

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2022-00061

IN RE: ALICO ORIOLE WEST MPD REZONING

PROCEEDINGS: PUBLIC HEARING

BEFORE: Amanda Rivera
Hearing Examiner

DATE: September 27, 2023

TIME: 9:00 a.m. to 9:28 a.m.

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

REPORTER: Deborah M. Bruns
Florida Professional Reporter

ORIGINAL

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12 ALSO PRESENT:

13 Alan Freeman, Freeman Properties, Applicant
14 Sharon Hrabak, Quattrone & Associates
Yury Bykau, TR Transportation

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I N D E X

PAGE

APPLICANT WITNESSES:

Richard Akin.....	4
Al Quattrone.....	7

STAFF WITNESSES:

Chahram Badamtchian.....	20
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REBUTTAL WITNESSES:

Al Quattrone.....	24
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Certificate of Reporter.....	29
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E X H I B I T S

Applicant Exhibit A 48-Hour Notice, referenced on page 5.
Applicant Exhibit 1, PowerPoint, submitted on page 6.

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

2 HEARING EXAMINER RIVERA: Good morning, my name is
3 Amanda Rivera. I am the Hearing Examiner presiding
4 over today's hearing. The date is September 27th,
5 2023, and this is case DCI2022-00061. It's a rezoning
6 request from the AG-2 district to mixed-use planned
7 development, MPD.

8 Because this is a quasi-judicial zoning hearing,
9 all testimony and evidence must be taken under oath; so
10 if you intend to speak, if you could please raise your
11 hand. Do you swear or affirm the testimony you will
12 provide is the truth?

13 (Participants respond en masse.)

14 HEARING EXAMINER RIVERA: Thank you.

15 Do we have any members of the public here today?

16 MR. BADAMTCHIAN: No, ma'am.

17 MR. AKIN: No.

18 HEARING EXAMINER RIVERA: No? Okay. Then I will
19 dispense with those instructions, and we can begin with
20 the Applicant.

21 Good morning.

22 MR. AKIN: All right, thank you. Good morning,
23 Madam Hearing Examiner. For the record, my name is
24 Richard Akin, an attorney with Henderson Franklin here
25 in Fort Myers, and I am here this morning on behalf of

1 the Applicant and Trustee, Alan Freeman.

2 We did submit a 48-hour notice in this matter.

3 The 48-hour notice indicated that we are in agreement
4 with Staff's recommendation to withdraw Deviations 2A
5 and 3B. And other than that, we are in agreement with
6 the Staff recommendation and have no other outstanding
7 issues.

8 HEARING EXAMINER RIVERA: Okay. And I did accept
9 that as Applicant's Exhibit A.

10 Would there be a master concept plan that was
11 being revised, as well, to reflect the change in the
12 deviations?

13 MR. QUATTRONE: Yeah, I believe the master concept
14 plan still probably has the triangles for those two
15 deviations --

16 HEARING EXAMINER RIVERA: Okay.

17 MR. QUATTRONE: -- so we could give you an updated
18 one that removes those.

19 HEARING EXAMINER RIVERA: Okay, so there isn't one
20 to submit today. So we'll leave the record open for
21 that at the end.

22 MR. AKIN: All right, thank you. And I also have
23 a copy of our PowerPoint presentation that I'll provide
24 for you, if that's okay.

25 HEARING EXAMINER RIVERA: Thank you. Yes, please,

1 that will be Applicant Exhibit 1.

2 (Applicant Exhibit 1 submitted.)

3 HEARING EXAMINER RIVERA: Thank you.

4 MR. AKIN: All right. So we have our team with us
5 here this morning. We have Alan Freeman, who is the
6 Applicant and the developer. He's here with us and
7 likely will have a brief presentation this morning. Al
8 Quattrone, who is our land use consultant with
9 Quattrone & Associates, will be giving the bulk of our
10 presentation. We also have Yury Bykau, who's our
11 transportation consultant from TR Transportation. He
12 is here this morning if you have any questions of him.

13 Just a brief presentation of -- or the outline of
14 our presentation. We'll go over the request and the
15 overview of the project, as well as identify the
16 location for the request, discuss the zoning and land
17 use, as well as the master concept plan and the Lee
18 Plan consistency. We will discuss some of the
19 environmental issues -- as you might have noted,
20 there's an eagle's nest not too far by -- and the
21 transportation overview, as well. We'll also discuss
22 the deviations, as there are several, and conclude.

23 The request here before you is to rezone
24 approximately 30.65 acres from agricultural to
25 mixed-use planned development for office, retail,

1 commercial, and/or industrial uses.

2 The request is for a maximum of 350,000 square
3 feet of floor area, which would include a minimum of
4 30,000 square feet of commercial and a minimum of
5 30,000 square feet of industrial.

6 The building height maximum would be 65 feet, and
7 the maximum lot coverage would be 55 percent commercial
8 and 75 percent industrial.

9 In addition, we must connect to public potable
10 water and sanitary sewer services.

11 So with that brief overview, I will turn it over
12 to Mr. Quattrone to go over the rest of it.

13 HEARING EXAMINER RIVERA: Thank you.

14 MR. AKIN: Thank you.

15 HEARING EXAMINER RIVERA: Good morning.

16 MR. QUATTRONE: Good morning. I've got a scratchy
17 throat so I brought some water up here. I'll try not
18 to spill it.

19 For the record, Al Quattrone with Quattrone &
20 Associates. I've been previously accepted as an
21 expert, and I'd like to do so again.

22 HEARING EXAMINER RIVERA: Yes, thank you.

23 MR. QUATTRONE: So the current use is vacant
24 agricultural with an agricultural exemption in place.
25 It's located in the industrial development land use.

1 It's also located in the Gateway Airport Planning
2 Community. The location and mix of uses we're
3 proposing are designed to allow this property to serve
4 as an employment center for San Carlos and Three Oaks
5 residents, reducing their commute times in the region.

6 So this is where the project is located, right
7 over here. There is a notch out up in this northeast
8 corner, which is the San Carlos Fire Station, which was
9 approved through a special exception in a development
10 order a number of years ago.

11 HEARING EXAMINER RIVERA: Are the existing -- not
12 to interrupt you. The existing road that's shown that
13 kind of outlines the fire station, I'm assuming that
14 was because of the fire station?

15 MR. QUATTRONE: Yes.

16 HEARING EXAMINER RIVERA: And they just did the
17 stub-outs --

18 MR. QUATTRONE: Yes.

19 HEARING EXAMINER RIVERA: -- potentially to this
20 property? Okay, thank you.

21 MR. QUATTRONE: Yes, stub-outs to the north and --
22 or, actually, a connection to the north, and then a
23 stub-out slightly to the south.

24 As mentioned, here's our zoning map. The current
25 use is AG-2. There's ag uses on the property.

1 We have a six-lane arterial, Alico Road, to the
2 south; and a two-lane major collector, Oriole, to the
3 east.

4 This is the land use map. You'll see off to the
5 left there is a portion of it that's in wetlands.
6 There is a conservation easement through the South
7 Florida Water Management District over that area, and
8 our master concept plan is designed around that.

9 This is the master concept plan, and I do have a
10 printed hard copy, which I can leave with you if you'd
11 like, or -- well, obviously we have to revise it to
12 remove the two deviations.

13 But -- so it shows the intended use of -- we have
14 an entrance off of Alico Road, two entrances off of
15 Oriole. This is the existing one. So as you get
16 into -- you'll see we have a number of deviations.
17 Those deviations are consistent with other -- other
18 projects in the area that we've done deviations for,
19 and a couple of them in there are deviations that we
20 typically get through the administrative process. So
21 we're trying to head that off, particularly as far as
22 potential future driveway separations, and we'll talk
23 about that a little bit later.

24 To the north -- the adjacent property to the north
25 is zoned -- is zoned, and it's the Three Oaks

1 Distribution Plan, which is a mixed planned
2 development, and it's developed with the CenterLinks
3 Industrial Development Park.

4 To the south, Alico Road right-of-way, and then
5 across from that is C-1A and CPD properties developed
6 for commercial uses, such as a shopping plaza, tire
7 store, and restaurants.

8 To the east is Three Oaks Marketplace, on the
9 other -- east side of Oriole Road, which is partially
10 developed with infrastructure and proposed commercial.
11 That is the location of the new Home Depot so -- for
12 reference.

13 To the west is zoned Formosa Commerce Park, which
14 is an industrial planned development; and, again,
15 that's partially developed with the RaceTrac
16 immediately to the west of that.

17 The property is not adjacent to any residential
18 uses or zoning, and it's in the Industrial Commercial
19 Interchange area. Staff has recommended uses, buffers,
20 and conditions consistent with other nearby zoning PD
21 cases.

22 The proposed development, as conditioned, is
23 compatible with the surrounding land uses.

24 Rather than read each one of these, if it's okay
25 I'd just like to, you know, point out that -- so we are

1 complying with Policy 1.1.7, industrial development.

2 We've demonstrated we're consistent with Policy
3 1.5.3, and this deals with that wetland that we
4 mentioned to the west, which is already part of the
5 conservation easement and permitted through the Water
6 Management District.

7 Objective 1.6, Policy 1.6.5, consistent with that,
8 which is Gateway Airport Planning.

9 And, again, if there's any of these you want me to
10 elaborate on, just let me know.

11 HEARING EXAMINER RIVERA: (Shakes head.)

12 MR. QUATTRONE: Consistent with Objective 2.1,
13 development location; Objective 2.2, development
14 timing.

15 We're also consistent with Policy 4.1 -- 4.1.1 and
16 4.1.2, which is utilities, have the availability.

17 Policy 6.1.3, which deals with the requirement for
18 a PD given the size of our project, we're consistent
19 with that policy.

20 Policy 6.1.5, we're consistent with that one, as
21 well.

22 And I think this might be a typo, but it says this
23 policy deals with open space --

24 THE REPORTER: (Record read.) I'm having a hard
25 time -- I didn't hear the last part of that.

1 MR. QUATTRONE: Oh, I'm sorry. We have -- we
2 listed Policy 6.1.5 twice. I think I have a typo
3 there. Excuse me.

4 Moving on, so we're consistent with Policy 7.1.2,
5 Policy 7.1.3, Policy 7.1.5, Policy 7.1.8, and Policy
6 7.1.9, which deal with not having to go through any
7 adjacent residential properties for the project, and
8 not having a -- and then having our access points on
9 arterial and collector roads and not traveling, again,
10 through residential areas.

11 Objective 11.1 and Goal 60 we're compliant with;
12 compliant with Goal 77, development design
13 requirements; Policy 124.1.2 and Policy 125.1.3, which
14 is part of the Water Management permitting as far as
15 water quality and monitoring of those wetland areas.

16 So as mentioned, there is an active bald eagle
17 nest on this site. That's located on the western
18 portion of the property just north of Alico Road --
19 well, it falls pretty much midway between this
20 property...

21 There's an eagle management plan that's been
22 permitted through FWC, and we also have our ETAC
23 approval, which was approved on June 13th; and they've
24 approved our limits of construction to be consistent
25 with our development berm around the conservation area.

1 Then, of course, there's certain requirements outside
2 of the main primary which talks about times of
3 construction and additional monitoring.

4 As far as the transportation overview, we do have
5 Yury here so -- if you do have any transportation
6 questions, but it's pretty straightforward. We did a
7 TIS per the zoning application for the 350,000 square
8 feet of commercial/industrial uses, and then there is
9 also a potential for 150 hotel rooms being requested.

10 The proposed project has three driveway
11 connections: one on Alico, two on Oriole.

12 Future link level of service and intersection
13 analysis, there's no projected negative transportation
14 impacts as a result of the proposed zoning request.

15 And the project is consistent with Lee Plan and
16 Lee County Department of Transportation elements,
17 rules, and standards.

18 And just a quick overview of the site location, a
19 little bit blown up, showing the existing access roads.
20 So we'll have an access point somewhere around here
21 with Alico. There is a ditch, you can see, that's a
22 fairly large ditch. We'll culvert that and connect
23 here similar to what we did with Three Oaks Marketplace
24 to the east.

25 So as far as the deviations, we do have a number

1 of them. As I mentioned, we did request -- or with
2 Staff's recommendation we withdrew Deviation 2A. We
3 agree with that one. We have no objection to that.

4 Then we have Deviation 2B, to permit a 25-foot
5 line lake setback to allow a zero-foot property line
6 lake setback where the lake is combined with adjacent
7 property. So we're not anticipating any new lakes, but
8 the intent of this deviation is, if there are lakes
9 built in the future, that they can cross lines. And
10 also it accounts for the fact that there is a long
11 linear north/south lake that serves as the master
12 drainage system. That lake does cross property
13 boundaries so it addresses that existing condition, as
14 well.

15 Deviation 2C, to allow for a horizontal slope of
16 four-to-one for the lake, and that is because the lake
17 was built underneath the older design condition. So
18 since it's on this property, we've been including that
19 deviation in these requests even though it's a
20 grandfathered condition.

21 And then also do not require fencing around any
22 existing proposed lakes. There is a note in the LDC
23 that says, at the discretion, a fence could be
24 required. So we'd like to get that addressed up front
25 so we -- we obviously don't need to show it later on

1 for any existing or proposed lakes.

2 Deviation Number 3, we have the five-acre
3 conservation easement and lake tracts. We want those
4 to be credited towards the open space requirement for
5 the project. So we did a calculation to demonstrate
6 that we can offset 10 percent of the commercial use
7 requirement, reducing it from 30 percent to 20 percent;
8 and for industrial, which typically requires a
9 20-percent open space requirement, we can reduce that
10 down to 10 by using that existing conservation and lake
11 tract.

12 We withdrew Deviation 3B.

13 And then Deviation 3C is to allow native wetland
14 trees to be substituted for 100 percent of the total
15 number of herbaceous plants required. So we're in the
16 flight path of RSW so they typically ask us to not
17 plant herbaceous plants which could draw birds, so we
18 ask for this deviation to replace those.

19 Street design standard, this goes to the design of
20 it. There is a code that requires trees to be planted
21 on either side of the right -- within the right-of-way,
22 either side of the road. We've asked for this
23 deviation so that we don't have to plant any canopy
24 trees, which have an adverse impact on the roads and
25 visibility later on.

1 4B, to permit internal roads or accessways to be
2 constructed without a cul-de-sac. Looking at the site
3 plan, we are proposing a hammerhead right here. Staff
4 has indicated they support that. Obviously that would
5 be something else that's reviewed during DO to
6 demonstrate that it complies with the Fire Department
7 turnaround requirements.

8 Development signs, 5A, to permit one additional
9 sign -- or Deviation 5A and 5B, to permit one
10 additional on the project's road frontage, Oriole Road,
11 for a total of two ground-mounted developer signs on
12 Oriole Road; and to allow two signs on Oriole Road with
13 200 square feet per sign area per face. This is a
14 deviation of an additional 100 square feet of sign area
15 on Oriole. Again, this is something consistent with
16 other projects. Given the size of it and the amount of
17 frontage, we ask for this deviation.

18 HEARING EXAMINER RIVERA: I assume those would be
19 on the project entrances that you've got --

20 MR. QUATTRONE: Yes.

21 HEARING EXAMINER RIVERA: -- along Oriole?

22 MR. QUATTRONE: Yes.

23 Deviation Number 6 is site design standards, to
24 permit the proposed local roadway, as shown on the
25 master concept plan, to serve as the required

1 interconnection for Lots C-1 and C-6. So there is a --
2 so there is a condition in the LDC that requires
3 interconnection of parking lots. So after a project's
4 developed, they want the parking lots to be
5 interconnected.

6 We're proposing to eliminate that requirement and
7 just rely on the local road, which is essentially a
8 reverse frontage road, to allow access. We found,
9 depending on certain uses, if you have drive-throughs
10 or car washes, that could potentially be more conflicts
11 than -- potential adverse impacts as opposed to a
12 benefit. And, again, this is a dead-end road so it's
13 going to be a light-traveled road, as compared to
14 something that went from subdivision to subdivision.

15 Number 7, to permit a connection separation of 60
16 feet on the proposed access roads from anticipated
17 Tracts A, C-5, and C-6 in accordance with the concept
18 plan, and to allow for a 102-foot driveway separation
19 for Sweeney Avenue.

20 There should be adequate room to get the 125-foot
21 separation for each of these tracts. This one, because
22 of the eagle zone, would most likely push their
23 driveway closer towards this driveway. So the 60-foot
24 deviation relates to this.

25 The second deviation is the access to the fire

1 station. That's existing, but there was some concerns
2 that it may not have been officially approved through
3 some sort of zone deviation or zoning action. So we're
4 asking for that deviation right now, which would
5 satisfy both projects.

6 So in conclusion:

7 We submit sufficient evidence has been provided
8 with this application to demonstrate that this rezoning
9 is in compliance with the Lee Plan.

10 In addition, sufficient evidence has been provided
11 with this application to demonstrate that this rezoning
12 is in compliance with the Land Development Code and all
13 other applicable rules, regulations, including
14 compliance with all zoning provisions and supplemental
15 regulations set forth in Chapter 34.

16 The request is compatible with existing or planned
17 uses in the surrounding area.

18 The project with provided access is sufficient to
19 support the proposed development intensities.

20 The expected impacts on transportation facilities
21 will be addressed by existing County regulations at
22 time of development order.

23 The request will not adversely affect
24 environmentally critical areas or natural resources.

25 Urban services are available to the site,

1 including utilities, the roadway network's in place,
2 and this will not have an undue burden upon existing
3 transportation or planned infrastructure facilities in
4 the area.

5 The request is consistent with the densities,
6 intensities, and general uses set forth in the Lee
7 Plan, and the proposed uses or mixes of uses are
8 appropriate for this location.

9 The proposed conditions are sufficient safeguards
10 to the public's interest and are reasonably related to
11 the impacts on the public's interest expected from the
12 proposed development.

13 The deviations enhance the achievement of the
14 objectives of the planned developments and preserve or
15 promote the general intent of the Code, to protect
16 public health, safety, and welfare.

17 The request will not cause damage, hazard,
18 nuisance, or other detriment to persons or properties.

19 The request will not -- the request will meet or
20 exceed all performance and location standards set forth
21 for the uses allowed.

22 And that's the end of my presentation. Do you
23 have any questions?

24 HEARING EXAMINER RIVERA: No, I'm just going
25 through -- the only question I had -- we went through

1 the deviations; but on the conditions, the only one was
2 the Development Services condition that's talking about
3 the trip generation, essentially. Is that intended
4 just to preserve what the TIS currently contemplated --

5 MR. QUATTRONE: I believe so.

6 HEARING EXAMINER RIVERA: -- for the ratio? I
7 think it said it was a one-to-one ratio for anything.
8 So if you do decide to do a hotel or something, you
9 would just stay within the confines --

10 MR. QUATTRONE: Yeah -- is that correct, Yury?

11 MR. BYKAU: (Nods head.)

12 MR. QUATTRONE: Yes.

13 HEARING EXAMINER RIVERA: -- of the trip
14 generation? Okay.

15 That was the extent of my questions for now.

16 MR. QUATTRONE: Okay, good.

17 HEARING EXAMINER RIVERA: Thank you.

18 MR. AKIN: So I believe that concludes our
19 presentation, so we'll turn it over to Staff. Thank
20 you.

21 HEARING EXAMINER RIVERA: Thank you.

22 Good morning.

23 MR. BADAMTCHIAN: Good morning, Chahram
24 Badamtchian from Lee County Zoning. My résumé is on
25 file. I was recognized as expert, and I'd like to be

1 recognized as such.

2 HEARING EXAMINER RIVERA: (Nods head.)

3 MR. BADAMTCHIAN: Well, the request, as you heard,
4 is to rezone 30.6 acres -- plus or minus acres from AG
5 to mixed-use planned development, basically industrial
6 planned development and commercial planned development.

7 The future land use designation of the property is
8 industrial development, with the exception of about
9 three acres that are wetlands, but they have a
10 conservation over it, and they are not touching that.

11 They -- there is a minimum 30,000 or whatever
12 square feet of commercial/industrial. If they go below
13 that, they will no longer qualify for a mixed-use
14 planned development.

15 And Staff reviewed this case, and they are in full
16 compliance with all applicable Lee Plan policies,
17 goals, and objectives, and the Land Development Code's
18 requirements.

19 They have -- they requested 12 deviations. Staff
20 recommended withdrawal of one and denial of another,
21 and they agreed to withdraw those two deviations.

22 With that, Staff recommends approval of this case
23 with all Staff conditions.

24 HEARING EXAMINER RIVERA: For the two deviations,
25 so the one, the withdrawal was because it wasn't

1 necessary. You said it was --

2 MR. BADAMTCHIAN: Correct, they were talking about
3 something in the future, and it wasn't really clear
4 what they were talking about, really, and they agreed
5 that it was kind of, you know, read in the future
6 what's going to happen.

7 And the other one...

8 HEARING EXAMINER RIVERA: The other one dealt with
9 the landscaping so -- and I think the reasoning from --

10 MR. BADAMTCHIAN: The landscaping, the reasoning
11 was that on both sides of the road we have the same
12 with landscaping, and this would have been the only one
13 to use landscaping, and there was really no reason
14 for -- for it to have reduced landscaping. Even though
15 I understand some right-of-way was taken from this
16 property in the past; but, nonetheless, we just want
17 everything to look uniform in the area.

18 HEARING EXAMINER RIVERA: So you did compare all
19 of the adjoining or adjacent --

20 MR. BADAMTCHIAN: Yes.

21 HEARING EXAMINER RIVERA: -- along that corridor?

22 MR. BADAMTCHIAN: Correct.

23 HEARING EXAMINER RIVERA: Okay. And what they're
24 proposing then, without the deviation, matches what was
25 approved in the other cases?

1 MR. BADAMTCHIAN: Yes.

2 HEARING EXAMINER RIVERA: Okay, thank you.

3 And so going back again, the first one about the
4 lake excavation -- it was a water excavation, I think,
5 from property line. So that's not for the existing
6 lake. That was going to be for --

7 MR. BADAMTCHIAN: Correct, that was for the future
8 lake that's not shown on the master concept plan, and
9 we don't know which lake. And if and when they ask for
10 it, another lake, we'll see if there's a deviation
11 needed. Maybe we can get it administratively approved.
12 We don't know.

13 HEARING EXAMINER RIVERA: Okay. And with the 150
14 hotel rooms, Staff was comfortable that, that was
15 consistent -- if they elect to add that in, that that's
16 a consistent use at that number?

17 MR. BADAMTCHIAN: That is consistent use. They
18 have given a traffic count that they have given us with
19 the TIS. Our condition is that they cannot exceed
20 that. If they want to have hotel, then they have to
21 reduce the square footage of commercial/industrial to
22 stay within the range of trips they have provided us
23 with their TIS.

24 HEARING EXAMINER RIVERA: Okay. And that was
25 Condition 9 that I was just asking about --

1 MR. BADAMTCHIAN: Correct.

2 HEARING EXAMINER RIVERA: -- before. That's
3 already contemplated. Okay, thank you.

4 Did Staff -- or did Applicant have any questions
5 of Staff?

6 MR. QUATTRONE: No. I can just elaborate a little
7 bit on the -- why we agree with Staff.

8 One, as Chahram mentioned, it would be for a
9 proposed lake. Our assumption is if we ever did add a
10 proposed lake, that would trigger an administrative
11 amendment to the application anyway, and we could ask
12 for that deviation at that time.

13 And the other one for the buffers, there was at
14 one point contemplation of taking additional
15 right-of-way, which we don't believe is ever going to
16 happen. So it was kind of -- it was an unnecessary
17 request for that one, even though there was an
18 additional right-of-way used for turn lanes, that
19 wasn't the intent. So we're in agreement with those
20 two.

21 HEARING EXAMINER RIVERA: And when you talk about
22 proposed lakes, you're talking within the individual
23 development tracts --

24 MR. QUATTRONE: Yes, if somebody decides to put a
25 lake for whatever -- for drainage or for esthetic

1 reasons.

2 HEARING EXAMINER RIVERA: Okay. And the existing
3 lake that's there that you talked about that's along
4 the west, and that's part of an ERP, did that ERP -- is
5 that approved for this development plan, or does that
6 connect to something else?

7 MR. QUATTRONE: No, that lake is -- which runs
8 from this property, the discharge of that lake is at
9 our southwest corner, and that lake continues all the
10 way north almost towards the Fiddlesticks ditch, and
11 that serves this entire north Alico subdivision.

12 HEARING EXAMINER RIVERA: So that ERP runs -- and
13 that has a conservation easement attached to it?

14 MR. QUATTRONE: Yes.

15 HEARING EXAMINER RIVERA: That's for the western
16 portion of the property that you don't have an ERP
17 over, this development --

18 MR. QUATTRONE: Not over this site-specific
19 development.

20 HEARING EXAMINER RIVERA: Okay. But you will have
21 to --

22 MR. QUATTRONE: Yes, they'll have to get it for
23 the infrastructure at some time -- some point.

24 HEARING EXAMINER RIVERA: And the agricultural
25 exemption I read in there, it's the standard one that

1 basically just says that you're retaining it until you
2 start to go vertical on any individual tract --

3 MR. QUATTRONE: That's correct.

4 HEARING EXAMINER RIVERA: -- is that the
5 intention?

6 MR. QUATTRONE: Yes.

7 HEARING EXAMINER RIVERA: Thank you.

8 And with -- the last question I didn't ask before
9 about the eagle, you went through ETAC in June, and
10 that was the approved management plan?

11 MR. QUATTRONE: Yes.

12 HEARING EXAMINER RIVERA: That's the one that I
13 have here in the Staff Report? Let me find it. Is it
14 an active nest?

15 MR. QUATTRONE: Yeah, I believe so. It's been
16 used every year, from what I understand.

17 HEARING EXAMINER RIVERA: Okay. But you've
18 already designated -- so the revised master concept
19 plan, I think, is the only outstanding issue that I
20 have on that.

21 Were there any closing comments that anybody
22 wanted to make?

23 MR. AKIN: No, ma'am.

24 HEARING EXAMINER RIVERA: Okay, thank you.

25 How long do we need to do the revised master

1 concept plan to remove the deviations?

2 MR. QUATTRONE: We could get it to you tomorrow,
3 if you'd like, or do you want to leave the record open
4 till Monday or Tuesday?

5 HEARING EXAMINER RIVERA: Definitely, yes, that
6 would be fine. I've got one case before this one so I
7 won't be getting to it before then. So you want me to
8 just do Monday, the 2nd, by 4 p.m.?

9 MR. QUATTRONE: Yeah. I could have it done before
10 I even get back to my office with a call so --

11 HEARING EXAMINER RIVERA: The technology -- not if
12 your technology is working the way that ours was this
13 morning, it won't work that quickly. So I don't want
14 to hold you to that.

15 MR. QUATTRONE: That's okay.

16 HEARING EXAMINER RIVERA: So I will leave the
17 record open for a revised master concept plan by end of
18 business on Monday, the 2nd, simply to remove those
19 deviations from the 48-hour letter.

20 MR. QUATTRONE: Okay.

21 HEARING EXAMINER RIVERA: And there were no
22 closing comments by either party?

23 MR. QUATTRONE: No.

24 HEARING EXAMINER RIVERA: Okay, thank you.

25 Then with that --

1 MR. QUATTRONE: Thank you.

2 HEARING EXAMINER RIVERA: -- we'll conclude --

3 MR. QUATTRONE: I didn't want to cut --

4 HEARING EXAMINER RIVERA: -- thank you.

5 Thank you for coming, please stay well.

6 MR. AKIN: Thank you.

7 (Proceedings concluded at 9:28 a.m.)

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3 CERTIFICATE OF REPORTER
4

5 STATE OF FLORIDA)

6 COUNTY OF LEE)
7

8 I, Deborah M. Bruns, Florida Professional
9 Reporter, do hereby certify that I was
10 authorized to and did report the foregoing
11 proceedings, and that the transcript, pages 1
12 through 28, is a true and correct record of my
13 stenographic notes.
14

15 Dated this 5th day of October, 2023.
16

17 
18

19 Deborah M. Bruns, FPR
20

21 (This transcript was electronically signed.)
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23
24
25

1 1 6:1,2 1.1.7 11:1 1.5.3 11:3 1.6 11:7 1.6.5 11:7 10 15:6,10 100 15:14 16:14 102-foot 17:18 11.1 12:11 12 21:19 124.1.2 12:13 125-foot 17:20 125.1.3 12:13 13th 12:23 150 13:9 23:13	4:4 2A 5:4 14:2 2B 14:4 2C 14:15 2nd 27:8,18 3 3 15:2 30 15:7 30,000 7:4,5 21:11 30.6 21:4 30.65 6:24 34 18:15 350,000 7:2 13:7 3B 5:5 15:12 3C 15:13 4 4 27:8 4.1 11:15 4.1.1 11:15 4.1.2 11:16 48-hour 5:2,3 27:19 4B 16:1 5 55 7:7 5A 16:8,9	5B 16:9 6 6 16:23 6.1.3 11:17 6.1.5 11:20 12:2 60 12:11 17:15 60-foot 17:23 65 7:6 7 7 17:15 7.1.2 12:4 7.1.3 12:5 7.1.5 12:5 7.1.8 12:5 7.1.9 12:6 75 7:8 77 12:12 9 9 23:25 9:28 28:7 A a.m. 28:7 accept 5:8 accepted 7:20	access 12:8 13:19,20 17:8,16,25 18:18 accessways 16:1 accordance 17:17 accounts 14:10 achievement 19:13 acres 6:24 21:4,9 action 18:3 active 12:16 26:14 add 23:15 24:9 addition 7:9 18:10 additional 13:3 16:8,10,14 24:14,18 addressed 14:24 18:21 addresses 14:13 adequate 17:20 adjacent 9:24 10:17 12:7 14:6 22:19 adjoining 22:19 administrative 9:20 24:10 administratively 23:11 adverse 15:24 17:11 adversely 18:23 affect 18:23 affirm 4:11 ag 8:25 21:4	AG-2 4:6 8:25 agree 14:3 24:7 agreed 21:21 22:4 agreement 5:3,5 24:19 agricultural 6:24 7:24 25:24 Airport 8:1 11:8 Akin 4:17,22,24 5:22 6:4 7:14 20:18 26:23 28:6 Alan 5:1 6:5 Alico 9:1,14 10:4 12:18 13:11,21 25:11 allowed 19:21 Amanda 4:3 amendment 24:11 amount 16:16 analysis 13:13 and/or 7:1 anticipated 17:16 anticipating 14:7 applicable 18:13 21:16 applicant 4:20 5:1 6:1,2,6 24:4 Applicant's 5:9 application 13:7 18:8,11 24:11 approval 12:23 21:22 approved 8:9 12:23,24 18:2
2 2.1 11:12 2.2 11:13 20 15:7 20-percent 15:9 200 16:13 2023 4:5 25-foot 14:4 27th				

22:25 23:11 25:5 26:10 approximately 6:24 area 7:3 9:7,18 10:19 12:25 16:13,14 18:17 19:4 22:17 areas 12:10,15 18:24 arterial 9:1 12:9 Associates 6:9 7:20 assume 16:18 assuming 8:13 assumption 24:9 attached 25:13 attorney 4:24 availability 11:16 Avenue 17:19	bit 9:23 13:19 24:7 blown 13:19 boundaries 14:13 brought 7:17 buffers 10:19 24:13 building 7:6 built 14:9,17 bulk 6:9 burden 19:2 business 27:18 Bykau 6:10 20:11	Chahram 20:23 24:8 change 5:11 Chapter 18:15 clear 22:3 closer 17:23 closing 26:21 27:22 code 15:20 18:12 19:15 Code's 21:17 collector 9:2 12:9 combined 14:6 comfortable 23:14 comments 26:21 27:22 Commerce 10:13 commercial 7:1,4,7 10:6,10,18 15:6 21:6 commercial/ industrial 13:8 21:12 23:21 Community 8:2 commute 8:5 compare 22:18 compared 17:13 compatible 10:23 18:16 compliance 18:9,12,14 21:16 compliant 12:11,12 complies 16:6 complying 11:1	concept 5:10,13 6:17 9:8,9 16:25 17:17 23:8 26:18 27:1,17 concerns 18:1 conclude 6:22 28:2 concluded 28:7 concludes 20:18 conclusion 18:6 condition 14:13,17,20 17:2 20:2 23:19,25 conditioned 10:22 conditions 10:20 19:9 20:1 21:23 confines 20:9 conflicts 17:10 connect 7:9 13:22 25:6 connection 8:22 17:15 connections 13:11 conservation 9:6 11:5 12:25 15:3,10 21:10 25:13 consistency 6:18 consistent 9:17 10:20 11:2,7, 12,15,18,20 12:4, 24 13:15 16:15 19:5 23:15,16,17 constructed 16:2 construction 12:24 13:3 consultant 6:8,11 contemplated 20:4 24:3	contemplation 24:14 continues 25:9 copy 5:23 9:10 corner 8:8 25:9 correct 20:10 22:2,22 23:7 24:1 26:3 corridor 22:21 count 23:18 County 13:16 18:21 20:24 couple 9:19 coverage 7:7 CPD 10:5 credited 15:4 critical 18:24 cross 14:9,12 cul-de-sac 16:2 culvert 13:22 current 7:23 8:24 cut 28:3
B	C			D
back 23:3 27:10 Badamtchian 4:16 20:23,24 21:3 22:2,10,20,22 23:1,7,17 24:1 bald 12:16 basically 21:5 26:1 begin 4:19 behalf 4:25 benefit 17:12 berm 12:25 birds 15:17	C-1 17:1 C-1A 10:5 C-5 17:17 C-6 17:1,17 calculation 15:5 call 27:10 canopy 15:23 car 17:10 Carlos 8:4,8 case 4:5 21:15,22 27:6 cases 10:21 22:25 center 8:4 Centerlinks 10:2			damage 19:17 date 4:4 DCI2022-00061 4:5 dead-end 17:12 deal 12:6

deals 11:3,17,23	17:24,25 18:3,4 22:24 23:10 24:12	eliminate 17:6	exemption 7:24 25:25	floor 7:3
dealt 22:8	deviations 5:4,12,15 6:22	employment 8:4	Exhibit 5:9 6:1,2	Florida 9:7
decide 20:8	9:12,16,17,18,19 13:25 19:13 20:1	en 4:13	existing 8:11,12 9:15 13:19	footage 23:21
decides 24:24	21:19,21,24 27:1, 19	end 5:21 19:22 27:17	14:13,22 15:1,10 18:1,16,21 19:2	Formosa 10:13
demonstrate 15:5 16:6 18:8,11	discharge 25:8	enhance 19:13	23:5 25:2	Fort 4:25
demonstrated 11:2	discretion 14:23	entire 25:11	expected 18:20 19:11	found 17:8
denial 21:20	discuss 6:16,18,21	entrance 9:14	expert 7:21 20:25	four-to-one 14:16
densities 19:5	dispense 4:19	entrances 9:14 16:19	extent 20:15	Franklin 4:24
Department 13:16 16:6	Distribution 10:1	environmental 6:19	F	Freeman 5:1 6:5
depending 17:9	district 4:6 9:7 11:6	environmentally 18:24	face 16:13	front 14:24
Depot 10:11	ditch 13:21,22 25:10	ERP 25:4,12,16	facilities 18:20 19:3	frontage 16:10,17 17:8
design 12:12 14:17 15:19 16:23	drainage 14:12 24:25	essentially 17:7 20:3	fact 14:10	full 21:15
designated 26:18	draw 15:17	esthetic 24:25	fairly 13:22	future 9:22 13:12 14:9 21:7 22:3,5 23:7
designation 21:7	drive-throughs 17:9	ETAC 12:22 26:9	falls 12:19	FWC 12:22
designed 8:3 9:8	driveway 9:22 13:10 17:18, 23	evidence 4:9 18:7,10	feet 7:3,4,5,6 13:8 16:13,14 17:16 21:12	G
detriment 19:18	E	Examiner 4:2,3,14,18,23 5:8, 16,19,25 6:3 7:13, 15,22 8:11,16,19 11:11 16:18,21 19:24 20:6,13,17, 21 21:2,24 22:8, 18,21,23 23:2,13, 24 24:2,21 25:2, 12,15,20,24 26:4, 7,12,17,24 27:5, 11,16,21,24 28:2,4	fence 14:23	Gateway 8:1 11:8
developed 10:2,5,10,15 17:4	eagle 12:16,21 17:22 26:9	excavation 23:4	fencing 14:21	general 19:6,15
developer 6:6 16:11	eagle's 6:20	exceed 19:20 23:19	Fiddlesticks 25:10	generation 20:3,14
development 4:7 6:25 7:25 8:9 10:2,3,14,22 11:1, 13 12:12,25 16:8 18:12,19,22 19:12 20:2 21:5,6,8,14, 17 24:23 25:5,17, 19	easement 9:6 11:5 15:3 25:13	exception 8:9 21:8	file 20:25	give 5:17
developments 19:14	east 9:3 10:8,9 13:24	Excuse 12:3	find 26:13	giving 6:9
deviation 14:2,4,8,15,19 15:2,12,13,18,23 16:9,14,17,23	elaborate 11:10 24:6		fine 27:6	Goal 12:11,12
	elect 23:15		fire 8:8,13,14 16:6 17:25	goals 21:17
	elements 13:16		five-acre 15:2	good 4:2,21,22 7:15,16 20:16,22,23
			flight 15:16	grandfathered 14:20

ground-mounted 16:11		issue 26:19	linear 14:11	matter 5:2
H	I	issues 5:7 6:19	lines 14:9	maximum 7:2,6,7
hammerhead 16:3	identify 6:15	J	link 13:12	meet 19:19
hand 4:11	immediately 10:16	June 12:23 26:9	listed 12:2	members 4:15
happen 22:6 24:16	impact 15:24	K	local 16:24 17:7	mentioned 8:24 11:4 12:16 14:1 24:8
hard 9:10 11:24	impacts 13:14 17:11 18:20 19:11	kind 8:13 22:5 24:16	located 7:25 8:1,6 12:17	midway 12:19
hazard 19:17	include 7:3	L	location 6:16 8:2 10:11 11:13 13:18 19:8, 20	minimum 7:3,4 21:11
head 9:21 11:11 20:11 21:2	including 14:18 18:13 19:1	lake 14:5,6,11,12,16 15:3,10 23:4,6,8,9, 10 24:9,10,25 25:3,7,8,9	long 14:10 26:25	minus 21:4
health 19:16	individual 24:22 26:2	lakes 14:7,8,22 15:1 24:22	longer 21:13	mix 8:2
hear 11:25	industrial 7:1,5,8,25 10:3,14, 18 11:1 15:8 21:5, 8	land 6:8,16 7:25 9:4 10:23 18:12 21:7, 17	lot 7:7	mixed 10:1
heard 21:3	infrastructure 10:10 19:3 25:23	landscaping 22:9,10,12,13,14	lots 17:1,3,4	mixed-use 4:6 6:25 21:5,13
hearing 4:2,3,4,8,14,18,23 5:8,16,19,25 6:3 7:13,15,22 8:11, 16,19 11:11 16:18, 21 19:24 20:6,13, 17,21 21:2,24 22:8,18,21,23 23:2,13,24 24:2,21 25:2,12,15,20,24 26:4,7,12,17,24 27:5,11,16,21,24 28:2,4	instructions 4:19	lanes 24:18	M	mixes 19:7
height 7:6	intend 4:10	large 13:22	Madam 4:23	Monday 27:4,8,18
Henderson 4:24	intended 9:13 20:3	LDC 14:22 17:2	main 13:2	monitoring 12:15 13:3
herbaceous 15:15,17	intensities 18:19 19:6	leave 5:20 9:10 27:3,16	major 9:2	morning 4:2,21,22,25 6:5,7, 12 7:15,16 20:22, 23 27:13
hold 27:14	intent 14:8 19:15 24:19	Lee 6:17 13:15,16 18:9 19:6 20:24 21:16	make 26:22	Moving 12:4
Home 10:11	intention 26:5	left 9:5	management 9:7 11:6 12:14,21 26:10	MPD 4:7
horizontal 14:15	Interchange 10:19	letter 27:19	map 8:24 9:4	Myers 4:25
hotel 13:9 20:8 23:14,20	interconnected 17:5	level 13:12	Marketplace 10:8 13:23	N
	interconnection 17:1,3	light-traveled 17:13	masse 4:13	native 15:13
	interest 19:10,11	limits 12:24	master 5:10,13 6:17 9:8,9 14:11 16:25 23:8 26:18,25 27:17	natural 18:24
	internal 16:1		matches 22:24	nearby 10:20
	interrupt 8:12			needed 23:11
	intersection 13:12			

negative 13:13 nest 6:20 12:17 26:14 network's 19:1 nods 20:11 21:2 nonetheless 22:16 north 8:21,22 9:24 12:18 25:10,11 north/south 14:11 northeast 8:7 notch 8:7 note 14:22 noted 6:19 notice 5:2,3 nuisance 19:18 number 8:10 9:16 13:25 15:2,15 16:23 17:15 23:16 O Oaks 8:4 9:25 10:8 13:23 oath 4:9 objection 14:3 Objective 11:7,12,13 12:11 objectives 19:14 21:17 office 6:25 27:10 officially 18:2 offset 15:6	older 14:17 one-to-one 20:7 open 5:20 11:23 15:4,9 27:3,17 opposed 17:11 order 8:10 18:22 Oriole 9:2,15 10:9 13:11 16:10,12,15,21 outline 6:13 outlines 8:13 outstanding 5:6 26:19 overview 6:15,21 7:11 13:4, 18 P p.m. 27:8 Park 10:3,13 parking 17:3,4 part 11:4,25 12:14 25:4 partially 10:9,15 participants 4:13 party 27:22 past 22:16 path 15:16 PD 10:20 11:18 percent 7:7,8 15:6,7,14 performance 19:20	permit 14:4 16:1,8,9,24 17:15 permitted 11:5 12:22 permitting 12:14 persons 19:18 place 7:24 19:1 plan 5:10,14 6:17,18 9:8,9 10:1 12:21 13:15 16:3,25 17:18 18:9 19:7 21:16 23:8 25:5 26:10,19 27:1,17 planned 4:6 6:25 10:1,14 18:16 19:3,14 21:5,6,14 Planning 8:1 11:8 plant 15:17,23 planted 15:20 plants 15:15,17 plaza 10:6 point 10:25 13:20 24:14 25:23 points 12:8 policies 21:16 policy 11:1,2,7,15,17,19, 20,23 12:2,4,5,13 portion 9:5 12:18 25:16 potable 7:9 potential 9:22 13:9 17:11 potentially 8:19 17:10	Powerpoint 5:23 presentation 5:23 6:7,10,13,14 19:22 20:19 preserve 19:14 20:4 presiding 4:3 pretty 12:19 13:6 previously 7:20 primary 13:2 printed 9:10 proceedings 28:7 process 9:20 project 6:15 8:6 11:18 12:7 13:10,15 15:5 16:19 18:18 project's 16:10 17:3 projected 13:13 projects 9:18 16:16 18:5 promote 19:15 properties 10:5 12:7 19:18 property 8:3,20,25 9:24 10:17 12:18,20 14:5,7,12,18 21:7 22:16 23:5 25:8,16 proposed 10:10,22 13:10,14 14:22 15:1 16:24 17:16 18:19 19:7, 9,12 24:9,10,22 proposing 8:3 16:3 17:6 22:24 protect 19:15	provide 4:12 5:23 provided 18:7,10,18 23:22 provisions 18:14 public 4:15 7:9 19:16 public's 19:10,11 push 17:22 put 24:24 Q qualify 21:13 quality 12:15 quasi-judicial 4:8 Quattrone 5:13,17 6:8,9 7:12, 16,19,23 8:15,18, 21 11:12 12:1 16:20,22 20:5,10, 12,16 24:6,24 25:7,14,18,22 26:3,6,11,15 27:2, 9,15,20,23 28:1,3 question 19:25 26:8 questions 6:12 13:6 19:23 20:15 24:4 quick 13:18 quickly 27:13 R Racetrac 10:15 raise 4:10 range 23:22 ratio 20:6,7
--	--	--	--	---

read 10:24 11:24 22:5 25:25 reason 22:13 reasoning 22:9,10 reasons 25:1 recognized 20:25 21:1 recommendation 5:4,6 14:2 recommended 10:19 21:20 recommends 21:22 record 4:23 5:20 7:19 11:24 27:3,17 reduce 15:9 23:21 reduced 22:14 reducing 8:5 15:7 reference 10:12 reflect 5:11 region 8:5 regulations 18:13,15,21 related 19:10 relates 17:24 rely 17:7 remove 9:12 27:1,18 removes 5:18 replace 15:18 Report 26:13 REPORTER 11:24	request 4:6 6:14,16,23 7:2 13:14 14:1 18:16, 23 19:5,17,19 21:3 24:17 requested 13:9 21:19 requests 14:19 require 14:21 required 14:24 15:15 16:25 requirement 11:17 15:4,7,9 17:6 requirements 12:13 13:1 16:7 21:18 requires 15:8,20 17:2 residential 10:17 12:7,10 residents 8:5 resources 18:24 respond 4:13 rest 7:12 restaurants 10:7 result 13:14 retail 6:25 retaining 26:1 reverse 17:8 reviewed 16:5 21:15 revise 9:11 revised 5:11 26:18,25 27:17 rezone 6:23 21:4	rezoning 4:5 18:8,11 Richard 4:24 right-of-way 10:4 15:21 22:15 24:15,18 Rivera 4:2,3,14,18 5:8,16, 19,25 6:3 7:13,15, 22 8:11,16,19 11:11 16:18,21 19:24 20:6,13,17, 21 21:2,24 22:8, 18,21,23 23:2,13, 24 24:2,21 25:2, 12,15,20,24 26:4, 7,12,17,24 27:5, 11,16,21,24 28:2,4 road 8:12 9:1,14 10:4,9 12:18 15:22 16:10, 12 17:7,8,12,13 22:11 roads 12:9 13:19 15:24 16:1 17:16 roadway 16:24 19:1 room 17:20 rooms 13:9 23:14 RSW 15:16 rules 13:17 18:13 runs 25:7,12 résumé 20:24 S safeguards 19:9 safety 19:16 San 8:4,8 sanitary 7:10	satisfy 18:5 scratchy 7:16 separation 17:15,18,21 separations 9:22 September 4:4 serve 8:3 16:25 serves 14:11 25:11 service 13:12 services 7:10 18:25 20:2 set 18:15 19:6,20 setback 14:5,6 sewer 7:10 shakes 11:11 shopping 10:6 show 14:25 showing 13:19 shown 8:12 16:24 23:8 shows 9:13 side 10:9 15:21,22 sides 22:11 sign 16:9,13,14 signs 16:8,11,12 similar 13:23 simply 27:18 site 12:17 13:18 16:2,	23 18:25 site-specific 25:18 six-lane 9:1 size 11:18 16:16 slightly 8:23 slope 14:15 sort 18:3 south 8:23 9:2,6 10:4 southwest 25:9 space 11:23 15:4,9 speak 4:10 special 8:9 spill 7:18 square 7:2,4,5 13:7 16:13, 14 21:12 23:21 Staff 5:6 10:19 16:3 20:19 21:15,19,22, 23 23:14 24:4,5,7 26:13 Staff's 5:4 14:2 standard 15:19 25:25 standards 13:17 16:23 19:20 start 26:2 station 8:8,13,14 18:1 stay 20:9 23:22 28:5 store 10:7 straightforward 13:6
--	--	---	---	---

Street 15:19 stub-out 8:23 stub-outs 8:17,21 subdivision 17:14 25:11 submit 5:2,20 18:7 submitted 6:2 substituted 15:14 sufficient 18:7,10,18 19:9 supplemental 18:14 support 16:4 18:19 surrounding 10:23 18:17 swear 4:11 Sweeney 17:19 system 14:12 T taking 24:14 talk 9:22 24:21 talked 25:3 talking 20:2 22:2,4 24:22 talks 13:2 team 6:4 technology 27:11,12 testimony 4:9,11 throat 7:17 till 27:4	time 11:25 18:22 24:12 25:23 times 8:5 13:2 timing 11:14 tire 10:6 TIS 13:7 20:4 23:19,23 today 4:15 5:20 today's 4:4 tomorrow 27:2 total 15:14 16:11 touching 21:10 TR 6:11 tract 15:11 26:2 tracts 15:3 17:17,21 24:23 traffic 23:18 transportation 6:11,21 13:4,5,13, 16 18:20 19:3 traveling 12:9 trees 15:14,20,24 triangles 5:14 trigger 24:10 trip 20:3,13 trips 23:22 Trustee 5:1 truth 4:12	Tuesday 27:4 turn 7:11 20:19 24:18 turnaround 16:7 two-lane 9:2 typically 9:20 15:8,16 typo 11:22 12:2 U underneath 14:17 understand 22:15 26:16 undue 19:2 uniform 22:17 unnecessary 24:16 updated 5:17 Urban 18:25 utilities 11:16 19:1 V vacant 7:23 vertical 26:2 visibility 15:25 W wanted 26:22 washes 17:10 water 7:10,17 9:7 11:5 12:14,15 23:4 welfare 19:16	west 10:13,16 11:4 25:4 western 12:17 25:15 wetland 11:3 12:15 15:13 wetlands 9:5 21:9 withdraw 5:4 21:21 withdrawal 21:20,25 withdrew 14:2 15:12 work 27:13 working 27:12 Y year 26:16 years 8:10 Yury 6:10 13:5 20:10 Z zero-foot 14:5 zone 17:22 18:3 zoned 9:25 10:13 zoning 4:8 6:16 8:24 10:18,20 13:7,14 18:3,14 20:24
---	---	--	--