VOLUME 5
THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2023-00051

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

VOLUME 5

PROCEEDINGS:	PUBLIC HEARING
BEFORE:	Donna Marie Collins Chief Hearing Examiner
DATE:	February 28, 2025
TIME:	9:00 a.m. to 3:59 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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David Henson, WS SSIR Holdings, LLC
Shawn Farrell, South Seas Resort
Carl Barraco, Barraco & Associates
Dan Trescott, Trescott Planning Solutions

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P R O C E E D I N G S

HEARING EXAMINER COLLINS: Good morning, the date is February 28th, 2025. We are in the midst of public input on the South Seas Island Resort MPD zoning application. We concluded with the speaker the last time we met, so we're starting -- we're starting with a fresh speaker today. Going by my list, Kelly Sloan is next.

Good morning, thank you for coming. Please have a seat at that chair.

MS. SLOAN: Good morning. Can you hear me okay?

HEARING EXAMINER COLLINS: Speak up a little bit and see if you can get that microphone a little closer to you.

MS. SLOAN: Is this better?

HEARING EXAMINER COLLINS: Yes.

MS. SLOAN: Okay. Good morning, my name is Kelly Sloan, and I ask to be qualified as a sea turtle expert --

HEARING EXAMINER COLLINS: As a what expert?

MS. MONTGOMERY: I'm sorry, what kind --

HEARING EXAMINER COLLINS: Hang on a second --

MS. MONTGOMERY: -- of expert?

HEARING EXAMINER COLLINS: -- I'm -- I'm trying to figure out what she's saying.

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MS. MONTGOMERY: Okay, thank you.

MS. SLOAN: Sea turtle.

HEARING EXAMINER COLLINS: A sea turtle expert.

MS. MONTGOMERY: Okay.

MS. SLOAN: I am currently the director of the Coastal Wildlife Department and the marine turtle permit holder at the Sanibel-Captiva Conservation Foundation. I have worked with sea turtles for 18 years; and prior to moving to Florida, I was a biologist with the South Carolina Department of Natural Resources.

In 2011 I completed a master's thesis on sea turtle conservation and health. I have been invited to present the results of my research at 11 international conferences focused on sea turtle conservation, and have over 20 publications in relevant topics.

I have previously been qualified as an expert witness at the --

THE REPORTER: At what hearing?

MS. SLOAN: Eden Oak.

Would you like a copy of --

HEARING EXAMINER COLLINS: I was the Hearing Examiner --

(Sotto voce between Hearing Examiner and reporter)

HEARING EXAMINER COLLINS: Neale, I'm going to

have her try to speak at the podium because the court reporter is having difficulty --

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: -- understanding her.

We'll see if it improves. Otherwise we'll have you go back.

MS. SLOAN: Is there a microphone here?

MS. MONTGOMERY: It's right up there.

MS. SLOAN: Okay. So just speak loudly?

MR. MENDEZ: Yes.

MS. SLOAN: Okay.

MS. MONTGOMERY: That's good.

HEARING EXAMINER COLLINS: And you entered in your résumé?

MS. SLOAN: Yes.

HEARING EXAMINER COLLINS: Okay. This will be Sloan Exhibit 1. Do you have a copy for Ms. Montgomery?

MS. MONTGOMERY: She did.

MS. SLOAN: I gave her one.

HEARING EXAMINER COLLINS: Wonderful. Just give me a moment, Ms. Sloan.

I'm ready.

MS. SLOAN: Okay. The proposed rezoning will have a significant impact on sea turtles and other wildlife

that is counter to the goals and objectives of the Lee Plan. Four species of sea turtles are found swimming in the waters and nesting on the beaches immediately surrounding the land for which the rezoning is being sought, all of which are federally protected under the Endangered Species Act.

The proposed rezoning will result in taller buildings and a significant increase in the intensity of use in the area. The proposal could increase the number of people utilizing the beaches and degrading the important beach and dune habitat necessary for shorebirds and sea turtles to successfully lay their eggs. The additional people using the resort will result in more flashlights on the beach at night. Even adhering to the window coverings and lighting standards required by the Lee Plan, the larger and taller buildings contained within the proposal will increase the amount of ambient light. Research demonstrates that even red light at high intensity can disorient hatchling sea turtles; and at very high intensities, the red light attracts hatchlings at the same rate as yellow and blue lights.

The request to remove the vegetative buffer requirement would further expose lights, such as headlights from cars in parking lots.

The additional contribution to light pollution from all of these sources would be hugely detrimental to nesting and hatchling turtles and can result in unsuccessful nesting attempts and elevated hatchling mortality due to disorientations.

According to Lee County data, lighting violations occur annually in South Seas Resort, and SCCF has documented 13 hatchling disorientations in the last 5 years. Even without this clear pattern of violations on the property, there could still be impacts from perfect adherence to codes because there are lighting impacts due to the intensities associated with the larger and taller buildings.

The relatively dark beaches on Sanibel and Captiva are so rare in Florida as our coastlines rapidly develop, making them an increasingly important haven for nesting and hatchling sea turtles. With about 30 to 70 nests typically laid on South Seas' beaches each year, there are potential impacts to thousands of hatchlings.

Additionally, Policy 101.1.2 aims to protect and conserve environmentally sensitive coastal areas, such as beach and dune systems. And as previously stated, the increased density and associated intensity of use will degrade beach and dune systems in the area through

increased foot traffic on sensitive beach habitat, additional litter and furniture left on the beach, and increased human interactions with nesting turtles.

Similar issues arise under Goal 122, specifically Policy 122.1.2, that requires development affecting coastal and estuarine water resources to maintain or enhance the biological and economic productivity of the region.

The added nutrient pollution will increase the likelihood and severity of a harmful algal bloom, which results in mortality and health impact for sea turtles at all life stages.

Our research provides clear evidence that even when red tides do not cause direct mortality of exposed wildlife, they can act as a physiological stressor with long-term impacts on sea turtle health. Toxins in nesting females are also transferred to their offspring, affecting hatching rates and possibly hatchling survival.

The Lee Plan is very clear in its goals that action should be taken to protect and improve the water quality, wildlife biodiversity, and the critical habitats they rely on for their own sake and for the economic health of the County.

Sea turtles are highly vulnerable species and need

broad and intensive protection at all life stages to ensure their survival. This project jeopardizes the survival of sea turtles; and for this reason, the project is contrary to the relevant provisions of the Lee County Comprehensive Plan.

Thank you for allowing me to speak on behalf of sea turtles.

MS. MONTGOMERY: I have a couple questions --

HEARING EXAMINER COLLINS: Just a minute, Neale.

Kelly, I think that I saw you in the audience when we last met, but I'm not sure --

MS. SLOAN: Yes.

HEARING EXAMINER COLLINS: -- so -- and I know that you were sworn on that day; but just to be cautious, I'm going to swear everyone in again today --

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: -- because there may be some people that are going to speak that weren't here previously.

Please raise your right hand. Do you swear or affirm the testimony and evidence you will enter into the record today will be the truth?

(Participants respond en masse.)

HEARING EXAMINER COLLINS: Thank you.

MS. MONTGOMERY: Good morning, Kelly. You

indicated that there have been violations in South Seas; but since you've been here for several days, you know that there are a multitude of owners within South Seas. And so we're aware that there are owners who violate those rules, but just because other people in South Seas violate the rules doesn't have anything to do with this application, does it?

MS. SLOAN: I'm just here to speak on behalf of what I see on the beaches in the morning, which is disorientations in the South Seas Resort. I'm not sure who the owners are of each property.

THE REPORTER: You said disorientations?

MS. SLOAN: Disorientations, yes.

HEARING EXAMINER COLLINS: Right. So we understand that you're not testifying as to whether this is on Applicant's property or the remainder. It's just that it's occurred on the resort proper.

MS. SLOAN: Uh-huh, correct.

HEARING EXAMINER COLLINS: Okay.

MS. MONTGOMERY: Are you aware of the fact that under the current regulatory scenario, there's no place within South Seas that has to meet the 50-foot waterbody setback?

MS. SLOAN: I'm aware.

MS. MONTGOMERY: And are you aware that there will

be areas now, under the proposed application, that will have to meet the 50-foot waterbody setback and provide plantings?

MS. SLOAN: I'm not an expert on the Code. I'm a sea turtle biologist, and I'm here to talk about the behavior that I see based on my experience.

MS. MONTGOMERY: Okay. And are you aware of the fact that there has been a dune that's being constructed and planted to help -- by the Applicant to help protect the sea turtles?

MS. SLOAN: I think that would -- dunes are always helpful. The argument that I'm making in terms of lighting, though, is that as the lights get more intense and higher, even if they're red lights, they can start to impact sea turtles regardless of dune height.

MS. MONTGOMERY: And I'm assuming you are aware of the fact that if this application is approved, the lighting conditions for the turtles will be better than it is now under the regulations proposed?

MS. SLOAN: Right. So even if they're totally compliant with the Code, I don't think that they're protective enough to satisfy the requirements of the Lee County Plan.

MS. MONTGOMERY: Well, and the Staff agrees with

you because they required a higher standard than what --

HEARING EXAMINER COLLINS: If --

MS. SLOAN: There are some studies that I can point to if it would be helpful.

HEARING EXAMINER COLLINS: I just wanted to tell the witness that if you have additional conditions you would like to recommend, based on your background and observation, you can let us know when you're finished with the cross-examination.

MS. SLOAN: Okay, thank you.

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

MS. SLOAN: Okay.

HEARING EXAMINER COLLINS: Ms. Sloan, are there any -- I don't know if you've had an opportunity to review the recommended conditions of approval that were prepared by Staff and the Applicant regarding the turtles, but is there specific measures that you could recommend that you think would be helpful.

MS. SLOAN: So the intensity is my real concern, the light intensity, and unfortunately there aren't clear guidelines on what the intensity should be but --

HEARING EXAMINER COLLINS: So you're talking about like the wattage --

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MS. SLOAN: Yeah --

HEARING EXAMINER COLLINS: -- is that what you mean?

MS. SLOAN: -- luminants in water is what they refer to it as. But what we know, there was an in-depth study in Pinellas County that compared residential areas to condos, and they found that the condo areas had a much higher rate. 62 percent of disorientations and 70 percent of hatchling mortality happened there versus only 30 percent near the single-family homes so --

HEARING EXAMINER COLLINS: Because the lights were more intense --

MS. SLOAN: Yeah.

HEARING EXAMINER COLLINS: -- associated with the condos?

MS. SLOAN: Uh-huh.

HEARING EXAMINER COLLINS: Did it have any recommendation as to wattage in that study?

MS. SLOAN: No, they didn't, unfortunately. I think it's just to try to mimic the amount of light on a single-family home as closely as possible because it's shown that that doesn't create disorientations like these big condos do.

And another recommendation, I think, would be to

make sure the vegetative buffers stay in place because those do help shield a lot of light from the bottom level parking lot --

HEARING EXAMINER COLLINS: What do you mean? Do you mean like more dunes or just like beachside vegetation? What do you mean?

MS. SLOAN: The vegetation, yeah. The higher the vegetation can be and the thicker, the more light it's going to block.

MS. MONTGOMERY: Can I ask Kelly a -- Kelly, are there other regulations that limit people's access to the sea turtles? I mean, I've been places where they have little flags or signs, and they'll come after you if you violate those signs.

MS. SLOAN: You're right, there are rules and regulations about it, but the problem is -- you know, we're on the beaches every night on Sanibel, and unless there's enforcement every single night, people are still going to do it.

HEARING EXAMINER COLLINS: Well, I appreciate your insights regarding conditions I can share with the group, and it's probably no surprise to you that we have a number of sea turtle violations every year in the Code Enforcement realm; so it's -- it's a challenging thing to comply with for many beachside

areas. Perhaps if we had more in the Code regarding that based on more recent studies, that we can do more.

MS. SLOAN: I agree with you. I think it could be updated probably to reflect recent studies.

HEARING EXAMINER COLLINS: Okay. Ms. Montgomery, do you have any further questions?

MS. MONTGOMERY: I do not.

Thank you, Kelly.

MR. MENDEZ: Madam Hearing Examiner --

HEARING EXAMINER COLLINS: Thank you, Ms. Sloan.

MR. MENDEZ: -- may I just ask one question?

HEARING EXAMINER COLLINS: (Nods head.)

MR. MENDEZ: Just for a point of clarification.

Ms. Sloan -- for the record, Adam Mendez.

I think the back and forth of the dialogue was that the request to remove -- the request to impose a deviation on buffer requirements was part of your testimony, and that that would be detrimental.

MS. SLOAN: Uh-huh.

MR. MENDEZ: Are you referring to the natural waterway buffer that's along the Gulf Coast, Deviation 5E? That's the natural waterway deviation buffer.

MS. SLOAN: I'm not exactly sure which -- what the numbers are, but it was the vegetative buffer --

MR. MENDEZ: Okay.

MS. SLOAN: -- that was, you know, blocking sort of the bottom level of these resort condos.

MR. MENDEZ: Thank you.

HEARING EXAMINER COLLINS: Thank you, Ms. Sloan.

Audrey Albrecht.

MS. ALBRECHT: May I be permitted to submit -- when my colleague on Wednesday left off, he was going to provide some conditions. So am I allowed to present those on his behalf or --

HEARING EXAMINER COLLINS: Okay. Who was the witness?

MS. ALBRECHT: Matt --

THE REPORTER: Who was it?

MS. ALBRECHT: Matt DePaolis, our policy director. He --

HEARING EXAMINER COLLINS: He was --

MS. ALBRECHT: -- was not going to be here today.

HEARING EXAMINER COLLINS: Refresh my memory again. He was the policy director of?

MS. ALBRECHT: SCCF.

HEARING EXAMINER COLLINS: And I had asked him if he had any --

MS. ALBRECHT: Yes.

HEARING EXAMINER COLLINS: -- conditions to recommend, and he said they'd be forthcoming.

MS. ALBRECHT: He was unable to come here today so he sent them.

HEARING EXAMINER COLLINS: Okay. So this is technically a DePaolis exhibit; right?

MS. ALBRECHT: Yes.

HEARING EXAMINER COLLINS: Sure, give that to me. Do you have copies for --

MS. ALBRECHT: Yes.

HEARING EXAMINER COLLINS: -- the County and the Applicant? Thank you.

(DePaolis Exhibit 1 submitted.)

HEARING EXAMINER COLLINS: If you could just give me a moment to mark the exhibit.

MS. ALBRECHT: Sure.

MS. MONTGOMERY: Is this Number 2 for him?

HEARING EXAMINER COLLINS: I must not have written them down. What was his other exhibit?

MS. MONTGOMERY: I thought it was his résumé, but I may be wrong about that.

HEARING EXAMINER COLLINS: All right. Well, Maria will sort it out.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: For right now I'm going to mark it as Exhibit 1; and if it has to be numbered as Exhibit 2 for him, then we will let you know.

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MS. MONTGOMERY: Thank you.

HEARING EXAMINER COLLINS: And these are recommended conditions of approval?

MS. ALBRECHT: Yes.

HEARING EXAMINER COLLINS: Matt DePaolis.

Okay, Audrey.

MS. ALBRECHT: Yeah. Can you hear me from here?

HEARING EXAMINER COLLINS: I can.

MS. ALBRECHT: Okay.

So good morning, Madam Hearing Examiner. Thank you for allowing me the time to speak today.

My name is Audrey Albrecht. I am a wildlife biologist. I have worked in the field of wildlife biology for 20 years. I have a Bachelor's degree in Wildlife --

THE REPORTER: Could you slow down, please.

MS. ALBRECHT: Yes, ma'am.

I have a Bachelor's degree in Wildlife Conservation Biology from the University of Rhode Island. I've been a biologist with the Sanibel-Captiva Conservation Foundation, SCCF, since 2016.

Having worked in both the wildlife and habitat management and the coastal wildlife department, I'm very familiar with Captiva Island and the South Seas Resort specifically, as I have been conducting

year-round monthly shorebird surveys and monitoring nesting shorebirds and bald eagles on the island for the last nine years.

I was previously accepted as an expert witness at the Eden Oak hearing in 2019; so I hope to be considered an expert witness in wildlife biology today.

HEARING EXAMINER COLLINS: Please proceed.

MS. ALBRECHT: As previously submitted by my colleague, Matt, on Wednesday, there has been little discussion of the potential impacts the rezoning of South Seas and associated increased density would have on wildlife and the environment. The proposed rezoning could have a significant impact on wildlife that would be counter to multiple goals and objectives of the Lee Plan.

HEARING EXAMINER COLLINS: Hang on a second, slow down. When we read, we go --

MS. ALBRECHT: Yeah, sorry.

HEARING EXAMINER COLLINS: -- faster, and the court reporter needs to take down everything you say.

MS. ALBRECHT: Okay.

This project is counter to policies within Goal 101 and the Lee Plan. Policy 101.1.1 requires that developments within the coastal high hazard area be compatible with natural systems such as wildlife

habitat. Policy 101.1.2 aims to protect and conserve environmentally sensitive coastal areas, including beach and dune systems and critical wildlife habitat.

Increased density on the island, and the associated intensity of use, will degrade beach and dune systems in the area and cause further degradation of the surrounding estuaries through increased water pollution. Increased water pollution would have an impact on the foraging areas for piscivorous, fish-eating birds, including the State-designated threatened least terns and black skimmers, both of which nest in the area and forage in the waters surrounding Captiva Island and South Seas Resort. These species, and many more like them, require healthy fisheries for their survival and for that of their young.

An increase in people also means an increase in the number of vehicles crossing the Sanibel Causeway and the roads of both Sanibel and Captiva. An increase in vehicular traffic increases the risk of road mortality for our wildlife, whose populations are already stressed. The Sanibel Causeway already sees many bird deaths due to vehicle collisions, which is among the top threats to birds in this country.

Aside from the causeway, an area of particular

concern is Sanibel-Captiva Road, which must be traversed in order to access Captiva and the South Seas Island Resort. This road bisects two of the most extensive conservation lands on Sanibel, which include lands owned by the U.S. Fish and Wildlife Service, the Sanibel-Captiva Conservation Foundation, the City of Sanibel, and the State of Florida. This area has some of the highest biodiversity found on our islands.

Among the most sensitive species to be put in jeopardy by increased traffic is the endemic State-designated threatened Sanibel Island rice rat found only on Sanibel Island.

HEARING EXAMINER COLLINS: Okay. What is this?

MS. ALBRECHT: Sanibel Island rice rat, it's endemic to Sanibel. It is only found on Sanibel, and it is threatened in the state of Florida.

HEARING EXAMINER COLLINS: Can you spell that?

MS. ALBRECHT: Sanibel Island rice rat, R-I-C-E, rat, R-A-T.

HEARING EXAMINER COLLINS: You got it?

THE REPORTER: (Nods head.)

HEARING EXAMINER COLLINS: Okay, thank you.

MS. ALBRECHT: I can submit a copy of my --

HEARING EXAMINER COLLINS: Okay, that would be great for the court reporter.

MS. ALBRECHT: Populations of this species occur on both the north and south sides of Sanibel-Captiva Road. Mark-recapture research by the University of Florida has shown that they do move across the roads to access other usable habitats.

Roadkill surveys from the City of Sanibel, from 2022 to 2024, indicate the most frequently injured or deceased species found on Sanibel-Captiva Road is the eastern screech owl. These nocturnal birds often catch prey off the road and get struck by cars as they fly low and get dazed in the headlights. Increased travel to and from Captiva will put more pressure on this species.

Data collected by SCCF Wildlife and Habitat Management Department indicate that much of Sanibel's wildlife is under heavy pressure due to multiple storm surge events that have occurred since 2022, resulting in the loss of fresh waterbodies. As a result, many taxonomic groups, such as turtles, considered to be the most at-risk-for-extinction vertebrate group, have taken heavy losses and have been using or crossing roads more often in search of fresh water or better habitats. Fifteen species from all seven U.S. families of turtles inhabit or nest on Sanibel Island. Eleven of these fifteen species are subject to roadkill

threats, as documented in the roadkill data from SCCF and the City of Sanibel.

The federally-designated threatened Eastern indigo snake was last documented on Captiva in 1988 and on Sanibel in 1999. They are considered extirpated -- meaning extinct in the area -- on these two islands, although they still occur on neighboring islands, such as Pine Island, North Captiva --

THE REPORTER: Pine Island and what?

MS. ALBRECHT: North Captiva and Cayo Costa.

HEARING EXAMINER COLLINS: North Captiva is like Upper Captiva?

MS. ALBRECHT: Oh, yeah, I guess it depends who you ask.

THE REPORTER: Slow down so I can understand you, thank you.

MS. ALBRECHT: Apologies.

Indigo snakes cross roads more frequently -- excuse me.

The primary cause of this extirpation is road mortality. They cross roads more frequently in the winter while looking for mates, which coincides with our heaviest traffic period of the year. Indigo snakes are capable of moving between islands, as evidenced by an individual that was observed and photographed

swimming in Redfish Pass towards, and landing on, the north end of Captiva in September 2012. This individual was tagged for tracking by SCCF at South Seas Resort and then killed by a worker at a condo in the resort two months later.

Prior to Hurricane Ian, South Seas Island Resort had numerous wildlife crossing signs with bold lettering and featuring different species. They were very eye-catching, and I witnessed myself for many years as tourists noticed them immediately reduced their speed. I hope that the resort will consider replacing these signs to encourage motorists to slow down and watch for wildlife. Likewise, I would encourage more signage on Sanibel and the causeway, as well.

The proposed rezoning could result in more buildings that are taller than existing structures. Collisions with buildings are one of the top anthropogenic causes of avian mortality. There are two types of bird/building collisions: Daytime window strikes, resulting from the window effect; and nighttime collisions caused by disorientation from artificial light sources. The window effect occurs when birds are unable to see glass and perceive reflections as a continuation of the outdoor

environment. The majority of these collisions occur at low-rise buildings versus high-rise. There are varying definitions of low-rise; but as seen in the presentation at this hearing Friday, February 14th, by MHK Architecture, the common definition of a low-rise building is three to four stories in height.

In the Applicant's 48-hour letter, Section 5(a), the Applicant combined sea turtles, migratory birds, and wading birds into one group, and they strike out the section pertaining to reducing reflectivity to decrease potential bird strikes. By doing this, they are only addressing the lighting issue and disregarding a major source of loss. They state they will be in compliance with LDC Section 14-76; however, that section falls under Division 2, which is specific to sea turtles with no mention of birds.

As described on South Seas' own website, on a blog post dated October 3rd, 2024, quote, "Captiva is a critical stopover for migratory birds traveling along the Atlantic Flyway." Knowing how important this location is for migratory birds, I would ask that Staff keep those original conditions regarding reflectivity to prevent bird strikes.

The beaches adjacent to the golf course are a nesting habitat for State-designated threatened least

terns and killdeer. The beaches also support various migratory and resident seabirds and shorebirds, including federally-threatened red knots and federally endangered piping plovers. All of these species are protected under the Federal Migratory Bird Treaty Act of 1918.

In the protected species survey conducted by Pennoni Environmental Consulting in September of 2022 and March of 2023, they state that because the project area does not include the beach or dunes, and would not be within 300 feet of any recent breeding sites, that no impacts are anticipated. While the construction itself may not have an immediate impact on the beach or dunes, the presence of more people on the beach after completion would increase disturbance to nesting and migratory birds.

Disturbance to nesting birds can lead to failure or abandonment of nests or colonies. Disturbance to resting migratory birds causes them to spend more time and energy flying rather than necessary behaviors, such as resting or foraging. Their ability to rest and feed is essential to surviving their remaining migration. Just as we want to provide a safe and enjoyable experience for our human visitors, we should consider the same with our nonhuman visitors.

More people also means more dogs. There's very little law enforcement presence on the beaches of Captiva in general, and there are a great number of people either unaware of or refusing to follow the County's ordinances in Section 4-31 prohibiting animals from running at large. I would encourage South Seas to work together with Lee County to ensure that more routine enforcement of these ordinances occur, as off-leash dogs are not just threatening to wildlife, they are a public safety concern, as well.

Additionally, I would encourage South Seas to continue and increase their existing efforts to minimize disturbance through educational signage such as those exiting by the beach access south of the golf course.

Goal 123 of the Lee Plan discusses managing coastal resources to maintain species diversity. Captiva Island hosts a great diversity of birds throughout the year. South Seas Island Resort specifically is a birding hotspot of e-Bird with 157 different species of birds observed. In the Florida Fish and Wildlife Conservation Commission report on the economic benefits of wildlife viewing, they state that wildlife viewing contributes $5.8 billion to Florida's economy. At the time of that report, Florida was top

in the country for wildlife viewing by out-of-state visitors. Birds are the most viewed wildlife, with shorebirds actually being in the top category.

Increased mortality of birds, whether it be from building or vehicle collisions, increased disturbance, degraded water quality, this has global implications. Migratory birds that rely on Captiva for nesting or as a migratory stopover come here from across the globe. Many shorebird species are long-distance migrants traveling from their Arctic nesting grounds to the southern tip of South America.

Lastly, I just wanted to note that South Seas Island Resort identifies themselves as a 330-acre wildlife nature preserve, quote, on their social media accounts; and the Merriam-Webster defines a nature preserve as an area where animals and plants are protected and that has very few buildings or homes.

Thank you so much for your time today and allowing me to speak on behalf of our wildlife.

HEARING EXAMINER COLLINS: Thank you. Would you be willing to leave your statement --

MS. ALBRECHT: Yeah, absolutely --

HEARING EXAMINER COLLINS: -- with the court reporter? I'm not going to mark it as an exhibit unless --

MS. ALBRECHT: Okay.

HEARING EXAMINER COLLINS: -- you want to enter it as an exhibit.

MS. MONTGOMERY: Good morning, I have -- I have a couple questions.

MS. ALBRECHT: Sure.

MS. MONTGOMERY: You mentioned that the indigo snake was killed by someone.

MS. ALBRECHT: Yes.

MS. MONTGOMERY: It's my understanding, and correct me if I'm wrong, that it was killed by a non-South Seas employee, and it was reported to you folks --

MS. SLOAN: Yes --

MS. MONTGOMERY: -- that they had done it.

MS. ALBRECHT: -- yes, that's correct. It was reported to Fish and Wildlife Service.

MS. MONTGOMERY: And so you know it wasn't the Applicant --

MS. ALBRECHT: I just -- I think I just said it was killed on the property --

MS. MONTGOMERY: Yeah, you left the impression that the Applicant did. I just --

MS. ALBRECHT: Okay.

MS. MONTGOMERY: -- want to clarify that.

MS. ALBRECHT: Correct, yeah.

MS. MONTGOMERY: Aren't there other agencies, such as FWC and DEP, that have regulations and rules regarding the wildlife that you've outlined here today?

MS. ALBRECHT: Yes.

MS. MONTGOMERY: And the Applicant would be required to comply with all the FWC and DEP rules?

MS. ALBRECHT: Yes, correct.

MS. MONTGOMERY: And so there's extensive protections that are already in place for these -- the wildlife --

MS. ALBRECHT: Yes.

MS. MONTGOMERY: -- you're concerned about.

Let me ask you this. Are you aware of the fact that approximately 89 to 90 acres of the original 304 acres were conveyed to the Department of the Interior?

MS. ALBRECHT: Yes.

MS. MONTGOMERY: And you're aware that those 89 to 90 acres are in conservation and available to wildlife?

MS. ALBRECHT: Yes.

MS. MONTGOMERY: So approximately one-third of the original acreage is in conservation already --

MS. ALBRECHT: Okay.

MS. MONTGOMERY: -- and that there is open space --

MS. ALBRECHT: Yes.

MS. MONTGOMERY: -- on the project now and will be in the future?

MS. ALBRECHT: Yes.

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

MS. ALBRECHT: Thank you.

HEARING EXAMINER COLLINS: Did you have any recommended conditions, other than I noted that you recommended more signs alerting the public to wildlife crossings by various creatures?

MS. ALBRECHT: Yes. I think probably the most important one would be to add -- for the County to add back in those remarks about reflectivity and not just considering the sea turtles and the lighting --

HEARING EXAMINER COLLINS: And then you also mentioned --

MS. ALBRECHT: -- which is important.

HEARING EXAMINER COLLINS: -- educational signs in general.

MS. ALBRECHT: Yeah. The signs that they had prior to the storm were great. I really did see an effect, where people would slow down immediately and look for wildlife.

HEARING EXAMINER COLLINS: Okay, thank you.

I'm going to mark her statement as an exhibit.

Did you hand it in yet?

MS. ALBRECHT: Oh, I don't think I did, sorry.

HEARING EXAMINER COLLINS: Let me take it. I will mark it as your Exhibit 1.

MS. ALBRECHT: Additional copies...

(Albrecht Exhibit 1 submitted.)

HEARING EXAMINER COLLINS: We can arrange for copies to be given to Staff and the Applicant.

MS. ALBRECHT: Okay.

(Discussion at table.)

MS. MONTGOMERY: Thank you, I appreciate it.

(Sotto voce between Hearing Examiner and reporter)

HEARING EXAMINER COLLINS: James Evans.

Thank you.

Mr. Evans?

MR. EVANS: Good morning, Madam Hearing Examiner. Can you hear me okay?

HEARING EXAMINER COLLINS: Yes.

MR. EVANS: Excellent.

I have a few slides that I want to show during my presentation here.

HEARING EXAMINER COLLINS: You're here on behalf of the Sanibel-Captiva Conservation Foundation?

MR. EVANS: That is correct. I am James Evans,

CEO of the Sanibel-Captiva Conservation Foundation, for the record. SCCF is a science-based nonprofit organization based on Sanibel Island. Our mission is to protect and care for Southwest Florida's coastal ecosystems. We do this through our work on science, education, and advocacy, as well as conservation. We were founded in 1967 to protect the unique barrier island resources of Sanibel and Captiva Islands. We own and manage more than 2,100 acres of land in Southwest Florida, with over 1,800 acres on Sanibel Island.

I've spent the last 25 years of my career working as a scientist and natural resources manager on Sanibel and Captiva Islands. During my career on the islands, I have developed water quality monitoring programs, establishing the City of Sanibel's first ambient water quality monitoring program in 2002; authoring several water quality monitoring reports; overseeing the City's water quality -- water quality improvement projects, including the development of the City of Sanibel's Comprehensive Nutrient Management Plan, the Jordan Marsh Water Quality Improvement Project; and working closely with the City's Public Works Department to upgrade the City's Donax wastewater treatment plant to advance wastewater treatment to improve water quality.

I also have extensive water quality policy experience working with the Florida League of Cities, traveling to Tallahassee and Washington, D.C., with mayors from Lee County and other mayors throughout the state as their water quality expert. I have testified at hearings about water quality and natural resource-related impacts, and testified before you at the Eden Oak hearing case -- I thought that was in 2018, but I've heard 2018/2019. But at that time I was the Director of Natural Resources for the City of Sanibel.

HEARING EXAMINER COLLINS: I remember you.

MR. EVANS: Excellent, thank you.

I also have extensive water quality experience -- sorry, let me move on here.

I have served on numerous boards, including the Southwest Water Management District's Water Resources Accountability and Collaboration Committee; the South Florida Water Management District's C-43 Reservoir Water Quality Treatment Component Feasibility Study Working Group; the Lake Okeechobee System Operating Manual Project Delivery Team; the Lee County Coastal Advisory Council, serving as chair; the Southwest Florida Watershed Council, also serving as chair; and I was a member of the Charlotte Harbor National Estuary

Program Technical Advisory Committee; and cochair of the CHNEP Management Committee.

Prior to working for SCCF, I spent 21 years working for the City of Sanibel's Natural Resources Department in various positions, including conservation officer, environmental planner, environmental biologist; and I served as the Director of Natural Resources for almost eight years. While at the City, I was responsible for reviewing development permits for consistency with the City's Land Development Code and the Comprehensive Land Use plan, the Sanibel Plan, in regards to impacts to natural resources on Sanibel Island.

During my time with SCCF, I served as the Environmental Policy Director, prior to becoming CEO of the organization in 2022.

I also have extensive experience in environmental land use planning and permitting, conservation land management and restoration, environmental education and coastal resilience.

I would like to -- let me just finish, and I'll provide you a copy of my CV, but I hold a Bachelor's degree in Environmental Studies and a Master's degree in Environmental Science from Florida Gulf Coast University.

I'd like to provide you a copy of my CV and ask that you consider me as a subject matter expert pertaining to water quality, water policy, coastal resources management, specifically as it relates to wildlife and wildlife management, and other environmental issues impacting Sanibel and Captiva Islands.

MS. MONTGOMERY: Madam Hearing Examiner, I haven't had a chance to see the résumé. He clearly has experience in environmental policy, and while he's been on boards and things -- I was on the Water Resource Advisory Committee. It didn't necessarily make me an expert in water quality. He didn't say he's a hydrologist, and he didn't say he's a geologist, and he didn't say he's an engineer, and those are the people that are typically involved with water quality.

HEARING EXAMINER COLLINS: Okay, thank you.

I'll accept your exhibit.

(Evans Exhibit 1 submitted.)

HEARING EXAMINER COLLINS: This is Evans Exhibit 1, your CV?

MR. EVANS: Yes, thank you.

(Sotto voce between Hearing Examiner and reporter)

MR. EVANS: Madam Hearing Examiner, I would respectfully disagree with Applicant's counsel. I have

developed and managed numerous water quality projects, including drafting water quality reports following the water quality standards of the State of Florida, and I would be happy to provide those for the record. I don't have those with me today. But clearly from my résumé, you can see that I have a master's degree and a bachelor's degree in environmental science, which covers all of the sciences that I've learned about throughout my education, and I have practiced water quality throughout my career. So I would respectfully disagree that I'm not an expert on water quality.

HEARING EXAMINER COLLINS: Okay, you may proceed.

MR. EVANS: Thank you.

During the Applicant's presentation, you have heard from them why they should be permitted to develop the South Seas Island Resort and arguments why their zoning request is consistent with the goals, objectives, and policies of the Lee Plan. Significantly increasing the number of hotel units at South Seas Island Resort is not in keeping with Goal 23 of the Lee Plan, known as the Captiva Plan. The goal of the Captiva Plan is to protect the coastal barrier island communities' natural resources, such as beaches, waterways, wildlife, vegetation, water quality, dark skies, and history. The proposed zoning changes will

greatly increase the number of hotel rooms on the northern tip of Captiva Island. These changes are not in keeping with the historical pattern of 3 density units per acre on Captiva, and will have significant impacts on the natural resources of Captiva Island, as well as Sanibel Island.

So this is a graph showing the sea level -- the relative sea level trend at the Fort Myers monitoring station. This is data provided by the National Oceanic and Atmospheric Administration. These are data that are depended on by scientists and engineers and others working in the space of climate change, as well as, you know, just trying to figure out how sea level rise is changing. And you can see, if you look at the X-axis, you'll see the number of -- the years over time, and on the Y-axis you'll see meters on the left side, as well as inches on the right-hand side. I added the inches on the right-hand side, and those are translated -- conversions from meters to inches so that you can see those changes.

But what you'll note is that if you look at that trend line, which is based on a 95 percent competence interval, based on 3.57 millimeters per year, plus or minus 0.42 millimeters per year, you can see that the trend shows approximately about a foot of sea level

rise since 1960. And that doesn't take into account the noise in the data, the ups and downs within that -- within the data line. That's based on the trend line. So 12 inches of sea level rise, roughly, since 1960.

This is also a graph from the National Oceanic and Atmospheric Administration. I'll just refer to it as NOAA. This is the projections from 1960 into the future, and you'll notice that, if you look at where we are in 2025, that trend line is following the intermediate high projection line, and that is commonly used by agencies such as the Army Corps of Engineers, as well as planners, when looking at the impacts of sea level rise on our communities into the future. And you'll note that if you look at about 2050, we're going to experience almost a foot of sea level rise over the next 25 years; and if you'll notice also in that projection, it started to ramp up in the 1990s. And I just -- I think it's important to note that increasing density on a sensitive barrier island, subject to sea level rise and stronger hurricanes associated with climate change, is the antithesis of coastal resiliency.

So you've already heard from a number of our scientists and experts from SCCF that have testified to some specific impacts to the County's water resources,

beaches, and wildlife. I will not reiterate what they have already said, but I want to highlight a few areas of concern and add to the issues they raised in their testimony.

I also want to -- well, I want to start with some issues of water quality and concerns related to the wastewater demand of this project and the capacity issues at the FGUA wastewater treatment plant.

And I'll just draw your attention -- this is page 4 of the Staff Report; and you'll note in paragraph 2, the property is located within the Florida Governmental Utility Authority, FGUA, wastewater franchise area. Wastewater disposal service is available to the subject property with sufficient capacities to accommodate the request, also attached as Attachment R.

On this slide you will see Attachment R that was included in the Staff Report. It's a letter from FGUA dated May 23rd, 2023, and note the highlighted box there. "The application indicated that the proposed project consists of hotel buildings with 425 rooms in total with an estimated potable wastewater demand of 85,000 [gallons per day]. Currently, FGUA facilities are able to accommodate these demands. During the design process, if existing conditions warrant, a

hydraulic analysis may need to be performed by the project engineer to evaluate the impacts the proposed project may have on the existing water and wastewater systems."

So this is a slide -- this is slide 190 of the Applicant's presentation, and I apologize for the quality. It was taken -- I took a picture of it, and that's what I got. But this includes an updated availability letter from FGUA dated January 23rd, 2020 -- 2025, sorry, that's an FGUA letter dated January 23, 2025. This letter was not included in the Staff Report.

And it's important to note that hotel rooms, 400 -- it should say 435 hotel rooms at 200 gallons per day -- it looks like on the screen it says 425, but it's actually -- well, actually, you can see the one on the right-hand side, 435 rooms. That's the updated numbers with the new availability letter. Note that 435 rooms at 200 gallons per day, updated flow of 87,000 gallons per day for multi-family. You'll note that the previous letter indicated 200 gallons per day, but the updated LOA units, 193 units at 160 gallons per day, 30,880 gallons per day, for a total of 117,880 gallons per day. And note that under the table on the left-hand side, the original LOA flow does not have the

numbers calculated for multi-family. I'm not sure why that was excluded.

HEARING EXAMINER COLLINS: So the updated flow is 117,880?

MR. EVANS: Yes, ma'am.

This map just shows a map of the South Seas property, and you'll notice -- I'll use my pointer, if it works here. There's a polygon up here showing the location of the FGUA plant, and this is the service area of the FGUA plant.

So now I just want to talk a little bit about Florida Administrative Code Chapter 64E-6.008, system size determinations that indicate minimum design flows for systems serving any structure, building, or group of buildings shall be based on the estimated daily flow as determined from Table 1 or the following -- they can also use an alternate way of calculating that using metered flow data, and that's highlighted in yellow there, you can see, but in this case they didn't use the -- the metered flow data.

This is Florida Administrative Code 64E-6.008, system size determinations, Table 1; and I just want to point out when you look -- look at the first red arrow at the top there, you'll notice for hotels and motels, go to sub (b), resort hotels, camps, cottages -- and

this is a per-room calculation. And you'll note that under 64E-6.008, the recommendation is 200 gallons per day. And, again, that's a per-room calculation.

Also want to bring you down to the next arrow, the red arrow there under "Residential." Note that for residences, single or multiple family per dwelling unit -- again, per dwelling unit -- and you'll notice that here the way the DEP calculates this is a per-bedroom basis, and you'll -- and you'll note that it is also based on a square footage calculation. So for a one-bedroom, it would be 100 gallons per day; two-bedroom would be 200 gallons per day; three-bedroom would be 300 gallons per day; and a four-bedroom would be 400 gallons per day. And there's also a note at the bottom about the square footage calculations.

All right, so I want to walk you through some documents here. So the January 23rd, 2025, availability letter from FGUA shows a capacity for 435 hotel rooms at 200 gallons per day per room, for a total of 87,000 gallons per day; the capacity for 193 multi-family units at 160 gallons per day, for a total of 30,980 gallons per day -- I would assume that they used the numbers from the Lee County Utilities Design Manual, but that wasn't necessarily clear in the documents provided in the Staff Report -- for a total

capacity of 117,880 gallons per day for the South Seas Island Resort project.

So, again, under the minimum design flows under Florida Administrative Code 64E-6.008, in Table 1, resorts, hotels, camps, cottages are a per-room calculation, and that is 200 gallons per day.

Some of our concerns:

The 200 gallons per day for hotel rooms, there's uncertainty of how many units will have more than one bedroom because it is a per-bedroom calculation.

The 160 gallons per day estimated for two- or four-bedroom multi-family dwelling units, condos or timeshares, that will be part of the rental pool, and this does not consider the peak flows, the calculations that are included in the Lee County Utilities Design Manual.

The December 2015 FGUA Capacity Analysis Report associated with the South Seas application to replace 140 employee housing units with 140 multi-family dwelling units estimated two-bedroom multi-family units to generate 240 gallons per day. So, again, the capacity analysis provided by FGUA calculated 240 gallons per day. I have a copy of the capacity analysis if you'd like a copy of that. Would you --

HEARING EXAMINER COLLINS: You can submit it as an

exhibit, if you'd like.

MR. EVANS: Okay. I would like to submit it as an exhibit. I have a few other exhibits, as well.

HEARING EXAMINER COLLINS: And do you have a copy of your -- a hard copy of your PowerPoint as an exhibit?

MR. EVANS: I do, yes.

HEARING EXAMINER COLLINS: Okay, thank you.

MR. EVANS: And I'll provide that at the end of my --

HEARING EXAMINER COLLINS: That will be helpful to me and also to the court reporter.

MR. EVANS: I'd be happy to. And I have a copy of all my comments that I can provide, as well.

HEARING EXAMINER COLLINS: All right. I'm not trying to disrupt your flow. You can continue.

MR. EVANS: No problem at all. Would you like me to provide the exhibits now or after?

HEARING EXAMINER COLLINS: No, you can do it at the end.

MR. EVANS: Very good, thank you.

Because -- because of the uncertainty with the number of rooms, flows for two- to four-bedroom units should use a conservative estimate average of three-bedroom units. Because we're not accounting for

two- to four-bedroom units, we're just saying units, a conservative estimate would be to use three-bedroom units as the average between two- and four-bedroom units.

HEARING EXAMINER COLLINS: So you're saying it's not possible to accurately predict the demand unless knowing the character of the hotel units and the multi-family units that are proposed.

MR. EVANS: That is correct.

HEARING EXAMINER COLLINS: Okay.

MR. EVANS: And I'll go into that further in a moment.

HEARING EXAMINER COLLINS: Okay.

MR. EVANS: So what I'm suggesting is that three-bedroom units -- or two- to four-bedroom units should use a conservative estimate of 300 gallons per day, resulting in a flow of 57,900 gallons per day for multi-family units. Total flow for 435 hotel rooms at 200 gallons per day is 87,000 gallons per day, plus the 193 multi-family at 300 gallons per day, again using a conservative estimate, would be 57,900 gallons per day, for a total of 144,900 gallons per day.

The design capacity at the plant is between 180,000 and 264,000 gallons per day, and that really depends on the treatment method that they're using, and

that is outlined in the permit that was issued by the Department of Environmental Protection for the FGUA plant. I also have a copy of that I could --

HEARING EXAMINER COLLINS: Does this plant --

MR. EVANS: -- provide you.

HEARING EXAMINER COLLINS: -- does this plant serve only the resort, or does it serve all of Captiva?

MR. EVANS: It serves all of South Seas, the entire property of South Seas.

HEARING EXAMINER COLLINS: Thank you.

MR. EVANS: In the December 2015 Capacity Analysis Report, FGUA stated they had between 41,000 and 82,000 gallons per day of additional capacity -- again, depending on the treatment method -- and pending construction of an injection well. And this was a, you know, 2015 report so -- I'll -- I'll get to that in just a minute.

So if you -- if you do the calculations, you know, at 82,000 gallons per day, which is the, you know, maximum amount of additional capacity calculated at the time, and recognizing the removal of 140 employee housing units, that this capacity analysis was used to determine the additional capacity needed to support the removal of those 140 employee housing units and convert them to other types -- other uses. That was calculated

at 120 gallons per day, and that was -- that was set by FGUA in that capacity analysis. That provides 16,800 gallons per day.

So when you add up the total available capacity or additional capacity, you have -- not total capacity over the entire plant, that's 264,000 gallons per day; but when you look at the 82,000 gallons per day of additional capacity, and you add that to the 16,800 gallons per day that was estimated by FGUA, you get 98,800 gallons per day. Adding in the capacity recognized by the removal of the 107 hotel units, which were one-bedroom units, at 100 gallons per day -- again, this number was set by FGUA -- that totals 10,700 gallons per day.

So 98,800 gallons per day, plus the 10,700 gallons per day, gives you 109,500 gallons per day total capacity -- total available capacity.

Total estimated flow for the project would be 144,900 gallons per day, again, based on averaging the two- to four-bedroom units, that gives you -- you know, that gives you a much truer estimate, and I would argue a conservative estimate, which exceeds the capacity of the FGUA plant by 35,400 gallons per day.

So now I want to bring your attention to a document that was included on page 524 of the Staff

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Report.

HEARING EXAMINER COLLINS: I have a question of you.

MR. EVANS: Yes.

HEARING EXAMINER COLLINS: Since wastewater is a concurrency item, if at the time of development order they were not able to demonstrate that there was adequate capacity available at the plant to accommodate the flows predicted, whether it's hotel, multi-family, that would be a bar to obtaining a building permit. Would you agree with that?

MR. EVANS: I would agree to that, and I would argue that moving forward with this project without having capacity means that this zoning shouldn't be approved.

HEARING EXAMINER COLLINS: Okay. And so -- can we go to the previous slide? I just want to make sure I understand.

MR. EVANS: (Complies.)

HEARING EXAMINER COLLINS: Based on your calculations and your testimony, you're estimating 109,500 capacity available, and what did they represent they were going to generate by virtue of this request?

MR. EVANS: They argued that they only needed a total capacity of 117,800 gallons per day, and 117,880

gallons per day is what was included in the availability letter provided by FGUA to the Applicant.

HEARING EXAMINER COLLINS: So assuming your numbers are correct, and their numbers are correct, there would need to be system enhancement to accommodate their proposal.

MR. EVANS: That is correct.

HEARING EXAMINER COLLINS: Okay. And absent available capacity, then that would be a bar to permitting.

MR. EVANS: Yes.

HEARING EXAMINER COLLINS: Okay.

MR. EVANS: So now I want to bring your attention to page 524 of the Staff Report, and you'll notice the title of this document is South Seas Water & Sewer Demand Analysis. The highlighted area at the bottom under B, Sanitary Sewer, just note that this is for the existing resort per ADD2022-00098. And if you look at the existing resort, you'll note that they have an existing demand of 104,692 gallons per day; and when you look at the proposed mixed-use development per DCI2023-00052, note that 196 multi-family units at 200 gallons per day -- and I think it's important to point out that they used the 200 gallons per day number, not the 160 gallons per day number -- for a total of 39,200

gallons per day.

HEARING EXAMINER COLLINS: Where am I looking?

MR. EVANS: At the bottom, do you see the red box at the bottom, ma'am?

HEARING EXAMINER COLLINS: Okay, proceed.

MR. EVANS: Okay. So 435 hotel rooms at 200 gallons per day equal to the 87,000 gallons per day, which was also in the availability letter that they provided; 6 restaurants at 49,980 gallons per day is equal to 49,980 gallons per day, obviously; 78 boat dock slips at 4 gallons per day, 312 gallons per day; a water park at 10,965 gallons per day; for a total proposed demand of 187,457 gallons per day.

And you'll note the footnote at the bottom, "The proposed South Seas Island Resort MPD results in an estimated increase in sanitary sewer demand of 82,765 [gallons per day]. The subject property is located in the sanitary sewer service area," and it says here, "Florida Gulf Utilities Authority," but we know that's Florida Governmental Utilities (sic) Authority.

So here is the availability letter that was provided by the Applicant on slide 190 of their presentation. The letter of availability from FGUA states they have capacity for 117,880 gallons per day, not 187,457 gallons per day, which is a document

included in the Staff Report. This would leave 76,543 gallons per day for 640 units outside of the MPD. I believe that calculation is just shy of 120 gallons per day. And, again, I don't know how many rooms are in each of these units that are in the 640 units outside of the MPD, but I can't imagine that there would be enough sewer capacity to be able to support that after this project is approved.

So now I just want to take a few moments to walk you through the sensitivity of the area where the FGUA plant is located. Note that it's surrounded by mangroves. It's between Chadwick Bayou on the left-hand side there -- Chadwick Bayou extends up to the north along Pine Island Sound.

This is -- and that -- that map is from LEEPA.

Note here that the property to the north is owned by the U.S. Fish and Wildlife Service, or Department of Interior. It's tidal mangrove wetlands.

The land to the south of the plant and around the plant is owned by FGUA. It is also tidal mangrove wetlands.

I gave you some dimensions just to give you a perspective of the size of the plant. It's roughly 350 feet to the -- to the water, probably about 370 feet to the waterward-most mangrove on the east side of the

property.

Here are some images from February 21st, 2025. Obviously you can see the impacts on the mangroves from the -- from the recent storm events, and you can see the plant much clearer here, I think. Another image --

HEARING EXAMINER COLLINS: So the storm -- the storm surge or the saltwater caused this brown?

MR. EVANS: Yes, that is correct. So between the wind and the storm surge, it had a direct impact on the mangroves. Wind is --

HEARING EXAMINER COLLINS: Between the what --

MR. EVANS: I'm sorry?

HEARING EXAMINER COLLINS: Between the what and the storm surge?

MR. EVANS: Between the wind --

HEARING EXAMINER COLLINS: Oh.

MR. EVANS: -- and the storm surge. Wind is detrimental to red mangroves in particular. Black mangroves are also subject to wind damage. They can handle saltwater flooding, but it -- but it probably had more to do with the wind damage, in addition to the inundation of the saltwater for extended periods of time.

HEARING EXAMINER COLLINS: This will regenerate?

MR. EVANS: It will regenerate, that is correct.

And we had experience restoring mangrove areas -- they'll come back on their own if given enough time. In fact, a study that we did following Hurricane Charley in 2004 suggested about ten years for a mangrove system that was impacted to recover almost fully.

HEARING EXAMINER COLLINS: So will they still perform like a filtration function and as habitat for fish when it's in this condition?

MR. EVANS: No, this condition has limited capacity to uptake nutrients and be able to perform a water quality function. As far as habitat, we do have species that still use these mangrove areas, but not to the extent they do in their pristine condition. But that doesn't justify the site being less important for wildlife or water quality. This area will recover, and it is protected tidal wetlands.

So I want to show you a table here, the City of Sanibel Utilities Assistance to South Seas Wastewater Treatment Plant from 2010 to 2015. And what this shows is a number of occasions where South Seas Island Resort required the assistance of the City of Sanibel because their plant did not have the capacity or needed assistance to take on the effluent water from the plant and process that at the Donax wastewater treatment

plant on Sanibel Island.

And I just want to draw your attention to the red arrow, which points to a -- the date of April 8th, 2018, and you'll notice the gallons hauled is 117,000 gallons, and note that it was "accepted raw wastewater," that's the description of the assistance; and under the cause, you'll note that it's "flow in excess of plant capacity."

This is a Wastewater Treatment Malfunction and Abnormal Event Report from that April -- or that April 8th, 2015, date. As you look at the report, you'll note that the source of the spill -- the spill was clarifier. Note that under the date discharge is ongoing, and you'll note in the table prior that there were a number of other -- other capacity issues and power outages after that date.

And if you look at the malfunction or cause, you will note that it's elevated turbidity levels. Turbidity is the -- you know, the -- the stuff in the water that creates -- that creates -- turbidity in the water can shade out seagrasses and things like that, but in this case turbidity is the suspended things in the water.

And I'll just note that under the corrective remedial action being taken, a vac truck was used, and

the destination was the City of Sanibel. And the remedial action being taken you'll note on the upper right-hand corner of the slide. I did a call-out here so that you can see it easier. I'm not going to read the entire thing, but note, "At this time there have been a total of 14 loads of raw/reject effluent hauled to the City of Sanibel Island treatment plant for additional treatment."

HEARING EXAMINER COLLINS: This was in 2015?

MR. EVANS: That was in 2015, correct. And I just want to note the pattern of exceedances to the wastewater treatment plant, and that's not with all of the increased density and intensity of use, specifically the amount of wastewater that will be coming to the plant if this project is approved.

HEARING EXAMINER COLLINS: Has the plant been upgraded since that time, if you know? Answer if you don't.

MR. EVANS: I don't know.

HEARING EXAMINER COLLINS: Okay, thank you.

MR. EVANS: And so I also want to draw your attention to this letter dated February 5th, 2025, which wasn't long ago. This is a warning letter from the Florida Department of Environmental Protection; and as you can see, it is addressed to the FGUA plant,

Mr. Sam Cain. And I just want to note that -- I'll read the first paragraph there. In September 2024, the Florida Department of Environmental Protection was notified by the State Watch Office that your facility referenced above had unauthorized discharges or unpermitted sanitary sewer overflows of approximately 60,100 gallons in potential violation of Chapter 403, Florida Statutes, and Rules 62-620 and 62-604, Florida Administrative Code, which prohibits unauthorized discharges.

And I'll just note at the bottom, Violations of Florida Statutes or administrative rules may result in liability for damages and restoration, and the judicial imposition of civil penalties, pursuant to Sections 40 -- Sections 403.121 and 403.161, Florida Statutes.

And I just, you know, want to take a minute to talk about -- talk about the -- the plant and the capacity issues here. So the record demonstrates that the FGUA plant struggles to handle the current volume of wastewater, let alone a significant increase in the volume by adding significantly more guests to the resort. An independent evaluation of the wastewater capacity should be performed to determine the actual wastewater demand, and whether or not the FGUA plant actually has the capacity to support the MPD. Without

capacity, and the ability to protect the coastal waters and mangrove wetlands where the plant is located, the zoning application should be denied.

The wastewater treatment plant currently does not treat to advanced wastewater treatment standards. The use -- the reuse water that is distributed as irrigation to the golf courses and landscape to support the resort is likely to contribute to additional cumulative impacts to our coastal water quality, waterbodies that are already listed as impaired by the State of Florida, and are on the State 303(d) list of impaired waterbodies, which several of our Staff at SCCF have already testified to.

In 2013 and 2014, SCCF scientists conducted a series of studies for the City of Sanibel to support the development of a comprehensive nutrient management plan for Sanibel. These studies evaluated the sources of nutrients, such as nitrogen and phosphorus, impacting water quality on Sanibel and the surrounding coastal waters. The study included water quality monitoring for both surface and groundwater, development of site-specific runoff coefficients, and analysis of the various land uses and nutrient-loading hot spots impacting water quality.

As part of that work, reuse water from the City's

Donax wastewater treatment plant was identified as a major source of nutrient loading to Sanibel's groundwater, surface water, and surrounding coastal waters. At that time the Donax wastewater treatment plant was not treating its wastewater to advanced wastewater treatment standards.

The City of Sanibel has since invested more than $20 million in upgrades to the plant to bring it up to AWT standards, and that ended up in reducing the nitrogen and phosphorus -- sorry. That ended up reducing the nitrogen and phosphorus effluent from the plant by approximately 50 to 70 percent.

The FGUA plant, which does not treat to AWT standards, is not currently capable of treating the water to a level that will be protective of our coastal waters and may further impair the coastal and estuarine waters and resources of Lee County, likely contributing to the decline of Lee County's coastal ecosystems, such as seagrass beds and the organisms that depend on these important ecosystems. Again, Dr. Eric Milbrandt from our marine lab testified to this issue, as well.

And I'll note that in the documents provided by the DEP -- you can go to their website, and you look at the effluent from the plant. It ranges anywhere from 10 to 20 milligrams per liter for total nitrogen,

well -- well above the AWT standards. When you look at the AWT standards, it's broken down by a number of different constituents and limits. The chemical biological oxygen demand is set at 5 milligrams per liter or less; the total suspended solids is set at 5 milligrams per liter or less; total nitrogen is set at 3 milligrams per liter or less; and total phosphorus is set at 1 milligram per liter or less. Again, those are the AWT treatment standards.

So I want to move on to some other issues here. In the letter dated February 19, 2015, from Staff, Lee County -- you'll note that it's on the screen here. Lee County Staff are -- you know, sorry, one moment here.

I just want to draw your attention to some language at the bottom. This is related to the conditions requiring a surface water quality monitoring plan, and note that at the bottom here, Application Number 24-0723-44841 authorized the construction and operation of a stormwater management system serving the South Seas Island Resort golf course renovation and other resort facilities and provides for total on-site retention with no positive outfall. Based on this new information provided by the Applicant, Staff is amenable to eliminating the recommendation -- sorry,

the recommended surface water quality monitoring plan condition.

Based on the level of treatment at the FGUA plant, and combined with the underlying geology, sandy soils, and relatively low elevation on a barrier island subject to tidal pumping -- and I'll just note that tidal pumping, it occurs when the tides rise and -- rise and fall. What happens is the groundwater gets saturated, and it creates a pumping effect which pulls water that is sitting in a stormwater retention area into the groundwater, and it can transmit that through our permeable sandy soils laterally into the coastal waters. And so because of that, because of that -- that tidal pumping that occurs, it will transmit that into the groundwater and adjacent coastal waters, and the Applicant has not demonstrated that they will meet the surrounding water quality standards. Therefore, they should provide a complete analysis of the impacts of reuse water on the surrounding waters, and be required to implement a surface water quality monitoring plan.

And I'll also note that in the beginning of my presentation, I showed you several slides that showed the sea level rise trends provided by NOAA, as well as the projections. When you look at that, we're

looking -- we've had a foot of sea level rise since -- approximately a foot of sea level rise since 1960, and for the -- in the next 25 years we're projected to get another foot of sea level rise. Because of the low elevations, I would argue that that groundwater is going to continue to rise and interact with the stormwater features on the golf course and other areas of South Seas, further pulling that water through tidal pumping into the coastal waters.

So based on my testimony so far, the project is inconsistent with the following goals, objectives, and policies of the Lee Plan:

Policy 60.1.1, require design of surface water management systems to protect or enhance the groundwater.

Goal 69, environmental health. Protect public health through the expansion and improvement of clean -- clean air and water requirements. The project will directly impede the County's goal to strengthen and expand clean water requirements by allowing more pollution to enter waterbodies that currently do not meet State water quality standards.

Goal 122, estuarine water quality. The project fails to manage estuarine ecosystems in order to conserve productivity through maintaining or improving

water quality, protecting wildlife diversity, and reducing or maintaining current pollution loading and system imbalances.

Goal 123, resource protection. Natural resources should be managed in order to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics.

Goal 125, water quality. This project will not ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.

Objective 125.1, this project fails to maintain high water quality, meeting or exceeding state and federal water quality standards. Pine Island Sound is impaired for nutrients on the FDEP -- the Florida Department of Environmental Protection's 303(d) list. Adding further nutrient pollution to the adjacent waterbodies will neither maintain high water quality nor meet state and federal water quality standards that are required to improve federally listed 303(d) waterbodies.

Objective 125.1.2, new development and additions to existing development must not degrade surface and groundwater quality.

Policy 125.1.4, developments which have the potential of lowering existing water quality below state and federal water quality standards will provide standardized appropriate monitoring.

So now I want to move on to discussion about coastal wildlife and Deviation 5, natural waterway buffer. And there was a discussion with Ms. Kelly Sloan earlier on, and I want to add some clarity there.

The Applicant is seeking a deviation for compliance with Land -- with the Land Development Code for vegetative buffers along the Gulf beach. Tract H is the one I'll be referring to. And note here, this is the Beachfront Villas, a beautiful rendering of the buildings that will be located along the Gulf of Mexico. And I would argue that a deviation for the vegetation buffers along the Gulf-front buildings is one that will have a direct impact on wildlife that utilize the beaches at South Seas, such as sea turtles and shorebirds that depend on our beaches for survival.

The Applicant -- I believe it was Christian Andrea, the landscape architect, suggested that sea oats and railroad vine will satisfy the intent of the buffers; however, the low-growing nature of the vegetation proposed will not buffer the mass of the buildings along the beach, resulting in potential

lighting impacts to sea turtles, for example, with the under-building parking, lights from vehicles, such as automobiles and golf carts, could directly impact sea turtle nesting behavior and hatchling success.

We heard extensive testimony from Mr. Patterson regarding what a buffer is. He read the definition and their intent. Vegetation buffers along the Gulf beaches must be enforced, and a deviation from the LDC should not be granted for areas between the Gulf-front buildings and beaches, to protect coastal wildlife that depend on our beaches for survival.

The project is inconsistent -- well, let me just say, granting the waiver would be inconsistent with the following goals, objectives, and policies of the Lee Plan.

The project is inconsistent with the following goals, objectives, and policies:

Goal 123, resource protection. Manage coastal, wetland, and upland ecosystems and natural resources in order to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics.

Objective 123.3, wildlife. Maintain and enhance the fish and wildlife diversity and distribution within Lee County for the benefit of a balanced ecological

system.

Objective 123.4, endangered and threatened species in general. Protects habitats of endangered and threatened species and species of special concern in order to maintain or enhance existing population numbers and distributions of listed species.

You've heard from two of our expert witnesses at SCCF regarding sea turtles and shorebirds.

Objective 123.5, loggerhead sea turtles. Continue the sea turtle protection program to minimize the disorientation of sea turtles along the Gulf beaches. I would argue if this deviation is approved for this development, that it will have direct impacts on sea turtles and be contrary to the objective.

That's all I have, Madam Hearing Examiner.

HEARING EXAMINER COLLINS: Okay. Can we enter your documents in as exhibits, the PowerPoint, and if you were reading from a statement, and you don't mind submitting that as an exhibit, that will be helpful to me and also to the court reporter.

MR. EVANS: Yes. If you wouldn't mind -- I actually have one more statement --

HEARING EXAMINER COLLINS: Sure.

MR. EVANS: -- if you wouldn't mind me finishing, sorry.

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I just have one -- one note that wasn't included in my slides here. I wanted to correct the record in a statement that was made during the first day of the hearing. I believe it was during Mr. Farrell's testimony related to traffic and hurricane evacuation. The Applicant's counsel, Ms. Montgomery, asked Mr. Farrell about the roadway restrictions on the islands, and Ms. Montgomery made an offhand comment that the roadway on Sanibel is restricted due to aesthetic reasons, and Mr. Farrell agreed. The same question was posed to City Manager Dana Souza, but he was not allowed to answer the question. I'd like to add some clarity. I spent 21 years --

MS. MONTGOMERY: I'm sorry, this is outside the scope of what you've identified your testimony was.

HEARING EXAMINER COLLINS: All right, but he can speak about whatever he wants.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: He may not be an expert in this area, but it doesn't preclude him from speaking to it.

MR. EVANS: Thank you, Madam Hearing Examiner.

So I'd like to add some clarity here. I spent 21 years with the City of Sanibel working on environmental and planning issues, including managing native

vegetation and plantings within the right-of-way along Periwinkle Way. While our single-lane roadways on Sanibel may serve an aesthetic value, the restrictions are not due to aesthetic reasons. They are due to limited right-of-way along Periwinkle Way that would require the City of Sanibel to take privately-owned property along Periwinkle to widen the roadway. I'm not sure the City would get a lot of support from the community for taking of private property to increase road capacity to support the Applicant's project.

HEARING EXAMINER COLLINS: And this is specific to San-Cap Road; right?

MR. EVANS: No, this is specific to Periwinkle Way.

HEARING EXAMINER COLLINS: Periwinkle Way.

MR. EVANS: Yes, ma'am, it's on Sanibel Island.

The reality is that this zoning will put a lot more vehicles on the road to support the increased number of hotel rooms, visitors, and staff -- resort staff to support the increased number of guests with no way to mitigate the increased traffic pressure on our -- on the roadways of Sanibel and Captiva that impact wildlife, the quality of life of residents, and existing businesses and their staff.

We firmly believe that if this property is rezoned

to allow this increase in density and intensity of use, it will have significant impacts on our natural resources, including water quality, wildlife, and coastal resources of Lee County.

SCCF stands in opposition to this zoning application. We want the South Seas Island Resort to be successful. It just can't be at the expense of our natural resources, our residents, and existing businesses.

I want to thank you for the opportunity to provide comments today.

HEARING EXAMINER COLLINS: Thank you.

Let's talk about your exhibits now. First and foremost, the PowerPoint?

MR. EVANS: Yes.

HEARING EXAMINER COLLINS: This will be Evans Exhibit 2. Do you have a copy for Staff and Applicant?

MR. EVANS: Yes, I do.

(Evans Exhibit 2 submitted.)

HEARING EXAMINER COLLINS: And the court reporter. Thank you, the PowerPoint is Evans Exhibit 2.

And did you want to provide your statement?

MR. EVANS: Yes.

HEARING EXAMINER COLLINS: That will be Evans Exhibit 3.

(Sotto voce between Hearing Examiner and reporter)

(Evans Exhibit 3 submitted.)

MR. EVANS: I'll just note that the comments about the first two slides that I showed related to sea level rise are not included in my statement.

MS. MONTGOMERY: Thank you.

MR. EVANS: You're welcome.

HEARING EXAMINER COLLINS: Okay. Neale, I know you're probably going to want to cross-examine this witness. I'd like to --

MS. MONTGOMERY: I know, but I looked at my watch, and I know it's --

HEARING EXAMINER COLLINS: -- give our court reporter --

MS. MONTGOMERY: -- court reporter break time.

MR. EVANS: Madam Hearing Examiner, I do have a few other things --

HEARING EXAMINER COLLINS: Yes.

MR. EVANS: -- for the record that I can provide. I have a copy of 64E-6.008, system size determinations from the Department of Environmental Protection.

MS. MONTGOMERY: I'm sorry, the mic --

HEARING EXAMINER COLLINS: What Code section?

MS. MONTGOMERY: The mic didn't pick that up. I didn't hear what you're submitting.

MR. EVANS: I'm sorry. I'll explain the exhibits that I'm going to be providing you. I have Florida Administrative Code 64E-6.008, system size determinations, which was in my presentation. I'd be happy to provide you a copy of those.

I also have the Capacity Analysis Report dated December 2015 for the FGUA plant, South Seas Plantation wastewater treatment plant, which I can provide you a copy of.

I also have a copy of the first four pages of the permit which shows the 264,000 gallons per day permitted capacity of the FGUA plant.

And then, finally, I have a warning letter dated February 5th addressed to Mr. Sam Cain, and this was in relation to -- in regards to the violation for the 60,100 gallons of discharge that was in violation.

(Evans Exhibit 4 submitted.)

HEARING EXAMINER COLLINS: Okay. The Code section is going to be Evans Exhibit 4.

MS. MONTGOMERY: Is that the Florida Administrative Code?

HEARING EXAMINER COLLINS: Yes.

(Evans Exhibit 5 submitted.)

HEARING EXAMINER COLLINS: And this is -- the Capacity Analysis Report is Evans Exhibit 5.

(Evans Exhibit 6 submitted.)

HEARING EXAMINER COLLINS: Evans Exhibit 6 is a letter from the Florida Department of Environmental Protection.

MS. MONTGOMERY: Is that the first four pages of the permit or -- I'm sorry.

HEARING EXAMINER COLLINS: This is Notice of Permit Issuance --

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: -- is the title of the letter.

MS. MONTGOMERY: Thank you.

(Evans Exhibit 7 submitted.)

HEARING EXAMINER COLLINS: And then there is a second letter from the Florida Department of Environmental Protection, and this is going to be Evans Exhibit 7.

MS. MONTGOMERY: Okay. And that's the 2015?

HEARING EXAMINER COLLINS: That's, no, 2025. It's a warning letter.

MS. MONTGOMERY: Okay. Okay.

Thank you.

MR. EVANS: You're welcome.

HEARING EXAMINER COLLINS: All right. Neale, if you don't mind, we're going to take a break for the

court reporter. We'll resume -- Mr. Evans, I recommend you return to the hot seat following the break.

MR. EVANS: I'm looking forward to it, thank you.

MS. MONTGOMERY: Thank you.

(Recess from 10:28 a.m. to 10:45 a.m.)

HEARING EXAMINER COLLINS: We just concluded with the testimony of James Evans, and we are ready for cross-examination by Ms. Montgomery.

MS. MONTGOMERY: Thank you.

Mr. Evans, I believe you indicated that your organization owns 1,800 acres on Sanibel. Have you acquired any acres on Captiva to protect the environment?

MR. EVANS: No, we don't own any land on Captiva; however, we do own Patterson Island, Albright Island adjacent to Captiva, as well as part of Buck Key Island, which is just across the Roosevelt Channel from Captiva. We also own land on North Captiva.

MS. MONTGOMERY: You provided a lot of testimony regarding the wastewater treatment plant. Go back to your résumé. You're not an engineer; is that correct?

MR. EVANS: That is correct.

MS. MONTGOMERY: So you haven't designed, managed, or anything in regard to a wastewater treatment plant?

MR. EVANS: No, my work has been specific to the

water quality issues associated with the Donax wastewater treatment plant; and as I've testified, I've worked -- I oversaw the development of the City's comprehensive nutrient management plan.

MS. MONTGOMERY: Okay. Let me ask you a question. Did you, or anyone working for you, take any water quality samples from the lakes on the golf course?

MR. EVANS: Not that I'm aware of; however, Mark Thompson, one of our biologists that works for our marine lab, has done extensive water quality work on --

MS. MONTGOMERY: I'm not asking what somebody else has done. I'm just asking if you have any sampling of the water quality in the lakes on the golf course.

MR. EVANS: I'm not aware of any, as I sit here today.

MS. MONTGOMERY: Okay, thank you.

Have you done any water quality sampling in the coastal areas around South Seas?

MR. EVANS: Yes, the SCCF marine lab has conducted sampling in the bay areas adjacent to Captiva Island.

MS. MONTGOMERY: Okay, and I appreciate that. Anything specifically on the beach, on the shores surrounding South Seas?

MR. EVANS: There is data that was provided by the marine lab, which was referenced in Dr. Eric

Milbrandt's testimony yesterday, where they did a transect off the coast of -- several transects off the coast of Captiva, which included looking at the area of the wastewater treatment plant.

MS. MONTGOMERY: Okay. So that's the only data that you know of?

MR. EVANS: That's the only data that I am aware of.

MS. MONTGOMERY: Okay. You spent a lot of time testifying about the 2015 capacity analysis of the plant. That plant -- well, that study is ten years old; correct?

MR. EVANS: That's correct.

MS. MONTGOMERY: And there have been improvements since that date to the plant.

MR. EVANS: There have been improvements.

MS. MONTGOMERY: And one of those improvements, as I understand it, is a deep well injection.

MR. EVANS: That is correct. The capacity still sits at 264,000 gallons per day.

MS. MONTGOMERY: And there is a grant that was obtained to do another deep well injection. Are you aware of that?

MR. EVANS: Yes.

MS. MONTGOMERY: And are you aware of the fact --

you alluded to the fact that FGUA might rely on LCU's flow.

MR. EVANS: I don't believe I testified to that.

MS. MONTGOMERY: Okay. I thought -- I thought you did.

Well, then let me ask it this way. You went through --

MR. EVANS: I'm sorry, if referring to the Lee County -- so maybe your question wasn't clear.

MS. MONTGOMERY: Okay.

MR. EVANS: I referenced the Lee County Utilities Design Manual.

MS. MONTGOMERY: Yes. And Lee County Utilities has a chart that identifies the gallons per day flow for different uses.

MR. EVANS: It uses a value of 160 gallons per day for single-family, multi-family, but does not account for the number of rooms associated with those units.

MS. MONTGOMERY: I understand your point, but the point is FGUA -- are you aware of the fact that FGUA relies on Lee County Utilities?

MR. EVANS: Yes, but I'm also aware of -- in the capacity analysis, they estimated significantly higher flows for the units that were going to be replaced.

MS. MONTGOMERY: That wasn't my question. You're

disputing the numbers that were used, and so my question is, are you aware of the fact that FGUA relies on Lee County Utilities flow data per the various uses?

MR. EVANS: I am aware of that, but on page 524 of the Staff Report, the value used for calculating those was 200 gallons per day. So your -- you know, that was changed to use the 160 value later on, but the availability letter provides for 117,000 gallons, not the 187,457 gallons per day in the Staff Report.

MS. MONTGOMERY: Well, let me ask another question, because in the Staff Report Attachment R is an FGUA letter. Do you recall that?

MR. EVANS: I do. I believe that was my fifth slide.

MS. MONTGOMERY: And in that letter -- and typically all letters from utilities, what they say is that this is just a letter of availability. It's not a commitment to serve. And when you go, essentially, to get a development order, the capacity has to be reanalyzed. Do you agree that that's what FGUA is saying, that this is not a commitment to serve?

MR. EVANS: I don't know. That's your interpretation, but that's not how -- I don't understand what you're asking me.

MS. MONTGOMERY: Well, okay. In the last

paragraph it says, "This letter should not be construed as commitment to serve, but only as a statement of the availability of service and is effective for" -- in this case 12 months from the one that's in the Staff Report.

So is it your understanding that at the development order stage, another analysis has to be done in order to obtain a development order?

MR. EVANS: Yes, I understand that, but my question would be why -- why are we asking for capacity that would, you know, woefully underestimate what's needed for the entire project, based on page 524 of the Staff Report.

MS. MONTGOMERY: Okay. That's your opinion. I just want to see if you understand the final --

MR. EVANS: I understand, yes.

MS. MONTGOMERY: Okay. And I don't know that you'd be surprised that I disagree with your opinion.

Well, let me ask you a question since you have significant experience in water quality and are very concerned about water quality. On Captiva Island, outside of South Seas, isn't everybody else on a package plant or a septic tank?

MR. EVANS: Yes.

MS. MONTGOMERY: And as a general rule, septic

tanks on a barrier island are not conducive to good water quality.

MR. EVANS: That's correct.

MS. MONTGOMERY: Since you've been involved in the Sanibel Plan, why doesn't -- why don't -- if you know, because I think you've been involved from a policy standpoint, why don't the septic tanks on Captiva connect to the Sanibel plant?

MR. EVANS: Well, because they're part of unincorporated Lee County.

MS. MONTGOMERY: But there have been discussions; correct?

MR. EVANS: There have been discussions, and I believe Holly Smith testified to the fact that based on the density and intensity of use on the South Seas Island Resort, that would exceed the capacity that's available at -- on Sanibel at the Donax wastewater treatment plant.

MS. MONTGOMERY: Yeah, but we're not asking to connect South Seas because they have their own plant. I mean, it's an existing --

MR. EVANS: I believe she testified to the fact that there were discussions of all of Captiva being connected. I may be wrong on that issue, but I thought that's what I heard during Holly's testimony.

MS. MONTGOMERY: Okay. So your testimony was that reuse is, quote, likely to contribute to water quality issues. That's an assumption, but you don't have any data to support that, do you?

MR. EVANS: I did present during my testimony that the total nitrogen in the effluent is between 10 and 20 milligrams per liter, and that is significantly higher than AWT standards; and so if that reuse water is being used on the golf course and sandy soils, then it has the potential to go into the groundwater and be transmitted through tidal pumping into the coastal waters.

MS. MONTGOMERY: You -- let me ask you a question. You're familiar, I believe you said, with the Sanibel Comprehensive Plan.

MR. EVANS: I'm sorry, I couldn't hear you.

MS. MONTGOMERY: Is Periwinkle designated as a constrained road?

MR. EVANS: It is a constrained road, yes.

MS. MONTGOMERY: Is it designated that way in the Comprehensive Plan?

MR. EVANS: It may be.

MS. MONTGOMERY: So you don't know?

MR. EVANS: I don't know.

MS. MONTGOMERY: Okay. You provided a letter -- I

think it's Number 7, your exhibit -- where did it go? Ah, I've got it.

Do you have any knowledge as to why it took six months for Ms. Sweigert to send a letter to the FGUA manager?

MR. EVANS: I do not.

MS. MONTGOMERY: Do you know -- because I don't, I feel dumb. What is the State Watch Office?

MR. EVANS: That's a good question. I don't know what the State Watch -- I imagine it's an independent group that oversees these violations.

MS. MONTGOMERY: Yeah. So what I don't know, is this a government agency? Is this volunteers?

MR. EVANS: I don't know, but the letter is from the DEP to FGUA.

MS. MONTGOMERY: So since I don't know what that group is, and I don't know what qualifications they have, what happens next? I mean, is there some analysis to verify this?

MR. EVANS: That's a great question. I can't answer it.

MS. MONTGOMERY: Okay, so we have to look further.

MR. EVANS: Yes, ma'am.

MS. MONTGOMERY: I have heard -- and I may have heard wrong -- that the 2015 incident that you pointed

out happened because an employee was on vacation, and nobody was managing the plant while he was gone. Do you know if that's true?

MR. EVANS: I don't know if that's true.

MS. MONTGOMERY: And I notice you identified that event in 2015, and you haven't identified one in the next ten years. So I'm assuming if there were another problem, you would have told us.

MR. EVANS: No, that was the data that I had, and that was the data I used. I don't know if there were previous -- previous violations or additional pumping that had to go to the City of Sanibel. Others may be able to testify to that.

MS. MONTGOMERY: Okay. Do you know whether or not a public or private capacity analysis has been done at the FGUA plant since 2015?

MR. EVANS: I'm not -- I'm not aware of one; and if there has been an analysis, I would -- I would love to see it.

MS. MONTGOMERY: Okay.

MR. EVANS: But the current permit is for 264,000 gallons per day.

MS. MONTGOMERY: Permits can be amended and updated; correct?

MR. EVANS: I understand, yes.

MS. MONTGOMERY: And I'm assuming during your time working for Sanibel, that they periodically update their consumptive use permits, and they update their wastewater treatment plant permits.

MR. EVANS: Yes, that's correct.

MS. MONTGOMERY: Okay. And a lot of those permits are only good for a certain period of time so you have to update them.

MR. EVANS: Yes.

MS. MONTGOMERY: I have no other questions, thank you.

HEARING EXAMINER COLLINS: Thank you, Mr. Evans.

MR. EVANS: Thank you.

HEARING EXAMINER RIVERA: Jeff Alexander.

MR. ALEXANDER: Good morning.

HEARING EXAMINER COLLINS: Good morning.

MR. ALEXANDER: Madam Hearing Examiner --

HEARING EXAMINER COLLINS: Do you want to enter exhibits?

MR. ALEXANDER: (Indicating.)

HEARING EXAMINER COLLINS: What am I accepting here?

MR. ALEXANDER: This is my résumé, a letter to you, and my PowerPoint (inaudible).

(Alexander Composite Exhibit 1 submitted.)

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HEARING EXAMINER COLLINS: Two copies, okay. Did you give one to Staff? Do you have one to give to Staff?

MR. ALEXANDER: (Indicating.)

HEARING EXAMINER COLLINS: All right. I'm going to name this J. Alexander Composite Exhibit 1. You say it's a résumé and then a letter to me and then your PowerPoint?

MR. ALEXANDER: Yes, ma'am.

HEARING EXAMINER COLLINS: Thank you. All right, and I marked that as Composite 1.

You may begin.

MR. ALEXANDER: I'm sorry, let me begin with a quick -- I have to beg your indulgence. I recently lost all the hearing in my left ear, and it's kind of unsettled me a little bit so I'm a little disoriented at times, and I don't hear things. So I may ask you to repeat things, if I have to. I apologize for the inconvenience on that, but we're not sure we can get that fixed.

Hi, my name is Jeff Alexander. I have a Master's degree in Public Administration. I'm a certified professional emergency manager. For 27 years I served as a staff member to the Northeast Florida Regional Council. In that capacity I served as the senior

managing director. While I was there, I created statewide emergency management programs by coordinating all of the regional councils in the state.

And then after leaving the council, for nine years I was the County Deputy Director of Emergency Management. My primary responsibilities including evacuation recommendations and management, EOC operations officer, logistics officer, disaster response planning.

In 1988 I worked for the regional evacuation study for Northeast Florida. During that study I modernized the computer programming for doing demographic analysis and vulnerability analysis for population.

In '98 I managed the 1998 evacuation study update. During that I updated some of the methodologies, and I created the first full color atlas for storm surge and a methodology for displaying it.

In 2005 I managed the update to the Northeast Florida regional evacuation study. And during that time I updated methodologies, and the State expressed a desire in a working group to update all of the evacuation studies in the state. I submitted a grant application for suggested funding of a statewide program to update the hurricane evacuation studies in the state simultaneously. The Legislature had

allocated money for that project, and the State Division of Emergency Management granted me a contract to do that under the guise of the Northeast Florida Regional Planning Council and the statewide system of coordinating with the other regions.

During the Statewide Regional Evacuation Study creation, we changed the way studies were done. We created new methodologies, and we changed the way the National Hurricane Center reports out storm surge so it was more usable to the local emergency management agency.

In addition to creating the Statewide Regional Evacuation Study program, I was the lead planner, the statewide program coordinator, the lead designer; I approved all methodology changes; I was the transportation section lead; I was the chair of the oversight committee; I was the section lead group leader; all decisions came through me; and, if necessary, through the oversight committee. Changes to the evacuation zones in Florida were done through the evacuation study. That used to be Zones 1, 2, 3, 4, and 5. We found that to be no longer valid, and the study changed them to A, B, C, D, and E, and that's how they're done today, and that trend is growing across the country.

We created the first glossary for an evacuation study that defined all of the terms. It is the most asked for portion of our study in other parts of the country and the world.

I oversaw the creation of TIME, Transportation Interface for Modeling Evacuation, which I also named. TIME is the methodology -- excuse me. TIME is the software that contains the methodology for modeling traffic evacuation clearance times.

2002 through 2003, I served on the ICCOH, which is a federal committee, the Interagency Coordinating Committee on Hurricanes. They managed in part -- it was managed in part by the National Hurricane Program. I was the only non-state or federal participant in the ICCOH consistently from 2003 to 2022. Other people came and went, other people were invited as needed, but I was the only person consistently invited to participate.

I served on the technical group that modernized the National Hurricane Program. They were going through a change as some of this technology was changing, and they asked for a focus group to help work with them. Subsequent to that, I also served on a focus group for the National Hurricane Center to provide guidance on what would be needed in

modernization.

In -- from 1998 to 19 -- to 2022, I worked with the National Hurricane Program, and I updated -- I worked with them to update the HURREVAC software, in the early 2000s. I can't remember the exact date that we did that. The HURREVAC program is a display program created by the National Hurricane Program that displays the information in a regional evacuation study to make decision-making for evacuations easier for the end user. The studies are this thick (indicating), this thick (indicating), and so to put all the information in a single place, they use HURREVAC.

In 2014 to 2015, HURREVAC underwent a major renovation. I served on the technical advisory committee for those changes, and it's now called HVX, same software completely modernized with modern Windows capacity and more capability.

I twice worked with the State and FEMA to redesign the FEMA hurricane planning course, teaching local governments how to plan and recover from a hurricane. I worked with the State twice to redesign that course. I taught that course several times. I also taught G 358, 363, other classes designed to teach local governments, county governments, and state employees how evacuation works and how to use an evacuation

study. I taught those classes for the State Division of Emergency Management, under their banner.

I've been an adjunct at Duquesne University, University of North Florida, Flagler College, a guest lecturer for UN -- University of North Florida, Florida State University, Flagler, and Jacksonville University.

I presented more than 100 sessions at the Governor's hurricane conference in Florida; about 50 sessions at the National Hurricane Conference and the Florida Emergency Preparedness Association; and dozens of times at the International Hurricane and Disaster conferences.

I've received some 20 awards, professional awards, the last one including the National Hurricane Conference Distinguished Service Award for creating revolutionary methodology and the cornerstone for future evacuation analysis and planning.

I've been the principal in the creation and/or update to 26 regional evacuation studies, more than any currently working study manager in the National Hurricane Program.

I've worked in several county emergency operations centers. In addition to the years I spent in St. Johns County, I went to the counties when requested to support operations during evacuations and after

evacuations. I've also spent -- three times I was at the state hurricane -- state emergency operations center, providing direct input to the Governor, the Planning section, and the Logistics sections.

The rest of my qualifications are in my résumé. I request to be accepted as an expert in emergency management, the Statewide Regional Evacuation Study including the risk analysis, vulnerability analysis, hazard analysis, behavioral analysis, and hurricane evacuation analysis.

HEARING EXAMINER COLLINS: Okay, you may proceed.

MR. ALEXANDER: I've written you a letter that detailed much of what -- everything I'm going to say, and it gives more detail. Some of it I didn't want to take more time than necessary. I just wanted to give you the conclusion. So I will go through almost all of it, but I wanted to make sure you knew that everything is in the letter, and there's additional information there beyond what I have to say. I'd like to submit that letter. I guess -- I'm sorry, I've never done this before so I wrote myself instructions.

HEARING EXAMINER COLLINS: Okay.

MR. ALEXANDER: So it says here I'm supposed to ask to submit the letter, and I'd like to submit my résumé but...

As a summary statement, based on my analysis, the Applicant has underrepresented the risks to residents and property on the outer barrier islands and the vulnerability to disaster and hazards. The Applicant understates the impact to public safety of increasing the vulnerable population and associated increased evacuation clearance times. And my professional opinion is that the proposed zoning would be contrary to several Comprehensive Plan and Land Development Code requirements which are designed to reduce the vulnerability of the population and development to impacts from hurricanes and other disastrous coastal events, and to ensure that the population can be safely evacuated.

The primary points of my report that are in there include the location is among the most hazardous to storm surge and hurricanes in this state. It is among the most hazardous in the county. It has been repeatedly devastated by hurricanes, three in the last year. The rezoning will increase the population vulnerable to these hazards and the structures vulnerable to these hazards, adversely threatening evacuation failure and exposure to hazardous dangers.

Over the years the evacuation clearance time for Zone A, the most vulnerable zone in the county, have

increased. No mitigation at all. The Level E clearance time has increased with mitigation doing little more than slowing the increase.

The barrier islands' infrastructure is constrained, further increasing the risk and the realities of the current climate with demonstrated hurricanes occurring more frequently and more intensely. The risk of rapid intensification, increasing the risk of the population in Zone A, especially the barrier islands, the unpredictably -- unpredictability created by increasing occurrences of these rapid intensification events, demonstrates the good fortune used in the past to evacuate the county cannot be relied upon in the future, and I'm going to explain that in further depth.

Given the extreme, vulnerable location; great distance from safe shelter; and constrained, inadequate evacuation routes, the subject property is an inappropriate place to increase residential or hotel land development.

And I have a PowerPoint. Can you see -- yeah.

HEARING EXAMINER COLLINS: I have it right in front of me.

MR. ALEXANDER: Okay. This is the subject area. This is the critical link. In all evacuations, the

population has to evacuate their zone or the zones evacuated. All hurricane evacuations include Zone A. This is the furthest point you have to evacuate -- this is the furthest point you have to evacuate from. You have to go all the way through this portion of it; and then once you get to the mainland, you're still on the western edge of the evacuation zone. Clearing the island is only the first part of the evacuation. It takes 22 hours to clear Zone A. Everybody on the island is in Zone A. Once they clear Zone A, if any other evacuation zones were evacuated, they have to get through those zones, as well.

And let's keep in mind that if they order a Category 5 evacuation, that means everybody in Zone 5, everybody in Zone 4, and everybody in Zone C, everybody in Zone B are evacuating at the same time. Anybody who has tried to get out of a parking lot from the furthest-most parking space can tell you they're the last one to leave because everybody else is in front of them. So that 22 hours for the island becomes 74 hours of a Category F evacuation -- Category E evacuation, sorry, A, B, C, D, E.

So it's important to recognize that this is not a simple evacuation. These are amongst the most vulnerable people.

There are relevant policies: Policy 5.1.2, Policy 72.2.2, Goal 101. They're inconsistent with the policies increasing the rezoning -- increases the vulnerable population and increases the hurricane evacuation clearance time for the barrier islands. The evacuation route is constrained, and increased evacuation traffic will place undue burden on the evacuation facilities. They're inconsistent. The rezoning is inconsistent with these policies.

Code Section 34-411(f), Code 34-413(2), and Section 34-1040(i)(1), rezoning will increase the population on the barrier island and the hurricane evacuation clearance time. The evacuation routes are constrained, and the increased traffic will place undue burden on the evacuation facilities and increase exposure to coastal threats and public safety hazards.

Policy 6.1.1(4), Goal 73, rezoning will increase development, adversely impacting an inadequate evacuation capacity -- and I'll talk about that inadequacy later.

The evacuation route is constrained. Increased evacuation traffic will place undue burden on the evacuation facility and will not safeguard the public against hurricane events.

Objective 73.1, rezoning will incrementally

increase the Category 5 clearance time, which is counter to the objective, and the evacuation clearance time has increased.

Policy 101.1.2, Policy 6.1.1(7), Objective 23, rezoning will increase the development, which may -- which may impact environmentally sensitive areas and habitats as a result of the deposit --

MS. MONTGOMERY: I'm going to interpose an objection at this time. He's not an ecologist, and he's not qualified to testify regarding environmental issues.

HEARING EXAMINER COLLINS: Okay, your objection is noted.

Please proceed.

MR. ALEXANDER: Okay. I am a -- I am an experienced and qualified emergency manager. I have been involved in dozens of hurricanes. Following a hurricane, one of the principal responsibilities of a community is to pull the debris out of areas of -- that are water -- and everywhere else that it's where it's not supposed to be, but areas that are sensitive land -- land areas, marshlands, waterways, they all have to be cleared. And we have pulled -- I personally coordinated the pulling of the cement pier from Clay County, which traveled two miles upriver and then

crossed the river to land in a wetland marsh on the east side of the St. Johns River. Pulling it out of that marshland did damage to the marshland. So that's what I'm basing that statement on, and that was the end of that statement.

Now I'd like to spend a few minutes, if I could, discussing some of the differences in my analysis and the information provided by the Applicant.

Lee County accounts for 72 percent of the storm surge deaths since 2013. 36 people in Hurricane Ian died in Lee County in the storm surge zone.

Rapid intensification. The rapid intensification process of a hurricane is science, and it's not disputed. It is real. It makes it difficult when tropical storms or tropical depressions or disturbances become hurricanes and require evacuations with very little to no notice. Decisions should be made -- should not be made to increase development density or intensity on Captiva Island based on the assumption that hotel guests or others will evacuate early before the rest of the population. One cannot assume 24 hours' notice before an evacuation must occur. With rapid intensification, we might only get 24 hours' notice that there is going to be an impact. And assuming the availability of a full 24 hours is

actually unreasonable. If you get 24 hours' notice, that doesn't mean you have 24 hours to evacuate, and I will explain that further.

Public safety depends on the issuance of evacuation orders in sufficient time for the entire population to evacuate. The Statewide Regional Evacuation Study designates the base scenario from the Statewide Regional Evacuation Study as the scenario to be used when calculating evacuation clearance times for development planning purposes, and it requires 100 percent of the evacuating -- of the vulnerable population to be evacuated.

Specifically to some of the points in the application -- that have been made by the Applicant. The Applicant's reference -- the Applicant's references to coastal high hazard area is wrong. They're using a FEMA coastal high hazard area. The FEMA floodplains, which are used for establishing standards for elevation in building code, I recognize that; but they're the wrong model for using for storm surge inundation. They're done on the ADCIRC model. It's a model run by the National Hurricane Program to establish national insurance rates for flood insurance. They set -- they set a coastal high hazard area, they set base flood elevations based on probabilities of an area being

flooded in a period of time. The Florida Statutes, Section 163.3178 clearly defines the Florida coastal high hazard area, and it defines that it should be the SLOSH model results. I've included Chapter 163 as an attachment to the letter to you.

The Applicant has incorrectly indicated that new structures built on the island will not likely be damaged by an 18.7-foot storm surge, even though that might be 1.24 feet above the first floor. Again, they're using the ADCIRC model data, not the SLOSH data. SLOSH data provides storm surge inundation aboveground, not above sea level. ADCIRC works with sea level. Therefore, a building that's elevated above sea level would not be 1.47 feet, but 4 feet inundated by water, because there's a difference between the ground level and sea level. And that's an example -- depends on if sea level is here (indicating), the ground is here (indicating), and you're building above sea level, you're building that much higher (indicating), not that much higher (indicating), if that makes sense. I've explained it extensively in my letter to you.

Past road improvements on the mainland do not address impacts of increased clearance times on Sanibel and Captiva.

When the first statewide regional evacuation studies were released in 2010, Chapter 163.3178, paragraph (8)(a), identified the need to maintain Level E evacuation clearance times. The study itself identified the need to maintain and reduce clearance times.

Where did I go? There we go.

This slide shows the change in clearance times from 2010, not 2017. At 2010 the clearance times have gone up by eight hours for Level A and up by eight hours for level E.

I would also like to note that the 2021 data that shows decreased clearance times, the 2021 model run for TIME used a different methodology for behavioral analysis that cannot be repeated and will not be repeated. So it was something of an experiment to see if they could find a more accurate tool, and it didn't work. But it still remains to be the accepted evacuation clearance time at this time; and based on that, with the 2010 data, you can see the increase.

I've included the tables out of the actual studies as an attachment to the letter to you.

The County's effort at impacting the Category 5 clearance times have done little more than reduce the rate of increase. An incremental increase in approving

development in the evacuation zones without direct mitigation creates a hazard to the people in those evacuation zones. It increases the time it will take them to evacuate. It's really that simple. It's not simple to calculate how much, but it is simple to know that the evacuation clearance time goes up every time you add a vehicle, and it goes down when you improve the evacuation clearance -- the evacuation routes themselves or provide shelters that prevents them from having to travel quite so far.

They cannot increase capacity of the roads on Captiva or Sanibel Island. The only reason we can calculate an increase in the time to evacuate Captiva and Sanibel is because there's only one road out; it leads to a road that has a higher capacity and multiple points of diversion. The model does not allow for subzone calculations. It's a zone clearance time. Clearance time for Sanibel and Captiva is 22 hours. The impact will be 30 minutes, of increasing the population on Captiva, the population that has to be evacuated, 100 percent potential capacity of the development.

The Applicant claimed that the Category 5 clearance time for the island -- or, excuse me, for the county would increase 3.6 minutes. That's for the

Category 5 clearance time for the county. That cannot be calculated by hand. It takes millions of calculations to determine an evacuation clearance time for a Level E evacuation. The traffic at every intersection, the movement of traffic across the network, the rate at which people join the evacuation, are all part of the dynamic. All -- behavioral analysis of where they live, who they are, are taken into consideration, and the model makes adjustments as to trafficked roads.

HEARING EXAMINER COLLINS: And there's a program for this, you're saying?

MR. ALEXANDER: You have to speak a little louder.

HEARING EXAMINER COLLINS: And there's a program, a computer program that does this?

MR. ALEXANDER: Oh, yes, ma'am. And it takes it anywhere from a day to three days to do a Category 5 evacuation calculation for the study. In order to do the models for the evacuation study, we run banks of computers running different scenarios simultaneously.

HEARING EXAMINER COLLINS: So did you run this scenario?

MR. ALEXANDER: Did I --

HEARING EXAMINER COLLINS: Did you run this scenario?

MR. ALEXANDER: I did not because the TIME model is currently disabled. The Department of Transportation is investing several million dollars -- I don't know the exact number, I know it's over a million dollars -- in updating the software to a newer support management software. Not that it would mean anything to you, but TIME is the software that runs on Cube Avenue that runs on FSUTMS; so it's a series of models built on top of each other. They're replacing Cube and Cube Avenue with a new software that is more efficient, and it's going to take about a year.

HEARING EXAMINER COLLINS: Okay. So I'm trying to determine how you concluded that Applicant's statement of how long it would take to evacuate is incorrect.

MR. ALEXANDER: Because you cannot calculate that by hand. To say that -- I mean, it's nonsensical to say --

HEARING EXAMINER COLLINS: That's why you say it's arbitrary, because it can't be --

MR. ALEXANDER: It's --

HEARING EXAMINER COLLINS: -- calculated by hand?

MR. ALEXANDER: -- nonsensical. It cannot be calculated so I don't -- any method, to be using it, would have to be an old-style macro methodology that is obsolete. It was made obsolete in 2010 when TIME was

released. It --

HEARING EXAMINER COLLINS: So then the impact is unknown, from your position?

MR. ALEXANDER: No, I can tell you that it increases because we're adding -- we're adding cars to the network in the Category A Zone, which will ripple down. I cannot tell you how much it will increase. Nobody can without rerunning the model.

HEARING EXAMINER COLLINS: I see.

MR. ALEXANDER: I think this is somewhat of a minor point, but I do want to correct it. The Applicant provided information saying that only 5 percent of tourists are calculated in hurricane evacuation modeling. The base scenario uses 100 percent of the hotel rooms as occupied during an evacuation. The table submitted in the report as Attachment 1 to the Hurricane Evacuation Analysis, the bottom line of it indicates a 1 in the H/M column or row. That is a ratio number of number of vehicles per hotel unit. So it means 100 percent are evacuated. The 5 percent referred to in the analysis is the number of hotel/motel residents that may seek shelter at a public shelter. So it's a determination for sheltering capacity.

The Applicant's assertion that the island can be

evacuated with a clearance time of 5 hours is invalid. The base scenario for the Statewide Regional Evacuation Study methodology dictates that you use a 12-hour response curve. That means it can't be less than 12 hours because the last car will not be loaded on the evacuation network until the 12th hour after the evacuation order's been given. This is based on the behavioral analysis, which is part of the general response model that was developed over 40 years' worth of data collection from pre- and post-evacuation analyses.

HEARING EXAMINER COLLINS: And you're saying this is an existing condition right now, is the 12 hours?

MR. ALEXANDER: The 12-hour response curve -- Statewide Regional Evacuation Study identifies a 6-, a 12-, an 18-, and a 24-hour response curve. The 12-hour response curve is the most commonly used because you don't want to force the clearance time up over the 12 hours. So if the response time is less than 12 hours, it won't show that; and if it's more than 12 hours, it will show it.

A slow evacuation would be -- if you wanted to calculate a 24-hour response curve, you might be looking at a storm that's 4 or 5 days out that is weakening, and you're just wondering how many -- how

long you really need to evacuate the population, as opposed to one that's moving more rapidly and stronger.

So TIME gives emergency management directors operational capability. They can run quick scenarios to determine how they need to adjust their evacuation orders, but that's used in an operational element. You don't use operational elements when you're doing growth management planning. We use the base scenario that's -- that was designed in the Statewide Regional Evacuation Study for that purpose.

So the 5-hour clearance time is -- again, it's using some old methodology that has nothing to do with the Statewide Regional Evacuation Study program methodology and is, again, nonsensical.

The -- the Applicant says that the Periwinkle intersection has a different evacuation capacity or vehicles per hour flow rate than I calculated using a normalization of the evacuation data. First and foremost, all of the backup data provided for the Applicant's time -- capacity numbers are based on daily flow rates and operational numbers for daily traffic. Daily tables and charts are -- some of them are used as inputs to the TIME's methodology, but they cannot be used to do evacuation clearance time analysis because they're not relevant to the evacuation data, and that's

why TIME was invented. We had to create a software that would allow us to -- to do clearance time calculations because the existing modeling does not do it.

The key item, if you look at your -- the key intersection is this Periwinkle intersection. The important turn is this one right here. The vast majority of evacuating traffic comes from that direction and makes that turn. In order for them to enter that roadway, cars coming from this direction are going to merge right here; and I'm sure everybody who has ever merged on a highway can tell you that merge, when moving slowly, slows the traffic down.

In order to shift to Lindgren, traffic from Periwinkle has to stop; so we still maintain the same hourly flow rate. Cars coming onto the island, cars going left on Periwinkle are not relevant to the evacuation clearance time. They're background traffic. They slow the rate at the intersection, but they don't impact the flow of cars leaving the island. The only thing important is how many cars are leaving the island, and how fast can we get them off.

Any cars going straight through the intersection from the other side of Periwinkle completely shuts down the evacuation.

So 700 vehicles per hour is the rate that I used in my analysis when I did my normalization of the traffic flow rates, and I stand by that being the appropriate number based on the methodology in the Statewide Regional Evacuation Study.

I've already said that, based on my calculation, the clearance time impact is 30 minutes to the island. The Applicant's method is 15 minutes based on their use of daily traffic rate flows, and I don't believe they normalized against the Statewide Regional Evacuation Study methodology.

I want to reiterate that the clearance time for Captiva/Sanibel alone is a 30-minute increase. That's 30 minutes of -- to an evacuation zone that has had a 57 percent increase since 2010, and it's a 30-minute increase to the back of the evacuation in the most vulnerable place in the county. That is a clear impact to public safety.

The Applicant indicates that you should not use the full -- the full capacity of the hotel for calculating the evacuation clearance. The base scenario clearly indicates that you use the full capacity of the -- of the development in calculating it, and that's also backed up by a letter from the State Growth Management officials that I received while

we were developing the methodology, and I used that letter as guidance during approval of methodology for the evacuation study and for TIME.

Now I want to give -- this should only take a few more minutes, but I want to take a few minutes to make sure that we all understand clearance time, and how it applies, and why there's not enough of it.

The evacuation begins when an order is issued to evacuate. That's the moment that we start the clock on how long it takes to evacuate. It ends when the last vehicle exits the county or reaches safe shelter.

To safely evacuate the population, the clearance time must be less than the time from the time the evacuation order is given until the tropical storm force winds arrive at the coast. It's unsafe to be on a road while tropical storm force winds are blowing.

Based on the current evacuation study, Lee County needs 22 hours to evacuate Zone A. That includes the barrier islands. We need all 22 hours to get everybody out. It doesn't end when they leave the county. It just means they've gotten off the island, and the development will increase the time it takes to get off the island.

Evacuation clearance time is made up of several components. The first and biggest one is represented

by the response curve. The response curve is the time it takes from the time you hear an evacuation order -- not the time it's issued, but from when you hear it, to make the decision that you are, in fact, going to evacuate, prepare yourself, prepare your house, pack, get your family together, get gasoline, get cash, get medications, all of the things that people do to prepare to evacuate. That's represented in the response curve, and it begins with 12 hours. That means we start at 12 hours, and the evacuation clearance time for this Zone A, we know it's 22 hours, so we know it goes up from that 12 hours.

The queuing time is the delay. If it normally takes you an hour to get someplace, and that means you hit all the red -- all the green lights, and there are no stops along the way, it's an hour. But if you have to stop for traffic, if you have to stop for lights, if you have to stop for anything along the way, if you have to stop because there's a backup, that's queuing time, and that's added to the travel time. And that's that one hour we just talked about, that if it normally takes you an hour to drive the distance, that is the amount of time, and then you add to that all the queuing time at all the intersections, at every point along the evacuation route.

So let's look at that as a graphic. So the National -- let's go with the rapid intensification worst-case scenario. I recognize it's a worst-case scenario, but this is real. It has happened, it will happen again, it will happen more frequently.

The National Hurricane Center identifies a threat. From that moment to landfall is predicted to be 24 hours. So we need 22 hours to evacuate Zone A, and that's assuming it's only a Category A evacuation. If it's going to be a major hurricane -- which rapid intensification tends to get us to major hurricanes quickly, that means it would be a Category C or higher evacuation, which means we'd be using -- we would need a great deal more time to evacuate the entire population. But let's work with the 22 hours. We --

HEARING EXAMINER COLLINS: We're focusing on the island now or all of A?

MR. ALEXANDER: I'm talking about A, because A is -- the island is part of A.

HEARING EXAMINER COLLINS: Right, but A --

MR. ALEXANDER: They can't be --

HEARING EXAMINER COLLINS: -- is bigger.

MR. ALEXANDER: They're not safe until they get out of the Category A --

HEARING EXAMINER COLLINS: Out of A.

MR. ALEXANDER: -- evacuation zone, and it's going to take them a half hour longer to get off the island, and they still have to get out of the evacuation zone. So we need 22 hours of that 24 hours.

Now, let's look at what makes up that evacuation. Once the National Hurricane Center identifies the problem, they have to notify the Counties that, hey, you're going to get impacted. Then the County has to declare a state of emergency and develop evacuation orders, and then they have to issue that evacuation order. In a perfect world, that could get done in an hour, 15 minutes per task, and that's pretty quick. I've done a lot of evacuation orders and a lot of evacuation recommendations. It usually takes closer to two, sometimes more, remembering that the people who have the authority to declare an emergency and order the evacuation are elected -- senior elected officials, and you have to get them and educate them -- you have to get them down, get them on the phone, get them in the room, and get them to approve the evacuation and a declaration of emergency. So it can take a little longer, and sometimes you have stubborn politicians. I didn't say that --

HEARING EXAMINER COLLINS: Sometimes --

MR. ALEXANDER: -- out loud, did I?

HEARING EXAMINER COLLINS: -- you have what?

MR. ALEXANDER: I'm sorry.

HEARING EXAMINER COLLINS: What did you say?

MR. ALEXANDER: I said sometimes you have stubborn politicians that don't want to believe it could happen. We once spent over an hour trying to convince somebody that we had to evacuate.

Now, once we order the evacuation, we have time for the population to respond. Queuing time, travel time, I explained what those are. Then you have to have a margin of safety. You can't assume that you're going to evacuate up to the very minute the storms are likely to -- the winds are likely to arrive. If the -- and this is a number that changes with absolutely every storm. How fast it's moving forward, how far the tropical storm force winds extend out in front of the storm, all of those affect how fast it gets here.

HEARING EXAMINER COLLINS: So what is the safety margin now?

MR. ALEXANDER: The safety margin is you have to be -- you actually have to try and get the evacuation done before earliest arrival of tropical storm force --

HEARING EXAMINER COLLINS: Tropical storm.

MR. ALEXANDER: -- wind estimates that will come from the National Hurricane Center.

HEARING EXAMINER COLLINS: And that varies depending on how big, how fast.

MR. ALEXANDER: Right. We usually use a couple of hours -- you want to be done a couple of hours ahead of time, but you're not usually that precise because there's always -- it's a strengthening storm, I better have a larger margin of error, because if the storm is strengthening, it's getting bigger, and the winds are getting stronger, so they're going to get to you sooner. If it all of a sudden picks up forward motion, then they're going to get to you sooner. So you have to have that margin of error because you don't want to evacuate too late so people can't get out, because if they're on the road, the only place that's more dangerous is in a mobile home on the coast. It's very bad to be on the road in an evacuation when a hurricane hits.

Okay. So that means when the -- when the -- the arrival of tropical storm force winds, we're out of time. We should have evacuated everybody by then. That's this amount of time, not 24 hours. We only have a portion of that 24 hours. And in my example -- it was an example -- if we use the 12 plus hours, the 2-hour safety margin, a 3-hour earliest arrival of tropical storm force winds, the original hour from the

National Hurricane Center, you only have 18 hours to get everybody out, and it's going to take -- we know it's going to take 22. That means you will not be able to complete an evacuation in the time allotted. That's it.

This is a scenario that can happen. It has happened in other places in the world. Acapulco was given 24 hours' notice that a tropical depression -- tropical disturbance was going to hit them as a major hurricane. It did a little over 24 hours later. They were still evacuating tourists two days after the impact. It can happen, and it will happen. I can't tell you when, but it will.

In summary, the rezoning increases the population in Zone A. Allowing an increase in vulnerable population on barrier islands is knowingly allowing additional population in a vulnerable zone that may not be able to be evacuated safely. Knowingly allowing an increase in population that may not be able to be evacuated is contrary to the responsibility of local government, its own rules, and Florida Statute.

HEARING EXAMINER COLLINS: Okay, thank you.

Neale?

MS. MONTGOMERY: I do have questions. Do you want to start now?

HEARING EXAMINER COLLINS: Why wouldn't we?

MS. MONTGOMERY: Because it's 11:51 so I'm just asking.

(Sotto voce between Hearing Examiner and reporter)

HEARING EXAMINER COLLINS: Are you going to need till 12:30?

MS. MONTGOMERY: Maybe. It depends on how long it takes him to answer.

HEARING EXAMINER COLLINS: Okay. She can go till 12:30.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: Why don't we --

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: Understanding that you'll have an opportunity to address your points of disagreement with his conclusions during your rebuttal.

MS. MONTGOMERY: Yes. No, I do understand it, and I appreciate it.

Mr. Alexander, it's my understanding that the first time you ever testified as an expert witness was in Captiva Community Association versus Lee County; is that correct?

MR. ALEXANDER: Yes.

MS. MONTGOMERY: So this would be your second time testifying as an expert witness.

MR. ALEXANDER: Yes.

MS. MONTGOMERY: And your testimony was not accepted in the DOAH proceedings, and Mr. Trescott's was; is that correct?

MR. ALEXANDER: I don't know.

MS. MONTGOMERY: During that proceeding, did you have an opportunity to hear Rob Price testify?

MR. ALEXANDER: I'm not sure.

MS. MONTGOMERY: Okay. In those proceedings, you did an analysis. Did you do a similar analysis here?

MR. ALEXANDER: Yes.

MS. MONTGOMERY: Do you have a copy of that analysis?

MR. ALEXANDER: No. I already had the capacity of the intersection so all I had to do was do the calculation for the increased capacity traffic volume.

MS. MONTGOMERY: Well, and that's why I asked if you had the opportunity to hear Mr. Price, because what Mr. Price testified to is that he sits in the Emergency Operations Center in real time and can control all the intersections and lights, and he could make Summerlin -- all the lanes go off island. So did you hear any of that testimony?

MR. ALEXANDER: No, but I'm familiar with the operations of an intelligent traffic management system.

MS. MONTGOMERY: And are you also aware of the fact that, based on an agreement between the County and Sanibel, that the four-way stop is manned, and it moves way more traffic than it does in a four-way stop condition?

MR. ALEXANDER: Yes, but that's irrelevant. The clearance time for Category A is 22 hours. If you allow for the time for the population to exit the county and/or the evacuation zone, you can reverse engineer the amount of time the evacuation study is taking to clear the intersection by volume. 700 cars per hour would have to pass through that intersection in order for the population to evacuate the county. And I used the highest numbers for -- of evacuation population as possible because if I use lower numbers, it means that I would get a lower vehicle count, and I wanted higher vehicle counts to make sure that I was giving as realistic a number as I could. So I tied it back to the highest population numbers I could find.

MS. MONTGOMERY: Okay. But that number is significantly less than the amount of traffic the traffic expert for Lee County, Rob Price, testified could pass through that intersection. So you didn't look at that evidence?

MR. ALEXANDER: Again, those calculations would be

irrelevant because I just needed to normalize the statewide regional evacuation clearance time to the intersection so that I could determine the increase.

MS. MONTGOMERY: You mentioned Section 163.3178 several times. Does that particular statute apply to Comp Plan amendments and Comp Plans?

MR. ALEXANDER: It's where the coastal high hazard area is defined. It also sets the requirement for local government to adopt a Category 5 clearance time and maintain it.

MS. MONTGOMERY: And that doesn't have anything to do with, I don't think, the required base flood elevation in the standard building code or the FEMA regulations, does it?

MR. ALEXANDER: They are completely different subjects, but the coastal high hazard area definition does tie back to construction standards.

MS. MONTGOMERY: They are completely different, and the engineers that testified -- who are experts in that field testified that they have to rely on the FEMA elevation requirements and the standard building code elevation requirements.

HEARING EXAMINER COLLINS: This is rebuttal stuff. You know, you've argued back and forth. Ask your question. Save that for your rebuttal.

MS. MONTGOMERY: Thank you. I know you're hungry. I'm trying.

HEARING EXAMINER COLLINS: I know you disagree with him, but, you know, save it.

MS. MONTGOMERY: Okay. You challenged Mr. Trescott's testimony and said that he didn't use the 100 occupancy. Were you here when Mr. Trescott testified?

MR. ALEXANDER: I read the report.

MS. MONTGOMERY: But you didn't hear his testimony?

MR. ALEXANDER: Yeah, I believe I did.

MS. MONTGOMERY: Mr. Trescott testified that he used 100 percent occupancy because that's what the State requires, but that based on actual data of occupancy rates, it overstated the evacuating population by anywhere from 40 to 60 percent.

MR. ALEXANDER: I believe I was contesting his statement that Andrew Sussman told him that you don't use 100 percent in the evacuation study, and that is incorrect.

MS. MONTGOMERY: Okay. We'll let his testimony stand for what he said.

Okay. You indicated in your testimony, I think, that for the base scenario you do use full occupancy,

even if that overstates the impact; is that correct?

MR. ALEXANDER: For the base scenario you use 100 percent of the occupied dwelling units and 100 percent of the hotel/motel capacity.

MS. MONTGOMERY: And you may not know because you're from North Florida, but do you have any data on the actual occupancy during the summer in Southwest Florida?

MR. ALEXANDER: Only the stuff I saw from Mr. Trescott.

MS. MONTGOMERY: So you didn't do any independent analysis?

MR. ALEXANDER: The Statewide Regional Evacuation Study requires that you use 100 percent of the capacity and 100 percent of the development proposed capacity to do the analysis; so that's what I did.

MS. MONTGOMERY: I understand.

You have a table, and it was up on the screen for a while, and it says -- and there's a note at the bottom of it about this is experimental methodology. What does that mean?

MR. ALEXANDER: I believe I mentioned during the latest update of the clearance times, the behavioral analysis inputs for -- for destination travel for evacuees was based on cellphone data from two

hurricanes that was obtained and used to track where the -- where the cellphones went. And we cannot repeat that methodology, and there were serious concerns raised about using it in the first place.

MS. MONTGOMERY: Okay.

MR. ALEXANDER: And I don't believe they will be using it again.

MS. MONTGOMERY: Okay. You talked about behavior and that you had a commission, perhaps, that was reluctant to advise people to evacuate. Southwest Florida is -- do you have any data that acknowledges the fact that people who have been through, for example, Charley behave differently after that storm than they did, perhaps, before that storm in terms of leaving well before the official notice?

MR. ALEXANDER: Yes, behavioral analysis has a great deal of information about experience response of citizens; and there may be a brief period of time after a hurricane that the population will be more responsive, or less responsive, depending on their experience. If they left and evacuated for a period of time, and came home and had zero impacts to their home, they would be less likely to evacuate. If they evacuated, and their homes were devastated, they would be more likely to evacuate. But with the passage of

time, the human behavior reverts back to the normal -- or the standard, as the general response model provides.

MS. MONTGOMERY: Well, I remember -- I don't remember whose testimony it was now, but one of the folks from Sanibel who said that basically everybody's homes out there were impacted. So wouldn't you assume that for those people who remain in residence during storm season, that they would leave as early as possible, based on your behavioral --

MR. ALEXANDER: I believe that they would be -- they would be responsive to the evacuation order within the confines of the behavioral analysis, yes, and so that they would evacuate as I described in the example.

MS. MONTGOMERY: And are you aware of the fact that -- at least in Lee County that you get notices on your phones about impending storms?

MR. ALEXANDER: Yeah.

MS. MONTGOMERY: And --

MR. ALEXANDER: That's pretty -- pretty common throughout the state at this point.

MS. MONTGOMERY: Okay. And that the NOAA website is available to everyone, and we can all watch the cones of influence and the direction of the storm, the speed of the storm, and all those things without

somebody telling us to do that?

MR. ALEXANDER: I'm aware --

MS. MONTGOMERY: In other words, you have that information available.

MR. ALEXANDER: -- I'm aware you can -- that information is available, but I am also aware that people ignore things like tropical disturbances and tropical depressions that don't have any particular path assigned to them.

MS. MONTGOMERY: I'm going to ask you a question, and it's going to seem unrelated, but it's not.

How long does it take you to get from Lee County to -- you live in St. Johns so let's just say Ponte Vedra?

MR. ALEXANDER: About five hours.

MS. MONTGOMERY: You're good. I evacuate to Jacksonville. It normally takes me five-and-a-half to five-and-three-quarter hours to get from here to there. I've evacuated every storm since Charley, and I can get there under five hours because of the way they change how you can travel on the roads, and people leave early.

So to say that you're going to get stuck, and you can't move isn't necessarily always borne out by reality, which goes back to the fact that most local

governments now are working to expedite to get people, by road improvements and other things, out of their community.

MR. ALEXANDER: I'm sorry, but nothing you just said is supported by behavioral data that has been collected over the last 40 years. That's the assumptions and the results of your particular travel time. Furthermore, clearance time, once you leave the county --

MS. MONTGOMERY: I understand --

MR. ALEXANDER: -- that's being evacuated, it's no longer calculated because those counties aren't in the evacuation.

MS. MONTGOMERY: And I do understand that, but just -- but just to make a blanket statement that you're going to be stuck is not necessarily true, depending on when you leave.

MR. ALEXANDER: I don't believe I made that blanket statement.

MS. MONTGOMERY: In your letter to the Hearing Examiner, you mentioned the Statewide Regional Evacuation Study program; but, again, you didn't -- you did an analysis previously for the DOAH proceedings, but you didn't provide an analysis here?

MR. ALEXANDER: It required one calculation. I

didn't see the need to develop a full table. I needed one number divided by another number to get the 30 minutes; so there was no need to -- to do any further work. I'd already normalized the clearance time for the evacuation study to a single point, and the point is the same.

MS. MONTGOMERY: Well, I read your -- I tried to speed read your letter while you were talking so -- and it's like every paragraph attacks Mr. Trescott, but I don't see the data that supports your conclusions. So can you tell me where in this document the data that supports your conclusions is located?

MR. ALEXANDER: I made references and attached the relevant documents to each one of my references, and there's footnotes to other pieces of information that can be tracked. And everything else is from the evacuation study itself, and you're welcome to look it up in the evacuation study or believe me, that I know what it says in the study since I wrote it.

MS. MONTGOMERY: So you're talking about the methodology in the study, or are you talking about an actual analysis of this property?

MR. ALEXANDER: The analysis of this property is a matter of -- is an increase in the population. That was simple. Now the question is what does that mean.

MS. MONTGOMERY: Okay. I'm looking at your letter, and I don't see that analysis attached. So where is it attached?

MR. ALEXANDER: I'm not sure which analysis you're talking about.

MS. MONTGOMERY: The one where you had to make one adjustment, and that's the basis for your conclusion.

MR. ALEXANDER: The formula is outlined in the -- in the paragraph.

MS. MONTGOMERY: Okay. You attached a letter from -- I think it might have still been DCA at the time. I don't know if it was DCA, Commerce, or -- it was DCA.

So you attached a letter from Charlie Gauthier from 2010. I'm trying to understand what the relevance of that letter is.

MR. ALEXANDER: When developing the methodology for the evacuation study, I used that letter to make determinations regarding who was included in the base scenario and to what extent.

MS. MONTGOMERY: Okay. But you also testified, if I understand correctly, that in the last 15 years the computer programming and the technology has been significantly improved. Is that a fair statement?

MR. ALEXANDER: I said what again?

MS. MONTGOMERY: Okay. You said you used this 2010 letter to evaluate, I think, your study. But I thought you also testified that with the TIME and some of the other things, that there have been improvements in software and programs in the last 15 years since this 2010 letter.

MR. ALEXANDER: The 2010 letter was used to create the methodology on what would be included in the base scenario. The computer technology that has changed since 2010 includes foundation software like updating Windows. It doesn't change the software that we're using. It just runs it faster.

MS. MONTGOMERY: Okay. But don't we have better data now than we did in 2010? If we don't, that's fine. I'm just trying to determine if we do.

MR. ALEXANDER: The methodology for collecting data for hurricane evacuation is largely unchanged, and any changes were based on changes in population -- population data. We computerized how to get the population data from the American Community Survey so less of it had to be done by hand, if that's what you're talking about. The data itself gets updated on a regular basis. Every time you run a TIME model, the first thing you do is update all the data.

MS. MONTGOMERY: So in your analysis, you

submitted that improvements in the evacuation network was irrelevant --

MR. ALEXANDER: I don't believe I ever said that. I believe I said the improvements to the evacuation network slowed the rate of increase of the clearance time.

MS. MONTGOMERY: That might have been what you said, but it gets a little more pointed and derogatory in the letter. Yeah, here's what you said: "Past road improvements to evacuation routes on the mainland do not address the impacts of increased development on Sanibel - Captiva." And then you go on. But in your Comp Plan analysis, you point to and read from Objective 73.1 on evacuations, and what that objective said is "work towards," and that would be the County working toward obtaining out-of-county hurricane evacuation for a Category 5 storm event that does not exceed the time frame evidence in the statewide model, and here's how Lee County is supposed to do it. Lee County will work to improve clearance times by increasing shelter availability, which they have done, improving evacuation routes. So regardless of where the evacuation routes are, improving them, avoid bottleneck, and the County is doing that; and increasing public awareness and citizen preparedness,

and the County does that.

So you've submitted we're not consistent with that, but it's not applicable to a zoning application. It's applicable to the County, and the County is doing those things. Do you have any evidence that they're not doing what they said?

MR. ALEXANDER: No, I don't.

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

HEARING EXAMINER COLLINS: Okay, thank you.

We are going to break for lunch. We will resume at 1:00 -- let's try to resume at 1:15 -- 1:30, we'll resume at 1:30. I got the glare from the court reporter, and she's very important to all of us, so 1:30.

Thank you, sir.

MR. ALEXANDER: Thank you.

(Recess from 12:11 p.m. to 1:27 p.m.)

HEARING EXAMINER COLLINS: We are in the public input portion of the hearing, starting in the afternoon with Lisa Riordan. Thank you.

MS. RIORDON: Thank you. My name is Lisa Riordan. I own a home in the village area of Captiva and live there approximately eight months of the year. I also owned a condo at South Seas Bayside Villas prior to

purchasing my home in the village.

I was a member of the Bayside Villas Condo Board Association for eight years, and served as its president for six years. I am a member of the Captiva Civic Association, which I will refer to as CCA throughout my testimony. I currently serve on the CCA Board of Governors, and have since 2015. I currently serve as its president, and I am chair of the Land Use Committee.

I will have a number of exhibits that I would refer to, so if I could --

HEARING EXAMINER COLLINS: Yes, please.

MS. RIORDON: -- present them to you?

HEARING EXAMINER COLLINS: You want to walk me through what they are?

MS. RIORDON: Sure. They are the Charter for Captiva Civic Association.

HEARING EXAMINER COLLINS: Okay. Let me have that. I'll mark it as you go.

MS. RIORDON: Okay.

(Riordon Exhibit 1 submitted.)

HEARING EXAMINER COLLINS: This is --

MS. RIORDON: Ignore the exhibit numbers (inaudible).

HEARING EXAMINER COLLINS: All right. This is --

MS. RIORDON: This is the Charter for the Captiva Civic Association.

I have copies for you, Ms. Montgomery, and County Staff, as well.

HEARING EXAMINER COLLINS: Okay. This is Riordan Exhibit 1.

MS. RIORDON: I have a copy of the CCA membership list.

(Riordon Exhibits 2 through 4 submitted.)

HEARING EXAMINER COLLINS: Okay. We'll call that Riordan Exhibit 2, CCA membership list.

MS. RIORDON: Yes, and you should have that in that clip.

HEARING EXAMINER COLLINS: Oh, is this whole bundle the whole thing?

MS. RIORDON: Yes.

HEARING EXAMINER COLLINS: Okay, thank you. And the next?

MS. RIORDON: The next is the CCA Mission Statement, together with the CCA Mission Objectives and the CCA Land Use Policy.

HEARING EXAMINER COLLINS: Okay. This is Riordan Exhibit 3, and it's a composite exhibit.

Okay. And --

MS. RIORDON: Then I have a heavy traffic advisory

dated February 25, 2025, from the City of Sanibel.

HEARING EXAMINER COLLINS: All right. And that will be Riordon Exhibit 4.

And is that everything?

MS. RIORDON: I have a number -- maybe 84 agent authorization forms, also which have personal statements attached, but I'll wait till the end of my presentation to deal with them.

HEARING EXAMINER COLLINS: Okay. And you're speaking on their behalf?

MS. RIORDON: Yes.

HEARING EXAMINER COLLINS: Okay. So that will be your Exhibit 5.

MS. RIORDON: I will present the whole document to you.

HEARING EXAMINER COLLINS: And that's also a composite because I imagine it's several pages; right?

MS. RIORDON: Yes, many pages.

HEARING EXAMINER COLLINS: And you will submit that at the end, you say?

MS. RIORDON: Yes, please.

HEARING EXAMINER COLLINS: Okay. I'll have the tab ready when you submit it.

MS. RIORDON: Thank you.

HEARING EXAMINER COLLINS: And thank you for

having copies.

MS. RIORDON: My pleasure.

CCA was a not-for-profit corporation on Captiva. Was founded in 1936, incorporated 1959 for the benefit of the citizens of Captiva. It built its first civic hall building in 1961.

CCA is a membership organization with a 2024 membership of approximately 430 individuals and commerce members. Our charter and membership lists have been entered as exhibits.

CCA's voting members live, own property, or own or work at a business or organization on Captiva. A substantial number of Captiva's members live or own property on, adjacent to, or close to the 120 acres involved in the rezoning application.

Focusing only on our Captiva members, approximately 49 CCA members own property within South Seas. Members own at Bayside Villas; South Seas Villas, formerly known as the Tennis Villas; Land's End Village; Beach Villas; Beach Cottage; Gulf Homes; Marina Villas and timeshare properties, as well as private homes that are close to the Applicant's 120 acres.

Other CCA members own property distributed broadly throughout Captiva. Approximately 150 CCA members own

property in the village area of Captiva, within a quarter to one mile from South Seas.

HEARING EXAMINER COLLINS: Excuse me. Can you help me understand what the village area is of Captiva --

MS. RIORDON: Sure.

HEARING EXAMINER COLLINS: -- because I'm not familiar.

MS. RIORDON: Sure. If you are on Captiva, people refer to it in three different areas. The area when you first come on Captiva from Blind Pass is the estate area in the zoning. Some people refer to that as the Gold Coast. When you come all the way down Captiva Drive, you get to the first curve. As you go around that curve, that area to the next curve is called the Tween Waters stretch, and that's because Tween Waters sits smack-dab in the middle.

HEARING EXAMINER COLLINS: Okay.

MS. RIORDON: When you come around that curve, you're then entering into the village area.

HEARING EXAMINER COLLINS: All right.

MS. RIORDON: Okay? And that takes you up to South Seas.

HEARING EXAMINER COLLINS: Okay. So is the Andy Rosse Lane corridor part of the village area?

MS. RIORDON: Yes, yes, that's where the only stop sign in Captiva is located, in the -- on our village and on --

HEARING EXAMINER COLLINS: Thank you for that --

MS. RIORDON: -- and on Andy --

HEARING EXAMINER COLLINS: -- clarification.

MS. RIORDON: So I said approximately 150 members own property in the village area within a quarter to one mile of South Seas, and approximately 75 members own property on Captiva Drive located anywhere from one to two and a half miles from the resort. Additionally, CCA has ten commerce business members on Captiva in the village area.

CCA owns and operates the Captiva Civic Center. It owns the Captiva library building, which is leased to the County and houses the Captiva Memorial Library, which provides library services for Captiva. CCA also owns an historic single-family home which it leases to the Lee County Sheriff's Department as a residence for a deputy sheriff and his family.

CCA and its civic center play a major role in the Captiva community. The civic center is the location used for social events, educational and music programs, art shows, County library programs, HOA, condo and community meetings, and the Captiva Community Panel and

the Captiva Erosion Prevention District hold their meetings there.

In times of emergency, such as after a hurricane, CCA Civic Center has a generator and is able to provide air conditioning, Starlink access, shower and laundry facilities, and food and water for Captiva residents, business people, and first responders. We most recently provided the community with access to these services after Hurricane Milton.

CCA's mission is simple: The preservation of the quality of life, ambience, and environmental integrity of a unique barrier island community. We have mission objectives which further describe our work, including working to provide information relevant to the issues of development density, island environmental integrity, and our community's quality of life.

We work to ensure adequate evacuation capability and to prevent increasing road congestion.

CCA has a standing land use committee authorized to monitor land use decisions that impact Captiva's environment and the quality of life.

CCA's land use policy provides that CCA, in accordance with its mission, shall work with governmental authorities, property owners, and other associations to maintain the strict limits on density

and height as currently stated in the Lee County Comprehensive Plan, and to oppose any exceptions sought through the variance process. And also to strictly enforce zoning and other regulations, including those which have the effect of limiting traffic and excessive noise.

I've also provided you with an exhibit of our mission statement, the mission objectives, and the CCA land use policy.

CCA takes this responsibility very seriously, and over the past 70 years has made its position known on numerous proposals affecting our community; and, when necessary, has brought legal action on behalf of its members to accomplish its mission and purpose.

Among those actions is a lawsuit that was settled in 2003 between Lee County and CCA. It confirmed the cap of 912 residential and hotel units on South Seas. That settlement states, quote, the total number of dwelling units on South Seas Resort is limited to 912. No building permits will be issued by County for dwelling units within South Seas Resort that will cause that number to be exceeded at any time, closed quotes.

Prior to that, CCA successfully proposed and advocated for the 1982 Lee County ordinance that amended the CCA section of the Land Development Code to

downzone permitted development on the rest of Captiva to 3 units per acre for both dwelling units and hotel rooms, which remains in effect today.

When the ordinance changes that have led us to this zoning hearing were introduced in 2023, there was an immediate outcry from the Captiva and Sanibel communities that extended far beyond our CCA membership. The community reaction led to the creation of Protect Captiva, a coalition of thousands of island residents, businesses, community organizations, and visitors who are opposed to the changes. That coalition has continued to grow in opposition to the Applicant's proposal before you. These are people who know this unique community, and the effect these changes will have on it.

Madam Hearing Officer, the request before you directly affects CCA and its members and should be denied. Our members are affected:

One, by increasing the density and heights in buildings near their homes, and by changing the character of the island from low-density and low-height buildings. Captivans pride themselves on having an island where many trees are higher than the buildings. This unique character of Captiva are why people from all over the world come to visit here.

They affect us, two, by increasing the use of the already congested and ofttimes dangerous conditions on Captiva Drive and Andy Rosse Lane in the village, thereby reducing public safety.

The Applicant suggests that its resort will become exclusive, with very little integration with the Captiva community. That is just not accurate. Anyone who lives on Captiva knows that. South Seas visitors constantly use their cars and rental golf carts to visit the village, its shops, and restaurants. Families and children and teens from South Seas are constantly on bicycles riding into the village, as well as throughout the rest of the community, and the community has always welcomed them to do so. Many visit the library, the historic Chapel by the Sea, and our historic cemetery. And this new notion of separation and exclusivity is not only unlikely and unrealistic, it's just not what visitors to our island do. Visitors come to Captiva and South Seas to see more than South Seas, and trust me, visitors to South Seas are going to continue to visit with their cars and/or golf carts to the Ding Darling Wildlife Refuge, the Bailey-Matthews Shell Museum & Aquarium; they're going to take Captiva cruises, partake in parasailing off Andy Rosse Lane and other attractions, as well as

visit the world-famous restaurants Mucky Duck and the Bubble Room, as well as the other wonderful shops and restaurants on Sanibel and Captiva. How will all these additional cars, bikes, and golf carts fit on our one-lane-in-each-direction roads without an increased threat to public safety?

We are also affected because there are no sidewalks on Captiva. Our single-lane road is an area where cars, bikes, golf carts, baby strollers, and pedestrians, both adults and children, all converge to either drive or walk to their destinations. We will be affected because the area on the south end of the resort, where they want to put one of their hotels, is already a very congested area. South Seas retail shops are on one side of the road there. The Captiva Post Office is there, and it's almost directly across the road from the South Seas entrance where they propose a hotel will be located.

There is no home or business mail delivery on Captiva. Everyone has a post office box assigned to them at the post office. So to get your mail every day, one must either walk or drive to the post office. Is anyone looking at the effect a 210-unit hotel at that location will have on the vehicular and pedestrian traffic there? Again, it's an increased threat to

public safety.

These proposed changes will affect us by increasing the parking issues on the island. There is no on-street parking on Captiva. As I stated earlier, many visitors to South Seas do not stay inside the resort throughout their visit. They rent golf carts, walk, or take their own cars into the village areas to go to shops and restaurants. Where are these additional golf carts and cars going to park?

These proposed changes will also affect CCA's members by increasing demand on the public services provided by police and fire departments.

At previous hearings before the County Commissioners, we heard testimony that our fire department will need a new ladder truck at the cost of approximately $1.5 million to reach the new heights of buildings being proposed.

The proposed changes also threaten public safety by increasing evacuation times and with greater amounts of traffic to and from the island.

Drive times getting off the island and over the Sanibel Causeway exceed one hour and 45 minutes many days without an emergency and without added traffic from increased numbers of units on the resort.

Let me share with you, Madam Hearing Officer, how

Captiva residents and CCA members manage the traffic and related public safety issues on the island today, and why density or intensity of use cannot be increased.

When needing to go off island, if it is at all possible, Captiva and Sanibel residents go in the morning. One cannot leave Captiva after 2 p.m. in the afternoon without sitting for over an hour in stop-and-go traffic for several miles.

Coming onto the island is the reverse. You try to avoid the morning because the backup getting onto the island is the same, more than a one-hour wait, as getting off is in the afternoon.

CCA's director lives in Iona, not far from the Sanibel Causeway. This past Tuesday it took her almost two hours to get home, a distance of 22 miles. This is not unusual. It's just Tuesday afternoon on Captiva and Sanibel.

The City of Sanibel regularly issues heavy traffic advisories to the community. This past Monday, February 25th's advisory states in part, and I quote, the City of Sanibel is issuing a heavy traffic advisory for every afternoon and early evening this week so residents can plan their travel accordingly, unquote.

It further states, quote, we expect heavy

vehicular traffic on island each morning this week. Motorists should expect substantial traffic delays exiting the island every day this week and into the early evening.

I have provided you with a copy of that most recent advisory.

How is adding additional vehicles to the roads not a public safety threat? In the event of an emergency, a need to get to a hospital, which many residents worry about, how do we safely get off the island with even more vehicles on our single-lane road?

This serious traffic situation and threat to public safety is already very difficult for island employers and their employees who live off island. You've heard employers appearing here earlier in the hearing share some of that information with you.

CCA is one such employer. We have had employees indicate that they would be looking for work off island in the future because of the traffic situation and the safety problems it creates. And we are not alone. Employers on the island often pay premium rates to try to keep employees.

To add additional vehicles would also make evacuation -- which may not have been thought about not too long ago, but after three hurricanes in two years,

is now on everybody's mind. It would make it that much more dangerous and difficult. Why would anyone want to do that?

Madam Hearing Officer, you've said that you plan a site visit to South Seas. I ask you, when you make that site visit to South Seas, please go during the week, and drive on island in the morning and leave Captiva after 3 p.m. so you can understand what we already face every day. It is very hard for many to fathom that we are not exaggerating this situation. So please go at these times so that you know why this is such a -- this is of such a serious concern to the community.

As I have listened to the presentations made by the Applicants through their attorneys and expert witnesses, and also the presentation by County Staff -- and I hope what you will consider, Madam Hearing Officer, is what appears to me to be missing. What is missing is common sense. The Applicant claims there is no historical development pattern on South Seas. After listening to what the history of development has been, both inside and outside the gate of South Seas, how can one even question that the historical development pattern on South Seas is not 3 units per acre? It has been that way for over 50 years and followed by

previous owners, but now we're all being told to ignore that history because the new owners say so.

What does 50 years of history mean if not the historical development pattern? It seems like there's no common sense in that interpretation. We just don't understand what the County could be thinking. And how does one eliminate or deviate from the required buffers between the new water park and the South Seas Villas, formerly known as Tennis Villas? How is that possible? There's no common sense in not putting a buffer between any residential building and a water park. The required buffers that are in the Lee County Code are there for a reason.

I heard the Applicant argue that there were tennis courts at that location before; and, yes, there were. But, again, it doesn't take much common sense to know that the noise generated from a water park, with pools and slides and everything that makes a water park a water park, is going to be much greater than the noise at the old tennis courts.

And at what point do the non-Timbers owners inside the gates of South Seas and the Captiva community get the same consideration as Timbers has received?

How did the County possibly approve the Beach House restaurant in its current location? How was

there no common sense applied when the building plans and DOs were issued to place that restaurant smack-dab on the edge of a 30-foot access easement without any room for the required and necessary buffer between the restaurant and the access easement? And speaking of that restaurant, again, common sense appears to have been totally missing when approvals were given which allowed the restaurant to be built so close to Plantation Road that the corner of the roof actually hangs over the road. How did that get passed, the first County Staff person to review it? How is that possible? No one else is permitted to build a building with a roof hanging over the road. Why is it okay for this developer to do so, and why is that building still standing there?

And how do County Staff recommend an application where there may not be enough sewer availability for the increased development on a barrier island? Again I ask, how is that possible?

Where is the common sense that should go along with all of these decisions? To me it seems to be very seriously lacking.

And I also have to ask, why is this Applicant applying for a deviation to fly a 96-square-foot flag at the entrance to the resort? That very large flag is

already there and has been there for weeks. It doesn't matter to the Applicant that they don't have any agreement from the County to do so. They've already put it in place without any regard for what they are permitted or not permitted to do.

In closing, Madam Hearing Officer, I want to reiterate that our islands have been devastated by three hurricanes in two years. The congestion and public safety issues on our single-lane road are beyond serious. We have been lucky so far, but it's only a matter of time before there is a deadly consequence to not being able to get off the island in the event of emergency, be it an evacuation due to a coming storm, or a fire, or being delayed in getting to a hospital or a doctor.

Putting more units, cars, and golf carts on Captiva now, after three hurricanes in two years, and understanding the serious consequences of doing so not only defies common sense, it will put people's lives at risk in case of an evacuation.

Someone in this process has to use common sense and do the right thing. This application must be denied for all of these reasons.

I thank you very much, Madam Hearing Officer, for having me speak.

I have -- additionally I have 84 agent authorization forms, all notarized, naming me as agent. 72 of those people have also provided personal statements for the record. And while understanding that time is a concern for everyone, I feel that I must read from some of these statements since these people took the time to write them, go get a form notarized, and send it to me to do so. It's not my intention to read all of them, certainly the ones that are repeating what people have said previously; but I would at the very least also like to read the names of these people into the record. I will also provide you and the court reporter and the County a copy of the list of everybody's names.

HEARING EXAMINER COLLINS: Okay. This list of individuals and their personal statements will be Riordan Composite Exhibit Number 5. I will read the statements that are attached to the affidavits. I just want you to understand that I can give them only so much weight because that testimony is not subject to cross-examination. But I will read them, and I do read all the things that get submitted.

MS. RIORDON: This is -- this is the list of everyone's name. There are two names that are crossed off -- can you hear me?

MS. MONTGOMERY: Sometimes, yeah.

HEARING EXAMINER COLLINS: Okay. Two names have been crossed off this list.

MS. RIORDON: That's because both of those gentlemen are now available to speak personally so I'm no longer going to do representation.

HEARING EXAMINER COLLINS: Understood.

(Sotto voce between Hearing Examiner and reporter)

MS. RIORDON: The first one is -- I've done these alphabetically to make it easier.

The first one is Kathryn Allen, who owns at South Seas Club and South Seas Cottages in South Seas. She speaks to the increase in density and building heights in violation and the understanding -- it violates the understanding that she had regarding density and building heights and open space and property rights when she purchased. There are a number that also make that claim.

The second one is Edward Angell. He did not have a personal statement.

Larry Fearfield, who lives on Laika Lane, again, in the village also speaks to density, building heights, and how the -- his concern is dramatically increasing evacuation times.

Michael Bennett is the owner of a property on

Captiva Drive in the area that I refer to as the Tween Waters stretch. He has asked me if I could read this.

He says as a property owner and resident, I'm very concerned that added density will obviously strain critical resources, such as utilities, fire, police, et cetera.

I'm very concerned that added traffic will diminish our safety and quality of life and negatively impact property values.

I am concerned that noise from a water park next to Captiva Drive will be a nuisance. I also believe that added density is an unnecessary risk, especially when there's no benefit to the current community. Timbers' approach is to provide absolutely everything to their guests, from food to golf carts, as well as create a virtual rental monopoly against property owners inside their gates. This is their right as a business, but creates no added value or benefit for businesses on Captiva and Sanibel, and certainly none for the residents.

Timbers knew the existing limitations for densities, what they were when they purchased the property. They should move forward under those restrictions, rather than impose further risk and strain on the community.

Tony (sic) Bergin, who lives on South Seas --

HEARING EXAMINER COLLINS: Is that Troy or Tony?

MS. RIORDON: I'm sorry. Troy Bergin lives on South Seas and speaks to density and the effects.

Also, Mark -- it's hard to read some of this writing -- Bodenheim also lives on South Seas, and in part his statement says, the rezoning application increases density and building heights in violation of the Lee Plan, which was in force for over 40 years, and then he goes on to speak on that issue.

Michael and Patricia Boris, who own at Sunset Captiva, which is in the village area. It's a condominium and home complex right -- just to the south of Andy Rosse Lane. They both speak to increased density, building heights, worrying about the expense of -- the detriment to the environment, water quality, and wildlife habitat.

Lynn Brescia does not have a statement.

Denise Brunkow also owns at South Seas. She repeats the concerns of density and promises that were made to be able to use the amenities when she purchased her property.

The same with the next person, Catherine Buczek, also lives on South Seas, and makes that same claim, as does Dennis Buczek, also owning on South Seas.

Donald Scott Carr lives on South Seas, and, again, makes those similar types of concerns.

Anne Cashine -- and there's an "I" missing. Her name is C-A-S-H-I-N-E. My typo, sorry. She has a timeshare on South Seas. She is a 45-year visitor to Captiva, and has owned on South Seas for many of those years and is strongly opposed.

The next one, Wendy Childers, does not have a statement, nor does the next two, Frank and Mary Cirino.

For everyone who does not have a statement, I will just voice their opposition.

The next person, John Clappison, also owns on South Seas. He talks about some of the very same issues.

As does James Coffrin, who also lives at South Seas; as well as Stanley Creel and Beth Crimmins, who also live on South Seas; as does Samuel Dillard and Lisa Doria.

David and Kathy Ferrari do not have a personal statement.

Pamela Gibboney also lives at South Seas -- owns property at South Seas, sorry, and makes the same concerns known about what they were promised when they bought for use of amenities, as well as having low

density and low heights in their community.

Robert Gillette also owns at Tennis Villas at South Seas. He is concerned, as well, on some of the same things that the other folks at South Seas have expressed concern about.

As is Ruth Gorman, who is a timeshare owner of eight weeks a year. She's concerned about the increased development at the expense of the environment, including water quality, wildlife habitat, and making -- undermining the quality of life and making travel on the island for residents and employees of the island and guests difficult, burdensome, and unsafe.

Julia Grant does not have a personal statement. Julia lives in the village on Wightman Lane, so about a half a mile from the resort.

Ted Hilton also owns a timeshare on the resort, talks about increased evacuation times on the one road in and out in case of a hurricane, and threatens public safety on both the islands.

As does Anthony Huffert, who also has a similar statement. He has resided or owned property in the Fort Myers area, but he also owns a timeshare on Captiva at the Plantation Club, and he says it violates long-standing understandings concerning building

density and height, open space, and property rights relied upon when I purchased the property.

The next person -- I hope I don't butcher her name -- Stacey --

HEARING EXAMINER COLLINS: Kacoyanis.

MS. RIORDON: -- Kacoyanis, she owns property at the Cottages at Plantation Beach Club. She's been an owner, with her husband, since 1992. That property is on South Seas. She speaks to the density and building heights concern.

Eugene Kuchner also speaks to the same.

Jeffrey Kupper is an owner of property on -- at the Beach Club on South Seas, also has those similar concerns, as does Michael Kruse.

Oh, I misspoke. Jeffrey Kupper does not live on South Seas. He lives at 53 Sunset on Captiva, which is located in the village.

Mary Patricia Ladner is the owner of more than one piece of property out at South Seas. She speaks to zoning and height concerns and violations and public safety.

The next person, Susan Lenfestey, also owns out at South Seas and speaks to the increase of traffic and making travel unsafe and undermining the quality of life on the island.

Robert Lesser owns a number of weeks of timeshares on South Seas and speaks to the same issues as the previous person.

Michael (sic) Levatich is an owner of property on Sanibel, on Joewood Drive. He says the rezoning application violates the clear and unambiguous terms of the Lee Plan, which requires the County to maintain the historic development pattern on Captiva, including density and building heights. He also talks about increased traffic on both Sanibel and Captiva.

The next one is Carol and Robert Lloyd, it's notarized together, and also their statement is together. Mr. Lloyd and Mrs. Lloyd speak in favor of the position of CCA in this matter. He says the zoning application violates the understanding of density, building heights, open space, and property rights; and then he speaks to the Circuit Court decision, and he's also questioning the wastewater utility services that are available, and refers to the letter from FGUA dated May 23rd, 2023; and for many reasons, including the safety of the people who reside in or visit Captiva, as well as many inaccuracies in the Lee County Staff's statement, in his opinion -- he is opposed, as is his wife, Carol.

Next one, Janile Martin, also owns a timeshare at

South Seas. She is concerned about the one road on and off the island, increased density, high evacuation, and damage to the natural beauty and ecology of Captiva.

Rafael Martinez also owns at South Seas Resort. He is opposed, again, refers to increasing density and heights.

John Mason of Old Lodge Lane in Captiva, which is in the village, does not have a statement, but he has expressed to me how he is so opposed to this.

Edward McDonald is an owner of real property on North Captiva, and he has not provided a statement but is opposed.

David McLendon is a timeshare owner. His objections are similar to ones I've already expressed; as is the co-owner, Shirley McLendon, of that property.

Robin Miller is an owner on Sanibel, and she is opposed to the increases. She's concerned -- she's a full-time resident. She's concerned in the decrease in water quality, possible water scarcity, destruction of habitat, and deadly harm to wildlife; public safety threats of increased traffic making evacuations more difficult, and thereby reducing the general quality of life on the islands.

The next one is John Miseroy. He's an owner of real property on Sanibel, on Coquina Drive. He says,

we are against the increase in residential units. We are -- and they are comfortable with me speaking against on their behalf.

Richard Montaner is next. He owns property at the Cottages at South Seas and speaks of density and height issues.

The next person, Robert Moore, is a resident at Wild Lime Drive in Sanibel. He's asked me to read this to you.

My name is Bob Moore. I am a Sanibel resident. I also serve as cochair of San-Cap Resilience. San-Cap Resilience is a coalition of citizens and 15 local organizations based in both Captiva and Sanibel established on the heels of Hurricane Ian. Its mission is to lead a community-based initiative to build resilience and protect the vibrancy of our sanctuary islands long into the future.

The purpose for the founding of this group was to support citizens and businesses to rebuild in ways that increase resilience to future storm and other climate-driven events and to complement government-led resiliency efforts by providing community-based feedback to guide the planning.

I am here to ask that you deny the Timbers' zoning motion for South Seas Resort, and to direct them to

build within the 912-unit limit they knew was present when they purchased the property. Increasing density on a fragile barrier island simply does not make sense for resilience or community safety.

The proposed changes are also in violation of the Lee Plan, which requires the County to maintain the historic development pattern. The proposed changes would increase vulnerability to storm damage, stress on critical infrastructure and water quality and health, making it difficult, if not impossible, to effectively manage runoff waste on Captiva.

Jeff Morgan is an owner of a private home on South Seas. He and his wife own a home there and have since Jeff was a little boy. He's been a resident on the resort for more than 50 years. He objects to the zoning application regarding his concern for density and building height violating the Lee Plan; again, not maintaining the historic development pattern. He's concerned about the traffic and public safety, as well.

Donna Peake expresses those same concerns. She owns at South Seas, as well.

Erick Ponder -- Ponader, rather, is a resident of Sanibel. He speaks to concerns of the density and building heights violating the Lee Plan. He's concerned about increase in evacuation times on the one

road, and the detriment to the public safety as a result of increased numbers of vehicles.

John Potts also owns at South Seas, and he, together with his wife, Karen, have the same concerns about violations to the Lee County plan.

Pam Rosen is an owner of real property on Old Lodge Lane in Captiva, which is in the village. She is concerned about the change that will come to Captiva as a result of this, and would like the Hearing Examiner and the County to maintain what we have today.

Douglas Ryckman is an owner on Seaspray Lane in Sanibel. Doug has expressed concern on the density, building heights, violation of the Lee Plan, as has been stated previously.

Nathalie Pyle is an owner of real property in the village on Laika Lane in Captiva, she has asked that I read at least part of this.

My name is Nathalie Pyle. My husband and I own a home on Laika Lane, where we have lived full-time for 22 years. I can see the lights of the south end of South Seas Island Resort from my bedroom windows. I have actively participated in community planning for Captiva for most of the last two decades as a member of the Captiva Community Panel and an engaged citizen.

The rezoning under consideration for South Seas

Island Resort is a slap in the face to all of us who have participated in good faith in planning efforts for Captiva. The proposed rezoning for South Seas Island Resort is clearly counter to the Lee Plan and the Land Development Code that members of our community labored with County Staff to develop and see adopted by the BoCC.

Compelling testimony has been presented as to the detrimental impact the rezoning being considered would have on the fragile Captiva ecosystem, traffic, and historic low-density nature of our island. Here are my concerns about the anticipated ramifications of increased density at South Seas, especially at the south end of the resort near the entrance:

An increased number of resort guests coming and going on foot, by golf cart, or car to the village, especially at the dangerous 90-degree corner just outside the entrance to the resort, is a recipe for calamity.

Resort guests do not -- do leave the confines of the resort to explore our islands and stroll village lanes. We welcome them, but our small community can't handle more. I worry about families pushing strollers with small children in hand, making their way to the beach along a narrow two-lane road that serves our post

office and a busy public beach parking lot.

I know that intensity of use will increase light pollution and blot out our cherished dark skies.

How will our island manage the increased stress on infrastructure, including water supply, wastewater treatment, law enforcement, and fire protection?

HEARING EXAMINER COLLINS: Would you mind speaking a little louder?

MS. RIORDON: Oh, I'm sorry.

HEARING EXAMINER COLLINS: Thank you.

MS. RIORDON: Bruce Shay. As the owner of the real property -- he owns at South Seas. He has a personal statement, again, regarding intensity -- increase in density, building heights, increasing evacuation times. He's clearly concerned about in case of an emergency.

HEARING EXAMINER COLLINS: In the interest of time --

MS. RIORDON: Yes.

HEARING EXAMINER COLLINS: -- would you consider not repeating topics that have already been expressed --

MS. RIORDON: Sure.

HEARING EXAMINER COLLINS: -- by the prior folks?

MS. RIORDON: Sure.

HEARING EXAMINER COLLINS: Because I will read those sheets.

MS. RIORDON: Okay, no problem, thank you.

Okay. Robert Siefort lives at South Seas.

Dale -- and, again, this is one I don't want to brutalize -- Siligmueller also lives at South Seas in Land's End.

Linda Smith lives -- or owns property on South Seas.

Ruth Sones does not have an attachment. She lives in the village in Sunset Captiva.

Donna Spear owns property on South Seas.

Lance Steen owns property on Sanibel, on West Gulf Drive, as does Mine Steen -- or Mina Steen, I guess it is.

Peter Stevens owns at Bayside Villas on South Seas. He owns two properties there.

Mark Swenson owns property as -- on Plantation Beach Club, as does Martha Swenson.

Lynn Thelen owns property on Captiva Drive in the village. She does not have a personal statement.

Margarethe Thye-Miville owns property on the south end of Captiva Drive very near Blind Pass Road, and she raises some additional issues. In part, she says the previous owners of the resort, Maristar and Blackstone,

realized the tremendous difficulty of having the majority of their employees off-site and decided not to capitalize on the employee housing conversion to other types of units, even though they bought -- both bought the properties conceiving that that was a possibility. 140 one-bedroom units were occupied by employees of whom very few owned a car, and many were guest workers from foreign countries. The Timbers Group has since demolished those units, as well as the 107 hotel rooms, to be replaced with multiple-bedroom units. They present saying that they were reducing the number of units, but they are comparing apples to oranges. The occupants of these planned dwelling units will be larger in number, will have cars, and now employees will have to travel to work.

The Applicant says they offer to shuttle their employees; but between the time it takes to get to a shuttle stop, or the time it takes to pick each one up at their home, no one will want to lose that many hours in the day to commute to a job.

Francis Tutt and Simon Tutt own property on South Yachtsman Drive in Sanibel, and their issues have been raised before.

Sandra Venafra owns at South Seas and has similar issues.

David Wahl and Suzy Wahl are owners of property on South Seas at the Plantation Beach Club.

Dennis Walters also owns at Harbourview -- owns several properties.

Frank Wendell owns on Sanibel, on Ladyfinger Lake Road. Those issues have been raised. Linda Wendell lives at the same address or owns at the same address, and her issues have been raised.

The next two, Kathy Wiessermann and Robert Wiessermann, live on Captiva Drive in the estate area of Captiva, and their issues have also been raised.

Nancy Willis owns at Plantation Beach Club.

Austin Wise is a renter who lives on Sanibel, and he had been here for several days but could not return, so he's asked if I could just put this into the record since it's a little bit different than anything that's been said before.

He says he's a Sanibel resident and full-time employee. I would like to preface my concerns with this: I grew up vacationing on the island of Sanibel every summer of my life, which planted a seed of wonder and awe of the place at a young age. I always thought about what it would be like to live there, which for the longest time, because of housing cost and lack of rental options, seemed like a dream never to be

fulfilled. I pursued a bachelor's degree closest to the island on purpose, and I have now worked on the island for three years and currently live there.

USAfacts.org says that on average people in Florida wait two years and five months for a chance at affordable housing. In my case on Sanibel, I was able to find an affordable housing option thanks to an organization dedicated to providing said housing to full-time employees. They have 67 rental properties available in 9 locations on Sanibel, with 12 of those units being a part of a property designated solely for seniors. I was on the wait list for about a year before getting my current place.

If the proposed changes being discussed today were to be approved, local reporting has said that South Seas plans to employ 1,500 employees, almost doubling their number of employees prior to Hurricane Ian. Interestingly enough, South Seas has removed their designated employee housing units to make room for new private condominiums.

My concern is that with the influx of new employees, we will see a rise in housing competition, which will likely drive up average rental prices. In addition, those who have waited a considerable amount of time for their chance at affordable housing on the

island that they work on and love will likely be delayed further. The proposed changes will bring on a challenge to the availability of affordable housing that these islands and the surrounding areas may never have seen before, and with extreme demand for said housing, a supply that could never be kept up with. Today that supply stands at slim to none. Thank you.

That concludes the packet that I have for you, Madam Hearing Officer. If you would like copies, or if the other parties would like copies of them -- I did not bring copies of all of these for everyone today, but I'm happy to take these back and make copies, if that is acceptable, or you tell me how you'd like --

HEARING EXAMINER COLLINS: I think you have to --

MS. RIORDON: -- me to proceed.

HEARING EXAMINER COLLINS: -- give them to me now.

MS. RIORDON: Okay. I'm just going to take my stickies off, if that's okay.

HEARING EXAMINER COLLINS: You don't have to worry about the stickers. My assistant will take care of that.

MS. RIORDON: Okay. I should have pulled them off while I was reading.

HEARING EXAMINER COLLINS: The next speaker is Richard Grosso.

I'm not kicking you out. Are you finished?

MS. MONTGOMERY: (Indicating).

HEARING EXAMINER COLLINS: You want to cross-examine? Okay, I'm sorry.

MS. MONTGOMERY: Yes.

(Documents submitted.)

HEARING EXAMINER COLLINS: Thank you, Lisa.

MS. MONTGOMERY: Ms. Riordon, you indicated that CCA owns the civic center and the library. Can you tell me how far those facilities are from South Seas?

MS. RIORDON: Less than a mile, maybe half to three quarters of a mile, if that.

MS. MONTGOMERY: And you indicated that you live in the village area. How far is that?

MS. RIORDON: Probably a half a mile, if that.

MS. MONTGOMERY: You read, obviously, a very long list. Do you know what percentage of the people on the list you read are timeshare people?

MS. RIORDON: No, I don't know.

MS. MONTGOMERY: Do you know what share on the list actually live there year-round?

MS. RIORDON: I do not know that, no.

MS. MONTGOMERY: Do you know how many people on the list own basically rental properties that they rent out?

MS. RIORDON: No, I would not know that.

MS. MONTGOMERY: You -- you went through a description of the island; so you talked about the Gold Coast. So that's from when you enter the island until you hit Tween Waters, is that what you would call that area?

MS. RIORDON: No, it stops before you get to Tween Waters. When you came across Blind Pass Bridge, and you go down Captiva Drive, there's a curve to the left.

MS. MONTGOMERY: Oh, that really sharp one?

MS. RIORDON: Yes, that's where that area ends.

MS. MONTGOMERY: Okay.

MS. RIORDON: You go around that curve. That becomes the Tween Waters stretch.

MS. MONTGOMERY: Okay. And that goes from where to where?

MS. RIORDON: It goes between the two curves --

MS. MONTGOMERY: Okay.

MS. RIORDON: -- the Tween Waters stretch where you can see the Gulf.

MS. MONTGOMERY: Okay. So there's only houses on one side of the road then.

MS. RIORDON: Yes, there's only houses on one side.

MS. MONTGOMERY: And then we get to -- the next

term is the village area?

MS. RIORDON: Yes.

MS. MONTGOMERY: And where does that end?

MS. RIORDON: The village goes all the way to the end of the road at Hagerup Beach.

MS. MONTGOMERY: Okay. And then you have South Seas.

MS. RIORDON: South Seas is on the right --

MS. MONTGOMERY: Okay.

MS. RIORDON: -- as you're approaching Hagerup.

MS. MONTGOMERY: But you don't -- that's not part of the village area though; right? It's separate.

MS. RIORDON: No, it's South Seas. It's not the village.

MS. MONTGOMERY: Okay. I know there's been a lot of concern expressed about resiliency and height increases --

MS. RIORDON: I'm sorry, I can't --

MS. MONTGOMERY: I'm sorry.

I said there has been -- you have expressed concern about the height increase, as have others. But the height increase in large part was designed to address the change in the starting point for how you measure height; correct?

MS. RIORDON: I'm certainly not an expert on this,

but it added another habitable floor. So it increases the amount of living space in the building.

MS. MONTGOMERY: Okay. If I have three floors now, and I build back three floors, I'm not increasing the amount of habitable space, am I?

MS. RIORDON: No.

MS. MONTGOMERY: Okay. And I think you, yourself, and Mr. Mintz has submitted a building permit to elevate your house to try to address resiliency. So it's a concern for you, as well.

MS. RIORDON: Flooding is a concern for me, yes.

MS. MONTGOMERY: So your building is going to be elevated to address that.

MS. RIORDON: Hopefully.

MS. MONTGOMERY: Lord willing.

MS. RIORDON: But we're going to stay underneath the height restrictions that were in place before these ordinances were introduced.

MS. MONTGOMERY: You indicated and several of the comment cards you read made a point of submitting that the proposed height increase is inconsistent with the Lee Plan. Can you tell me, if you know, where in the Lee Plan it addresses height?

MS. RIORDON: I do not know that.

MS. MONTGOMERY: Okay. Is it your understanding,

if you know, that the new structures that would be built would have to provide the parking required by the LDC?

MS. RIORDON: I would be assuming if I answered that. I don't know that.

MS. MONTGOMERY: Okay.

MS. RIORDON: I believe that might be the case, but I don't know.

MS. MONTGOMERY: Okay, that's fair.

I don't have any other questions, thank you.

MS. RIORDON: Thank you.

HEARING EXAMINER COLLINS: Thank you.

The next witness is Richard Grosso. I'm just going to grab a bottle of water and come right back.

MR. GROSSO: Would it be appropriate to take our afternoon break right now so that I don't get broken up?

HEARING EXAMINER COLLINS: Sure, that's fine. Okay.

MR. GROSSO: Thank you.

HEARING EXAMINER COLLINS: We'll take a 10-minute break.

(Recess from 2:32 p.m. to 2:47 p.m.)

HEARING EXAMINER COLLINS: Mr. Grosso, I'm going to have to ask you to surrender your seat.

If Robert Locker is present, would you please come sit in this first chair here. Good afternoon.

MR. LOCKER: Thank you, Madam Hearing Examiner.

HEARING EXAMINER COLLINS: Thank you for coming. State your name for the record.

MR. LOCKER: My name is Robert Locker, and I'll have more personal information in what I'm going to share.

Professionally, I have a Ph.D. in high-temperature materials, glass-ceramic science, worked for Corning, Incorporated for 40 years. I have --

HEARING EXAMINER COLLINS: So it's Dr. Locker.

MR. LOCKER: Please not. Bob would be best.

But I have 20 juried publications, over 20, and over 30 U.S. and world patents. So I've spent a lot of time in production. I basically develop technology that I need to convince Corning to put into plants, and so it requires that you come up with strong arguments to prove that those investments are worthwhile. So just my own professional background.

I have material that I'll be presenting.

(Locker Exhibit 1 submitted.)

HEARING EXAMINER COLLINS: Okay. Is this a PowerPoint, or are these --

MR. LOCKER: It's a PowerPoint.

HEARING EXAMINER COLLINS: Okay. Is it -- so one exhibit? One exhibit?

MR. LOCKER: Yes, please.

HEARING EXAMINER COLLINS: Okay.

MR. LOCKER: This isn't my bag, Madam Hearing Examiner, so please guide me through.

HEARING EXAMINER COLLINS: It's a friendly --

MR. LOCKER: Yes.

HEARING EXAMINER COLLINS: -- it's a friendly crowd here so don't worry. If it's not your bag, it's okay.

MR. LOCKER: Okay.

HEARING EXAMINER COLLINS: We'll help you through.

MR. LOCKER: So I just want to start with an overview, that I'm going to be speaking today as owner. I'll give you background on how I came to Captiva; how I became an owner; why I spend approximately three months a year in my unit on Captiva. I'm also the unfortunate president of my homeowners association. You'll see in -- you'll see shortly how -- how I became president, mostly because other individuals sold their units and I took over as president.

In any case, what I wanted to say just as an overview, how can we get the Applicant back to the table with us, as the Presidents Council, to cooperate

on the use of the 304 acres that we jointly share? Of which they own approximately 120 acres, we own approximately 184 acres.

I want to be very clear. I -- I rent my unit through the Applicant. I love their employees, I really do. I would rather stay in the program -- but I'll get to that later. It looks like it won't be possible.

But I want to say we want the Applicant to be successful, but within the confines of what they understood when they did their due -- due diligence prior to the purchase of the property.

So just as an agenda here, I am going to talk about the fact that I do want the owners -- the owners want the Applicant to succeed. I'm going to go through some personal information, i.e., as president of my homeowners association; i.e., I'm proud that I have a good relationship with my owners. It's probably sorry, but they all have my cell number, and they know they can call me any time of day or night. I feel responsibility for them; and, frankly, I enjoy it.

So the owners have issues with the Applicant's zoning request for density and height. We've seen, over several days of hearings, that the Applicant has pushed boundaries, overburdening and damaging

interconnectivity. I'm going to share some concerns that my specific homeowners association has. I want to talk about road responsibilities because that's become a somewhat difficult topic amongst HOAs and the Applicant in the past few weeks, and I want to share a concern and a question about additional evacuation issues that I think should be considered.

So again, as I said, I, as an owner -- the individuals who rent with the Applicant, we want them to be successful, but we want them to be successful within the 272 units that their due diligence showed at the time of purchase was going to be available to them, not the currently requested 628. And, you know, the 912 units is the limit, and I think a sticking point is whether a hotel unit is a dwelling unit. And I don't want to get into that, but it seems like at least one judge in the state of Florida has said, yes, they're the same, but, again, that's not up to me.

I will say owners wonder what role we are going to have in the long-term future of the Applicant, when by their own words they've claimed that their new dwellings will become Land's End on steroids units.

HEARING EXAMINER COLLINS: What does that mean?

MR. LOCKER: Land's End -- well, I figured you might ask me that. Land's End is, I believe, the

newest of homeowners associations. It's generally one of the more expensive homeowners associations to buy into; so it's generally thought of as amongst the highest end within the property.

HEARING EXAMINER COLLINS: Yeah, okay.

MR. LOCKER: Yeah.

HEARING EXAMINER COLLINS: So it would be that plus, is what they're saying.

MR. LOCKER: It's going to be that on steroids.

HEARING EXAMINER COLLINS: Okay.

MR. LOCKER: So we wonder, are we going to become the bottom deck on the Titanic?

Personally -- so I first visited Captiva in 1978 while I was in college. I had read an article that Sanibel and Captiva was the best shelling location in the western hemisphere, and it really intrigued me. So my brother at the time lived in Plant City, my younger brother and I drove down, stayed with him, but then we came down here and kind of explored.

Really, the first time I stayed on Captiva was in 1983 after I got married. My wife and I stayed in the South Seas Villas, formerly called the Tennis Villas. I remember playing golf with her at the time. The Land's End units were just under construction. They just had piles of pilings getting ready to be driven

into the ground. And I remember the experience mostly because I was trying to give my wife golf lessons, and she threw her bag at me, angry with the golf lessons. So we --

HEARING EXAMINER COLLINS: Are you still married?

MR. LOCKER: Pardon?

HEARING EXAMINER COLLINS: Are you still married?

MRS. LOCKER: Yes, we are.

MR. LOCKER: We're still married -- we're still married.

HEARING EXAMINER COLLINS: A rocky start, it sounds like.

MR. LOCKER: But it was the last time we played golf together so I learned quickly.

So my history with longer stints here came when I brought my parents here, along with my wife and our infant son at the time. My dad was terminally ill with cancer. He wanted to spend time at a beach location. I had been here. I knew it was very rural, easy to get around, not terrible to get to a hospital. I wouldn't feel that way today, by the way. But we ended up being able to bring him here three times before he passed. My mother came with us for years after. Both my children were -- I can remember the youngest being in a bouncy literally six weeks after he was born so -- and

now they come back here, and they're in their 30s. They love it. They fish -- they love it.

We decided to purchase in 2015, and I became engaged in association renovation activities in 2018.

So I ended up joining the -- the HOA Board because I recognized there was an opportunity for us to reduce our insurance premiums for flood insurance. Unfortunately, we had a room under the building that was hurting our flood certification standing, and I discovered these buoyant surge vents that were widely available. We had just never used them. Had them installed, and it was a big benefit for everybody's individual flood insurance policies.

I didn't really want to serve as an officer on the board because I -- I'm a material scientist. I enjoy, you know, building things; so I really wanted to confine my activities just to the building. Unfortunately as prices rose, values of the property rose, two of our presidents sold, and I was kind of left holding the bag, but I thought -- I wanted to see it through because we had just signed a $1.2 million building renovation. And then, of course, two months after I took over Ian took place. Needless to say, I don't play the lottery.

So why did we buy at South Seas? Really because

of the historic clustered low density and low building heights. Frankly, that's the view out of my lanai. My last breath, I want it to be there.

It's a nature preserve. I watch eagles fight with ospreys, and it's wonderful. If you haven't seen eagles and ospreys fight, you gotta see it. It's amazing.

I have an attachment to this property that goes beyond the four walls of my unit. When my son and I came here in '18, the two of us asked the Applicant for garbage bags, and we walked the east side of the road to pick up garbage. We didn't want anything for it. All we wanted was to do something good for the property. My wife hadn't arrived yet, we had some extra time on our hands, and we just did it because it made the place look better. And that's -- hopefully this gives you a feeling for what this property means to me, so as I get into my arguments, you'll have a better understanding of where it comes from.

Property ownership at South Seas is unusual. I think it's unusual for the Applicant. I don't believe that they have many properties -- I don't believe -- maybe they have but one property, in Tuscany, that has full ownership on the property. I believe most of them have interval ownership and hotel accommodations. I

don't think they have an appreciation for the fact that the rest of us own these properties as homes.

Why do other owners buy at South Seas? They purchase for a variety of reasons. The reasons can be anywheres from investment income to full-time residence. Of my 40 units, 21 are in program with the Applicant, and 19 are out of program, meaning they rent with another agency. Our HOA has two owners who never rent their unit; and, you know, I think my wife and I are probably going to become the third. Generally owners bought to enjoy the secluded nature preserve ambience.

Traffic has always been a problem. On the best of days, it's a 40-minute ride, before the hurricanes caused us to have to have so many contractors on the island, okay? Today getting on the island can be devastating. I won't even try to repeat what Ms. Riordan said. Absolutely, Madam Hearing Examiner, if you can go out there at 8:30 in the morning and leave at 3:00, 3:30 in the afternoon, you'll get an appreciation for what we, as homeowners, deal with. It's -- it's difficult. You've gotta love it out there to buy because it's a miserable experience traveling. But, again, I guess it just speaks to the love that we have for the place because of what it represents to us

in our hearts that we're willing to put up with that. And it's gotten worse.

And I want to borrow -- I've listened to a lot of discussions from both the Applicant and from those that have provided testimony over the last couple of days about evacuation. When I build a process for a plant that's going to cost the plant $200 or $300 million, I can't possibly do that only by looking at best-case scenarios. I have to imagine what could go wrong. And so my work involves failure mode analysis where I'm looking at what could go wrong that could make an evacuation be worse than you intended.

Yesterday my wife and I went to the Pirates/Twins game. We passed two medical emergencies along the side of the road, and there were at least two others, opportunities where we had to pull off, and it's not easy to pull off that road to allow fire trucks and ambulances to come down the middle of the road.

Yesterday at 11 a.m. going off the island, we were an hour and a half, at 11 a.m.; but, again, it was because of these issues that arose.

So, again, generally owners buy there recognizing the inconvenience of the travel, but not to the magnitude that it's become since the storm. And what the storm has done is it's created problems for the

owners because everybody has to rebuild. What's it going to look like if we -- if we build another 635 units -- 628 units, excuse me, what's it going to look like when we add all those contractors to the travel time? So, again, we can talk about evacuation under ideal best-case circumstances. I'm saying you have to look at circumstances where what could go wrong will go wrong.

So issues with the Applicant's zoning request. From the beginning we, as owners, and the Presidents Council have struggled with having a clear understanding of what the Applicant's plans have been for the property. It -- it -- it appears like we are exposed to bits of it a little at a time, and that may exactly be the way it's happening for them. I'd be shocked that a company like this wouldn't have had plans, but that's possible. It's possible.

The Presidents Council has viewed the Applicant -- we always viewed the Applicant as partners with us as owners and the HOAs, but that feeling hasn't been reciprocated. I recall being in a meeting where we were told that we don't feel responsibility to tell you, or certainly not look for your permission on what we're going to do on our property. I'm 80 percent on the words. I'm not going to say they were exactly

that.

The Presidents Council has attempted to work in this collaborative manner; but when the LDC changes became public in June of '23, allegations from the Applicant that we were misrepresenting the Applicant's actions caused them to walk away and say they were going to not meet with us any further.

Unfortunately, Madam Hearing Examiner, what's that -- what that has caused is an escalation of rhetoric that doesn't need to be; it's caused an escalation of hard feelings that doesn't need to be; and it's hindered what I believe, especially in the post-hurricane time period, would have been most important, which would have been partnership and collaboration.

I want to meet, and I want to work with the Applicant. Honestly, truthfully, I want to work with them, I want to make them successful, but come back to the negotiating table, and let's talk. Let's work on the things that we can agree upon. And the things that we know we'll have a tough time agreeing upon, we can wait on those.

One of the areas that I wanted to highlight is my fear, and I think the fear of my owners, that the Applicant has had a demonstrated history of pushing

boundaries. I like to say that the best way of predicting future behavior is looking at past actions. I don't want to repeat what we've heard about the Beach House restaurant. We've heard it.

So I want to ask for you, Madam Hearing Examiner, to consider what I've already said and what I'm going to say to follow here, and I'm going to ask that you reject the zoning application by the Applicant in order for us to figure out how to make this work better for both of us.

I took a vote shortly after the LDC changes were made public in June of '23, and the request -- the vote was, are you in favor of supporting the Applicant's request to increase height and density of buildings? And the vote was 37 to 3, a supermajority against. Now, you might say June of '23 was a long time ago. Those numbers haven't gotten better, Madam Hearing Examiner. In fact, the three that voted in favor are even waning because of issues that have arisen. I don't know what the votes look like in the other homeowners associations, I don't want to speak for them, but I can just -- I don't think they're vastly different.

So pushing the boundaries. We want the Applicant to be successful with the 272 approved units, inclusive

of hotel rooms, with a resort total of 912 total, with 3 units per acre clustered on the 304 acres. Listen, our forefathers, I think, had a lot of wisdom in what they saw, in what they developed and put on paper, and I think it would be a shame for us to let that escape us.

The Beach House restaurant appears to be ignoring long-standing documented limits on access easement vegetation buffers. Owners fear that since that's the first building, really, that is this far along, what will happen with the others? Madam Hearing Examiner, if you grant them their request for the zoning application, our fear is my last statement, that they're going to exceed the limits of the written statements because they have shown that they're exceeding the limit of the written statements today and that Staff is allowing.

Pushing the boundaries. So this is a new building that's going up I'm going to show here. This is the corner of a structure going up at the water feature. The -- this is a very temperamental mouse, but I'm going to try to drag it down here. You can see the sediment fabric that is staked, and you see just behind the sediment fabric, this is the yellow curb. That's how close the corner of the building is -- this is the

main road coming into the facility.

HEARING EXAMINER COLLINS: This is the Beach House I'm looking at?

MR. LOCKER: No, no, no, this is the water park.

HEARING EXAMINER COLLINS: Water park.

MR. LOCKER: It's one -- it's a water feature. It's -- it is one of the structures that's being erected there, and I just wanted to show a picture of approximately how close it is. It's now a second demonstrated building going in.

I want to share a few comments about the Applicant's contracts with owners, especially because at the end of last Friday we -- we heard from an owner -- and with all due respect to the owners who spoke on behalf of the Applicant last Friday, I, as an owner, believe that the new contracts are going to be negatively affected -- by the new contract, we, as owners, and the property values will be negatively affected.

I received a letter late in 2024 telling us that our contract, the old contract, wouldn't be renewed. We knew it was coming. They told us, I mean, so in fairness they warned us --

HEARING EXAMINER COLLINS: So what does that mean? You're not going to be in their rental program anymore?

MR. LOCKER: What that means is if you don't -- if you don't sign the new rental agreement, then you have to leave. And, frankly, Madam Hearing Examiner, I didn't -- I wasn't just joking when I said I love their employees. They've taken wonderful care of my property. They've done a great job in renting it. They've been a wonderful partner. I am saddened by having to draw that relationship to a close.

I'm reluctant to sign it because of a couple of stipulations that worry me. One is there's now a five-year commitment. I mean, I'm not a young guy. I don't know what the next five years is going to bring for me. I don't want to put that property in a position where I can't sell it because it's under contract --

MS. MONTGOMERY: Madam Hearing Examiner -- I'm going to -- I'm going to interrupt you for just a second.

MR. LOCKER: Sure.

MS. MONTGOMERY: I appreciate this story, but I'm struggling to understand what the rental contract has to do with the zoning. I mean, I think it's perhaps an issue, but it sounds like it's a private issue and not --

MR. LOCKER: No, that's a good question. It's a

good question. If I can respond, the issue was --

MS. MONTGOMERY: I'm just objecting --

MR. LOCKER: -- it's a part of the owners coming here last week. They said that they weren't unhappy, that their property values were going to be improved; and so I'm bringing this up just stating that I don't think that it's going to have a general improvement to property value for everybody.

And the other issue, in addition to the five-year commitment, is the fact that we now have to pay a $5,000 a year access to the amenities, even if we rent our units through them. That was never the case. In fact, today -- with the letters that were submitted, today was the last day we were told that if we wanted to be a part of the program, and not be hit with a $50,000 initiation fee, we had to re-sign by today; and that if they chose to exercise that in the future, that it would be waived if we signed by the 28th.

So, again, that was my only reason for bringing it up, was because it was a reflection on property value issues.

So with regards to the issue of overburdening, our two buildings -- one of them has 24 units, one of them has 16, for a total of 40. We have 51 parking places, inclusive of handicapped spots. They must accommodate

golf carts, as well as cars. We have no separate golf cart parking, as was suggested that there are plenty of around the property. We have no exclusive golf cart parking, just those 51 spots.

I believe we have, if not one of, maybe the closest large parking lot to the beach of any of the condominium associations on the property. I mean, our parking lot may be only further away than the County's public parking, which is right on the beach -- or close to the beach.

HEARING EXAMINER COLLINS: But that's off property; right?

MR. LOCKER: Yes.

HEARING EXAMINER COLLINS: Yeah, okay.

MR. LOCKER: Yes, so you're -- I don't know what the rates are there.

Many of our owners and guests, they don't come with one vehicle. In fact, in July when most of our guests -- June and July, it has become a huge period of rental for us, primarily for instate Florida renters who tend to come to Captiva for the seclusion, for the nature preserve, for the low-rise, and a lot of those individuals come from the East Coast. So we've enjoyed wonderful rentals in June and July. But with those local people come two vehicles, sometimes three, and

then they rent golf carts. And so what once might have seemed like you had plenty of parking with 51 spots and 40 units, it's all of a sudden not plenty of spots.

We also -- because we are as close to the beach as we are, we are often home to many non-Gulf Beach Villas HOAs who come and park and use our lot for quick access to the beach. We want to be good neighbors to our -- you know, the people that are there; but when we look at the prospect of a 210-room hotel that is going to be maybe 1,000 feet from our parking lot -- the water park, the northwest corner of the water feature will be 560 feet from the entrance to our parking lot. It's going to become devastating for us because we're going to have to consider gating, and it's going to lead to inconvenience and challenges for owners and guests to access our buildings.

I wanted to show a picture. This -- you can see how close our buildings are to the beach, 2,000 and 2,100 here. We have 21 parking spots against the building, we have another 15 over here up against the pool, and there's -- there's 11 spots over here against the tennis court.

During high periods of occupancy, often between Christmas and New Year's, I've come out in the morning, and I have found this road lined with vehicles. Even

with today's population, I've seen that road lined with cars because there weren't enough parking spots in the lot.

HEARING EXAMINER COLLINS: And these are people staying in the units you're saying?

MR. LOCKER: Yeah, yeah.

I want to talk about damage to interconnectivity and where I think we could benefit.

So garbage is a big issue for us, as you can imagine. How do you remove it? We've just talked about the massive problems with driving. You don't want to be inefficient at driving uncompacted garbage off the island. It's got to be compacted.

Well, we had what I thought was a commitment from the Applicant in September, to partner with them, and I went out and purchased five of these powder-coated aluminum bins for safe protection of garbage cans and the can liners, and the Applicant withdrew the offer. It's forced us to look at having to invest in putting our own trash compactors out there. You can't just have one because if it just breaks down, you've got a problem. You can't have one because if it's filled, and there's a delay in the off-island service to come and remove it, you've got to have excess capacity. So it's really two compactors you need. And then on top

of that, do we really have enough room on our small island to have an us and them? I don't think we do. I think it's all us, and I think we have to figure out a way to do garbage together.

That's why I'm calling for let's get back to the table. Let's find areas that we can benefit each of our guests, who are going to come in here -- you're earning money off of the guests, we're earning money off of the guests; but if the guests go and throw a garbage bag in my dumpster that I have to use today, and a family of raccoons scurries out, that creates a problem.

Road responsibilities. This is the one that I'm afraid is the one that upsets me the most. Gulf Beach Villas owns the road in front of our property. We own the road. I'm going to show you pictures. We've made investments in that road over the years to put down brick pavers to -- to create a decorative entrance to our property. It was done back in the '90s. It still looks wonderful.

What bothers me has been some of the harsh rhetoric about us paying to clean the culverts on either side of the road. Our homeowners' insurance paid to clean the culverts. I have to say I -- I am so pleased with the insurance that our HOA has. I know

there are horror stories for recovery. We have been blessed. We -- we even have landscaping coverage. But our insurance covered the cost for digging out those culverts. Well, why would you want to dig them out? They're filled with sand from the storm surge. It creates a problem with stormwater runoff so that people can't drive on the road safely, and the worst part of it is, it causes a loss of communication with the necessary nutrients of the bay to get back into our mangroves on the west side of the road, and our -- many of our mangroves have died, and so we're trying to get those cleaned up so that -- when you heard from Mr. Evans earlier this morning about them being able to regenerate, we wanted to get those dug out. Well, there have been harsh exchanges, put it back, you know, it's not on your property.

I -- I can say that I know that there were probably a couple of culverts that might have been on the Applicant's property, truthfully. We did it because we thought we were being good neighbors by cleaning the culvert, making it accessible for stormwater runoff and for necessary nutrients to get to the mangroves.

Truthfully, what I'm saying is let's get back to the conversation table so that instead of you saying

you weren't informed, let's meet monthly where we can talk about these necessary community activities because we share 304 acres. We have to learn to get along, and I think we can.

Ironically, I've been told that the Applicant is upset with the HOAs because we've taken advantage of them in their cleaning of the roads. Thank you, we appreciate the cleaning of the roads. Let's sit down and talk. We'll cover those costs. Our insurance allows us to be able to take debris removal, sand removal, road repairs. You know, I can't do it for Ian because that was too long ago, and most of us have signed off, but Milton is open game. I want to work with you guys.

These are just some pictures. You can see from the drone shot this kind of different shading. This is where the brick pavers are that run back to here, and this is the main road here. You can see kind of, you know -- I don't know, they put in this decorative kind of circle here. You can see here our pavers run all the way across the outside of the road where we -- I believe it's the resort's garbage and recycled can, and their bench that they placed there for a convenient trolley stop. But, again, we installed those, and it's actually held up well for us.

And these are some examples, we've put some -- this orange safety fencing up temporarily so people know where they are. We're looking at getting split-rail fences put in so that we create necessary obvious barriers so that people don't accidentally drive off into them.

But, again, I'm -- I'm happy to meet with you guys and figure out what do you think is best.

Evacuation issues. So I've alluded to them a little bit, and I have to say, I've gotta share my -- you're good if you can get to Jacksonville in a hurricane in five and a half hours. I left --

MS. MONTGOMERY: Oh, I consider that bad.

MR. LOCKER: Pardon me?

MS. MONTGOMERY: I consider that too long. I try to get there in five.

MR. LOCKER: Well, I wouldn't be surprised, but I can tell you what I ran into when I left the property on Monday morning, October 7th. I flew down because I couldn't afford to have a second van be destroyed by storm surge. So I flew down to get the van out. I came out to batten the hatches and tie everything down on the property. My younger son's girlfriend flew down with me because he couldn't come down. I needed an extra set of hands.

So the two of us left the property Monday morning, October the 7th. I couldn't get to just south of Jacksonville for ten and a half hours because it was bumper to bumper stop and go. We finally decided we had to leave 75 and cut across the middle of the state. So we cut across around Plant City --

MS. MONTGOMERY: That was your mistake.

MR. LOCKER: Pardon?

MS. MONTGOMERY: That was your mistake. You took the wrong road.

MR. LOCKER: Yeah, yeah.

Anyways, so that wasn't the worst part of it. The worst part of it was, thank God, I thought to fill my gas tank before I went out onto the island Sunday night, because the last gas station I could find that had hi-test, I was able to top my gas tank off on my van. But when we left the island on Monday morning at 10:30, I could not find gas in a gas station, and my hopefully future daughter-in-law -- she's a Ph.D. in chemical engineering -- she was doing everything she could do on her phone to try to find a gas station. Madam Hearing Examiner, we could not find gas between Fort Myers and the east side of Orlando. We were doing calculations to figure out where we'd have to get off the road because we were bumper to bumper. It was 10

miles per gallon. It wasn't 20 like it should have been because it was just that bad driving.

I now have an appreciation for why people risk staying in their homes, because of the fear of being caught on the road. I feared that.

So I wanted to talk about this 48 to 72 hours, but the gentleman this morning -- I'm not even going to talk about it. He blew me away on that. The rapidly intensifying storms he already commented on.

But I do have information on storm surge from Helene that I want to share, and then a question about should we be modeling for fire evacuation. And one thing I will say is while I'm not an expert in modeling, per se, I do enough of it in my line of work to know that modeling is based upon data that you have to build the model, and it's good for interpolation not extrapolation, understanding outside of the boundaries.

So, again, I worry are the models that we're using, did they take into account pertubation or upsets in the system that are going to cause it to behave poorly. I thought I heard that pretty well explained this morning, that's some of the reasons why they have the buffers built into their timing.

This is a picture -- this blew me away. So as a scientist, you know, this stuff fascinates me anyways.

I'm fascinated with storm surges. I used to think I might want to experience one, but, no, I'm good.

So the car on the right stalled because of the storm surge in the morning of the 26th of September from Helene. That storm surge came from the east off of the bay, and I don't know, what, a foot of water maybe, give or take a couple of inches? That was in the morning, then it went away. This was the storm surge that came later in the afternoon, around 7:30 -- if I can get this mouse to...

(Video playing.)

HEARING EXAMINER COLLINS: That's coming from the Gulf?

MR. LOCKER: Yes. I had no idea it would look like a whitewater rafting river. I thought it would come in as a semi-transient wave that, sure, there would be energy and motion and velocity when it came in, but I didn't think it would keep coming.

This was video that I went out on property -- it's Beach Home 29. I don't know who the individuals were that were in the home; but, again, thank you for taking that video because I'll never stay, you know, for a storm surge. I've got enough to have seen that.

I apologize for the pixilated nature.

I do have a copy of that that I downloaded onto

the desktop, Madam Examiner, if you'd like to review it.

So fire is an issue that I brought up at the Board of County Commissioners review before the vote. It was actually not quite a month after. I want to say it was September 5th, '23, maybe September 7th, '23, was the Board of County Commissioners' vote on the LDC change. I brought up my concerns at that meeting about fire and the parallels with Lahaina, and the fact that they suffered the wildfires they did for reasons that aren't entirely dissimilar to the ones we could have on Sanibel and Captiva.

The data that makes me most heartbroken -- this is Associated Press data, not mine. 60 percent of the people were found either in their -- 60 percent of the 102 people who died were found either in or near, next to their vehicles trying to flee the fire.

And so I put this little table together because I'm a geek, and I'm a scientist, and I love this kind of stuff, right? So I looked at the populations. Lahaina is bigger by two, twice the population. Their dry season is a month longer, seven months, than our six-month. They get about 25 percent of the rainfall in their dry season that we get. So by comparison our dry seasons are more wet, but I caution that's because

when we get rain here, it's like Tuesday night when we got two and a half inches or something crazy.

But the other thing was kind of the parallels in wind speeds.

And what I wanted to point out was that our dry season coincides with our peak tourist season in February, March, April, and that's when we're going to have the greatest congestion getting people off the island, God forbid, and -- and I'll go back to saying when you're in a rebuild mode, again, this is not normal. You know, us scientists, we would say this is nonequilibrium. This is not something we would expect, to have all these contractors out here amongst the guests, amongst the owners. So that just exacerbates everything.

These are some pictures that I just took over the weekend of the dying palmettos and some of the other dead standing timber along sides of the road. And I know Sanibel was doing a yeoman's effort trying to get this stuff cleaned out; but as recently as within the last month we had a fire as a result of a downed power line that took power out to Captiva and caused a fire. Thank goodness it didn't spread.

So, again, I use my experience in trying to -- I'm not going to analyze for everything going normally. I

need to analyze for when something goes off the rails, because it will.

So in conclusion, we would like the owners to succeed. We deeply want them to succeed. I want to partner with them. I want to return to a healthy conversation with them. But I want them to understand that they understood the boundaries, when they did their due diligence, of 272 units and the 912 total allowed. We would like them to stay within that.

Owners have invested in these homes for the preserve-like low-density environment. The Applicant has voluntarily discontinued communications with the Presidents Council. I'm just going on record and being public today, come on back. No hard feelings. Let's -- let's get this done. Let's figure out how to make life better for all of us.

The owners requested -- the owners request, rather, that the Applicant's zoning request be denied, and we request they be denied for what we fear has been a history of pushing boundaries and Staff permitting.

And, lastly, I request that there be additional considerations made to model and look at these pertubation issues, fires, broken-down vehicles, with more electric vehicles on the road, a vehicle that, you know, loses charge, you know, who knows. So I'm

asking, could we also consider what the issues of fire may be and how they affect evacuation.

Thank you, Madam Hearing Examiner, for allowing me to present today.

HEARING EXAMINER COLLINS: Thank you.

MR. LOCKER: I appreciate it.

HEARING EXAMINER COLLINS: Neale, do you want to cross-examine --

MS. MONTGOMERY: Yes, I do, thank you.

HEARING EXAMINER COLLINS: -- this witness?

MS. MONTGOMERY: Can I call you Bob? Is that okay?

MR. LOCKER: I would love it.

MS. MONTGOMERY: Bob, are you aware of the fact that the presidents' calls have been replaced with monthly calls that include all the owners?

MR. LOCKER: So I'm going to tell you, I'm an old guy, number one, if it wasn't obvious; and number two, I now understand how everybody else gets up here -- and back there I can hear you wonderfully. Up here it really is rough. I don't know what there is but --

MS. MONTGOMERY: I understand the sound in here is atrocious. I agree with you. Can you hear me now?

MR. LOCKER: I might come over there, but go ahead.

VOLUME 5

HEARING EXAMINER COLLINS: Why don't you stand by the podium. Maybe --

MS. MONTGOMERY: There's a microphone there so if you stand by the podium --

MR. LOCKER: I like breaking rules. I never follow them.

MS. MONTGOMERY: Okay. So --

MR. LOCKER: Am I okay to break this rule? Can I come over here?

MS. MONTGOMERY: As long as you talk --

HEARING EXAMINER COLLINS: Can you hear him?

MS. MONTGOMERY: Talk into that microphone.

MR. LOCKER: Nobody has ever accused me of having a soft voice, but you can tell me that.

MS. MONTGOMERY: Okay. So, Bob, are you aware of the fact that the monthly presidents' calls have been replaced by a monthly call with all the owners?

MR. LOCKER: I am, I am aware.

MS. MONTGOMERY: So are you suggesting that they should stop having calls with all the owners?

MR. LOCKER: No, not at all. I am suggesting let's have a different dialogue about community-based issues that are problematic, that the owners are going to feel and suffer from, that we as stewards of the property can help resolve.

MS. MONTGOMERY: Okay. You talked about the rental contract and not wanting to pay the funds or the fee, the $5,000 a month?

MR. LOCKER: No, it's 5,000 a year.

MS. MONTGOMERY: Okay, sorry.

MR. LOCKER: I'm nervous about it.

MS. MONTGOMERY: Okay. Are you suggesting that they should build all new amenities and let you and your residents use them for free?

MR. LOCKER: That's the way it was in the past.

MS. MONTGOMERY: That may be, but if you don't have a right to use the property --

MR. LOCKER: I --

MS. MONTGOMERY: -- are you suggesting they should have to let you use it for free?

MR. LOCKER: I don't want to tell them how to manage their business or spend their money. I understand they're expensive investments. I'm just saying it's a deviation from the way it was in the past, where as a part of your rental agreement, the use and access to the amenities was included. But I'm also going to admit what they're building is much better than what was there before.

MS. MONTGOMERY: Okay.

MR. LOCKER: I will agree.

MS. MONTGOMERY: Okay.

MR. LOCKER: Much more expensive, much more elaborate.

MS. MONTGOMERY: So are you aware of the fact that when you go to get a development order, you have to be able to establish that there's sufficient fire flow in your hydrants?

MR. LOCKER: I'm a scientist, not a building --

MS. MONTGOMERY: Okay.

MR. LOCKER: -- kind of guy, so no.

MS. MONTGOMERY: Okay.

MR. LOCKER: But I would assume that the people who plan communities think those things through.

MS. MONTGOMERY: They do.

And are you -- I know you're a scientist, but are you aware of the fact that the new structures would have to sprinklered?

MR. LOCKER: I was. In fact, I knew that the Harbourside was sprinklered. In fact, there were rumors that the sprinklers contributed heavily to the flooding when they broke or something. I don't know.

MS. MONTGOMERY: You showed a picture of a very pretty road with paver blocks. What road is that? It wasn't clear to me what road that was.

MR. LOCKER: That's the main road that connects

the north and south of the property.

MS. MONTGOMERY: Okay. So you're saying part of that road has paver blocks?

MR. LOCKER: Yeah, in front of our driveway, correct.

MS. MONTGOMERY: Okay. So does it --

MR. LOCKER: About half of what I think we own, maybe a little less than half.

MS. MONTGOMERY: Okay. And are you saying or suggesting that the owners have not done any maintenance on the road?

MR. LOCKER: No, no, no, I'm saying quite the opposite, that we installed those. They've done wonderfully. What I'm saying is I've -- I've -- I've heard conversations that we clean the roads -- that the Applicant cleans the roads. I'm just saying let's sit down and talk because our HOA insurance -- I -- in fact, I met with the adjustment team on Tuesday. I posed the question to them. They'd be interested in fielding invoices for those --

MS. MONTGOMERY: Okay. So that's a discussion that you guys should have outside of --

MR. LOCKER: We're going --

MS. MONTGOMERY: -- here.

MR. LOCKER: -- we're going to talk.

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MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: I'm going to get you guys a marriage counselor.

MR. LOCKER: Pardon me?

HEARING EXAMINER COLLINS: I'm going to get you guys a marriage counselor.

MR. LOCKER: That might work.

MS. MONTGOMERY: Okay. So if I got it right, you have 40 units and 51 parking spaces.

MR. LOCKER: Correct.

MS. MONTGOMERY: I got it right.

Do you -- do you restrict your parking to only your residents?

MR. LOCKER: No, not at the moment.

MS. MONTGOMERY: Do you have a policy that indicates to renters how many cars they can bring?

MR. LOCKER: Not at the moment.

MS. MONTGOMERY: I mean, in other words, I've gone to Airbnbs, and they will tell you --

MR. LOCKER: I know.

MS. MONTGOMERY: Okay.

MR. LOCKER: Yeah, I have, as well. I'm familiar.

You know, so we don't want to be restrictive. We want to create opportunities that those extreme conditions can be dealt with. The families that bring

three vehicles, you know, they're going to happen. The question is when they happen, if too high a number, that's when negative things happen.

MS. MONTGOMERY: Okay. So the current regulatory scheme doesn't require structures to provide parking per the LDC. If this zoning is approved, they will have to meet the LDC for any new buildings that they build. So do you have an objection to them meeting the County's parking requirements?

MR. LOCKER: I am concerned about where the location of those parking locations would be. I'm concerned that -- it doesn't appear to me that there's extensive parking at the water feature. I'm concerned that the entrance to our driveway, as well as Beach Villas III and Sunset Beach Villas, I'm concerned that all three of our parking lots -- mine is the most distant at 560 feet. Theirs is literally across the street. I'm concerned what are their parking lots going to have to handle.

It's going to be a great feature. Let's just be honest, it's going to be great. It's going to be used. And I can imagine if I was young enough and had a 14-year-old who wanted -- I'm going to go to the beach, and you go to the water park, and guess what? We're in between.

MS. MONTGOMERY: And your future daughter-in-law is going to want to go to the water park.

MR. LOCKER: Yeah, I've got -- I've got a grand horse, not a grandchild, I'm sorry.

MS. MONTGOMERY: So -- okay. So you raised a concern about garbage. So are you suggesting that they should process your garbage for free?

MR. LOCKER: No, no, no, no. In fact, I believe it was like $44,000 -- and listen, if they would say yes, I'd get down on my knees right now and beg them for it.

MS. MONTGOMERY: Well, that makes me a little nervous.

MR. LOCKER: That's how bad it is. Shawn and I have been trying --

MS. MONTGOMERY: You can wait till your meeting.

MR. LOCKER: Their service is way better than what I can get from anybody else.

MS. MONTGOMERY: Okay. During the -- after the storms -- if you know, you might not have been here -- did the owners use their equipment to clean the roads and clean the sand both inside and outside the resort? If you know. If you don't, that's fine.

MR. LOCKER: My history dates to 2015.

MR. SPENCER: The last three hurricanes.

MR. LOCKER: Pardon me?

MR. SPENCER: The last three hurricanes (inaudible).

MR. LOCKER: Okay. So the last three hurricanes these guys did it all.

MS. MONTGOMERY: Okay.

MR. LOCKER: I'm here to say today they didn't need to, and I -- let's figure out a way so you don't have to do it all.

MS. MONTGOMERY: Okay. So they're not really as bad a guys as you made it sound then.

MR. LOCKER: Pardon me?

MS. MONTGOMERY: So they're not really as bad a guys as you sort of made it sound.

MR. LOCKER: I think I said I love their staff. I think I went on record --

MS. MONTGOMERY: Okay.

MR. LOCKER: -- saying I love their staff. I even took presents to Emily the day she left, we were so heartbroken to have her leave.

MS. MONTGOMERY: Okay. So you did make reference to the beach access, and it's my understanding the beach access is available to those owners in Government Lots 1 and 3. Is your association in Government Lots 1 and 3?

MR. LOCKER: You got me.

MS. MONTGOMERY: Okay.

MR. LOCKER: I don't know a survey map to the extent that I'm sure you do.

MS. MONTGOMERY: Okay. So it won't surprise you if I tell you, no, you don't have a legal right to use it?

MR. LOCKER: I don't know what --

MS. MONTGOMERY: Okay.

MR. LOCKER: -- Lots 1 and 3 are. I'm speaking just to my lot.

MS. MONTGOMERY: Okay.

MR. LOCKER: I'm just speaking to my lot.

HEARING EXAMINER COLLINS: Is this dialogue helpful to me, to the decision I need to make on this case?

MS. MONTGOMERY: Well, the whole discussion I don't know --

HEARING EXAMINER COLLINS: I'm having trouble following the thread.

MS. MONTGOMERY: We spent a lot of time talking about a lot of things that I objected initially that I thought were outside the scope of the zoning; but having raised them, I just want to make it clear that those issues can and will be addressed outside the

scope of these proceedings.

So with -- with the caution from the Hearing Examiner, I'll cease asking questions.

HEARING EXAMINER COLLINS: Meet for wine after the hearing.

(Discussion at table)

HEARING EXAMINER COLLINS: Who is next? Is it Jeff Pawul?

MR. PAWUL: Yes.

HEARING EXAMINER COLLINS: If you're still here, Jeff Pawul, please come forward.

(Pawul Exhibit 1 submitted.)

HEARING EXAMINER COLLINS: This exhibit is your statement you're going to put into the record?

MR. PAWUL: Yes.

HEARING EXAMINER COLLINS: Okay. This will be Pawul Exhibit 1.

You may begin when you're ready.

MR. PAWUL: Good afternoon. For the record, my name is Jeff Pawul. I'm the Fire Chief with the Captiva Island Fire Control District.

Consistent with the June 13th, 2023, letter that was sent to the Lee County Board of Commissioners, I am not here to speak in support or opposition to this rezoning application. Rather, I am here to address the

impacts the proposed rezoning will have on our ability to serve our residents of the island and visitors to the resort.

If the rezoning is approved, the Fire District will be adversely impacted due to proposed changes to building heights. The Fire District will not have sufficient ground ladders or fire flows to provide response to upper floors of a building within the resort. The Fire District recognizes that other buildings, including residential homes, are being elevated within the district due to the recent hurricanes; however, the intensity of hotel space and timeshares creates a larger life safety and property risk for the visitors to the resort. In addition to the building being lost if a fire occurs due to the inability to suppress fire on upper floors, lives may be lost.

An increase in units due to the approval of the rezoning may also result in the need for the Fire District to increase staffing. As Captiva Island becomes more popular as a tourist destination, the Fire District directly correlates that to an expected increase in call volume based off previous experiences on the island.

Although the Fire District recognizes that

increased property tax revenue associated with this rezoning may eventually help to offset this impact to staffing, there is still a concern of the Fire District as an increase in staff will also burden our ability to adequately house them.

The Fire District contacted the developer to discuss conditions that we desire to be included within the rezoning to address the impacts to the Fire District. Specific conditions related to fire service impacts have been previously included in other rezonings within Lee County, i.e., Zoning-20-010, the Paradise Isles community in North Fort Myers. And we feel that given the size, scope, and tremendous impact to the island of this particular rezoning application, that certain conditions be included in the application to address the impacts to the Fire District.

The Fire District and the developer have discussed the impacts to the Fire District if the property is rezoned. As a result, the District and the developer have negotiated the following conditions that we request be included in the rezoning conditions:

Number 1: Within 30 days of the rezoning being final, the developer must enter into an agreement with the Captiva Island Fire Control District to address fire protection services to the property through the

partial funding, $644,000, for a ladder truck. The funds will be used to offset the additional cost to purchase a ladder truck needed to serve the property that will be constructed consistent with the current FEMA and standard building code elevation requirements. The developer must provide this contribution through the prepayment of fire impact fees, with the balance provided as a cash contribution. All fire impact fees paid by the developer within the development, from January of 2025 until the prepayment of fees for the acquisition of the ladder truck, will be deducted from the $644,000 partial payment for the ladder. Pursuant to Section 2-395(a)(1), LDC, the Fire Department has determined that this capital improvement is a creditable contribution, and fire impact fees credits in the amount of the partial payment for the ladder truck will be creditable and said credits will be transferable.

Number 2: The developer shall provide Captiva Island Fire Control District with adequate indoor building space on the northern end of the property for the Captiva Island Fire Control District to store fire and rescue equipment and an apparatus. The developer has the authority to change the location of the designated indoor building space within the property in

consultation with the Captiva Island Fire Control District.

By prepaying impact fees and making a cash contribution in an amount that equals the cost differential between a replacement apparatus -- a fire engine -- and a new ladder truck, the developer is addressing the rezoning impacts to the Fire District and its ability to provide fire service to taller buildings. This contribution allows the Fire District to properly respond to emergencies, especially fires and rescues associated with the taller proposed hotels and timeshares within the property.

The developer has already agreed to the assignment of a boat slip to the Fire District as a proposed condition of the rezoning.

By allowing the Fire District to have indoor building space on the northern end of the property, the Fire District will be able to respond more effectively to emergencies, especially following a hurricane. Currently, there could be a delay in responding to the northern end of the property following a hurricane due to its location. This condition allows the Fire District to strategically store equipment and apparatus, which will increase the Fire District's ability to respond to emergencies in a timelier

fashion.

As we know, every minute counts following an emergency. This is vital since the rezoning will allow for more intense development. The proposed conditions address the Fire District's concern with the rezoning and will result in lives and property being saved.

Finally, there may be some residents who wish the Fire District would oppose this rezoning. However, as with any other new development or County rezoning within the boundaries of the Fire District, the Fire District does not and cannot take a position on these requests. Rather, the Fire District evaluates the impacts to its ability to provide services and adjusts its staffing and resources to meet those needs. With this rezoning, the Fire District identifies impacts that would adversely affect our ability to provide fire and emergency services. We have worked with the developer to address the impacts through the proposed rezoning conditions. Our ultimate goal is to ensure that the life safety of our citizens and visitors is protected.

HEARING EXAMINER COLLINS: Thank you.

Neale, do you want to cross-examine this witness?

MS. MONTGOMERY: I don't have any questions for -- for the Fire Chief. I have comments, but I'll make

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those in rebuttal.

HEARING EXAMINER COLLINS: Thank you.

MR. PAWUL: Thank you.

HEARING EXAMINER COLLINS: Okay. We're a couple of minutes before 4:00 so I'm going to conclude for the day. We resume on March 20 in this room at 9 a.m.

Thank you, everyone, for coming today. Hopefully I'll see you on March 20.

(Proceedings concluded at 3:59 p.m.)

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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 219, is a true and correct record of my stenographic notes.

Dated this 4th day of March, 2025.

Deborah M. Bruns, FPR

(This transcript was electronically signed.)

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