THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2023-00051

IN RE: SOUTH SEAS ISLAND RESORT
MIXED USE PLANNED DEVELOPMENT
_____/

VOLUME I

PROCEEDINGS:	PUBLIC HEARING
BEFORE:	Donna Marie Collins Chief Hearing Examiner
DATE:	February 14, 2025
TIME:	9:00 a.m. to 3:29 p.m.
LOCATION:	Lee County Board of County Commissioners Board Chambers 2120 Main Street Fort Myers, FL 33901
REPORTER:	Deborah M. Bruns Florida Professional Reporter

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Anthony Solomon, WS SSIR Holdings, LLC
David Henson, WS SSIR Holdings, LLC
Shawn Farrell, South Seas Resort
Carl Barraco, Barraco & Associates
Ted Treesh, TR Transportation
Betsie Hiatt, Pennoni
Cathy Olson, Pennoni
Mark McLean, MHK Architecture
Christian Andrea, ALD, Inc.
Elizabeth Fountain, J.R. Evans
James VonRinteln, J.R. Evans
Dan Trescott, Trescott Planning Solutions
Christopher Wright, B&W Structural Designs, Inc.
Hans Wilson, HWA
Lucy Gallo, Development Planning and Financing Group

Joseph Adams, Lee County Attorney's Office
Elizabeth Workman, Lee County Planner

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P R O C E E D I N G S

HEARING EXAMINER COLLINS: Good morning. The date is February 14th, 2025. Today's hearing is to consider a request to rezone 120.5 acres to the Mixed Use Planned Development Zoning District. The case name is South Seas Island Resort MPD, and the details of the request will be explained during Applicant's presentation.

For those of you who are unfamiliar with the zoning process, my task as the Hearing Examiner is to accept testimony and evidence and prepare a recommendation to the Board of County Commissioners. They are the final decision-makers on this request.

My recommendation will evaluate the request based on the review criteria in the Land Development Code and in the Lee Plan.

This is a quasi-judicial hearing, and in zoning hearings the County regulations distinguish between parties and participants. Parties are defined as the Applicant and Staff. Parties may cross-examine all witnesses. County regulations and Florida case law do not recognize the right of a nonparty participant to cross-examine witnesses in a zoning matter. Nonparty participants will have the opportunity to testify and ask questions during the public input portion of the

hearing. Questions posed by the public will be noted by the parties, and then addressed by them at the conclusion of all public input at the end of the hearing.

My review of the Land Development Code and the governing Administrative Code leads me to conclude that members of the public will be afforded due process in this manner, and my actions regarding your testimony and the posing of questions will not depart from the essential requirements of law.

Next, parties and participants may not request that testimony be stricken. Specifically, Administrative Code 2-6 provides that objections to testimony goes to the weight of evidence and not to its admissibility. Relative to expert witness testimony, objections to a witness' expertise goes to credibility and weight, it does not affect its admissibility, and that, again, is from Administrative Code 2-6. So please do not interrupt testimony that you consider unfavorable and try to keep it from the record. That's not how the procedure works.

I have exercised my discretion in a manner that allows testimony to proceed in an orderly fashion. Following these guidelines, presentations will not be fragmented, the pace of the hearing will not be

disrupted. The public will be able to present concerns in a concise manner, pose questions, and suggest conditions for consideration to address their concerns.

Applicant's representatives will present the case first. Their testimony will explain the request in detail, its expected impacts, and how those impacts will be addressed or ameliorated by conditions. Applicant's presentation may include several witnesses on various aspects of the request.

Following their presentation, Staff will present the Staff Report. This may also consist of several witnesses -- planners, engineers, other experts. The Staff Report issued a recommendation of approval in this case.

At the conclusion of Staff and Applicant's presentations, I will invite members of the public to speak at the podium. If you have not already done so, please fill out one of the participation forms, and I will reference that as I call members of the public. I don't anticipate we will get to public testimony today, but -- and if you filled out a sheet, you don't have to fill one out again. We will hold onto them.

A few notes on public testimony that I have not already covered. Each member of the public and their representatives may speak once. Questions will be

noted, as I mentioned before, and addressed by the parties at the conclusion of public input.

Once the public input portion of the hearing is over, there will be no further public testimony or argument accepted into the record. Public participants may present both testimony and evidence. All evidence will be marked as exhibits and become part of the record that I review and the Board can see.

Nonparty participants may not put on a case, so to speak. That means they may not have a representative make opening and closing arguments, call witnesses, and the like. These privileges are reserved for parties, as I explained earlier. If members of the public wish to present testimony in a specific order, I will abide by that request. Just tell me who is speaking when, the order you want me to follow, and I will do so. Please understand that all those who testify may be subject to cross-examination by the parties.

And while we're on the subject of cross-examination -- I direct these comments to the parties -- I encourage you to use cross-examination judicially. Please avoid using cross-examination to disagree with the witness or present counterarguments. It is much more valuable to me and to the Board if you address disputed testimony during your rebuttal and

closing remarks. Following this suggestion, it permits testimony to proceed in an orderly fashion, testimony on relevant issues will not be fragmented, and the pace of the hearing will remain on track.

Finally, once the hearing begins, we will recess approximately every hour and a half to two hours to give the court reporter a break. We will resume promptly after the recess. We will break for lunch and resume a similar schedule in the afternoon, and we will conclude for the day at 4 p.m. This hearing will resume on February 20th at 9 a.m.

If you must leave the room during the hearing, please do so quietly.

Kindly take a moment now to silence your tablets and cellphones.

All members of the public, Staff, and the Applicant that testify on the record must do so under oath, so I'm going to administer the oath now. If you plan to submit testimony and evidence into the record, please raise your right hand. Do you swear or affirm the testimony and evidence you place into the record will be the truth?

(Participants respond en masse.)

HEARING EXAMINER COLLINS: Thank you.

Okay. Before we begin, I would like Staff to

present the affidavit of publication for the notice of this hearing. Can you do that, please, confirming that it was properly advertised.

(Staff Exhibit 2 submitted.)

HEARING EXAMINER COLLINS: Thank you. I will mark this as Staff Exhibit 2. Staff Exhibit 1 was the Staff Report.

All right, I'm ready to begin.

MR. GROSSO: Madam Hearing Examiner, my name is Richard Grosso. May I be heard briefly? I'm an attorney for the Captiva Civic Association, and this is in regard to a request we've made for party participation status.

HEARING EXAMINER COLLINS: Okay. I am not going to grant party participation status to anyone other than Staff and the Applicant. The Administrative Code is clear, and I am confident that you will be afforded sufficient due process when you speak during the public portion.

MR. GROSSO: I appreciate that. Might I be able to put into the record our written request we had made to County Staff --

HEARING EXAMINER COLLINS: You can do that during public input.

MR. GROSSO: Okay.

HEARING EXAMINER COLLINS: Thank you.

MR. GROSSO: Thank you.

HEARING EXAMINER COLLINS: I'm ready for the Applicant to begin.

MS. MONTGOMERY: Yes, ma'am. Does the Hearing Examiner have the Applicant's 48-hour letter?

HEARING EXAMINER COLLINS: Yes.

MS. MONTGOMERY: The Applicant is going to provide you with a copy of the PowerPoint.

I do have one question about cross-examination. I know you were cautioning me to be judicious.

HEARING EXAMINER COLLINS: I'm not prohibiting it. I'm just asking you to understand that it is of limited value to me and to the Board, and that I can pretty well assume you're going to disagree with anyone who disagrees with your case. So it's more effective, in my opinion, if you address everything in your rebuttal, but I'm not prohibiting it.

MS. MONTGOMERY: Yes, ma'am, and I understand that. The Administrative -- what I'm trying to figure out though -- I just would like you to think about or opine before we get to public input because the Administrative Code provides that counsel, you know, statements are arguments and so those aren't subject to cross-examination. So I can't cross-examine, perhaps,

Mr. Grosso if he's -- if he's making arguments as an attorney; but if they are speaking as a factual witness, do I then have the right of cross-examination?

HEARING EXAMINER COLLINS: If they're speaking as a factual witness, yes, but I remind you this is of limited value to me.

MS. MONTGOMERY: Yes, ma'am.

HEARING EXAMINER COLLINS: Okay.

MS. MONTGOMERY: No, no, I got that loud and clear.

HEARING EXAMINER COLLINS: I know it's going to be hard to resist, but I know if you let everyone speak, we'll get through it all, I will consider all the testimony and evidence, give it the weight it should be afforded. And then when I get to your vehement disagreement in the -- your portion of the hearing, I will also weigh that and take that into consideration.

MS. MONTGOMERY: And you're absolutely right. You've had a few hearings with me and know sometimes I can't resist so I appreciate that.

With that, we'll call our first witness, who's an expert in planning and has testified here before, Alexis Crespo.

(Sotto voce between Hearing Examiner and reporter)

HEARING EXAMINER COLLINS: Maria, could you turn

the volume up?

MS. PEREZ: Yeah, I'm working on that.

HEARING EXAMINER COLLINS: Okay, thank you.

If people are having difficulty hearing, if you could just raise your hand rather than call out. I can see everyone really well from here, and that will be a clue to me that we need to ask the technical people to raise the volume so everyone can hear clearly.

You will have an opportunity to see all of the presentation/pictorial evidence that's in the record on the screen behind me, but I just want to remind everyone that all of the evidence in this case, including the transcript, are public records, and they're available upon request.

MS. CRESPO: Thank you. Good morning, Alexis Crespo. I'm vice president of planning with RVi Planning & Landscape Architecture. As Neale noted, I've been --

UNIDENTIFIED SPEAKER: Madam Chair, we're having difficulty hearing.

HEARING EXAMINER COLLINS: Okay. I asked that you please raise your hand if you cannot hear, not to call out, thank you.

Maria, can you --

MS. PEREZ: They're working on it.

HEARING EXAMINER COLLINS: They're working on it? Well, I'm not going to resume unless everybody can hear so I'd like a final -- I'd like a final thing on that.

MS. CRESPO: I don't see the typical microphone up here that they say not to touch.

(Off-the-record discussion)

MS. CRESPO: Again, Alexis Crespo for the record, vice president of planning with RVi Planning & Landscape Architecture. As --

(Participants raising hands.)

HEARING EXAMINER COLLINS: Okay. They still can't hear Alexis.

MS. CRESPO: I can speak -- I'll speak louder.

(Sotto voce between Hearing Examiner and reporter)

HEARING EXAMINER COLLINS: And the court reporter can't hear.

(Off-the-record discussion)

HEARING EXAMINER COLLINS: Let's try again.

MS. CRESPO: As Neale noted, I have been accepted as an expert in land use planning. My résumé is on file with the Lee County Hearing Examiner's Office.

As you noted, we do expect to take most of the day with our presentation. We have our full team of experts here to explain the MPD rezoning request to you this morning.

Here as part of the Applicant team is:

Greg Spencer, Anthony Solomon, David Henson, and Shawn Farrell, who is actually the general manager of South Seas Resort.

You, of course, know Neale Montgomery, our legal counsel.

Carl Barraco is a professional engineer with Barraco & Associates who's done the recent development orders on the site and will be testifying about utilities and stormwater matters.

I will cover the land use.

Ted Treesh is here. He's performed the traffic impact study accompanying our zoning application.

Both Betsie Hiatt and Cathy Olson are here with Pennoni and are our environmental consultants to address those items.

Mark McLean is an architect with MHK Architecture and has been working on proposed redevelopment and building designs, to share those with you as part of our presentation.

Christian Andrea is a licensed landscape architect and will be dialing in on some of our landscape buffering deviations that we'll present to you.

Elizabeth Fountain and her colleague, Jim VonRinteln, are here from J.R. Evans, and they are

specialists in coastal engineering and hurricane evacuation matters; as is Dan Trescott, who prepared the hurricane evacuation analysis submitted with your 48-hour letter.

I will note in your binder that I provided you with this morning, we did provide an updated hurricane evacuation analysis dated January 20th, a copy in your 48-hour letter submitted via email was dated January 10th.

Christopher Wright is also a professional engineer on the team and will address structural engineering related to resiliency and current building codes.

Hans Wilson, also a professional engineer with Hans Wilson & Associates, is our marina engineer and will discuss the Manatee Protection Plan and slip allotment associated with the property.

And last but not least, Lucy Gallo is an economist with DPFG and will be addressing economic impacts of the project as it relates to the Lee Plan economic development element.

I'll go slower.

So in terms of the order of our presentation, I'm going to start and lay some groundwork on the existing conditions of the property. I'm sure you visited the property as a -- as potentially a guest but also as

part of this case, or will do so, and so we wanted to inventory the lands all within our request and MPD boundary, but also other lands within the South Seas Resort.

And when I use those terms, I'll note the subject property is the 120.5 acres within our MPD rezoning application, and then the land outside of that will be referred to as South Seas Resort, which is a defined term in Chapter 33 of the Land Development Code, to discuss the property as a whole.

MS. PEREZ: (Inaudible.)

HEARING EXAMINER COLLINS: I can't hear you.

(off-the-record discussion)

MS. CRESPO: So the order of our presentation will start with walking you through the subject property, including lands within the MPD boundary, as well as lands outside the MPD boundary but within the South Seas Resort. We will also discuss the entitlement history and the land use pattern along Captiva Island as a whole. And then I'll do a detailed review of our proposed master concept plan and our deviations.

After that, Pennoni will discuss a fairly brief presentation on the environmental considerations, the preserve areas and protected species.

Then Christian Andrea will address landscape

architecture. There are a number of deviations that he'll be explaining in more detail, how we meet the criteria of the Land Development Code relating to those requests.

Then Carl Barraco will address stormwater management and provision of utilities for the project.

We'll have Elizabeth Fountain discuss coastal engineering matters. The subject is -- the property is within a number of different coastal construction zones that are referenced in the Staff Report; so we felt it would be beneficial for you, as well as folks in the room, to get a detailed walk-through of the different state, local, federal coastal zones governing redevelopment of the site.

Chris Wright will be brief and touch on structural engineering aspects of the redevelopment, as well as how that relates to resiliency.

Then Mark McLean will demonstrate the proposed built form scale/scope of the proposed buildings and some architectural information.

Then we'll roll into Ted Treesh on transportation, outline the traffic study.

Dan Trescott speaking to hurricane evacuation as it relates to the Lee Plan. As part of that, Shawn Farrell, who is general manager with South Seas, is

going to explain their evacuation procedures, their evacuation plan that they've had in place that you will be provided, as well.

And then the last few speakers are going to be brief: Hans Wilson speaking on the Manatee Protection Plan. I'm going to note in that 48-hour letter that was provided, we did get a revised Manatee Protection Plan, information from Hans. It had a more recent date on it with 620 slips. So that's been outlined and we'll cover that in our presentation.

Lucy Gallo will touch on the economic impacts of the proposed MPD rezoning, and then I'll close out with compliance with your Lee Plan and Land Development Code and associated criteria.

So the subject property is outlined in yellow. This is 120.5 acres of land. North is to the left-hand side of the screen, which is always a little difficult to look at.

The site is geographically unique, distinct, if you will. It is surrounded on three sides by waterways. We have the Gulf of Mexico to the west, we have Redfish Pass to the north, and then bay waters to the east.

It's also distinct as you look at this aerial, in that it's a very long, linear property, as is Captiva

Island as a whole, which is shown in the image. Captiva Island stretches five miles in length, from south to north, approximately; and the subject property is approx -- is two miles inland from the southern terminus at Captiva Drive up to the northern tip. So long, linear, and of note, South Seas comprises 40 percent of the length of Captiva Island; so it is a significant geographic landmark within the site.

Looking closer at the subject property, you can see in a little bit more detail the existing development within the site. So you can see the access to the property is from the south off Captiva Drive. There are -- there's the main South Seas Plantation Road access point with a gated entry. There are other ancillary access points into the site, as well. We will maintain minimum access requirements from that road, as I'll walk you through.

There are large preserve areas on the site, as you can see outlined. There's existing development abutting us within the South Seas Resort and off-site.

One thing that is also unique about this project is what you're seeing and what's being proposed through the MPD is entirely redevelopment of impacted areas that have been impacted over the last 50 plus years as the resort development has progressed. Any areas

currently in preserve on the site will remain in preserve. We're not impacting any new areas to accommodate this new redevelopment. And what you see on the screen are areas that have been either demolished or destroyed, due to the recent rash of hurricanes, that we're proposing for redevelopment through this rezoning proposal.

So the request before you that we're respectfully recommend -- requesting your recommendation of approval is to rezone the subject property from the current conventional zoning districts of residential multi-family, or RM-2; two-family conservation, or TFC-2; and also marine commercial, or CM; to a unified mixed use planned development. We are seeking a maximum of 193 residential dwelling units, 435 hotel rooms, as well as accessory resort commercial and recreational uses. This will be addressed throughout the presentation, but these are accessory in that all of the commercial and recreational uses we will describe to you that are proposed, or under development per current development orders, are solely for residents and guests of South Seas. That has changed over time. I personally have taken my mother to South Seas for a day trip from their docks. That type of public access and use ceased many years ago. The

Applicant is restricting all ancillary or commercial and rec on this site to residents and guests only, and so that's a pretty key aspect of the proposal to understand. Unlike many resorts on the island that offer day passes, South Seas does not offer those types of access points to nonguests or nonresidents.

HEARING EXAMINER COLLINS: Okay. I have a quick question regarding the site visit that I have to do in connection with this case. Will I be able to enter the property without special permission? Because if I need special permission to get through a gate or something, I'm going to need to have that arranged.

MS. MONTGOMERY: If you let us know when you want to come, Maria can work with us. We'll make sure they let you through the gate.

HEARING EXAMINER COLLINS: Okay. I have not had an opportunity to go before the hearing. I usually go before and after the hearing, but what I'll do is -- since I sense this is going to be a multi-day hearing, I'm going to try to go before we resume again and then again at the end, as is my custom.

MS. CRESPO: I can attest your name has been on the list for a while, that if Donna Marie Collins gets to the gate, please let her in.

HEARING EXAMINER COLLINS: I've been turned away

before and chased so -- not from this place, but other gated places.

MS. CRESPO: Okay, thank you.

So the proposed development program, again, 193 multi-family dwelling units was what the traffic study is based upon, 435 hotel rooms. The private, ancillary recreational and commercial use is to really make this a self-contained resort project, as it has been and will continue to be post-redevelopment. That will include some retail shops for residents and guests, restaurants, things of that nature, to really allow guests and residents to enter the property and stay on the property and have it be, again, as self-contained as possible.

We are also seeking continuation of what we're -- what we've renamed from marina to multi-slip docking facilities for wet boat slips. This is zoned -- or certain areas of the site are zoned marine commercial. The change to multi-slip docking facility was to ensure, again, that these boat slips are for residents and guests only. If we describe these or ask for the use of marina, that would open usage of these areas to the general public; and so once Staff pointed that out, we amended our schedule of uses to limit the use accordingly.

Also as part of the development program, we exceed both the County's open space requirements, as well as indigenous preserve requirements. We exceed open space by about 30 percent, and then exceed the open space -- or indigenous requirements by 40 percent of the -- the existing preserve area on the site.

Our maximum building height, which we will address in detail in terms of its measurement -- how that measurement varies across the property due to different coastal zones, that maximum building height requested is 45 feet, consistent with the outlying suburban future land use limitations within -- within the Code.

I'll note on that -- and I always feel if you have a point, you should say it multiple times, and there is a Staff condition that we cannot exercise the right to ask for increased height. There are provisions in the Land Development Code that allow Applicants to administratively increase setbacks to get more building height. That's been addressed through the Staff Report. We have no issue with those conditions that will keep this as a static 45 feet as -- as requested.

This is our master concept plan. We'll walk you through that in more detail, but you can see this is denoting the different proposed development tracts in different colors to delineate where hotel will go,

where the multi-family units will go, and then the purple is where the resort recreation nonresidential uses (sic) will be dispersed for the enjoyment of the guests and residents, but we'll do that in detail later so...

At this point I'm going to walk you through the -- just the history. I think Staff did an excellent job of synthesizing decades of really complex zoning changes and actions into a nice succinct summary in the Staff report so I'll just walk you through that at the table here.

The future land use of the property is -- is shown on the slide. The orange color is your Outlying Suburban Future Land Use category limiting residential densities to three units per acre. The green represents wetlands. These are saltwater wetlands which are treated differently by the Lee Plan than freshwater wetlands. So these have a straight 1 unit per 20-acre density cap. They can't be -- you can't cluster on uplands and achieve higher density the way you can with freshwater wetlands. So important to know that -- note that in terms of the -- of the Lee Plan framework.

Lee County divides all of this land into planning communities. So each and every parcel in the county is

allocated to one of these planning districts within the Lee Plan. The subject property is a part of the -- correct name -- Captiva Planning Community, which is Planning Community 7. This planning community -- really, the -- one of the intents of this piece of the Lee Plan is to allocate maximum residential land uses, as well as commercial land uses, by acreage. Your Staff has reviewed the request and the acreages associated with it. There is more than sufficient residential lands allocated within outlying suburban, as well as commercial land allocated to outlying suburban within this planning to support our rezoning request.

In certain cases these planning communities are further subdivided into community planning areas. This is where active areas of the county engage in planning exercises to adopt goals, objectives, and policies into the Lee Plan. Captiva is one of those areas. It is distinct, and it has its own community plan different from North Captiva, which is in the same planning community. And this is in Goal 23 of the Lee Plan which the subject property must abide by. We will address that at the end of our presentation but wanted to note that.

This community planning area was further

implemented in the Land Development Code in Chapter 33. South Seas Resort has been exempt from any Land Development Code regulations in Chapter 33 over the years, and through recent amendments that was continued. So we are -- the MPD before you is subject to Lee Plan Goal 23 but is not subject to Land Development Code Chapter 33.

The next slide is the current zoning map, again, the property outlined in yellow. You'll see that the vast majority is purple, which is multi-family residential, multi-family RM-2 zoning, so that's 96 percent of the site. We do have some commercial marine -- I don't have a mouse I don't think, but it's in the orange color. And then the turquoise color on the east side of the site is TFC-2 or two-family conservation area.

So, again, walking through some of the key points also in your Staff Report of the zoning history, the subject property was rezoned in 1973. Z-73-202 is the zoning resolution that was adopted by the Board of County Commissioners. It's in your Staff Report backup materials. This zoning resolution rezoned the property from RU-3 and RU-2 to RU-3 with a PUD concept as a guide. So not rezoned PUD, that doesn't exist yet, but rezoned to a category that allowed for multi-family,

hotel/motel resort-style of uses, and this was done by the Mariner Group, which was the key developer of the island. There was hotel uses predating this early '70s zoning action, but this is when the resort, as it is today, was officially rezoned.

So, again, not zoned PUD, but there was a PUD concept as a guide to accompany that conventional zoning district.

Also within this resolution was a special limitation limiting the density to three units per acre. At this point in time, there was no Lee Plan or future land use map limiting unit counts. It was reliant on the Land Development Code and development standards assigned to the zoning district. So that is one of the first density limitations applied to the property, to cap that at three units per acre, which conveniently today is memorialized through the Outlying Suburban Future Land Use category.

There is also a special permit to allow up to five acres of commercial development on the site, as well.

It's noted in the backup materials that through this action and that special limitation of three units per acre, the Mariner Group effectively down-zoned the property from the almost 4,000 units that could be developed under the conventional zoning, or the RU-3

and -2 at the time, to limit it to 912 units on the 304 acres of that property.

So fast-forwarding several years, Lee County codified their Land Development Code in 1978. As part of this, the RU-2 portion of the project was converted to RM-1, and that remained for several years, and then RM-1 was converted to the current conventional zoning district of TFC-2, which again is a very small portion of the property. The majority of the property was RU-3 and was converted to RM-2. So 1986 is when the property was rezoned to the conventional districts that exist today.

The last rezoning action was -- in terms of changing zoning on the property was in 1990 when the northern RM-2 tract was rezoned to marine commercial or CM.

So that remained for several years until 2002, when the County adopted an administrative interpretation document. So this was approved in July of 2002. I believe Madam Hearing Examiner was in the County Attorney's Office at the time and may have more in-depth familiarity of the interpretation, but there's a couple of key points. This was -- this was not a zoning action. This did not authorize new development or rezone the property or issue any additional

development approvals. This was intended to memorialize the complex zoning history, the level of build-out that had already occurred, and create a document that memorialized how many units had been built, how many units are left, what are the development standards applicable when you have a mix of conventional zoning districts and a 1973 PUD concept guide. It just attempted to take all of these pieces of zoning tied to the property and create one document that housed the development standards, if you will, of how to proceed.

In that document there is also an amendment process provided for that relied on the planned unit development zoning district amendment process, which is 34-1038 of the Land Development Code. That's still in the LDC today, because you do have some of these old PUDs from the '80s when that was still an eligible zoning district. Today, of course, it's planned development zoning districts subject to a different section of the Code. But this document set forth a way in which to amend the allowances set forth in the interpretation pursuant to the criteria in 34-1038.

The administrative amendment also had a master development plan, again, to in a visual sense memorialize where units were built out and where units

were allowable for future development.

HEARING EXAMINER COLLINS: And this included the entire resort?

MS. CRESPO: This is the 304 acres, yes.

This is an excerpt from the administrative interpretation, the ADD2002-00098. This is to clearly set forth -- this is in the Staff Report but -- the number of units that the Applicant is entitled to today based on the administrative amendment that -- that inventoried allowable unit counts within the project. So -- and this is actually very helpful because it says explicitly by tract where -- the maximum unit count by tract so it's very easy to see which ones are owned by others and which ones are owned by the Applicant so -- and we'll walk you through where these units are allowed on the site in the next few slides.

So the employee housing site is in the southern end of the property. That's allocated 140 units. The Harbourside Villas, this is where the former hotel was near the marina area in the northern portion of the site. That is allocated 107 units. All other units not outlined in red here are owned by other individuals.

And then how you get to 272 units, which is what this Applicant controls currently based on this

entitlement, comes from 25 units assigned to Harbourview Villas. 10 were developed after the ADD was issued so that's why the 35 should be 25 -- or is 25 today, rather. And so when you add up those three allocations, you arrive at 272 units being allowed today to be developed by right pursuant to the conventional zoning districts and the administrative interpretation.

Do you have any questions on that?

HEARING EXAMINER COLLINS: So that's on the property that you represent?

MS. CRESPO: Correct.

So where do we stand today? There's been several -- several hurricanes that have resulted in the property owner and Applicant having to demolish structures that were unhabitable and destroyed more than 50 percent. As part of that process, and as related to kind of the hurricane activity and changes, there's been significant evolution of minimum base flood elevation within this area of the county, as well as, really, the county as a whole. So the County has had to deal with the fact that the state and federal government have changed the base measurement of building height, and it affects coastal areas more substantially because they are -- have higher finish

floor elevations compared to the rest of the county. So -- and we will deal with this in detail through a variety of experts through the testimony, but where we found ourselves today with the administrative interpretation is a height measurement that starts at the ground or water level complicated by differing state and federal height measurement that -- that overrule that measurement. And so this is where the proverbial squeeze occurred, and we are dealing with reconstructing buildings where our measurement starts here, but the federal government says it starts here. And so the top isn't changing, and we're getting squeezed out of units.

And so it became evident, in order to meet current measurements required by the federal and state government, that we would be losing one if not two stories of these structures, as we'll walk you through cross sections. So those changes not only affected the subject property, but it came to the attention of Lee County that this was going to be impacting a lot of the coastal areas where height was measured from ground level instead of the first allowable minimum habitable floor per the state and federal government. So the height changes that have occurred since 2002 were a significant driver in us in this room today requesting

an MPD rezoning.

HEARING EXAMINER COLLINS: When you say "the height changes," you mean the point from which you measure --

MS. CRESPO: The measurement changes, correct, the fact that Lee County is not evolving with the state and federal standards that are constantly shifting the starting point of that measurement.

The other key item is there have been administrative amendments to the zoning over the course of several years. At a certain point the County Attorney's Office, in reviewing the conventional zoning district and reviewing the administrative interpretation, came to the conclusion that we -- the Applicant, rather, cannot utilize an amendment process for a planned unit development zoning district that does not apply to the property. Often we are before you requesting PD rezonings because it affords amendment processes, deviations, things like that. It's a clear fact if you're conventionally zoned, that you must abide by the Land Development Code, in this case another layer with the -- with the 2002 ADD. But it became an issue to continue using an amendment process that applies to an entirely different zoning district that you're no longer eligible to even request

within the county.

HEARING EXAMINER COLLINS: But the prior approval didn't impose a PUD on the project. It just said those principles are going to be a guide; right?

MS. CRESPO: Correct.

HEARING EXAMINER COLLINS: So what you're left with is a collection of conventionally zoned parcels.

MS. CRESPO: Correct.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: Entirely conventionally zoned and therefore not able to use the PUD zoning district amendment process.

HEARING EXAMINER COLLINS: Right, okay.

MS. CRESPO: And this was made clear to the Applicant in 2023 in the midst of attempting to redevelop the site post -- post Hurricane Ian.

All right. So at this point I'll walk you through -- the development pattern within the South Seas Resort covers the 304 acres. So it will cover not only properties within the subject mixed-use planned development, but also lands outside the mixed-use planned development within South Seas Resort.

HEARING EXAMINER COLLINS: Okay, just a second.

(Sotto voce between Hearing Examiner and reporter)

MS. CRESPO: So this colorful map delineates 24

different tracts that we're going to discuss. We'll move from the south end of the property to the north, and just inventory for you kind of the characteristics of existing conditions, as well as build conditions within those tracts.

So we'll start on Tract 1, which is the gray tract. It is within the MPD boundary. This is the former conference center. If you visited the property in past years, there is a conference facility. There was also restaurants open to the public. Doc Ford's was in this area. You could access it if you were not a guest of the resort. There was also guest services and some recreational components such as the tennis courts. The tennis courts have been demolished. Many of the structures are still there and have been refurbished and renovated to allow for a continuation of some minimal guest services and owner relations, as the Applicant attempts to get the resort back online and back up and running. So those structures largely today -- some of them have been demolished.

This is also the site where some other new resort amenities are being proposed, including a water park, which has been issued a development order, which Carl Barraco will walk you through. So there's new construction underway. When you visit the site, you'll

notice a large area where the water park is being constructed.

And then the remaining vacant areas within this overall tract will house a new hotel structure, as proposed by the MPD.

HEARING EXAMINER COLLINS: And this is the parcel that's close to Captiva Drive there?

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: You're still -- okay.

MS. CRESPO: So you can see it's the gray -- it's the gray tract, and so you -- the Doc Ford's, you'd see it very visibly from Captiva Drive as you -- as you are about to enter the property.

The main entry, South Seas Plantation Road, is right between the gray and the red area, just for context.

HEARING EXAMINER COLLINS: That's the resort entry, you're saying?

MS. CRESPO: Correct, approximately.

All right. And so then we'll go to Tract 2, which is along the bay water area. This is Bayside Villas. This is a view of those condominiums. It's a 102-unit condominium constructed in the late '70s. This is not within the proposed MPD boundary. This will abut those recreational and hotel uses just described on Tract 1.

You can see from the structures that there's ground floor parking, as well as three stories plus a loft, so four habitable stories over ground floor parking in these buildings. And measurements of the building will be addressed later, but these are approximately 4 -- close to 48 feet in height.

HEARING EXAMINER COLLINS: And parking is underneath the building?

MS. CRESPO: Yes. And this is a view looking from -- from the -- looking westward, northwest.

So next we'll take you to the tract marked number 3, which is the Tennis Villas. This would -- this abuts the Tennis Villas, as well as proposed hotel recreational use tract described as 1. This tract is not within the proposed MPD. This is also a 60-unit condominium, so individually-owned units also constructed in the late '70s, also three stories over ground floor parking with a loft, and is very similar in height to the Bayside Villas, at about 47 to 48 feet tall.

And I'll -- we'll touch on this data later, but many of these -- because this is a resort, because there are potentially one to a handful of full-time residents, most of these units -- actually, 82 percent of the units are either in the South Seas rental pool,

a third-party rental pool, or are a timeshare unit, as we'll walk you through. So when I visited this resort for a conference --

HEARING EXAMINER COLLINS: What percentage?

MS. CRESPO: I'm sorry?

HEARING EXAMINER COLLINS: What percentage?

MS. CRESPO: 82 percent --

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: -- of the existing built units are allowed to be rented for durations as little as one night. Some property -- properties within the resort are restricted to a minimum five-night stay, but 82 percent are actively within known rental pools or are timeshares. And I believe when I -- when I -- as I was saying, when I stayed here for a conference, I either stayed in Bayside Villas or Tennis Villas, which was booked as part of that conference.

The next tract we'll take you to is Tract 4. This is the former employee housing property. So this is also visible from Captiva Drive along that frontage. This has been vacant for a number of years, the building -- or it has not been used for employee housing for a number of years. This is within the MPD boundary. It's entirely demolished. This was a very recent picture taken of the site. You can see it's

used for some staging at the current time for the trolleys that circulate throughout the property. This is proposed as -- when we walk you through the master concept plan, as a future residential tract to contain some of those multi-family units we're seeking.

Then we'll go to Tract 6 along the Gulf of Mexico side. These are the beach villas. These are not within the proposed MPD. These are also individually-owned condominium units, 160 across the 18-acre tract. These were constructed in the mid to late '70s, and, again, are four stories -- four-story buildings, three stories with a loft over ground floor parking. And that's just a view of the pool area, as well, to serve that.

Then we get into -- I don't think I did that, but the signal went out.

HEARING EXAMINER COLLINS: Okay. So we were -- we were at 5 so now we're going to go to 6; right?

MS. CRESPO: Yes, we were at 5. Now we're going to go to 6.

HEARING EXAMINER COLLINS: I don't have a paper copy of the PowerPoint. Is that in your --

MS. CRESPO: That was the big binder.

HEARING EXAMINER COLLINS: Oh, this is your 48-hour letter -- this is your PowerPoint?

MS. CRESPO: I'm on slide 32, yes.

HEARING EXAMINER COLLINS: I'm going to mark this, your PowerPoint, as your Exhibit 1.

(Applicant Exhibit 1 marked.)

HEARING EXAMINER COLLINS: Maria, please keep track of this.

And this is just -- the other binder is another copy of your 48?

MS. CRESPO: Yes, with the amendment noted of --

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: Then as you move northward along the internal spine road, you get to the beach cottages, again, not -- not within the proposed MPD. This is about an 8-acre tract, a 26-unit condominium. These are slightly smaller in scale than the Tennis and Bayside Villas, also well buffered from proposed uses within the MPD. These were constructed in the late '70s and are two stories over ground floor parking.

HEARING EXAMINER COLLINS: Okay. So are these in a cluster of multiple buildings --

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: -- in this area? Okay. It didn't look like that one could do 26 units. So there's like --

MS. CRESPO: There's a series of them, if you --

if you see on -- where the 6 is labeled --

HEARING EXAMINER COLLINS: Oh, I see the parcel.

MS. CRESPO: -- those are spread out in a linear fashion.

HEARING EXAMINER COLLINS: Right, okay.

MS. CRESPO: And they're very -- when you visit the sight, they're very visible from the road. Several are -- have tarps on the roof still. So you'll see that.

HEARING EXAMINER COLLINS: Recovering from the storms still.

MS. CRESPO: Yes, storms -- yeah.

And then we go to 7, which are the beach home tract. These are technically condominiums, so there's 33 units within this tract, but these are detached condominiums. So each structure is one unit, but they are in a common tract so not necessarily meeting Lee County's definition of multi-family, but they're not platted where they own the land underneath the tract. So a unique product constructed in the mid '70s, and these are two stories over ground floor parking.

Next we'll go to 8, which is really kind of midpoint of the property --

HEARING EXAMINER COLLINS: Okay. Can we just go back to parcel 7, not within the proposed MPD. These

structures are like lined along the beachfront? Are they --

MS. CRESPO: Correct. You can see -- I don't have a mouse over here so I can't necessarily point, but you can see, under where the star is located, is that tract, and you can see the general locations of the structures outlined in black. So they're clustered in kind of a unique fashion to create different viewpoints of the Gulf of Mexico. So it's not -- it's not a -- they're not laid out as linear as --

HEARING EXAMINER COLLINS: It's not linear.

MS. CRESPO: -- the previous tract.

HEARING EXAMINER COLLINS: There's --

MS. CRESPO: Right.

HEARING EXAMINER COLLINS: -- clusters.

MS. CRESPO: Yeah. You'll notice that they kind of vary in setbacks as you pass along the roadway.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: Next we go to what I would characterize as the lowest density portion of the property, which is the beach home sites that's marked in the light beige under 8. So these are, again, not within the proposed MPD. This is a 23-acre tract on the gulf side of South Seas Plantation Road. Beautiful large beachfront homes, 26 in total. There are some

attached, as well as detached units. And these have been developed and redevelopment -- redeveloped over the course of the resort's build-out, where you've got some existing ones that are actually still there from -- it may only be one from the late '60s per the Property Appraiser's data. Up in -- you'll also see that some are under construction or have been demolished and are going to be reconstructed. So they're kind of in flux, but they've been there for -- since the beginning of this resort. And so these are two stories over ground floor parking.

While you're studying the slides, I'm hesitant to push to the next one because I don't want to go too fast if you're -- if you're thinking of something. So I apologize if I'm lingering.

Next we'll go to 9. This is Sandrift. So this is a very small multi-family tract. It's just about an acre in size. There's four units within that building. It's fairly new in that it was constructed in the late '80s. It's two stories over ground floor parking, and it's on the gulf side, not within the MPD boundary.

Tract 10 is the Plantation Beach Club. Once you get to the northern end of the island, you'll notice it turns from individually-owned multi-family buildings to predominantly timeshares. There are still some

condominiums in this stack, but largely timeshare-type units as you get to this part of the resort. So this is 56 timeshare units on just over 10 acres. It was constructed in the late '70s; and as you can see in the image, it's two stories over parking.

And now I'm going to switch to the bay side of the project for that -- that last one was in the orange marked 10. Now I'm going to move over to the bay side. This is 11. This is our maintenance site. So you can see on the gulf side the tract previously described, the timeshare tract. This is maintenance facilities that have long been on the site, constructed per the Property Appraiser data, that structure, in 1975. These are one-story, and this is where we have different storage and maintenance activities. And then you can see utilities outside of the MPD boundary further to the east of this site. And this is just under two acres in size, again, within the limits of the proposed MPD.

12 is Plantation Bay Villas. That's also on the bay side of the property, not within the proposed MPD. Like similar to Sandrift, this is just a small tract, just under an acre in size, with four timeshare units constructed fairly recently, relatively speaking, in 1990 with two stories over ground floor parking.

Next we go to Harbourview Villas. This is a very small tract, .3 acres in size. It's got 10 timeshare units constructed in 2000, and, again, two stories over parking. And that interfaces, you can see, very closely with the single-family, as well.

Next we have the South Seas Club, which is a one-acre tract with 24 timeshare units, so pretty densely clustered development there. It is two stories. You can see visually that there's not sufficient area under the building for parking. There is some storage and kind of crawl space area there, based on the minimum elevation at the time. This was constructed in 1980. This is not within the proposed MPD.

Next we have an estate residence. This is just a single-family home on a .7-acre lot. This is not within the proposed MPD boundary. It was constructed in 1992, and it's two stories over parking. This -- these slides mirror the administrative interpretations inventory. So that's why this is laid out as kind of a separate tract, because it is in that chart within the -- the administrative interpretation allocated that unit so I wanted to correlate with that as closely as possible.

Then we have Rec Island. This is 16 on the map.

This is just under five acres in size. This is within the MPD boundary. It is proposed for residential uses. This was a golf course up until early -- maybe late '90s, early 2000s, it was an extension of the golf course area. And you can see from LEEPA aerials that at a certain point in time it was no longer used for golf and then really became kind of a staging area. This is where overflow parking would occur for those -- when uses were open to the public within South Seas. If you're going on the Lady Chadwick, for example, to go do a dolphin tour, this is where they would accommodate that overflow parking during peak season, on this tract.

So you can just see from the aerial was heavily impacted, but was not ever developed, really, with resort uses, really, just ancillary support uses.

17 is the Marina Villas. This is not within the proposed MPD boundary. This is 40 units on three acres, constructed in 1975, and two stories. Not sufficient room for parking underneath these, but there is storage and crawl space area in that first floor.

Next is the former hotel site which wrapped around the marina. This is -- it is within the MPD boundary. It's 2.25 acres in size. This had 107 hotel keys. This was destroyed by the hurricanes and was demolished

in 2024, and we're proposing to redevelop this tract with hotel uses.

HEARING EXAMINER COLLINS: Okay, go back. Where is this on this?

MS. CRESPO: It is --

HEARING EXAMINER COLLINS: Okay. Now, go back.

MS. CRESPO: So the light blue is the marina. It is the green color with the 18 --

HEARING EXAMINER COLLINS: Right. Okay, go back to the drawing.

MS. CRESPO: (Complies.)

HEARING EXAMINER COLLINS: So this is not within the MPD --

MS. CRESPO: It is --

HEARING EXAMINER COLLINS: Go back to the photo.

MS. CRESPO: -- it is within the MPD.

HEARING EXAMINER COLLINS: So the slide before does not refer to this parcel?

MS. CRESPO: Sorry, that's Marina Villas. This is the hotel site --

HEARING EXAMINER COLLINS: Okay, that's what I wanted to see.

MS. CRESPO: -- in the green. This is a view looking to the north --

HEARING EXAMINER COLLINS: And does it -- but it

does not include the marina? It's just the land area?

MS. CRESPO: The marina is within the MPD. It's a distinct tract. It's the last tract I'll get to, but the marina is owned by the Applicant. It is within the MPD boundary.

HEARING EXAMINER COLLINS: And that's what you're calling your multi-slip docking facility?

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: Okay. So this was formerly a hotel in the MPD. It was demolished, okay.

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: So what I'm looking at is pre-demolishing?

MS. CRESPO: Pre-demolish, yes.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: Pre-demolition.

HEARING EXAMINER COLLINS: And the -- the water and the boats I see is going to be addressed as a separate parcel?

MS. CRESPO: Correct.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: And it's a distinct parcel on our master concept plan, as well.

HEARING EXAMINER COLLINS: So now we're getting up to the tip, all right.

MS. CRESPO: Yes.

Next is the Cottages at South Seas. This is not within the proposed MPD boundary, 1-acre size tract with 14 timeshare units constructed early '80s, two-story units within this --

HEARING EXAMINER COLLINS: And is this elevated over parking, or are they just the crawl space like the other --

MS. CRESPO: Just a crawl space underneath these.

So these have interfaced with what was the former -- the former hotel, again, was on 18 with that green color that abuts the really light blue multi-slip docking facility or marina area. And so the properties were about to hit in -- are in between -- nestled between the golf course and the former hotel/resort recreation pool-type uses; and through the MPD master concept plan, we'll present to you that we're continuing those types of uses also to interface with these -- with these units.

So -- and again these are --

HEARING EXAMINER COLLINS: So 19 is one parcel north of the former hotel site?

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: And then 20 will be next to 19?

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: Okay. That's what we're ready for now?

MS. CRESPO: Yes.

Next is Plantation House, also timeshare units. That's 12 units on .2 acres, constructed in the late '80s, and two stories in height.

HEARING EXAMINER COLLINS: And what's underneath there? Because that second story looks --

MS. CRESPO: It's not parking.

MR. FERRELL: It is parking.

MS. CRESPO: It is parking? Okay, so two stories over parking.

Have I misspoke on any of the ones that I've noted as crawl space? Is there anything you'd like me to pause and clarify?

MR. SPENCER: Yes, I --

HEARING EXAMINER COLLINS: Could you state your name for the record, please.

MS. CRESPO: Say your name.

MR. SPENCER: Sorry, Greg Spencer.

Yeah, on a couple of the ones in the past, there was either parking or resort services, when you were saying some of them had ground floor parking. It was all ones that were three stories with a loft. The --

only one, Bayside, has parking underneath it. The other one had resort services underneath it, like laundry, et cetera -- housekeeping storage, et cetera.

HEARING EXAMINER COLLINS: Okay. I was curious regarding the distinction because I think FEMA adopted the regulations like mid '80s -- '84, '85, '83 -- and it seems like I'm noticing somewhat of a pattern where these older structures have just crawl spaces underneath, and the more recent structures -- when I say "more recent," I mean post that mid '80s -- we're starting to see more designs with the parking underneath. Would you agree --

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: -- with that observation? Okay.

MR. SPENCER: There's one coming up that I believe was built in '86 where it does have parking underneath. It's Land's End out at the end, and that was the most recent one built, that and Harbour -- Harbourview Villas have parking underneath, obviously, you know, using the FEMA requirement to park underneath it.

MS. CRESPO: All right. 21 is Seabreeze. So this is a very small multi-family tract that's on the bay side of the project. It will also abut future resort recreational uses, but this is not within the MPD

boundary, and this is -- excuse me -- eight multi-family units constructed in 1994, two stories over parking.

And 22 is the tract that Greg just noted, which is Land's End Village, a very distinct part of the project as this is the most northern residential-type uses. These 68 multi-family units constructed in 1986, three stories over parking, not within the proposed MPD boundary. And you can see there in the green shade there marked "22" and -- they either have interface with the bay or abut the golf course, wraps around these units.

HEARING EXAMINER COLLINS: And these are the northernmost units in the --

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: -- community?

MS. CRESPO: Correct.

Just two more tracts. Next we have the golf course. In this image you can see Land's End. This is looking northward, 22.4 acres. This was recently reopened. This required a development order from Lee County to allow for the renovation post-hurricane damage and, again, just recently opened. It has a number of, you know, golf-related structures on it, which are one story in height.

HEARING EXAMINER COLLINS: What type of structures?

MS. CRESPO: You know, your golf -- the backdrop building, some restroom-type structures that you see on a golf course.

Lastly we have what is called the marina tract, but, again, we're limiting, through the MPD, to multi-slip docking facility. This is within the MPD. This is five acres. It's got both existing and proposed marina uses, as well as ancillary retail and rec uses, like your ship store. This would, again, be solely for residents and guests.

HEARING EXAMINER COLLINS: This is the same area you showed me on the other slide where we were focusing on actual structures; right?

MS. CRESPO: It is -- yes. This is the light blue that will abut the hotel -- the future -- the former and future hotel site --

HEARING EXAMINER COLLINS: All right.

MS. CRESPO: -- shown in the green.

HEARING EXAMINER COLLINS: So what's the number of this parcel?

MS. CRESPO: 24.

HEARING EXAMINER COLLINS: 24. My map is distorted on this monitor so I'm asking a lot of

questions. It's like one of those old maps like maps on the globe where everything is like elongated and stretched.

MS. CRESPO: Okay.

HEARING EXAMINER COLLINS: So forgive me if I have to repeatedly request clarification.

MS. CRESPO: No problem.

And through the proposed MPD rezoning, this would be maintained in this type of usage, but converted to multi-slip docking facility from a -- from a schedule of uses standpoint to ensure that it would not be open to the public and would be solely for residents and guests.

HEARING EXAMINER COLLINS: Okay. And when you say that, "residents and guests," are you referring to residents and guests of the resort or the MPD?

MR. SPENCER: Of the resort.

HEARING EXAMINER COLLINS: Okay. So this parcel is basically a multi-slip docking facility with one- and two-story buildings, the ship store that you referred to, or are these also residential structures?

MS. CRESPO: This tract within the MPD will only be the dock with the docking facilities. The accessory support uses will be located on other tracts abutting this tract.

HEARING EXAMINER COLLINS: So this one- and two-story buildings, what is it referring to?

MS. CRESPO: The former ship store.

HEARING EXAMINER COLLINS: Okay. Is it still there?

MR. SPENCER: No, the ship store is not there. The harbormaster building in the marina still is, which is two stories.

HEARING EXAMINER COLLINS: Okay, thank you.

MS. CRESPO: So that concludes walking you through the existing conditions of the South Seas Resort as a whole.

HEARING EXAMINER COLLINS: Do you have an exhibit with the height of each structure by parcel?

MS. CRESPO: They're in the slides. We can certainly -- I believe we'll go several days here so we can prepare that and submit it before the record closes.

HEARING EXAMINER COLLINS: That would be helpful to me. And if you can key it to the parcel numbers that --

MS. CRESPO: Yes, yes.

And some key takeaways in terms of the existing built conditions that are going to abut the proposed MPD areas, these are not characterized as necessarily

low-density residential type uses. These are multi-story structures, many of which exceed the height of the ADD limitation of 38 feet above existing grade. So that's -- that's a key point to make. A lot of these are within -- the vast majority, actually, the 82 percent previously noted, are within different rental pools or are timeshare units, indicating, you know, the transient resort nature of the property with very, very limited full-time residents. I think, in recent discussions, we know of one full-time resident within the property. Even the beach homesites, some of them are within the rental pool.

Now I'm going to get into the Greater Captiva Island land use pattern. We looked at the future land use earlier as it relates to the subject property. When you look at a larger scope, you can see that the entirety of the island is within that Outlying Suburban Future Land Use category, so very consistent underlying future land use, which permits densities of 3 units per acre, and also limited smaller scale commercial-type uses within the entirety of the island. The green areas are the wetlands. Again, those are predominantly, if not all, saltwater wetlands subject to density restrictions in the Lee Plan of 1 unit per 20 acres.

I noted we are subject to Goal 23. Policy 23.2.4 is an important one in that it really spells out the land use pattern within this community planning area, and it really characterizes the island in three distinct pots, if you will, or buckets. That would be low-density residential units, is the first item noted in the policy. Minor commercial development, predominantly around the Captiva Drive/Andy Rosse node of Captiva. And then distinctly called out is "and South Seas Island Resort," again, comprising about 40 percent of the length of the island and really a distinct area of the island from the historic development pattern starting in the late '60s, early '70s.

This is an exhibit from the Staff Report, as well, that really shows these usage areas. When you enter the island, leaving Sanibel from the southern end, which is on your right-hand side, you can see the yellow which depicts single-family homes predominantly, but some multi-family flanking the roadway on either side. Then as you get further towards the middle of the island, in that key commercial node around Andy Rosse Lane, you see the reds, which are resorts such as Tween Waters, restaurants, different recreational-type uses as you approach South Seas; and then the orange

represents the South Seas Island Resort at the terminus of the island, again significant and distinct from the rest of the island.

Looking at some imagery and some of the characteristics of Captiva Island, there's the residential just noted. We wanted to walk you through a few key samples. And this is some of the condominium development you'll see on the island. This is the Sunset Captiva condo. This is 10 units on about 1.28 acres, so 7.8 units per acre of density on this site, and this --

HEARING EXAMINER COLLINS: That's the three stories over parking?

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: And then as you'll -- as I'm sure you recall from your trips to Captiva, as well as when you conduct your site visit, a lot of the development pattern are these large single-family homes that you see from the roadway that are typically multistories and significant in their scale and size, square footage.

Here's another example just from the bay view along Captiva Drive.

Some imagery of the commercial core, again, around

Andy Rosse Lane. This is the Royal Shell building as you enter into -- if you want to call it downtown Captiva or the, really, activity node of the island. A three-story building, so not all single-story within the commercial node, as well.

There's also colorful single-story Old-Florida-style buildings which --

HEARING EXAMINER COLLINS: Is that still left?

MS. CRESPO: Yes, I took this picture this weekend. Some of -- many of the structures are under renovation, some --

HEARING EXAMINER COLLINS: That's on the corner of Andy Rosse Lane and Captiva Drive?

MS. CRESPO: Yes, the northwest corner.

Then there's also a number of hotels on the island that we wanted to walk you through, as well.

Captiva Island Inn is in permitting at the current time. This is an 18-unit hotel resort on about 1.3 acres with density of 14 hotel rooms per acre. This is not constructed yet, from my understanding. This is, again, in the development process through Lee County.

Jensen's on the Gulf is open and running. This is just as you turn the curve to go into kind of the commercial core of Captiva. This is 7 units in a single structure over parking on about 1.3 acres. So

about 27 hotel rooms per acre on that site.

HEARING EXAMINER COLLINS: So that's just that one building?

MS. CRESPO: There is another structure, as well, that --

HEARING EXAMINER COLLINS: On a quarter acre?

MS. CRESPO: Correct.

Then you have green Tween Waters, which is one of the major well-known resorts on the island. It's just under 10.5 acres in size. This has 137 units, about 13 hotel rooms per acre within this property in a number of different buildings. They have a number of restaurants, as well as recreational uses. They do offer day passes. Their restaurant and different uses are open to the public through the purchase of day passes; so this is a pretty significant activity on the island, as well.

So to summarize, those are four different hotels either existing or under -- underway for development, and ranging in their room densities from about 11 upwards of 27 rooms per acre.

One thing to note is -- this is outlined in our Captiva historical development pattern narrative, which is a separate narrative we were asked to prepare through the sufficiency review process, providing

AIRDNA, which is a data source that inputs Airbnb, Vrbo data and -- available for purchase. So based on that data, about 70 percent of the housing stock on Captiva is utilized for short-term rentals in peak season. And this is, you know, certainly not hotel and condominium-type structures, but also the larger single-family homes are within this pool. And that just indicates the very resort-oriented transient nature of the island overall.

All right. So to summarize the Captiva Island land use pattern, it's diverse in nature; it's very resort-oriented in nature; it contains a variety of uses generally described in that low-density residential, which were your beachfront estates; you have some remaining cottages that have remained through the storms; you have multi-family condominiums. You certainly have a prevalence of short-term rental and transient-type use, as well as commercial uses around the Andy Rosse Lane/Captiva intersection.

And then the northern 30 to 40 percent of the island is distinct from this area. It's within self-contained South Seas Island Resort. That has minimal interface with those other -- those other areas just based on its location at the terminus, and the layout and the linear geography of the property, if you

will.

The next set of slides, this is where I will walk you through the master concept plan and the deviations.

(Sotto voce between Hearing Examiner and reporter)

HEARING EXAMINER COLLINS: Okay. We're going to take a ten-minute break --

MS. CRESPO: Okay.

HEARING EXAMINER COLLINS: -- and resume at 10:35.

(Recess from 10:25 a.m. to 10:35 a.m.)

MS. CRESPO: Alexis Crespo with RVi. I will begin walking you through the proposed mixed-use planned development --

HEARING EXAMINER COLLINS: We can't hear you.

MS. CRESPO: Is this on? Can you hear me now?

(Off-the-record discussion)

MS. CRESPO: I'll walk you through the proposed MPD zoning request, as well as the master concept plan and deviations.

So we are before you today because the majority of the structures were destroyed in Hurricane Ian, and those have largely been demolished. As we walked you through in the earlier slide, the County Attorney's Office has opined that we cannot seek any administrative changes to the underlying RM-2, TFC-2, and CM zoning districts through that PUD process in

34-1038. We are bound solely by the administrative interpretation document in the Land Development Code governing those conventional zoning districts; so there's no ability to achieve any -- any flexibility of development standard within the project.

It's also -- I have worked with Barraco & Associates on some of the pending and issued development orders for just the golf course renovation, a restaurant facility, as well as the water park facility, and there are many gaps -- and the administrative interpretation provides some development standards that are different from the Land Development Code, but there's a lot of gaps in that information that makes it very hard to -- I believe for Staff, as well as the Applicant, to understand the development standards that are at play within this project because of -- I'll call it the mishmash of zoning -- zonings that encumber the property.

So there's been -- it's been a hurdle to redevelopment just because of some of the gaps in information, and then certainly the changed minimum floor elevation that is required, which varies across the site and has changed dramatically, of where we can start our construction point on these buildings. We are bound to the administrative interpretation, which

measures building height from the existing grade, and does not speak in any way to the fact that our building cannot start at existing grade. It must be elevated significantly higher than that. So, again, losing significant development right based on the gap between the ADD's measurement of building height and that starting point, and the standards we must meet to get building permits issued by Lee County at the current time.

So we are proposing to bring the three different zoning districts into a unified mixed-use planned development, or MPD, zoning district. We do meet the minimum criteria in terms of mix of uses for this zoning district per the Land Development Code.

We are seeking 193 multi-family dwelling units. That is a reduction in density from the 272 units currently allocated to the property through the administrative interpretation. So we are reducing the residential unit count currently allocated from 272 to 193.

We are seeking 435 hotel rooms. Those hotel rooms will be sited within the five acres of commercial land use area currently allowed by the administrative interpretation; so the intensity will fit within the same footprint as was contemplated through the

historical ADD allowances. We do acknowledge that when you combine our residential unit count with hotel room unit count, we are increasing the units by 356, and those would be hotel room unit increases, which are not density per the Lee Plan or per the Land Development Code. Hotel rooms within the confines of a planned development are not treated as dwelling units, but rather as a commercial use subject to various development standards throughout the Code.

In addition to the multi-family residential tracts are hotel tracts -- which I'll show you -- in order to maintain the clustered footprints that you see -- and development pattern you see today within the resort, these -- these are not all going on one tract. These are going to be dispersed throughout the tracts owned by the Applicant in a manner and fashion that is consistent, complementary to, and entirely compatible with the existing built form of -- of lands outside of the MPD boundary but within South Seas Resort.

There's private ancillary recreation and commercial uses that we'll show you. These will be for, again, residents and hotel guests only of the South Seas Resort as a whole.

Multi-slip docking facility, the Manatee Protection Plan that Hans Wilson will speak to limits

the slip count to 620 per the latest approval issued by the Lee County Natural Resources division. We gave you an outdated Manatee Protection Plan excerpt in our initial 48-hour letter that had 645 slips; so I wanted to put on the record that your latest 48-hour letter is 620.

I referenced earlier we're seeing open space. We provide 62.41 acres of open space between preserve, golf course, and other open green space areas on the property. The large preserve tracts within the site is just under 40 acres, and that exceeds the indigenous open space requirements of your Land Development Code.

And we are requesting a maximum building height of 45 feet consistent with recently adopted changes to the Land Development Code in Chapter 34 related to coastal building height measurement, and that would be housed in 34-2171(b) and 34-2172.

So to lay some foundation for future experts, these are excerpts of those sections from the Code. 2171 is the more broad-type measurement. This is applicable to all areas within the coastal building zone and flood-prone areas, which is defined in Chapter 6. The entirety of the site falls within the limits of this section of Code. And this just states that the height of the building is the vertical distance

measured from the lowest minimum habitable floor elevation for which a building permit may be issued to the highest point of the roof, surface of a flat roof, deck line of a mansard roof, or to the mean height level between the eaves and ridge of gable, hip, shed, and gambrel roofs. So the key piece of this definition is that the bottom measurement of building height per this section of the Code is now the minimum first finish floor for which we can get a building --

HEARING EXAMINER COLLINS: So that's --

MS. CRESPO: -- permit.

HEARING EXAMINER COLLINS: -- one foot above base flood, is where you start measuring, because I think the first habitable floor has to be one foot over; is that correct?

MS. CRESPO: If only it were so easy. There are many -- there's different zones. You'll learn today about LiMWA zones, VE zones. So that is a portion of the site, you're absolutely correct, that is within the AE and outside of these other zones in play, that would be the standard FEMA measurement, is one foot above base flood. There's other height limitations at play that even push that further up, as you get closer to the bodies of water that surround the property.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: And we will address that. I am not the right person to do so though.

The next resiliency related piece of building height measurement that was recently amended by Staff -- and this is -- this is occurring across the state of Florida right now. Our firm works across the state, and resiliency is a very hot topic due to the significant increase in storm activity and issues with redevelopment.

And this provides that if you're in some of the special zones -- this is the V Zone, Coastal A Zone, which Elizabeth Fountain is going to speak to in detail. If you're in one of these zones, generally closer to bodies of water that are subject to storm surge, you may increase that finish floor not only the one foot that FEMA allots, but up to four foot above that measurement in order to, I would characterize it as, get ahead of imminent changes. I think we're all under the expectation that finish floor elevations are not going to go down at any point. We're only going to see them continue to increase depending on storm activity. Historically, they've only gone up.

So this would give some -- a developer that wants to create a longer-lasting or resilient building to increase that first finish floor a bit higher than --

than the FEMA plus one in order to allow for a longer-standing structure that can -- that can withstand changes that FEMA will likely make over time.

So our proposed master concept plan, I'm going to break this into the south piece and the north portion just because, again, it's a two-mile long property, and it's not quite visible, as well.

So we'll start with the south, this is where you will enter the property. You can see the black arrow denoting the main entry point off of Captiva Drive onto the existing spine road of South Seas Plantation Road.

You'll note to the left of your entry, or to the west of the entry on the gulf side, is a yellow tract which is denoting where residential multi-family units will go. So a portion of the 193 units are -- will be constructed on that property. There's another residential tract in the northern end we will get to, but just to make the point that not all 193 units would be sited on this tract. You will recall this was previously 140 employee housing units that have been demolished but -- so residential use has historically been on this property. It will continue.

We were asked by Staff to depict conceptually the building footprint so that's what the gray shapes are on these tracts, just to denote general setbacks and

where the built form will occur.

To the east of the entry you see the purple tracts. The purple is resort recreational uses. So these would be your pools, sport courts, seating areas, just different resort amenities. There will be some ancillary structures, restrooms -- I noted the restaurants and bar-type facilities within these areas. Principal uses will generally not go on these tracts. This will just be those support uses that are for residents and guests.

The next principal use tract would be the A-1 tract further to the east of that. It's in the peachy-orange color. This is where a portion of the 435 units will go. We do have a condition within the Staff Report that states a maximum of 260 units can go on the northern half of the property; so the balance will -- will occur on this southern tract. So, again, we've asked for a certain amount of principal uses that will be dispersed amongst these tracts and not consolidated on one only to maintain the kind of clustered scale and scope of the resort as it exists today.

From there, as you head north into the property, the lands to the beach side will -- are not within the MPD boundary, but to our east you can see Tract C.

This is -- you'll notice when you visit the property, this is under construction for the water park use. So that will be a pool or a series of pools, lazy river. Carl Barraco has prepared and processed the development order plan and can walk you through that in detail, but that's where a key recreational use is planned and permitted per the current zoning approvals in place.

Further to the north of that you see Tract L-1, which is in the Utility/Support Land Use category for the purposes of the MPD. This will be an owner relations building. Guests can check in, obviously owners can check in, and have employee office space on that tract.

And then lastly Tract D is an existing multi-slip docking facility. This is an older excerpt of the plan before we must have made the change. So the master concept plan you have in your package has changed all those blue tracts to multi-slip docking facility to correlate with the schedule of uses that would limit any public usage of these areas.

So historically A-1 was -- was -- A and A-1, conference facilities, publicly-accessible commercial-type uses, resort recreational uses, things of that nature, which wrapped the tennis and Bayside Villas, those four-story structures to the immediate

east. Those will be replaced by similar hotel/resort-type uses, a principal hotel building and then redevelopment of those resort recreational amenities that were formerly existing in this location, as well as guest relations.

As you move further north, you can see the green hatched area. This is that 39-plus-or-minus-acre indigenous preserve area. That's saltwater wetlands that will remain intact. No -- no proposed impact or encroachment into those areas is proposed through the MPD.

As you move further north into the property along the main roadway, the next parcel within the MPD boundary that you encounter is parcel K, which is, again, a utility/support tract that will accommodate -- you saw the picture of the kind of storage structure, staging areas, equipment, storage, et cetera, that interfaces closely with some of the utility sites adjacent to the property, and it would just remain -- remain in that use.

L-2 is a postage of a -- of a tract that is owned by the Applicant included in the PD boundary. Again, a golf cart staging area is the current use. It would just be an area for resort-type service uses to be housed.

As you move further into the development in the northern end of the site, you'll encounter Tract G, which will be on the Gulf of Mexico side of the property. This is the Beach House restaurant. This is under construction. A DO has been issued by Lee County, and this will be a beachfront restaurant facility permitted currently by the ADD and underlying zoning district in place. And we do have a number of deviations associated with that which we will walk you through in detail.

And then to the east of that, Tract F, that is also under construction with a spa facility. Again, a DO issued under the current zoning and administrative interpretation.

Further east of that is Tract E. That is what we refer to as Rec Island. That is the parcel that has historically been used for kind of surface grass parking overflow when there were commercial uses, a marina, and really underutilized significantly over the years. So this is where we will have some of those 193 multi-family units. So there's three distinct areas of the site where those 193 dwelling units will be dispersed, between Tract B that you saw on the southern end, Tract E, and then Tract H that's just further north of there, is where the 193 units can go on this

property.

Abutting that area is the F-1 -- in the master concept plan you have -- you have both an 11 by 17 and then a 24 by 36 -- the term "marina" has been wiped from the plan, and that will be the multi-slip docking facility containing the boat docks you saw. That will interface with Tract I-1, which is our second hotel tract. So this is where there's a limitation that no more than 260 hotel rooms may go. This was formerly utilized for hotel uses pre-storm events, and will continue to be used in that fashion on this tract.

From there you've got the "I" tract, which connects to that spa facility that's "F." In those areas you'll have pool areas, different food and beverage-type uses, and resort recreational facilities will occur on those tracts, as historically have been located there, interfacing with the units further north of there outside the boundary, you can see. And, again, the majority of those were timeshare units.

Tract H, I did touch on that, that that is the third of the residential tracts, housing a portion of those units that will be beach adjacent. You can see it's located behind the coastal construction control line delineated in the blue. And, again, a balance of those units would be -- would be permissible there.

Tract J is the last tract on the plan. That is the existing redeveloped 12-hole golf course. The existing lakes and stormwater facilities are hatched on the slide. There's a number of deviations that apply to those, as well.

You'll note on the legend the COP star. Per the Land Development Code, we must depict where consumption on premise can occur in order to avoid undergoing future amendments to the PD zoning district. So we've delineated COP because this is a resort use. Historically consumption on premise was occurring throughout the resort. We've noted COP on all tracts other than the utilities and support tracts. And there is a condition noting the COP can occur in those areas, will be subject to the County's noise ordinance in relation to those facilities.

This next slide, this is sheet 4 in your master concept plan series. This is just hatching our open space areas or areas that will be, for all intents and purposes, undeveloped. The majority of that is our large preserve area on the south end, as well as undeveloped portions of the residential Tract H that are each adjacent, and then the golf course does meet the County's definition of open space, and so that is a contributing tract to that, as well.

Within all of the tracts there will be different areas that will also contribute to open space, whether that be buffers, planting spaces, even hardscape areas can contribute. We didn't -- because we're exceeding open space with these tracts, we didn't feel the need to try to quantify those areas, but just as a note, there's maximum lot coverages and other mechanisms that will ensure there's green space throughout all of the development tracts.

I want to break down our density calculation of the 193 residential dwelling units. Again, the 435 hotel rooms per the Lee County Lee Plan are not density; the 435 hotel rooms are not density per the Land Development Code. There's a very specific supplementary regulation section that spells that out. The density is our 193 multi-family units.

There is guidance on how to calculate density in the Lee Plan. This is the definition from the Lee Plan. I won't read it aloud, but it's on the screen for everyone to see. And this is a very easy calculation when you have a residential planned development, a commercial planned development -- which I guess actually would not be applicable, but when you have a single-use project, this is not -- not that complex. I've had this a handful of times for large

master plans and mixed-use planned developments, where there are a mix of commercial and residential uses where you have to apply this definition to determine what land area within the project is eligible for density, and which lands or acreage do not contribute to density. And so the guidance within this definition is pretty clear and provides a framework for calculating density that states, you know, certainly any areas for commercial use, solely dedicated to commercial use -- i.e., our hotel tracts -- cannot contribute to density. Those are being allocated commercial, and using those -- that acreage would be -- I think it's referred to as the double-dip often in these types of matters.

So this definition is very clear, that we must exclude commercial land areas, and then we also have to take into account that folks within the hotel are going to contribute to usage of the ancillary resort amenities, recreation areas. So those areas need to be looked at as shared between residential and commercial, because they are, and proportionately determine the land area that is truly available to generate density for residential purposes.

So the easiest way to do that is through a chart, and footnote 2 is really what guides that calculation.

But just to start from the top, we have -- we have Outlying Suburban is our predominant Upland Future Land Use category. We have five acres of commercial tract area. Those are the orange areas on the master concept plan, total five acres in size. Those are solely commercial. They will only house hotel rooms. Those cannot contribute to our density calculation. So the top line nets zero dwelling units because it's entirely commercial in its usage.

The residential areas, those tracts in yellow, are 20.44 acres. Those are allowed 3 units per acre per the Outlying Suburban Future Land Use policy in your Code. And 100 percent of those tracts are residential uses, and so you generate 61.3 dwelling units per acre.

Moving to the third row, we have our recreation resort uses. So these are the purples and the greens and the yellows. This is where our maintenance facilities are; this is where the pools, the sports courts, the golf course, the multi-slip docking facility tracts, all of those are allocated within that resort recreation line, and those are 54.16 acres of the overall MPD. And so those cannot solely contribute to residential density because there will be hotel guests using them. So we worked through this definition to arrive at a proportionality usage of

those resort recreational areas to arrive at a reasonable allocation of density there.

So what footnote 2 lays out is that in terms of principal use tracts, you have 5 acres of commercial, just over 20 acres of residential. So proportionately, 80 percent of the residential use tracts -- or 80 percent of the principal use tracts are residential, based on that 20 acres, and 20 percent of your principal use tracts are commercial. Using the 80/20 proportionality of the principal use tracts, we applied that to the acreage of resort recreational tracts described previously, and allocated 80 percent to our residential density count and left 20 percent off. These, again, require proration, and so 20 percent of that acreage is ineligible for density because it's deemed as contributing to the commercial uses instead of the residential.

Saltwater wetlands, per the Lee Plan, do not contribute much of anything to density. You get 1 unit per 20 acres regardless if they're preserve or not. That did change I won't say recently, but, you know, within the last 15 years or so the wetland policy was modified. Freshwater wetlands can contribute to density if preserve, but saltwater cannot. So we generate very little density from that 39-acre preserve

area within the property.

So with the proration of the resort recreational, golf course, and utility tracts, we generate a total of 193 dwelling units in addition to the straight residential tracts within the MPD boundary.

Would you like to proceed or...

HEARING EXAMINER COLLINS: (Nods head.)

MS. CRESPO: Okay.

All right. We'll get into proposed landscape buffers, and I think the best way to deal with this is really through the deviations. We've color-coded two sheets within your master concept plan series to depict where we have internal or external buffer deviations, which due to the integration of the uses intended, we want people to move freely through the different parcels; we want them to be very well-integrated where it's cohesive. Buffers, you know, hedgerows with trees can often impede pedestrian multimodal movement. So having the look and feel of an integrated resort, we are in agreement with Staff these deviations are appropriate. Also, because the tracts outside of the MPD boundary within South Seas utilize, enjoy, interface with these resort recreational amenities, it's a big reason people want to be within the property.

We also have perimeter buffer deviations to allow those guests and residents to freely use the amenities, as well. And we've got Chris Andrea to really deal with some of the details of it, but I'll walk through the deviations, as well. So I will note that on Captiva Drive, we fully comply with the Type D right-of-way buffer along -- along that roadway. And those deviations carry through to the northern end of the property, as well.

And just in terms of the color coding, the pink are for internal buffers only. So that's between uses inside the MPD to ensure they interface well with differing uses.

The green is our PD perimeter buffer deviation. For example, the Land's End, you can see that's surrounded by a green line, and that's to eliminate the requirement for a typical perimeter buffer in that location to allow and maintain use of the golf course from those units and -- instead of creating barriers from them enjoying the golf course, having it really feel like it's an integrated part of that project.

The orange is the right-of-way buffer along South Seas Plantation Drive. Due to existing conditions, it's just not -- not possible to install a 15-foot-wide Type D buffer along the length of that roadway, and

several transects of it cut through mangrove areas so there's vegetation right up to --

HEARING EXAMINER COLLINS: What's existing there now?

MS. CRESPO: Along the roadway?

HEARING EXAMINER COLLINS: (Nods head.)

MS. CRESPO: Well, it -- the roadway does pass by private homes where there's existing vegetation on those homesites, as well as condominium sites we described earlier. Has a lot of the vegetation been knocked down by the series of storms? Absolutely. So you'll notice they're -- they're coming back slowly, but the mangroves are intact along the road -- along the segment of the roadway, really, to the south of Tract K up here. Really, the -- once you get past the initial southern development tracts, and you get into the main stretch, probably a mile or so of the road, you see, you know, the mangrove fringe along the bay along the entirety of the road.

And then lastly in blue, there's a few areas where we are seeking the natural waterway buffer deviation. Due to the coastal nature of the site, this is -- it's fairly unique, and so we have to work with Staff closely to arrive at dune plantings and a more appropriate style of waterway buffer plantings that's

more sensitive than -- than your Chapter 10 waterway buffer, which really more so contemplates where you abut a tributary or kind of riverine-type waterway and not a coastal beach condition.

All right. So I'll jump into the deviations. We did withdraw three of these so that will help speed this up.

Deviation 1 is for access. The Code requires projects -- commercial projects greater than 10 acres to provide multiple points of ingress/egress. We thought of the, you know, main gated entry as the ingress/egress and sought the deviation; however, there are ancillary driveways connecting to Captiva Drive that will be maintained post-redevelopment so we do not need this deviation. We will have at least two access points off Captiva Drive and -- and meeting the Code. So we're in agreement with Staff, this can be withdrawn.

HEARING EXAMINER COLLINS: So Deviation 1 has been withdrawn?

MS. CRESPO: Yes, ma'am.

Deviation 2 is starting to deal with our buffer deviations. So Deviation 2 is for the internal buffering requirements. The buffer table in the Code, when you have residential or commercial to commercial,

triggers different -- either Type A or Type C buffers. In this case it's the Type A between hotel and rec tracts, and so we are requesting approval to eliminate that, as it would really detract from the intent to create an integrated resort feel. Staff is in agreement with that and has recommended approval without conditions.

And so that deviation applies where the giant red arrows are. That would be where the future residential interfaces with the Beach House restaurant, and where the future hotel site on I-1 will interface with recreational pool amenity-type uses on Tract I. That also is applicable on the southern end of the site where the hotel and, again, resort recreational uses will abut each other between A-1 and A. And, again, Staff has no applied condition and is recommending approval.

Deviation 3 is internal right-of-way buffers. The typical right-of-way buffer is 15-foot-wide with Type D plantings. We do meet this where we abut Captiva Drive. We have sought the deviation along South Seas Plantation Road. There are portions of that road that don't fall within the MPD boundary, or where only portions of it fall within the MPD boundary, so certainly this deviation would only apply where we abut

the roadway. We can only apply deviations to our subject property. Just as a note of where that road meanders in and out of -- of the boundary.

And so that would be, you know, the length -- the length of the roadway. I've noted the arrow there. It's just a for example. The southern end, you know, you -- a good portion of that is abutting mangrove. So in theory, if you complied with the Code, you'd have to eliminate mangrove to plant a hedgerow and 5 trees per 100 linear feet, which Staff was certainly not in support of and would likely not permit.

And then as you move northward into the property towards the end, the roadway, again, portions or -- or all of it are within our subject property because it is owned by the Applicant, but lands on both sides of it are under ownership by others, and there would be no -- virtually no space to accommodate that within the limits of the right-of-way.

We are requesting a slight modification to the condition of approval. The only condition that Staff wanted to apply was related to Tract G, which is the Beach House restaurant that is approved, again, per a development order permit. Through that DO process, again, applying the Land Development Code, the conventional zoning districts, and the administrative

interpretation guidance, it was deemed that the Type D buffer could be offset through the building perimeter plantings along the roadway. And so we felt the wording wasn't quite clear so we are proposing kind of a tweak, and I believe Staff is in agreement with this based on discussion. But it's just saying that the Type D buffer is not required along the roadway in its entirety. In lieu of that Type D buffer, where the -- where Tract G or the Beach House abuts the roadway, we must provide building perimeter plantings in accordance with LDC Section 10-416(b), which is -- which prescribes quantity of plants with the plants -- Christian has a nice slide to visually show this to you.

And I'll make a note of this, at a certain point in time we were trying to reference our DO numbers in our conditions, and what we've -- what we've done instead in this iteration you see before you is capture where the administrative interpretation does not comply with the Code. We've attempted -- the reason we have 17 deviations is finding everywhere in which the administrative interpretation doesn't comply with the Code anymore and formalizing that request as a deviation. It is understood, upon adoption of this MPD, we will no longer have any -- any of the

flexibility that the ADD offered in certain respects, such as parking, buffering, things of that nature. So these deviations simply comb through that document, analyze the current development orders in order to memorialize these as formal deviations from your Code, so it's clear to you and everybody where the MPD will deviate, and not rely blanket on a DO approval from the past that may be hard to either understand, track down, et cetera. Does that make sense?

HEARING EXAMINER COLLINS: (Nods head.)

MS. CRESPO: Deviation 4 is perimeter buffers. This applies to a handful of tracts: A-1, C, L, D, J, and I-1. So because there's segments where we abut different properties, we've broken this into a series of deviations, 4-A through 4-C.

Starting with the easiest, 4A is to omit the Type C/F buffer that would be required between multi-family and the existing golf course, or Tract J. So this is -- the arrow points to where we would have to do a very significant C or F. This is your most substantial buffers, really, in the Code and would effectively likely block views and detract from Land's End interface with the golf course so --

HEARING EXAMINER COLLINS: You're trying to maintain the historic cohesiveness of the dwellings and

the golf course.

MS. CRESPO: Exactly, thank you.

4B is to omit the Type C/F buffer between Tract I-1, which is recreational facilities, and the external timeshare buildings to the north. Staff is also recommending approval of that. And so the red arrow denotes where that future pool area and other resort amenities interface with what are predominantly timeshare units on those tracts. When people visit their timeshare, they're there to enjoy the island lifestyle, if you will, and the resort amenities. So this will help contribute to, again, what was -- as you noted, what was historically the interface between the resort amenities and existing units, both within and outside the MPD boundary.

Deviation 4C is to omit the Type C/F between the Recreation Tract F, which is the spa facility, and an external timeshare tract to the south. That's pointed out in red, and Staff correctly noted that there is an existing buffer in place within -- within the easement there, and so that buffer is not required, as it's being met. So 4C is withdrawn, and your modified master concept plan does eliminate reference to 4C on it.

4D is the Beach House perimeter buffer. This

would be to allow an alternative buffer adjacent to Tract G. I'll move to that.

This is, again, the Beach House restaurant. It's got an approved DO. The DO does call for plantings that meet the Code within an easement along that property line. In the event that it is determined that easement area cannot be planted, we have proposed alternative language in your 48-hour letter that would allow the Applicant to undergo the Alternate Landscape Betterment Plan process to arrive at an appropriate buffer treatment in case those trees need to be removed from the easement along that shared property line.

HEARING EXAMINER COLLINS: Is this specific to the Beach House where it borders a single-family residence?

MS. CRESPO: Yes, correct.

And so, again, the landscape -- the condition is met currently. The trees are there, as shown on the approved DO plans, as well, so there's no intent not to meet the Code here. It's just in an abundance of caution, if the trees should need to be removed from that easement in the future --

HEARING EXAMINER COLLINS: This parcel is under development at this time though. Did I remember that correctly, the Beach House?

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: So you should know by now whether you're going to need to take that down.

MR. FERRELL: (Shakes head.)

HEARING EXAMINER COLLINS: No?

MS. CRESPO: I will --

HEARING EXAMINER COLLINS: That's all right. We can keep moving.

MS. CRESPO: Okay.

Okay. So if plantings cannot be located -- the alternative language we're proposing, "If plantings cannot be located in this easement, an alternative location and/or buffer treatment may be reviewed and approved by the Development Services Director pursuant to the Alternate Landscape Betterment Plan process set forth in Sec. 10-419." And maintaining Staff's condition there that the buffer trees, regardless of -- must be installed to allow access to the beach.

HEARING EXAMINER COLLINS: Are the existing trees in an easement?

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: Deviation 4E is to omit the required, again, Type C or F buffer, a very substantial potential buffer, between the hotel Tract A-1, the multi-slip docking facility on D, and recreational tracts in the

southern end of the site where they interface with Bayside and Tennis Villas. Staff has recommended approval with conditions.

So this is the external buffer in the southern end of the project. It's denoted in the green line on the screen, and it wraps A-1 all the way around through C, L-1, and D. Staff has recommended approval with conditions. We are proposing a modification to the condition based upon an approved development order for that water park tract. What Staff requested is where the new hotel structure along A-1 and Tract C, where those uses are constructed, the developer install a 10-foot-wide buffer strip containing 5 -- 5 trees per 100 linear foot and a -- and a shrub within that area, along with if a fence or a wall is proposed, the plantings would be on the exterior outside-facing side of that fence or wall.

And so the Applicant is in 100 percent agreement with the Staff for Tract A-1. Again, that's the future hotel tract. We don't have a development order at this time for it. It's in the design phase. We can accommodate Staff's request, which is with new commercial uses, additional buffering is warranted. So we are in agreement for Tract A-1.

With Tract C we are requesting a modification, as

a development order has been issued for Tract C, which again is the water park. And so we are seeking modification to that condition to allow the development to continue to comply with our DO plans, which are under construction currently. So that language is on slide 123.

Again, complete agreement on Tract A-1. For Tract C, though, we would like the condition to comply with the development order plans to allow a six-foot-wide buffer instead of a ten-foot-wide buffer. We can accommodate the same tree quantities and shrubs within that area, so no reduction in plantings. It's just simply the width of the planting area on the DO plan is six foot; and as you will see, those are being constructed right now. And so we did discuss it with Staff, and I'm sure they'll address it in their presentation, but we believe we're in agreement with -- with that modification for Tract C only.

Deviation 5 is the natural waterway buffer. This is largely where the MPD boundary interfaces with the Gulf of Mexico on the west side. Your natural waterway buffer is a very wide, heavily planted buffer that, when I've applied it in past projects, it's been along tributaries like Owl Creek in the Northeast Lee County area. This is -- this is a beach context, and so what

we're proposing is dune plantings in those areas. So 5A is where we interface with the Gulf of Mexico. We are proposing a 15-foot-wide buffer width with a mix of native shrubs and ground-cover plants, again, associated with an approved DO. And so that would be the waterway buffer along the gulf that is predominantly along the northern end of the parcel, but then there's also a strip of -- along the southern side where the future residential uses will interface with the Gulf of Mexico.

HEARING EXAMINER COLLINS: Instead of waterway buffer the plan is to provide dune plantings?

MS. CRESPO: Correct.

HEARING EXAMINER COLLINS: This has already been approved in the existing DO?

MS. CRESPO: Yes, ma'am.

And going back to the early comments, we've simply quantified what the DO plan has called for so that it's clear, when Staff picks this up in future development orders, what the quantity, width, et cetera, is, and they don't have to dig through -- through old DOs to arrive at the requirements.

And that planting plan is attached -- the dune restoration plan is attached as an exhibit to the Staff Report.

5B relates to the Pine Island Sound waterway buffer. This would apply along Tract E and K, and so we're simply requesting -- K has existing mangrove surrounding it and so -- that's, again, the maintenance facility so we're requesting just a continuation of the existing conditions. Instead of installing plantings, that the mangrove fringe along that area is meeting the intent of the waterway buffer requirements.

For the section along E, the same conditions apply, just requesting that the mangrove fringe meet the intent of the Code for the natural waterway buffer.

All those other areas along the bay side and/or Redfish Pass where you don't see the blue deviation requested, it's because those areas are hardened shoreline, riprap, a variety of different treatments, but it's in no way, shape, or form a natural waterway interface at this point. So Staff and our group agree that we don't need a deviation in this location because it's not meeting the definition of a natural waterway in those areas due to the impact and development that's occurred over the years.

Deviation 6 is for -- regarding shared parking. Something of note, the administrative interpretation was very generous in terms of parking reductions. We are not seeking parking reductions as part of this

request. We are going to meet current Code requirements. But we are seeking the ability to have shared parking across the resort due to the trolley system, golf cart usage. This is, again, integrated. On my personal visits, I have not used a vehicle to go from my room in the Tennis Villas to the former restaurant that was in the -- around the marina location.

HEARING EXAMINER COLLINS: So will there be golf cart parking provided as part of the plan?

MS. CRESPO: I'm going to defer that to Carl Barraco, who has more in-depth knowledge of the actual construction plans.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: The deviation, though, will simply allow for shared parking amongst the different tracts. It is understood that each tract will have some parking on it, but to have each tract be fully self-sufficient is what we're seeking relief for. Staff did condition this, that they want -- I'm not sure why that top line is struck, I apologize.

We're in agreement. We just wanted clarification that the parking area for the tract should at least be within 500 foot of that tract, meaning really the south area will be self-contained in terms of parking, and

the north area will be self-contained in terms of parking. So you can have parking on various parcels, but they at least have to be within 500 feet of each other and denoted on development order plans.

Deviation 7 is a pretty common deviation for most planned developments to allow for alternative lake bank slope design. The current Code calls for 6-to-1 ratio for that lake bank slope. We are requesting a 4-to-1 slope subject to the mitigation proposed in development order plans, turf reinforcement mats and things of that nature that Carl Barraco can speak to. But Staff is recommending approval, and it's an existing condition on the site. And those -- those lakes are solely in the golf course area. There's no other lake features, if you will, on the other tracts throughout the project.

I was thinking that was a strike-through of my top line, and it's really just the panes of the screen so -- I don't -- it doesn't show that way to you. So I just -- I was thinking my top line was struck on a previous line, and it's not so...

Deviation 8, we're getting into a couple of different signage deviations related to entry signs, as well as some of the existing or newly developed buildings within the property.

So the first is for entry signage. When you go out there, you'll notice the temporary sign at the entry area of the resort. We're seeking a deviation to allow for a larger, more substantial sign, being 26 feet in width, 6 feet in height, so alternative dimensions, and a total of 156 square feet of sign face area.

HEARING EXAMINER COLLINS: Is this at the entry?

MS. CRESPO: Yes. The other one is for a flag, but this is -- the temporary sign looks very similar to this. So when you drive in, you'll see something that looks pretty close, but it's not, obviously, permanent. But this is the design intent of a ground monument sign, of a wider width than permitted. The Code only allows 10 foot. This allows us to do 26 feet with some artistic detail on it, and 6 foot tall, so we're doing a shorter sign than permitted, but overall the sign face area is larger than --

HEARING EXAMINER COLLINS: And this is across from a commercial area, if I recollect this; right?

MS. CRESPO: Correct, yes, Starbucks -- this might be standing in the -- in the parking lot of the commercial across the street.

Deviation 9 I skipped over. It's to allow for that entry flag. We are requesting up to 96 square

foot for a South Seas flag at this entry, and that's also depicted in this unified exhibit. So that's larger than your -- than Code allows for -- for signage.

HEARING EXAMINER COLLINS: I don't know what I'm looking at here. What's that sign that's elevated in the sky?

MS. CRESPO: That's the flag. That -- it's a --

HEARING EXAMINER COLLINS: Oh.

MS. CRESPO: -- it's a windy day so it's --

HEARING EXAMINER COLLINS: All right.

MS. CRESPO: -- blowing in the wind.

So that's 96 square feet, whereas the Code only allows 15 square foot.

Deviation 10 is due to somewhat of the unique operations of the resort. It will allow for roll-out totes as an alternative waste disposal system, as opposed to your conventional commercial dumpster -- dumpster enclosures. So this is where -- I have an image of it. This is where maintenance employees use these vehicles to collect waste from residents and guests. In lieu of having residents and guests drag -- drag this out to dumpster locations throughout the resort, it's a way of maintaining a good quality atmosphere and also just a level of service provided

within the resort that we want to continue.

Deviation 11 gets into perimeter setback relief. This was broken into several deviations just because there's different perimeters that are applicable in this case.

So Deviation A (sic) is to allow for a lesser setback on Tract C, K, and J. Staff is recommending approval with conditions. On this tract we are requesting -- instead of the 20-foot setback prescribed for accessory structures, we are requesting a 12-foot setback on Tract C, and that would be for permitted cabana-type structures within the water park area.

So I'll go back to this slide. Within Tract C, again, there's going to be the pool-type amenities. There's going to be a six-foot-wide buffer that was previously addressed through the deviation interfacing with -- with the multi-family on the east side of that. We --

HEARING EXAMINER COLLINS: Vegetative buffer?

MS. CRESPO: Yes. So we'll have 5 trees per 100 linear foot and a hedgerow.

And we are requesting that the cabanas be set back -- in accordance with our 48-hour letter, it's actually six feet from --

HEARING EXAMINER COLLINS: The Code would

otherwise require 20?

MS. CRESPO: The Code would require half of the building height or the width of the required buffer, so whichever --

HEARING EXAMINER COLLINS: Well, a cabana is not really a building so...

MS. CRESPO: Yeah, it's not a -- it's not a building, but it is vertical, and we do -- it did require a building permit. These are only 12 feet tall so the setback will be half -- half the building height. So it will meet that -- that specification.

HEARING EXAMINER COLLINS: But what's required?

MS. CRESPO: 15 feet. The PD perimeter setback is A through J, and it just depends on the most stringent --

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: -- condition on that. The 15-foot is likely triggered by the required buffer width, which we are seeking a deviation for.

HEARING EXAMINER COLLINS: And this area is in theory accessible to the residents that live on the abutting tracts; is that correct?

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: 11B is related to setbacks on the

maintenance Tract K, and this is specifically relating to an existing wireless communication facility that's been permitted on that tract through previous special exceptions. So we are seeking to continue -- just a continuation of those existing conditions subject to Condition 13. It is noted -- I think it's 12 in the Staff Report, but it's Condition 13. And that's, again, only related to Tract K.

And lastly is the perimeter setback related to Tracts A-1 and B. Again, this is the greater of either 15 feet or half the building height of the structure. Both of these tracts we are proposing 45-foot-tall buildings, so that would be the control. We are requesting a minimum 15-foot setback. Staff recommended this be withdrawn, and we were in agreement with that. This is related to Tract A-1 and B.

We are requesting clarification, though, that on Tract -- on Tract B, that we allow for a tiered building configuration where we meet the setback based on the height, but that would be tiered, and we can step up to the 45 foot --

HEARING EXAMINER COLLINS: So you're requesting a deviation because you're providing the setback, or you're not providing the setback?

MS. CRESPO: We are not providing -- we have

withdrawn the deviation -- let me refer you to the actual condition here because this one is a little complicated --

HEARING EXAMINER COLLINS: I think I remember reading something about that, that you can provide 15 feet --

MS. CRESPO: Yes, so we're --

HEARING EXAMINER COLLINS: -- and the building has to be tiered?

MS. CRESPO: And that's specific to B. We will meet the Code-required setback -- we are withdrawing it for Tract A-1. For B we just wanted clarification that the tiered building height concept can apply, because Staff did request within -- is it 20 -- 25 feet of the right-of-way that the building height be limited to 35 feet.

HEARING EXAMINER COLLINS: All right. Can you go back to the slide that shows the actual area?

MS. CRESPO: Yeah.

HEARING EXAMINER COLLINS: All right. So this is the section that abuts what exactly, the resort area or the right-of-way?

MS. CRESPO: B will abut the Captiva Drive right-of-way predominantly.

HEARING EXAMINER COLLINS: Right.

MS. CRESPO: And then A-1 will abut a portion of the Captiva Drive right-of-way, as well as multi-family to the north and east. We are eliminating any -- we will meet the setbacks for A-1, so entirely eliminating that -- we are -- we are in agreement with Staff that we can eliminate this deviation. We simply wanted clarification that on Tract B we can -- we can tier the building accordingly.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: Deviation 12 is related to roof signage at the Beach House. This allows for larger signage to achieve a unique design that's shown on the screen there. So, again, these -- the lettering and total area of this would exceed the LDC requirements, but Staff has recommended approval as presented based upon the elevations and renderings provided.

Similarly, the Beach House, which is associated with the same tract, we are requesting the ability to do a wall mural, which is technically meeting the definition of signage. It's 736 square feet in sign face area. It is that bluish treatment on the south side of the building that you can see in the image. And so because the definition of sign is so broad, we -- this -- as part of the DO process and building permitting process, this has triggered the need for a

deviation, and Staff was in agreement with that. Here's a closer look at it.

Deviation 14 is for a very similar treatment but on the water park building. Again, seeking just more sign face area. These are -- the murals in this case are those kind of poster-style or Old-Florida-style treatments on the side of the building that technically qualify as signage. And Staff is recommending approval of that deviation.

Deviation 15 is to maintain the existing conditions of the internal South Seas Plantation Road right-of-way treatment. So technically, because we're in Outlying Suburban, the suburban roadway specifications of 10-296 apply, including 45-foot-wide right-of-way width with sidewalks, six-foot-wide planting area, shoulders, and lane widths per the Code. We memorialized the existing conditions of the roadway, which does vary in different segments of it, but generally there's -- in no place is the road less than 37.5 feet in width. The roadway does not have sidewalks or plantable areas. The shoulder widths vary just under 5 feet in width and --

HEARING EXAMINER COLLINS: Are there posted speed limits on these roads?

MS. CRESPO: Yes, they're posted --

HEARING EXAMINER COLLINS: Because I imagine you're having pedestrians and golf carts, and everybody's using these roads; right?

MS. CRESPO: Yes, it's posted at 19 miles per hour.

HEARING EXAMINER COLLINS: 19?

MS. CRESPO: 19.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: And so here's -- here's a depiction of one segment. This one has the curbing on it. This is more towards the entry, but this -- this varies as you go throughout the property, but the deviation captures the minimum specifications along any one segment of the roadway, again, to have existing conditions reflected through the deviation.

Carl Barraco will address this in his presentation, but we are requesting some minor changes, just really clarification to Staff's condition of approval. They wanted additional signage -- in addition to the low speed limit signage, additional markings placed on the roadway to better separate bike lanes from travel lanes, et cetera. And so we -- we just wanted to memorialize that a little bit more clearly, and then also change the effective date of the rezoning approval 180 days from that point in time,

rather than just approval. And then also just acknowledging that this would be reviewed through a limited review development order application, just further clarification so everyone is very clear on the process of -- of documenting these changes.

Deviation 16 is to allow crushed shell as an alternative to typical mulch covering material. Staff has recommended approval with conditions. Their condition was that all of the required landscape plants must be native and salt tolerant. We are requesting a modification to that condition of approval so that only 50 percent of the required plants will be native and salt tolerant.

Christian Andrea is going to give you a detailed description of this because just as -- when we discussed this as a group, certainly it's logical to want native and salt tolerant in this type of context. The types of plantings within the resort may not necessarily be native, but they are coconut palms, things of that nature, things that are very appropriate from a context standpoint. They're just not specifically classified as native, but I would like him to address that in his presentation because I am not a registered landscape architect.

HEARING EXAMINER COLLINS: They're not native, but

they are salt tolerant, or they're neither native nor salt tolerant?

MS. CRESPO: I'm going to defer to Christian so I don't mis --

HEARING EXAMINER COLLINS: And did Staff agree to this --

MS. CRESPO: -- speak on that --

HEARING EXAMINER COLLINS: -- modification?

MS. CRESPO: It is my understanding that Staff is in agreement with this modification --

HEARING EXAMINER COLLINS: Okay. Well, I'll --

MS. CRESPO: -- but I don't want to --

HEARING EXAMINER COLLINS: -- wait for testimony from other witnesses --

MS. CRESPO: Thank you.

HEARING EXAMINER COLLINS: -- on this.

MS. CRESPO: I appreciate that.

And this is just a depiction of the crushed shell treatment. It's something widely seen across Captiva Island and other barrier islands, and is actually an environmental enhancement compared to mulch and what mulch can do to the surrounding waterbodies; and, again, you'll get expert testimony from our registered landscape architect on that item shortly.

This is our last deviation because Deviation 18

was withdrawn. This is just for a lake setback, an existing condition on the property. It is to allow for a zero-foot setback from the perimeter of the MPD boundary related to golf course lakes, which is the only area of the site with lakes. But you can see just -- the lakes are hatched on Tract J in green, and they are closely abutting the property line in those locations. And so it would simply allow for those existing lakes to continue and just, again, memorializing that as an allowed condition under the MPD.

HEARING EXAMINER COLLINS: Okay.

MS. CRESPO: And Deviation Number 18 was redundant based on Deviation 15 that addressed the roadway treatment. So we are in agreement with Staff, this can be withdrawn.

HEARING EXAMINER COLLINS: Does the revised master concept plan remove all deviations that are no longer under consideration?

MS. CRESPO: Yes, ma'am.

HEARING EXAMINER COLLINS: But they did not renumber the deviations; right?

MS. CRESPO: We did not renumber the deviations. We can if you --

HEARING EXAMINER COLLINS: Yeah, we'll circle back

to that later. Okay.

MS. CRESPO: That concludes the initial planning testimony. Again, I'll be back at the end of the presentation.

HEARING EXAMINER COLLINS: Okay. A few --

MS. CRESPO: Yes.

HEARING EXAMINER COLLINS: -- questions regarding the deviations I want you to be thinking about. You don't have to testify to it now.

Okay. With regard to -- I think it was Deviation 4 and perimeter buffers, and this was where dwellings -- where there was interface between dwellings with resort amenities. I'm less concerned with hotel between resort amenities; but with regard to hotel and the Beach House and dwellings that are not part of your project, both those areas are requesting approval for consumption on premises. I'm assuming, given the climate and the resort atmosphere, there will be outdoor seating. So I'd like to talk about potential conditions on this regarding hours of amplified sound, lighting, and orientation of seating and speakers for amplified sound. Also, hotel COP adjacent to residents that are not part of the MPD, same idea regarding buffer, outdoor seating orientation, lighting, amplified sound.

All right. I'm ready for the next witness.

MS. MONTGOMERY: Madam Hearing Examiner, I have some questions, if I might.

HEARING EXAMINER COLLINS: Okay. Of your witness?

MS. MONTGOMERY: Yes, ma'am.

HEARING EXAMINER COLLINS: Okay.

MS. MONTGOMERY: Were you wanting to break now or go ahead?

HEARING EXAMINER COLLINS: No, I think we can go for a little longer.

MS. MONTGOMERY: Okay. Ms. Crespo, in the Staff packet there is an attachment O, which is a 1990 zoning resolution --

(Sotto voce between Hearing Examiner and reporter)

HEARING EXAMINER COLLINS: Okay. They're having trouble hearing you.

MS. MONTGOMERY: Okay. I had turned it on, but now it's -- can you all hear me?

(Participants respond affirmatively.)

MS. MONTGOMERY: Okay, thank you.

HEARING EXAMINER COLLINS: Okay.

MS. MONTGOMERY: I'll start over.

HEARING EXAMINER COLLINS: I make that mistake myself when I'm in this room.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: I don't turn on the speaker. So you're forgiven.

MS. MONTGOMERY: Thank you.

Attachment O is part of the Staff Report. It's a 1990 zoning resolution, and it purports to be a Board-initiated zoning to CM, commercial marine. Are you familiar with that zoning resolution?

MS. CRESPO: I'm familiar to the extent I testified that it converted the multi-slip docking facility area from TFC-2 or RM-2 to CM.

MS. MONTGOMERY: So commercial marine, does that allow public marina uses?

MS. CRESPO: It does.

MS. MONTGOMERY: Staff has recommended a change, which the Applicant has agreed to, from public marina CM-type uses to a multi-slip docking facility. In your expert opinion, does that reduce impacts and reduce intensity?

MS. CRESPO: It does.

MS. MONTGOMERY: It's my understanding that when the Applicant acquired the property, that there were cruises in the area that were open to the public. Is that your understanding?

MS. CRESPO: Yes.

MS. MONTGOMERY: Has that use been terminated?

MS. CRESPO: Yes.

MS. MONTGOMERY: And will that kind of use be allowed in the future under the zoning?

MS. CRESPO: No, it will not.

MS. MONTGOMERY: Is that another reduction in intensity?

MS. CRESPO: It is.

HEARING EXAMINER COLLINS: Will there be signs posted saying no public mooring or docking?

MS. MONTGOMERY: I don't know. We haven't talked about that, as far as I know.

HEARING EXAMINER COLLINS: I'm just wondering if historically people have been treating the parcel as commercial marine, and may be coming up and fueling up or having lunch on the premises, if there's going to be some way to notify the public that there is a change in the characterization of this dock area.

MS. MONTGOMERY: With the Hearing Examiner's indulgence --

HEARING EXAMINER COLLINS: Something to think about -- something to think about.

MS. MONTGOMERY: -- I think we'll have a conversation with the Staff and see what, if anything, they recommend.

Ms. Crespo, there's an attachment U to the Staff

Report, and that is Ordinance 23-22. In your testimony, you talked about changes that the Board of County Commissioners did to the Land Development Code regarding height and other issues. Is that the ordinance that reflects those changes?

MS. CRESPO: Yes.

MS. MONTGOMERY: And there was a discussion about the 1973 zoning resolution that rezoned the property to RU-3. If you know, did RU-3 permit both residential and hotel uses?

MS. CRESPO: Yes, it did.

MS. MONTGOMERY: And when the RU-3 was converted to RU-2, were hotel uses permitted any longer?

MS. CRESPO: I would like to pull up that resolution, if I may. I believe that happened post 1978, is my recollection.

MS. MONTGOMERY: Okay. If you know, did the Board -- was the Board required in November -- I believe the 17th of 2022 to adopt the new FEMA elevations?

MS. CRESPO: Yes.

MS. MONTGOMERY: Was that at all optional with the Board? Did the Board have to, if they wanted to continue to provide -- have flood insurance, change the starting point for structures?

MS. CRESPO: It is my understanding that, yes, they were required to do so.

MS. MONTGOMERY: If you know, did the 1973 zoning resolution ever identify how many acres were subject to that resolution?

MS. CRESPO: I did review this last evening, actually, the 304 acres, and I believe it's not held within that -- that zoning resolution.

MS. MONTGOMERY: And, in fact, there's a -- there's a memorandum in the Staff Report, attachment P, and in that Staff Report -- or in that memo, it indicates that there never has been a clear indication of the total number of acres that are subject to the 1973 zoning resolution. Did you get a chance to look at that?

MS. CRESPO: Yes.

MS. MONTGOMERY: In your density calculations, you identify 40 some acres of saltwater wetlands that yielded 2 units, I believe; is that correct?

MS. CRESPO: Correct.

MS. MONTGOMERY: In 1973 would that acreage have been restricted, or would it have allowed 3 units an acre based on the zoning resolution?

MS. CRESPO: That -- in 1973, that predated the future land use element in the Lee Plan as a whole, so

it would be eligible for density.

MS. MONTGOMERY: And when the Board adopted a future land use map, I believe, in October of 1984, was that when the first limitation on the number of units per acre and the various land use categories was created, including wetlands?

MS. CRESPO: Yes.

MS. MONTGOMERY: So prior to that time, there would have been no limitation on the number of units per acre?

MS. CRESPO: The limitations would have been housed in the Land Development Code and the development standards applicable to the zoning district.

MS. MONTGOMERY: So when you went through some of the existing development, a lot of those structures were built during the '70s and early '80s, and they would have been allowed to count density off of wetlands at that time?

MS. CRESPO: Correct.

MS. MONTGOMERY: You indicated that there's a total of 193 residential dwelling units being requested. In your opinion, is that a reduction in the number of permitted residential units under the ADD?

MS. CRESPO: Yes, it is.

MS. MONTGOMERY: You indicated that there -- the

1973 zoning resolution had a special permit for commercial; is that correct?

MS. CRESPO: Yes.

MS. MONTGOMERY: Do we have special permits anymore?

MS. CRESPO: No.

MS. MONTGOMERY: There have been communications with the County about what that meant. I'm going to show you a document -- I'm going to hand a copy, for the record, to the clerk for the Hearing Examiner.

(Applicant Exhibit 2 submitted.)

HEARING EXAMINER COLLINS: This document is Applicant Exhibit 2.

MS. MONTGOMERY: Based on that review of the language from the 1962 zoning regulations, was there any limitation on what kind of commercial could have gone on those five acres?

MS. CRESPO: No.

MS. MONTGOMERY: During your discussion about other hotels, I believe that you indicated that there were things called a day pass. I was able to Google Tween Waters, and they said for $100 a day per vehicle, for four to six people, you can access the resort, and you can park there, and you can stay all day. Is that an impactful, from a traffic standpoint, type of use?

MS. CRESPO: It would generate trips, in my opinion.

MS. MONTGOMERY: And has the Staff conditioned this zoning to preclude day passes and that type of activity within South Seas?

MS. CRESPO: Yes.

MS. MONTGOMERY: And if you know, I believe that the definition of 34-2 of dwelling unit --

HEARING EXAMINER COLLINS: Alexis --

(Sotto voce between Hearing Examiner and Ms. Crespo)

MS. CRESPO: Could you repeat that?

MS. MONTGOMERY: -- specifically excludes hotels and motels from that definition; is that correct?

MS. CRESPO: The definition of density in the Lee Plan, yes.

MS. MONTGOMERY: Okay, thank you. I don't have any further questions at this time.

HEARING EXAMINER COLLINS: Okay. This document that I'm entering as Exhibit 2 for the Applicant, this is an excerpt from what exactly?

MS. MONTGOMERY: From the 1962 zoning regulations that define what a special permit is, in order to determine what was approved in the '73 zoning resolution, we had to determine what a special permit

was.

HEARING EXAMINER COLLINS: All right. I just want to label the exhibit, that's all.

MS. MONTGOMERY: Okay, thank you. There may be folks who mischaracterize what was approved. I just wanted you to have the information.

I don't have anything further at this time, thank you.

HEARING EXAMINER COLLINS: All right. The next witness is Cathy Olson. She's going to testify about environmental considerations. We're almost an hour and a half into the second segment; so I think it might be a good time for us to break and then resume after a lunch break with Cathy's testimony.

So right now it's exactly noon. Let's reconvene at 1:15, and if you can make your way in by 1:00 because I will start promptly at 1:15. Thank you.

(Recess from 12:00 p.m. to 1:15 p.m.)

HEARING EXAMINER COLLINS: Okay. We're ready to go on the record. The next witness?

MS. MONTGOMERY: We changed the order.

HEARING EXAMINER COLLINS: Okay.

MS. MONTGOMERY: So we're going to the landscape -- because you had some question about the buffer, so we wanted to make sure the landscape

architect was able to address those sooner rather than later.

HEARING EXAMINER COLLINS: All right. This is Christian Andrea?

MR. ANDREA: Yes.

HEARING EXAMINER COLLINS: Okay. You may begin.

MR. ANDREA: Good afternoon. Christian Andrea, landscape architect. Just to give you background, graduated from Illinois -- the University of Illinois in 1985. I've been practicing landscape architecture for 38 years, had my own firm for 35 years. We work frequently on large-scale projects, communities, developments, as well as high-end residential, a lot of Naples City/County work. So the bulk of our work is comprised of several thousand projects in the last 35 years throughout South Florida primarily, and we do have a lot of experience with coastal work, DEP projects, and whatnot, as well as properties on Captiva and Sanibel.

Our presentation, it's a little bit of a recap from what Alexis had here, as well. So I'll just go through it as quickly as we can.

The deviations -- this is the same graphic that she had represented previously. So Deviation Number 2 was removal of the buffer requirements along these red

lines that were internal to the property, so those red lines here and here and this section here, to eliminate the need for buffers there.

Buffer number three, also a deviation, is the Plantation Road coming through here. As you look at the aerial, you'll see it's primarily residential. So putting a buffer on a residential doesn't really make sense. Buffers are typically intended for parking lots and things of that nature. So I think that all makes a lot of sense.

Deviation 4A and 4B are the need to reduce or remove the buffer around Land's End, as well as the timeshares along this portion of the site here, as well. The golf course itself is going to adding 269 some trees. So there's a fair bit of vegetation in there, and to add buffers around existing properties with oceanfront and gulf views would be counterproductive.

5A is putting a 15-foot landscape buffer along the seaside here, the seashore here, and that comprises a certain quantity of species, and I'll have a detailed slide to look at that.

I apologize, I skipped 4D. 4D is the buffer requirement of 10 trees per 100 between Parcel G, which is the Beach House, and the residential property to the

south.

And then 5B is utilizing the existing mangrove to satisfy the buffer requirements along Parcel K and Parcel E.

This is the south parcel, so a continuation of removing the need for a buffer between Parcel A-1 and Parcel A and C.

And then 4E is indicating a buffer of -- a 10-foot-wide buffer for Parcel A-1, L-1, and D, and then Parcel C to have this six-foot buffer. And, again, I'll get to those in detail as I turn the slides.

This is the northern peninsula. So our little vicinity map here indicates, way up here, this yellow line represents where we're asking to omit the buffer around Land's End. Again, it's surrounded by golf course and landscape that is proposed as part of the golf course project. So that was Deviation 4A. And along with that is the 269 some trees that are proposed within the golf course.

This is 5A along the west side of the property. North is to the left. And this is proposing a linear footage of a 15-foot-wide buffer that is comprising of about 34 -- if you combine these together, it's around 5,000 or so, 6,000 plants in that corridor. And it's a

certain quantity per 100 ground covers and shrubs.

This is a sampling of the pallet, of which the majority of the plants proposed will be sea oats and railroad vine, as we found those to perform the best in this new environment we're in with frequent flooding and whatnot.

This is the shoreline stabilization, also the northern tip. So, again, we're still in that northern portion of the property. This is Condition Number 6 so it's not really a deviation. It's just highlighting the shore stabilization. The orange line represents more structured stabilization with boulders, riprap, mesh panels that help stabilize the earth. The green areas represent landscape enhancements -- lost my mouse. There we go.

This is a minimum of a two-foot landscape strip that's embedded inside that, and that comprises these plants, as well, and then in conjunction with some crushed shell to protect the surface areas.

This is the southern portion right here. So this is the buffer that's between the Beach House and the residents to the south. This requires a buffer of 10 trees per 100, and currently 30 some trees exist there to satisfy that buffer requirement. This is an easement as well as a 30-foot landscape buffer. And

then this just shows some of the additional trees that are out there along the property.

In addition to this, we're required to have a building perimeter landscape around the building on three sides. The Code requires 10 percent of that area of the building to be landscaped, and the building is approximately 7,000 square feet. So we need 700 square feet of landscape perimeter. For example, this bed right here exceeds 700 square feet, and all the landscape that meets Code has to be within a 5-foot area. So this is a section of it here, that's a section wrapping this side here, and then wrapping down the side of the building here, as well. So we are at least twice the required area for the building perimeter landscape, and by Code it's to be on three sides at a minimum.

This is the hotel site. This is also -- this is located right there. And this was -- the intended use of this slide is to indicate the lack of a need for buffering between internal uses. So that's what this slide is conveying.

And then this is the spa plan, which is directly east of the Beach House that we just looked at a moment ago, and that's also in this kind of middle portion of the site. This plan reflects the approved development

order plans and landscape plans associated with that and a sampling of the pallet that's proposed with that. So this represents all the trees and -- primarily just the trees on this exhibit, on the perimeter.

This is the existing pool kind of up here in the northeast quadrant. This is the previously approved DO from a year and a half or so ago and the installed plantings that are out there. So this shows the existing coconut palms that are throughout the island, as well as a handful of other sub-canopy tree species, some of which are cut off. They're actually down in this location and tucked in and around this area. So that's the previously approved installed and completed pool area.

And this is way toward the southern tip. So as you come into the property, this is where the water park is proposed. And by Code we require a 6-foot buffer here that wraps the perimeter here, and the planting is all required to be on the outside of a fence -- this has to be fenced in. So the 6-foot buffer has got a 5-foot-tall hedge placed 4 foot on center, and these trees are located 5 per 100 or 1 per 20 feet. And then the fence is on the inside edge of that, pretty much along the edge of the deck. So from the neighboring property looking back, alls they see is

landscape.

And Deviation 16 had a couple of things in here. One was the request to use shell, beach shell instead of mulch as a -- as an option for mulching areas. Mulch has some issues sometimes, especially as we're flooding, that mulch washes away, erosion problems and whatnot, and we're just dumping it off into the -- the bay or the gulf. The shell is a more natural product, obviously, because it existed, and we're using that as a lot of ground cover stabilization areas, so we think it has merit. Not to say that we're doing it everywhere, but it has merit, and we think it's a suitable alternative or addition to conventional mulch.

And then the other aspect was the requirement had been -- had been requested to have 100 percent native, and we were just asking for some tolerance, to go to a 50 percent native requirement. Many plants that we use are -- we call it naturalized, that they perform well, like this clusia plant you see pretty much on every property. It's salt tolerant; it behaves well; it does everything we want it to; but it's technically not native, as are coconuts. They're not native, yet they perform well, and they're used frequently. And there's just a handful of plantings here that we think are performing, provide the salt protection, and tolerate

conditions that we have. And we're learning which plants will survive in these, you know, semi-frequent flood conditions. So we think opening up the door to give us a little more leeway with a native, again, 50 percent requirement, this would allow us some more tolerance when we're doing the design.

That completes my presentation, and I'm happy to answer any questions, if you like.

HEARING EXAMINER COLLINS: Thank you.

I'm ready for the next witness.

MS. OLSON: Good afternoon. Cathy Olson, Pennoni Associates, for the record. My résumé is on file, and I've been accepted as a witness for conservation matters, as well as Parks and Recreation.

HEARING EXAMINER COLLINS: Okay, please proceed.

MS. OLSON: So I'm going to start by walking you through quickly on the Florida Land Use, Cover and Forms Classification map. I'm going to start on the left-hand side, which is the north. The pink and the blue are golf course. The blue are the ponds within the golf course. The orange is built-up areas that were there before the hurricanes. The blue is marina, and then this yellow here -- wow, this mouse is fast -- is disturbed lands that have been used for various activities over the years, but it's basically mowed

grass.

There's a teeny tiny wetland in there, but nothing of any real matter.

The light green is mangroves, and then the hot pink is the shed that's used for the utility; followed by road, which goes under the urban and built-up setting; and then mangroves, marina, and more urban.

The key here is the majority of this project has been built in the past except for the mangroves, which will remain as mangroves.

And this slide shows that, best of all, all of the gray areas are areas that have been developed in the past, and the marina is -- the two marinas are existing, and the green mangrove will be preserved as is.

There is a bald eagle nest within the vicinity. It's not actually on the subject parcel, but it is -- the subject parcel is within the 660 zone. The majority of that within the 660 zone is mangrove; however, the road does cross into a little bit of the 660, and there is a Bald Eagle Management Plan that has been approved and should be in the exhibit.

The last major environmental concern is with sea turtles and wading birds and migratory birds. The majority of the parcel that has -- that is part of this

application will use turtle glass to satisfy both of those conditions. Staff is -- agrees with that. And the two parcels that are currently being constructed with separate DOs are doing external lighting only and not doing the turtle glass.

And that wraps my portion up.

HEARING EXAMINER COLLINS: Okay, thank you.

(Discussion at lectern)

MR. BARRACO: Okay. Good afternoon, Madam Hearing Examiner. For the record, Carl Barraco. I'm a professional engineer with Barraco & Associates representing the Applicant.

Before I get started, my résumé is on file; but if you would, I have an updated résumé that I'd like to submit.

HEARING EXAMINER COLLINS: Okay, we'll take that.

(Applicant Exhibit 3 submitted.)

HEARING EXAMINER COLLINS: Applicant Exhibit 3.

MR. BARRACO: Thank you. And before I proceed, may I do a sound check and make sure that -- I'm okay?

(Participants respond affirmatively.)

MR. BARRACO: Great, okay.

You have my updated résumé. I have been accepted in this venue as an expert in civil engineering in the past, and I would ask for that capacity today.

HEARING EXAMINER COLLINS: Yes, please proceed.

MR. BARRACO: Thank you. I am going to cover --

(Phone ringing.)

HEARING EXAMINER COLLINS: Okay. I'm going to just repeat my request that everyone silence their tablets and cellphones.

I apologize, continue.

MR. BARRACO: Okay, thank you.

I'm going to first describe the water management system with a little bit of history.

The most -- the first water management I can find in the water management files was dated 1985, and that's important because the Water Management District was established in 1977 so the rules were relatively new, and we've been going through a lot of change.

It's important to note that this was initially a surface water management system because it was designed from those old rules. The new systems now are designed with more modern criteria, and now we're working with environmental resource permits rather than a surface water management permit from the District.

This is an aerial photograph of the area in 1994 and again in 2024, and you can see that there appears to be very little change from a water management perspective since '94 till 2024, until the recent

addition of some water quality systems -- and I'll go over that in more detail as I get into the slides.

The other thing I want to mention about the project itself, their water management system itself, is that it is a full retention system with direct discharge and overflow into the Gulf of Mexico and Pine Island Sound Aquatic Preserve.

This slide shows several things. First, the red boundary is the boundary of the water management permit I just referenced. But what I'm trying to show on this slide is -- are the six water management ERP modifications that Timbers has obtained to date, all of which combine -- provide additional water quality pretreatment well above the current standards.

And as an example, if you look at the Beach House location, which I'm pointing to now, that in and of itself exceeds the required minimum water management pretreatment volume by 50 percent. So it's a significant increase in water quality pretreatment as we go through the project.

This is a similar slide. This just shows the development orders that have been obtained to date that go along with those projects.

So the next thing I want to talk about is the water management system itself. And generally when we

talk about water management systems, we're talking about two components -- attenuation, so we don't flood anyone downstream, and pretreatment. However, in this case, since the project is a barrier island and is essentially a tidal environment that attenuation really isn't important because they're known to flood. What is important is the water quality leaving -- particularly since we're adjacent to the Pine Island Sound Aquatic Preserve. Stormwater runoff is a significant concern. Pretreatment improvements provided in the Exhibit C, which I showed you earlier, and in the future as a result of this request, will provide a significant improvement to the local environment and to everyone else in Lee County. So the point here is that water quality improvements are significant.

So in summary, the modifications include water quality beyond that of the current requirements, and subsequent ERP modifications will provide water quality pretreatment above and beyond that which is existing for the same drainage system area, a definite improvement.

My conclusion with the water management is that in my professional opinion, the stormwater quality has improved as a result of Timbers' actions to date, and

it will continue to improve with development consistent with the proposed zoning application here today.

Further, it's my professional opinion that South Seas MPD has met and/or exceeded all of the applicable standards, demonstrated consistency with the Lee Plan and the Land Development Code with regard to stormwater management.

HEARING EXAMINER COLLINS: Okay.

MR. BARRACO: Before I leave stormwater management and drainage, do you have any questions?

HEARING EXAMINER COLLINS: I don't have questions.

MR. BARRACO: Thank you.

Now I'm going into the utilities, and first is sanitary sewer. And typically when we're talking about utilities here, we're talking about Lee County Utilities; but since there's not a lot known about -- or may not be a lot known about Florida Governmental Utility Authority, I thought I would give some background.

So the Florida Governmental Utility Authority, otherwise known as FGUA, is a special purpose government that acquires, owns, approves, and operates water and wastewater utilities throughout the state.

FGUA was formed in 1999 through an interlocal agreement between Brevard County, Lee, Polk, and

Sarasota Counties. And today FGUA operates at least 97 systems in the state in 14 different counties. In this particular case, they have three utility systems in Lee County, one of those being the wastewater treatment plant and the facilities at South Seas.

A few particulars about the FGUA treatment plant: It was permitted by the FDEP in 2011, and it remained operational through each of the three recent hurricanes: Ian, Helene, and Milton. They remained operational, again through each of those. They were unmanned, they were on diesel generator, but they performed well and actually were operational through each of the hurricanes from start to finish.

The other important thing to know about the plant is that there are two methods of effluent disposal: One being -- both permitted by the FDEP, one being irrigation that can be used on the golf course, and the second is the deep injection well. It's important to understand that not both of them are required, only one at a time is required, so there's redundancy. They can use one or the other or both. The other important thing to understand is that with the effluent disposal irrigation, we're able to irrigate the golf course and therefore save a lot of potable water, since we can use treated effluent.

Another important note is that recently FGUA, for this plant, was awarded $7 million for a few things: One, to install another set of shallow injection wells for effluent disposal. So even though we already have two, now we'll have a third set of redundancy for effluent disposal. And they also will use some of this funding for denitrification filters, disk filters, and membrane bioreactors. So these modifications will further improve the FGUA system and add additional redundancy for the effluent disposal.

Most importantly, FGUA has provided a letter of availability for the flows that we requested, and that letter is on file.

So in summary, with regard to sanitary sewer, FGUA has an existing wastewater treatment plant and is capable of providing the required sanitary sewer service to support the requested uses.

Now I'll move on to the potable water. Potable water is provided by the Island Water Association, known as IWA. And, again, since that's not a real common utility, I'll just go over the basics, and that is the Island Water Association is a not-for-profit corporation organized and existing under the laws of Florida, and was incorporated in January of 1965.

And then, again, we have a letter of availability

from IWA for the additional demands that would be required for this approval.

That's all I have for you this afternoon. If you have any questions, I'd be happy to answer them.

HEARING EXAMINER COLLINS: No questions, thank you.

MS. MONTGOMERY: I have a couple questions.

Mr. Barraco, during Ms. Crespo's testimony on the lake bank slope, she indicated that you were going to talk further about the geomats or whatever form of stabilization it was going to be. Can you address that?

MR. BARRACO: Well, with regard to the 4-to-1 slopes to the lakes, that really is to cover the existing lakes that were designed under that old criteria, which were 4-to-1 slopes. So when I talked about that old water management criteria and the new water management criteria, the lake slopes changed from a 4-to-1, which were -- which are existing, and 6-to-1. So that's really just to cover the existing conditions of the 4-to-1 slope.

MS. MONTGOMERY: But she indicated that there was going to be some form of stabilization provided, like geomats or something like, if there's a problem.

MR. BARRACO: Those lakes are years old and -- and

I don't know how we would --

MS. MONTGOMERY: So there haven't been any problems? That's the question.

MR. BARRACO: No, I -- yes, thank you.

MS. MONTGOMERY: And she did indicate that the condition in regards to the road, that you were going to provide an engineering analysis -- this was part of the LDO, and you were going to address that?

MR. BARRACO: Yeah. The only change we made, really, to clarify the language. For instance, it said the development order, and if we're just looking at signage and markings, it was more appropriate just to clarify that it would be a limited review development order, and some minor clarifications like that.

MS. MONTGOMERY: Okay, thank you. I don't have any other questions.

MR. BARRACO: Thank you.

MS. FOUNTAIN: Good afternoon, Madam Hearing Examiner. My name is Elizabeth Fountain, a professional engineer and certified floodplain manager with J.R. Evans Engineering, and I have been accepted as an expert witness for floodplain management aspects, including riverine and coastal.

HEARING EXAMINER COLLINS: Okay, you may proceed.

MS. FOUNTAIN: Okay. So my presentation is really

going to dive into understanding all the different zones that Ms. Crespo alluded to earlier in her presentation, as far as the coastal environment and coastal floodplain aspects. So this presentation will explore the distinctions between the FEMA defined coastal high hazard area and the NOAA defined coastal high hazard area, "NOAA" meaning National Oceanic and Atmospheric Administration organization, and including looking at the State's requirement with respect to their delineation of the coastal construction control line, and how that -- how all of those categories of criteria work together to ensure that new buildings that are built and rebuilt buildings are going to be more resilient and promote long-term sustainability.

So some distinct perspectives on the differences in coastal high hazard areas. So the NOAA defines coastal high hazard areas as -- it's really based on what they call a SLOSH model, and SLOSH stands for Sea, Lake, Overland Surges from Hurricane. And it is developed primarily for the emergency planning community and the zoning community to illustrate the maximum condition. So it's the worst-case scenario for hurricane inundation of an area. It does not model a wave -- wave action or propagation or river flow or rainfall flooding. It's strictly an inundation model.

It's used by the County to help establish evacuation zones, understand and evaluate evacuation routes, and understand the timing of those evacuation routes, and when the public notices should be sent out. It is not used for the Florida Building Code regulations for the design and construction of new structures that are located in special flood hazard areas. That -- for that specific use, you have to look to FEMA to find coastal high hazard area; and, you know, overall FEMA defines special flood hazard areas for -- based on their modeling expertise.

So the FEMA-defined coastal high hazard area is used in the Florida Building Code and the National Code for design and construction of structures in the special flood hazard areas. It does represent the flooding areas that relate to what they call the one-percent annual chance event, which is also referred to as the 100-year event, but it's actually -- there's actually a 26 percent chance of that event occurring every 30 years. So I think we've probably seen that come into light more often now with the recent -- recent storms.

It does evaluate wave conditions, so wave action, and a combined probability with river flows and waters in the bay rising, and rainfall amounts.

A little bit of an overview of the FEMA-defined special flood hazard areas. It has not been a static aspect of the coastal floodplain. It is an evolving aspect that has been refined over the years by FEMA and their analysts; and as technology improves, as the data collection improves, then they keep refining those flood zone delineations. And also as we get -- you know, experience more storm events, those become record information that they use to reevaluate storm surge studies.

So the first effective flood map for this area of Captiva is -- was in 1984, and it's been revised over the years, with the latest version being November 2022.

The new maps currently provide updated base flood elevation for those particular zones, and also define what they call the limit of moderate wave action, and I'll get into that in a couple of minutes, of what that means.

Bottom line is that these -- these changes to the base flood elevation affect construction standards for new and rebuilt structures. So as the base flood elevation changes, the design flood elevation changes, and then that will change your finish floor elevation. So it's all related.

This is just a larger scale exhibit of the

different changes in the FEMA maps over time.

So some elements of coastal floodplain and flooding, going into the limit of moderate wave action, this is a new line that has been implemented on the flood maps. And on this exhibit, the yellow colored area, the limit of that yellow patch represents the limit of that area where there's still some moderate wave action happening. They call that the Coastal A Zone. So it's not the -- you might know about the high-velocity zone, which is the VE Zone. The Coastal A Zone is directly adjacent to it, so it's still an area of moderate wave action.

Additional aspects with coastal flooding, that new LiMWA boundary is treated a lot like a VE Zone with respect to construction standards. Based on the Florida Building Code, you have to elevate such that the -- the bottom of the horizontal members supporting the first living level is at one foot above the base flood elevation. So it's not to the top of the floor, it's actually to the bottom. So there's an additional level of buffer there to help prevent the wave action from impacting the structure.

There's also a requirement to incorporate break-away walls for enclosures that might be located below the living floor, and those enclosures have

restricted uses, and there's also limitations on fill and other development. And these requirements not only affect new -- new build structures, but also ones that may have been damaged and are looking at trying to redevelop or rebuild, and they are -- the rebuild is, you know, if it's more than 50 percent of the structure value, they have to comply with these new requirements.

As I mentioned earlier, along with FEMA's special flood hazard areas, you have to also take into account the State's defined coastal construction control line. It's a typical element when you're looking at doing this type of development project along the coast, the Gulf Coast of Florida. So DEP, Department of Environmental Protection at the State, has required -- has established a 100-storm elevation, and that elevation relates to the required finish floor elevation for new structures and rebuild structures.

On this exhibit you can see that the green dash line represents the 1978 coastal construction line that was initially established, and then they updated it to 1991 and moved it further landward from the shoreline. The 1978 line is still in existence, and it's looked at as the setback line for coastal construction.

So the State's criteria, it has -- as I mentioned, it had some impacts on construction and reconstruction

projects, and it's all in an effort to promote protection of people and property and the coastal resources in that area.

As I mentioned, FEMA -- DEP sets that 100-year storm elevation, and it is directly related to the minimum finish floor elevation for habitable structures. The map on the left gives an example. The red line is the CCCL boundary, and then there's a range monument. Those range monuments are established by DEP, and they help -- they helped align that boundary when they were having it surveyed.

The image on the -- on the right is an overlay of the FEMA flood hazard areas with the State CCCL boundary. So you can see there's -- this illustrates that there's multiple zones that have to be considered when looking at new projects.

A key component of the State's 100-year storm elevation is that it's typically much higher than FEMA's base flood elevation for the same location. So for this example, in Captiva the State's 100-year storm is at 17.4 feet elevation above sea level, and FEMA's is in a range of 6 to 8 feet above sea level. So that's a big difference, you know, 7 to 11 feet. And that just -- therefore, a structure that might be located in a FEMA Zone 8 would still have to meet

the DE -- and be seaward of the CCCL boundary still has to meet the DEP, the State elevation; so, again, adding that additional resiliency. It also moves the baseline of where the habitable floor starts so...

Some key takeaways from the presentation I'd like to leave you with are that -- a reminder that FEMA's special flood hazard area mapping is not static. It is a revolving -- or evolving item that gets updated regularly with new technology and new data.

And then DEP, you know, when you're working in a coastal area of Florida, you have to pay attention to the CCCL boundary and understand that their -- the State's 100-year elevation could impact your design.

And then it's important for the local regulations to build in that adaptation to those changing factors, those changing criteria. So the Policy 23.2.3 in the Lee Plan, I think, speaks to that, as well as the other recent LDC -- Lee County Land Development Code Sections 31-2171 and 31-2172 in respect to measuring height indicating that the height should be measured from the minimum finish floor elevation and not, you know, existing ground or sea level.

So in my professional opinion, I believe that South Seas MPD has met or exceeded all of the applicable standards and demonstrated consistency with

the Lee Plan and the Land Development Code, and I'm available for any questions.

HEARING EXAMINER COLLINS: Thank you. I don't have questions at this time. I may circle back to you later.

MS. MONTGOMERY: I have some questions.

MS. FOUNTAIN: Yes.

MS. MONTGOMERY: Okay. Earlier the Hearing Examiner asked Ms. Crespo if the new standard is base flood elevation plus one, and Ms. Crespo responded, yes, but it can be different in different areas. So can you -- for people who don't understand all the things that you do, what are the different alternatives besides the FE plus one?

MS. FOUNTAIN: So with respect to the coastal zone of a VE or a Coastal A Zone, where the new limit of moderate wave action line is, structures in those zones -- not -- not -- you know, take away not the State's requirement, but just looking at FEMA's requirement. The minimum elevation for the supporting -- the bottom of the supporting structural member has to be one foot above the base flood elevation. That's the minimum. Whereas in a non-coastal flood hazard area, it would be the top of the floor would be FE plus one, top of the living

floor; so there's the extra resiliency built in to consider that wave action for the coastal flood zone. So it changes where you measure the base flood -- where you measure the minimum floor elevation.

And with respect to being seaward of the State's coastal construction control line, if that elevation -- if the 100-year storm elevation that the State has defined is higher than FEMA, then you use that, to also set it to the minimum -- at the bottom of the lowest horizontal structural member because it is also considered an area that is subject to waves.

MS. MONTGOMERY: Okay. Let me ask you a question.

MS. FOUNTAIN: Sure.

MS. MONTGOMERY: Did you see the pictures that Ms. Crespo showed earlier of houses or multi-family structures that are three stories over parking?

MS. FOUNTAIN: Yes.

MS. MONTGOMERY: If I take that same building -- and a lot of those are, as you say, measured from existing grade or sea level, so if I take those same buildings, and -- and I didn't change anything, and I had to -- I kept measuring from sea level or grade level, would there be a squeeze in what I could build back?

MS. FOUNTAIN: Yes.

MS. MONTGOMERY: Can you explain the squeeze to the Hearing Examiner?

MS. FOUNTAIN: Yes. If the way you measure a building height is based on existing grade and -- however, you cannot start your living floor until 10 feet above existing grade, then -- but you're limited to a height of 45 feet above existing grade, then you've already -- you've also lost 10 feet of available height, building height. It's not usable. It's not -- you know, it's not going to be liveable. So therefore you would only have 35 feet of building left, of actual living space.

MS. MONTGOMERY: And so then every time FEMA adjusts the regulations, you can lose another floor?

MS. FOUNTAIN: Yes.

MS. MONTGOMERY: And is that part of the reason, in your opinion, why the County changed how height is measured in Ordinance 23-22?

MS. FOUNTAIN: Yes, it is.

MS. MONTGOMERY: Now, the ADD, the administrative interpretation that applies to the subject property, still measures height from sea level or existing grade. So if this isn't amended, they would be subject to the squeeze and lose -- wouldn't be able to build back what they had; is that correct?

MS. FOUNTAIN: That's correct.

MS. MONTGOMERY: Okay, thank you. I don't have any other questions.

HEARING EXAMINER COLLINS: Okay, thank you.

I'm ready for the next witness.

MR. MENDEZ: Madam Hearing Examiner, if I could just ask a few questions. Can everyone behind me hear me?

UNIDENTIFIED SPEAKER: Yes.

MR. MENDEZ: Could we pull up slide 95 real quick? It might be easier just to escape out of it.

Just for clarification, I want to point to some of the buildings on the master concept plan. While she's providing testimony, I think it might be helpful in maybe Staff's understanding and the public, when we're applying these different heights to these different areas, how that actually impacts the master concept plan.

MS. FOUNTAIN: (Complies.)

MR. MENDEZ: Thank you.

MS. FOUNTAIN: Is this the right one?

MR. MENDEZ: So this is a good example here. Some of the information on the master -- for the record, Adam Mendez, principal planner, Lee County Zoning section.

There's a lot of elements on this master concept plan that help someone understand what a building might be subject to in terms of the various flood zones and flood requirements that she has described.

So my first question would be is, you see the building on Tract B. There's a red line there. That red line is the coastal construction control line. It's the '91 line. The blue line is the '78 coastal setback line, as defined in the County ordinance. Since that building is bisected by that red line, what zone is it in? What would be the minimum base flood elevation?

MS. FOUNTAIN: It would be subject to the State's 100-year storm elevation of 17.4 NAVD.

MR. MENDEZ: And that's measured to the lowest horizontal member, or one foot above that standard is the lowest horizontal member?

MS. FOUNTAIN: That's measured to the lowest horizontal member.

MR. MENDEZ: So this is the area -- these areas with buildings on the master concept plan that are bisected or seaward of the '91 line, these are the structures that will be, in essence, 10 -- 7 to 10 feet above the usual FEMA standard, when we're looking at the total building height; is that correct?

MS. FOUNTAIN: That is correct.

MR. MENDEZ: And this -- these are just estimates, but just to show the line work on the MCP.

The next line I'd like to point out on this slide is called the limited wave action line. It's the LiMWA line. So it's going to be the dash line -- her cursor is on it.

If you can go to the Tract E where you can see it delineated --

MS. FOUNTAIN: This one?

MR. MENDEZ: Yeah, so that's the LiMWA line.

If we could advance to slide 96.

MS. FOUNTAIN: (Complies.)

MR. MENDEZ: So this is the north section where there's actually buildings impacted by that LiMWA line. I would like to point out Tract I-1, that's the future hotel tract on the north end of the MPD, proposed MPD. That building there is subject to the LiMWA design standards. So is it correct to understand that this would be the FEMA base flood elevation plus one before you get to the lowest horizontal member for any building that's bisected by that line, or we'll call it seaward of that line, closer to the bay than that line; is that correct?

MS. OLSON: That is correct.

MR. MENDEZ: Okay. And then so for the -- for the buildings that exist in between those two lines on these -- on this master concept plan, that's central to the island further away from the bay, those buildings are just subject to the FEMA base flood plus one, and that's measured to the top of the finished floor; is that correct?

MS. FOUNTAIN: That is correct.

MR. MENDEZ: Okay. Those are all my questions, thank you.

MS. FOUNTAIN: Thank you.

MR. WRIGHT: Good afternoon. My name is Christopher Wright. I'm a professional engineer in the state of Florida. My résumé is on file, but just a brief background. I graduated in 1993 from Clarkson University in Upstate New York; moved to Florida in '95 and cofounded B&W Structural Designs 25 years ago; and our first two structures that we designed were two 30-story buildings, one in Naples and one in Bonita. We specialize in high-rise commercial/residential construction on the coast. My résumé, like I said, is on file, and I've been accepted as an expert witness.

HEARING EXAMINER COLLINS: Okay, please proceed.

MR. WRIGHT: So the State of Florida and -- with help with our governments have been building our

building codes from the '50s, to '60s, from when we started with wind tunnel testing, from when we started with, you know, dynamic modeling -- in other words, our building codes have become more stringent, more in-depth and more strengthening our structures as we go through the years. And I think it's based on history, it's based on math, science, and really watching what current events happen, what current storms and what data we can collect, what statistics we get to create these codes.

Ultimately, Florida is a little different than the rest of the country, and Hurricane Andrew was really one of the really big aspects which kind of changed how Florida designs our building, and that's what created the Florida Building Code.

And I won't go too much into the timelines, but our FEMA standards, along with our Florida Building Code, has been kind of going through the same process. As you know elevations -- flood elevations have been increasing, our wind speeds have been increasing. A lot of, you know, that information stems from current storms, especially the last two years with Ian, Milton, Helene. That's really given us a lot of information and note just how accurate and -- and, you know, what our Florida building codes are doing now.

But I think when we talk about resilience and structural strength, it's not a Captiva, it's not a Sanibel Island, it's a state of Florida topic. You know, in Destin, in Pensacola, buildings in Daytona, buildings in Miami, we all have the same set of rules. We have the same codes. We're all -- you know, each building has its set flood elevation, each building has its set design grade. Whether it comes from FEMA or whether it comes from the Florida state, we, as structural engineers, just have to take the worst -- you know, worst elevation, the worst-case condition. That's really -- you know, so every -- every building on the coast has its own kind of design criteria. So when we question resiliency, I guess, in Captiva, we're questioning the resilience of Florida buildings and what we're doing for, you know, all the other parts of Florida as far as structural design.

So just a little, I guess -- I tried to make this somewhat simplified. Each building we have that 100-year storm, and like you heard earlier from Elizabeth, that stems from either a FEMA requirement over the coastal construction line or -- or -- I'm sorry, an FDEP requirement, which is a Florida Building Code-type stipulation, or a FEMA flood elevation. Regardless of what governs, we have to pick the higher

elevation, and as structural engineers, we have to build the building above that elevation. We have no choice. The Code has kind of mandated us to design to that height.

There's also a design grade elevation, and that's the -- the lower elevation you see on the chart. And no one really talks about that too much because it's below grade, but it's the same impact that you have as your wave height or your 100-year storm elevation. What that design grade gives us is how much sand is going to be removed underneath a building during one of these hurricane events. FEMA maps their own design grade elevations the same as they do with flood height. The FDEP also does the same thing. They have scour elevations or erosion elevations that coincide with the 100-year storm with elevations. So not only do we have to keep our buildings above that governing 100-year storm, we have to keep our foundations buried in the ground. So our foundations have to be lower to be below that design grade.

And so what happens, if you -- say, you had a structure that had your foundations attached to the house, well, now we're being stretched. Our flood elevation is driving the building up, but also the foundations are being driven down. And what that does

is it allows the water to flow through the building and not -- we're trying to not divert water flow into other structures. So we're trying to make these buildings so when the storm hits, or when the storm approaches, we're not changing the flow of water. We're trying to make these structures --

HEARING EXAMINER COLLINS: Hang on a second.

If you need to speak to someone in this room, do you mind stepping out? Because it's distracting to me. Thank you.

MR. WRIGHT: So as structural engineers, we're trying to create the least impact to the surrounding environment, the surrounding buildings. That's why we call that zone from the building -- from the building to the foundations the velocity zone. We've also called it dead zones. Nothing can be in that zone. We want the water to flow through, and really want the effects of the storm to be the same as if the building was not there.

What that does is it keeps the building from receiving any kind of excess load from these flood waters; it keeps the foundations low enough so the floodwaters do not push on the foundations; and in the end, that's why our compliant buildings are standing with very little damage from these hurricanes.

Now we'll go to a noncompliant building -- and these are mostly -- especially after Milton in the Clearwater area, I think most of the buildings in those barrier islands were noncompliant. And what happens here is -- these are '80s, '90s. Our Code really hadn't -- really gotten to the point where they are today, to where we knew that, you know, these surges and scouring was actually happening.

So the older houses, the foundations typically are not deep enough, and then the first elevated floor is -- well, as FEMA and Florida has been increasing their 100-year storm elevation, all of a sudden the floor is underwater. When you -- and just because I'm local to Tampa, we spent a lot of time in Clearwater after the storm, and Sarasota. As you drive down the streets, there's just piles of debris, and all that debris was from noncompliant homes that have been damaged with floodwaters. It's terrible.

And what our codes are trying to do is, I guess, decrease that pile of trash that's next to the road after these storms. We want these storms to go through, and we want to be able to just rake some sand and move some sand and move on. It's less expensive. People are not displaced.

So with years and years -- you know, we're hoping

to get to that point where our buildings -- you know, at the end of these storms, we just open the doors back up and move in.

So this is a plan view of, I guess, what our design philosophy is. You can look at these and call them the roof plans of a single-family home, or you can call them roof plans of a 30-story building. It's the same building code. It's the same regulations, same stipulations that were mandated by the Florida Building Code.

So if you look at the left, compliant buildings, you'll see the water and the wave direction go into the house, and it will be flowing through the house without -- I shouldn't say through the house, but under the house, flowing, and not imparting any damage or redirection of water flow. That's the key. We want to put as little structure into that velocity zone beneath the house and above those foundations, so it just runs through and pushes sand and doesn't create any adverse loadings on neighbor buildings. And it's kind of -- and we see, you know, when you get to the noncompliant building, you know, to an extent this is what will happen.

Now, Helene -- when we look at Helene, and we look at previous storms, even Ian, they were two-thirds of

what our buildings are designed for. They were a 100-year storm, 110-year storm. These wave events, velocity events are going to be a lot bigger.

So looking at the damage that we saw from Milton, we did see some structural damage. We saw houses that, you know, were below and noncompliant and diverted floodwaters, and what that does is just damages the buildings next to it. So that's what we're --

HEARING EXAMINER COLLINS: It damages the buildings what?

MR. WRIGHT: It damages the buildings adjacent to it.

HEARING EXAMINER COLLINS: Oh, adjacent, okay.

MR. WRIGHT: So what happens is the water is hitting that building that's too low, its foundations are too high. The water's gotta go somewhere, and that's what the areas are representing, you know, pushing water to the side. And that's -- that's what FEMA doesn't want, that's the creation of the coastal construction line, and that's what we're trying to stop from happening.

There's also another interesting -- you know, our codes for flood-related items are the same for high-rises versus one-story family. So if you look at the area of like one of these homes, you've got a

certain area of this velocity zone. If you were to have a 30-story building with that same area, you would have the same area in that velocity zone. In other words, you'd have 30 units that are impacting the surrounding neighbors, you know, in that velocity zone, that one small area, as opposed to you could have one tenant occupy that same one-story area where the velocity zone is. So I guess -- let's see if I can say that a little bit better.

There's been a question about storage underneath, you know, a house or any building, and what happens is that in that zone, water flows through and can move -- you know, what happens to the storage, and what happens to the materials inside that storage area? That gets washed away with frangible walls and frangible slabs.

My point is, is that area is stipulated by the building footprint, not by the number of tenants. So if you were to ask somebody who recommends FEMA, what would you prefer to be built, a 30-story tower with a footprint of "X" size or a one-story tenant -- or 30 one-story tenants with "X" square footage, the FEMA codes -- and the way we're trying to, you know, deal with these storms is the high-rises, the multi-tenant buildings are better because there's less impact to the environment, plus impact to the buildings next to it.

And it's really all due to that area of the building. It does not have anything to do with the height of the building.

That is all I have.

MS. MONTGOMERY: I have a couple questions, if you don't.

MR. WRIGHT: Yeah.

MS. MONTGOMERY: Did you have any?

HEARING EXAMINER COLLINS: (Shakes head.)

MS. MONTGOMERY: Mr. Wright, as a scientist, you have been involved, have you not, with the standard building code drafters and have contributed analysis and data to their system; is that right?

MR. WRIGHT: I have talked with Wintal (phonetic) Consultants who have done that job. I specifically have not talked to the code people who have created the building codes.

MS. MONTGOMERY: And you have built buildings around -- or you've designed buildings that have been built around the state; is that correct?

MR. WRIGHT: Of course, yes.

MS. MONTGOMERY: And you have, I believe, visited those buildings after hurricanes to evaluate the structure that you designed; is that correct?

MR. WRIGHT: Yes, that's very typical. During the

storms, we use that chance to, you know, see how our buildings perform and what we can learn from them.

MS. MONTGOMERY: And one of the concerns I know the folks have raised is that these buildings are going to cause damage or debris in wetlands and environmentally-sensitive areas. Did you have a chance to evaluate the break-away walls and how they perform?

MR. WRIGHT: Yes. You know, building-compliant structures -- the whole point of building-compliant structures is to have -- not create debris. We've got a few buildings down in Sarasota that did experience their frangible walls/slabs actually falling over, slabs, you know, moving, and all that material stayed under the building. If you can imagine when these -- when these storms come, in also comes a lot of sand, and the sand is what erodes underneath these concrete slabs that are frangible -- and, again, we're in that velocity zone or that dead zone. These walls fall down so that the water can flow through the building.

From every building I saw, all of that frangible material was just piled up underneath the building, collapsed. Alls it has to do is collapse enough for the water to flow over it, and then it stays put. The velocity is not -- you know, it's not like a river where we're just going to be flowing any kind of

masonry object or concrete material through the building and 50 feet over past the building. It just has to fall and let the water flow through.

HEARING EXAMINER COLLINS: So you're saying they're designed just to fall and stay put, and the water continues to --

MR. WRIGHT: Correct.

HEARING EXAMINER COLLINS: -- flow instead of causing a debris field of its own.

MR. WRIGHT: That is correct. We break our walls up into four-foot sections. We break our slabs up into four-foot sections. As soon as the water starts hitting the sides of the walls and starts scouring underneath the slabs, they settle, the walls fall in, and then the water flows through. So it's not designed -- you know, we don't design these to break up into smaller pieces where they're going to spread out. It's more difficult to do that, actually. It's designed to fall and stay put underneath the building.

HEARING EXAMINER COLLINS: So if the building isn't elevated enough, a base habitable floor, what you're saying is that then that floor could become damaged, and whatever it's composed of or what's inside of it will then exit the building?

MR. WRIGHT: Well, what could happen is, one, if

your floor is below that wave, if the waves are actually hitting that floor and going above it, you're putting a lot more load on that building than it was ever designed to. Wave load is -- is very strong, you know, a 1,000, 2,000 pounds a foot. It's a lot of load so you're -- you're hurting the structure. If the structure survives, and the building stays put, then the waves, yes, go into the room -- go into the house, and because it's flowing, it causes havoc. It's not like floodwater where it just rises. You're actually pushing down the walls and running water through your house.

HEARING EXAMINER COLLINS: Do you know if FEMA or another governmental organization is evaluating base flood on Sanibel and Captiva based on the most recent storm events we've had, verifying, tuning it up against what they believed --

MR. WRIGHT: Well --

HEARING EXAMINER COLLINS: -- each flood was? Is there -- what's the effort on that regard?

MR. WRIGHT: You know, I'm not sure what is being done now with this new data. I'm sure it takes a lot of time. But I will find it interesting that FEMA has a flood elevation in this area of 12 or 13 feet -- I don't know the specific -- but then the Florida

Building Code has a 100-year storm of, you know, 4 or 5 feet higher than that. Two agencies should have similar modeling.

HEARING EXAMINER COLLINS: Right.

MR. WRIGHT: Very different answers, right? So that's where Florida is kind of taking over, and it's kind of the same path that it had with the Florida Building Code with wind. It's taking over and saying, listen, we want our own elevation.

HEARING EXAMINER COLLINS: Well, I'm just curious because they have real data now; right?

MR. WRIGHT: Yes.

HEARING EXAMINER COLLINS: Before it may be hypothetical. The island hasn't been hit in a while, or the storms didn't hit them a certain way --

MR. WRIGHT: And I'm sure --

HEARING EXAMINER COLLINS: -- and I was wondering --

MR. WRIGHT: -- that will be -- just like it has with the wind model, and we've already taken that data, and we're putting in the statistics for other wind tunnel models. I'm sure that's happening in the flood industry, also.

Again, that wasn't -- you know, as far as a wind event, it wasn't one of our strongest, but I would

suspect that that elevation, you know, like we've heard about, is probably going to increase again. And I think that's a lot of -- that's the reason why we see jurisdictions at two feet, three feet. Clearwater adds four feet to their elevations --

HEARING EXAMINER COLLINS: I'm just wondering if it's going to true up at some point, now that there's real data, there won't be that discrepancy between the agencies in terms of what --

MR. WRIGHT: Well, it's almost a political question, I guess, is will our -- is our storms ever going to be weaker, or are we constantly going to have a higher percentage of storms or a higher magnitude of storms. But I suspect the way things have been going the last 30, 40 years, we've learned a lot because the old '40s, '50s houses that were built two or three feet off the ground don't work. I'm hoping it's going to kind of stabilize a little bit, but I suspect it's probably going to keep increasing. And that's why I think other jurisdictions are right off the top adding three feet, four feet to their FEMA elevations --

HEARING EXAMINER COLLINS: So they're relying on the more stringent of the standards notwithstanding.

MR. WRIGHT: Yes. And that's -- it's also key to note that FDEP is not stipulating the lowest horizontal

member. It's stipulating a 100-year storm wave height. To structural engineers, that means our building has to be above it. It doesn't mean it has to be one inch above it. I'd like to put most of our buildings in these coastal areas two or three feet above that elevation. It just protects us and gives that extra protection on these investments. Why wouldn't we? I mean, if you can look back in ten years and look at what's happening to our flood elevations -- and this was mirroring with wind speeds. It's the same thing. But wind speeds have been increasing, the buildings now are 700-year storm, you know, ultimate strengths. When is the flood going to catch up, and I think you're starting to see that now, and I think, you know, Florida DEP has done a really good job in getting ahold of these elevations, and then coming up with their own elevations. But I suspect we're not done.

MS. MONTGOMERY: Mr. Wright, if I can, I know that there's some newer buildings out at South Seas that have been built. Did you have a chance to evaluate the buildings that were built at grade, the older buildings, versus the new buildings and how they withstood the storm?

MR. WRIGHT: I have not. I've looked at many other newer buildings, and I've looked at too many

noncompliant buildings that have been washed out and -- but I have not looked at the specific ones out at Captiva. But I suspect -- I mean, it's obvious, from what I've seen everywhere else, newer buildings are -- are performing like they should, and people are moving back into them; and the buildings that are noncompliant were damaged, and it's causing a lot of hardship.

MS. MONTGOMERY: And I know you talked about it in your one graphic about if you have a building that blocks the flow of the water, it diverts it around the building. I think I heard you say on one occasion that it actually increases the velocity --

MR. WRIGHT: Yes.

MS. MONTGOMERY: -- or the force of that water. Can you explain that?

MR. WRIGHT: Yes. So that's the whole -- that's the theory of trying to get the water -- that's our goal, is to get the water to flow underneath the building that we're designing so that it doesn't divert the water. We'll go through -- we'll go through special column sizes; we'll make sure we have short walls; we'll do everything we can to keep the water to flow through the building, because once it's diverted, it has the -- to an adjacent house, it has the water -- that adjacent house has the flow of the water that's in

front of it, plus whatever water that's coming off or being diverted from, let's say, a noncompliant building.

Unfortunately -- and we do this when we are designing smaller homes, buildings that are next to noncompliant, we'll actually have an impact -- a debris impact load. So that means the noncompliant home that's diverting water is probably breaking up. It's -- the water's gone above the floor; the walls are starting to fall down; there's probably a big chunk of debris that's going to be diverted and possibly hit another home. We've seen multiple times where we've seen homes damaged from neighbors three or four, you know, houses down.

So we've actually -- we actually have to put a debris load, not only just a water load, onto the building that we're designing in case one of the homes around us is noncompliant and breaking up, so that the house that we just designed doesn't have this excess load that we didn't account for.

MS. MONTGOMERY: So, Mr. Wright, when you go to design your buildings that are going to be placed at the resort, will you work in conjunction with the coastal engineer to ensure that the structure is properly designed to deal with the wind and the waves?

MR. WRIGHT: Yeah, so all of our coastal work -- you know, there's publications, FEMA publications, there's FDEP elevations that we can get, that we can look up; but most of our projects there will be a coastal engineer that looks for site-specific issues that may arise to be sure that we have the correct information, to be sure we have -- you know, for us it's foundation elevation. We have to be sure that those foundations are low enough.

So there's a whole industry that helps us design and gives us accurate loads for that velocity zone below our building. We have our building; we have this, you know, hazard -- high hazard velocity area. You know, it's always nice to have a coastal engineer helping us and let -- you know, giving us information that we may not be aware of due to a site-specific issue.

MS. MONTGOMERY: So in conclusion, will the buildings that you design meet the current regulations, be more structurally sound, more resilient, and safer than the existing noncompliant buildings?

MR. WRIGHT: Of course.

MS. MONTGOMERY: Thank you.

MR. WRIGHT: That's -- that is the whole point.

HEARING EXAMINER COLLINS: In the case of South

Seas Plantation, based on the summary I saw from the planner, there's building structures built over a 50-plus-year period of time; and you can see from the design, several of them are not over parking. So there's a fair amount of structures in there -- I'm not saying it's the majority, but I noticed a fair amount that would be considered noncompliant in terms of today's regulations.

So this application is planning to build quite a bit -- two hotels, miscellaneous other structures -- so would they then be designed to withstand what could potentially be a debris field from these structures --

MR. WRIGHT: From the noncompliant -- absolutely. We have to take that into account. You know, if you -- if we are building new structures and following the Florida Building Code, it gives us no choice. We're mandated to see what the surrounding area is and see what that debris could be. That's -- that's part of the structural design.

HEARING EXAMINER COLLINS: Right. And those structures were probably built compliant to the regulations at the time; but as time went on, then there was -- FEMA adopted base flood and whatever, and you can see, based on the age of the buildings, there's kind of like a difference in the character of the --

MR. WRIGHT: Oh, yeah.

HEARING EXAMINER COLLINS: -- design, right, nothing, to crawl space, to over parking.

MR. WRIGHT: Yeah, and there's nothing we can do about it.

HEARING EXAMINER COLLINS: No.

MR. WRIGHT: You can't go in and try to -- you know, let's say there's single-family homes. You can't go in and say, okay, let's tear your home down because it's noncompliant because we're going to build a compliant building over here. We have to account for it. That's -- that's all you can do.

HEARING EXAMINER COLLINS: Okay, thank you.

Mark McLean.

MR. McLEAN: Good afternoon, Madam Hearing Examiner. My name is Mark McLean, national director for MHK Architecture. MHK Architecture is a national studio, and we have three studios here on the West Coast of Florida, from Sarasota, Sanibel, and Naples. Our corporate headquarters is in Naples, and I've been practicing architecture in Southwest Florida for the past 25 years. My credentials are on file with this application.

The first topic I'm going to bring up is Florida building classifications for low-rise, mid-rise, and

high-rise buildings. These buildings are primarily determined by the buildings' height of the elevation of occupied floors. These classifications influence the specific fire safety requirements mandated by the Florida Building Code, the Florida Fire Prevention Code, and the National Fire Protection Association.

High-rise buildings are defined by the FBC and the NFPA as buildings with an occupied floor more than 75 feet above the lowest level of fire department vehicle access. Due to their height, high-rise buildings are subject to more stringent fire regulations, including fire protection systems, smoke control, and emergency communications.

Mid-rise buildings, though not specifically defined in the Florida Building Code, are generally understood to be structures that do not meet the height criteria of a high-rise building, but are taller than low-rise structures. Fire safety requirements for mid-rise buildings include fire protection systems and evacuation planning.

Low-rise buildings -- and this is why we've highlighted this. Low-rise buildings are typically defined as structures up to three or four stories in height. Fire safety measures for low-rise buildings include fire suppression systems. The buildings that

we will be reviewing today, as a group, all for South Seas, are low-rise buildings.

Earlier in our presentation, other definitions had come out for a maximum building height of 45 feet. The maximum building height of 45 feet is per the Land Development Code Section 34-2171(b) and 34-2172. This establishes our building height can be 45 feet, 45 feet tall when measured from the jurisdictionally determined point to the midpoint of the roof.

So there's an exception in 2472 (sic), which is an exception to height limitations for resiliency. So when exception (A), "notwithstanding any provisions in this code," this code is referred to -- that it is referring to is the Lee County Land Development Code. This increases the height of the lowest minimal habitable floor, and this is to provide for increased resiliency and protection from natural disasters.

So as we start, we're going to start with the left image that shows an existing two-story building on Captiva in a standard AE flood zone. So if we did a building height measurement for this existing building, it would be from grade or base flood elevation, depending on when it was built. And as you can see, this building would be less than 32 feet tall because it's simply two stories, but what we're trying to

establish here is where that height would be measured from, which would be measured from the ground floor or the ground or the average grade around that building.

As we move to the image on the right, this would be an existing two-story building built with current FEMA guidelines in an AE flood zone. So what that does is it brings that 7-foot base flood elevation in, and then adds 12 inches to make the design flood elevation. But as you can see, since it's a smaller building or two- or three-story building, it doesn't have any effect on the height of the building because we're less than the 45 feet. The exact same building would have a different measured height because now we are required to measure that height from a different location. Instead of measuring from grade, we're now measuring from DFE, but it's the exact same building.

When we look at the next slide, this is an existing three-story building seaward of the coastal construction control line on Captiva. When this building was built, the height measurement from grade was a maximum height of 35 feet. As my team went out and measured this building, we found an average height for this building around 37 feet, just because of erosion over time and grade around time. If we took this existing building that was seaward of the coastal

construction control line, which is regulated by the Florida Department of Environmental Protection, and move to the slide on the right and apply the current DEP guidelines, we come up to that 19.4 feet NAVD for the lowest horizontal structural member, which is an FDEP-required 100-year storm elevation. So that sets where the base of our building is going to be, or that lowest horizontal structural member.

In this instance, we're showing a plus four feet above that lowest horizontal structural member for the structure of the building. This is the portion of the building that, when that wave washes through, this structure is what establishes that what's above it remains. From that point of the lowest permittable habitable floor, that's now where we take our building measurement. So the previous building seaward coastal construction control line brought forward to the current FDEP guidelines, when elevated to the 17.4, would also have a different building height, but it's the same building. It's just a matter of where the building height is measured from.

As we move into some of our new construction or new standpoints that we're working with today, at South Seas Island Resort, we are subject to three flood zones or zoning areas. We are currently not anticipating any

building in a velocity zone, but we don't have buildings subject to the coastal construction control line. So we are seaward of the coastal construction control line. We have projects landward of the construction control line but subject to a LiMWA line, and we also have standard AE flood zone buildings.

So I'm going to start with a building that is seaward of the coastal construction control line. Again, we have the 17.4 lowest horizontal structural member that is applied from the FDEP-required 100-year storm elevation. Again, like the existing buildings that are out there, the average grade is 6 -- we're not changing the ground that's at Sanibel. The ground is where it is. It's -- approximately 6 is a standard elevation out there. If we take that FEMA elevation, what is an AE 7 elevation, and add a foot to it, that would be DFE. But since we're seaward of that coastal construction control line, DEP guidelines require us to take that lowest horizontal member up to 17.4.

Once we apply the 17.4 and give our structural depth to the building, that's where FEMA says we start our 45-foot measurement from. So from the slab -- or the standable slab of the first habitable floor, we measure up 45 feet, and that 45 feet remains 45 feet regardless of where we are in a flood zone.

So moving to the right section, we have a building height on the eastern side of the island that is subject to the LiMWA line, to the limit of moderate wave action or LiMWA. This building allows for the AE 7 flood zone with a 1-foot addition to DFE; then per the freeboard allowance in coastal A per Section 34.2172, we can provide an additional 4 feet for resiliency and protection from natural disasters. That now establishes our lowest horizontal member in a coastal A flood zone, to which, again, we can add 4 feet for structure, and start measuring our 45 feet from 16 in this case.

But the point we want to point out is that 45 feet is still 45 feet for building measurement. It's just where we are measuring depends on where we are and what flood zone we exist in.

When we move to the central part of the island, and we are subject to just a standard AE flood zone, we simply measure from base flood elevation plus 12 inches. That's the slide on the left, is an AE 7 flood zone with a 1-foot addition into it, to an AE 8 or design flood elevation. Again, we have a 45-foot-tall building, and that's how we measure the 45 feet.

So as I bring everything together in comparison of the various flood zones on the right side of this

screen, what I'd like to point out is the sections we just reviewed, you could see that the building height is 45 feet, but determining where it is measured from is set by the location of the property and if it is subject to the CCCL or a LiMWA line or a standard flood zone. But the point of these sections is to prove that 45 feet is 45 feet, and the different points to start the measurement is governed by the jurisdictional requirements that want us to build more resilient new buildings.

As we move into some of the existing properties that are currently being developed under the current DOs, we see the Beach House. The Beach House is a standard AE building that is built to design flood elevation, and is a standard one-story building that still has the condition of a 45-foot building height to it, but it's a one-story building so it doesn't come into play.

As we move down into the south area, or what was Area B on the earlier maps, there are existing condos down there that are the Beachfront Villas, which is the top -- the top image or photograph that we took. The south image is a rendering of what we are proposing to build in that location on our property, for a comparison. So, again, our buildings are still similar

to the buildings that are out there. They are three stories over parking. We're just measuring 45 feet from the top of that slab that is dictated by the lowest horizontal member governed by FDEP.

As we move across into the new water park area, the water park area, again, is governed by the AE flood zone. So these buildings are standard AE flood zones, and they're all one-story buildings, with the exception of the water park itself. So the -- the imagery here is just showing the things that are under construction up there now are all smaller buildings. Not everything we're doing up there is even going to be a mid-rise building, but our future buildings that are going to be mid-rise buildings are based on that 45 feet.

On the north side of the island, on the east side, this is our golf starter building. This is a building that is nearly complete, if not already completed.

Camp Skullywags is an existing building, prior to Hurricane Ian that they served dinner out of, got a lot of storm damage during Hurricane Ian, but we have renovated this building in place.

HEARING EXAMINER COLLINS: Wait a minute, where are we? This is up at the north end?

MR. McLEAN: Yes, ma'am. If you look on the key to the left-hand side --

HEARING EXAMINER COLLINS: Yeah, I see it.

MR. McLEAN: -- there's a yellow box that shows where we are.

HEARING EXAMINER COLLINS: So the slide before was also on the north end?

MR. McLEAN: Yes, ma'am, that's -- that's the north end on the northeast side of the golf course.

HEARING EXAMINER COLLINS: Golf starter building. And so what zone was this one in?

MR. McLEAN: This is in a standard AE flood zone.

HEARING EXAMINER COLLINS: And then the next one?

MR. McLEAN: It is also an existing building in a standard AE flood zone.

HEARING EXAMINER COLLINS: Okay.

MR. McLEAN: The Pointe Restaurant is on the back side of Camp Skullywags, which, again, the top image is an image prior to Hurricane Ian; the lower image is what we are currently renovating it to. It should be complete here probably in the next 30 days or so. So these buildings were existing buildings in an AE flood zone above the floodplain; so we had to renovate them in place because of where they were. There was value in the building versus demolishing.

HEARING EXAMINER COLLINS: Okay. So they survived, they just have to be rehabilitated.

MR. McLEAN: They were just renovated.

So the point to this, again, is we're building back one-story buildings, we're building back two-story buildings, and we're going to -- in the future we would like to build some three-story buildings. So not everything we're doing up there is just three-story condominium buildings that are at our 45 feet.

So this is kind of where we are at the South Seas Beachfront Villas. Again, we're showing imagery of existing villas that exist on the island, and the upper rendering is an image of what we would like to build --

HEARING EXAMINER COLLINS: Okay, wait.

MR. McLEAN: -- on the golf course itself --

HEARING EXAMINER COLLINS: Explain this again. What's the top image?

MR. McLEAN: So the top image is the condominiums that we are preparing to build on the north side of the island next to the golf course.

HEARING EXAMINER COLLINS: And what's the bottom image?

MR. McLEAN: Those are existing images of existing condominiums on South Seas.

HEARING EXAMINER COLLINS: So are they going to be remodeled or removed?

MR. McLEAN: Those are existing and -- and -- and

staying on the island. The --

HEARING EXAMINER COLLINS: Oh, they're --

MR. McLEAN: -- imagery is just --

HEARING EXAMINER COLLINS: -- just nearby -- you're showing me that they're similar.

MR. McLEAN: It's -- yes -- yes, ma'am, just for comparison.

HEARING EXAMINER COLLINS: Similar design, more or less.

MR. McLEAN: Yes, ma'am.

HEARING EXAMINER COLLINS: The height is different because of a different measuring point.

MR. McLEAN: That's it.

HEARING EXAMINER COLLINS: Okay.

MR. McLEAN: And that concludes my demonstration or my presentation on height. As a professional, it is my professional opinion that the South Seas MPD has met and exceeded all of the applicable standards and demonstrated consistency with the Lee Plan and the Lee (sic) Development Code.

HEARING EXAMINER COLLINS: Okay. Thank you --

MR. McLEAN: And I'm available for questions.

HEARING EXAMINER COLLINS: -- very much. I don't have any questions.

Neale?

MS. MONTGOMERY: I just have one.
MR. McLEAN: Yes, ma'am.
MS. MONTGOMERY: Mr. McLean, when you started your testimony, you provided a definition of low-rise; is that correct?
MR. McLEAN: Yes, ma'am.
MS. MONTGOMERY: And low-rise is three to four stories; is that correct?
MR. McLEAN: Yes, ma'am.
MS. MONTGOMERY: And we're not exceeding three to four stories.
MR. McLEAN: No, ma'am.
MS. MONTGOMERY: So you indicated in the midst of your testimony that we're building mid-rise, but that's not a correct statement.
MR. McLEAN: If I stated mid-rise, I misspoke. None of our buildings will be mid-rises. They will all be low-rises.
MS. MONTGOMERY: Okay, thank you.
MR. McLEAN: Yes, ma'am.
HEARING EXAMINER COLLINS: Okay. Let's assess now because I'm going to stop at 4:00. So we have transportation, and what else next after transportation?
MS. CRESPO: Hurricane evacuation.

HEARING EXAMINER COLLINS: Okay. How much do you -- we're going to take a five-minute break now, and we're going to stop at 4:00. So what do you think a good stopping point is? It sounds like you won't make it through your whole Applicant presentation, is what I'm saying.

MS. MONTGOMERY: Can you give us a chance during that five-minute break to discuss that and see how we can organize our witnesses to best use the time we have? You're right, we're not going to finish.

HEARING EXAMINER COLLINS: Okay. So you want like a ten-minute break, you're saying?

MS. MONTGOMERY: We can do five. We can talk fast.

HEARING EXAMINER COLLINS: Okay. All right. See, I have to stop at 4:00 because we've got to transfer all the recordings onto a mainframe and -- for the public record and everything so I have to allow time for that.

MS. MONTGOMERY: I know they're going to kick us out so we're mindful of that so...

HEARING EXAMINER COLLINS: Okay. We're going to go on a five-minute break, and then we'll resume. Thank you.

(Recess from 2:47 p.m. to 2:55 p.m.)

MS. MONTGOMERY: Madam Hearing Examiner, in light of the concern about time, we are going to change the order to try to do the shorter witnesses. We know it's a Friday, and you have things to do, so we're going to save the hurricane stuff till when we come back --

HEARING EXAMINER COLLINS: Okay.

MS. MONTGOMERY: -- because that's a little more complicated and probably not what you want to get into at the end of the day, if that's okay.

HEARING EXAMINER COLLINS: All right. So we're going to go next to transportation?

MS. MONTGOMERY: We're going to go to transportation, Ted Treesh. He was just here. Oh, he's there. I can't see.

HEARING EXAMINER COLLINS: I'm ready for you, Mr. Treesh.

MR. TREESH: Thank you, good afternoon. Ted Treesh with TR Transportation Consultants. We prepared the traffic study as part of this application. The traffic study was prepared consistent with the Administrative Code 13-17, which is the TIS guidelines for planned development rezonings that's adopted by the County.

The TIS that was submitted originally was for 435 resort hotel rooms and 227 (sic) multi-family dwelling

units. That's been since reduced 120 -- 193 multi-family dwelling units in the application.

This is, as indicated in the testimony previously, the multi-family dwelling units, the 272, are already permitted on the property pursuant to the 1973 rezoning and the ADD from 2002. So those are already permitted on the property, but those aren't built yet. So those were included in our traffic studies since those units are not yet on the property and are not generating any traffic. So those were included in our analysis.

The access to the property, as previously indicated by Alexis, is through South Seas Plantation Road, which is the main access to the property, which connects to Captiva Drive. Captiva Drive, as you're aware, connects down through Captiva and then down through -- connects through to Sanibel, and then Sanibel Captiva Road down through Sanibel and then off the island, connects through the causeway down to the mainland.

Captiva Drive is a Lee County-maintained road on the island. It is a collector roadway, as designated by Lee County Department of Transportation.

As you heard in the previous testimony, and you'll continue to hear through the rest of the testimony, South Seas Resort maintains a lot of amenities within

the property -- prior to the hurricane, and as they rebuild -- that provides many uses on the property so that their guests, once they arrive on the property, can stay on the property through the duration of their stay. Although Captiva -- the island does offer a lot of restaurants and amenities on the island for guests to utilize, the resort is constructed so that once guests arrive on the resort property, pretty much everything is there for them to enjoy on the property. There's really no reason for them to leave once they arrive, but obviously they're able to do so.

There's golf carts provided for them to use while they're on the property. Those golf carts can go within the property, they can use them to go off the property, if they -- if they so choose. And you will hear testimony from the general manager of the property that can explain that further on the use of the golf carts.

South Seas also utilizes employee shuttle vans through the Enterprise Commuter Program for employees. They -- right now they have multiple shuttles that go throughout different areas of the county. Right now they have shuttle stops that start -- they have two shuttle stops that originate within the Cape Coral area, one in the North Fort Myers area that provides

shuttle service for their employees -- that provide daily shuttles for their employees to get to the resort. So their employees can utilize that service, and it is quite popular for the employees to arrive to the resort on a daily basis. So they don't have to drive their personal vehicles to the property.

And as the resort expands, the resort is committed to also expand that service, to offer it to those employees so they can continue to provide that service. And that also helps to reduce the trips -- the daily trips for those employees that arrive to and then drive back and forth to the resort.

Then there's also the airport shuttle and ride-sharing services that are available to the resort, such as Uber and Lyft. As you -- as a resort, many guests arrive from the airport, from RSW.

None of these trip reductions were accounted for in the TIS, although they will have an impact on the trip generation of this type of facility. We utilized simply the trip generation from the ITE Trip Generation report based on the standard resort/hotel use and a multi-family trip generation from the ITE. We did not take any trip reductions due to these obvious trip-reduction factors that could account for these trip reduction elements, that take into account the

employee shuttles and the Uber and Lyft and airport shuttles that do occur and have been occurring at the resort in the past.

Since the original TIS was submitted back in late 2023 -- or early 2023, the County has went through several publications of the public facilities and level of service and concurrency report that is published every year by Lee County. As you're aware, transportation concurrency is no longer a regulatory measure in the County. It's a non-regulatory standard pursuant to the Comprehensive Plan in the County.

We updated the level of service analysis. It was submitted as part of the 24-hour (sic) letter. I believe that it was attached to that document. It's a January 30th letter that was attached. It just updated the level of service analysis that included the new data from the 2024 public facilities level of service report that was just adopted by the Board -- I believe last week that report was adopted. And in that report, at the bottom of the screen shows the updated level of service analysis.

Captiva Drive is still showing at a Level of Service D on the island.

The causeway is showing during season at a Level of Service F, which it has been for quite some time.

But once you get off the island -- I expanded the table in this analysis to show some roadways off the island, McGregor Boulevard, Summerlin Road. Those roadways are operating at an acceptable level of service. And we looked at the level of service at the year 2028 in our report.

So in conclusion, with the proposed 435 resort hotel rooms, the addition of the 193 multi-family dwelling units, the roadways are shown to operate at an acceptable level of service. The on-site amenities that South Seas has are designed to keep the resort guests on the property. The employment shuttles -- the employee shuttles that they have been offering in the past, and are going to continue to offer, are designed to help reduce the off-site island trips by the employees, and they're going to continue to offer those services to help reduce those off-site island trips.

The project, with the new uses, will pay in excess of $2 million in road impact fees, pursuant to the current impact fee schedule, once these uses are -- come to fruition.

And with that, the project, in my opinion, is consistent with the goals and objectives of the Lee Plan and the Land Development Code. So with that, I'll be more than happy to answer any questions, and that

concludes my comments.

MS. MONTGOMERY: Mr. Treesh, I have a couple questions.

MR. TREESH: Yes.

MS. MONTGOMERY: First off, there is an attachment M to the Staff Report, which is a memorandum from Lee DOT. Did you have a chance to review that?

MR. TREESH: Yes.

MS. MONTGOMERY: Does Lee DOT concur with your conclusions?

MR. TREESH: Yes.

MS. MONTGOMERY: I know you said you looked at the 2022, 2023, and 2024 concurrency analysis. Was there an anomaly in 2023; and, if so, can you explain it?

MR. TREESH: Yes. In between there was -- the 2023 concurrency report was published, and there was a number published for Captiva Drive, and that number was an error. Based on my conversations with Lee County DOT, that number -- I'm just referring -- in the most recent report, the volume reported in the concurrency -- the level of service concurrency report for the County for Captiva Drive was 267 vehicles, on Captiva Drive. In last year's report, that number was reported as 1,069 vehicles. And so I contacted DOT and asked them why that number was so high, and they

indicated that that was actually an error, and that number should not have been in that report. So that was actually an incorrect number; so they've corrected that number in the new report.

MS. MONTGOMERY: So if someone were to use that in their analysis, it would lead to an incorrect result?

MR. TREESH: That's correct.

MS. MONTGOMERY: I know that Lee County has constrained roads. To the best of your knowledge, does Sanibel have any constrained roads?

MR. TREESH: Yes, they have designated Sanibel Captiva Road as a constrained road in their Comprehensive Plan.

MS. MONTGOMERY: What does that mean, if you've had a chance to look under their Comp Plan?

MR. TREESH: Yeah. In their Comprehensive Plan, they've -- they've indicated in their Comprehensive Plan that their roadways will not be widened; so they designate it as a constrained road.

MS. MONTGOMERY: For esthetic reasons?

MR. TREESH: Yes.

MS. MONTGOMERY: Okay. Under the Administrative Code -- you indicated that you performed your TIS in accordance with the requirements of the Administrative Code. Does that Code require you have to use a FSUTMS

model?

MR. TREESH: No.

MS. MONTGOMERY: And would that be appropriate in this situation?

MR. TREESH: No.

MS. MONTGOMERY: Okay. I don't have any other questions.

HEARING EXAMINER COLLINS: Thank you, Mr. Treesh.

Your next witness?

MS. MONTGOMERY: Hans Wilson.

HEARING EXAMINER COLLINS: What page of the PowerPoint? Let's see...

MR. WILSON: 251.

HEARING EXAMINER COLLINS: You may begin.

MR. WILSON: Okay. For the record, my name is Hans Wilson. I am a professional engineer licensed in the state of Florida. I am -- my résumé is on file with the County. I've been tendered and accepted as an expert witness many times on marine-related facilities, marine engineering, environmental consulting, and regulatory permitting.

The graphic you see in front of you is a brief assessment of the resort property relative to the County's Manatee Protection Plan. The Lee County Manatee Protection Plan was approved in 2004, after

review by the Florida Fish and Wildlife Conservation Commission, and in that plan there are a number of factors that go into determining how many wet or dry slips or boat ramp-related parking spaces are allowed with a piece of property.

We have been in the process of assessing the site for potential expansion to serve as an amenity, either the hotel, or the multi-family residences. And in doing so, we did a review of all of the permitting. All of the boat slips in the main marina and the bay side marina are all lawfully permitted by the regulatory agencies, both state and federal, and that is one of the criteria to determine how many slips you're allowed within the County's Manatee Protection Plan. In other words, if you are entitled by the agencies, those slips remain with that property.

But we also looked at what the expansion capacity was, and one of the other factors that's in the County's Manatee Protection Plan is boat slips related to linear footage of shoreline. And the assessment that you do is how many linear feet of shore you have, and that translates into basically, for this location in Lee County, 5 slips per 100 linear feet of shoreline.

So we did a calculation. We went back and forth

with the Natural Resources Staff and calculated how many linear feet of shoreline are associated with the resort property, and then reduced that down to how many potential slips could be placed on the property, and that results in a value of close to 620 boat slips. You really can't physically fit 620 boat slips on the property, but that's irrelevant because those boat slips also represent value in terms of the ability to transfer them off-site. Lee County's Manatee Protection Plan is the only plan in the state where you can actually transfer slip credits, which is actually a very good thing in many respects because there are properties that are perfectly sited for having, you know, good upland road access, deep-water access but only have a very limited amount of shoreline. And so the ability to transfer slip credits allows us to address the recreational boating needs in the county.

And so that's where we are today in terms of this site.

The next graphic we had on there was the confirmation from County Staff, and -- and I'll go back in terms of the graphic that we had. In the upper -- you can't hardly see it, but in this upper left-hand corner, we had a little bit of a discrepancy in linear footage, by a couple hundred feet, between what the

County did, where they measured the shoreline based on the Property Appraiser's website, and we measured the shoreline based on the survey information that we have available to us. But it's close enough for discussion purposes, for us to move forward. Again, that 620 maximum slip count would be very difficult to achieve on the property, but it does represent value in the ability to transfer them off-site.

That's all I have. Any questions?

HEARING EXAMINER COLLINS: Okay. So how does that relate to this application?

MR. WILSON: In case you had any questions regarding the main marina, the bay side marina, and what impacts those would have in terms of the overall development.

HEARING EXAMINER COLLINS: Okay. So they're consistent with the permitting agencies, they're legitimately existing, and they're supported by this calculation under the County's Manatee Protection Plan?

MR. WRIGHT: That is correct.

HEARING EXAMINER COLLINS: Okay, thank you.

MS. MONTGOMERY: Yeah, the reason is there were some folks who wrote to the County Staff and suggested they didn't really have these slips. We just wanted it to be clear.

HEARING EXAMINER COLLINS: All right. Well, I appreciate the clarification then.

Will there be another witness?

MS. MONTGOMERY: Yes, Lucy Gallo.

HEARING EXAMINER COLLINS: Thank you, Mr. Wilson.

(Discussion at lectern)

MS. GALLO: Good afternoon. My name is Lucy Gallo. I am a principal with Development Planning and Financing Group. I prepared the economic impact analysis for the application. My résumé is on record.

The redevelopment -- the redevelopment of the South Seas into a world-class resort provides a one-time opportunity to permanently bolster the economies of Captiva Island, Sanibel Island, and the Greater Lee County. DPFG's economic impact report compares the fiscal impact of the South Seas Resort for the 12-month period prior to Hurricane Ian, the last full year of operations, to the redevelopment of the entire South Seas in the first stabilized year of operations after the redevelopment is complete.

When -- upon completion of the redevelopment, the Lee County projected taxable value of the resort is expected to increase from $44 million to $697 million, or approximately $653 million, which is nearly 16 times the pre-Ian taxable value.

In terms of job creation on -- for Lee County, the resort post-redevelopment will generate 813 permanent on-site jobs, or an increase of 413 permanent jobs, compared to pre-Ian.

In considering the multiplier effect on Lee County from the South Seas post-redevelopment businesses, employees, residents, and visitors, 1,800 permanent jobs will be generated, or an increase of over 1,000 permanent jobs compared to pre-Ian.

And, again, the same thing with annual labor income. Annual labor will increase approximately $34 million per year post-redevelopment compared to pre-Ian, and considering the multiplier effect, that turns into about 60 -- an increase of about $66 million for the Greater Lee County in terms of labor income.

We can't underestimate the impact that local -- the local economy's dependency on the tourism industry. So the redevelopment of South Seas is critical to the local area's economic recovery from Ian, as well as the economic future of Lee County.

Again, to emphasize this point, according to the Visitor & Convention Bureau, visitors to the Fort Myers area saved local residents about $1,000 per household in fiscal year 2023 in state and local taxes, and an additional Lee County job is supported by every 62

visitors.

In terms of the impact post-redevelopment on Lee County and other taxing jurisdictions, the property tax base of post-redeveloped South Seas is expected to be approximately $700 million, or an increase of about $653 million over the value today. That tax base will increase Lee County's annual property tax revenues about $2.4 million, and lead to an annual increase of about $9.3 million for all the combined Lee County taxing jurisdictions. In addition, the annual Lee County tourist tax revenue is projected to generate an annual increase of $4.4 million upon the redevelopment of South Seas.

MS. MONTGOMERY: I don't have any questions.

HEARING EXAMINER COLLINS: Thank you very much.

MS. MONTGOMERY: What I'd like to do now, with the Hearing Examiner's indulgence, is call Shawn Farrell. He is going to testify about the hurricane plan, not today, but you've raised some questions, and he can respond to some of those now. So I'd like to do that, if that's okay.

HEARING EXAMINER COLLINS: A number of people have said their résumés were on file. I think just for the sake of completion of the record, if you could have your witnesses produce a copy of their résumés so that

I can mark them as exhibits.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: I know we keep a bank of résumés, and many of these faces have testified before Amanda and I in the past, but I think it would be helpful to have it.

MS. MONTGOMERY: Okay. We will do that.

HEARING EXAMINER COLLINS: Thank you.

What page are we going to?

MS. MONTGOMERY: Well, this isn't really a page since we're trying to answer your questions. We just --

HEARING EXAMINER COLLINS: Okay.

MS. MONTGOMERY: -- thought maybe having the master concept plan might -- if you want to look at something else, just let us know.

HEARING EXAMINER COLLINS: And this witness' name is?

MS. MONTGOMERY: Shawn Farrell.

MR. FERRELL: Good afternoon, Madam Hearing Examiner. Shawn Farrell, general manager of South Seas Resort. I've been at the resort for just over 14 years.

MS. MONTGOMERY: And as long as you're here, Mr. Farrell, could you also indicate what you did in

prior jobs, and where those jobs were located?

MR. FERRELL: Prior to transferring to South Seas Resort, I worked for the same company -- not the current company, previous ownership of the resort, in Fort Lauderdale. I operated in 15 years two different resorts on a barrier island in Fort Lauderdale.

MS. MONTGOMERY: Mr. Farrell, are you familiar with your golf cart program?

MR. FERRELL: I am.

MS. MONTGOMERY: Can you explain how the guests get a golf cart and where they park those golf carts?

MR. FERRELL: So currently we operate a fleet of 150 golf carts that are ours. We rent them to our guests at our resort. They pick them up, or we valet delivery them to either their units or to registration when they check in.

HEARING EXAMINER COLLINS: Do you give them a driver's test?

MR. FERRELL: No driver's test.

HEARING EXAMINER COLLINS: You just hand over the keys?

MR. FERRELL: Yeah, we -- age requirements and -- and going over the cart, but, yes, no tests.

So they operate these vehicles throughout the resort. There is parking in different areas throughout

the resort, but we have dedicated parking for our carts, for both charging and parking close to our resort amenities, like down in the pool area or up at the front registration and Starbucks, important.

MS. MONTGOMERY: There was also a question earlier, that the Hearing Examiner had a concern about noise and hours. Can you address that, how that is handled presently?

MR. FERRELL: So in Captiva we have, obviously, a noise ordinance, and we can't just operate -- we do many events. We do multiple weddings throughout the year that fall into -- and weddings don't necessarily like to close down early, but at 10 p.m. we shut down, and we have no noise outside. Everything has to be inside and contained within a building, whether it's a backup space or the party is shut down.

MS. MONTGOMERY: Let me say this, Madam Hearing Examiner. There is an ordinance that was adopted in '23, and there were three of them that were adopted together. One was about golf carts; one was about noise. I will bring those to the next hearing and provide those to you so you can see what Shawn is relying on.

Mr. Farrell, are you the one that's responsible for the employee shuttle?

MR. FERRELL: I am.

MS. MONTGOMERY: Can you further explain that for us?

MR. FERRELL: Of course. So as they described, currently we have three operating vans with Enterprise in Lee County that we partner with for our associates. It's actually a double-play for us because, for us, it gives me the opportunity to offer a better pay for an employee, right, because now they don't have to do gas; they don't have to do the tolls; they don't have to pay for a car. As we ramp up, it is one of our sales tools as we go out into the communities to look for those positions, right, the opportunity for the employee to come in.

As we ramp -- I think at my peak I had approximately 14 Enterprise vans going out into the communities -- Lehigh, North Fort Myers, Cape, crazy enough, Immokalee, I had a couple vans running to Immokalee to bring people to work on a daily basis.

So the program is fantastic. It's a very viable solution for us. It gives us the ability to take care of our team, but more importantly reduce the traffic out onto the island.

MS. MONTGOMERY: I think you're also responsible for trash pickup. Can you explain how that works for

your guests.

MR. FERRELL: So for our guests, currently without our hotel -- obviously our hotel is not there right now. It's been taken down since the storm. We currently operate a rental program, right, and all the different associations that are within the gates, we have different units that those owners have given their unit to us to rent. Our guests stay in those units, and they follow the protocol for each of those associations for removing trash.

Historically, we picked it up at each of the associations. We don't currently do that now. All of our trash, though, and anything that we own from all of our amenities, any of our buildings, both admin or storage facilities, are picked up via the carts that I think you saw in the slide earlier on, which is a Toro Workman, and brought to our compactors, which we have two locations: One that's central of the resort, the one middle spot, and then also at the very front of the resort to reduce on that traffic throughout.

HEARING EXAMINER COLLINS: So what is this, a daily thing?

MR. FERRELL: We run trash daily, correct. Instead of like at home where you get it once a week or twice a week, depending on recycle and trash, we run

trash throughout so you don't have mass amounts of -- you know, anybody that's on an island or anything like ours, you know if you have trash out for an extended period of time, you welcome the raccoons or any other -- so we try -- we keep it moving on a daily basis so we don't run into that.

HEARING EXAMINER COLLINS: So what you're saying is you're not using dumpsters at the residential pods and the small restaurants?

MR. FERRELL: Correct. So what we do is we have -- they're tin -- not tin, aluminum actual containers. So as the restaurant empties out, they bring the trash throughout the day, and they put it into those aluminum containers. Our team make rounds. They make it two times a day to each of the areas. They pick up, they open up, they take trash out, bring it to the compactor, and move it out.

HEARING EXAMINER COLLINS: Okay.

MS. MONTGOMERY: Earlier there was a picture of the Beach House, which is a new restaurant, but was there a restaurant in that location before?

MR. FERRELL: Absolutely. So prior to the Beach House being built -- it's not done yet but in process. Prior to that there were two structures out on the beach, actually closer to the beach, that we operated

both food and beverage out of. Actually, at one point we had three because there was a water sports there, as well. But we operated food and beverage there, as well, and had entertainment and resort activity for the guests at the beach.

MS. MONTGOMERY: And does that beach have the common name of, quote Sunset Beach?

MR. FERRELL: That is accurate, Sunset Beach.

MS. MONTGOMERY: And so there is an access easement, is there not, to that beach?

MR. FERRELL: That is accurate.

MS. MONTGOMERY: And is that portion of the beach highly used at sunset by people indulging?

MR. FERRELL: Absolutely.

MS. MONTGOMERY: And has that occurred for a long period of time?

MR. FERRELL: Absolutely.

MS. MONTGOMERY: So what we're doing is not a change from what occurred before. It's just in a nicer, newer building.

MR. FERRELL: In a much better building, yes, that's accurate.

MS. MONTGOMERY: What was Doc Ford's and where was it?

MR. FERRELL: Doc Ford's was a fantastic

restaurant. It was at the front of the resort in the main -- as you come into the resort, before you go through the gate and enter in, you turn off into our main conference center there. Doc Ford's was located in that area. So open to the general public because you don't go through the gate to enter into the resort.

MS. MONTGOMERY: So, again, that was another prior location for consumption on premises outside?

MR. FERRELL: I'm sorry?

MS. MONTGOMERY: Was consumption on premises outside --

MR. FERRELL: Correct.

MS. MONTGOMERY: -- outdoor seating?

MR. FERRELL: Correct.

MS. MONTGOMERY: Okay, thank you.

I don't have any other questions at this time. So rather than start on hurricane, if it's okay with you, we can wrap up for today, unless you'd like to start hurricane.

HEARING EXAMINER COLLINS: Okay, we can wrap up for today. We'll resume with the remainder of Applicant's presentation on the 20th at 9:00 a.m.

How much time do you think your presentation is going to be in total? I'm trying to gauge just to let the members of the public that are still with us, when

we might anticipate accepting public input. I know that County Staff still has to make their presentation, but I'm just trying to gauge...

MS. MONTGOMERY: I'm going to anticipate that the hurricane testimony may go a maximum of an hour, and then Staff is going to go. I'm going to guess the Staff is going to try to be somewhat brief so I'm going to predict them for an hour. So I would say after lunch is a safe bet for the next day, but potentially earlier.

HEARING EXAMINER COLLINS: Adam, what do you think?

MS. MONTGOMERY: Unless you think differently.

MR. MENDEZ: Staff --

MS. MONTGOMERY: Oh, I forgot -- I forgot about Alexis. Never mind that.

HEARING EXAMINER COLLINS: Right, so you're probably going to take the morning; right?

MS. MONTGOMERY: Yeah, we're going to take the morning.

HEARING EXAMINER COLLINS: Two hours till the first break -- you're going to take more than two hours; right?

MR. MENDEZ: It depends on how extensive the Lee Plan and Land Development Code analysis is in the

Applicant's presentation. It might be -- it might be abbreviated. So a conservative estimate, an hour and a half, probably less.

HEARING EXAMINER COLLINS: Okay. So what I'm hearing is that there's a fairly good chance that we will commence public input sometime after the lunch break next Thursday. So we had more public here initially this morning, if you want to share that with your friends, that we probably won't be getting to public input till that point in time.

Certainly I encourage them to come hear everything, but, you know, I'm just letting you know we're going to start, and we will continue until we've heard from everyone from the public that desires to speak, and then we're going to close public input.

So what I'm saying is that if a member of the public would like to speak at the hearing, I encourage them to be here next Thursday afternoon. We may not finish that afternoon, but you don't know. And if I close public input, I would hate for somebody to be precluded from participating.

Okay. Thank you, everyone, for coming.

(Proceedings concluded at 3:29 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEE)

I, Deborah M. 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 208, is a true and correct record of my stenographic notes.

Dated this 18th day of February, 2025.

Deborah M. Bruns, FPR

(This transcript was electronically signed.)

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