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THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2020-00002

ORIGINAL

IN RE: CYPRESS WOODS RV RESORT RVPD

PROCEEDINGS: PUBLIC HEARING

BEFORE: AMANDA RIVERA
Chief Hearing Examiner

DATE: September 10, 2020

TIME: 9:00 a.m. to 11:48 a.m.

LOCATION: Hearing Examiner's
Hearing Room
1500 Monroe Street
Second Floor
Fort Myers, FL 33901

REPORTER: Deborah M. Bruns
Florida Professional Reporter

ACCURATE REPORTERS, LLC
1601 Jackson Street, Suite 103
Fort Myers, FL 33901
(239) 245-8695

1 APPEARANCES:

2 For the Applicant: NEALE E. MONTGOMERY, ESQUIRE
 Pavese Law Firm
 3 P.O. Box 1507
 Fort Myers, FL 33902-1507
 4 Email: nealemontgomery@paveselaw.com
 -and-
 5 ALEXIS CRESPO, AICP
 Waldrop Engineering
 6 28100 Bonita Grande Drive, Suite 305
 Bonita Myers, FL 34134
 7 Email:
 alexis.crespo@waldropengineering.com
 8

9 For the Staff: BRIAN ROBERTS, Planner
 BETH WORKMAN, Environmental Planner
 Department of Community Development
 10 Zoning
 P.O. Box 398
 11 Fort Myers, FL 33902-0398
 Email: BRoberts@leegov.com
 12 Email: EWorkman@leegov.com

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1 P R O C E E D I N G S

2 HEARING EXAMINER RIVERA: Okay. Good morning. My
3 name is Amanda Rivera. I'm the Hearing Examiner for
4 today's hearing. Today is September 10th, 2020, and
5 this is case DCI2020-0002, the Cypress Wood RV Resort
6 RVPD and MHPD.

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

11 (Participants sworn en masse.)

12 HEARING EXAMINER RIVERA: Okay, thank you.

13 For the members of the public that we have here
14 this morning, I'll briefly go over the instructions of
15 how things will proceed:

16 First, we're going to hear from the applicant.
17 They will present their presentation of the case, and
18 we'll hear from any experts that they may have that
19 want to testify about the request that they have before
20 us.

21 After they have completed, then we will hear from
22 the County staff as to their recommendation of the
23 case.

24 After the County staff has concluded, then we will
25 open the public comment period. That would be your

1 opportunity to come forward and place any comments you
2 have into the record. We would ask that you come to
3 the podium to do that, and complete the forms that are
4 by the door so that I can call you at the appropriate
5 time.

6 I would also say there is only one opportunity to
7 speak, so I would encourage you to take notes as we go
8 through things this morning so that you can make the
9 most of the time that you have at the podium.

10 If you have questions that you would like for the
11 applicant or the staff to answer, please, again, state
12 those whenever you're at the podium, but do know that
13 they will probably not be answered at that time. But
14 the applicant and the staff and I will be making note
15 of them and be sure that they are addressed in the
16 rebuttal.

17 After the public comment period has closed, we
18 will come back to the applicant and staff for their
19 rebuttal and hear their closing comments.

20 With that, I think that is everything we had to go
21 over. You will -- it looks like everyone is socially
22 distancing, as we would request with the seats that
23 have the notations on them, and certainly if anyone
24 needs a break as we go through, please let me know. We
25 will expect to take a break about every hour and a half

1 to two hours.

2 So with that, we can begin with the applicant.

3 MS. MONTGOMERY: Thank you. I won't touch the
4 mic.

5 Good morning. For the record, Neale Montgomery.
6 And with me today, we do have a team of experts. We
7 have Duane Truitt with us today. He has extensive
8 experience with RV parks and development. Obviously
9 I'm here, land use counsel. Alexis Crespo is here as
10 our expert for planning and zoning. We will ask that
11 she be qualified as an expert. Mr. Hartley is here.
12 He is a registered engineer in the state of Florida,
13 and we'd ask that he be qualified as an engineer -- or
14 as an expert, as well. And Jeremy Sterk is here. He's
15 our expert environmental consultant.

16 You have a 48-hour letter and an addendum, and I
17 think a lot of those things either have been addressed
18 or will be addressed. I think the biggest issue is the
19 deletion of accessory uses and structures. I will say
20 this: Usually I don't necessarily have a lot of
21 experience, but I have, through the years, traveled
22 with my folks and my daughter in an RV. And so we
23 traveled to every state of the United States except
24 Hawaii and Oklahoma, and so I've been in a myriad --
25 and I don't even know how many provinces in Canada and

1 the Northwest Territories, so we got around. And I
2 would say that every park was different, but they all
3 have accessory uses. Some cater more to children and
4 have playgrounds. They all have laundries. They all
5 have little stores. They have a myriad of different
6 types of recreational amenities. They do all have some
7 form of fire pits and things like that. So we are very
8 concerned about just complete deletion of accessory
9 uses and structures in a general sense; and then, more
10 specifically, we're concerned about the deletion of the
11 specific accessory use of casitas as that is now a more
12 customary accessory use in upscale RV parks.

13 There was a deviation that was recommended for
14 denial. You have a notebook before you there that has
15 the PowerPoint; and, if you open that, on the left-hand
16 side is a letter from the Fire Marshal. That was the
17 concern, as I understood it, that caused the staff to
18 recommend denial. And now that we have that letter, I
19 am hopeful that that issue goes away.

20 (Applicant Exhibits 1 and 2 marked.)

21 HEARING EXAMINER RIVERA: So just as a matter of
22 housekeeping, I will -- I marked the -- excuse me --
23 the PowerPoint presentation as Applicant's Exhibit 1
24 already, and then I'll accept the Fire District letter
25 as Applicant's Exhibit 2. Was this provided to

1 staff --

2 MS. MONTGOMERY: Yes.

3 HEARING EXAMINER RIVERA: -- already?

4 MR. ROBERTS: Yes.

5 HEARING EXAMINER RIVERA: Okay, thank you.

6 MS. MONTGOMERY: And I think there's been some
7 conversations.

8 So for the benefit of the public, Alexis Crespo
9 will go first and go -- give you an overview of the
10 application of the project. Mr. Truitt will testify
11 and elaborate more on the casitas and what they are and
12 why they're important. And Mr. Hartley will discuss
13 the engineering issues as utilities and water
14 management, and Mr. Sterk will discuss the
15 environmental issues, and then we'll come back to
16 Alexis to go through comp plan consistency and 34-145.

17 Just to orient you as to where the site is,
18 obviously to the left of the screen is I-75. In the
19 southwest quadrant is the truck stop, Grandma's
20 Kitchen. In the northwest is Billy Creek Commerce
21 Park, an industrial area. In the southeast quadrant,
22 that is actually in the city of Fort Myers, and it's
23 gone through some iterations that -- I rezoned it once
24 to heavy industrial and commercial, and then rezoned it
25 to a lot more residential, and then somebody's come

1 along and took it back to industrial and heavy
2 commercial. Country Lakes Road (sic) has Kelly
3 Supplies, and you see a lot of those uses, as you drive
4 down the interstate, are heavy commercial and
5 industrial.

6 The park is an existing park, and this is actually
7 just the last phase. So the area you see marked in red
8 is the last phase, and that's what we're here for
9 today. We're not changing anything in the existing
10 park.

11 And as you can see to the north, there is another
12 RV park adjacent to this property, and there is a
13 pretty significant FP&L easement on the east side.

14 The request is an amendment to the master concept
15 plan for the 35.6 acres known as Cypress Woods RV
16 Resort RVPD, Phase 5. We want to change the site plan.
17 The current site plan has some pretty -- while cute on
18 the site plan, has some pretty tight turns that don't
19 work so well if you're driving a bigger RV, and
20 particularly, when you're like me, you drive with my
21 dad who's gotten a little older, and you don't want to
22 have those sharp turns.

23 So increase the number of lots from 134 to 137,
24 but there's no overall total net increase; add the
25 deviations; allow zero lot lines and reduced water

1 setbacks; and amend the schedule of uses and conditions
2 to allow residential accessory uses, including casitas
3 which do customarily have cooking facilities.

4 Removal of Deviation 24 relating to grassed golf
5 cart parking; add "cabana" to the schedule of uses. If
6 you look -- there's a section of the Land Development
7 Code that has specifically RV accessory uses, and
8 cabana is included in there. So if the Hearing
9 Examiner -- so we would like the ability to either do a
10 casita or a cabana, but right now they've both been
11 eliminated so that's obviously a concern.

12 The site plan will include additional sound
13 abatement for the pickle ball courts, since sometimes
14 that's an issue, so we want to address it right up
15 front.

16 I sent you an addendum, and that is a correction
17 to the open space and indigenous acreages, and I
18 believe that Alexis and Beth have talked about that,
19 and everybody is in agreement on those numbers.

20 So we're really down to two issues here today, and
21 it's Deviation 23 for the reduced preserve setback,
22 which we do think -- but I haven't heard on the record
23 yet -- that we're okay now that we have the fire letter
24 that you've already marked; and to allow for accessory
25 uses and structures generally, and specifically

1 casitas.

2 And with that, I'm going to turn it over to
3 Alexis.

4 MS. CRESPO: Good morning. Alexis Crespo with
5 Waldrop Engineering representing the applicant.

6 As Neale noted, I've been accepted as an expert in
7 land use planning, the Lee Plan, and the Lee County
8 Land Development Code, and would respectfully request
9 to be accepted again today.

10 HEARING EXAMINER RIVERA: Yes, thank you.

11 MS. CRESPO: My resumé is on file. Thank you.

12 I'm going to start with just walking you through
13 the surrounding conditions which -- which Neale has
14 kind of touched on already, so I won't belabor the
15 point that this is an infill property. It's the final
16 phase left to be developed within the Cypress Woods
17 RVPD. Our surrounding uses are very consistent with
18 what is being requested. We have RV communities within
19 the RVPD zoning district and urban community future
20 land use category that are part of the same PD to our
21 south and west. We also have an RVPD in the urban
22 community future land use category immediately to our
23 north with the Cypress Trail approval.

24 As you move further west of the property and get
25 closer to the I-75 interchange, there is a transition

1 to light industrial uses both within planned
2 development and conventional industrial zoning
3 districts. Obviously, as you transition to the
4 arterial corridor and interchange network, that would
5 be complementary to those types of uses. To our east
6 we have the transition to more agricultural lands, but
7 to our immediate eastern border is an active
8 agricultural use in the Duke Landscape Nursery. You
9 can see the existing row crops on that aerial map.

10 And Neale pointed out a transition that provide --
11 is provided naturally within our site, is that FP&L
12 easement along our eastern border, as you can see with
13 the pointer there.

14 And then we do have some intermittent more rural
15 single-family residential. Those are to the northeast
16 of the property, and then further south of the internal
17 preserve area.

18 Staff did a great job in their staff report of
19 outlining the lengthy history associated with this PD.
20 The PD, as it exists today, was approved in 1994 per
21 Z-94-025, but Brian went into some details of the '80s
22 when this struggled to get going and be developed, and
23 the master concept plans expired on two different
24 occasions. So a lengthy history to get here today to
25 bring forth the final phase of development in Cypress

1 Woods.

2 Over the years the PD was amended to reduce the
3 unit count several times, modify phasing, increase
4 amenities, add deviations; and, most recently, an
5 administrative amendment was to add a gazebo accessory
6 structure; and this is really the first step that the
7 HOA itself took in order to modernize this PD and
8 provide the amenities that are demanded in these
9 upper-scale RV resorts across Southwest Florida. You
10 can see those in Riverbend in Hendry County, Golden
11 Palms also in Lee County, and -- and Duane is going to
12 walk you through some of those to explain why the
13 casita request is very important to the project and
14 ensuring it's meeting the changing and evolving market
15 demand associated with RV communities.

16 Today there are 611 lots approved. That's a mix
17 of 522 RV lots, 89 mobile home lots. There are 140
18 lots available within the community for development in
19 Phase 5, and we are proposing a density lower than that
20 with 137 RV lots.

21 And 19 deviations have been approved to date to
22 meet the uniqueness of the community.

23 This slide is your approved existing master
24 concept plan, again, most recently modified through the
25 ADD, just kind of blowing up the Phase 5 area that

1 we're discussing in detail. That is the "cute" road
2 system, I think as Neale characterized it, where it's
3 very curvy and would be very difficult for an RV to
4 navigate if constructed with those types of curves. So
5 what we're proposing is to soften the roadway
6 alignment, keeping very much with the intent of that
7 original master concept plan with the centralized lake
8 facility, on-site amenities, but just making something
9 that's far more liveable for the community in the
10 future.

11 And so I think the best way to kind of show you
12 the difference is just putting the proposed plan on the
13 right-hand side of the screen, with the approved on the
14 left, so you can see there is just a minor reshaping of
15 that lake area in the center of the site. We've
16 softened the curves of the roadway to facilitate
17 internal circulation.

18 The recreation amenity has been moved from the
19 eastern portion of the property, and on the new master
20 concept plan is proposed in the northern portion of the
21 property. That would be both a clubhouse facility, as
22 well as outdoor recreational components, again, meeting
23 the evolving market demand for a very high level of
24 amenities within these communities.

25 We are proposing 137 lots, whereas 134 are

1 numbered on that approved master concept plan, but,
2 again, 140 are available within the PD.

3 There is no change to the general configuration of
4 the preserve area; however, that addendum to the
5 48-hour letter did note we are proposing to reduce the
6 acreages slightly, but still above and beyond code
7 minimum preserve on-site.

8 And there is no change to access to the community.
9 On the approved MCP there are two points of
10 ingress/egress from Brightwood, and those will remain
11 exactly as they are today.

12 I'm just going to walk you briefly through the
13 deviation requests. We have been able to eliminate
14 Deviation 24, and that was in your original 48-hour
15 letter -- did you have any questions on the master
16 concept plan?

17 HEARING EXAMINER RIVERA: No.

18 MS. CRESPO: Okay. So Deviation 20 -- and there
19 were some renumbering in the staff report, and I see my
20 slide is referring to 19 and 20, but, per your staff
21 report Deviation 20 is to allow for the parking for the
22 amenity or a portion of the parking for the amenity to
23 be placed outside the bounds of that amenity tract.

24 So we'll show you the -- the amenity, again, is in
25 purple on the north side of the lake -- and just to

1 kind of blow that up. We are trying to maximize the
2 amenity site for the outdoor recreation facilities,
3 sports courts, the clubhouse facility. And in order to
4 accommodate the required parking per the code, we are
5 seeking to locate golf cart parking to meet the
6 requirements just off the amenity site. These parking
7 spaces would be paved -- surfaced with crushed shells,
8 stabilized, or paved. Per the Land Development Code,
9 that was the deviation we dropped. We were originally
10 seeking a grassed surface and ultimately agreed with
11 staff that we can meet the code for surface materials.
12 So all we're doing is seeking to have the parking off
13 the amenity site. It would be connected with this
14 crosswalk facility, and then -- then have a sidewalk
15 directly to the bocce ball court area and allow for
16 safe pedestrian ingress/egress. And this is about 200
17 feet from -- from the site, so very easy walking
18 distance.

19 And what we've seen and provided in our backup
20 justification to staff is that in these communities,
21 everyone is coming by foot, for the most part, or by
22 golf cart. The amenity site is less than a quarter
23 mile from the lots within the site, so it's a four- to
24 five-minute walking distance from the farthest RV lot
25 from the amenity facility. So we do believe the

1 parking lot will remain virtually empty most of the
2 time; however, we understand there is a code, there are
3 parking requirements, so we'd like to accommodate that
4 through the golf cart area.

5 HEARING EXAMINER RIVERA: And that site design
6 with the pedestrian access, that all complies with
7 Condition 15?

8 MS. CRESPO: Yes.

9 HEARING EXAMINER RIVERA: Okay.

10 MS. CRESPO: So Deviation 21, that is to allow for
11 the lot configuration that's shown on the proposed
12 master concept plan, including a zero-foot side lot
13 line setback.

14 So I'll just walk you through the typical lot
15 detail. The deviation would allow the casita or
16 accessory structure to be on the lot line, but that
17 would be separated a minimum -- from other structures
18 by a minimum of five feet, and then seven feet from the
19 RV pad. So this is -- you see zero lot line as an
20 allowable condition for residential uses, and this
21 would simply be applied to the accessory structure.

22 HEARING EXAMINER RIVERA: So that deviation only
23 applies to the casitas?

24 MS. CRESPO: Correct -- actually, it's the RV pad,
25 but since that is -- that's also shown on the lot line,

1 but since that's not a vertical structure, that's just
2 really a paved area for the RV to locate, so our
3 interpretation was we only needed to seek this for
4 vertical structures.

5 HEARING EXAMINER RIVERA: Okay.

6 MS. CRESPO: Deviation 22 is to allow for some
7 accessory uses to be located on the outside of the
8 40-foot-wide required RVPD perimeter buffer. So in
9 order to visually shield these parks from surrounding
10 land uses, the code does require a 40-foot-wide buffer
11 with plantings, and we are proposing to locate that
12 required buffer internal to the site and on the west
13 side of the FP&L easement. So I'll show you a blowup
14 of that area.

15 So the 40-foot buffer is entirely provided on the
16 west side of the FP&L easement. That's going to
17 provide adequate screening. And wherever there is not
18 some preserve, at least, on the -- on the abutting
19 property line to the agricultural use, we're proposing
20 a six-foot-tall visual screen, most likely in the form
21 of a double hedge row which will grow to opacity in a
22 few years and meet the intent of providing the
23 screening.

24 And so the intent of the code is being met because
25 you're going to have your required buffering internal

1 to the site, and just very minimal recreational uses in
2 this FP&L easement that would be further screened by
3 either some existing native vegetation or the buffer.

4 Deviation 23 is relating to setbacks from preserve
5 areas. There's a different setback depending on
6 whether the preserve is wetland or upland. We're
7 requesting a 15-foot minimum setback for wetland areas
8 for only 5 lots within the community, and a 20-foot
9 setback from upland preserve areas. So I'll show you
10 the lots that are impacted by the deviations. So
11 they're lots 68 and 69, 70 and 75 and 76. So these are
12 the few lots that require the deviation.

13 Some of the justification that resulted in our
14 letter of no objection from the fire department, and we
15 believe support from staff, is that this is limited to
16 a very small number of lots. The preserve areas in
17 question are very small. One of the main concerns of
18 locating the structures near the preserve is fire. If
19 a fire should start in the preserve area, would that
20 spread easily to residential structures. So the fact
21 that the -- the preserve area is relatively small,
22 there's not a lot of fuel for that fire. So it's seen
23 as a much lower risk than if there was a large,
24 expansive preserve area that was abutting these lots.

25 These preserves will be maintained by the

1 requirements of the Water Management District permit,
2 as well as the local development order. And then
3 another key point is there's an excellent fire break
4 via the FP&L easement, which is kept vegetation free
5 for the most part and will prevent fast fire spread in
6 those areas. And based on that, we did provide you
7 with a letter of no objection. And that is the Tice
8 Fire District that is the fire district there.

9 So before I turn it over to Duane, I'm just going
10 to run through a couple more slides on compatibility --

11 HEARING EXAMINER RIVERA: Can you go back for one
12 second?

13 MS. CRESPO: Oh, yes.

14 HEARING EXAMINER RIVERA: Just the numbering of
15 the deviations is confusing to me because --

16 MS. CRESPO: Yes.

17 HEARING EXAMINER RIVERA: -- I think you said and
18 I read in the staff report there were 19 previously
19 approved, but then when we get to the renumbering,
20 there were 17, if you look at the strike-through and
21 underline of Attachment E. And then it says Deviations
22 18 through 24 apply to Phase 5 only, but your --

23 MS. CRESPO: Brian, I'm going to defer to you
24 since --

25 HEARING EXAMINER RIVERA: I can direct it to staff

1 during your presentation --

2 MR. ROBERTS: Okay.

3 HEARING EXAMINER RIVERA: -- if you prefer.

4 That's just --

5 MR. ROBERTS: I can answer it now.

6 HEARING EXAMINER RIVERA: Okay.

7 MR. ROBERTS: There were ADDs that were approved
8 previously for right-of-way width and sidewalk
9 requirements.

10 HEARING EXAMINER RIVERA: So there were 19 -- to
11 say that there are currently 19 deviations approved,
12 there aren't currently 19 deviations that apply; is
13 that correct?

14 MR. ROBERTS: The entire park contains 19
15 deviations that were approved.

16 HEARING EXAMINER RIVERA: Okay. And 18 and 19
17 were approved by ADD only for Phase 5?

18 MR. ROBERTS: Correct.

19 HEARING EXAMINER RIVERA: Okay. The new
20 deviations that are being requested now are 20 through
21 24 -- 24 was withdrawn. So 20 through 23 is all that
22 we're talking about today?

23 MS. CRESPO: Correct.

24 HEARING EXAMINER RIVERA: Okay.

25 MR. ROBERTS: Yes.

1 HEARING EXAMINER RIVERA: Thank you. Okay. You
2 can continue.

3 MS. CRESPO: So in terms of compatibility, we're
4 seeking an RV use surrounded by RV communities for the
5 most part, entirely consistent with the surrounding
6 development pattern, and entirely what was intended for
7 this property based on the historical zoning history.

8 We are doing less lots than would be permitted on
9 the site in terms of density.

10 We are separated from our agricultural uses to the
11 east by not only our 40-foot-wide RVPD buffer, but also
12 an expansive FP&L easement.

13 Cypress Trail to the north has historically been
14 buffered by the required 40-foot-wide preserve area
15 along our shared property line, which will include
16 indigenous restoration to further screen those
17 properties. And where we are proposing some limited
18 recreation uses in the FP&L easement, we are offsetting
19 that with the six-foot-tall visual screen along that
20 remaining portion of the property line.

21 Another change that we did to address
22 compatibility that was outlined in the 48-hour letter
23 was to abate the sound generated by the proposed pickle
24 ball court. We were -- we did speak to a gentleman who
25 owns property in Cypress Trail to the north near the

1 site and were able to speak to him about his concerns,
2 which mostly were about the noise generated from pickle
3 ball. Certainly those aren't open till all hours of
4 the night. Those are generally, you know,
5 dusk-till-dawn type facilities. But to the extent we
6 wanted to address his concerns, we can show you that
7 there's more than 200 foot away from the nearest lot
8 within Cypress Trail that will be buffered by the
9 expansive 40-foot-wide indigenous planting area, and
10 then we are proposing an 8-foot-tall sound abatement
11 wall along the northwest, west, and south side of the
12 court which will further mitigate any sound from that
13 facility.

14 In terms of community outreach, this is in the
15 Caloosahatchee Shores/Fort Myers Shores planning
16 communities and community planning areas. We did meet
17 the Chapter 33 requirement of having a meeting with the
18 community, I believe, prior to application filing or
19 shortly thereafter, and fortunately right before COVID
20 hit, so we were able to do an in-person meeting at the
21 clubhouse in Cypress Woods. We had over 250 attendees.
22 They were very broadly supportive of the project moving
23 forward, certainly wanting to see the last phase of
24 their community built out, certainly pleased at the
25 modern amenities that will continue to upgrade the

1 value in the community, and continue this last phase as
2 something upscale for the betterment of the overall
3 community.

4 They were also supportive of the casita use. They
5 asked for the gazebo because there was no format other
6 than a public hearing to seek uses not in the Land
7 Development Code. So they opted to do what they could
8 through the administrative process and add a gazebo
9 use, but certainly there was interest in adding this
10 casita based on what they're seeing in competing RV
11 communities. And they did include a letter of support
12 outlining those specifics to staff, as well as the
13 Hearing Examiner.

14 So just to tee up Duane's discussion on casita,
15 the market, why this is important, we did offer a
16 Condition 15. This was in our original application.
17 It did not make it into the staff report. But through
18 the PD process, we were looking to further define an
19 accessory use allowed in an RVPD community that would
20 allow for what the market is demanding, which includes
21 overnight sleeping and kitchen facilities. This would
22 be for the RV owner to utilize when they park and stay
23 in the community as an alternative to sleeping in their
24 RV unit.

25 We offered up enforcement conditions so that this

1 would not be used as a separate residence for doubling
2 the density of the community, so that it would be very
3 clear it was for the owner and their family only,
4 monitoring proposals, as well, to make sure this could
5 be enforced.

6 And so Duane is going to talk about that in a
7 little bit more detail, but just as an introduction to
8 that, we would be limiting the maximum lot coverage to
9 50 percent to ensure that the RV pad plus the casita
10 and any other fire pits wouldn't encumber more of the
11 lot than 50 percent. So that could address any
12 concerns that this casita use would create a scope of
13 development that would be inappropriate considering the
14 context of the community, so keeping with a low maximum
15 lot coverage.

16 HEARING EXAMINER RIVERA: Did that change? The
17 48-hour letter that I had indicated 45 percent lot
18 coverage.

19 MS. CRESPO: 50 -- that is -- it is -- 50 percent
20 is the correct number.

21 HEARING EXAMINER RIVERA: Okay.

22 MS. CRESPO: Casitas may only be occupied when the
23 RV is parked on the lot to further ensure these are not
24 being used as a separate dwelling unit, and then a
25 recorded covenant in the public records indicating the

1 use of the casita as accessory only to the RV, and then
2 also limiting long-term occupancy of the unit.

3 And just to close up, your planned development
4 uses do allow for accessory uses and structures in the
5 RVPD. We would submit that what we're proposing is an
6 accessory to an RVPD. It is an emerging use that can
7 be handled through the PD process for unique
8 developments as directed by your Land Development Code,
9 and that this clearly falls under what is permitted by
10 accessory uses and structures per the code.

11 And to give you more information on the casita
12 concept, we'll have Duane Truitt, unless you have any
13 other questions.

14 HEARING EXAMINER RIVERA: Thank you.

15 MR. TRUITT: Good morning, Madam Examiner. I am
16 Duane Truitt, and I'm one of the three partners in L26
17 Development. I'm joined here also in the audience by
18 John Callis and Jim Hamilton. So the three of us, we
19 are L26 Development, and we have an ownership entity
20 that currently holds title to this property, which we
21 purchased in January of this year.

22 I want to add a couple of things before I get into
23 my slides. Number one, we already have an executed
24 agreement with Florida Power & Light for the proposed
25 uses inside the FP&L easement. We had that executed

1 about 30 days ago, roughly, and they're happy with it.
2 I would add also that when we had some comments from
3 resident -- or, actually, a group of several residents
4 in Cypress Trail, they had suggested there is a noise
5 factor that would impact them, and they had suggested,
6 you know, moving our facilities further south. And I
7 just wanted to say that we really can't move them any
8 further south because it's a combination of we have to
9 stay away from the transmission tower that FP&L
10 maintains, and also to the south it's extensive
11 wetlands. So we obviously didn't want to impact any of
12 those.

13 I'd also like to add a minor correction of what
14 was stated before. The zero lot line is referring to
15 the location of the RV pad sits along the property or
16 the lot boundary, and the casitas are a minimum
17 five-foot separation from the lot boundary.

18 And so -- oh, that one, okay.

19 Let me talk for a moment about our vision for
20 Laguna Caribe. Cypress Woods is a very
21 well-established, mature RV resort community. As you
22 know, it was initially zoned back in the mid 1990s,
23 constructed shortly thereafter. The currently five
24 approved phases have all been developed. In fact,
25 they've been developed since, I believe it was, 2004.

1 The resort was actually turned over to the lot owners
2 in 2014 by the former developer. The former developer
3 owned this Phase 5 property. He ended up losing it in
4 foreclosure to the bank. The bank took it over. And
5 during that process of the turnover, the homeowners'
6 association wrote in certain amendments to their
7 documents to protect them from some of the things they
8 thought they had suffered at the hands of the former
9 developer. So when we became aware of this property
10 and were introduced to it, which was more than two
11 years ago, one of our first concerns is, well, if we
12 have an operating HOA, how is that going to work with a
13 new developer. And we examined all of the association
14 documents, and there were some what we considered to be
15 poison pills in there for a new developer coming in.

16 So our first task, really, in terms of doing our
17 due diligence on the purchase of the property was to
18 sit down with the HOA, which we did, and we had
19 extensive conversations with the board of directors,
20 and we went back and forth over some of the changes
21 that we thought would be necessary to allow us to
22 reasonably develop this last phase. And it took a lot
23 of effort and a lot of give and take by both sides. As
24 you can imagine, dealing with the HOA you're not
25 dealing with one person. You're dealing with, you

1 know, hundreds of owners.

2 But we were successful in that process, and by
3 January of 2019, about a year and a half ago, the HOA
4 board of directors approved a new developer's agreement
5 that we agreed to, and along with that a number of
6 association document amendments that eliminated the
7 poison pills. And that entire package was put before
8 the homeowners in their annual meeting which took
9 place, I believe it was, first week of February 2019,
10 and it was overwhelmingly approved. So we want to say
11 thank you to the homeowners because that -- that was
12 not easy for them, and it wasn't easy for us, but we
13 really appreciate the fact that they did cooperate with
14 us, and it could have turned out very differently.

15 So with that being said, our vision now is to come
16 into Laguna Caribe and develop something that's a
17 little better than what's been developed before. The
18 existing resort is considered, I think, in the
19 marketplace of RV resorts, both locally and nationally,
20 to be sort of a mid-scale type of resort. It hasn't
21 yet reached what we would call upscale or five-star
22 resort status, and what we wanted to do is to develop
23 Phase 5 as that five-star resort. And it would not
24 only improve the value of those lots within Phase 5,
25 but would also, in the sense of a rising tide lifts all

1 boats, would actually improve the values of all the
2 lots inside of Cypress Woods.

3 So that's our concept. And how we did it, it's a
4 combination of we came up with what we think is a
5 little better site plan than what was previously
6 approved in the master concept plan, and we also wanted
7 to add some amenities that did not yet exist inside of
8 Cypress Woods. And part of this was a clubhouse. Now,
9 there is an existing clubhouse in Cypress Woods, but
10 it's not set up as a resort-style clubhouse. It's more
11 a set of meeting rooms and facilities where residents
12 can come in and hold, you know, big meetings and things
13 of that nature, activities, but there was no bar and
14 restaurant in there. So we wanted to add that, and we
15 wanted to add some additional recreational facilities,
16 a dog park -- believe it or not, if you know anything
17 about RV resort living, virtually everybody that has an
18 RV seems to have a dog. They all want to have a dog
19 park someplace where they can take the dog or dogs and
20 exercise them and socialize with their neighbors, and
21 that's something that was missing in Cypress Woods.

22 And we also wanted to add the casita concept,
23 which I'll talk about in just a moment.

24 But here we have the renderings of the clubhouse.
25 The intent is to have, as our name suggests, a

1 Caribbean lagoon feel to this development, and hence
2 the name "Laguna Caribe."

3 With respect to the RV resort market, it's changed
4 tremendously in the last 20 years. 20 years ago the
5 typical RV resort was you had a lot. It was pretty
6 skinny. It didn't have much on it. If you think of a
7 KOA campground, that was pretty much the standard up
8 until the end of the 1990s. But in the last two
9 decades, they've evolved considerably, and now they've
10 become very much like luxury resorts that you would see
11 in some of the finest single-family home resorts and
12 hotel resorts. And in order to accommodate the
13 lifestyle of people that spend not just a week or two
14 at a time but months at a time, if not year round, in
15 their recreational vehicles, having additional
16 supplemental living space is crucial. If you can
17 imagine trying to live yourself inside of less than 400
18 square feet, well, that's what you get in even the very
19 largest road-legal motor coaches, and some are
20 considerably smaller than that.

21 Owners of RVs typically want to have additional
22 space where they can spread out, where they can have
23 friends and family visit them on occasion. And
24 particularly here in South Florida where, you know,
25 everybody has relatives and friends from up north, and

1 they want to accommodate them, it's pretty much
2 impossible inside an RV. So what has happened in the
3 last 20 years is the standard throughout all of
4 Florida, as well as the rest of the nation, is to offer
5 these casitas which serve as supplemental living space
6 accessory use structures.

7 So I'm going to walk through a few examples both
8 locally and nationally. Here is one, Heritage Coach
9 Resort & Marina. This is in Orange Beach, Alabama.
10 And, again, these are not tents on the beach. These
11 are buildings that look very much like little houses,
12 and hence the name "casita," which is Spanish for small
13 house.

14 This is in Desert Shores Motorcoach Resort. This
15 is in Indio, California. This is basically out in the
16 desert east of Los Angeles. And, again, you see an RV
17 parked next to what looks like a kitchen and a family
18 room, which is typical in these casitas.

19 This is the exterior of one of those casitas in
20 that same resort, and you can see that extensive
21 landscaping, extensive hardscaping, private swimming
22 pools, gazebos, pergolas, I mean, anything you can
23 think of that a person would want in a luxury
24 single-family home is being offered in these resorts
25 around the nation.

1 More locally, this is Golden Palms Motorcoach
2 Resort. This is located in Lee County just north of --
3 or, actually, just south of State Road 82, I believe it
4 is. And here you see an RV coach parked next door to
5 what they call a casita, but which Lee County, in the
6 zoning ordinance, refers to as a cabana. It doesn't
7 look like a tent on the beach.

8 This is in -- up north now, this is Hearthside
9 Grove Motorcoach Resort, Petoskey, Michigan. This
10 resort is world famous. People literally come from all
11 over the world to buy lots here and live here. Of
12 course, it's primarily a summer season resort as
13 opposed to our winter season.

14 Here's another example of a -- an actually
15 somewhat more elaborate two-story casita in Fountains
16 of St. Augustine Motorcoach Resort, St. Augustine,
17 Florida.

18 And next door to us in Hendry County we have
19 Riverbend Motorcoach Resort. This is a mature
20 resort -- it's been around for 20 some years -- but
21 they have started offering casitas there a few years
22 ago. And in some of their marketing materials for
23 Riverbend Motorcoach, they talk about, you know, what
24 the casitas consist of and what they offer, including,
25 it says here, "Most designs include bathrooms,

1 washer/dryer and kitchenettes."

2 And I would add -- I mean, it's not just there.
3 It's in -- inside Lee County, the city of Cape Coral.
4 I'm very familiar with their RV park land development
5 code they're calling the land development regulations
6 in the city. I participated in getting a resort
7 approved under that code in 2015. They have what they
8 call -- a "camping cabin" is their terminology, but
9 functionally it's exactly precisely equal to what we've
10 requested for our casitas.

11 So there are varying names. Some -- some folks --
12 different resorts call them villas, some call them
13 coach houses, some call them casitas, but they're
14 pretty much functionally the same.

15 Now, these are architectural renderings of casitas
16 that we would like to be able to offer. There's
17 elevations here. The one -- the upper one, the "A"
18 elevation, that's a smaller unit. That's about 400
19 square feet. And the lower one on the page is the
20 600-square-foot unit. And, essentially, all the bigger
21 one is is just a longer version of the same one that's
22 400 square feet.

23 The kitchen area is located on the left end of
24 both of these models. And you can't tell by looking at
25 the rendering, but essentially what we have are two

1 choices: The kitchen is on the left, and it either can
2 be enclosed with glass slider doors and have
3 air-conditioning vents, in which case the County is
4 asserting that that is a single-family residence; or
5 you can delete the slider doors and delete the
6 air-conditioning vent, and the County is happy with
7 that. They call it a cabana. You look at the picture.
8 It's not a cabana, and it's not a single-family
9 residence. It's a casita.

10 So with that, I'd like to turn it over to Neale
11 again, who will address some of the code issues
12 associated with it.

13 MS. MONTGOMERY: Neale Montgomery for the record.

14 As we talked about earlier, there isn't a
15 definition for this particular accessory use. There is
16 a provision, as Alexis pointed out, for accessory uses
17 and structures. And I understand the staff's concern
18 about not wanting to create, quote, two units on the
19 same lot, and that's not the intention. The intention
20 is to try to provide an amenity that's provided in
21 upscale resorts around the country. So the condition
22 that we've provided to you is an effort to clearly make
23 sure that this is an accessory use, and it can only be
24 used in conjunction with the principal use of the RV.

25 And we've looked at other jurisdictions, and this

1 particular accessory use is allowed in other locations,
2 although it doesn't always use that particular
3 vernacular in terms of describing it. The one I think
4 is -- is most successful and, I think, more familiar is
5 the one that's in Hendry County. And that's been so
6 successful -- I think Alexis can attest that they've
7 come in for another -- either a -- I don't know if it's
8 a whole new park or an extension, but they're going to
9 recreate that particular facility.

10 And I would note -- nobody has really talked about
11 it. There's a broad scale of RVs, you know. You see
12 the ones that, you know, the trucks pull down the road.
13 You see the little pop-ups. Typically high-end resorts
14 are the ones that have the flat screen TVs on the
15 outside and -- you know, the pictures with the RVs that
16 you saw in those pictures, I can't tell you exactly
17 what they cost today, but they're -- they're expensive.

18 I think it's important to note that they would
19 record covenants, deed restrictions, to ensure that
20 it's not used as a single-family residence. And I'm
21 sure what the County would say is, well, that's great,
22 but how do we enforce that. Well, the answer is the
23 County doesn't enforce deed restrictions. There's a
24 provision in the Land Development Code that provides
25 for that. But it's not unusual for the County to

1 require deed restrictions because every time you get a
2 development order, as you know, you have that checklist
3 of you have to do -- you know, you have to have an HOA,
4 you have to do restrictions on a myriad of things. The
5 Water Management District requires it, as well. So it
6 is important to have a strong HOA, and as Mr. Truitt
7 has already told you, in this case they do have a
8 strong HOA, and they're usually more than happy to
9 enforce the rules. And, also, all the RV lots in
10 Laguna Caribe are subject to the existing rules of the
11 HOA by statute.

12 And if you were to -- a lot of times I know you go
13 visit the park ahead of time. Did you have that chance
14 to --

15 HEARING EXAMINER RIVERA: I tried to. That's
16 going to be one of the things I'd like to schedule
17 because I couldn't gain access. There wasn't anyone
18 manning the gate and so --

19 MS. MONTGOMERY: I tried to tell them you come
20 early and to let you in so --

21 HEARING EXAMINER RIVERA: There was no one there.
22 I often go before and after, so that's something that
23 I'll have Maria coordinate with you.

24 MS. MONTGOMERY: So since you couldn't get in, you
25 know that your average person who is not authorized

1 isn't going to get into the park.

2 HEARING EXAMINER RIVERA: That's right.

3 MS. MONTGOMERY: And I think the other thing is
4 the County already has regulations that prohibit you
5 from doing illegal lot splits. So, in other words,
6 this couldn't become a separate house or unit because
7 you'd have to either, A, plat it, or do an illegal lot
8 split, and none one of those things could happen
9 without the County's involvement. And if they did try
10 to do it, you would be greeted, I'm sure, relatively
11 quickly by Code Enforcement.

12 And there is an existing condition that I
13 mentioned in the 24-hour letter about the fact that
14 there's supposed to be this annual reporting of how
15 lots are used. Since it's been turned over to the HOA,
16 I don't think that's actually happened. I mean, the
17 lots are platted, and they're in existence, so I don't
18 know that there really needs to be an annual reporting.
19 However, if you wanted to keep that condition, I
20 suppose it would be more relevant to, for some period
21 of time, have an annual report that monitors this to
22 ensure that it's being used just exactly as it's being
23 represented to you today, that it's being used as an
24 accessory use to the RV.

25 With that, I'm going to turn it over to Mr. Sterk.

1 MR. STERK: Good morning.

2 HEARING EXAMINER RIVERA: Good morning.

3 MR. STERK: For the record, my name is Jeremy
4 Sterk. I'm the principal ecologist and a partner at
5 Earth Tech Environmental. I'm just going to give you a
6 brief environmental overview.

7 So this is Phase 5. As everybody said, the
8 original Cypress Woods property was developed in the
9 mid '90s. Phase 5 at that time was cleared, filled,
10 and the lake was excavated, and at that time a
11 conservation easement under the original district
12 permit was established. It's about three acres, and
13 the conservation easement is located immediately west
14 of the FP&L easement, and then there's a portion that's
15 east of the FP&L easement along the east property line.

16 MS. WORKMAN: Can I stop you right there?

17 MR. STERK: Sure.

18 MS. WORKMAN: Do we need to accept him as an
19 expert, or are we -- I'm sorry.

20 MR. STERK: My resumé is in the package.

21 HEARING EXAMINER RIVERA: They were provided in
22 the 48-hour letter. Did staff have questions?

23 MS. WORKMAN: No. I just thought he had to be
24 accepted in the --

25 HEARING EXAMINER RIVERA: Yes --

1 MS. WORKMAN: -- hearing forum.

2 HEARING EXAMINER RIVERA: -- he would need to
3 be --

4 MS. WORKMAN: Okay.

5 HEARING EXAMINER RIVERA: -- if you can hold one
6 second. When Ms. Montgomery did the introductions,
7 that was something I wanted to acknowledge on the
8 record, is that those resumés were provided as part of
9 the 48-hour letter.

10 Have you testified in this forum before?

11 MR. STERK: Not this forum, no.

12 HEARING EXAMINER RIVERA: Could you please
13 briefly, then, just go through your qualifications?

14 MR. STERK: Sure, sure. So I've been an
15 environmental consultant in Southwest Florida since
16 1994. My bachelor's degree is in aquatic biology, but
17 I've been doing consulting of this nature since 1994 in
18 Southwest Florida. I've worked on a number of large
19 projects predominantly in Collier, and we handle -- our
20 company does listed species surveys. We do all the
21 environmental permitting through the Water Management
22 District, through Lee County, Collier County, the Army
23 Corps of Engineers.

24 HEARING EXAMINER RIVERA: And you are familiar
25 with the Lee County Land Development Code?

1 MR. STERK: Yes.

2 HEARING EXAMINER RIVERA: Okay, thank you.

3 MR. STERK: So I kind of briefly touched this on
4 the prior slide, but, as we said, the site was
5 predominantly impacted. So the natural communities
6 were mostly cleared in the late '90s. The conservation
7 easement does exist. It has been recorded, and no
8 changes to that are proposed. There was an existing
9 environmental resource permit that expired just a few
10 years ago, and that's been reauthorized as of this
11 year, and I do have a copy of that with me if you'd
12 like it.

13 And the applicant is now currently replanting and
14 restoring the on-site indigenous preserve restoration
15 area that was required of the original developer but
16 never done. So this developer is -- is following
17 through on that commitment made by the prior developer.

18 And our listed species, have -- have not
19 discovered any listed species on the property.

20 And with that, I'm going to turn it over to --
21 well, I'll go over this slide one more time. Alexis
22 did review this slide. Again, the -- I'll stand over
23 here.

24 Right here is the conservation easement, in this
25 area right here, and then this portion along the east

1 side. There's a small upland portion of that
2 conservation easement right here, and then the balance
3 of this wetland from here south.

4 And then relating to the -- to the fire deviation,
5 as Alexis said, that it's a very narrow conservation
6 easement in a natural area, and the FP&L easement
7 provides great access along the east side. If there
8 was a fire and -- and Division of Forestry needed to
9 access, they would have great access along that entire
10 east side of the conservation easement using the FP&L
11 easement.

12 HEARING EXAMINER RIVERA: And before you leave,
13 the modifications that were made to the open space and
14 the indigenous open space figures, were those just
15 corrections that needed to be made, or were there
16 actually adjustments that were made to the site plan?

17 MR. STERK: They were corrections, yeah.

18 HEARING EXAMINER RIVERA: So that was what was
19 provided in the application materials --

20 MR. STERK: Correct.

21 HEARING EXAMINER RIVERA: -- through the process,
22 and the numbers somehow just got --

23 MR. STERK: Yeah.

24 HEARING EXAMINER RIVERA: -- incorrectly noted?
25 Okay, thank you.

1 Did staff have any questions?

2 MS. WORKMAN: No, ma'am.

3 HEARING EXAMINER RIVERA: Okay, thank you.

4 MR. STERK: And with that, I'm going to turn it
5 over to Dan Hartley.

6 MR. HARTLEY: Good morning.

7 HEARING EXAMINER RIVERA: Good morning.

8 MR. HARTLEY: For the record, my name is Dan
9 Hartley with Peninsula Engineering. I'm a civil
10 engineer for Phase 5 of the development, and I may need
11 to be accepted as a witness similar to Jeremy.

12 HEARING EXAMINER RIVERA: Thank you. This is your
13 first time testifying in this --

14 MR. HARTLEY: It is --

15 HEARING EXAMINER RIVERA: -- forum?

16 MR. HARTLEY: -- yes.

17 HEARING EXAMINER RIVERA: Okay, thank you. And
18 your resumé was also provided, but if you could please
19 briefly go through your qualifications --

20 MR. HARTLEY: Sure.

21 HEARING EXAMINER RIVERA: -- as well.

22 MR. HARTLEY: Graduated in 2007, Bachelor of
23 Science in Engineering from the University of Florida;
24 registered professional engineer; been doing civil
25 engineering, design, project management since 2007 in

1 Collier County and Lee County; have been an engineer of
2 record for multiple developments in both Lee and
3 Collier County; and I am familiar with the Land
4 Development Code.

5 HEARING EXAMINER RIVERA: Okay, thank you.

6 Does staff have any questions?

7 MR. ROBERTS: No questions.

8 HEARING EXAMINER RIVERA: Thank you.

9 MR. HARTLEY: Okay. So a brief overview of the
10 civil engineering for Phase 5 of Cypress Woods and as
11 it relates to the overall Cypress Woods development.

12 So for the -- as previously noted, Phases 1
13 through 4 of Cypress Woods are developed. You know,
14 certificates of completion have been issued since, I
15 think, around the mid 2000s, 2006, plus or minus.

16 For the Phase 5 property, a development order was
17 previously issued for 120 lots. I think that was
18 approved in 2006, but the property was never fully
19 developed. The lake was excavated on the property, as
20 Jeremy noted, based on previous DO and South Florida
21 ERP approvals, but that was the extent of the
22 development.

23 We now have a new ERP issued for Phase 5, Laguna
24 Caribe. A new permit number was issued for this
25 project earlier this year as a modification to the

1 previous ERP approvals for the overall development.

2 The existing site, we've seen aerial imagery, but
3 it's -- it's generally flat. I've been on-site
4 numerous times, so as is typical in Florida, it's
5 typically flat. There is an existing lake. As Jeremy
6 noted, there's existing conservation -- conservation
7 easements on the property, otherwise undeveloped.

8 The project is a part of the master surface water
9 management system of Cypress Woods RV Resort, with
10 ultimate outfall to Country Lakes Drive, which is on
11 the west side of the overall development, and I'll
12 discuss that in a little more detail in the following
13 slides.

14 This last bullet is referencing an existing ditch
15 which exists in the northern portion of the property.
16 It runs from the east side of the property to the west.
17 Historically, that ditch provided a conveyance route
18 for off-site flows, stormwater flows from off-site
19 properties to the -- to the east of Cypress Woods.
20 Upon development of Cypress Trail RV Resort, which is
21 directly north of Cypress Woods, in both the South
22 Florida Water Management District environmental
23 resource permitting and the Lee County development
24 order permitting, that conveyance route was rerouted
25 to, basically, turn north right at the northeast corner

1 of Cypress Woods.

2 So the existing ditch was blocked off, no longer
3 allows any flow into Cypress Woods, and a new outfall
4 route was constructed all the way north to Tice Street,
5 and that does exist. And the existing ditch within
6 Cypress Woods that was previously associated with the
7 Cypress Trail development was then blocked off. The
8 ditch was basically partially filled to preclude any
9 flow from entering. So the existing ditch on the
10 property no longer receives any off-site flows and can
11 effectively be removed as it serves no -- no water
12 surfaces a conveyance route for off-site flows.

13 So overview: Stormwater management, as I
14 mentioned, we have an approved ERP permit which
15 addresses all state requirements for water quality
16 attenuation. Again, the existing development includes
17 the -- you know, the majority of the master surface
18 water management system, of which this Phase 5
19 development is a part, always has been a part. Our new
20 permit modified it based on the reconfiguration of the
21 property, you know, any additional impervious area we
22 have with the increased number of lots, amenity,
23 reconfigured lake, et cetera. So the issued permit
24 does conform with what is intended to be the build-out
25 of the -- of the project.

1 HEARING EXAMINER RIVERA: So do you have a
2 breakaway permit for this particular phase, or is it --

3 MR. HARTLEY: So they -- they no longer do
4 breakaway permits as they used to. Their new
5 procedure, which has been in effect for six months to a
6 year now maybe, is they've been issuing new permits,
7 and it's -- I think it's generally related to being
8 able to identify the appropriate maintenance entity and
9 the permittee. So the permittee of this permit -- this
10 permit really is for the Phase 5 property area, and the
11 permittee is the landowners or L26 Development.

12 HEARING EXAMINER RIVERA: But the maintenance
13 entity is still the HOA?

14 MR. HARTLEY: Yes, and that is addressed in the
15 ERP permit. And it does remain as the HOA is the
16 ultimate maintenance responsibility for the surface
17 water management system.

18 HEARING EXAMINER RIVERA: And it ties into the
19 master system --

20 MR. HARTLEY: It does, and actually I have a
21 visual I'll -- we'll see. In just a couple slides
22 here, I'll go over that.

23 So the next bullet -- kind of answering your
24 question. The on-site lake will connect to the
25 existing two lakes that are within Cypress Woods. And,

1 again, I have a visual, but the lake to which our lake
2 will connect has a portion of the interconnect, the
3 lake -- the culvert between the lakes constructed which
4 we're tying into and will effectively connect the
5 lakes.

6 The -- again, its master system, along with the
7 ERP permit, we confirmed that all appropriate water
8 quality attenuation provided were actually in excess of
9 water quality requirements. And it's -- the control
10 structure is existing, it's one of the existing lakes,
11 and the design in the ERP permit was based on that
12 control structure and -- in conjunction with, you know,
13 the overall design of Cypress Woods, including our --
14 our property.

15 Flood Zone X, which does not have a base flood
16 elevation associated -- the entire property is in Zone
17 X, and there's no adjacent flood -- floodways or
18 streams adjacent to the property.

19 This is a little graphic just summarizing the main
20 components of the master surface water management
21 system. Let's see if I can get this to work.

22 So this is an existing lake, another existing
23 lake, which this interconnect exists. As I mentioned,
24 about this much of the interconnect has already been
25 constructed, and we will be connecting this portion of

1 the interconnect to -- to connect the lake system, the
2 existing control structure, which discharge through
3 piping up to an outfall near Country Lakes Drive, and
4 this eventually makes its way to the Orange River,
5 which is the basin which this project falls in. And it
6 should be noted the outfall, it's existing. It's been
7 that way for -- you know, it's decades now. So -- and
8 with our ERP permit, we confirmed that we are still
9 within all allowable discharge limitations, et cetera,
10 which we are.

11 As far as utilities, the existing water and sewer
12 system within the property is private, but it's served
13 by Lee County Utilities. We are connecting to existing
14 stub-outs provisions for utility service connection
15 which were made for this project, as it was always
16 envisioned to connect. We do have a new letter of
17 availability from Lee County Utilities acknowledging
18 that service is available to serve this project and
19 with available capacity.

20 Transportation, a TIS waiver was secured during
21 the RVPD application process based on the de minimis
22 addition of only three lots to the previously approved
23 zoning.

24 And I think that wraps up my portion, if anyone
25 has any questions.

1 HEARING EXAMINER RIVERA: Does staff have any
2 questions?

3 MR. ROBERTS: Just real quick. Can you go back to
4 your surface water plan?

5 MR. HARTLEY: Yes.

6 MR. ROBERTS: And describe the area, the northern
7 ditch, and how it was rerouted and --

8 MR. HARTLEY: Sure.

9 MR. ROBERTS: -- set back --

10 MR. HARTLEY: So you might be able to see a faint
11 line right there. That is the existing ditch which
12 comes from off-site properties. Historically, the
13 ditch came right across the property and entered the
14 system, with conveyance through -- through the water
15 management system.

16 Right here the ditch was closed to prevent any
17 further flow toward the west. And on the east side of
18 this FP&L easement, which continues all the way north
19 adjacent to, you know, some of the amenities that
20 Cypress Trail has within the FP&L easement, but all the
21 way up to Tice Street a new ditch was excavated to
22 reroute those flows.

23 MR. ROBERTS: Thank you.

24 MR. HARTLEY: If that answers your question.

25 MR. ROBERTS: Yeah, it does.

1 HEARING EXAMINER RIVERA: Thank you.

2 MR. HARTLEY: Thank you.

3 MS. CRESPO: Again, Alexis Crespo, just wrapping
4 up our presentation. We just have a few more slides,
5 and we thank you for your patience.

6 I just want to wrap up a few housekeeping items on
7 the proposed casita. Slide 44, in our slide deck that
8 Neale ended on, is an excerpt from the Golden Palms
9 RVPD website. That PD was approved for the cabana use.
10 You can see through what's being advertised and what's
11 being constructed there with -- with the kitchen
12 facilities that the industry is creating work-arounds
13 around the Lee County Land Development Code. And we
14 understand it's not -- not always easy to take this
15 approach, but our goal through this amendment is to be
16 very transparent and request what the market is
17 actually demanding.

18 And just to give you some reference pieces on
19 that, Duane did mention the Cape Coral Land Development
20 Code, which was amended. In their code they're calling
21 it camping cabins, and it specifically allows for
22 kitchenettes. And then we have our example that was
23 provided in our application from Collier County, which
24 is the Pelican Lake planned unit development, where
25 they amended their PD in 2014 also to explicitly allow

1 for cooking, laundry, storage within these casita-type
2 structures. So this is -- this is occurring, and our
3 effort here is just to be transparent and get the use
4 approved as -- as it's really being used in these
5 planned developments. I'll submit these.

6 HEARING EXAMINER RIVERA: Okay, thank you. And
7 I'll make that Applicant's Exhibit 3 for Cape Coral and
8 for Pelican.

9 (Applicant Exhibit 3 marked.)

10 HEARING EXAMINER RIVERA: And I imagine we'll come
11 back to this after staff speaks, as well, but this
12 obviously is something that is an issue in this case,
13 if we can stay on this for a moment before you go to
14 your Lee Plan --

15 MS. CRESPO: Okay.

16 HEARING EXAMINER RIVERA: -- compliance.

17 So, you know, it's obvious that that's something
18 that the market is demanding. I was involved,
19 actually, in that Golden Palms case so I am familiar
20 with the cabanas as they proposed them. And obviously
21 through that conversation, kitchenettes and overnight
22 sleeping did not come up, and they are held to the
23 cabana requirement in the Land Development Code, so
24 that's not permitted so that's a separate issue
25 unfortunately. And camping cabins, as I'm sure you

1 know, is also provided for in the Land Development
2 Code, but those are permitted in RV conventional zones,
3 and they don't allow overnight sleeping either.

4 So the challenge that we have here is that the
5 Land Development Code does provide for cabins, and they
6 do provide for -- or, excuse me, cabanas, and they do
7 provide for camping cabins, but they don't have the use
8 specifically of "casita" as you've defined it. So
9 something that I want to hear from staff about as we go
10 through this, as well, is my limitations from the Land
11 Development Code of what the Hearing Examiner is
12 permitted to do. I can't create a new use category
13 unless the -- unless the Director agrees with it.

14 MS. MONTGOMERY: Yeah, I'd like to speak to that
15 because -- and I'm sure you've had this experience.
16 Every time we go through an application, people are
17 always concerned about whether their accessory uses are
18 permitted. Beth and I just had the experience of going
19 through Verdana Village where they were concerned that
20 accessory uses, their amenities, might not be allowed.
21 So we had a list of maybe 20 things, and then the staff
22 said, "Ah, no, you don't need to do that. Those are
23 normal." So the challenge for an applicant is do I
24 just use the general heading, and then try to do it
25 later.

1 I mean, one of the things that has become
2 controversial in Estero, for example, is pickle ball.
3 Half the people love it; half the people hate it. It's
4 not on the list of permitted uses anywhere, it didn't
5 exist 20 years ago, but we allow pickle ball because
6 it's an accessory use. Bocce ball, 20 years ago we
7 didn't do that. Now people do have that as a normal
8 accessory use.

9 So the challenge that we have is that the normal
10 accessory use has changed. As Mr. Truitt pointed
11 out -- and he's right. When we first started
12 traveling, amenities were a swing set and a sliding
13 board. That was great. My daughter was little. But
14 as she grew up and as the industry evolved, what was
15 provided changed. You could have zip lines. You could
16 have pools. You could have docks. You could have
17 fishing -- you know, paddle boats. It's different in
18 different parts of the country, and it's different as
19 the industry has evolved, and really, frankly, as the
20 motorhomes have gotten more expensive.

21 And I would submit with COVID older residents, who
22 tend to gravitate towards RVs, feel much safer in their
23 own RV that they keep clean rather than going to some
24 hotel that they don't really know if it's clean and
25 don't want to be at risk. So I don't think the demand

1 for this is going to lessen. I think it's going to
2 increase.

3 And that's why I go back to the staff, to
4 eliminate it completely -- I'm assuming that's why they
5 eliminated accessory uses and structures from the list
6 of permitted uses, but the Land Development Code does
7 allow it.

8 So -- and I recognize the cabanas are allowed,
9 which is why I'm sure you requested that in the Golden
10 Palms case. This is something different, and we don't
11 want to be a Golden Palms where we ask for one use, but
12 it really evolves into something else. We'd like --
13 that's why, I think, Alexis' point is we're trying to
14 be transparent. This is now a normal accessory use
15 just like now bocce ball and pickle ball are normal
16 accessory uses. Less people play tennis. They play
17 pickle ball. It's an evolution.

18 HEARING EXAMINER RIVERA: Certainly. No, I
19 appreciate that, and I appreciate Mr. Truitt's
20 comments, as well, because I see the benefit for the
21 folks that are using this amenity. Again, my
22 concern -- and I know we're going to come back to it
23 with staff. We don't need to have the entire
24 conversation right now. But just in reviewing this and
25 preparing for the case, my limitation is it seems like

1 if that is the case, it needs to go through an LDC
2 amendment process so that it's universally applied
3 because the code doesn't really provide the Hearing
4 Examiner the opportunity to create a new use category
5 specifically for each PD unless the Director signs off
6 on that, and so that's the limitation that I have.

7 So we'll come back to that again. I'd like to
8 hear from staff as they're recommending no accessory
9 uses. I don't know if it's tied to that or not. But I
10 wanted to get that for now to see your comments. Thank
11 you.

12 MS. CRESPO: Thank you.

13 All right. To close up our presentation, just
14 touching on our compliance with the Lee County Lee
15 Plan, the site is within the urban community future
16 land use category which allows a range of residential
17 uses at urban densities at six units per acre. The
18 application is well below the maximum permitted with
19 the 137 units. And the RVPD use is consistent with
20 that category.

21 The proposed amendment is directly in compliance
22 with Objective 2.2, and that is directing new growth to
23 an urban area, an infill site that was intended for
24 this type of development where the existing utilities
25 and transportation infrastructure is available to serve

1 the proposed number of units.

2 Through our sensitive site design, we fully
3 addressed Policy 5.1.5, in that we are protecting
4 existing and future residential areas through our
5 existing preserve areas, 40-foot-wide RVPD perimeter
6 buffers, as well as additional screening along portions
7 of our north and eastern property line. We are fully
8 compatible with our surrounding residential neighbors.
9 And then, in addition, have added the pickle ball sound
10 mitigation fence to further our compatibility. And
11 certainly the RV use was intended for this site as
12 evidenced through the zoning history.

13 As Dan has outlined, we have water and sewer
14 facilities and adequate capacity to serve the proposed
15 development.

16 Some additional policies we want to touch on that
17 directly support the requests that are in the staff
18 report or the backup materials include housing and
19 economic development policies. Policy 135.1.3 under
20 the housing element touches on the fact that household
21 preferences and needs evolve over time, and that
22 through the Land Development Code the County should be
23 looking at ways to modernize and respond to those
24 changing household preferences so that we can provide
25 for the full range of housing within our community,

1 also allowing for a wide variety of housing densities
2 and types through the planned development process.

3 This touches on, I think, the procedural question
4 at hand, which is how can we seek this type of use.
5 And as evidenced through the Collier County example,
6 and I believe through other Lee County examples, that
7 through the PD process unique uses can be sought to
8 allow, again, for unique housing options.

9 Under the economic element, this is also very
10 consistent with Policies 158.1.9, as well as 1.10, in
11 that the Land Development Code, and the County as a
12 whole, should look to promote diverse housing types as
13 it is directly supportive of economic development goals
14 to bring people to the Lee County community to spend
15 their money, improve the tax base, et cetera.

16 The PD is consistent with the land development
17 criteria in Section 34-145 of the LDC. This is
18 outlined as well, in our application materials, as well
19 as the staff report. We've demonstrated compliance
20 with the Lee Plan. The -- the development meets the
21 code and qualifies for the deviations based upon the
22 justifications provided and protection of public
23 health, safety, welfare. We've demonstrated
24 compatibility with the surrounding use area. There is
25 sufficient access to the overall PD from Luckett Road,

1 as well as two points of ingress/egress from Brightwood
2 to this specific phase of the project. There will be
3 no impacts on the transportation facilities as this
4 zoning was originally approved for three additional
5 units than what is requested today as evidenced through
6 our TIS waiver.

7 As Jeremy has outlined, the proposal will not
8 negatively impact environmentally sensitive areas,
9 areas under conservation easement will be maintained,
10 and the site is well served by urban services.

11 And so we are entirely in agreement with your
12 staff. We appreciate them working through this process
13 with us. The one area of disagreement is the casita
14 use based upon the fire support letter we were able to
15 secure yesterday. We are seeking flexibility through
16 the PD rezone process to address the evolving market
17 demand for unique housing specific to RV resort
18 communities. We believe, through our enforceable
19 conditions, this will not be increasing density and
20 will be truly an accessory use. We do have the support
21 of our HOA, and we have demonstrated compliance with
22 your Lee Plan and LDC.

23 I'm happy to answer any questions that you have.

24 HEARING EXAMINER RIVERA: Just to go back through
25 the 48-hour letter, I think that Ms. Montgomery touched

1 on it, that the Condition 3 tracking requirement was
2 just something you're objecting to?

3 MS. MONTGOMERY: Well, it's something I'm -- I
4 mean, I raised it because I'm not sure it's relevant,
5 particularly now that it's been turned over to the HOA.
6 And I suspect it hasn't happened, and I don't know that
7 the County really needs that information. Particularly
8 since the lots have been platted, you know what lots
9 are --

10 MR. ROBERTS: The --

11 MS. MONTGOMERY: -- at this point --

12 MR. ROBERTS: -- the tracking information comes
13 from old zoning brought forward. Staff doesn't have an
14 objection to it being deleted, per se. I believe, from
15 the research that I saw, it dealt with a DRI threshold
16 of keeping 599 RV units that no longer exists. It's
17 now -- it's compatible with the land use, so there is
18 no DRI threshold, so no issues with Condition 3.

19 HEARING EXAMINER RIVERA: There will be an
20 opportunity to speak at public comment.

21 MR. ROBERTS: Okay, I'm sorry.

22 HEARING EXAMINER RIVERA: Oh, no, not you. I'm
23 not talking to you.

24 MR. ROBERTS: Oh.

25 UNIDENTIFIED SPEAKER: I have a comment on that

1 particular issue.

2 HEARING EXAMINER RIVERA: Okay. If you could
3 please make a note of it --

4 UNIDENTIFIED SPEAKER: That's fine.

5 HEARING EXAMINER RIVERA: -- and you'll have the
6 opportunity after staff goes.

7 I apologize, Mr. Roberts. I wasn't --

8 MR. ROBERTS: That's okay.

9 HEARING EXAMINER RIVERA: Number 6, traffic
10 impacts, I think I understood your -- your concern, was
11 just it's not the proper -- or not the normally worded
12 traffic --

13 MS. MONTGOMERY: Exactly.

14 HEARING EXAMINER RIVERA: -- condition. Okay.

15 And did staff have anything on the traffic --

16 MR. ROBERTS: Staff doesn't object to Condition 6
17 insofar as it meets the development order requirements,
18 which is required in Condition 1. It's stated in
19 Condition 1. So barring anything that -- you know,
20 that would not be covered in the development order --
21 development order process, we don't have an objection
22 to deleting that particular condition.

23 HEARING EXAMINER RIVERA: My only question,
24 Condition 4, the on-site shelter, that was discussed.
25 I can't recall if that was in the request statement or

1 in the staff report. But is the existing emergency
2 shelter, did that -- I assume that that included the
3 potential unit count for Phase 5?

4 MS. CRESPO: I am not -- I'm not aware of the
5 on-site shelter. Are you asking if it's been satisfied
6 by the existing phases?

7 HEARING EXAMINER RIVERA: If it included -- if it
8 projected the population of this phase.

9 MS. CRESPO: Oh, yes.

10 HEARING EXAMINER RIVERA: Okay.

11 MS. CRESPO: I'm sorry, yes.

12 HEARING EXAMINER RIVERA: Thank you. I just
13 wanted to have that for the record.

14 I think that was the extent of my questions. Did
15 staff have any questions of the applicant?

16 MR. ROBERTS: No.

17 HEARING EXAMINER RIVERA: Okay.

18 MS. CRESPO: Thank you.

19 HEARING EXAMINER RIVERA: Thank you.

20 I'd like to take a break now before we get to the
21 staff presentation. So let's take 15 minutes and be
22 back at 10:35.

23 (Recess from 10:19 a.m. to 10:36 a.m.)

24 HEARING EXAMINER RIVERA: Okay, thank you. We're
25 back on the record, and we can start with staff's

1 presentation.

2 MR. ROBERTS: If it's okay with you, I'd like to
3 give the presentation from here to limit the going to
4 the podium.

5 HEARING EXAMINER RIVERA: Okay.

6 MR. ROBERTS: For the record, Brian Roberts with
7 the Zoning section, Department of Community
8 Development. I ask to be accepted as an expert witness
9 in this case. I've been accepted before, and my resumé
10 is on the record with your office.

11 HEARING EXAMINER RIVERA: Thank you, yes, in land
12 use planning and --

13 MR. ROBERTS: Land use planning and civil
14 engineering.

15 HEARING EXAMINER RIVERA: Okay, thank you.

16 MR. ROBERTS: I want to enter the slide show that
17 staff is going to have as an exhibit, and I have
18 letters from -- from residents, as well as the Cypress
19 Wood RV Resort property owners, and I would like to
20 enter those in the record, as well.

21 HEARING EXAMINER RIVERA: Okay, thank you.

22 (Staff Exhibits 1 and 2 marked.)

23 HEARING EXAMINER RIVERA: Thank you. So the
24 PowerPoint will be Staff Exhibit 2 because Staff
25 Exhibit 1 is the staff report. And the letters, did

1 you want these to be entered as a composite exhibit?

2 MR. ROBERTS: Yes, that's fine.

3 HEARING EXAMINER RIVERA: Okay. So that will be
4 Composite Exhibit 3.

5 (Staff Composite Exhibit 3 marked.)

6 MR. ROBERTS: As you said, the staff report was
7 previously submitted to your office.

8 Before you today is DCI2020-00002, Cypress Woods,
9 Phase 5, a recreational vehicle planned development and
10 mobile home planned development. I'm going to be
11 covering a lot of information that was covered by the
12 applicant just to make sure we got everything in there.
13 There's a lot of moving parts here.

14 The site is approximately 35.6 acres. It's
15 located east of I-75 and north of Lockett Road, and
16 you've seen the aerial maps that the client had -- the
17 client -- the applicant had provided before.

18 I'm going to go through the presentation, and then
19 address the 48-hour letter at the end of our
20 presentation.

21 This is a -- a zoning map of the -- of the area,
22 and as you can see, the northwest and south are
23 zoned -- the north is RVPD -- excuse me -- west and
24 south is RVPD and MHPD zoning. And then you have the
25 agricultural to the east, and out there in the

1 northeast corner you have agriculturally zoned AG-2
2 property, as well, that's single -- a single-family
3 residence is currently on that property.

4 Future land use, again, north, south, and west is
5 urban community, and to the east is the rural community
6 preserve. As the applicant has shown, you get a
7 gradual change from I-75 from the industrial and more
8 intense commercial uses, through this development, and
9 into the rural community preserve land use that lies to
10 the east.

11 The applicant has come in to amend their master
12 concept plan; reconfigure the site planning; correct
13 some preserve acreages; increase the lots from 134 to
14 137, and it does not -- there isn't -- they will not
15 exceed the 611 overall unit count; amend some of the
16 property development regulations; add deviations; and
17 amend the schedule of uses. And we'll go through those
18 here in the slides.

19 Staff analyzed Lee Plan compliance and the parcels
20 located in the Fort Myers Shore planning community and
21 the Caloosahatchee Shores planning area and found that
22 the development, as proposed, is in compliance with the
23 Lee Plan standards, policies, goals, and objectives
24 that are listed above, the urban community continuous
25 growth patterns, and minimization of impacts. It's an

1 infill project. It has been previously zoned and has
2 an existing development order on it.

3 The development order standards to address water
4 and sewer, environmental impacts, the staff, again, has
5 found that it is in compliance with the Lee Plan.

6 Going to the deviations that are proposed by the
7 applicant, Deviation 20 was the deviation request as
8 originally -- originally -- or as I reworded it. It
9 was originally worded slightly different. The only
10 concern I think there is, I heard that the 200 feet of
11 the amenity tract might be a little too close. I don't
12 know if you want to change that, the approximate
13 distance, because there is a distance for that
14 accessory parking lot, and I don't want it to fall just
15 outside that 200-foot area of the amenity.

16 MS. CRESPO: We measured when we established the
17 200-foot rule, so if I spoke that it may be above and
18 beyond that, I --

19 MR. ROBERTS: You said "approximately." I just
20 wanted to make sure that that was okay.

21 MS. CRESPO: And we can confirm by the end of the
22 hearing.

23 HEARING EXAMINER RIVERA: Thank you.

24 MR. ROBERTS: Staff recommends approval of that --
25 the golf cart parking deviation. There was a

1 significant parking deviation that was done in the
2 original zoning for the other parcels for the
3 clubhouse. It is an RV community that is mostly golf
4 carts, walking, or bike riding, and staff just included
5 Condition 15 to ensure that there's a paved access to
6 the amenity, as well as traffic protection for the --
7 for the residents as they cross the road in Condition
8 15.

9 Deviation 21 is the setback deviation, a 10-foot
10 setback from each side and rear of recreational vehicle
11 lot and zero-foot setbacks for the side and rear -- of
12 all rear recreational vehicle lots. Staff recommends
13 approval for that and wanted to include a condition
14 that there was, indeed, a physical separation between
15 the parking of an RV on a lot and -- and any accessory
16 structure that might be parked on that lot. The RV,
17 per se, does not need to be -- meet that setback. It's
18 not a vertical structure. But for safety reasons
19 that -- that 10-foot buffer or that 10-foot area
20 between the structures, staff included Condition 16. I
21 didn't hear any objection to Condition 16 from the
22 applicant.

23 HEARING EXAMINER RIVERA: Now, I had a question
24 about that, though, because, as you've got noted there,
25 Condition 16 talks about accessory structures, but my

1 understanding is that you're not recommending approval
2 of accessory structures --

3 MR. ROBERTS: Accessory structures/casitas.
4 Accessory structures traditionally found in the RV park
5 listed in the code, staff has no objection to.

6 HEARING EXAMINER RIVERA: Okay.

7 MR. ROBERTS: The intent was to delete the casita
8 accessory use, not --

9 HEARING EXAMINER RIVERA: Not wholesale?

10 MR. ROBERTS: -- the accessory use.

11 HEARING EXAMINER RIVERA: Okay, thank you.

12 MR. ROBERTS: Deviation 22 deals with buffering
13 and -- and the requirements of buffering around the
14 property. Staff also recommends approval of this
15 deviation subject to Conditions 17, 18, and 19. I'll
16 have Beth Workman from the Zoning section speak to this
17 deviation.

18 MS. WORKMAN: Beth Workman. For the record, I'm
19 with the Zoning section. I review the environmental.
20 My resumé is on file. I have been deemed an expert in
21 the Land Development Code and Lee Plan.

22 HEARING EXAMINER RIVERA: Yes, thank you.

23 MS. WORKMAN: Thank you.

24 So we've kind of like -- this is a moving -- these
25 are moving conditions. So we've changed the condition

1 a little bit because the applicant has provided an FP&L
2 easement agreement, and in the Land Development Code in
3 Section 10-421, it doesn't allow you to seek a
4 deviation from planting plant requirements in an
5 easement, and it does allow you to seek an FP&L
6 easement agreement to allow any structures or plant
7 material to be within the easement.

8 So the applicant has received that. During the
9 review we did not have that, so we had kind of a
10 different condition in the original staff report.
11 We've changed this condition for the perimeter buffer
12 on 17 to state that prior to the development order
13 approval depicting the perimeter buffers within the
14 FP&L easement, the applicant must submit the FP&L
15 easement agreement stating that buffer plants may be
16 installed in the easement at time of DO.

17 And then to follow up with that, at time of veg
18 permit -- the FP&L easement agreement has a section in
19 it that states that if you're going to do work in an
20 FP&L easement, there's an FP&L Form 360 that must be
21 attached -- that's attached to the easement agreement.
22 It's Exhibit L. And staff is requesting that to come
23 in with the veg permit for any work that's going to be
24 done within the FP&L easement agreement or in the FP&L
25 easement because that's a health, safety, and welfare

1 issue. Any time you bring equipment into an FP&L
2 easement, you need permission because of the danger of
3 arcing. Someone could get electrocuted. So they
4 control the type of equipment that can be in their
5 easement. And we're doing some plantings in there, so
6 if they're going to bring in any equipment to deliver
7 the material or what have you, that would need to be in
8 that agreement.

9 Also, the easement landscape maintenance, this is
10 just a condition that states that the developer or the
11 successor are responsible for the replacement of the
12 required vegetation that may be impacted by the
13 easement folder. So failure to do so, to replace the
14 vegetation per the zoning, will result in a violation.
15 So this is just saying if FP&L has to come into their
16 easement and do work, and they impact the shrub
17 material that's the opaque screening, that the
18 successor or the developer is responsible for
19 replacement to meet the conditions of the zoning and
20 the development order ultimately.

21 HEARING EXAMINER RIVERA: So 17 is being replaced
22 with the language on the screen from what was provided
23 in the staff report?

24 MS. WORKMAN: Correct.

25 HEARING EXAMINER RIVERA: Okay. It looks to be

1 like 18 and 19 don't change.

2 MS. WORKMAN: 18 and 19, they're not changing. 17
3 was the big change because I had originally put in
4 there that it has to be outside of the FP&L easement,
5 but now we have the agreement so we're good.

6 HEARING EXAMINER RIVERA: Okay. Thank you for
7 that clarification.

8 MS. WORKMAN: Sure.

9 MR. ROBERTS: Moving on to Deviation 23, this
10 seeks relief that requires the minimum setback from the
11 indigenous vegetation and the preserve -- the preserve
12 areas. Staff has changed the language -- changed our
13 recommendation here based on the fire department
14 approval letter that was received by us on September
15 9th. So staff is in agreement with -- with this
16 deviation.

17 And Deviation Number 24 has been withdrawn by the
18 applicant.

19 MS. MONTGOMERY: Brian, can I interrupt you a
20 minute?

21 MR. ROBERTS: Yes.

22 MS. MONTGOMERY: I think you might be right on the
23 10-foot -- Alexis, did you want to --

24 MS. CRESPO: Oh. Yeah, we're going to -- we
25 wanted to just talk about -- and if it's not -- if we

1 want to wait till the end or not, but we do have -- we
2 would like to request some clarity on Condition 16 --

3 MR. ROBERTS: Okay.

4 MS. CRESPO: -- on how that's worded.

5 HEARING EXAMINER RIVERA: We can do that now.

6 MR. ROBERTS: Okay. Well, the intent of Condition
7 16 is to have a 10-foot setback from an RV that is
8 parked and used on the RV pad and the casita.

9 MS. CRESPO: Okay. Our -- our lot detail shows
10 the casita to the edge of the RV pad to be seven feet.
11 We worked with staff through the process to note that
12 these RVs are about eight and a half feet wide, so
13 certainly on a 20-foot RV pad you could locate the RV
14 so it's 10 feet from the casita. There's sufficient
15 space to do that. We just didn't want the RV pad to
16 get flagged at DO for being seven foot from the
17 cabana/casita accessory structure.

18 MR. ROBERTS: Yeah, we would not object to
19 language in the -- in the condition that says the RV
20 pad may be along the lot line.

21 MS. CRESPO: Okay.

22 MR. ROBERTS: Just as long as we have the 10-foot
23 setback --

24 MS. CRESPO: Okay.

25 MR. ROBERTS: -- for the RV. They're going to --

1 the pads are sufficiently wide enough to provide
2 that --

3 HEARING EXAMINER RIVERA: So the site detail,
4 though, that Ms. Crespo is talking about shows seven
5 feet in between. So that would be a problem, from what
6 I'm hearing, or it would not --

7 MR. ROBERTS: Only if the RVs were put to the
8 farthest portion closest to the property line on that
9 pad. So if it was striped or something similar to
10 that --

11 MR. TRUITT: Right. Yeah, we'll add some sort of
12 guidance. It could be a concrete bumper or stripe or
13 something that would basically keep the RV from being
14 closer than that 10-foot --

15 MR. ROBERTS: And I understand they would need to
16 walk around the RV, so that's what that's intended for.

17 HEARING EXAMINER RIVERA: Okay. So the site
18 detail doesn't need to change from what's being shown
19 here.

20 MR. ROBERTS: (Shakes head.)

21 HEARING EXAMINER RIVERA: Okay, thank you.

22 MR. ROBERTS: I don't think so.

23 MS. CRESPO: Yeah, I just wanted to clarify that.

24 MR. ROBERTS: Okay.

25 MS. MONTGOMERY: Thank you.

1 MR. ROBERTS: I'm going to talk a little bit about
2 the casita as an accessory use. This is the way it
3 was -- it was provided in the application. I know it's
4 since changed, and definitions have been thrown out
5 there of cabanas, casitas, accessories, but this is --
6 is how staff understood it during the application. It
7 was defined by the applicant as a permanent accessory
8 structure for long-term occupancy, and the issues are
9 that they allow the overnight sleeping, have kitchens
10 and cooking indoors.

11 Staff looked at that during the analysis, felt
12 that the casita, not a defined use in the Land
13 Development Code, corresponded more to a dwelling unit.
14 And so you're looking at -- under -- by permitting
15 casitas as a use, a dwelling unit with an RV -- as --
16 the dwelling unit as an accessory use to the RV, which
17 then gives you two units on one lot.

18 The density issue is very confused on this site
19 because of the mixed zoning of the RVPD, MHPD, what
20 counts as density, what doesn't count as density,
21 originally approved. There's information in the staff
22 report -- I don't know the exact number -- concerning
23 density numbers.

24 But putting all that aside, the root of the
25 problem becomes what is a casita, and staff sees it as

1 a single-family dwelling unit, and that is not
2 permitted in -- in an RVPD zoning district, and you get
3 a mix of uses that staff feels isn't compatible with
4 each other inside that. I understand that the -- codes
5 are going that way, that the demand is there, but there
6 isn't a vehicle in the code to permit that use
7 currently in the RVPD.

8 Now, if -- if there's a Land Development Code
9 amendment that permits it later, that would be the
10 proper path to pursue the casita use.

11 Staff offered an alternative in the staff report
12 that has been -- that was actually used in the Cypress
13 Trail RVPD to the north that allows cabanas or storage
14 sheds, utility sheds on-site with limiting conditions
15 in that as an acceptable alternative. The cabanas
16 definition came in late. I haven't done a lot of
17 analysis on the cabana, but the cabanas, again, we're
18 not looking at overnight sleeping and cooking indoors.

19 Accessory uses as somewhere to cook outside, staff
20 doesn't have an objection to that. That's -- that's
21 customary that you would see in an RV park. Accessory
22 use as defined in the code for an RV park, as well, no
23 problems with that. I think it's -- it's -- it becomes
24 more of a definition of what the casita falls into in
25 the current Land Development Code more than what it is.

1 So that's where staff falls on the subject.

2 And this is just more discussion, and there's the
3 accessory use and structures alternative that --
4 that -- that staff recommended in place of the casita.
5 I don't know if the applicant is open to that. That's,
6 again, a staff -- a staff alternative to the casitas.

7 And then there's a little bit of discussion about
8 the 137. If each unit is individual, that's 274.
9 There's a -- that's really not the point now, but it's
10 something to consider or think about if you're having
11 that on there, and it's under the current code how it's
12 written.

13 Again, we're going into the 48-hour letter
14 discussion here. Staff agrees to the accessory uses
15 customarily found in the -- the RV developments. We
16 disagree with the applicant in regard to the casita use
17 or the cabana as -- or the cabana as a casita, putting
18 casitas under cabana and applying that as an accessory
19 use.

20 Conditions 3 and 6 we talked about. Condition 3
21 is that -- that reporting condition. Staff isn't aware
22 of any reason that it should continue. There are
23 mobile home lots. There is an original zoning
24 resolution that said that mobile home lots cannot be
25 converted to RV lots once established as a mobile home.

1 If they convert them, there will be a permitting
2 process. It will go through a zoning review. That
3 would be -- that would be a way to stop -- I believe
4 that was an original condition to prevent them from
5 exceeding the DRI threshold, and that was done way back
6 in the zoning of this, so staff doesn't disagree with
7 the deletion of that.

8 Nor Condition 6 that talks about the traffic
9 impacts. Those are addressed in the DO, and my
10 understanding is all traffic impacts have been
11 addressed, and the increase from 134 to 137 lots is
12 minimal and has no impact.

13 Revisions to the preserve acreage, staff is in
14 agreement with the applicant there, as well. Those did
15 not make it into the staff report and the conditions,
16 and staff is in agreement that those should be revised
17 and included with the numbers given by the applicant.

18 We'll sum it up here with the -- with review
19 criteria in 34-14 -- or 34-145. Staff finds that it
20 complies with the land -- as -- as conditioned and as
21 presented in the staff report, that it complies with
22 the Lee Plan. It meets this code and other county
23 regulations, is compatible with the land use, provides
24 sufficient access in support of the development. The
25 impacts are minimal on the transportation facilities

1 and are addressed through the DO process; does not
2 adversely affect environmentally critical or sensitive
3 areas -- and I'll talk a little bit about that on some
4 cleanup items I have separate.

5 The proposed use or mix of uses is appropriate
6 without the casita use, and that's where we're going in
7 the staff report.

8 The recommended conditions give the safeguards to
9 the public, and each requested deviation enhances the
10 achievement of the objectives of the planned
11 development and promotes the general intent of the
12 code. So as conditioned, staff finds that this
13 proposal does meet the requirements in the Land
14 Development Code findings and review.

15 I want to address a few things. We've talked
16 about the accessory uses, and we're good with those.

17 We've talked about the 200-foot distance -- I've
18 got them highlighted. I don't want to miss any -- and
19 the 10-foot spacing on the RVs.

20 Again, going back to the casita use with the
21 covenants and restrictions -- and I think
22 Ms. Montgomery -- touched on it, it's unenforceable by
23 the County if it's permitted that way. It does become
24 a deed restriction, but the County doesn't enforce the
25 deed restrictions. So that's another issue that staff

1 feels would be related to the additional casita use.

2 I want to clarify -- and I guess I can do this
3 during questioning -- that even if the casita or
4 something similar is there, it will not be used without
5 an RV present. So if -- if it's being used, you know,
6 no VRBO or Airbnb or anything like that, that it would
7 become an actual use by the RV and then use by guests
8 and the owner of the RV.

9 The existing ditch, staff did look at that during
10 the -- the -- the sufficiency and review, and we are in
11 agreement that that flow has been rerouted and was --
12 was sent to the north, as the applicant showed.

13 In addition to that -- and it's something that I
14 haven't talked about yet or hasn't been brought up,
15 there was a compliance agreement for a clearing of that
16 northern area. That's included in the staff report and
17 the attachments for continuity. My understanding is
18 that's currently in the process of being replanted,
19 and -- and they're getting through that.

20 I did pull the Golden Palms zoning resolution on
21 the break, and did look at the definition of "cabana"
22 in the Land Development Code. And, again, we're
23 looking at that overnight use and cooking as an issue
24 as defining it as cabana/casita instead of accessory
25 use casita. So that does not take away that -- that

1 overnight and cooking.

2 That is all I currently have for the staff report,
3 and I'm open for any questions.

4 HEARING EXAMINER RIVERA: I just wanted to go
5 through condition -- or Exhibit (sic) E, rather, our
6 attachment E of the staff report just to be clear on
7 housekeeping, as well, of the strike-throughs that you
8 had. I know you've addressed the accessory use
9 already, that you are okay with that, but the casita
10 should remain struck through --

11 MR. ROBERTS: Yes, that's correct.

12 HEARING EXAMINER RIVERA: -- in your estimation?

13 On the next page when you get to the side
14 setbacks, exactly what we were just talking about, it's
15 struck through about the RV pad non-vertical
16 development having a minimum of five feet. Does that
17 still need to be struck through?

18 MR. ROBERTS: Yes, it does. That goes to the --
19 the discussion during the deviation about the 10-foot
20 spacing between any accessory structures and an RV.

21 HEARING EXAMINER RIVERA: Okay. But under the
22 rear accessory of the zero feet, that has now been
23 resolved by the Fire Marshal letter, if I'm not
24 mistaken, for the --

25 MR. ROBERTS: The rear --

1 HEARING EXAMINER RIVERA: -- lake maintenance
2 easement for waterfront lots?

3 MR. ROBERTS: That says for the lake maintenance
4 easement. There -- there is no setbacks required from
5 a lake maintenance easement. So if it is a five-foot
6 setback, the lake maintenance easements are in excess
7 of five feet, you can't put a structure in the lake
8 maintenance easements. So you can't -- by -- the way
9 the code is written and the way the deviation is, it
10 could be revised to say "zero foot but not in the
11 easement," but either way you go it's the same thing, a
12 five-foot setback is inside the lake maintenance
13 easement.

14 HEARING EXAMINER RIVERA: Okay.

15 MS. CRESPO: May I comment on that?

16 HEARING EXAMINER RIVERA: Yes, please.

17 MS. CRESPO: If we're going to strike that, we
18 should have a zero foot rear accessory setback
19 permissible because our lot line may be the same as the
20 lake maintenance easements --

21 MR. ROBERTS: The edge of the lake -- if that's
22 the case, yeah, that's okay.

23 HEARING EXAMINER RIVERA: What was the suggestion
24 there? I apologize.

25 MS. CRESPO: That the rear accessory be allowed to

1 be zero feet, so unstrike the "zero feet from lake
2 maintenance easement for waterfront lots."

3 MR. ROBERTS: Well, we don't want zero feet from
4 all rear lots though.

5 MS. CRESPO: But the strike language has
6 "waterfront lots" in it. So it's --

7 MR. ROBERTS: Okay. We --

8 MS. CRESPO: It would be five for non-waterfront
9 lots.

10 MR. ROBERTS: Yes.

11 MS. CRESPO: So I think unstriking under rear
12 accessory what has been struck would cure that.

13 MR. ROBERTS: I'm open to leaving it in there
14 either way.

15 HEARING EXAMINER RIVERA: Okay. But not for the
16 waterbody?

17 MR. ROBERTS: The zero feet for -- for waterfront
18 lots, slash zero feet for waterfront lots.

19 MS. CRESPO: We can keep staff's strike under
20 waterbody.

21 HEARING EXAMINER RIVERA: Thank you.

22 Okay. I believe that was the extent of my
23 questions.

24 Did applicant have any questions of the staff?

25 MS. MONTGOMERY: No.

1 HEARING EXAMINER RIVERA: Did that conclude
2 staff's presentation?

3 MR. ROBERTS: It does.

4 HEARING EXAMINER RIVERA: Okay, thank you.

5 So with that, we will now open the public comment
6 period. So I will call the cards that I have. If I
7 don't call your name, but you would like to speak, if
8 you could please complete a form on the wall, then I'll
9 call you at that time.

10 The first card I have is for Kenneth Notturmo?

11 MR. NOTTURNO: Notturmo.

12 HEARING EXAMINER RIVERA: I apologize if I
13 misspoke. Good morning.

14 MR. NOTTURNO: Good morning. My name is Kenneth
15 Notturmo. I am in a unique position here because I am
16 also the president of Cypress Trail RV Resort HOA, and
17 I'm here really on behalf of several of the residents
18 who had written one of the letters to Brian that Brian
19 has put on the record, and I want to just maybe present
20 a little bit of their position a little differently.
21 But in addition to that, I also happen to be the
22 managing member representative of the developer of
23 Cypress Trail; and in addition to that, I was part of
24 the development team for Cypress Woods originally prior
25 to turnover.

1 So I have kind of a unique history of this
2 property that can go back -- and what I had wanted to
3 make a mention of -- and I've told both Neale and
4 Brian -- that the tracking requirement was something
5 that I was involved in deeply when I was with -- when
6 we had Cypress Woods before turnover and actually for
7 about two years after turnover. That tracking
8 requirement was really to monitor the changes from RV
9 lots to MH lots. It has nothing to do, I think, with
10 these proceedings. And there was a maximum number of
11 lots that could be converted from RV to MH, and once
12 they went to MH, they couldn't go back. And we had to
13 report -- there was no mechanism through the County to
14 monitor that, and they wanted some sort of a mechanism
15 so that they could at least keep track of that, and it
16 would stay within the requirements of the original
17 zoning, and so that's why that tracking report was
18 required.

19 I think the conversion from RV to MH has really
20 slowed down significantly, and I don't think that's as
21 much of an issue as it had been in the past. But I
22 just wanted to give you that background on it because I
23 happen to know all about that. That has nothing to do
24 with this.

25 HEARING EXAMINER RIVERA: Thank you.

1 MR. NOTTURNO: On behalf of the residents -- if
2 you could put the master concept plan up?

3 MR. ROBERTS: That would be the applicant's slide.
4 I have the old pre-48-hour master --

5 MR. NOTTURNO: That's fine. It's not that
6 critical.

7 MR. ROBERTS: Okay. I can put that up.

8 MR. NOTTURNO: I just wanted to give the Hearing
9 Examiner some -- some reference.

10 MR. ROBERTS: That -- again, this is the
11 pre-48-hour letter that renumbered the deviations and
12 did slight tweaks.

13 MR. NOTTURNO: Okay. That doesn't show the
14 adjoining property to the north but --

15 MS. MONTGOMERY: Do you want to go back to the
16 aerial?

17 MR. NOTTURNO: You had -- you had another slide
18 that had -- and the master concept plan that was
19 submitted had some -- well, that will do.

20 The people who I am primarily representing who
21 couldn't be here are the owners of the lots in the
22 southeast corner of Cypress Trail, so those lots
23 basically that go around that little curve right there.
24 And their major concern is very much limited to, as was
25 expressed, the location of the pickle ball courts

1 because -- first of all, they bought back there because
2 it was kind of isolated and far away from our
3 amenities. Our amenities are all located by the
4 clubhouse. And because this was kind of a wild, quiet
5 area back there, that's why they bought there. And now
6 to have a pickle ball court relatively close to their
7 lots, even with the sound barrier, is going to create a
8 noise factor. And I think, if I'm not mistaken, there
9 was a lighting -- I haven't heard anything today about
10 lights for the pickle ball court, but there was some
11 discussion, I think, in your original submittals about
12 having lighting at the pickle ball courts.

13 I do know -- and I'm familiar with the Florida
14 Power & Light consent agreements because I had to do
15 three of them for our property, because we did put a
16 dog park there, and we put storage facilities. We had
17 considered at one time possibly putting pickle ball,
18 but we did not.

19 But they have a requirement -- I think the maximum
20 height of any structure is 14 feet in that agreement;
21 and if you have lighting, it should be -- make sure
22 that it's less than the 14 feet in compliance with the
23 Florida Power & Light consent agreement. My people
24 have some concerns about having lighting there at all,
25 obviously, and would like to see none.

1 The sound barrier obviously is a -- is a help, but
2 there are other areas on the property that are
3 identified as optional recreational areas where the
4 pickle ball courts could be moved.

5 And if you could go to their current site plan --
6 in particular this area here, okay, is pretty
7 comparable to the area that they've set aside for the
8 pickle ball court area, and that would remove it from
9 close proximity to my clients and put it more central
10 in the development and would seem to be an appropriate
11 location that the pickle ball court could be moved
12 without the necessity of having sound barriers and
13 everything else.

14 I will tell you as far as the lighting is
15 concerned, we have voted on three separate occasions at
16 Cypress Trail whether or not to add lights to our
17 existing pickle ball courts, and in all three
18 situations it was substantially denied by the owners.
19 They don't want lights because it affects the ambience
20 of the development.

21 We would like to see -- if the pickle ball court
22 is going to remain where it is, we would like to see
23 some limitations on hours and not have it be used
24 between -- until 9 a.m. and up until 9 p.m., depending
25 upon lighting conditions, and that way at least

1 minimize the impact on the adjoining property owners.

2 The -- that's it as far as the adjoining property
3 owners.

4 I would like to put on my different hat, which is
5 the representative of the developer of Cypress Trail.
6 We came in a year ago, I believe, a year and a half ago
7 for casitas on our final phase, and we limited it to, I
8 think, maybe 25 or 30 lots because that is -- and as
9 been testified, that is where the industry is going,
10 and it was something that we wanted to put in.

11 We were told by staff that effectively the casita
12 could not be permitted if it had cooking facilities or
13 overnight accommodations. So we had to modify our
14 plan, and we came in basically with a cabana under the
15 definitions of the ordinance, and we overcome the
16 cooking situation by having outdoor summer kitchens
17 effectively put in. Sleeping accommodations we just
18 don't have, and we don't permit it or provide for it.

19 I sympathize with the developer because I think
20 that is the way the industry is going, but the
21 ordinance really doesn't provide for it, and I think in
22 your situation you're hamstrung by the existing
23 ordinance to deal with. But I do sympathize with the
24 developer because that is the way the industry is
25 going.

1 I think the County has to take a look at this
2 whole situation with regard to where RV parks are going
3 because, as was stated, for luxury RV parks, you know,
4 the sky is the limit as far as accommodations and types
5 of accommodations that are supplied.

6 We tried to upscale our last phase by providing
7 the cabana concept. To be honest with you, we've only
8 sold one. I think we have 27, and we've had them on
9 the market for about a year. We did build a model. If
10 you would like at some point to stop at Cypress Trail,
11 I'll invite you to do so to see a cabana that has been
12 constructed. I think it's similar to what they want to
13 do except that it's not maybe as substantial or
14 attractive, but it would give you an idea of what a
15 cabana would look like on an RV lot. We do have the
16 model there that's available.

17 So I want to thank you for your time, and I
18 appreciate it.

19 HEARING EXAMINER RIVERA: Thank you for coming
20 today, sir.

21 The next card I have is for Bruce Young.

22 MR. YOUNG: I don't care to speak at this time.

23 HEARING EXAMINER RIVERA: Okay. Thank you, sir.
24 Thank you for coming.

25 The next card I have is for David Blouir.

1 MR. BLOUIR: I'm just reading you a letter from
2 Deborah Davis, who is the president of the Cypress
3 Woods RV Resort HOA.

4 (As read) "Dear Commissioners: The Cypress Woods
5 RV Resort Homeowners Association endorses the
6 application by Laguna Caribe at Cypress Woods, LLC, and
7 the developer, L26 LLC -- I'm sorry, L26 Development,
8 LLC, to amend the existing zoning ordinance referenced
9 above. The proposed changes to the master concept plan
10 and other elements of the approved zoning are welcome
11 by the members of our HOA - as the awaited development
12 and operations of the fifth and final phase of Cypress
13 Woods RV Resort is near. The developers, with the
14 support of our HOA, are to complete the build-out of
15 our community, provide expansion of the recreational
16 amenities, and update our resort that reflects the
17 lifestyles and desires of our residents."

18 I'm sorry, this is written more as a letter, and I
19 think when you read it out loud, it's a little off.

20 "We have been working with the principals and
21 partners of L26 Development, LLC, for two years now as
22 they have researched and ultimately purchased the
23 undeveloped property formerly known as Cypress Woods
24 Phase 5 and now called 'Laguna Caribe.' L26 devised a
25 modified development plan to update Laguna Caribe to

1 match national and Florida market standards for upscale
2 'five star' RV resorts, including the option to build
3 casitas on the motorcoach lots, as well as adding an
4 additional clubhouse designed for private membership
5 and recreational amenities that will enhance the
6 experience in our community."

7 "Our association conducted an official vote of the
8 membership on January 25, 2019, to approve certain
9 amendments to our association documents, including a
10 revised developer agreement permitting the plan now
11 proposed by L26. These amendments were negotiated in
12 good faith by L26 and with the HOA board of directors,
13 who supported the negotiated amendments. 63 percent of
14 our members cast their votes resulting in an 85 percent
15 approval of these amendments. Since then, L26 and
16 their ownership entity, Laguna Caribe at Cypress Woods,
17 continue to work with our association to support the
18 betterment of our entire community."

19 And that's from HOA President Deborah Davis.

20 HEARING EXAMINER RIVERA: Thank you. Thank you,
21 sir, for coming.

22 The last card I have is for Nancy Payne.

23 MS. PAYNE: I have no credentials. I'm just a
24 resident.

25 I asked a few questions before the meeting started

1 to Duane, and he answered them.

2 I have a question as an existing Cypress Woods
3 resident. These pickle ball courts and dog parks, are
4 they open to the entire community?

5 MR. TRUITT: The dog park is open --

6 HEARING EXAMINER RIVERA: I'm sorry, sir. I'm
7 sorry.

8 I had said earlier if you could just ask your
9 questions, ma'am, and then we're going to answer them
10 when we come back.

11 MS. PAYNE: Okay. All right.

12 HEARING EXAMINER RIVERA: Thank you.

13 MS. PAYNE: Are the pickle ball and dog parks
14 available to the community for free, or is there a
15 cost?

16 And if you're making these changes to the -- to
17 the park, and they're approved, would that cover the
18 entire park? Because I've lived in there for six or
19 seven years now, and somebody puts a flag up, and
20 everybody else wants to put the flag up. So if you're
21 putting casita houses in, everybody is going to want to
22 do the same thing.

23 And -- and I still am curious of what the resort
24 name is going to be, and I'm also curious about the
25 road damage. They're predicting 500 trucks -- up to

1 500 trucks a day for a month, and our -- our roads
2 right now are okay. I mean, they need -- they get them
3 refurbished every now and then, but they're not broken
4 down, and they should last -- I think they were
5 projecting close to 20 years, but I don't think they're
6 going to hold up under 500 dump trucks a day.

7 Okay, and that's it.

8 HEARING EXAMINER RIVERA: Thank you. Thank you,
9 ma'am. Thank you for coming this morning.

10 Was there anybody else who wanted to speak today?

11 MR. CALLIS: (Raises hand.)

12 HEARING EXAMINER RIVERA: Okay. Thank you, sir,
13 yes, if you could come forward.

14 MR. CALLIS: Thank you. I didn't fill out a card
15 because I'm not an expert in anything.

16 HEARING EXAMINER RIVERA: You don't need to be an
17 expert to speak, sir, thank you.

18 MR. CALLIS: I just wanted you to know. I'm John
19 Callis. I'm one of the owners of L26 Development, and
20 I just --

21 THE REPORTER: Excuse me, could you spell your
22 last name, please?

23 MR. CALLIS: Yes, C-A-L-L-I S.

24 THE REPORTER: Oh, okay, I have that.

25 MS. CRESPO: And Mr. Callis is listed on our sheet

1 of representatives.

2 THE REPORTER: Yes, once I understood what he
3 said, I knew that.

4 MR. CALLIS: So I just wanted to introduce the
5 ownership team because we're all local. We've all
6 lived in this community for decades, and we're excited
7 to be here. We're really excited about the project.

8 We've kept everything local. All the people we've
9 hired to run this project are local. Our contractor is
10 local. Everyone is local. And I know we've had a lot
11 of discussion about these casitas. It's just the way
12 the market is going. And we'll go through the proper
13 process to try to get that approved.

14 Do want to thank the HOA because they've been very
15 supportive in the project that we've been handling.
16 You know, we've done a ton of environmental
17 restoration. We've spent hundreds of thousands of
18 dollars to get this site back up to snuff.

19 So everything we're doing, we're excited. We just
20 want it to be competitive. So you make a huge
21 investment in a property like this, you just want to be
22 competitive in the marketplace, and this is absolutely
23 where the marketplace is going, but we'll follow that
24 local structure.

25 But, again, just wanted to thank everybody. Thank

1 you for your time. Thank you for all the effort you
2 guys have put in.

3 And that's about it, have a wonderful afternoon.

4 HEARING EXAMINER RIVERA: Thank you, sir.

5 MR. CALLIS: Thanks.

6 HEARING EXAMINER RIVERA: Was there anyone else
7 today that wanted to speak? Okay, thank you.

8 Then we will close public comment and come back to
9 the applicant.

10 MS. MONTGOMERY: Well --

11 HEARING EXAMINER RIVERA: Did you want to take a
12 break before we do that? Do you need to collect your
13 thoughts to do any substantial rebuttal, or are you
14 prepared to move forward now?

15 MS. MONTGOMERY: Well, I'll start into it, and
16 then I'll let Alexis -- and if I mess it up, then we'll
17 take a break.

18 HEARING EXAMINER RIVERA: Certainly.

19 MS. MONTGOMERY: About the pickle ball courts,
20 Mr. Notturmo raised, as I heard, two issues. One is
21 lighting. The Land Development Code does require a
22 photometric analysis. It doesn't allow you to have
23 light spillage off-site. So any lighting that might be
24 at the pickle ball courts would have to comply with
25 those lighting standards.

1 The other issue is noise, and I think that the
2 noise ordinance is in the regular code of ordinance,
3 not in the Land Development Code, and I think it's 14
4 and a half, but I'm going from memory. So anyway, in
5 that particular provision, it indicates what
6 the (sneezing) --

7 HEARING EXAMINER RIVERA: Bless you.

8 MS. CRESPO: Bless you.

9 MS. MONTGOMERY: -- what the daytime and nighttime
10 standards are, so it would have to meet that. And I
11 think to avoid any concerns or issues with that, that's
12 why the noise barrier is being proposed so that there's
13 never a question about not being consistent with the
14 noise regulations.

15 And Alexis can kind of give you a better sense of
16 what the actual distance is because sometimes that's
17 misleading when you look at a site plan or an aerial.

18 HEARING EXAMINER RIVERA: I think he named three
19 actually. The location was the other concern.

20 MS. MONTGOMERY: Yeah. This is an attempt to keep
21 all the amenities in proximity to the clubhouse.
22 There's no parking -- I mean, it's nice to say the
23 pickle ball themselves could fit in the location that
24 he's identified, but you don't have the parking and the
25 bathrooms and all the other things that you would

1 typically want to have near your recreational
2 amenities. So it's not really feasible to relocate
3 them.

4 HEARING EXAMINER RIVERA: What are the optional
5 recreation areas reserved for? Do you have any idea?
6 Is it more of a green -- like a grassed green space?

7 MS. CRESPO: I'm going to ask Duane to respond to
8 that.

9 HEARING EXAMINER RIVERA: There's several that all
10 appear to be pretty adjacent to the preservation. I
11 think there's three that I can see --

12 MR. TRUITT: Well --

13 HEARING EXAMINER RIVERA: -- or four.

14 MR. TRUITT: -- first of all, this area, this
15 isn't a recreation area. This is actually where our
16 lift station for the sanitary sewer waste collection
17 system is. And then from there it will be pumped by
18 force main to connect with the existing Cypress Woods
19 force main. So this is not a recreation area. We'll
20 probably have it dressed up with some nice-looking
21 landscaping, but nobody wants to recreate next to a
22 sewer pump, okay?

23 Up in this area we have some optional
24 recreational -- we haven't really detailed it yet until
25 we got this zoning approval, but our thinking was it

1 would be a good place to have, perhaps, like a fitness
2 circuit, you know, where people can have different, you
3 know, things to participate in fitness. And this is --
4 basically in this area here, these are both passive
5 parks that will just be nicely landscaped with maybe a
6 few park benches, you know, next to the conservation
7 area.

8 HEARING EXAMINER RIVERA: Thank you. And I think
9 you may have been the one that testified earlier about
10 why you had to locate the facilities where you did?

11 MR. TRUITT: Yes. They're where they're at
12 because we have to maintain a minimum radius separation
13 distance from the transmission tower that's located
14 about there, and then once you get south of that,
15 that's all wetland. I mean, probably almost three
16 quarters of the FP&L easement is -- is all
17 jurisdictional wetland.

18 HEARING EXAMINER RIVERA: Okay, thank you.

19 MS. MONTGOMERY: Mr. Truitt, while you're there,
20 can you respond to -- at the microphone, can you
21 respond to Nancy's question about who can use the
22 amenities?

23 MR. TRUITT: Oh, yes. Our plan for the amenities
24 is most of the amenities are going to be owned by a
25 club, and we've tentatively named it the Coral Club.

1 And to use those amenities, you have to join the club,
2 pay, you know, a fee of some kind, and the club then
3 maintains all those facilities. We are opening up the
4 dog park for use by the entire resort because there
5 isn't one in the rest of the resort, but everything
6 else is all for club members only and their guests.

7 MS. MONTGOMERY: She also asked a question about
8 truck traffic and whether that would damage the roads,
9 and if so, what would happen.

10 MR. TRUITT: Well, that's a construction activity.
11 That's not really part of a land use discussion. But
12 to answer the question, the -- you know, we're going to
13 have to haul in a substantial amount of fill dirt in
14 order to develop the property in accordance with the
15 permits that have already been approved, a South
16 Florida Water Management District ERP, which includes
17 the drainage system; and basically to make the drainage
18 work, you have to bring in a certain amount of fill
19 dirt. So that's going to entail a lot of trucks coming
20 in, but it's for a very short period of time. We
21 estimate about 30 days for that major truck traffic.

22 This is an area that we discussed with the HOA a
23 long time ago. The HOA last year had budgeted -- I
24 don't remember what the amount was, but it was quite a
25 bit. It was several tens of thousands of dollars to

1 resurface the roads because they do -- you know, like
2 all asphalt they have to be periodically resurfaced.
3 We suggested that they hold off on doing that this
4 year, let us do all the hauling, and then go in and do
5 the resurfacing. If anything exceeds their budgeted
6 amount, then we would cover the overages. And so
7 whatever -- we don't know what that will be, but we've
8 agreed to cover it.

9 HEARING EXAMINER RIVERA: Thank you.

10 MS. MONTGOMERY: I think we've covered Nancy's
11 questions.

12 MS. PAYNE: Can I ask a question to that one?

13 HEARING EXAMINER RIVERA: I'm sorry, ma'am, no.

14 MS. PAYNE: Okay.

15 HEARING EXAMINER RIVERA: You may be able to catch
16 him after if you had a specific question. Thank you.

17 MS. MONTGOMERY: I think that leaves us with the
18 outdoor -- well, with the accessory uses and
19 structures. If I understand Brian correctly, we're
20 going to delete the underlining -- the strike-through
21 through the accessory uses and structures so that we
22 can have normal accessory uses and structures.

23 And I think we do want the ability to have cabanas
24 with outdoor kitchens just like Mr. Notturmo indicated
25 that they have. What I -- and if I hear the Hearing

1 Examiner correctly, I hear some trepidation as to
2 whether or not that's something -- that casitas should
3 occur as a normal accessory use, or if that's something
4 that should occur with more regulations than just to
5 allow it.

6 HEARING EXAMINER RIVERA: Well, my concern --
7 again, I think it sounds like a desirable use, and
8 clearly the market is speaking to say that that's
9 something they're demanding. My concern, again, is the
10 Land Development Code does provide PDs are the route to
11 go for flexibility in site design and setback
12 deviations, but use deviations is a whole other
13 ballgame. And the provisions under the code that I'm
14 governed by, 34-620 or 34-933, are opportunities where
15 there may be a use that's similar to what's provided
16 but not specifically permitted, and the code does allow
17 flexibility if the Director finds that they're
18 permissible and says that that's okay.

19 In this case we've got the Director, through their
20 staff, saying that they don't issue that agreement, and
21 so I'm left trying to fit a round peg into a square
22 hole and essentially chart new territory where I can't
23 simply create a new use even with what I believe are
24 appropriate conditions that you have provided. I
25 completely agree that what you've done would support

1 that.

2 But, yes, that is what I'm -- my concern is. I
3 don't believe that I have that authority to create a
4 use --

5 MS. MONTGOMERY: Yeah.

6 HEARING EXAMINER RIVERA: -- that's not supported.

7 MS. MONTGOMERY: And I guess -- and this is a
8 question. I mean, recreational amenities in general
9 have evolved. I can remember when I first came to
10 Florida, there were a lot of shuffleboard courts, but I
11 don't see anybody building shuffleboard courts anymore.
12 Now they tend to build bocce ball courts or pickle ball
13 courts or something different, but the regulations
14 never changed. It's just those things have been
15 allowed under normal headings. Not in Lee County but
16 in other places I've seen the cabana towers. I
17 guarantee you that's not addressed anywhere in the Land
18 Development Code.

19 Part of the problem is the base code was done in
20 1978, and it's been patched and added to and modified,
21 but it's still basically the 1978 Land Development
22 Code, and nobody thought about casitas then. I think
23 the camping -- you talk about camping cabins, and I
24 actually know that Brian Kellner and Mike Pavese did
25 that amendment in what, like, '92, didn't want to allow

1 it because that was something new and different.
2 Then -- I don't know who mentioned KOA, but I have
3 actually been to several KOAs that have camping cabins.
4 So it became, in the '90s, a new thing that happened
5 across the board.

6 So, I mean, obviously what I would like is to say
7 now it's a normal accessory use and subject to the
8 conditions that we provided. If you can't do that
9 because you feel constrained by the LDC, then I would
10 like you to consider recommending approval if there is
11 an LDC change, because what we'd like to not do is come
12 back and spend an application fee, go through, you
13 know, four or five months of sufficiency process, and
14 basically take a year to get back to you for something
15 that we're permitted, I don't know that anybody objects
16 to.

17 HEARING EXAMINER RIVERA: Thank you.

18 Did staff have anything they wanted to add to that
19 conversation?

20 MR. ROBERTS: Staff looked at it under the current
21 code and the current code requirements, and we're going
22 to stand by what's in the staff report with regard to
23 that. And -- and we don't know what will eventually be
24 approved or what will be -- end up in the Land
25 Development Code, so until that happens, I hesitate to

1 have a condition about something that may be different
2 than what's envisioned now.

3 MS. MONTGOMERY: And I'll just -- and my
4 perspective would be whatever is in the Land
5 Development Code we'd have to comply with so -- I don't
6 know if I missed anything, or you want to add to it
7 but --

8 MS. CRESPO: No, I don't have anything.

9 MS. MONTGOMERY: Do you want to add anything?

10 MR. TRUITT: No.

11 HEARING EXAMINER RIVERA: Thank you.

12 MS. MONTGOMERY: I think -- I think we addressed
13 all the questions.

14 HEARING EXAMINER RIVERA: I believe so, too. I'm
15 going back through my notes to be certain.

16 MS. CRESPO: There was one that she had asked that
17 wasn't addressed, that if our changes would impact
18 Phases 1 through 4 of the park, and the answer is no.
19 Our changes would be specific to Phase 5.

20 MR. ROBERTS: And it is broken out in the staff
21 report in conditions with that language for Phase 5.

22 HEARING EXAMINER RIVERA: Okay. I think that was
23 the extent of my questions.

24 Did applicant have anything --

25 MS. MONTGOMERY: Yeah.

1 HEARING EXAMINER RIVERA: -- in closing?

2 MS. MONTGOMERY: Brian, let me ask you, in light
3 of your conditions, you don't have a problem with
4 cabanas consistent with the LDC, an outdoor kitchen?

5 MR. ROBERTS: No.

6 MS. MONTGOMERY: Okay. It's just not clear now
7 that that would be okay because I think cabanas got
8 deleted from the list, too, or not even included.

9 MR. ROBERTS: The cabanas came in later in the --
10 in the process. We had had a meeting and talked about
11 cabanas, and it didn't make it into the staff report,
12 but as an accessory use in compliance with the Land
13 Development Code similar to the Golden Palms --

14 MS. MONTGOMERY: Before it evolved.

15 MR. ROBERTS: Yeah. Staff does have one other --

16 HEARING EXAMINER RIVERA: Okay.

17 MR. ROBERTS: -- one other issue. And this is
18 something I didn't bring up in the presentation in my
19 documents here.

20 The applicant did offer conditions for the casita
21 use, and those were reviewed by the County attorney,
22 and they suggested a few tweaks to those, and I should
23 enter those into the record. And I haven't sent you a
24 copy of those, and I can read out and get a copy of
25 these to you.

1 MS. MONTGOMERY: How about this, can we do --

2 MR. ROBERTS: A break?

3 MS. MONTGOMERY: Yeah.

4 MR. ROBERTS: Let's do a break.

5 MS. MONTGOMERY: Yes.

6 HEARING EXAMINER RIVERA: All right. So it's
7 11:30. We'll do another 15 minutes and come back at
8 11:45.

9 (Recess from 11:30 a.m. to 11:45 a.m.)

10 HEARING EXAMINER RIVERA: Okay, thank you. We're
11 back on the record.

12 We left off with --

13 MS. MONTGOMERY: We left off with the staff
14 suggested amendments to our proposed conditions for the
15 casitas, which, as I read them, is the County
16 third-party enforcement rights to the restrictions that
17 we proposed, and -- and submits that any lot that has a
18 casita has to have the proposed restrictions, and we
19 don't object to that.

20 MR. ROBERTS: Yeah, that's if -- we object to the
21 casita use; but in the event that the Hearing Examiner
22 enters a casita use, these are modifications to the
23 conditions that were recommended to that. I believe it
24 was number 15 in your -- your PowerPoint presentation.
25 And that deals with timing and third-party -- or Lee

1 County's third-party rights for enforcement and also
2 just adding a Condition E.

3 HEARING EXAMINER RIVERA: Okay, thank you. And
4 this is an email from John Fredyma to Brian Roberts,
5 and I will accept that as Staff's Exhibit 4.

6 (Staff Exhibit 4 marked.)

7 HEARING EXAMINER RIVERA: Okay. But staff's --
8 staff's testimony is that that does not change your
9 overall recommendation --

10 MR. ROBERTS: That's correct.

11 HEARING EXAMINER RIVERA: -- but if it is to be
12 approved, you would want these changes incorporated?

13 MR. ROBERTS: Yes.

14 HEARING EXAMINER RIVERA: Okay, thank you.

15 Okay. Were there any final concluding thoughts
16 from the applicant?

17 MS. MONTGOMERY: No. I believe we've addressed
18 everything, unless you have questions or concerns.

19 HEARING EXAMINER RIVERA: I did not, thank you.
20 And, staff, did they have anything final to say?

21 MR. ROBERTS: No, that's all.

22 HEARING EXAMINER RIVERA: Okay, thank you.

23 So with that, we conclude the hearing today. I
24 will be issuing a written recommendation to the Board.
25 If you filled out a card to speak today, you will

1 receive a copy of that once it's released, and also the
2 notification of the date and time of the Board hearing.

3 Thank you also for coming today, and everyone
4 please stay safe.

5 (Participants respond en masse.)

6 (Proceedings concluded at 11:48 a.m.)
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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEE)

I, Deborah Bruns, Florida Professional Reporter, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the transcript, pages 1 through 108, is a true and correct record of my stenographic notes.

Dated this 23rd day of September, 2020.



Deborah M. Bruns, FPR

(This transcript was electronically signed.)

<p>HEARING EXAMINER RIVERA: [141] MR. BLOUIR: [1] 90/1 MR. CALLIS: [6] 93/11 93/14 93/18 93/23 94/4 95/5 MR. HARTLEY: [15] 43/6 43/8 43/14 43/16 43/20 43/22 44/9 47/3 47/14 47/20 50/5 50/8 50/10 50/24 51/2 MR. NOTTURNO: [7] 83/11 83/14 85/1 85/5 85/8 85/13 85/17 MR. ROBERTS: [71] 8/4 21/2 21/5 21/7 21/14 21/18 21/25 44/7 50/3 50/6 50/9 50/23 50/25 60/10 60/12 60/21 60/24 61/8 61/16 62/16 63/2 63/6 63/13 63/16 64/2 64/6 66/19 66/24 68/3 68/7 68/10 68/12 71/9 71/21 72/3 72/6 72/18 72/22 72/25 73/7 73/15 73/20 73/22 73/24 74/1 80/11 80/18 80/25 81/3 81/21 82/3 82/7 82/10 82/13 82/17 83/3 85/3 85/7 85/10 103/20 104/20 105/5 105/9 105/15 105/17 106/2 106/4 106/20 107/10 107/13 107/21 MR. STERK: [12] 39/1 39/3 39/17 39/20 40/11 40/14 41/1 41/3 42/17 42/20 42/23 43/4 MR. TRUITT: [9] 26/15 73/11 92/5 97/12 97/14 98/11 98/23 99/10 104/10</p>	<p>MR. YOUNG: [1] 89/22 MS. CRESPO: [41] 11/4 11/11 15/18 17/8 17/10 17/24 18/6 20/13 20/16 20/23 21/23 22/3 25/19 25/22 51/3 52/15 56/12 62/4 62/9 62/11 62/18 66/16 66/21 71/24 72/4 72/9 72/21 72/24 73/23 81/15 81/17 81/25 82/5 82/8 82/11 82/19 93/25 96/8 97/7 104/8 104/16 MS. MONTGOMERY: [39] 6/3 8/2 8/6 35/13 37/19 37/24 38/3 53/14 60/3 60/11 61/13 71/19 71/22 73/25 82/25 85/15 95/10 95/15 95/19 96/9 96/20 98/19 99/7 100/10 100/17 102/5 102/7 104/3 104/9 104/12 104/25 105/2 105/6 105/14 106/1 106/3 106/5 106/13 107/17 MS. PAYNE: [5] 91/23 92/11 92/13 100/12 100/14 MS. WORKMAN: [11] 39/16 39/18 39/23 40/1 40/4 43/2 68/18 68/23 70/24 71/2 71/8 THE REPORTER: [3] 93/21 93/24 94/2 UNIDENTIFIED SPEAKER: [2] 60/25 61/4</p> <hr/> <p>' '80s [1] 12/21 '90s [3] 39/9 41/6 103/4 '92 [1] 102/25 'five [1] 91/2 'Laguna [1] 90/24</p>	<p>- -and [1] 2/4</p> <hr/> <p>0 00002 [2] 1/2 64/8 0002 [1] 4/5 025 [1] 12/21 0398 [1] 2/11</p> <hr/> <p>1 1.10 [1] 58/10 10 [2] 1/9 72/14 10-421 [1] 69/3 10-foot [9] 67/9 67/19 67/19 71/23 72/7 72/22 73/14 78/19 80/19 100 [1] 3/8 103 [1] 1/20 104 [1] 3/9 105 [1] 3/9 107 [1] 3/22 108 [1] 109/12 109 [1] 3/10 10:19 [1] 62/23 10:35 [1] 62/22 10:36 [1] 62/23 10th [1] 4/4 11 [1] 2/17 11:30 [2] 106/7 106/9 11:45 [2] 106/8 106/9 11:48 [2] 1/11 108/6 120 [1] 44/17 134 [4] 9/23 14/25 65/13 77/11 135.1.3 [1] 57/19 137 [7] 9/23 13/20 14/25 56/19 65/14 76/8 77/11 14 [4] 77/19 86/20 86/22 96/3 140 [2] 13/17 15/2 145 [3] 8/16 58/17 77/19 15 [7] 17/7 24/16 62/21</p>
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<p>2</p> <p>2.2 [1] 56/22</p> <p>20 [14] 15/18 15/20 15/21 21/20 21/21 31/4 31/4 32/3 33/20 53/21 54/5 54/6 66/7 93/5</p> <p>20-foot [2] 19/8 72/13</p> <p>200 [3] 16/16 23/7 66/10</p> <p>200-foot [3] 66/15 66/17 78/17</p> <p>2000s [1] 44/15</p> <p>2004 [1] 27/25</p> <p>2006 [2] 44/15 44/18</p> <p>2007 [2] 43/22 43/25</p> <p>2014 [2] 28/2 51/25</p> <p>2015 [1] 34/7</p> <p>2019 [3] 29/3 29/9 91/8</p> <p>2020 [3] 1/9 4/4 109/15</p> <p>21 [2] 17/10 67/9</p> <p>22 [2] 18/6 68/12</p>	<p>3</p> <p>30 [3] 27/1 88/8 99/21</p> <p>305 [1] 2/6</p> <p>33 [1] 23/17</p> <p>33901 [2] 1/14 1/20</p> <p>33902-0398 [1] 2/11</p> <p>33902-1507 [1] 2/3</p> <p>34-14 [1] 77/19</p> <p>34-145 [3] 8/16 58/17 77/19</p> <p>34-620 [1] 101/14</p> <p>34-933 [1] 101/14</p> <p>34134 [1] 2/6</p> <p>35 [1] 2/18</p> <p>35.6 [2] 9/15 64/14</p> <p>360 [1] 69/20</p> <p>39 [1] 2/19</p> <p>398 [1] 2/10</p>	<p>5</p> <p>5.1.5 [1] 57/3</p> <p>50 [5] 2/20 25/9 25/11 25/19 25/19</p> <p>500 [3] 92/25 93/1 93/6</p> <p>52 [1] 3/17</p> <p>522 [1] 13/17</p> <p>599 [1] 60/16</p>
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