excuse me.

3 Madam Hearing Examiner, just for the record, I am
4 going to object to any of this from John Cassani, the
5 slides that are her characterization of hearsay. This
6 doesn't -- it's not relevant to this project. She's
7 talking -- Cassani apparently was talking about River
8 Hall --

9 MS. ELLIS: No, he wasn't actually talking
10 about -- he did mention River Hall, but he was
11 mentioning it --

12 HEARING EXAMINER COLLINS: Mr. Hartsell, I'm going
13 to allow Ms. Ellis to put her testimony into the
14 record, and I will give it the weight that it should be
15 afforded when I evaluate all the evidence for this
16 case.

17 MR. HARTSELL: Thank you.

18 HEARING EXAMINER COLLINS: Thank you.

19 MS. ELLIS: And, yes, I do see that it mentions
20 River Hall here, but John Cassani and other water
21 experts in the area, including my husband, have
22 surveyed stormwater ponds throughout the entire region,
23 and there are some general themes that have appeared
24 over and over and over again. And one of the great
25 concerns is using stormwater ponds to irrigate; and

1 then when you pull the water out of those stormwater
2 ponds, and you supplement from the aquifers, those
3 aquifers can create localized areas of cones of
4 depression. And this has been an issue that has
5 cropped up in multiple specific locations as measured
6 by scientists on the ground with expertise with
7 stormwater ponds, and that's one of the reasons I'm
8 bringing it up.

9 He mentions River Hall specifically because at
10 River Hall they were pumping from the sandstone, they
11 switched off to the Mid-Hawthorn, and then the
12 Mid-Hawthorn aquifer was so salty they then had to go
13 back and supplement from the sandstone in order for it
14 to be of use.

15 He also mentions -- and I'm going to go to the
16 next one -- oh, he also mentions the amount of
17 nutrients that are brought up from the aquifer to the
18 surface water ponds; and if the stormwater ponds are
19 meant to concentrate nutrients or improve water
20 quality, it's actually bringing worse quality water
21 forward into the green infrastructure.

22 So I'm going to go to the next one. It also
23 increases the evaporation because -- from the ponds.
24 The water is a resource when it's in the ground. When
25 the water comes up to supplement the levels in a lake,

1 it's then subject to evaporation and moving up into the
2 atmosphere.

3 And there are some documented areas of cones of
4 depression that are forming in areas that are relying
5 on this practice. He mentioned specifically in this
6 exchange here Verdana, and it has been a concern in
7 other large developments in the DR/GR that's being
8 proposed. It's a concern. It's a concern for our
9 community that relies on the surficial and intermediate
10 aquifers for our -- not only our personal use with our
11 water wells, but also our public supply of water wells
12 which are directly south of this subject property.

13 So when we take a look here, and we see what we're
14 talking about with the aquifers, first we have the
15 sandstone aquifer, that's the one I'm relying on, and
16 most of the people out at Shawnee and in Lehigh Acres
17 are relying on the sandstone aquifer. There has been
18 some modification to the plan to say that six of the
19 wells now will rely on the sandstone aquifer, and then
20 they will go to the mid aquifer, the Mid-Hawthorn, for
21 two wells to relieve some of the burden on the
22 sandstone. There's also a statement that the County
23 Staff recommended that the draws be from the Lower
24 Hawthorn, and that is not what is being presented to us
25 here today by the Applicant, and that is in contrast to

1 what the County Staff has recommended.

2 Now, when we take a look -- this is from 2014, but
3 this gives us a visual of what aquifer that most of the
4 wells in that region are being drawn from. It further
5 delineates the sandstone clastic and carbonate wells so
6 that we can get a better idea regionally of where our
7 wells -- what our wells are relying on.

8 When we take a look right here, we can see there's
9 Lehigh Acres. There's Lee County Utilities. The bulk
10 of our public water supply system is directly south of
11 this Daniels -- this proposed Daniels South
12 development.

13 I just want to point out that the permittee right
14 there, Lee County Utilities, Corkscrew, Green Meadows,
15 that we see what we're allotted. We see what the 2040
16 demand -- it doesn't look too bad right now, but I tell
17 you what, there's a bigger problem that we're going to
18 get to in just another slide. So keep in mind that it
19 looks things are pretty -- going pretty well right here
20 with what we're being permitted; but when we take a
21 look in just a moment at the Floridan aquifer, we're
22 going to see some problems with even what our County is
23 permitted to draw.

24 So agriculture sometimes gets a bad rap, and this
25 County has taken more than their fair share. Some of

1 those permit amounts that are being touted in these
2 development hearings are based on what was allowed,
3 let's say, back when they used to flood the citrus
4 fields in order to prevent a freeze, and they paint a
5 picture that is not accurate of the actual amount of
6 water that's being used by these ag operations. And we
7 can see that, hey, there's not even a whole lot of ag
8 use of water in that general area where the Daniels
9 South is; so we can't really blame the sandstone
10 problem on ag.

11 When we take a look -- here we go, water level
12 difference in the sandstone clastic aquifer, and this
13 is where the area of concern is, and this has been
14 identified by the South Florida Water Management
15 District. You can see a drawdown of up to 12 feet, and
16 this is due to Lee County Utilities, which is just
17 south of Daniels, of this ag and REC pumping. REC is
18 important because landscape/recreation is a category
19 that they are going to be -- they're proposing to use
20 the irrigation from the sandstone -- primarily the
21 sandstone, a little bit of the Mid-Hawthorn -- for,
22 landscape and recreation. That's the water that we all
23 rely on in our wells and our County relies on as a
24 resource for future supply, future supply, just like
25 the intent of the density reduction/groundwater

1 resource was established to protect.

2 Here we see, this is from the sandstone carbonate,
3 again, a 13-foot drawdown, again, related to the Lee
4 County Utilities, DSS. That's your public -- your
5 single user wells, ag, and REC.

6 And here's the Mid-Hawthorn. So, again, that
7 dearth area is out in Cape Coral. We've been hearing
8 some horror stories about people having to dig their
9 wells deeper out there. And when we take a look right
10 here, we're going to look at the Floridan aquifer.
11 This becomes the next option when we run through our
12 sandstone and Mid -- and Mid-Hawthorn resources.

13 So when we take a look, we see that there's an
14 allocation, but the allocation is not enough to meet
15 our demand. So we will have to go back, when we crash
16 our aquifer, and request to be able to draw from the
17 Floridan aquifer. Now, why is this a problem? It's a
18 problem -- let me get there. I don't want to spoil it.

19 When we run some models here -- and my -- my
20 picture -- the video is covering it up. That says a
21 40-foot to a 68-foot maximum drawdown at Lee County
22 Pinewoods. That is an enormous drawdown based on the
23 fact that we are irrigating landscape/recreation in
24 these enormous developments.

25 I apologize for this...

1 Require design of surface water to protect and
2 enhance the groundwater. I cannot see how this is in
3 any way going to protect our groundwater resources.

4 And it must not degrade the surface and
5 groundwater.

6 Through the issuance of the ERP permit, reasonable
7 assurance to the County that surface water and
8 groundwater resources would be protected and
9 maintained. Again, it's circular. You know, you need
10 to get the permission of South Florida Water Management
11 District, and their literature that's calling attention
12 to this issue, and their approval of the permit, you're
13 interpreting as -- that it is a reasonable assurance
14 that this -- that our resources will be there for the
15 future.

16 What's the cost of desalination of the Floridan
17 aquifer? When our County has to switch off to the
18 technology to desalinate water from the Floridan
19 aquifer, our cost of water is going to skyrocket.

20 HEARING EXAMINER COLLINS: Okay. Ms. Ellis, can
21 you direct your comments to this specific project?
22 Because a lot of this is really not useful to me --

23 MS. ELLIS: Okay.

24 HEARING EXAMINER COLLINS: -- within the bounds of
25 what I have to evaluate this request.

1 MS. ELLIS: Yes, I will -- I will try to do that.

2 HEARING EXAMINER COLLINS: And that's not to
3 diminish the merits of what you're talking about.

4 MS. ELLIS: Uh-huh.

5 HEARING EXAMINER COLLINS: I'm just -- I have to
6 operate within, you know, certain guidelines.

7 MS. ELLIS: Yes.

8 So -- so, basically, what about the well users
9 that are losing their quality and the quantity of their
10 water supply? And those would be the well users that
11 are relying on the sandstone aquifer right now that are
12 within proximity of this particular development -- and
13 I'm going to come back to that in a second.

14 Again, this has recently, regionally, become a
15 problem in Cape Coral, as identified prior to it
16 actually happening by the South Florida Water
17 Management District, and I just wanted to call
18 attention to that.

19 So now I'm taking a look -- this was the 48-hour
20 letter, must utilize on-site lakes for withdrawals,
21 with a maximum of eight groundwater makeup wells, which
22 a minimum of two must be finished into the
23 Mid-Hawthorn. This has been an area of contention
24 that's gone back and forth prior to the Comprehensive
25 Plan amendment hearing, and this is where it currently

1 stands, even though it doesn't follow what -- the Staff
2 recommendations.

3 It says that, basically, the position of these
4 wells would be to the north, that they will have
5 significant data to monitor the groundwater levels to
6 show that there are no negative -- adverse impacts to
7 the existing subdivisions relying on wells, and part of
8 their justification is that the Timber Creek monitoring
9 happened to show the water levels increase during the
10 wet season. And I apologize if I come off a little bit
11 snip on this, but, you know, basically, I don't think
12 it really takes an expert to say that the water levels
13 of the monitoring well for the sandstone, which is
14 recharging through the rainfall like it's supposed to,
15 are going to increase in the wet season; that the
16 concern is truly what's happening in the dry season.

17 Who will enforce that adverse effects do not
18 occur? And what would be the recourse for the people
19 who are using public wells and the public supply of
20 the -- of this aquifer? And who would be -- and who
21 would assume the burden for the retrofitting or digging
22 deeper of the wells that are affected by continuing to
23 rely on these aquifers, the sandstone and the
24 Mid-Hawthorn, for irrigation of these large
25 developments -- the Daniels South development?

1 Let me just say that if it appears that the water
2 conditions are so great at Daniels South, like was
3 promoted by one of the experts here, that maybe that
4 would be a great place to put some public supply wells
5 so that we can continue to use that less expensive
6 aquifer to meet the needs of the existing residents of
7 Lee County, rather than crashing that aquifer for
8 people that don't even live here.

9 Let me see. There was recently an article that
10 the average bill is anticipated to increase; that the
11 current residents are struggling to meet these rate
12 hikes, which are more than certain to increase as we
13 have to switch off to desalination.

14 The nearest irrigation well is about 3,000 feet.
15 I just wanted to point that out.

16 And that they must request (sic) that it is
17 reasonable and beneficial and won't interfere with any
18 existing legal use of water and consistent with the
19 public interest. And I really don't think that
20 continuing the practice of irrigating
21 landscape/recreation from our valuable water resource
22 is necessary.

23 Here is the proximity of the subject property to
24 our wellfields. I will say that upon attending a
25 recent conference in which the FDEP was speaking

1 specifically about resilience efforts, that enhancing
2 protection areas for wellfields was -- is recommended.
3 So we could take a look at the protection zones and
4 really, when we think in a resilient, responsible way,
5 enlarge those protection zones.

6 I also want to address the water quality issue.
7 We've talked about sunseting, the water testing, when
8 research from many -- many scientists who study water
9 quality here locally have found that these stormwater
10 ponds accumulate legacy nutrients, and they -- and that
11 the quality of these ponds deteriorates over time, that
12 those nutrients, the metals, build up in silts; those
13 silts can become disturbed with events like extreme
14 precipitation events, wind events, and then enter into
15 the system.

16 So I think that continuing to monitor these ponds,
17 especially within proximity to our public water supply,
18 is important. Again, the spraying of chemicals to meet
19 that exception requested with the hardened shoreline is
20 concerning to me, as well, and the fact that those are
21 part of an interconnected system. That -- those are
22 questions that I have outstanding.

23 It says here in Policy 1.4.5, it includes the
24 upland areas that provide substantial recharge to the
25 aquifers. I've heard the Applicants talk about

1 containing the water within the site when that water
2 has traditionally flowed through the Estero basin, as
3 planned, to recharge our source of water and our
4 aquifers. It demonstrates ability of maintaining
5 surface and groundwater levels at their historic
6 levels. If they're holding water on-site, then that is
7 certainly not maintaining the level of the water, or in
8 my mind, it's diminishing the capacity for recharge.

9 Again, as I stated earlier, if the area is -- is
10 awash with resource for the sandstone aquifer, perhaps
11 it would be an ideal location for some public wells.

12 And now I want to move into the issue of the -- of
13 using reclaimed water. Reclaimed water lines are not
14 available in proximity; and as stated in Policy 61.1.6,
15 that is the -- the preferred use of irrigation on these
16 landscape and recreation properties is reclaimed water.
17 And I want to just talk a little bit now about the
18 recommendations from the South Florida Water Management
19 District on the issue, to continue to develop the
20 alternative water supplies in a community and
21 coordinate with local governments in the areas that are
22 stressed -- which this area does qualify for due to the
23 fall of the sandstone aquifer -- to develop solutions
24 to reduce stress on the aquifers.

25 So in my mind, when we make land use decisions, we

1 should work in best practice, and the best practice is
2 to make sure that we have a desire and a motivation to
3 have reclaimed water used on these landscape recreation
4 projects so that we can continue to have a water supply
5 for drinking and public use.

6 Again, local -- it says in many areas local
7 government development approval includes use of
8 reclaimed water, an extension of reclaimed water
9 pipelines, substantially increasing the volume of reuse
10 by 2045. Again, this is a best practice; but when we
11 continue to approve these projects that are using a
12 practice that we know is detrimental to existing
13 residents relying on wells, there's no motivation to
14 get this actually done.

15 Again, this is from the Florida Channel, the -- we
16 can see the sandstone aquifer in Lehigh Acres.

17 We see the increase that will occur between 2020
18 and 2045, that this category, landscape/recreational,
19 is growing substantially as a consumption of water
20 being pulled out. And, again, localized areas of low
21 groundwater elevation in Cape Coral and Lehigh Acres
22 will require local solutions, and those local
23 solutions, I believe, begin right here.

24 To coordinate between South Florida Water
25 Management District, local governments, to identify

1 long-term sustainable water supply solutions. Again,
2 when we take a look right here, the reclaimed water and
3 its uses, the surface water is used primarily for ag,
4 and to a lesser extent, for landscape/recreation and
5 commercial uses.

6 That this landscape/recreational does include
7 areas of residential development.

8 Here's further -- the use of different types of
9 water for different types of activity, and the use of
10 this reclaimed alternative water source is appropriate
11 for landscape/recreational.

12 That the alternative water source of reclaimed
13 water is an untapped potential that would do two
14 things: It would help us be able to manage the waste;
15 it would also take stress off of the aquifer. And,
16 again, if you could see it, I think you would see a 16
17 percent increase in that category, if I'm getting my
18 numbers right.

19 There are -- the water resource implementation
20 rule requires FDEP and the Water Management District to
21 advocate and direct the use of reclaimed water as an
22 integral part of Water Management programs, rules, and
23 plan. The South Florida Water Management District
24 requires all water use permit applicants proposing to
25 use --

1 THE REPORTER: Okay, you're going to have to slow
2 down.

3 MS. ELLIS: Oh, I'm sorry.

4 HEARING EXAMINER COLLINS: Also, I just want to
5 remind you that reclaimed water is not available to
6 this site. And I appreciate the importance of this
7 issue from a long-term planning perspective in terms of
8 Lee County's Comprehensive Plan, but with regard to
9 this project, this resource is not available, and what
10 they're asking doesn't include it for that reason.

11 So, you know, you're putting all this into the
12 record, but it's not something I can use in the context
13 of reviewing this application.

14 MS. ELLIS: And when we take a look here -- when
15 we look at these -- this existing reuse, that this is
16 an option to managing water resources, limited water
17 resources in the density reduction/groundwater resource
18 area that was delineated to help us protect these
19 resources, in fact, it's that category that I think
20 really makes -- it makes it a very relevant topic
21 because this delineation has been set aside to protect
22 these resources for our public, the public of all of
23 Lee County today and into the future.

24 Again, the other option is -- and this is
25 available, is ASR wells. So an ASR well can take

1 surface water in times of excess, like in the wet
2 period, and it can inject it and then draw from it in
3 the dry periods. So one of the directives of South
4 Florida Water Management District is to look at storage
5 capacity for purposes like irrigation. Again, this is
6 another technology that can be used to protect our
7 resources in the DR/GR.

8 The future reuse will occur in new residential
9 areas, negating the use of potable water for irrigation
10 and reducing the public's supply demands from the FAS
11 compared to current projections. Lee is underutilizing
12 these resources.

13 There is a potential -- a great potential for
14 alternative water supply, and there are funding
15 opportunities for our County government to pursue.
16 They qualify for special funding because of the fact
17 that we have a problem with this aquifer. So I just
18 want to make sure that we are considering the other
19 options: The ASR wells, the use of reclaimed water,
20 and -- and the eventuality, if these aquifers collapse,
21 of having to put in for additional funding --
22 additional permit requests to access the Floridan,
23 costing the citizens of Lee County so much more to --
24 to have a water supply.

25 And there's some more information here that is

1 looking regionally, and I'll kind of skip through that.

2 When we review the landscape category, it seems
3 like the ratio is a little bit off here. I think that
4 we probably see more water devoted to
5 landscape/recreation in this community in the future,
6 especially if we continue to have these large tracts of
7 land developed in the DR/GR.

8 Now -- I'm going to go back now to the submittal.
9 During an analysis of the Comprehensive Plan amendment,
10 the Natural Resource Staff could only find consistency
11 if the Lower Hawthorn aquifer was used for irrigation
12 withdrawals. And I just want to point out, I don't
13 understand how we went from that to six sandstone
14 aquifer irrigation wells and two Mid-Hawthorn if the
15 guidance is -- is for something different.

16 Also, it was noted that the Estero River -- it
17 said it was not impaired. When I looked it up, the
18 Estero River is noted as an impaired river basin. So I
19 find some inconsistency with that, as well.

20 And, again, the wellfield protection is located a
21 tenth of a mile north of the nearest Lee County
22 wellfield protection zone. If we consider resiliency
23 guidance, we can easily see that protection zone
24 expanded as the FDEP has recommended.

25 Does sunseting water quality after five years

1 adequately protect the public when we have proximity to
2 our water wells? I'm not quite sure.

3 And, again, we have some remedial actions, but
4 it's not clear about who would ultimately be
5 responsible for the collapse of water wells in the
6 vicinity, the actual users over on Shawnee or the
7 public that's relying on the -- the sandstone and the
8 Mid-Hawthorn for their water supply.

9 And with that I am concluding. Kind of an abrupt.

10 At this point, Madam Examiner, is this the
11 opportunity that I have to put questions for the
12 Applicants on the record?

13 HEARING EXAMINER COLLINS: Yes, that is true.

14 MS. ELLIS: Okay. Thank you, ma'am. If you don't
15 mind, I left my notebook back at my chair --

16 HEARING EXAMINER COLLINS: Okay, go get it.

17 MS. ELLIS: Thank you.

18 HEARING EXAMINER COLLINS: Ms. Ellis, you
19 understand the questions won't be answered in real
20 time. When we go --

21 MS. ELLIS: Yes, ma'am, I do.

22 HEARING EXAMINER COLLINS: Yes. Okay, thank you.

23 MS. ELLIS: Yes, ma'am, I do understand that.

24 So I'm -- I'm sure that some of these things have
25 been addressed, but I'm going to go ahead and put them

1 on the record:

2 To ID the locations of the monitor wells on the
3 map for withdrawals.

4 The location of the -- and a delineation between
5 which of those wells are sandstone well withdrawals and
6 which of those are Mid-Hawthorn well sites.

7 To provide and include the monitoring data that's
8 been collected from Timber Creek or any other
9 monitoring that's been done in Gateway or the vicinity.

10 To -- I would like to know what the irrigation
11 plan is for Timber Creek or any of the developments in
12 Gateway.

13 A cost analysis for desalination versus the
14 current techniques of water well. I really think that
15 we're there when we look at the future use and
16 protecting resources in the DR/GR.

17 I'd like to see a map of the reclaimed water
18 lines. Where are those purple pipes?

19 The buffer requirement, I feel, is way too skinny,
20 or the buffers that are currently on the MCP are not
21 adequate for protecting the existing residents over on
22 Shawnee.

23 And the integrity of their agricultural and
24 conservation-minded lifestyle and community character.
25 So that concerns me, and I would like to find out a

1 little bit more about those requirements.

2 Is the groundwater between the two watersheds,
3 that's Six Mile Cypress and the Estero, are those
4 connected? I'm assuming that the aquifer maybe has a
5 different mapping in that area than the surface water.

6 Are the invasives that Mr. Johnson referred to
7 only found in pioneer areas, as he referred to?

8 Does the berms that were referred to separate the
9 surface and the sheet flow at saturation, such as in
10 extreme precipitation events?

11 The direction of the flow of the Estero basin
12 seems a bit awkward to me as on the map from Mr. Shute,
13 that that is going to the southeast, which is kind of
14 inconsistent with most of the maps that I've seen. I
15 have seen flow move in that direction, but usually it's
16 because of a change in the water table, as evidenced
17 with LiDAR data or elevation changes, so I don't really
18 understand the direction of those flows or the
19 justification.

20 I am concerned about the lack of the wildlife
21 crossing between the reconnected sections and why
22 there's no large mammal crossing.

23 Will the compatible native plant list include
24 removing the current indigenous plants that are
25 attractants? Will those plants be removed?

1 More specifically, what is meant by "hardened
2 shoreline," riprap, concrete, et cetera?

3 When we talk about the -- managing the hazardous
4 wildlife, I assume that the airport doesn't -- isn't
5 over there now removing birds from the property, and I
6 have just some concern that, you know, we have existing
7 flocks of roseates and just all kinds of beautiful
8 wading birds, and I can't imagine those birds being
9 removed through -- with construction starting to happen
10 on this property. That just seems to me so wrong.

11 And "isolated wetland," we heard that term used
12 referencing the topography here. It's not isolated to
13 a panther. It might be isolated hydrologically, which
14 I -- maybe on the surface, but it's not isolated to --

15 HEARING EXAMINER COLLINS: Okay. You're asking
16 questions now; right?

17 MS. ELLIS: Yes.

18 HEARING EXAMINER COLLINS: You're asking your
19 questions.

20 MS. ELLIS: I have a question if there are any
21 known cattle dipping areas on the agricultural
22 property.

23 Can altered land serve as groundwater recharge?

24 Is there an opportunity for independent
25 third-party monitoring of water quality?

1 I have a question about the discharge through the
2 outfall box -- will it be an outfall box? What would
3 that outfall look like? Would it -- what technology
4 would be used, a diagram of that, or if I could get
5 directed to a page that has that?

6 There was some reference to the weirs. Are the
7 weirs the outfall structures? Just a little bit of
8 clarity about that.

9 I wondered if I could get an example from the
10 Applicant about what 350,000 square feet of shopping
11 looked like. Just in real terms, would it be like the
12 size of the Publix complex down the street at Gateway?
13 Just for, you know, the people to have something to
14 relate to what that footprint looks like.

15 There was a -- I did hear them talk about
16 eliminating water and sewer to protect the water
17 resources in the DR/GR, but there is no water or sewer
18 on this density reduction/groundwater resource subject
19 property so I didn't really understand what they --
20 what they were planning on eliminating if it's not
21 there so --

22 HEARING EXAMINER COLLINS: It was the potential
23 for well and septic.

24 MS. ELLIS: Oh, okay. I didn't under -- I didn't
25 understand that. I just wanted to know specifically.

1 I thought is there something I'm missing here. Are
2 cattle considered -- you know, I didn't -- I just
3 wanted some clarity -- some clarity on that particular
4 statement.

5 HEARING EXAMINER COLLINS: That was my
6 understanding.

7 MS. ELLIS: Okay. And then everything else I have
8 is about the airport issues, which I can't -- which are
9 still not -- have not been communicated or incomplete
10 information. So I'll just have to reserve on those.

11 HEARING EXAMINER COLLINS: Okay, thank you.

12 MS. ELLIS: But I thank you very much for your
13 attention, and I just felt it was important -- I
14 apologize for including all this information, but I
15 felt like it was important to be brought forth in the
16 context of this being the DR/GR and an opportunity,
17 potentially, for some different solutions to protect
18 this particular piece of property because of its
19 conservation value. It's 3,000 acres connected to
20 airport lands and an intact habitat for the existing
21 panther, an intact piece of property to recharge our
22 aquifer, and I just don't want to see that lost. Thank
23 you.

24 HEARING EXAMINER COLLINS: Thank you.

25 Okay. It is 25 minutes to 5:00, and I want to

1 resolve when we're going to reconvene so I'm going to
2 stop public input and resume it.

3 MR. HARTSELL: Well -- Steve Hartsell, for the
4 record.

5 In light of Ms. Ellis' extensive testimony, I
6 believe there are a couple of members of the public who
7 are still here, and not a lot. It looks like this side
8 of the table, and folks in the back may not be members
9 of the public, but I hate to not let the few people who
10 are here speak if they have -- or at least give them an
11 opportunity, rather than saying you had to sit through
12 this whole thing and now come back.

13 HEARING EXAMINER COLLINS: Okay. I have to make
14 sure my Staff can stay beyond 5:00.

15 MR. HARTSELL: Okay. I --

16 HEARING EXAMINER COLLINS: Hang on a second.

17 MR. HARTSELL: -- just wanted to at least give
18 them that opportunity.

19 (Brief pause in proceedings)

20 HEARING EXAMINER COLLINS: All right. Well, then
21 I'll take the next name, which is Dora Mireles. Is
22 Dora here?

23 UNIDENTIFIED SPEAKER: She left.

24 HEARING EXAMINER COLLINS: James Horne? Good
25 afternoon, thank you for coming.

1 MR. HORNE: Thank you. And forgive me, I am not
2 very good at public speaking --

3 HEARING EXAMINER COLLINS: That's all right.
4 It's a --

5 MR. HORNE: -- and I am not an --

6 HEARING EXAMINER COLLINS: -- friendly crowd here.

7 MR. HORNE: -- educated man.

8 MR. HARTSELL: Name?

9 MR. HORNE: My name is James Horne. I am a
10 seventh generation native to Florida, Lee County.

11 Drainage -- drainage and water quality has been
12 pretty much driven home. I'm concerned about
13 single-family homes. My property backs up to the
14 proposed property, and I bought out there for privacy,
15 for elbow room, for -- to get away from the public,
16 basically, and now I've got this community coming in my
17 back yard. And one of my major concerns is two-story
18 dwellings being put in my back yard. I don't have any
19 control of what they're going to do, but it is a
20 concern to me, and it does obstruct my way of life.
21 I've lived in Bonita, sold my property, went to Fort
22 Myers to afford dirt -- to afford dirt. And this is
23 the only place left to buy dirt. I have two and a half
24 acres.

25 And, anyway, this is a huge concern. Not to

1 mention that, but the native buffer between my property
2 and the proposed property there is native and nonnative
3 species, all intertwined in this 10- or 15-foot buffer
4 from our property to their property, and about 10 feet
5 of it belongs to them, 5 feet of it belongs to me. My
6 concern is -- I have three giant, beautiful oak trees,
7 and my concern is they're going to go down and nuke
8 everything, just take everything out. And it's
9 concerning that when they do that, they're going to
10 damage my oak trees.

11 So I don't know about what's happening on the
12 property line. I don't know if the berm -- the
13 existing berm that's been there for 50 years is going
14 to be removed. I don't know about privacy. Is this
15 community going to have a gate? Is there going to be
16 fencing? Are they going to open my back yard up to the
17 general public? These are all my concerns.

18 Natural buffer, water supply -- yeah, the water
19 supply currently is at lowest state, lowest it will
20 ever be. And my water is currently burping so I am
21 having a hard time drawing on water currently. And,
22 again, I don't know if you know what burping is, but
23 you turn the hose on, and it's sucking air. So this --
24 I mean, that's now it's sucking air. What's going to
25 happen when all of this happens? I'm going to end up

1 paying thousands of dollars because of their community
2 which -- again, I just want to be left alone.

3 Okay. There were some endangered species that
4 were not listed on the -- the fellow that came out and
5 did the report? I don't know what his name was, but he
6 came out and did an evaluation of what was there. He
7 listed some species, some wood storks, some other
8 things, but there are pileated woodpeckers. Yesterday
9 I took a picture of two mating American eagles in my
10 neighbor's trees, two of them. We also have rosy
11 spoonbills in my back yard every year. I've got a
12 video of it from this year of three dozen of them doing
13 their thing in my back yard. What's going to happen
14 when construction happens during this endangered
15 species migrating times? What will happen? Are they
16 going to stop? Are they going to -- what's going to
17 happen? So that's a huge concern because there are
18 multiple species listed that he has not -- he has not
19 found. So those weren't addressed.

20 The zoning thing was addressed, construction...

21 So currently we have signage out there, notice for
22 this particular hearing, on the road. It is placed in
23 front of your commercial -- wherever that little
24 commercial area is. It's not accessible. You can't
25 pull off the road. You can't read it. You can't see

1 it. On my way home today, I took pictures. It is not
2 even there. It is not even posted. So I don't know
3 what's up with that. It was there yesterday. Today
4 it's gone.

5 So security...

6 Oh, as far as the lead, I have done lots of
7 projects on my property. I've put in 200 fence posts,
8 and I have found so many lead bullets on 11890 Shawnee
9 Road, which is probably a half a mile back from the
10 target range or whatever they're saying up here. So
11 that entire area is peppered with ammunition, peppered.
12 I have found steel bullets that were swollen and
13 rusted, and you can't even make out what they are
14 because they're steel or some sort of corroded
15 material. But I've also found many lead bullets.

16 So there is that entire property, my property is
17 covered in ammunition, lead everywhere, lead bullets,
18 steel bullets, all kinds of bullets. So it's not --
19 it's not contained to that area that they put on the
20 map. There are bullets everywhere. That whole place
21 was shot up. So there is a concern of lead, of
22 contaminants, unearthing things, burying more things.

23 All right. So the DOT thing, the DOT fella got up
24 here, and he basically said, yeah, Daniels is a joke.
25 And the other lady got up here and said, yeah, it's a

1 joke. It's an F. It's an F. It's an F. Nobody has
2 given me any sort of definitive answer that I am aware
3 of of a resolution to this problem. I don't know how
4 this community is going to make a southbound turn onto
5 Daniels Parkway without another traffic light, and
6 another traffic light on a continuous flow intersection
7 that cost \$40 million that is currently failing, and
8 now we're going to add more speed bumps, more stops? I
9 don't -- I don't see that this is -- this has just been
10 kind of pushed under the rug.

11 And the same with the commercial use up there. I
12 didn't see any sort of guarantee that in the future,
13 when this -- this is done, after the fact, and we're
14 all gone, that there's not a road linked to my -- to
15 our road -- there's not a commercial access road put on
16 Shawnee Road. There's no guarantee of that, and I
17 don't see how else they're going to make that work.

18 So the whole traffic thing is a huge, huge
19 problem, and I don't see where anybody has given any
20 sort of definitive answer on how they're going to
21 correct it.

22 So I believe that's it.

23 MR. HARTSELL: Just one quick question for
24 Mr. Horne.

25 Did you say that your address was --

1 MR. HORNE: 11890.

2 MR. HARTSELL: 11890 Shawnee --

3 MR. HORNE: Shawnee Road, that's right.

4 MR. HARTSELL: Thank you.

5 HEARING EXAMINER COLLINS: Thank you.

6 MR. HORNE: Another thing is, you know, the
7 fertilizer in the groundwater. You know, we already
8 have a high bluegreen algae content, and this whole
9 community will be a gated -- gated HOA community, I'm
10 assuming, so everybody will have lush green lawns, and
11 they'll be pumping fertilizer onto it and into these
12 lakes, and these lakes do go into my aquifer.

13 So I don't know how much nutrient is in there, but
14 I do know that my particular house was built in '06,
15 and I have just recently had to have it completely dug
16 out because I have a foot and a half of muck in the
17 bottom of it, which is pumping nitrogen into the water
18 and everything else from those contaminants. And I do
19 not fertilize my property. I have farmland. So this
20 is just from breakdown from leaves, grass clippings,
21 from fish poop, from just anything, funnels its way
22 into these things. And, again, mine was knee deep of
23 black snot in the bottom of my particular pond.

24 And so ten years later they're asking, you know,
25 we don't need to monitor them, we don't need to monitor

1 them. Well, I'm going to tell you that my house was
2 built in '06, '06, it is 2023. I have a foot and a
3 half of black -- the nastiest snot in the bottom of my
4 pond you've ever seen in your life; and, again, when it
5 gets low, that floats to the top, nitrogen comes up,
6 and I've had to have it redug.

7 So they're telling me that they don't need to
8 continue to monitor these quality -- they're going --
9 you know, they're going to flood, they're going to --
10 lush green fertilizer -- but in 10, 15, 20 years,
11 there's not going to be two foot of muck and nitrogen
12 building up in the bottom of that thing that's so bad
13 that it's just going to stink?

14 So those are my concerns.

15 HEARING EXAMINER COLLINS: Thank you.

16 MR. HORNE: Yep.

17 HEARING EXAMINER COLLINS: Kara Tyler-Julian?

18 MS. TYLER-JULIAN: Hello, and thank you for
19 letting me speak, and thank you for being here. Thank
20 you for all the great research you guys clearly put
21 into this. It was a very well-put-together
22 presentation, a lot of great information. I learned a
23 lot more than I had gotten from reading the information
24 myself so I want to thank you for that.

25 I do have some unresolved questions from the

1 presentation.

2 The first one was the 55 percent versus 60 percent
3 of the open area, because we went back and forth on
4 that, and it seemed like we had come to the conclusion
5 that it would be 60 percent total of the area, but all
6 the slides showed it as 60 percent of the 55 percent,
7 which would be more like 33 percent of the entire area.
8 So I just wanted to be clear on whether it's 60
9 percent of the 55 percent --

10 HEARING EXAMINER COLLINS: It is confusing.

11 MS. TYLER-JULIAN: -- or 60 percent total.

12 MR. HARTSELL: It's 60 percent open space -- I'm
13 sorry, 60 percent of the total area will be open space.

14 MS. TYLER-JULIAN: But which percentage would be
15 the indigenous plantings was the question because --

16 MR. HARTSELL: 50 -- 55 percent --

17 MS. TYLER-JULIAN: 55 of the 60 percent or 55
18 percent total of the community?

19 MS. EKBLAD: 55 percent of the total community.

20 MS. TYLER-JULIAN: Okay. That's where it was
21 confusing on the slides because it was showing 55
22 percent of the open space would be indigenous, which is
23 where it got --

24 HEARING EXAMINER COLLINS: We'll circle back to
25 that --

1 MS. TYLER-JULIAN: Okay. I just wanted to make
2 sure that was out there and that we got that number
3 cleared up.

4 I did also want to echo concerns about the
5 sandstone aquifer wells because I am also -- I'm a
6 resident of Lehigh Acres. I'm on a sandstone aquifer.
7 I've also experienced the bubbles recently in the well,
8 tricks getting the water out of there, and it's very
9 concerning. We get -- this time of year all of us are
10 biting our nails just worried that we're about to have
11 to dig a new well, because if you watched the
12 monitoring wells in the sandstone aquifer this year,
13 they have gotten down very close to those historical
14 low levels, and only because we were blessed with
15 recent events do we all now still have our wells going,
16 and that's always -- always nerve-racking. So I want
17 any -- anyone considering this development to be
18 mindful of that sandstone aquifer and just how low it
19 can actually get.

20 Would like to also put out there that it's very
21 possible to have beautiful landscaping without even
22 needing any irrigation or fertilizer. The Florida
23 Native Plant Society is great at helping put together
24 completely native landscapes that don't need any
25 irrigation, even in the dry season. We have great

1 drought-tolerant plants that can look gorgeous without
2 any water.

3 I wanted to go to the point about adhering to Lee
4 County's fertilizer ordinance, which is fantastic, love
5 to hear that. One problem with that is the recent
6 action of our Legislature, which decided to eliminate
7 our ability to have fertilizer ordinances anymore. So
8 I don't know if you guys would still follow that, but
9 that's a question to have there, would you still follow
10 the now nonexistent ordinance just to be nice.

11 And there was a question about the lake quality
12 monitoring. It was said that there would be one single
13 baseline sample used, and I feel like, as a scientist
14 myself, that a single baseline sample is a little bit
15 biased, and you should probably have more samples as
16 your baseline for future reference.

17 Back to those lakes that are supposed to be
18 helping to treat the water, which is fantastic.
19 Without littorals that becomes difficult because those
20 littoral plants are some of the best ones at pulling
21 those nutrients and pollution out of the water. So if
22 there's no littorals, I'm wondering how those lakes are
23 going to be treating the water. Are you going to have
24 submerged aquatic vegetation, and which species, or are
25 you going to have some of the floating aquatic --

1 THE REPORTER: Okay, you have to slow down.

2 MS. TYLER-JULIAN: Okay, sorry.

3 So the question would be which kind of filtration
4 would you have in those lakes to reduce the pollution.
5 Would there be submerged aquatic plants? Which
6 species? Hopefully natives.

7 And my last point of contention that I want to
8 stress, that other people have, is the traffic issue
9 because it is -- there isn't a word to describe what a
10 disaster that area is right now. There's nothing --
11 nothing nice or professional -- no nice professional
12 words I could use here right now to describe what
13 happens on 82 and Daniels during rush hour. I have to
14 drive that way every day, and I sit there in my car and
15 think I love my job but I want to quit. Not because I
16 hate my job, because I hate the traffic, and I know I'm
17 not the only one. Tempers flare. That's the only
18 place I've ever seen anyone honk at a school bus,
19 because that's how upset they get. It's -- the
20 continuous flow intersection is not a continuous flow
21 right now as it is. They put all that money into that
22 gorgeous intersection, and then with the Gateway
23 expansion and more development in Lehigh, that area
24 just stops in the morning. So adding 1,600 houses to
25 that area -- not that they're at fault for the traffic

1 problems, absolutely not. It already exists. But
2 adding 1,600 more houses, which could be over 2,000
3 cars at rush hour, is just adding fuel to the fire, and
4 I don't think our roads can take it; I don't think our
5 law enforcement can take it; I don't think our
6 emergency services can take that traffic. And so I
7 really think that needs to be just considered.

8 And that's not the fault of the development,
9 that's the Lee County infrastructure planning fault.
10 I'm not blaming you guys for that at all. Just a
11 warning that that could become worse.

12 Anyway, that's all I have to say. Thank you,
13 thank you very much.

14 HEARING EXAMINER COLLINS: Thank you. I don't
15 understand the first name, but the last name is DiMeo?

16 Sandie Marotta?

17 Arlene Andreozzi?

18 Alicia Dixon?

19 Shari Thompson?

20 MS. THOMPSON: Madam Hearing Examiner, thank you
21 for the opportunity to speak. I really wasn't planning
22 to speak; but after listening to the presentation, I
23 have grave concern. I am -- I guess I should start out
24 as I'm a long-term property owner and resident of
25 Shawnee Road. It is my expert opinion that this

1 proposed rezoning will having a significant negative
2 impact to the Lee County residents east and southeast
3 of Daniels, most specifically to Shawnee Road
4 residents, and these are my following concerns:

5 Wildlife preservation. I have personally
6 witnessed the wild -- this wildlife that I'm fixing to
7 go down the list real quick. On my two and a half
8 acres, just two and a half acres -- and I grieve the
9 idea we will lose them with this rezoning. I have
10 witnessed two times an uncollared panther, a momma
11 panther with her cub; bald eagles; white-tailed deer; a
12 pair of black-bellied whistling ducks. They come --
13 this is the second year that they have come.

14 I have quail -- they just returned. I haven't
15 seen them in years. A tegu lizard, I don't know if --
16 it was scary, but it was there; roseate spoonbill; fox
17 squirrels, both black and red, I guess, brown; turkeys,
18 of course, tons of them; bobcats; sandhill cranes on my
19 property; grey heron; snowy egrets; red-shouldered
20 hawks; hummingbirds; pileated woodpeckers; and of
21 course hogs.

22 And the most precious to us is I have two new
23 grand gifts, my grandbabies, a five-year-old and
24 two-and-a-half-year-old, and they love every evening to
25 watch the cow parade go by because I am on the same

1 side of the road that Mr. Horne is on, on Shawnee. My
2 back yard butts up to the property that this group is
3 looking to rezone to build their development. And so
4 I, too, share the same concern as a lot of Shawnee
5 residents, that what is this going to do to the
6 wildlife and just having -- all the other things that
7 were mentioned here.

8 So the second thing that I have concern is the
9 infrastructure, most specifically to traffic control
10 for an already overwhelming traffic backup flow during
11 rush hour and even when it's not rush hour. I think
12 the infrastructure or road infrastructure is 10, 15
13 years behind schedule. I always say a prayer when I
14 turn left off of Shawnee onto 82, "God, please protect
15 me," because it's dangerous. I really don't know where
16 everybody is going east. You know, I just don't get
17 that, but anyways.

18 So the continuous flow intersection at Daniels and
19 82 is not continuous. It is a major bottleneck going
20 west. So everybody in Lehigh -- I have seen at rush
21 hour traffic in the morning, that that line that's
22 turning left onto Daniels off of 82 is backed up almost
23 a complete mile to Sunshine Boulevard.

24 On slide 64 there was a proposed plan on how to
25 use part of Shawnee Road for residents; and if you do

1 put that in, how am I going turn out onto 82 now? How
2 do I do that? I don't know how I can do that. Right
3 now that continuous circle flow allows me the
4 opportunity to get into a turning lane so that I can
5 get out; but once you put that other access in, I don't
6 know how I'm going to get off of 82 safely.

7 Additionally, I'm concerned that this access will
8 create a potential bottleneck so when you're going down
9 Daniels, and now you've got to turn on 82, you're
10 talking about having an access to go straight through.
11 Well, have you ever driven that during rush hour at any
12 time? I challenge you to do that. If you've ever seen
13 the way people drive onto that off-ramp, that right
14 lane, they swing in there really quick. So now you're
15 going to have to put a stop there. I don't know how
16 you're going to do that, but it's not going to be safe.

17 My third concern is our water resource, for we do
18 live on our wells. We live on our wells. During fire
19 season, which we're just now coming off, some Shawnee
20 residents' wells have gone dry. That's a scary thing,
21 to have your well go dry, and how many times do you see
22 on the news that Shawnee has a fire? How many times?
23 So that's very scary, and I can't imagine how these
24 multiple new wells will impact Shawnee Road. I have
25 grave concerns for that.

1 Also, opening the berms and changing the water
2 flow concerns me, again, as Shawnee Road residents are
3 in the middle of this new proposed development and the
4 sheet flow runoff from the ill-misplaced culvert placed
5 by Lee County on Rod and Gun Club Road. And Lee County
6 has neglected to repair it after promising to do that,
7 and they didn't. So now the last couple of years, we
8 get their sheet flow, the Rod and Gun Club, we get it,
9 and it's flooding our road, destroying our road, and we
10 have -- we can't get out to go to work or anything like
11 that. So it's really scary to me.

12 And I can attest to Mr. Horne's account of
13 contaminants. I used to walk Shawnee Road daily, and I
14 have a jar about this high, and it's filled with .50
15 caliber copper encased lead shells. So -- and I live a
16 mile down Shawnee Road. James lives up closer to 82.
17 So that's how far those bullets have gone, and that's
18 how far you can find them.

19 So thank you very much for your time and allowing
20 us to speak.

21 HEARING EXAMINER COLLINS: Thank you.

22 Allen Simon? No?

23 Kathy Walker?

24 MS. WALKER: I'm new to public speaking so forgive
25 me.

1 My name is Kathy Walker. I was born and raised
2 here in Lee County so I've seen a lot of changes. It
3 went from a nice place to live to an overcrowded place
4 to live, changing the quality of our lives.

5 And nobody seems to care or consider the wildlife
6 impacted by all this growth. We need more conservation
7 and less development on Daniels and 82.

8 Let's not forget we need rainwater to actually
9 soak into the ground and not diverted to ponds or
10 canals because it sure isn't going to absorb into
11 concrete.

12 Every person that does not think about the
13 consequences of these actions towards our environment
14 are selfish, ignorant, and greedy.

15 It's obvious to many residents that the Florida
16 government works in favor of developers. This needs to
17 change before it's too late.

18 We are not going to make any more land; so when
19 it's gone, it's gone forever.

20 And the owners of these tracts of land are just as
21 guilty as our foolish government. When all you see in
22 life are dollar signs or power, then you have become
23 nothing but a negligent, self-absorbed human being. We
24 all have to care for our planet, our state, and our
25 environment, not just some of us.

1 Our lives are at stake with every piece of
2 farmland sold off to development. Every ecosystem
3 destroyed from the ground up will eventually come back
4 to haunt us; but I guess as long as you don't have to
5 deal with it in your lifetime, it doesn't matter. All
6 that matters is the money. This is where I can
7 honestly say that money is truly the root of all evil.

8 You can do and say what you want about minimizing
9 the destruction to our environment and wildlife, but
10 the fact remains that any piece of large property that
11 gets developed ruins the beauty of our natural land,
12 kills off wildlife, causes more traffic congestion, and
13 it's just plain ugly. I would much rather look at a
14 pastureland than concrete.

15 You can glorify this development all you want, but
16 it is nothing more but -- it is nothing but more
17 decimation of wild Florida.

18 Thank you.

19 HEARING EXAMINER COLLINS: Thank you.

20 Shelton Reynolds?

21 MR. REYNOLDS: Madam Examiner, for the record, my
22 name is Shelton Reynolds. I go by the name "Rick
23 Reynolds." I was born and raised here in Lee County.
24 My kids are fifth generation. So we've seen a lot of
25 growth.

1 The -- I thank you for the opportunity to be able
2 to speak here.

3 The intersection at Daniels and 82, as has already
4 been said, it is not continuous flow. It lasted about
5 as long as an egg timer when that got put in, and it's
6 not.

7 This morning at 7:00 -- I come out every day at
8 7:00 to come in town to Fort Myers -- the traffic is
9 dead stopped on Daniels Road (sic) going south. This
10 is going to impact that even worse.

11 So the 2031 thing they're coming out with, I don't
12 know where they're coming from, and I would tell them
13 to go and sit there at 7:00, 6:00, and just look at the
14 traffic. This is not going to solve this problem.
15 It's going to make it worse.

16 The triangle little coat hanger thing they're
17 talking about, those were target ranges for World
18 War II, .50 caliber (unintelligible) type guns that
19 were (unintelligible), and it was lead encased with
20 copper. They're everywhere there. They're everywhere.

21 So frangible ammunition was not invented during
22 World War II. It is lead ammunition all through that
23 property. They might not even look for it, but I'm
24 telling you it is there.

25 My concern is the lack of concern that the

1 presenters have addressed to the residents of Shawnee
2 Road. They're more concerned with the airport
3 authority, who is a consumer of tax dollars, and not
4 the people down Shawnee Road who pay the tax dollars.
5 And so there's no buffers between us, which are AG-2 --
6 I have an old horse and a mean-ass donkey, and when we
7 got property -- we bought out there to be in the rural
8 area. And so when you look at all the maps and stuff
9 like this that you have presented, they have not
10 addressed any kind of buffer between us and now what's
11 going to be urban or suburban. It's changing -- it's
12 changing how we live and how we bought property out
13 there to begin with. And so they haven't addressed it.

14 It's like the water issue that everybody has
15 talked about. They addressed what they're going to do
16 for irrigation, and they're going to put wells down,
17 but they have not even considered what we, the
18 residents on these roads, how it's going to impact us.
19 They didn't even in no way, shape, or form did they
20 address that in their presentation, the impact of this
21 on us who have been here for years. It's not even
22 considered, not even in the proposal in any way, shape,
23 or form of how the impact of this is going to be to us.

24 And I can't believe, in the County's planning,
25 that there is no required buffers to address from AG-2

1 to this. It's not even on the list. And I would -- I
2 would ask the planner over here that he may want to
3 look at that and see how you're going to keep -- I got
4 fence. So what happens if my horse gets out on that
5 property? Because it is going to butt right up to my
6 fence. The property line is right there. Or somebody
7 has a cow or kids? It's not even addressed. It's not
8 talked about at all, and that is a deep concern of
9 mine.

10 And I appreciate you letting me speak, thank you.

11 HEARING EXAMINER COLLINS: Thank you for coming.

12 Is there anyone else that didn't fill out a public
13 participation form that would like to speak? Okay. I
14 will close public input.

15 We're back to Staff and the Applicant. We need to
16 turn our focus to when we're going to reconvene.

17 MS. EKBLAD: Unfortunately, we're looking at July.

18 (Sotto voce between Hearing Examiner and
19 reporter.)

20 (Off-the-record discussion)

21 HEARING EXAMINER COLLINS: Okay. We're back on
22 the record.

23 This hearing will reconvene on July 11th at 9 a.m.

24 July 11th at 9 a.m. we'll be back to the parties to
25 address questions and concerns raised by members of the

1 public, to discuss any resolved issues of the items
2 that remain unresolved as of today, and closings.

3 Okay, thank you.

4 MR. HARTSELL: Thank you.

5 (Proceedings concluded at 5:10 p.m.)
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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 166, is a true and correct record of my
12 stenographic notes.

13
14 Dated this 16th day of May, 2023.

15
16 
17 _____
18 Deborah M. Bruns, FPR

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20 (This transcript was electronically signed.)
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