VOLUME 7
THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2023-00051

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

VOLUME 7

PROCEEDINGS:	PUBLIC HEARING
BEFORE:	Donna Marie Collins Chief Hearing Examiner
DATE:	March 21, 2025
TIME:	9:00 a.m. to 2:19 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

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P R O C E E D I N G S

HEARING EXAMINER COLLINS: Good morning. My name is Donna Marie Collins. I'm the Hearing Examiner presiding over this case, South Seas Island Resort MPD. It's a request to rezone 120 and a half acres to the Mixed Use Planned Development Zoning District.

We are in day seven of the hearing, and we are in the public input portion of the hearing. We are going to continue to call the names on the list I've been provided. When I call your name, please come and sit in this first chair.

I'm going to swear everyone in today in case we have people that have not already taken the oath. If you plan to speak today on the record, or enter documents into the record as exhibits, please raise your right hand. Do you swear or affirm the testimony and evidence you enter into the record today will be the truth?

(Participants respond en masse.)

HEARING EXAMINER COLLINS: Thank you.

Leo Farrencopt.

MR. FARRENCOPT: Yes, you got it right.

HEARING EXAMINER COLLINS: Thank you for coming.

MR. FARRENCOPT: Thank you.

Good morning. I'm Leo Farrencopt. I live at 1601

Land's End Village in Captiva. Just for the record, Land's End is immediately adjacent to the proposed MPD within the SSRD property subject to the 2002 Administrative Interpretation and within the notice radius for this application.

I am a retired corporate lawyer with a JD degree from Columbia Law School. For the last 20 years of my career, I was the vice president of Quest Diagnostics, serving as their chief mergers and acquisition counsel, and also served as the corporate secretary for much of that period.

I am now an officer and a member of the Board of Land's End Village Condominium Association. I'm also a member of The Sanctuary Golf Club in Sanibel, as are at least four other owners in Land's End, and am proud to be a member of the CCA.

I've owned my home in Land's End Village for almost ten years.

I am opposed to the proposal to rezone the resort, which will create more traffic, as well as safety and parking issues throughout the SSRD. In addition, it will result in the disappearance of much of the green space at the resort. We love the low-density, low-rise environment in the resort, and we had every reason to believe that it would remain the same.

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Before purchasing our home, our family had vacationed in the resort for several decades, and I was aware of the commitment made by the owners of the resort, when it was rezoned in 1973, to build no more than 912 units and to keep much of the acreage undeveloped, a commitment that was memorialized in the administrative interpretation, and approved by the Lee County Board of Commissioners, a commitment that the Applicant was fully aware of before it purchased its interest in the resort, and which was commemorated further in a settlement agreement with the County, which has already been testified to by others in these proceedings.

The Doctrine of Promissory Estoppel is a long-standing principle of our common law, much older than the country itself. A party is bound by the promises it has made that a third party has reasonably relied on. Hundreds of owners at South Seas have purchased their units relying on the commitment to limit the development of this resort. The current ownership group, as successors to the original owners, and who were -- and who were fully aware of these restrictions, should be held bound to this commitment. The County should not allow the Applicant to break this commitment and harm the existing owners of condominiums

and the timeshare units within the resort.

While I've never rented my unit, and do not intend to ever do so, hundreds of current owners at South Seas have purchased their units on the expectation that they could rely on rental income to offset the cost of owning their units. Admittedly, many of the residential buildings are old, and that is part of their charm.

If the County allows the Applicant to break the commitment that its predecessors made, the Applicant will undoubtedly prefer to rent the newly built units in preference to the older units owned by these third parties, and I expect that many of those owners will be financially hurt. Their units may be rented only during peak holiday weeks when the resort is generally at capacity. Please do not allow that to happen.

There has been a lot of testimony about the number of units allowed at the resort, which of course is a critical issue. The maximum number of units should remain at 912. But lost in the focus on the number of units is an understanding of the number of guests actually staying at the resort, and how this affects us as owners and residents.

As someone reminded us yesterday, the 140 employee units did not house guests using the amenities at the

resort. Those employees previously housed at the resort, their successors and hundreds more, will still work at the resort and will need transportation, further burdening the road system.

The real maximum number of owner and guest units that have ever existed at the resort was never close to 912, but was rather about 750. While I recognize this issue was decided over a decade ago, even if the application is denied, as it should be, building 140 new condo or hotel units in lieu of employee units will increase the number of potential guests within the resort by almost 20 percent over the largest number of guests ever to stay at the resort.

While I wish that the redesignation of these 140 employee housing units had not been granted, I recognize this decision as final, and I further recognize that the Applicant relied on this redesignation when the Applicant purchased its interest in the resort. However, the additional units that the resort could build if this application is approved, and not prohibited by court order, would increase the total number of guest units to about 1,250. As a result, the potential total number of owners and guests staying at the resort would be about 70 percent greater than the highest total in the past. And believe me, despite the

legalistic discussions on the term "density," guests staying at hotel units do contribute to density in the real world. Unlike guests staying in condos, they have no place else to eat other than restaurants on or off the resort, and they participate in the other amenities, as well. The resort has always been crowded at peak periods, and will be much more so if this application is approved.

Now I'd like to address the resort's "highly walkable, park once" theory. It is totally divorced from reality for several reasons:

First, as discussed by counsel for the timeshare units, many owners and guests, possibly as many as half, are not eligible to participate in the amenities. Where do these -- where do these people eat? They travel outside the resort to restaurants in Captiva and Sanibel, or to food stores in Sanibel and Fort Myers; and even guests who can participate in the amenities will need to travel from one part of the resort to the other.

Secondly, the trolleys. They may be charming, but they're not widely used and are regularly virtually empty. Some people do walk, but the narrow roads and the scarcity of sidewalks do not create a walker-friendly environment. Most people drive golf

carts and cars from their unit to other parts of the resort. The only time I notice that the trolleys are full is when the resort uses them to transport guests for weddings and other special events.

Third, while the resort is not a golf destination, we are in Florida. Many guests do like to play golf and play at local courses like The Dunes, the Sanibel Island Club, and Shell Point. That's what I did when I stayed at the -- at South Seas as a guest, and for the first two years I owned a home at Land's End, before I joined The Sanctuary Golf Club. All of these golf trips involve travel outside the resort. While the Applicant's golf course may be fun to play for a family, I do not believe most golfers would be interested in playing multiple rounds at a course like the resort's, which the present owners have converted to basically a pitch and putt course. These golfers will go elsewhere.

Four, many owners and guests go to religious services, whether on religious holidays or the normal day of observance. There are no places of worship inside the resort. Almost all religious observers need to travel to Sanibel, as the Chapel by the Sea in Captiva Village is a small, nondenominational chapel.

And lastly, as others have observed, guests also

enjoy the sights in Sanibel and Captiva, including Ding Darling, the Shell Museum, the shops, and other tourist destinations. It is naive and misleading for the Applicant to assert the financial benefits their proposal will bring to businesses in our island community, but then claim that their guests have all they need within the resort. Guests are not prisoners of the resort. They move about within the resort, and frequently exit the resort for the reasons I've discussed and probably many more.

Now I'd like to focus on Land's End where I live. As you can see on the screen, there are two photos taken around December 21st, 2024, showing the location of Land's End. The entrance to Land's End is shown by the purple circle in each of the photos. You can see it right here.

The top photo shows three lakes, one above Land's End, which you can barely see, and two below it. Contrary to the testimony given during the first two hearings, in Deviation 7 requested for the lakes, two of the lakes were -- were created in 2023, only two years ago; and the third, that's the lake right below Land's End -- this one here -- that lake was substantially enlarged that same year. The work was undertaken in connection with the change in the golf

course shortly before the hearings were held to change the Land Development Code. I believe that the slope to all three lakes is new, except for the portion of the existing lake below Land's End's buildings. The new lakes, and the expansion of the existing lake, should have been -- should have conformed with the required six-to-one slope requirement that I believe was applicable in 2023. A deviation is not justified.

Now let's discuss the location of the lakes.

Let's see, how do I...

The photo at the bottom, that's this one, this was taken in 2004 shortly after Hurricane Charley. In fact, in this one you can see there's damage to the roofs. Above Land's End, you know, at the top photo there's just sand that -- there used to be a green there or grass, but it's at this point all sand.

The photo shows the lake at the bottom is close to or over the property line in several locations and likely no more than ten feet away from the property line in others. You can -- it's a little hard to see, but the property line in spots is --

MS. MONTGOMERY: Madam Hearing Examiner --

MR. FARRENCOPT: -- inside the --

MS. MONTGOMERY: -- I'm going to interpose an objection at this point. Where the lakes were in 2004

isn't relevant, and where the existing lakes are now isn't relevant to these proceedings.

MR. FARRENCOPT: Except that they are. You're asking for a deviation --

HEARING EXAMINER COLLINS: Please proceed.

MR. FARRENCOPT: Okay.

This also shows, which we're aware of, that a part of our pool deck may be on their property.

We're not requesting the border of the lake to be changed, as we recognize the lake has been over the property line for decades. Likewise, the photo shows that part of our pool deck is over the property line, as is a portion of a roadway. These discrepancies in the property lines are likely due to the failure of the Applicant's predecessors to adjust the property lines after the development of Land's End was completed. On a micro level, the discrepancies also show how intertwined and integrated our property is from the Applicant's property.

Now, let's see. Go to the top one...

The photo on the top shows in some detail the location of the new lake above Land's End, which did not exist in 2004 when the bottom photo was taken. The new lake, which is along Redfish Pass, was created about ten feet from the property line. In fact, you

can barely see any difference. You know, it's very close. That ten feet is far less than the required 50 feet. In fact, I believe most of the lake is located within 50 feet of the property line. The Applicant should have complied with the legal requirements when it made these changes in 2023 and now seeks a deviation, Number 17.

This is another -- let's see -- there's another view of that lake. You can see the sandy part is where the water frequently has risen in the past up to, and you can see the fence that is there, we believe is on the property line or very close to it. So you can see the grass in the back, that's about ten feet from the sandy area where the water has risen to, and then the closer part of the fence, that fence is probably about ten feet from where the waterline is now, but it's -- it's been higher.

We want to see this lake removed to a place at least 50 feet from the property line, as it should have been built; and we certainly do not want any of the lakes being expanded closer to Land's End, which the proposed deviation of zero feet -- zero feet from our property line, that's not acceptable. Enough is enough. We do not want Land's End to need a moat to enter it.

Now I'll turn to the entrance to Land's End, which Marilyn discussed yesterday.

Let's see, this photo here.

You would think that Land's End might have little traffic, being situated at the end of the resort, but guests come to the area just in front of our entrance because it has an incredible view of Redfish Pass, Pine Island Sound, and North Captiva; dolphins rising to the surface, ospreys, pelicans and other birds diving for fish, and of course sunrises and sunsets. It's also a popular fishing spot and is close to the beach. Many boats come from the mainland to fish mere feet from our shore.

Just last weekend the resort began to host weddings on the green next to the entrance to Land's End rather than at the beach. So this is where it looks like is the new wedding venue, right there. The wedding ceremonies were previously held at the beach, but I think with the construction of The Clutch -- that's the golf building right there -- I guess it makes more sense for them to have it near The Clutch.

Despite all this, as Marilyn discussed, there are virtually no parking spots in the vicinity other than the spots owned by the local condo and timeshare associations for their guests. The nearest parking

provided by the resort for the golf course appears to be over 700 feet away for golf carts and over 900 feet away for cars. It is not clear to me that Deviation 6 applies to or is satisfied by these parking spots.

Now, the narrow entrance to Land's End is about 19 feet wide and requires a sharp left to enter Land's End right here. There's no shoulder on either side of the road at our entrance, so the paved road is all that is available for a vehicle. When vehicles park there, the road effectively becomes a single lane.

The approach before our entrance is owned by the resort. While no one is supposed to park there, and the resort security sometimes does direct golf carts and cars not to park there, the resort has not placed any "no parking" signs on this stretch. As a result, it may not be illegal to park there, and I am not aware of anyone ever being ticketed for doing so. By contrast, the resort has placed "no parking" signs on its own nearby turnaround -- that's this, this is the turnaround that was just created. It's basically for the golf course, so people can turn in there, but they're not allowed to park there.

Recently the resort has taken several steps that have increased traffic and parking issues for Land's End. The entrance to the resort's golf course used to

be by the marina, and it's now been moved to a location just outside Land's End, as I just showed you. The resort has closed the former golf cart path along Redfish Pass that guests used to drive golf carts down to the beach. That is right here. There used to be a golf cart path that went all the way down to the beach. Now no golf carts can park near the beach. The resort has burdened the access and parking easement to Sunset Beach, to which Ken Suarez, Attorney Mike Whitt, James Patterson, and others have already testified.

And, finally, the only people that can now park golf carts in the Applicant's few remaining golf parking areas are, one, guests renting through the Applicant; and, two, owners who are members of the Applicant's club, provided that in each case their golf cart is not rented from a third-party rental agent. All other persons are not allowed to park golf carts in the Applicant's few remaining parking lots or in any other place within the resort other than a parking spot in the association in which they are staying. As Marilyn discussed, it's not uncommon for guests not staying in Land's End to park not only at our entrance, but also illegally attempt to park under our buildings, which are private property.

We have signs indicating that parking is limited

to guests staying at Land's End, but they are often ignored, depriving our owners and guests of their assigned parking spots. As Ken Suarez testified, the Sheriff does not police parking within the resort, and no tow truck companies are on the islands. These issues will only increase as the resort reopens restaurants and other amenities. They will become much, much worse if the application to rezone the resort is granted.

To show you what we experience at Land's End on a regular basis, I have a time-stamped photo of an incident that occurred on March 15th, 2024, when no Land's End units were available to rent due to damage from Hurricane Ian.

Let's see...

This incident illustrates typical traffic and parking issues at Land's End. Sometime after 6:00 p.m. that day, just about a year ago, an ambulance arrived for one of our owners. I was present and walked -- and by the way, this photo was taken from my building. I was present and walked to the building where the ambulance stopped. In the interim, several golf carts arrived and parked directly near or on the entrance to Land's End where our home is located. My wife, who was in our unit, asked the golf cart drivers to leave

immediately, as they were blocking the road and an ambulance was about to depart. As you can see from the photo, at 6:51 p.m. the fire truck and ambulance were stuck, unable to exit because the golf carts were still there. I don't have a time-stamped photo of when the ambulance was finally able to exit, but fortunately the traffic issues -- or fortunately our neighbor was not harmed by the delay, but the incident illustrates the traffic issues we frequently face at Land's End already. We don't need hundreds more guest units creating more traffic and safety and parking issues.

Again, this incident occurred when there was low occupancy throughout the resort, and no Land's End units were allowed to be rented.

Now, let's see. How -- I would like to open up another file.

(Sotto voce between Mr. Mendez and Mr. Farrencopt.)

MR. FARRENCOPT: Okay. Here's a brief ten-second video of the incident.

(Video playing.)

MR. FARRENCOPT: You see the fire truck coming. You see the other golf cart arriving. This -- the blue cart's trying to turn around. It's in -- the golf cart is in the way, and so the fire truck stopped and

had to wait until everybody was able to leave. It didn't take a long time, but it still shows, even when we have emergency vehicles there, we have sometimes problems in exiting.

(Sotto voce between Mr. Mendez and Mr. Farrencopt).

MR. FARRENCOPT: Now, you might ask where did these golf carts come from? Did they come from the south end of the resort, over 1.5 miles away? No. They were driven by guests staying at The Cottages, about a three-minute walk from Land's End. Let me show you where The Cottages is. So the incident happened right here. The Cottages were -- are right here, and the golf carts were parked, previously and later, right there.

The nearest parking spots provided by the Applicant, located at the pool, are even further away from where those guests were staying. Those parking spots are not even shown on this photo. The incident is just an example of the use of golf carts to travel even very short distances within the resort, a good example of how the "park once" theory is a fiction, not a reality.

One final point about our roadway perhaps illustrates the Applicant's attitude regarding the

commitments the previous owners have made to the community. Totally out of the blue, on or about July 24th of last year, Land's End received from the Applicant an encroachment easement. The Applicant's position was that we needed to sign the agreement because it alleged our pool deck is partly on resort property, as well as 8.61 feet of our road at the entrance where it connects seamlessly with the Applicant's road. As you can see, this -- it's just -- it looks like one road. This is our road, and this is where it connects with the resort.

The Applicant may very well be correct about the property lines; however, our pool deck and road are exactly in the spots where the resort's developer, the predecessor to the Applicant before you today, placed them decades ago. As I showed you before, we are aware of these discrepancies which exist because the developer never adjusted the property lines to reflect the final construction of Land's End, as well as the location of the lake near our pool.

Now, you might ask why did the Applicant bring these issues up last year? In return for granting an encroachment easement, the Applicant expected us to eliminate our five-day minimum stay requirement -- which is down here in Section 6 of this draft --

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MS. MONTGOMERY: Madam Hearing Examiner, I'm going to maintain a continuing objection to the relevance.

HEARING EXAMINER COLLINS: Okay, that's fine. We're going to let him finish.

MR. FARRENCOPT: -- and also agree not to oppose the resort's rezoning efforts or otherwise criticize the resort. And that's at the top, it says, "Association agrees not to appeal or challenge any development orders, zoning requests to, or other approvals issued to or to be issued by Lee County, the State of Florida, or any federal agencies that are necessary or desirable by Grantor for the development of Grantor Property."

We firmly declined to sign the agreement on the grounds of adverse possession, as well as on estoppel grounds. The Applicant was, in effect, arguing that if we do not sign the encroachment agreement, we would have to reduce our road at the entrance to Land's End Village to a single lane with a width of less than ten feet. We never seriously considered negotiating the agreement. I believe the incident indicates the desperation of the Applicant to have at least one of the condominium associations support their application. I would like to know if we are the only party that the Applicant has attempted to gag; and if not, what has

the Applicant offered to others in return?

I also want to discuss the two flagpoles that the resort recently erected close to the Land's End entrance, which you can see in the photo on the left. Each of these poles appear to be at least 35 feet tall. One pole displays the American flag, and the other a South Seas flag that is shown -- flown at the same height as the American flag. The U.S. flag appears to be about 120 square feet, while the South Seas flag appears to be about 100 square feet in area, far more than the 15 square feet permitted by Section 30-5 of the Land Development Code, without a deviation. I'm not aware of any deviation allowing such a flag to be flown.

The Applicant has requested a deviation, Number 9, for the South Seas flag at the entrance to the resort, but does not appear to have requested one for the flag near the entrance to Land's End. The Staff recommended approval of Deviation 9, but that is specifically limited to the flag at a specific spot at the entrance to the resort. It is noteworthy -- oh, by the way, my building is right on the left of that photo.

It is noteworthy that if I were to fly a U.S. flag from my lanai, Florida condo laws would limit the size of the flag to 27 square feet, which is a lot smaller

and much quieter than the Applicant's two flags, which together appear to be over 200 square feet. The huge flags are incompatible with the presence of private residences only a pitching wedge away.

The large flags block the water view of my neighbors who are upstairs from me. When it is windy, as it frequently is, the ropes and metal flag clips bang constantly against the poles. The Applicant has not used snap covers over the flag clips, which would dampen some of the noise.

If it's windy, we need to close our windows to sleep, although it's still noisy. Our neighbors in other buildings have also complained about the noise. The decibel counts measured from my unit are frequently over 70 decibels, and at times have been over 90. Just this morning, while it's not windy here in Fort Myers, at my home in Land's End, the breeze was about 20 miles per hour, and the decibel count from the flags was almost 90.

These noise levels are far in excess of legal limits. Under Ordinance 22-10, it's unlawful to create or permit to create any noise that exceeds 55 dBA, or 50 from 10 p.m. to 7 a.m., as measured from a dwelling unit within a multi-unit dwelling. The general standard for residential land use, measured from the

receiving land use, is 66 during the day and 55 dBA at night.

Unlike the proposed beach restaurant next to the Suraya house, the winds do not shut down for the night, and the flags remain noisy throughout the night if it is windy. A much better and much more logical place for flagpoles would be at the entrance to the marina, not too far away, which would help guests who rent boats from the Applicant, but are unfamiliar with the waters, to find their way back to the marina.

The installation of the flagpoles and the shed -- I'll show you the shed -- that has been recently placed between Land's End and the beach violate the terms of the zone of protection easement that has been discussed at this meeting. Unlike the case of other associations, Land's End has received from the resort a zone of protection easement under which the Applicant's predecessors agreed not to build any structures in an area running from Redfish Pass, near Seabreeze, out to the Gulf.

Let's see. I'll show you where Seabreeze is. This is Seabreeze right here. It's the closest condominium association to Land's End, and basically the zone of protection runs from right about here, I think it bypasses there, and it goes all the way out to

the beach. I don't have a photo that shows the entire line.

There are minor exceptions in the zone of protection agreement for sprinkler systems, drainage systems, and lights, but none for flagpoles or sheds. This agreement, as well as the replacement roadway easement, which we believe expressly covers the entrance to our roadway, was executed in settlement of a dispute as to the development of Seabreeze in 1993, to which Land's End consented. I believe, but cannot confirm, that The Clutch -- that's the golf course building -- is permitted since it appears to be just outside the zone of protection.

In addition to being within the zone of protection, the shack is on the seaward side of this coastal construction control line where no new structures can be located. Madam Hearing Officer, please ask the Applicant on what basis it has decided to move the shack to this location. It previously served as their temporary starters' position for the golf course, and we did not object at that time because we understood it was temporary.

Finally on this topic, the resort's display of the American flag does not comply with the United States Flag Code, which I recognize is not a criminal law,

which was adopted by Congress in 1942. Section 6 of the Code provides that the flag should be displayed only from sunrise to sunset unless it is properly illuminated. I live about 100 feet from the flagpoles, and I've never seen the flags lowered at dusk or illuminated at night, although the Applicant has started to lower the -- remove the flags when winds reach gale force. In addition, the Applicant has not been in compliance with Section 7(c) of the Flag Code, which does not permit any other flag to be shown flown as high as the American flag. The Sanctuary -- just to show you a contrast, The Sanctuary Golf Club flag shown on the right side is tied below the American flag -- that's one way to comply with the code -- with the smaller club flag flying just below the American flag.

In conclusion, Madam Hearing Officer, please do not enable the Applicant to break the commitment made by the Applicant's predecessors to limit the number of units, both residences and hotels, at 912. Many owners, including my wife and I, have relied on this commitment when we bought our homes and residences at the resort. Please do not allow the Applicant to dramatically increase the height of the buildings within the resort, while our properties are limited to the height standards in the Administrative

Interpretation and/or their current height. Any such increase should be much smaller than that requested by the Applicant, and should be part of a filing that includes all the property currently governed by the Administrative Interpretation.

Please deny the deviations requested with respect to the lakes, which, if granted, would reward the Applicant's previously -- previous failure to comply with legal requirements, and would allow the Applicant to move the lakes even closer to our property line.

Finally, since the resort does not take the care to properly display the American flag, do not grant the Applicant a deviation to display a large version of its own flag alongside our American flag.

Thank you, Madam Officer -- Hearing Officer, for your consideration.

(Farrencopt Exhibit 1 submitted.)

HEARING EXAMINER COLLINS: Thank you.

Jim Berg?

MS. MONTGOMERY: Wait, wait, wait, I have several questions --

HEARING EXAMINER COLLINS: Oh, okay.

MS. MONTGOMERY: -- for Leo.

And, Leo, I apologize, I didn't catch how to pronounce your last name. So is it okay if I call you

Leo?

MR. FARRENCOPT: Sure.

MS. MONTGOMERY: Okay, thank you.

One of the first comments you made was that Administrative Interpretation 2002-00098 was adopted by the Board of County Commissioners --

(Farrencopt exhibits distributed.)

MS. MONTGOMERY: Thank you very much.

Do you have any documentation that indicates that it was approved by the Board?

MR. FARRENCOPT: Not at the moment, no.

MS. MONTGOMERY: Okay. Because every version I've seen, it wasn't adopted by the Board of County Commissioners. It was approved by Mary Gibbs, the then Director of Community Development. It was not done at a public hearing. It is, in fact, an administrative action. So --

MR. FARRENCOPT: Well, I'm sorry if I misspoke. That's what I understood.

MS. MONTGOMERY: Okay. I just wanted to see if you had something, you know, that would lead to a different...

You spent some time talking about promissory estoppel. What document are you asserting results in promissory estoppel?

MR. FARRENCOPT: Well, I've read the original zoning application, which was, I believe, 1972 or 1973, where the developer of the resort committed to keep a lot of the acreage open, and to limit the number of units at 912.

MS. MONTGOMERY: Okay.

MR. FARRENCOPT: And I think also the -- the developer or the owner of the resort owned a real estate company which sold and leased a lot of units, and I think people were told that the commitment was to keep it at 912.

MS. MONTGOMERY: I know -- since you went to Columbia, I'm sure that you know with contracts and other documents, that if the document's not ambiguous, what's controlling is within the four corners of the document. Would you agree with that?

MR. FARRENCOPT: Yeah, of course, contracts, the first (unintelligible) is to read it and understand what it says.

MS. MONTGOMERY: Yeah. So promissory estoppel typically applies to contracts; but in this instance, you're referencing the 1973 zoning resolution.

MR. FARRENCOPT: Well, I also read their application, which -- yes, I believe that they did commit to keep it at 3 units per acre.

MS. MONTGOMERY: But the controlling document is not the application. It's what ultimately gets approved --

MR. FARRENCOPT: Yeah, but the promise --

MS. MONTGOMERY: -- within the four corners --

MR. FARRENCOPT: -- they made was in the application.

MS. MONTGOMERY: So you're relying on an application that was not incorporated into the zoning resolution.

MR. FARRENCOPT: I'm sure there are other documents. You've asked me, and at the moment that's what I recall.

MS. MONTGOMERY: I appreciate that. And so it's your position that a 1973 zoning resolution can't ever be amended?

MR. FARRENCOPT: No.

MS. MONTGOMERY: So we're allowed to amend it?

MR. FARRENCOPT: Well, I don't think -- it's a 50-year history. I don't think it's appropriate to substantially increase the number of units within a development many decades after it's been fully developed. I -- I recognize that there were 25 -- apparently about 25 units that could have been built, and I also recognize that the resort decided to

remove -- demolish the hotel and the employee units; so they're entitled to rebuild units there.

MS. MONTGOMERY: And I'm glad you clarified that because when you testified earlier, it sounded like you were saying we shouldn't be able to replace the hotel --

MR. FARRENCOPT: No, absolutely not. I said --

MS. MONTGOMERY: Okay.

MR. FARRENCOPT: -- I recognize that the employee units were originally employee units. They weren't guest units, and I did say explicitly that I recognize they were -- there was an amendment, and they've been redesignated and permitted to be built as guest units. And I wish that decision hadn't been made, but I accept it. And I also recognize that your client relied on that when it bought this; so I understand that they understood that they could build 140 hotel or condo units in place of the employee units.

MS. MONTGOMERY: Okay. You referenced the ADD so I know that you're aware of it. Are you aware of the fact that the ADD has setbacks provisions, water management provisions, and other provisions that are controlling at the present time, and not the LDC?

MR. FARRENCOPT: I focused more on the discussion of the number of units. I have read the entire

document, but I can't remember everything that's in there.

MS. MONTGOMERY: No, it's a long document, and it's confusing sometimes.

So there isn't a six-to-one slope in the ADD.

MR. FARRENCOPT: Okay.

MS. MONTGOMERY: Were you aware of that?

MR. FARRENCOPT: But as -- as I indicated earlier, the only lake that still exists is the one right below Land's End; and as you could see from the photos that I showed, that lake was extremely small, and then two -- and two years ago it was substantially increased. So I did indicate that I don't think you should have to change the slope on the old part because it's been there for decades. What I did say was that I think the enlargement of the lake, they're almost three -- three sides of the lake are basically brand-new, are two years old, and apparently you didn't comply with the slope requirements because they're asking for a deviation.

MS. MONTGOMERY: No. The lake was built pursuant to an ERP and pursuant to a development order and consistent with the ADD. So you are suggesting that when -- if the zoning changes, and we're subject to the LDC, that lake should be removed? Is that your

position?

MR. FARRENCOPT: Which lake are we talking about right now?

MS. MONTGOMERY: The one you're objecting to, the one that was enlarged.

MR. FARRENCOPT: No, I'm just saying I -- I see there's a deviation requested. I would think you should have complied with that when it was enlarged.

MS. MONTGOMERY: Okay. But you understand that if and when the zoning's approved, that's prospective. We're not going to go back and change things that are already approved. Is that your under --

MR. FARRENCOPT: I'm not a land development expert.

MS. MONTGOMERY: Okay.

Do you engage in any -- I mean, it sounds like everybody -- well, not everybody. It seems like some people don't follow the rules in regards to where they're allowed to park. Does your condominium association engage in any kind of enforcement on your property?

MR. FARRENCOPT: Yes, we tell people to move when we think they shouldn't be parked there, but it's difficult -- very difficult to figure out who is entitled to be there because I know many of our owners

who are there, but I don't know the people who are renting; so I'm reluctant to try to kick people out when I don't know if they're entitled to be there or not. But there are many people I do notice park under buildings and immediately go to the beach or to fish, and I do challenge them.

MS. MONTGOMERY: Do you know how long those flagpoles that you object to have been there?

MR. FARRENCOPT: Not very long. I believe they were erected last summer. I did not notice any flags up since -- until I returned to my home in about October.

MS. MONTGOMERY: So you would be surprised to learn that the flagpoles have been there for 30 years?

MR. FARRENCOPT: They have not been there for 30 years. I'm...

HEARING EXAMINER COLLINS: Neale, I question the value of this line of cross-examination. I feel as though all these issues are things you can address in your rebuttal, the points of which you disagree, and clarify what governing documents are relevant, et cetera. So given the number of people we're trying to get through, I'd like you to try to focus your cross-examination.

MR. FARRENCOPT: Here's the photo from 20 years

ago. I do not see any flagpoles there. The location is right here. And I've been living there for ten years. I would have noticed flagpoles. And there certainly were never any flags flown until fairly recently.

MS. MONTGOMERY: Okay. No further questions at this time.

HEARING EXAMINER COLLINS: Jim Berg?

MR. FARRENCOPT: Okay, thank you.

Thank you, Adam.

MR. MENDEZ: Of course.

HEARING EXAMINER COLLINS: And you were not sworn in when -- did you come in late?

MR. BERG: No, I was here.

HEARING EXAMINER COLLINS: So did you take the oath?

MR. BERG: Yeah.

HEARING EXAMINER COLLINS: Okay, take your seat.

MR. BERG: Thank you.

HEARING EXAMINER COLLINS: State your name for the record, and you may begin.

MR. BERG: Okay. Name is James C. Berg, and I reside at 16440 Captiva Drive, and I am currently a -- which is 22 years, and I am currently an active member of the CCA.

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I graduated from Michigan State University in 1965 with a Bachelor of Science degree in Residential Construction. My professional career, as a builder/developer in the Chicago suburbs, was from 1965 to 2008, 43 years.

I was an officer in the Army Corps of Engineers in Heilbronn, Germany, with the 237th Engineer Battalion from 1966 to 1969.

In 1994 I was elected president of the Home Builders Association of Greater Chicago, with 1,783 company members. I was also made a life director to the National Association of Home Builders in Washington, D.C.

I have been on the board of directors of Home State Bank in Crystal Lake, Illinois, from 1992 to present, for 32 years.

In 1995 I was appointed trustee to the Northern Illinois Planning Commission by the Governor of Illinois, James Irwin (sic), where I chaired the Water Resource Committee for nine years, whose principal responsibility was to do EPA reviews of facility planning areas. That was for jurisdiction of sewer and water, if there was an area between two municipalities, who would get the area, to serve as a municipality. That included a seven-county area around Chicago. All

these influences have shaped my perspective on this issue.

I, along with every owner in Captiva and Sanibel, accepted the building and zoning codes required of them to build their homes and businesses in this unique environment of low density with high -- with height restrictions. We love our islands, and with those restrictions. See no benefits, no benefits to the Timbers' requested changes.

Our Lee County Commissioners were elected to represent the thousands of landowners that inhabit our islands. In fact, once elected, they took an oath of office to preserve, protect, and defend us and our concerns relative to life, safety.

I pose three important questions from a very different point of view, not as a -- not as a landowner, but more as a developer myself for 43 years.

Question number one: Why would a smart, seasoned developer like Timbers choose a low-density jurisdiction like Captiva and Sanibel, to change its very character, after doing their due diligence, when they could have gone to any other jurisdiction in the entire state of Florida that allows taller structures and higher densities? As a developer myself, I would have walked away from the project knowing that over 90

percent of the islands' inhabitants were against these changes.

Question number two is, which persons of Staff would have encouraged a developer to pursue a petition which knowingly violates a 50-year-old agreement between Captiva and Lee County which limited the heights of buildings and the densities the petitioner chooses to change?

And most importantly, why would four out of five County Commissioners decide to abandon and violate their oath of office and go against the wishes of over 90 percent of the constituents they were sworn to protect?

These, along with many other issues that have been articulated on this matter, deserve intense scrutiny and answers.

It should be noted that we live on an island that only has one means of ingress and egress. To make matters worse, South Seas Plantation makes evacuation from the island during threatening times to -- becomes one of the longest cul-de-sacs, if not the longest, in the entire state of Florida. Every subdivision ordinance in our nation limits the length of a cul-de-sac, not because of sewer or water or electricity, but because of the length and how many

property owners are served by that road. If there is a blockage of any kind, it raises a life/safety issue.

We have already heard testimony that in a mandated evacuation due to an impending hurricane, it can take over two hours from -- their term -- Land's End to -- to evacuate to the mainland where there are multiple evacuation routes. Most islands in Florida -- like Palm Beach, Singer Island, Cape Coral -- have at least two exits for egress in case of emergencies. We, on Sanibel and Captiva, only have one as our main source of transport by motor vehicle.

Here the birds of Ding Darling have an advantage, in that they can fly away safely in minutes, while it takes us hours.

Even our homes have required front and back doors so that there are two means of ingress and egress. Yes, ingress and egress have an underlying requirement for life, safety. By adding more density to the already existing conditions, we threaten our citizens' life/safety.

Thank you for listening to my concerns, and may God guide you.

HEARING EXAMINER COLLINS: Thank you.

MS. MONTGOMERY: Mr. Berg, I have a couple questions, if I could.

MR. BERG: And I would invite any questions you might have.

MS. MONTGOMERY: Thank you, sir.

You indicated you live on Captiva Drive. How far are you from the entrance to South Seas?

MR. BERG: We're about a mile north of the bridge at Blind Pass; so that would put us maybe a mile and a half.

MS. MONTGOMERY: But are you -- Ms. Riordon indicated that there's different zones. So are you in the estate zone, the Tween Waters zone, the commercial zone?

MR. BERG: Residential -- I'm in a residential zone.

MS. MONTGOMERY: Okay. Are you a full-time resident?

MR. BERG: I homestead here in Florida.

MS. MONTGOMERY: And how many houses are on the property you own?

MR. BERG: I'm sorry?

MS. MONTGOMERY: How many houses are on the property you own?

MR. BERG: How many houses are on the property that I own?

MS. MONTGOMERY: Yes, sir.

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MR. BERG: One.

MS. MONTGOMERY: Do you rent your house?

MR. BERG: No.

MS. MONTGOMERY: Okay, thank you.

HEARING EXAMINER COLLINS: Allie Pecenka?

THE REPORTER: What was the name?

HEARING EXAMINER COLLINS: Allie Pecenka.

Did I butcher it?

MS. PECENKA: Close, it's Pecenka.

HEARING EXAMINER COLLINS: Pecenka.

MR. BERG: Thank you.

HEARING EXAMINER COLLINS: P-E-C-E-N-K-A?

MS. PECENKA: Yes.

HEARING EXAMINER COLLINS: Pecenka.

MS. PECENKA: It's a hard one.

HEARING EXAMINER COLLINS: I have sympathy. My maiden name was also a twister. Go ahead.

MS. PECENKA: Good morning, Madam Hearing Examiner. Thank you for being here with us all again today, and thank you for giving me the opportunity to speak.

My name is Allie Pecenka. I'm a resident of Sanibel, and I also work on Sanibel.

Can you hear me okay?

HEARING EXAMINER COLLINS: Yes.

MS. PECENKA: I am lucky to have grown up in Lee County and to have had access to the incredible beauty the islands of Sanibel and Captiva have to offer from a young age that draw so many of us to return again and again, and even build our lives there.

(Technician adjusts microphone.)

MS. PECENKA: Thank you.

Access and exposure to the environmental treasures these islands offer inspired me to pursue bachelor's and master's degrees in the fields of ecology and conservation, and return to the area I was raised and care about most. I now work for the Sanibel-Captiva Conservation Foundation as a policy and advocacy associate, but I'm here today just speaking as a resident of Sanibel and someone that loves the islands.

Access to nature, increased quality of life and community are what draw residents to live and work on Sanibel, and I fear the increase in density and associated intensity proposed by South Seas threaten to undermine that way of life.

As someone that works and rents on Sanibel Island, I know how difficult it is to find housing, especially at a reasonable price. I was able to find housing on Sanibel close to my place of work, and I am grateful for it every day.

Living on Sanibel allows me to feel like a part of my community, have access to nature, and most importantly, allows me to direct my focus entirely on my work with the removed stressor of sitting through hours of daily traffic. The free time I've been granted from removing this commute allows me to volunteer with local organizations, attend community events, and has immensely improved my quality of life. I now truly feel like a part of my community, and it is a community I care deeply about protecting.

The expansion of South Seas' existing workforce required to accommodate the proposed increase in density will require these workers to find nearby housing for themselves and their families. Without housing provided by South Seas for their workforce, this will put added pressure on an already competitive rental market on the neighboring island of Sanibel. Living on Sanibel provides the most reasonable commute to Captiva and eliminates much of the daily traffic that must be endured commuting on and off the islands, making it an attractive option for the workforce of South Seas.

This influx of residents would not only make it more difficult for workers on Sanibel to find affordable housing, but could drive up prices for

existing renters due to increased housing demand.

I believe there are many residents of Sanibel that would be impacted by these pressures, especially island workers and those at the beginning of their careers like myself. These are people doing meaningful work that want to contribute to their community, but may be forced to seek housing or employment elsewhere by being pushed out of an increasingly competitive housing market.

While increasing demand for housing on Sanibel, countless additional vehicles will be added to Sanibel's main road every day by an expanded South Seas workforce regardless of whether these workers live on Sanibel or in Greater Lee County. As we all are aware, there is only one road on and off the islands of Sanibel and Captiva, which already faces extreme congestion from daily traffic patterns.

As someone that lives on Sanibel, dense traffic is a daily reality during certain months of the year regardless of the time of day. Sitting in this traffic when traveling around the island during work hours can greatly inhibit productivity, while island workers have grown used to sitting through upwards of one to two hours of traffic to commute home each day.

I fear the combination of these factors, in

addition to concerns echoed by fellow Sanibel stakeholders, will erode the way of life that has drawn us to the islands in the first place, vastly diminishing quality of life and the possibility of island workers also calling Sanibel home.

The development of South Seas does not only impact Captiva, but its neighbor island of Sanibel and its entire character, as well. In order to preserve this and protect the way of life Sanibel residents so deeply value, I oppose zoning that would allow for this drastic increase in density.

Thank you so much for the opportunity to speak today. That's all I have.

MS. MONTGOMERY: Allie, before you go, can you just let me know how far you live from the South Seas site, if you know?

MS. PECENKA: I would say like nine miles probably.

MS. MONTGOMERY: Okay, thank you.

MS. PECENKA: Thank you.

HEARING EXAMINER COLLINS: Ed Holden?

MR. HOLDEN: I was late. Should I re-swear in --

HEARING EXAMINER COLLINS: Yes, if you did not take the oath today, I will administer the oath again. Please raise your right hand. Do you swear or affirm

the testimony and evidence you place into the record will be the truth?

MR. HOLDEN: I do.

HEARING EXAMINER COLLINS: Thank you, take your seat. State your name for the record. Let me find the sheet -- here we go.

(Holden Exhibit 1 submitted.)

MR. HOLDEN: My name is Ed Holden. I've been a resident of Sanibel since 2018. I'm a retired power plant engineer, did it for about 40 years. If you look me up on the Florida State Board of registered engineers, my name is officially Edward Lewis Holden.

I'm not here today to speak directly about engineering or technical things, but more observations throughout this process and as a friendly neighbor.

From what I heard in recent discussions, the presentations have been well-grounded with technical and socially responsible reasons not to permit this expansion. So why should I speak up? I'm worried my Captiva neighbors will be forced to carry the burden of unnecessary and unwanted growth, and my Sanibel neighbors bear the congestion burden.

A few neighborly observations: All of the nonprofit organizations I'm part of include Captiva as a sister organization. It's embedded in their mission.

We also know that what happens in Captiva does not stay in Captiva.

Tomato plants. Tomato plants growing wild on Captiva? Post Ian there's a reported fluke of nature that was happening island-wide as the vegetation was recovering. I spent four years on the City Vegetation Committee -- the Sanibel City Vegetation Committee, and my training supports the theory that these nonnative plants have been transported from somewhere else. One possibility, the seeds were ingested by humans, deposited in the wastewater system, just waiting for the opportunity to get to sunlight.

MS. MONTGOMERY: Madam Hearing Examiner, I'm going to object to speculative testimony that's irrelevant.

HEARING EXAMINER COLLINS: You may continue.

MR. HOLDEN: Okay. Tomato plants sprouting from leaky digesters that South Seas is operating, they have a name. The wastewater treatment plant operators call them -- I won't repeat it in public, but you can look it up on the internet.

So the tidal pumping we've already talked about. It's also called hydraulic pumping. That breaches the underground piping and wastewater facilities by the pressure of the water raising and lowering. I think that possibly those tomato plants that we -- that are

pretty relevant are probably leaking out of that system. Is it the South Seas ones? I really don't know. But they should submit those things for routine testing after every event to make sure that all of that piping is -- underground piping is -- has not been breached. That's on our land, the leach field that it's in. It's -- it's just a little road.

Evacuation planning should be updated and approved prior to continuing with this permitting. Why now you ask? On Long Island, New York, there was a nuclear power plant called Shoreham. It was in power ascension testing. They had fuel on-site; they were done. I know that because I worked for the company that finished it. The evacuation plan, the Commissioners started looking at it and said we can't get people off Long Island that fast. Chernobyl happened, we had Three Mile Island, so there was a lot of angst about it, they shut it down. Never made power. Never made power. All that money was passed on to the rate payers.

So for the safety of the entire county, I hope the people that are sitting below us, you know, reconsider this evacuation plan because they may realize later on, after a lot of money is spent, that we can't get the people off.

So what did we learn from the last big hurricane? San-Cap Resilience Group had several workshops post Ian, and this public sentiment that's put out in these workshops also include the folks from Captiva. They're chronicling the lessons that were learned after Ian.

The first part was pretty much talking about some stories of people trying to escape from Sanibel and Captiva during the events leading right up to landfall. In part one, there's one lady that really struck me, Sharon's story. She was a real estate manager of a lot of different units. She spent her last two or three hours before the storm hit Sanibel getting her tenants out. Okay? There was three of them; she finally got one out. The second just barely got out. As she was heading back to her house to pick up her go-bag, we call them here, where you grab what you have, your passports and everything, and you're gone. As she was headed there, she saw the Captiva Fire Department leaving from the intersection of Periwinkle and Lindgren, and that, everybody knows, is the time to go. You don't go get your stuff. You follow those trucks out because it's over. You gotta get out of here.

So anyway, the end of the story is one of the -- one of the couples, the house that she did get them out of ended up two bayous over so they probably wouldn't

have made it. I don't know what happened to the second one. But it's very hard to get people that don't know the system down here to evacuate. It's not easy, and I hope South Seas takes that very seriously.

In part three of that series, there was an emergency vehicle -- all the emergency services people sat right up and talked to all of us about the problems that they had getting people off the island. One slide caught my attention: Why don't Americans evacuate? In that slide it says a large majority want to prevent damage and looting to their property. Another large proportion, it's called tragic overconfidence. It's not going to happen to me.

I work on -- in a hurricane preparedness seminar through the FISH social services. We call people, pay attention, you know, have a plan. Okay, start invoking your plan, it's coming. We make several phone calls. But people get overconfident. It's just the way it goes.

Over 30 percent of the people don't leave because of their pets. Okay. They don't want their pets to be upset because they have to stay at Hertz Arena for a couple days? I don't know. That just seemed like a very high number.

Cost is another thing. We work with, on FISH,

people with disability and transportation issues. We're out in front of it; we're talking to them. If you can't get out, we'll figure it out. We'll get someone -- we'll send a cab, something. We'll get you out of here. That's with the social service people. The important thing is we know who these people are. We can call them. I don't know what's going to happen up there. And if you add more people, more questions, right?

So that's pretty much -- wait a minute. There's a water park up there? Now, I didn't know that. Okay. You got the best beaches on the planet, and you're going to put in a cement pond? I don't get it. Anyway, a big waste of potable water, in my opinion. Let's try to lose the water park.

In summary, the local residents are not in favor of this expansion. And how can South Seas promote client safety during storm events and also negate the environmental impacts with this population increase? It's real simple. Just scale back to where you were, and just rebuild the resort that you bought originally but with a full commitment to safety and resiliency. Yeah, and lose the water park. That's it.

HEARING EXAMINER COLLINS: Thank you.

MS. MONTGOMERY: Mr. Holder (sic), can you tell me

how far you are away from the South Seas Resort?

MR. HOLDEN: I am in The Dunes area, so I would be on the route -- the evacuation route that everybody in Captiva has to use.

MS. MONTGOMERY: That wasn't my question. How far are you from --

MR. HOLDEN: Oh.

MS. MONTGOMERY: -- South Seas Resort?

MR. HOLDEN: 12 miles.

MS. MONTGOMERY: Okay, thank you.

HEARING EXAMINER COLLINS: Richard Sonking?

MR. SONKING: I wasn't sworn. I haven't been sworn.

HEARING EXAMINER COLLINS: You haven't? Okay. Please raise your right hand. Do you swear or affirm the testimony and evidence you place into the record will be the truth?

MR. SONKING: I do.

HEARING EXAMINER COLLINS: Thank you. Take your seat, and state your name for the record.

MR. SONKING: Good morning, Madam Hearing Examiner. I have a short statement to read.

My name is Richard Sonking. I live on Wightman Lane in the Village of Captiva just south of South Seas Resort, less than a quarter mile from the main

entrance.

I am a past and future board member of the Captiva Civic Association. I also serve as treasurer and board member of the Captiva Homeowners Association, representing 59 homes on Laika and Wightman Lanes.

My home was devastated by Hurricane Ian in 2022. I had just shy of three feet of water inside and had to rebuild our entire first floor. Last September we were hit by Milton. We rebuilt once again our entire first floor. I tell you this not for sympathy, but as an indication of my love and commitment to the community of Captiva.

I have listened to many of the expert witnesses and testimonies on both sides of the issue, and I am struck by how many reasons so many of us are opposed to this expansion, and how few people are in favor of the expansion for what appears to be one reason, and that is to increase revenue and profitability for one corporation.

Change can be good; however, this change I'm afraid could be devastating to the island and island life in general. I truly believe to approve the expansion plans the Applicant is requesting would have a profound negative effect on this beautiful island.

It is crystal clear to me this change in zoning is

wrong on so many levels. I just hope, after you study and weigh all of the testimonies and facts presented to you, you will draw the same conclusion.

Thank you for allowing me to speak.

HEARING EXAMINER COLLINS: Thank you.

Joe Barbee? And after Mr. Barbee, we're going to take a ten-minute break.

MR. BARBEE: Good morning, ma'am. I'm Joe Barbee. I'm going to ask your forbearance in advance. I do not have the vocabulary or the oratory skills that the other professionals here have when they're presenting cases like this in front of a Hearing Officer. But -- my residence, so Ms. Montgomery doesn't have to ask, I can take a 12-year-old Little League baseball pitcher, and he can throw the baseball three times and hit the water park that they are proposing to have. That's how close I am.

Now, as we all know, the government's job is to protect and promote the health, safety, and welfare of the community. We know that. And my -- when I was in school, and somebody missed a class, they never asked to borrow my notes, so please give forbearance.

The first thing I noted was that they asked for 20 deviations, 20.

I'd also comment on the sewer plant in the middle

of a mangrove swamp.

Now, TKW Engineers, Dr. David Demoski (phonetic), I think was his name, a few years back said that it was inadequate and inappropriate to have this sewer plant there. Now they want to increase the capacity of it. They will have to increase if they were approved.

Now, another one of the deviations that I noticed that they wanted was the deviation from the sign ordinance. We are suffering from sign pollution. Every community that I know is doing their best to reduce the sign -- the size of the signs.

Now, the sign they have -- South Seas is at the end of the road. They have a sign up there. Anybody can -- anybody that can't see that sign at the entrance of South Seas should not be driving an automobile.

They also ask for a deviation for the one -- I believe it's going to be on top of the golf shop. Now, if they get a bigger sign, you'll be able to see that sign all the way from Cabbage Key.

Now, golf carts. We're getting to where we got golf cart pollution, also. It's my understanding -- I want to know about -- when we talk about elevations and where they're going to store their golf carts, because it's my understanding and I've read that some of the

golf carts, when they got flooded, caught fire and burned. So I want to know what they're going to do about storing their golf carts above flood elevation.

Again, it is my understanding that there was between -- somewhere between 10,000 and 15,000 letters and emails sent in opposition to this rezoning request, 10,000 to 15,000, that number, from people all over Sanibel, Captiva, Lee County, the state of Florida, all over the entire world.

Now, we've heard from a lot of experts in this zoning case, but I want to tell you who the true experts are. The true experts are the people who live on Captiva, own property on Captiva, and work on Captiva, and they are opposed to this rezoning.

Now, I've heard experts on the evacuation time, but none of them took into consideration an accident or someone running out of gas. Currently there is only one gas station, and it's on Sanibel at the four-way stop. If you're running low on gas, you got a problem.

The Lee County Development Code says everything must be compatible with the community. Their petition and their request is not compatible with the community and the low density on Captiva.

I heard one of them, I think it was -- and like I tell you, nobody ever asked me to borrow my notes --

would increase vehicle trips 220 to 275 trips per day.

Captiva's objection to this zoning request is supported by the surrounding communities. We've heard their mayors, we've heard their city councilmen, and what have you. They object to it.

Now, the public, the visitors, the property owners, and the business owners have relied on the 912 cap for 50 years. South Seas sold property with people relying on that.

Now, I get phone calls from all over the country and foreign countries -- ma'am, did I tell you that I was a certified general contractor, a certified electrician, and a certified plumber, and a registered practicing real estate broker in the state of Florida? I don't know if I did or not, but I am.

HEARING EXAMINER COLLINS: You did not. Now you have.

MR. BARBEE: That gives me some kind of credibility.

And they call me, and they say, Joe, what's going on down there with South Seas? Is this another Florida real estate scam? And I stumble with my words to answer them.

All the associations inside of South Seas object to it. You have heard their rep -- you've heard their

representatives speak in opposition to it.

The Sanibel-Captiva Road is a two-lane dangerous road, especially at night. There are no lights on that road. It's narrow. It is a safety hazard.

There are no sidewalks on Captiva. It's all foot traffic. There are pedestrians, bicycles, people walking, people pushing baby carriages, and what have you. It is a dangerous situation, and we can't afford to have the increased traffic. I think I heard one of those skilled people say it will increase traffic by 40 percent.

Bicycle traffic, that's another problem and safety hazard.

Now, they have stated that most people will stay inside South Seas because they have everything there, and they will not be going out, you know. Well, they run a trolley to take them around, and they have also stated that it's going to stimulate the economy of Captiva. Now, if all of the visitors and residents stay inside of South Seas, how is it going to stimulate the economy of any place other than South Seas?

Another thing is it's totally incompatible with -- to increase -- it's totally incompatible with the rest of Captiva.

Now, I don't know if any of you remember or not,

but I was sitting on some committees some years ago when they wanted to put a parking garage on Andy Rosse Lane -- on the south side of Andy Rosse Lane some years ago, and of course that got defeated. They wanted to put a parking garage there so people could walk to the beach and what have you. That got defeated.

Again, back to traffic. On Sanibel and Captiva we rely on our communications from a line that comes across Pine Island Sound, and it is continually going down, telephones and power. Everybody knows we lose power, everybody knows we lose telephone lines and what have you, and the roads are continually blocked by service trucks, power -- Lee County Electric and Comcast and what have you.

Now, a few personal incidents. One Sunday morning not too long ago I get a knock on my door. I'm still in my pajamas. I get up. There's this dude standing at my front door. I'm saying, how are you? How can I help you? I will give you $50 to let me park in your driveway. Well, ma'am, I abhor foul language, but I think he understood when I got through that he couldn't pay me $50 to park in my driveway.

Other incidents, talk about traffic and traffic jams. Somewhere south of Jerry's store and the Bank of the Islands, my grandson taps me on the shoulder --

now, remember, we've already been about 20 minutes. My grandson taps me on the shoulder. He said, Granddaddy? Yeah, baby, what is it? I got to go to the bathroom. Oh, son, you can hold it for a while. Okay.

Another 20 or 30 minutes, tap on my shoulder again, Granddaddy, gotta go to the bathroom. Son, there's no place. Just hang on. We'll be off here in a few minutes.

Another 10 or 15 minutes, tap on the shoulder, Granddaddy, gotta go to the bathroom. Okay, son, just hit the woods over there. Do the best you can with a lot of traffic behind. Well, that is a traffic problem.

Now, the most recent was the last -- the last hearing date we had, what was it, March -- whatever date it was two or three weeks ago. My wife and three of her lady friends, all of them in their mid 80s, going to the house on Captiva to take and walk on the beach and pick up shells and have a nice day. So they go walk on the beach, pick up shells, have a nice day, and they determined on the way back they would stop at Ding Darling sanctuary. Good idea.

Well, when they got to the sanctuary, they got there ten minutes till 4:00 and started to pay their money. Well, the nice people at Ding Darling says,

ladies, we close at 4:00. You might want to come back on a different day and not waste your money. They said, well, okay, we can do that.

Now, these are four little ladies in their mid 80s spending money at the restaurants and buying trinkets at the gift shops and what have you. They left Ding Darling at 10 minutes till 4:00. They got to the red light at Shell -- Shell Point at 6:10, 2 hours and 20 minutes to get that far. Their gas gauge was running low. When they did finally get to a gas station, the little thing that tells them how much -- how many more miles they got, they had seven miles left. Like I say, there's one gas station there.

I think -- and I listened to the gentleman from Land's End, and it seems to me that South Seas is trying to use intimidation on the property owners up there to keep them from objecting to this petition for rezoning, and it is not working.

Thank you, ma'am, I appreciate your patience. And I do believe if this was in a court of law, a judge would have summarily dismissed their petition with the evidence already heard.

Thank you, ma'am, for your patience.

MS. MONTGOMERY: Joe --

HEARING EXAMINER COLLINS: Thank you.

MS. MONTGOMERY: -- Joe, if you would before you leave.

MR. BARBEE: Yes, ma'am.

MS. MONTGOMERY: I know you tried to help me not have to ask a question --

MR. BARBEE: Sorry -- I'm sorry, I can't hear you.

MS. MONTGOMERY: I said I know you tried to stop me from having to ask a question, but I don't know how far a major league (sic) pitcher can throw so do you live in the resort or outside the resort?

MR. BARBEE: I beg your -- oh, you want to know how -- well, a good one -- well, let me do it this way, how about 500 feet.

MS. MONTGOMERY: Do you live inside the resort or outside the resort?

MR. BARBEE: I live outside the resort on Laika Lane, 1155 Laika Lane.

MS. MONTGOMERY: Okay, thank you. That's it.

MR. BARBEE: Thank you.

HEARING EXAMINER COLLINS: We're going to take a ten-minute break, and we will resume with Mary Ann Cowart.

(Recess from 10:43 a.m. to 10:57 a.m.)

HEARING EXAMINER COLLINS: Mary Ann Cowart?

MS. COWART: Yes, ma'am.

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HEARING EXAMINER COLLINS: Okay. Let me find your sheet.

MS. COWART: I was late. I was not sworn in.

HEARING EXAMINER COLLINS: Okay, you may begin.

THE REPORTER: She needs to be sworn.

HEARING EXAMINER COLLINS: Oh, you haven't been sworn?

MS. COWART: No, ma'am.

HEARING EXAMINER COLLINS: Okay. Please raise your right hand. Do you swear or affirm the testimony and evidence you put into the record will be the truth?

MS. COWART: Yes, ma'am.

HEARING EXAMINER COLLINS: Thank you. State your name for the record.

MS. COWART: My name is Mary Ann Cowart, and I'm a realtor with Royal Shell Real Estate on Captiva --

THE REPORTER: You're going to have to speak up.

MS. MONTGOMERY: I didn't catch your name.

MS. COWART: My name is Mary Ann Cowart, and I'm a real estate agent with Royal Shell Real Estate on Captiva Island. Let me move this over.

My first visit to South Seas was in 1979 aboard a 35-foot Snowgoose Catamaran named Strider. We moored in the marina for the weekend, and the beauty of the island was a magical experience for me. Within a year

I moved to Southwest Florida, and in 1986 I've been working -- I began working for the Mariner Group, the original developer of South Seas, as a property manager in the Owner Relations Department. My job descriptions included being a liaison between the resort and owner, recruiting units into our rental or lease programs, coordinating the remodeling of the interiors, and making sure the property was always in tiptop shape for our owners and guests.

In 1998 I transferred to the South Seas Real Estate Department. I knew the resort inside and out, but I didn't know anything about real estate or how to convince people to purchase. Surprisingly, it was a very easy job. South Seas sells itself. So many owners and visitors refer to South Seas as their happy place. Even today the majority of my new clients are repeat renters who dream of owning their own slice of paradise; and after several times visiting, they make the decision to purchase.

Although properties rarely cash flow (sic), families make a lifestyle choice to invest in South Seas due to the low density, low intensity, and the belief that the maximum number of units is 912, including hotel rooms.

Throughout the years I have shared with buyers

that South Seas has the right to eliminate 140 employee housing units and 107 hotel rooms, which can be rebuilt door for door, one for one. I've also shared that there is roughly another 25 undeveloped units that can be built.

I researched other Timbers resorts, and I think it's fair to assume that the new units will be large, luxurious timeshares, condos, homes with multiple bedrooms. At full capacity, it is reasonable to calculate an additional 4,500 people staying at South Seas. This is what it looks like with just rebuilding employee housing, Harbourside Hotel, and the 25 undeveloped units. This is a massive change in the intensity of South Seas. It's just too much.

For 32 years I worked at South Seas. I have firsthand knowledge on the pre-Ian issues regarding traffic on Plantation Road and parking inside the gate. During higher occupancy times, it was extremely difficult, if not impossible, to find a place to park. Vehicles and golf carts ended up parking in the fire lane or overflowing into designated owners' spots.

And talking about going outside of the resort, owners and guests love to explore Sanibel and Captiva. Who doesn't want to try a slice of orange crunch cake at the Bubble Room, shrimp bisque at The Green Flash or

Yucatan shrimp at Doc Ford's? Our islands have so much to offer, and people love our nature trails, bike paths, checking out the Lighthouse, Shell Museum, two fabulous libraries; participating in events such as the Shell Festival, Big Arts, golfing, kayaking through Ding Darling; and my personal favorite is taking a Captiva cruise and watching the dolphins jump in the wake of the Lady Chadwick. It is impossible to self-contain owners and guests.

I wish South Seas well, I wish them the very best, and I believe they can be extremely successful by remaining within the 912 density limitation.

Madam, I hope you have a wonderful visit to South Seas, and I respectfully ask you to please deny the zoning application put forth before you today. Thank you for your time.

HEARING EXAMINER COLLINS: Thank you.

Neale?

MS. MONTGOMERY: (Shakes head.)

HEARING EXAMINER COLLINS: Thank you, you can take your seat.

Malcolm Briggs?

MR. BRIGGS: Good morning. My name is Malcolm Briggs, and I am a homestead resident of the state of Florida and live at 1620 Land's End Village in Captiva.

I have been -- we bought our first property in South Seas in 1987, 38 years ago. We've been there ever since. Our five children and their spouses love Captiva, come regularly, as do our 12 grandchildren. They love it. It's very unique.

We bought initially because of the breathtaking beauty of South Seas, and we were told, as many other people have testified, the zoning would never be anything higher than a palm tree, and we relied on that. We loved it.

And we have been there under four different resort owners since our time in 1987, and I've struggled with how to come up with an analogy of what's happening; and bear with me, I'll try to lay it out.

I'm not Jewish, but I have a great respect for the Jewish tradition. And one of their traditions is the name "Eve," whereas in our Protestant tradition we translate the name "Eve" as helpmate in the marriage, in the Jewish tradition they translate as worthy adversary. And I think in some respects that's characterized the relationship -- a very unique relationship between the owners, the private owners, and the owners of the resort. It's akin to a marriage, that we're linked; and under three successful owners, that marriage has been very successful. Under the

current owner, I feel like we're being overwhelmed. One spouse is overwhelming the other. And in Jewish tradition, the rabbis liken a marriage as two two-by-fours that are able to stand because they oppose one another equally; but when one overwhelms the other, they both fall.

My belief is if this zoning request is not rejected, we will fall; and a beautiful, unique relationship will be destroyed.

I hope it is rejected. Thank you.

HEARING EXAMINER COLLINS: Thank you.

Becky Briggs?

MR. BRIGGS: Do you have questions?

HEARING EXAMINER COLLINS: Did you have questions? Neale, did you have questions of that witness?

MS. MONTGOMERY: No, thank you.

HEARING EXAMINER COLLINS: Okay.

Becky Briggs?

MS. BRIGGS: Thank you. Thank you so much for hearing me and opening this up for people to share their experience.

My name is Becky Briggs, and I am married to Mac Briggs. We have a really good marriage -- no, I'm just kidding.

MR. BRIGGS: She's my worthy adversary.

MS. BRIGGS: Yeah, and I -- I am just going to speak from my heart.

We got introduced to South Seas in 1987 and -- and ended up buying timeshares, which is usually how you sort of enter into something when you can't really afford it. You can afford one week. And then by 1991 we were able to purchase our home in Land's End.

And one of the reasons why we -- well, we loved it right from the start; but when we brought our kids down there -- of course that's what we couldn't -- we couldn't imagine introducing them to something they loved more than this. But on the way down we visited Disney World, and it was the first time for all of them, and it was magic and all of that, and then we spent our timeshare week in South Seas. And on the way home we said to the kids, okay, which one did you like better? And to a person they're all like, South Seas. And I was like, yeah. And that's something we all have in common because you do have to do the Disney World thing when you have five kids, but we all love South Seas.

And to the points -- the point that has been made many times already, a big selling feature for everybody who's bought into South Seas has been the limitation that -- outspoken. We didn't ask to see documents. We

trusted the integrity of the people who were selling that there was this limit on how much housing there would be.

And I'm bringing that up because, you know, obviously I'm a grandmother. I've been around for a while. I've been able to visit places around the world. And I, as a -- as a young mom, we took a trip up to Niagara Falls, and that had been -- you know, I'd had an image in my mind of Niagara Falls my whole life; and when I got there, I was like, oh, my gosh. This was -- this was the beginning of when we realized we could ruin something fabulous by commercializing it. There are three casinos around Niagara Falls.

And from that I was told -- and I tried to look it up, but I couldn't get this kind of personal information. But I was told that that was the beginning of people being really made aware of our national treasures, the things that are spectacular because of their nature, the way of -- what they are. And the same was true with going to the Holy Land. It's like there's something you've heard of your whole life, and then you go, and it's been overdeveloped or commercialized to the point that the spirit of it is completely ruined.

And what I think is being lost in this, and to

Mac's point, the people who are managing -- the company that manages South Seas is not just -- it's not managing a normal resort. This is not a typical place. This is a place where you can stand in a number of places on the island and see the sunrise in the morning and just turn around and see it set. It's magical. It's absolutely fabulous.

The reason why you come is because of the interrelationship with just being there and being part of it. You don't really come for a water park because you can get that anywhere. You can't get Captiva anywhere else.

And I'm -- so that's what -- I just think it can be a win-win, I think, if the management was more aware of the jewel that it is. I'm a big respecter of the entrepreneurial spirit. I understand business, and I understand development and all of that. But to the point that Mary Ann made before we spoke, just adding in the houses that have already been given permission, or the housing, is -- it's going to dramatically change it, in the first place. So virtually making it 40 percent more populated will actually destroy the treasure that it is.

So in a sense, this is -- this is a gift to be -- to be -- to have an opportunity to underscore that to

Timbers, because I know that they -- that they have a reputation, but I don't think that there was an understanding of the opportunity that they have in this place, and it's -- it's different than other resort opportunities. And -- and it will destroy it if they treat it like something that's just going to, you know, be a moneymaker. People are coming because of the nature of it and because it is not -- it's not a Four Seasons. You can go to a Four Seasons if you want to. Why you come to Captiva is because it's precious.

And so I just had to share from my heart. I really hope that that's -- that all of the people that have spoken in defense of the intimacy of that island and the need to keep it contained, in terms of the encroachment on the nature, will be the determining factor.

And thank you for your time.

HEARING EXAMINER COLLINS: Thank you.

Neale?

MS. MONTGOMERY: No.

HEARING EXAMINER COLLINS: Carroll Wetzel?

MR. WETZEL: I need to be sworn in because I was struggling with a mobile parking app.

HEARING EXAMINER COLLINS: Okay, have a seat. I have to do some housekeeping here with recordkeeping.

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MR. WETZEL: Okay.

HEARING EXAMINER COLLINS: Okay. Mr. Wetzel, please raise your right hand. Do you swear or affirm the testimony and evidence you put into the record will be the truth?

MR. WETZEL: Yes, I do.

HEARING EXAMINER COLLINS: Okay. State your name for the record.

MR. WETZEL: Yeah. My name is Carroll Wetzel, and my goal today is try to leave you with one thought. I've heard a lot of this testimony, and there are a lot of good thoughts. I'm going to try. It's going to be -- it's a little bit of an add-on to what you have.

I first came to Captiva in 1966 as a penniless graduate student. Had I had some money and put it into land, I would be very different. My wife and I bought a unit in Captiva Shores 25 years ago. Captiva Shores is a condominium association roughly a mile from South Seas --

MS. MONTGOMERY: Thank you.

MR. WETZEL: -- on the Tween Waters stretch. It is one of the older and one of the larger HOAs on the islands. We have 20 owners, 9 small buildings. I think we are unique in that we actually -- in that distance, we overlook the beach, and at the same time

we have docks in the back with a pool in the middle. So we get both the bay and the gulf.

As I said, it's on the Tween Waters stretch; and if you've driven down that recently, we are the one that is wrecked. We have not been able to repair ourselves from -- after Ian, but we're very thankful and hopeful that by the end of the summer, we will -- we will -- we will be there.

Let me say a couple things about myself. I was the president of the association for about ten years, until two years ago when I resigned, and that has given me the advantage of being very familiar with various things on the island, being involved in the business of the island.

We have 20 owners, and I should say while I don't represent them, they all agree that the expansion on South Seas should not go on. So you've got a constituency there that is clear in their -- in their desires.

I'm a member of the Captiva Civic Association, the Captiva Island Yacht Club, and The Sanctuary Golf Club.

Some years ago, as you might know, the Captiva Erosion Prevention District, which is a DRO which has the ability to tax for beach renourishment, went through a beach renourishment, and I spent probably two

years getting them to change their apportionment methodology for all of the citizens on the -- all 600 taxpayers. It is now, I think, a fairer and better methodology. So through that I got to know some of the guts and the inner workings of the island. It took a lot of work. I saw a lot of things.

So my one thought, it relates to what you have heard today. So we overlook the beach, my wife and I; and we have a ritual where as the sun goes down, we grab the bottle of chardonnay and sit there and watch the sun set and hopefully see The Green Flash. But the most interesting thing isn't that. It is the traffic on the road. So some minutes before the sun goes down, cars stop, and there's no place to park. They stop in the middle of the road, they stop on the side of the road, golf carts come along, and there is probably a 15-minute time when that stretch of the road is completely jammed up. And you have people from one side going across with their chardonnay to sit on the beach, and I'm amazed that nothing bad has happened. And so then what happens when the sun goes down, and the visibility gets bad? It's like a Le Mans auto start where everybody rips off in their cars to go wherever they're going to go.

We've heard a lot about congestion. So the one --

one thing I will leave you with is that if you're looking for specific and dangerous elements of congestion, it is at sunset along that Tween Waters stretch of road.

Like I could say a whole lot more, but you've got a lot to listen to, and I think just that one thought is probably different.

HEARING EXAMINER COLLINS: Thank you, sir.

MR. WETZEL: Thank you.

HEARING EXAMINER COLLINS: Dennis Berry is the next on my list, but I don't have his sheet.

Dennis Berry?

MR. BERRY: I am here.

HEARING EXAMINER COLLINS: Okay. I may need to ask you to complete another participation sheet because I'm not finding it. Did you fill one out? Did you fill out one of these sheets?

(Discussion at lectern)

HEARING EXAMINER COLLINS: I might have to ask you to do another one. Do you mind?

MR. BERRY: (Shakes head.)

HEARING EXAMINER COLLINS: No? Okay.

Maria, do you have a sheet for him to fill out -- oh, here you are. Never mind.

MS. PEREZ: You found it?

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HEARING EXAMINER COLLINS: I have it. I have it --

MS. PEREZ: Okay.

HEARING EXAMINER COLLINS: -- thank you.

MR. BERRY: And I have not been sworn in.

HEARING EXAMINER COLLINS: You may take your seat.

THE REPORTER: He has not been sworn.

HEARING EXAMINER COLLINS: I know. I'll take care of it.

Good morning.

MR. BERRY: Good morning.

HEARING EXAMINER COLLINS: I understand you need to be sworn in?

MR. BERRY: Yes.

HEARING EXAMINER COLLINS: Do you swear or affirm the testimony and evidence you enter into the record will be the truth?

MR. BERRY: I do.

HEARING EXAMINER COLLINS: Okay, thank you. Please state your name for the record.

MR. BERRY: My name is Dennis Berry, B-E-R-R-Y. I live at 744 Durian Court on Sanibel. I've been coming to Sanibel since 2011, and I've been a Florida resident since 2013. I am a member of the CCA. I live 11 road miles from the entrance to South Seas, slightly less if

I were a roseate -- roseate spoonbill.

I have been an active participant in both the Sanibel and Captiva communities since I have lived here. I've been on the Island Water Board -- Island Water is the Sanibel water utility -- been a member of the Captiva Island Yacht Club Board and the historic Captiva Chapel by the Sea Board, and I'm currently -- in a month I'm going to become the treasurer of that organization.

I'm also a member of the Big Arts -- Sanibel Big Arts Concert Band and its manager, and you're all in luck. We have our first concert tomorrow night, actually, at the -- the Methodist church on -- on McGregor Boulevard at 6:00. It's a free concert, and I would invite you all to attend.

Our home is on Sanibel, but during the reconstruction from Ian, we were very fortunate to be able to live in a friend's house on Captiva while our house was being repaired. So we have very much feet on both islands.

I'm not an expert on anything. I have a Bachelor's degree in Chemistry and a Master's degree in Business, and I'm blessed with a fair degree of common sense. I've heard from many comments many common sense reasons that this expansion of South Seas should not be

approved.

My main concern is traffic. We don't need more traffic, and we really can't handle more traffic. Captiva's traffic is Sanibel's traffic. We have from -- from Punta Rassa all the way to the tip of -- the northern tip of Captiva, it's -- it's a two-lane road, one lane in each direction, and there are very few opportunities to pass. The traffic moves at the speed of the slowest driver, or in some cases the slowest golf cart, which actually shouldn't be on the road.

Weekdays -- have you been to Captiva?

HEARING EXAMINER COLLINS: Yes.

MR. BERRY: You have, okay.

Weekdays it takes one to two hours to get onto the island, and one to two to get off. It's an inconvenience, and it's also a safety issue.

From an inconvenience, those of us who live on the islands, we really have to plan our days around the traffic. If we need a doctor's appointment, we try to schedule it early in the morning, but not so early that we're still stuck in the on-bound traffic when we come back after the doctor's appointment. If we want to meet friends for dinner -- this just happened last week. We have friends from Punta Gorda we wanted to

meet for dinner. They said, how about Thursday evening? We said, we can't do Thursday evening. We can't get off the island for dinner. So we had to plan a trip for Saturday. So we're stuck with weekends.

From a safety perspective, the traffic is an impediment to the movement of the fire vehicles and the emergency medical vehicles. Admittedly, I've been on the road stuck in traffic when a fire truck had to get by, and the traffic does head to the shoulders, and they squeak down through the middle; but if there were an accident or -- or -- someone mentioned earlier a car had run out of gas, perhaps, waiting in the traffic. It would be virtually blocked. So there's a huge safety issue.

Also, on bicycles, Sanibel's got miles and miles of bicycle trails so they're relatively safe from -- from increased traffic, but there are crosswalks where the bikers and the pedestrians often cross these main roads. Not everybody gets it that you're supposed to stop for a pedestrian or a bicycle in the crosswalk. Personally, I've had several close calls myself, and with more traffic it's just going to be more dangerous.

Sorry, since -- I was going to suggest that you open up Google Maps and look at the lines morning and night. I'm not sure what time of day you were there;

but if you -- if you went during peak hours, obviously you were stuck in traffic.

The expansion of South Seas is just going to add more traffic, and it's not going to just add it once the project has been completed, and we have employees and guests and -- and owners driving back and forth; but during the years of construction, we're going to have every cement truck, every load of lumber. We're going to have contractors and -- and laborers and electricians and plumbers going back and forth every day. It's -- it's just going to be chaos. I don't know how the -- how the islands are going to manage that traffic load.

So my concern is traffic, but common (sic) tells me -- and we've heard of many other concerns. Common sense tells me that if thousands -- maybe tens of thousands of people are against something, and only one corporate entity or maybe just the three votes that Chauncey Goss mentioned yesterday say that this is needed, probably it shouldn't be allowed to proceed, and I hope that you would agree.

HEARING EXAMINER COLLINS: Thank you.

Blair Wyatt? Have you been sworn, ma'am?

MS. WYATT: (Raised hand.)

HEARING EXAMINER COLLINS: Do you swear or affirm

the testimony and evidence you enter into evidence will be the truth?

MS. WYATT: I do.

HEARING EXAMINER COLLINS: Thank you.

State your full name for the record, please.

MS. WYATT: I will. My name is Blair Wyatt, and I am a resident of Florida and have lived on Sanibel Island these last 15 years, homesteaded. My husband and I -- him (indicating) -- live 11 miles from South Seas Resort.

I've been active in many organizations on Sanibel, as well as on Captiva. I've served on numerous committees at Sanibel's Big Arts, Captiva Island Yacht Club, Captiva's Chapel by the Sea. We are members of CCA. I was recently on the board of the Sanibel Historical Society and Museum, and I am currently on the board of the Captiva Island Historical Society.

After our home received major damage from Hurricane Ian, we had the good fortune to live on Captiva for five months during this reconstruction, making both islands very, very dear to us. And what I can tell you is that the guidelines that our islands have chosen to live by -- elevation, density, open space, and development limits -- truly set us apart. We are unique, and I know you've heard that word a lot.

We warmly welcome visitors who count on our two islands for this very reason. They are not visiting and sitting in high-rises. They are out.

Now it brings up the safety concern. All day people are out walking to shops, the beach, the marina, restaurants, running and biking, plus there's the Blind Pass Bridge, which is often filled with fisher people, and the beautiful expanse that's unique to both islands along Tween Waters, as you've heard.

While Sanibel has 25 miles of dedicated multiuse paths, Captiva does not. So all of these people, who have every right to enjoy that beauty, all ages, are only on narrow, narrow shoulders along our roads. And now our Achilles' heel, the traffic you've heard so much about: one lane on, one lane off.

A few weeks ago sitting back there, I saw a slide showing the Lindgren/Periwinkle intersection -- the only way on and off the island -- and there were only two cars in that picture. Take that picture now. There is a consistent major daily gridlock, not move -- gridlock from 7:00 to 10:00 in the morning, again at noon, and then -- and we are not all sure why they're doing it at noon, but they are -- and then miles of gridlock from 3:00 to 6:00 p.m. These add literally hours to the commute.

This is dangerous and frustrating now as it is, but adding the many construction and personal vehicles from Captiva, should this South Seas project be approved -- and they must come through Sanibel -- would be all but unimaginable and unmanageable.

There are so many strong, logical points overwhelmingly made against this project. I have to paraphrase William Churchill -- I mean Winston Churchill, "Why should so few be permitted to impact so many?"

Thank you, Madam Hearing Officer.

HEARING EXAMINER COLLINS: Thank you, Ms. Wyatt.

Lisa Maxwell? I can't put my hands on your sheet right now, but I have your name here, and I will mark that you spoke.

MS. MAXWELL: And I need to be sworn in.

HEARING EXAMINER COLLINS: Please raise your right hand. Do you swear or affirm the testimony and evidence you place into the record will be the truth?

MS. MAXWELL: I do.

HEARING EXAMINER COLLINS: Thank you.

MS. MAXWELL: And I need to state my name again?

HEARING EXAMINER COLLINS: Yes, for the record, please.

MS. MAXWELL: Lisa Maxwell.

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Are you ready?

THE REPORTER: (Nods head.)

MS. MAXWELL: Okay. I'm not going to say much -- than what's already been said.

We own in Bayside. We own one unit. We live in Fort Myers full-time. And I agree with all of the statements that have already been said opposing the Applicant. Just another person that this matters to. So that's it, thank you.

MS. MONTGOMERY: Ms. Maxwell, before you go, do you rent your unit out?

MS. MAXWELL: We do rent it out.

MS. MONTGOMERY: So is it -- is it in a rental program?

MS. MAXWELL: Not with South Seas.

MS. MONTGOMERY: I didn't ask that, but is it in a rental program?

MS. MAXWELL: Yeah, we have a property manager who manages it.

MS. MONTGOMERY: Okay, thank you.

HEARING EXAMINER COLLINS: Gerhard Thelen?

(Sotto voce between Mr. Mendez and Mr. Thelen)

HEARING EXAMINER COLLINS: Sir, were you present when I administered the oath to everyone in the room? Do you need to be sworn in?

MR. THELEN: Yeah.

HEARING EXAMINER COLLINS: Okay. Please raise your right hand. Do you swear or affirm the testimony and evidence you enter into the record will be the truth?

MR. THELEN: I do.

HEARING EXAMINER COLLINS: Thank you. Please state your name.

MR. THELEN: Gerhard Thelen.

(Sotto voce between Mr. Mendez and Mr. Thelen)

MR. THELEN: My name -- my name is Gerhard Thelen. I have been -- I live on 15123 Captiva Drive, which is in the village. We -- my wife, Lynn, and I -- bought our property in -- one condo in August 2011, and we then bought another condo in -- in 2019 and combined the two. So legally we actually own two condos, but it is one unit. And we don't rent out, we live in it, are homesteaded in -- in Captiva since December of 2019.

The -- I'm active in -- in the community. I'm the president of the Sunset Captiva Condo Association, building 11, and 10 -- we have 10 units. I'm also a member of the Board of Directors of the Sunset Captiva Homeowners Association, and that's the condo building and the community across the street, between the street and the Gulf, which has about -- altogether with the

condo has about 69 units.

I have a Bachelor's and Master's degree in Engineering, and spent 36 years in railroad operations and engineering management.

And I want to talk today about mainly the road. I'm an avid biker and walker, and I've done that since we bought in 2011, and it still is a hairy experience today to get off Captiva. Once you make it to Sanibel you have nice bikeways, but Captiva is a little -- a little scary.

The -- let me just put a picture up here.

The Captiva side strips, I call them, are very narrow, basically only allowing one person to walk. And you can see on the picture up there, if a pickup truck with a big side mirror, like an F-350, would come by there, these people would have to move out of the way to not get hit by the mirror. That's how narrow the walking areas are on Captiva.

There four 90-degree curves on Captiva -- again, not the same standard -- standard width as what you see here -- and there's one 45-degree curve, and none of them have enough width to really accommodate pedestrians or bicyclists.

So I was -- I was walking to the post office not too long ago, and this young lady with a baby carriage

was in front of me. She literally had to duck into every driveway with her baby carriage to stay away from the traffic. And it looked -- she looked pretty scared, but there's no other way to walk in Captiva, without using this road. There are one or two bypasses that go through residential neighborhoods; but if you want to walk through the center and pass to the post office, which is right near the entrance to South Seas, you have to walk this route. And, again, the other way has two 90-degree curves right in the village -- one right at the Gulf, the other one where The Green Flash is -- and both of those don't have any visibility; so the cars coming will not see a pedestrian until they're right on top of them.

And I did -- one other thing that's shown here on this picture, one side of the road, from Andy Rosse to the 45-degree curve towards -- on the north side is basically a drainage gully with grating, as you can see here, and it's not suitable for walking. The gully has enough of a slope that it's not suitable for walking; and the grating, if you step on it in wet conditions, it's slippery. So it's -- people generally don't use this side of the road to walk at all, so they have to use the other side for that particular section.

So where does the traffic come from? Right now we

have a period where a lot of tourists have not come to the islands -- and I don't know what the percentages of how far down it is but -- it's down quite a bit, but you do have additional traffic in contractor vehicles every day. And if you leave around -- if you walk there between 2:00 and 3:30, they all leave around that time, because otherwise they can't get off the islands until 6:00 because of the causeway backup every -- every afternoon.

So the traffic is obvious to the people that live there and go somewhere either by golf cart or car. I mentioned the -- the contractors and service personnel. Even if there isn't heavy construction going on, there are lots of service vehicles -- plumbers, electricians, landscape people with -- usually trucks with trailers going through there, and then of course the trash trucks and all the other vehicles.

There is a large amount of day visitors. People who heard about Captiva, they want to go out there, and they drive up. And I used to -- you know, when I bike, I bike down to Sanibel, either all the way into Sanibel or to Ding Darling, and I would actually see -- on the way down I'd see cars, and on the way back they're already heading back. And one of the reasons is because there's really no place to park on Captiva

except for two public parking lots and some of the restaurant parking lots. So -- so they have to leave the island. They go out to the end, turn around at the post office, and go right back.

The other thing is employees coming and going to work at South Seas and also all the businesses that are on the island. There are quite a few of those.

And also people are looking for beach access, and the one at the end of -- the end of the island before South Seas and the one at Blind Pass are the only two public parking areas, and a lot of these people are disappointed because they fill up pretty much and stay full all day long. So the chances of getting in there is very pretty slim.

I want to just play a video, and I hope it will play. I don't see any --

(Video played.)

MR. THELEN: There we go.

You can see, that's the curve at The Green Flash, and unfortunately there was one vehicle, but there are more vehicles coming. It's a very narrow area, and you can see that some cars actually cut into the area where the pedestrians are supposed to be, which is a dangerous situation. Others are more aware of the curve -- like this one that's going there is cutting

the curve. So I would say about 30 percent, from just observing this, cut the curves making it even more dangerous for pedestrians and bicyclists.

So anyway, the point I was trying to make is that the road currently is inadequate for the current traffic on Captiva; and even in the slow period right now, we do have just a string of vehicles going through. And people at Captiva like to walk. Like every resort area, you like -- and the nice weather we have, you like to walk as much as you can, or bike, do other kind of physical activities.

If South Seas increases the density and has more people, that's even more handicapped ability to walk safely on the island. And full -- and I think one of the gentlemen talked about when the island is completely full, and it's usually at about this time of the year, the main season between now and Easter, and everything is rented out, the hotels are full, and you have a lot of visitors, and it is a lot of traffic. I mean, a lot of times you even have traffic jams within Captiva.

Most towns provide -- today the trend is most towns provide an infrastructure for physical activities -- walkways, bikeways -- and Sanibel is a good example of that.

And the -- I'm at a loss to understand why Lee County, which has signed agreements to keep the population about the same on Captiva, has not taken any effort to do anything about the roads -- the road.

So for that reason, myself and my wife and also most members of the -- almost all the members -- and I haven't talked to everybody -- the people that are, in the two associations that I'm on the board on, are definitely against increasing the residences in South Seas beyond 912.

And, Madam Hearing Officer, I'd like to -- I'd like to respectfully ask that you turn down the permit application. Thank you.

HEARING EXAMINER COLLINS: Thank you.

MS. MONTGOMERY: Mr. Thelen, can I ask you a couple questions?

MR. THELEN: Yeah.

MS. MONTGOMERY: I know you said you live in the village. How far is the village to the front entrance of South Seas?

MR. THELEN: From my building it's a little bit less than a half a mile.

MS. MONTGOMERY: And you indicated that you live in an area where your association has 69 units?

MR. THELEN: Yeah.

MS. MONTGOMERY: How tall are those buildings? How many habitable floors do those buildings have?

MR. THELEN: Well, most of them are single houses, are two-story, and the building I live is a three-story building.

MS. MONTGOMERY: Is it three stories over parking or --

MR. THELEN: Yeah.

MS. MONTGOMERY: Okay. So essentially a parking level and then three habitable floors?

MR. THELEN: (Nods head.)

MS. MONTGOMERY: Okay, thank you.

HEARING EXAMINER COLLINS: You can take your seat, thank you.

MR. THELEN: Thank you.

(Thelen Exhibit 1 submitted.)

HEARING EXAMINER COLLINS: Our next speaker is Linda Laird.

(Sotto voce between Hearing Examiner Collins and reporter)

MS. LAIRD: I need my presentation put up.

(Discussion at lectern)

MS. LAIRD: I'm expecting my presentation to take somewhere around a half hour, 45 minutes. So if you'd like to take a lunch break now, perhaps that's

appropriate, or whatever you want to do.

HEARING EXAMINER COLLINS: No, you can go.

MS. LAIRD: Go?

HEARING EXAMINER COLLINS: Yes.

MS. LAIRD: Okay. And I need to be sworn in.

HEARING EXAMINER COLLINS: Okay. Raise your right hand, please. Do you swear or affirm the testimony and evidence you place into the record will be the truth?

MS. LAIRD: I do.

HEARING EXAMINER COLLINS: Thank you. State your name for the record, please.

MS. LAIRD: Okay. And I'm going to start off a little differently because I sort of have a present for you, and hopefully it's made it here in one piece. This is a sand dollar that I picked up on the beaches -- the beach of Captiva.

(Sand dollar submitted.)

MS. LAIRD: And what I wanted to do is give it to you to remind you that this really represents Captiva. It's beautiful and very fragile, very, very fragile. In terms of trying to bring one for you, I broke another one or two, so I hope you can get it home in one piece. But it's very, very fragile and very, very beautiful.

HEARING EXAMINER COLLINS: Thank you.

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MS. LAIRD: My agenda is I'm going to talk about my background; I'm going to talk about sea-level rise -- I'm a relative expert on it -- about Captiva vulnerability assessments -- again, I'm a relative expert on that -- and my conclusions.

The objective of this presentation is to review the expected future flooding and vulnerabilities on Captiva -- this is flooding from sea-level rise, from tides, and storm surges -- and then look at future scenarios based upon NOAA predictions and data sets.

The flooding on Captiva has gotten worse not just because of hurricanes but because the water is going up. We've had buildings flooded on Captiva that have never been flooded, to our knowledge. People are moving their houses up. It's not just because of the hurricanes.

The conclusion I reach is that the current -- there's current significant vulnerabilities on roads, infrastructure, the evacuation roads, the water treatment plant, and communications. This is not just the conclusion I reach, but it's the conclusions of the vulnerability assessment. These assessments were done by the Captiva Panel, by the Captiva Erosion Prevention District, and by Brizaga, who was hired by South Seas. They have their own one, which is similar to ours,

except parts of it have been redacted, which I don't know what was redacted in it.

So the conclusion also adds -- is that adding more people to a hazardous, fragile situation is only going to increase the chances of harm to people, to our environment, and to our island.

So I'm going to start off with my background, a few little facts about Captiva, review briefly the vulnerability assessment -- it's -- this one is 90 pages, I am not going to do any of that, but I can leave it with you -- and some conclusions.

I had a 44-year career in software, software and software systems and in general complex systems. I was in industry and in academia. I had degrees -- I have degrees in computer science and electrical engineering from the University of Michigan, and from Carnegie Mellon University in Pittsburgh, which is a very, very good engineering school.

I was hired in 1974 by Bell Laboratories, probably one of the few women at the time. Bell Laboratories was the R&D arm of the old AT&T Bell system. It was the Google of its time. And if any of you watch Severance, you may have seen the Holmdel Laboratories, which is featured as one of the buildings in Severance, and I worked there, a very impressive building and a

little cold and whatever, as is shown in the TV show.

Bell Laboratories and AT&T, through change, ended up -- my company sort of imploded a little bit. I was losing technologies at the end as AT&T changed; so I moved over to the Stevens Institute of Technology in Hoboken, New Jersey. Stevens is -- you perhaps haven't heard of it. It's sort of like a second-tier engineering school behind MIT, Carnegie Mellon, and Caltech. And so I became a professor there. I was a professor in the software engineering department and the systems engineering department. I taught lots of different courses and professed over lots of different things. But what really became my interest was the engineering of trusted and safe systems. I was teaching and -- I learned, I researched how to prevent disasters. That's what I was most concerned with.

And if you look at some of the industry clients here, these are places I taught. I taught at Rockwell Collins; I taught at Lockheed; I went up and taught at the U.S. Army Munitions in Picatinny, New Jersey; and I taught at one of what was called a "3 Letter Agency," where we couldn't talk about what its name was outside of Washington, D.C. What did I teach there? I taught lots of different things, but I taught testing and quality assurance, and I taught the engineering and --

engineering of trusted and safe systems. That's what I did. And then I retired in 2018 and got to spend a lot more time in Captiva.

My Captiva history. I first came in the late '70s to Tween Waters. A friend and -- a friend of mine and I were attending an industry conference for Sperry UNIVAC up at Orlando, and we saw this guy talk about backwaters places in Florida, and so here we came.

I vacationed at Tween Waters and South Seas frequently with my children and my family and my parents. I bought a home in the late '90s. To be able to afford it, I rented it part-time, and we were only allowed to come offseason when it wasn't rented so that we could afford it.

I became a Florida resident in 2020. I led the sea-level rise committee for the Captiva Community Panel. I also led the stormwater committee for a while, but we produced the first vulnerability assessment of Captiva.

I think it's important to note that the Community Panel, although not an official government agency, was ahead of its time in trying to protect Captiva. We -- we created a vulnerability assessment before Lee County, before Sanibel, before any of these places, because we care, and the people who ran the panel,

which was not me, care so much about Captiva.

To help implement that, I became a Commissioner of the Captiva Erosion Prevention District. I don't know if you're familiar with that. We are charged with protecting the perimeter of Captiva. Right now I'm the treasurer of that. We are trying desperately to get $33 million to do a renourishment of the beaches of Captiva. We are also working on how to raise the back side of Captiva so that it floods less.

As part of being on the Captiva Erosion Prevention District, we did an APTIM -- APTIM is a very good engineering company. They did a vulnerability assessment, as well.

I am also a member of the Captiva Community Association, who does a lot to, in my opinion, foster community on our island.

Okay. That's me. And I -- oh, I live on Captiva. My dog and I walk to South Seas all the time to get coffee. It's about a quarter to a half mile away. And it is scary some days, as people take that left turn -- turn because they can't see us, and so we go off in the -- in the grass.

So sea-level rise, flooding, and Captiva. The Captiva Panel commissioned and worked on the initial vulnerability assessment, which was done in 2020. The

work was transferred to the Erosion Protection District because the Captiva Panel really doesn't have much money at all, and we can't raise money, even though we've put in -- we've put in for grants, but we found out we couldn't because we weren't an official government agency. Whereas, the Captiva Erosion Prevention District is and has the taxing authority so it could pay for things. So the work transferred over there.

Another vulnerability assessment was done in 2022 by Brizaga, which South Seas paid for, and then the APTIM firm did a vulnerability assessment for the Erosion Protection District, which is a very complete vulnerability analysis such that we can use it for future grants.

Okay. Now, this is sort of simple. What happens? Flooding occurs when you have sea level, plus the tides, plus the storm surge is greater than the land elevation. Okay. Now, any of those can change. We can have difference in sea levels, difference in tides, and difference in storm surge.

Our elevation on Captiva averages about 2.9 feet. Our water table is somewhere around 2 feet below ground. It depends upon how high the tides are. But the point is, when we get inundated, there's not much

place for the water to go because the water level underneath keeps rising. People who try to grow citrus on Captiva have more and more trouble because the water table underneath keeps going up. Why? Because the sea level is rising.

Now, this is a standard sea-level rise chart, and what happens is there's lots of different scenarios where it depends upon how pessimistic or optimistic you are. And so what happens is NOAA has published these curves and says, well, it can happen somewhere between here, you know, the bottom -- the bottom and the top. These are from 2017. Data since 2017 tends to -- tends to show that these were optimistic, meaning it's worse. So the State wants us to plan here, at the intermediate-high level, and also we also plan at the intermediate-low level because things look better there if we do intermediate-low probability. So what this shows you is if we start off at the year 2000, you know, it increases and then it keeps taking off.

My friends who have homes on the Roosevelt Channel say since 2000 it's up a foot, based upon their docks. I'm not sure exactly, but the idea is it's keeping going up. There's different projections to the future.

When we tried doing this initially, we thought, oh, we'll project what it's going to be in 2030; we'll

project 2040; project 2050; and what we found is doing plans based upon that didn't make any sense. You have to just project what you think the water level is going to be, and therefore what happens to the island.

Oh, and this -- if you get -- if you want a copy of this, I can give you -- this is all on page 17 of this report.

Now, this starts getting messy and complicated. This is a table of consolidated water-level elevations for Captiva. You can get to these water-level elevations by a combination of sea-level rise, tides, and flooding. The .6 is the intermediate-low level. That was one of the lines. 1.3 is intermediate-high in 2040 or intermediate-low in '70 or -- yes. And then this one, 2.3 is the next one, and that's where we are for current extreme tidal flooding. That's what we have today when we have extreme tidal flooding. And then you sort of just keep going down. We have had these with our hurricanes with the -- we've had this kind of inundation on the island recently.

So to try to make this simpler to understand, APTIM picked three points: This 2.3 feet above sea level, 3.5 feet above sea level, and 8.8. 8.8, there's not much island left so it's not much to look at. Oh, and I'm sorry, I didn't say this. This is a figure

that shows the percentage of Captiva inundated under all these different scenarios. So what you see is at 2.3 currently, it's about 25 percent. About 3.5 is, I don't know, 60 percent, 70 percent. It's a lot. And 3.5 could be 2040 tidal flooding, an existing 10-year surge, which we know is higher than that because we've had two in the last couple years, and a possibly intermediate-high for 2070.

This is from the report, as well. This is looking at the wastewater treatment plant average inundation depth, how far below -- how much would it be inundated. At the South Seas Plantation, which is just at 2.3 feet that happens now, it's underwater by a third of a foot. Tween Waters, Captiva Shores, and Sunset Captiva don't have that. I live in Sunset Captiva. Now I see what people do is they drive their cars or golf carts up to the water treatment center so they don't get hurt during floods. Not room for many, but that -- that's what they're doing, and our plant keeps -- is doing fine.

As you see, as we go through the different scenarios, South Seas could be 1.5 feet; and then when it goes up to 8.8, it's -- it's underwater. And so things -- you know, they get worse, basically over time. It's why the Captiva Panel has been pushing the

wastewater project, to try to get our wastewater off the island and then safely processed.

Okay. So that was wastewater. Now we're going to talk about the roads a little bit -- and I'm sorry these are hard to see, but they are what they are.

Okay. This is an elevation of the Captiva roads, and I've got these at -- I don't know what I did, I'm sorry. I've got these in more detail, if you really want to see them; but the point here is, this is -- this part from right here, this is South Seas. I'll note where the -- the wastewater treatment plant is out here in the middle of the mangroves. That's where it is.

Okay. This is along Chadwick Bayou. I've biked through here. It's -- this road floods regularly, and it's just -- you know, I'm here; there's mangroves here; there's the water here -- and the mangroves are very short. So -- okay, it's -- it's low.

This is the village area. I live over here. These roads flood regularly. This is where we worry about if there's any kind of surge that comes through the bay side, these homes, the roads flood. And then as you're leaving here, we've got a low spot here. Sandy Stillwell lives here. She keeps trying to get the water off, and we're not -- we haven't succeeded on

that yet.

Okay. And so then you -- and then you come down the rest, we're looking much better.

This is the evacuation route. The red is not good, the elevation, (unintelligible) 1.5, (unintelligible) 2. So for anybody who lives off of Land's End, which all the people who have been up here, this is what they have to get through to get off the island.

I decided I made a mistake in my last car I bought. I should have bought one of the ones that have a much higher level so that I can get through salty water. Because I'm going to stay, I'm going to stay as long as I can, and I just have to be able to drive through flooded conditions.

Okay. So let's say we get through here and up here, and then this is the Tween Waters stretch. This part is one of the places we had a breakthrough in the last set of storms. Lee County Department of Transportation has reinforced it and is working on reinforcing this whole stretch, but you couldn't have gotten off the island because the road was broken.

HEARING EXAMINER COLLINS: And that was at Tween Waters?

MS. LAIRD: Pardon?

HEARING EXAMINER COLLINS: That was at the Tween Waters area?

MS. LAIRD: Yeah, it's right at this curve.

Now, I take my job somewhat too seriously -- I don't know if you'd call it a job or whatever -- but people don't get it. People don't understand the importance of the dunes. People don't understand how the dunes and the beach protect the whole thing. People in my neighborhood don't get it. And, actually, DEP has had to come in to help ex -- and so we had disasters during the last storm, and they're having to -- well, whatever. It was that people had -- had decided they'd rather have a patio than the dunes, for example.

Over here I was riding my bike, and there was this guy out there -- two guys, and they had a sledgehammer, and what they were saying is my kids fell on the rocks in their little pathway to the dunes -- through the dunes to the beach, and so they were taking the sledgehammer and smashing the rocks so that their family wouldn't get hurt. These are the same people -- well, I explained to them that that's what's protecting them and that it was illegal, and they wondered who the crazy woman on the bicycle was, too, but they stopped, and they filled it over and tried to make it safer just

by putting more sand on top. I noted after the storms what these people were doing is taking wheelbarrows full of sand and just trying to shove it back over that, because all of the water broke through there and washed out -- into their house. The dunes protect people.

I watch my neighbors -- we have beautiful dunes, and what they like to do is walk through with their little feet in the sea oats, right, doesn't that feel good, and make a new path to the beach, and it hurts the beach. People don't get it. The more people we have, the more people I think aren't going to get it. The beaches -- the dunes are protecting us. They're saving Captiva. And -- I don't know where I was going with that exactly, but the more people we have there, I think the more harm we are going to have to our dune system, which is what we try to use to save us.

There are other parts that you can look at in that, but I want to read now from some of the conclusions of the -- in here. Okay, key takeaways:

Potential flooding across the bayfront shorelines near the central area of the island causes critical infrastructure to be vulnerable in the near term.

Under the intermediate-low sea-rise scenario, 4 percent of the seawalls are exposed to flooding by

2040, and 7 -- 7 percent in the intermediate-high. 99 percent of our sea walls will be exposed by 2070.

Critical infrastructure vulnerable to extreme high tides in near term that may experience interruptions to operations and accessibility include 8 percent of surveyed electrical transformers and utility boxes; the wastewater treatment plant located along South Seas Plantation Road; Lift Station Number 3 by the firehouse; the majority of stormwater assets identified in our water quality assessment; and our heliport, which is a very casual heliport. Let's put it that way.

At water elevations of 3.5 feet, which may occur during storm surge in near term, or future extreme and high tides, up to 62 percent of the road, three water treatment facilities, and up to 71 percent of building footprints are at risk of flooding.

33 percent of surveyed electrical transformers and utility boxes may be vulnerable by 2040, and will experience flooding at a depth of greater than one foot.

Now, this is reading from the Brizaga. There's some other things there but -- in 2022 the South Seas owner commissioned the Captiva Island Vulnerability Assessment and Adaptation Plan. The plan noted that

the most vulnerable asset to be the Florida Gulf Utility Authority Wastewater Treatment Plant, also known as South Seas Plantation Wastewater Treatment Plant. The remaining vulnerable assets noted included nine public right-of-way areas.

And basically, even though we did three different ones, they all sort of said the same thing, and the worst usually being the roads in South Seas, the bay side, the South Seas water treatment plant, and some exit points down by the Blind Pass Bridge.

So my summary:

Our roads are going to flood at an existing rate. So people are complaining now, but it's going to get worse.

The South Seas waste treatment plant is already being inundated at high tides. The island, the road, and the waste treatment plants will flood from storm surges, from high tides, and everyday increase in sea level.

People will be unable to evacuate the island on the roads of Captiva in non-hurricane conditions because they're going to be flooded.

And Pine Island Sound, the water there is already impaired, as we know, and it's just going to get worse.

So what about adding more people to Captiva? What

we have is an existing and increasingly hazardous situation in Captiva. If we add more people, we're going to get more traffic from Captiva through the causeway. It's already saturated, as you keep hearing, and it doesn't matter if we're at one end or the other, where we live, we're still going to have problems.

There's going to be an increase in nutrients from both our groundwater and Pine Island Sound.

There will be a decrease in public safety on our Captiva roads. We've tried to put a bike path in. We tried to put sidewalks in. For a variety of reasons, that didn't work; but we have walkers; we have strollers; we have bikes; we have me and my dog, who doesn't want to stay on the side; we have all of that.

And people -- the residents of Captiva sort of get used to Captiva, and we chill out a little bit driving. As we increase more renters, they don't quite have the same attitude about the roads.

And then there's going to be more impacts on the dunes which protect us. This is going to make a hazardous situation worse and more dangerous. If you look at -- you have hazards which kind of can become disasters as they proceed along. If there's nobody around, we're not going to hurt people. The more people we have, the higher probability of hurting and

injuring people.

So Captiva is fragile. It's already retreated from the Gulf. People have lots that are underwater. I know of at least four properties we lost in the last one. Two were to fire. Two were to fire because they think that there was a car underneath that had -- we know a car was underneath, and it was an electrical car with batteries, and it burned two cars on Ventura Captiva, and it melted part of the other one, and it was only because of our wonderful fire department it didn't burn more. That was in the middle of the storm. Some houses on the beach have gone.

So if we add more people to this hazardous, fragile system -- because it is a system. It's a bunch of interrelated parts. It's not just one thing here or there. What do we do? We increase the stress on that system. This is me, the professor, talking now, okay? We increase the stress on that system, and we increase the chance of failure and disaster on the system. Maybe it will never happen, but that's -- that's what -- that's the probability.

So I want to thank you. And when you go home, I want you to take your little -- your little sand dollar and remember us, because where we live is a part of paradise, it's very beautiful, and it's very fragile.

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Thank you.

HEARING EXAMINER COLLINS: Thank you.

MS. MONTGOMERY: Ms. Laird, before you go, can I ask you a couple questions?

MS. LAIRD: Sure.

MS. MONTGOMERY: I know you went through your background. Are you a registered engineer in the state of Florida?

MS. LAIRD: No.

MS. MONTGOMERY: I notice that you did a lot with computer systems. Have you done any work in surface water management system design?

MS. LAIRD: In what?

MS. MONTGOMERY: Surface -- I know -- surface water management system design.

MS. LAIRD: I was not a professional in that area. What I have done is immersed myself in coastal water and sea -- all of this stuff, I immersed myself in it with experts from -- oh, what's that first one -- Integral and from APTIM. So I was immersed in the sea-level rise. I was immersed in all of that. No, I am not a professional engineer.

MS. MONTGOMERY: Okay.

MS. LAIRD: Okay?

MS. MONTGOMERY: Thank you.

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MS. LAIRD: I'm not a professional engineer. I am a double E, which sort of amazes me, too. Okay?

MS. MONTGOMERY: Thank you.

MS. LAIRD: Thank you.

That's it.

HEARING EXAMINER COLLINS: Thank you. Yes, you may take your seat.

Evan duPont?

MR. MINTZ: He won't be here until after 1:00.

HEARING EXAMINER COLLINS: Okay. So the rest of the people not till after 1:00?

MR. MINTZ: Yes.

HEARING EXAMINER COLLINS: All right. Well, then it's a good time for us to break for lunch. Try to be back here by 1:45, please.

(Recess from 12:23 p.m. to 1:41 p.m.)

HEARING EXAMINER COLLINS: All right, we're going to start. This is the afternoon session of day seven --

MR. MINTZ: We need three minutes.

HEARING EXAMINER COLLINS: Okay. Let me know when.

We're going to start with Evan duPont.

(Brief pause in proceedings)

HEARING EXAMINER COLLINS: You may begin. Have

you been sworn in?

MR. duPONT: I have not.

HEARING EXAMINER COLLINS: Okay. Please raise your right hand. Do you swear or affirm the testimony and evidence you place into the record will be the truth?

MR. duPONT: Yes, ma'am.

HEARING EXAMINER COLLINS: Okay. Please state your name for the record, and then you can begin.

MR. duPONT: My name is Evan duPont, and I am a proud old-time Sanibel resident, as well as lifelong Lee County resident, other than some time in Virginia in the early aughts for college and to start my career. I am also a member of the CCA, and I live maybe five or six miles from South Seas, even less the way the crow flies.

Good afternoon, Madam Hearing Examiner and fellow community members, and thank you for the opportunity to speak today.

To set the table, this whole setting is quite uncomfortable for me. As was said by Mr. Lapi yesterday, I really don't want to be here. Unfortunately, we have found ourselves in a place that I could have never imagined, and so I felt the need to share my position, what I know, and what I believe.

Because I wanted to speak from my heart and not from my tongue, I have written most of my talking points, and have a copy for the court reporter if needed, but I will do my best to keep idle speed.

To start, I am just one of many from the Sanibel and Captiva community that have been quietly but acutely following this ordeal. Now, I am not one to contribute to malice what could be attributed to ignorance or incompetence, but this one is a doozy, and I am pleased that there has been no shortage of expert witnesses, professionals at the top of their respective fields, and very knowledgeable attorneys that I would say have done a tremendous job of bringing into focus exactly what it is we are dealing with here, the true intentions, and the stakes that are in play.

So I will leave the legal and rational and sensible aspects of this alone, because my intention today is not to echo or reiterate information that has already been shared or the facts that have proven valid. My intention today is to share my perspective, consternation, and disappointment behind the proposed changes that are born from a lifetime of enjoying the islands, a successful career in the real estate industry, and currently as one of Sanibel and Captiva's highest-performing realtors.

I am here before you as one of your community members, Madam Hearing Examiner, to express my deep concerns about the proposal to increase the number of dwelling units on Captiva in the South Seas Island Resort. While I understand the allure of economic growth, and the arguments that more units can mean more tourism revenue, this is not that, and it couldn't be further from it.

I'm not saying that I don't appreciate fine architecture, new construction, or even new development. What I am saying is that sometimes less is more, and that is exactly what this is about and what 99 percent of our community members and vacationing guests are about.

The limited availability on the islands is the driver of our desirability. I say that again: The limited availability on the islands is the driver of our desirability. And that desirability is born from our historic low-density building patterns, our manner of working with nature instead of through it, and an actual understanding and appreciation of the fragile barrier island ecosystem; not more rooms, not more people, not overcongestion, not high-rises, and not a water park.

On Captiva quality trumps quantity, and that is

the fact of the matter. That is why waterfront lots on Captiva trade at price points that are multiples of like-kind waterfront lots on Fort Myers Beach or Pine Island. And just to be clear, there is nothing against Fort Myers Beach or Pine Island. They're both tremendous. I spent a lot of time on both of them growing up here, had a lot of fun there, as well; but they're just different islands with different building codes, different density restrictions, and an overall different product, and thus a different real estate market and value. So I repeat it one more time, less is more.

As such, I firmly believe that such hurried and unchecked expansion would flatline the heartbeat of Sanibel and Captiva islands and inflict severe downward pressure on the property values, and I have further concern that it would pose a measurable threat to all of our neighboring communities and community members, as well.

Again, I do not aim to reiterate all that has already been shared or proven during this multi-day hearing, but I do want to further memorialize some of those points that are related to my position:

Let us first consider the environmental implications. Captiva's breathtaking natural beauty,

its pristine beaches, lush mangroves, charming and eclectic slow pace, absence of crowds, and abundant nature and wildlife is the primary reason people are drawn to this island. In fact, the islands are home to numerous species, including bald eagles, osprey, raccoons, otter, manatee, bobcat, and the endangered sea turtles that nest on our shores, just to name a few of many. More buildings equates to more artificial lighting, increased noise pollution, increased intensity of our already strained natural resources, increased rate of negative interference between human and wildlife, and reduced habitat space, all of which negatively impact these vulnerable creatures.

Next, the infrastructure is another critical concern. Captiva is a small island with limited roads, water supply, and waste management systems. During peak tourist seasons, traffic congestion on Captiva Drive already reaches unbearable levels, and parking becomes a significant challenge. Adding hundreds more hotel guests, likely thousands, will exacerbate these issues, leading to gridlock, overloaded sewer systems, and potential water shortages.

The aftermath of Hurricane Ian revealed the fragility of our infrastructure. Our systems struggled to recover, and the addition of more hotels would

stretch them beyond their capacity, likely resulting in significant financial burdens for the community members and taxpayers due to a measurable amount of resources that would be needed to address these deficiencies, and that is if they even could be.

And just to be crystal, it is not just a generational direct hit from a Category 4 -- arguably 5 -- hurricane that we need to be concerned about anymore, as we have all learned several times ever since.

Further, if you're dealing with anyone that knows anything about the islands, they will tell you there is no such thing as busy season and quiet season. There is busy season, and there is busting-at-the-seams season. In fact, as I have been following along on YouTube, I believe I have heard on more than one occasion, over these previous session recordings, that September is the slowest time of year. Well, I missed that memo, and Hurricane Helene did, too, and from 155 miles away.

My fiancee and I were hosting our engagement party September 28th. On September 25th and 26th, my friends and their families arrived to town and were staying at Tween Waters. The night of the 26th, our engagement party turned into a salvage mission. Never mind for a

moment feeling bad for us either, I feel bad for our guests. Tween Waters was incredible and took great care of them; and when the phones wouldn't stop ringing the night of the 26th with folks wanting to come help, I said, don't worry about it. It's -- we're beyond that. You want to help, come tomorrow. We have a lot of furniture to take to the end of the driveway, a lot of Sheetrock to cut out, and I'm probably going to have to get a tow. So enjoy yourselves, we'll pick back up tomorrow.

That -- we were delayed because -- I understand, from listening this morning, that you did have an opportunity to make it out to Captiva, ma'am?

HEARING EXAMINER COLLINS: I did -- actually, I went to Sanibel. So I'm doing it in trips.

MR. duPONT: Okay.

HEARING EXAMINER COLLINS: I'm trying to get the feel of Sanibel, then I'm going to go out and do Captiva, and then I'm going to go do the resort.

MR. duPONT: How -- how far down Sanibel did you get?

HEARING EXAMINER COLLINS: I went all the way to Blind Pass.

MR. duPONT: Fantastic. As you were making your way up San-Cap -- down San-Cap towards Blind Pass,

right when you're getting to Blind Pass, that very first turn, the first time you really -- you're wowed by the emerald waters. There's -- it's -- it has been an ongoing problem from there -- for there for some time, and I'm sure you could tell. I mean, you don't need to be an engineer, given the natural state of most everything else that you probably saw, the enormous sea walls, about as much riprap as they have at the causeway to even get over onto the island anymore, the constant problems with -- with the road there. And unfortunately, Hurricane Helene took all -- not all, enough of that riprap, the big -- big rocks, the boulders -- the road was impassable. It was closed. My friends couldn't even -- they were stuck on Captiva. Not so much a big deal for the ones that grew up here and were able to -- you know. Their wives and kids, that -- it wasn't until, I think, maybe 11 a.m. that all the boulders were cleared, the road was passable, and that they were then able to come -- start doing construction and garbage removal at that point, is the best way I could put it. So that's -- that's -- that's something I'll always -- I'll always remember, and, unfortunately, a lot of my guests that came here for a nice weekend will, as well.

But beyond the environment and the infrastructure,

we most -- we must also consider the impact of the community itself. Captiva and Sanibel are not merely tourist destinations. It is a community and a home. It is a place where families have lived or visited for generations, where mom-and-pop shops thrive, and where a laid-back small-scale lifestyle prevail.

The charm of Captiva, and Sanibel by extension, lies in its unique character. This is not debatable and is the specific reasoning given to me time and again by the former Fort Myers Beach believers that moved and invested in our islands after the writing on the wall became clear for the future of Fort Myers Beach after Hurricane Ian. And it is that same charm and character that would be eroded by the influx of hotels, transient visitors, and the egregious and reckless development that attempts to eliminate the rest of the community's desirable and deeded uses. The local mom-and-pop shops, long-standing eclectic businesses, and unique non-chain restaurants, all of which contribute significantly to the island's charm, could be squeezed out by downward corporate pressures.

The visitor experience. We cannot forget about the visitor experience. People come to Captiva seeking an escape from the hustle and bustle of everyday life, not to encounter crowds and chaos. The addition of

more hotel rooms means more people, more crowds, more problems, more pollution, more litter, longer lines, unrelenting traffic congestion, and increased noise levels. The very qualities that attract tourists, its tranquility and unspoiled magic, will be lost if we oversell Captiva.

The economic considerations. While it is true that more hotels can bring jobs and revenue, we must weigh these short-term gains against the long-term health of our islands and our community. Sustainable growth through small-scale and thoughtful projects can support our economy without sacrificing our environment, our lifestyle, and our property values.

And, Madam Hearing Examiner, if you have the opportunity, when you do make your way to Captiva and wanted to make a -- a stop along the way, if you hadn't already made your way over to West Gulf Drive on Sanibel, I would encourage you to do so because -- for -- for all of the items I just mentioned about supporting our economy without sacrificing the environment or lifestyle or property values, you needn't look any further than Shalimar Inn and Resort over on West Gulf Drive. It was an adorable third-generation family-owned 33 unit beachfront resort comprised of old frame cottages and a small motel that

Hurricane Ian took all but some of the foundation pilings. Since that time that young family -- I think the wife is maybe 37 and the young man is 35, if I'm not mistaken -- which were thrust into the business because their grandparents, they just simply -- after Ian they -- they -- they were not able to continue forward. So they were -- they were thrust into now being not just resort owners but developers and learning as they -- as they went along. But since that time they have worked to totally redesign and rebuild the resort within the rules and to code, which will be the first new resort constructed on Sanibel in decades.

They just had their topping off party a few weeks ago, which is a traditional thing to do once all roofs have been secured to -- to the buildings, which there are many of them, and -- doors, windows, et cetera. They just had it a few weeks ago, they're already taking reservations, and they will be opening -- I believe it's August or September. By doing it the right way, this young family was able to resiliently build back all 33 of their units, plus their on-site manager's unit.

Sanibel and Captiva offer exclusivity through low density, natural beauty through lack of overdevelopment, and peace by providing an escape from

congestion. This exclusivity attracts buyers willing to pay top dollar. If Captiva is flooded with hotels, the quiet beaches and small-town charm will be replaced by noise and traffic, leading to a decline in property values, and there will be a greater regional impact. The strain on infrastructure would be immense. Captiva's roads, water supply, and waste systems are already stretched thin, and Sanibel feels the impact since we are connected by one road and one causeway.

More hotel guests mean gridlock traffic, strained utilities, and higher maintenance costs. It means hundreds, but in all likelihood thousands, of more vehicles on the road each and every day. And, again, when I say "on the road," I quite literally mean on the one road that we have.

Now, picture that. Captiva flooded with hotels, quite literally towers of rooms, packed parking lots, and throngs of short-term visitors. That exclusivity, it is gone. The quiet beaches and small-town charm that make our barrier island community special get replaced by concrete, noise, traffic, and chaos.

Madam Hearing Examiner, it is no secret that there are a measurable amount of well-meaning, influential, compassionate, and very well-heeled community members that have residences on both Sanibel and Captiva. Some

are seasonal, some of them it is their primary residence; but regardless, many of these community members are staunch supporters of our immediate and surrounding communities, and have incalculable philanthropic contributions on their résumés with organizations not just on the islands, but on the mainland, as well, and some of those include organizations I'm sure most everyone in here has heard of, such as The Heights Foundation, The Harry Chapin Food Bank, Habitat for Humanity, United Way, and there are countless others. Madam Hearing Examiner, the people that I am talking about are the people that make the type of contributions that have an immediate impact and that moves the needle, and they often do so anonymously. These people will leave when their very reason for living here is stripped from them. Their homes will be sold, and in their place will come, likely, absentee Vrbo owners with no connection to the community, and will likely not serve or contribute to the community or their programs, certainly not to the level that we have now.

The loss of these community members will leave a void in the budgets, daily operations, and general availability of charitable foundations, public organizations, nonprofits, public services, and many of

the like that are paramount throughout the entire county. There would be far more of your fellow Lee County community members that will be irreparably harmed than there ever would be number of guests in a new hotel.

The ripple effect would continue on to Sanibel. These islands' charm boost each other's appeal. If Captiva turns into a hotel-packed tourist trap, Sanibel's reputation suffers, too. Buyers looking for a serene island life might skip both islands opting for less crowded places. Real estate data supports this: Overbuilding in one area results in nearby markets losing their premium. Our property values are tied to the whole region's allure. Overbuilt tourist zones, like parts of Orlando, show how property values stagnate while taxes soar to cover the mess. We cannot let that happen here.

In conclusion, I urge you to consider the broader implications of increasing the number of hotel rooms on Captiva. We must prioritize the long-term sustainability of our environment, infrastructure, and community over short-term profits. Let us protect Captiva from overdevelopment and maintain its status as a sanctuary, not a sprawl.

Thank you very much.

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HEARING EXAMINER COLLINS: Thank you.

John Lai?

MR. MINTZ: (Inaudible.)

HEARING EXAMINER COLLINS: He's not able to make it at all?

MR. MINTZ: Right.

HEARING EXAMINER COLLINS: Okay. John Agnew?

MR. AGNEW: Good afternoon, Your Honor. My name is John Agnew. I'm the City Attorney for the City of Sanibel.

Thank you for your patience throughout the hearing process, particularly with respect to a very lengthy public comment. I believe I am the last person providing public comment, and my comments will be relatively brief.

Earlier this month you heard detailed comments from several representatives of the City, all its elected officials, including then Mayor Richard Johnson, then Vice Mayor Mike Miller, Council Members Holly Smith, Laura Debruce, and John Henshaw, as well as City Manager Dana Souza and Deputy Police Chief Anthony Thompson. Their testimony indicates just how impactful the potential development increase permitted by the rezoning of South Seas Island Resort would be to the City.

The City of Sanibel, as you've heard again and again, is the adjacent island community through which all evacuees and travelers and visitors from South Seas Island Resort and Captiva must travel. The proposed increased density and intensity of use, and the associated traffic impacts, would negatively affect an already constrained and overburdened evacuation route. But those increased traffic impacts also generally adversely impact Sanibel citizens and their business owners in terms of their daily quality of life, the community character, the attractiveness as a quality visitor designation. And it also negatively impacts city government by placing additional demands on the City's Public Safety officers and its staff.

Your Honor, I ask that you recognize these adverse effects by rendering very specific findings. The State land planning laws within Chapter 163, Florida Statutes, recognize the importance of intergovernmental cooperation. And one of the reasons it exists is to ensure that land use decisions by one local government do not adversely impact adjacent and nearby local governments.

In conformity with the law, the Lee Plan contains the following requirements that would be violated by this rezoning:

Goal 152, growth management. To coordinate the plans and policies of Lee County, its municipalities, and adjacent local governments so as to guide, manage, and regulate urban growth in a compatible fashion.

Objective 152.1, effects on new development. Lee County will continue to review impacts of planned developments on municipalities within Lee County and on adjacent counties' regional agencies and other governmental units in a coordinated and efficient manner.

And Policy 152.1.2, where conflicts regarding growth management and development issues cannot be resolved through discussion among those concerned, Lee County will pursue the dispute resolution process established pursuant to Section 186.509, Florida Statutes, for bringing intergovernmental disputes to closure in a timely manner.

Given the breadth and depth of the impacts the proposed rezoning would have on the City of Sanibel, its residents, and so many county residents on Captiva, I ask you to render very specific and clear findings of fact on every issue that was addressed by the presentations and the evidence received into the record over the course of this hearing, to ensure that the County Commission's decision is fully informed by clear

and specific findings on each such issue; and whether the Applicant, as it is required to do, met its burden of proving by the greater weight of the evidence that the rezoning complies fully with the intent and terms of the Lee Plan and Code.

Sanibel and Captiva are fragile barrier islands, and they have been repeatedly devastated by recent hurricanes. Your Honor, among my responsibilities to the City of Sanibel is to ensure the actions of City Council are consistent with the Sanibel Plan.

In this matter I am asking you, as the Hearing Examiner, to make findings and recommendations to best ensure the County Commission's actions are consistent with the Lee Plan by recognizing the long-standing development limits on South Seas of 912 units, and thereby protect the citizens of both Captiva and Sanibel from the adverse impacts detailed in this hearing.

Thank you.

HEARING EXAMINER COLLINS: Thank you.

Are there any other members of the public present that would like to speak?

All right. That concludes public comment.

(Sotto voce between Mr. Mendez and Mr. Agnew)

MR. AGNEW: Your Honor?

HEARING EXAMINER COLLINS: Yes.

MR. AGNEW: I believe we were remiss by not swearing me in.

HEARING EXAMINER COLLINS: Oh, I didn't swear you in?

MR. AGNEW: No, ma'am.

HEARING EXAMINER COLLINS: All right.

MR. AGNEW: Good catch.

HEARING EXAMINER COLLINS: Let's do it retroactively. You weren't here this morning, I guess.

MR. AGNEW: No, ma'am.

HEARING EXAMINER COLLINS: Okay. Do you swear or affirm the testimony you entered into the record was the truth?

MR. AGNEW: Yes, ma'am, I do.

HEARING EXAMINER COLLINS: Thank you.

MR. duPONT: Thank you.

HEARING EXAMINER COLLINS: I want the record to reflect that I have the following sheets from members of the public that were not able to speak on the record: Darlene Determan, Cynthia Mason, Mark Frederick, Diane Murkle, and Leonard Edgarly -- Edgerly. I believe that we accepted testimony and evidence from everyone else who submitted a form. I made a note on each form on the day they spoke.

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Okay, parties.

MS. MONTGOMERY: We would submit that in light of the extensive amount of information that's been provided the last two days, and the need to do a coherent rebuttal -- for example, Mr. Grosso's letter was 30 pages, but it was double-sided, so -- with a myriad of issues. The Applicant would like to provide a coherent PowerPoint in rebuttal. So we would ask that the record be closed and no further public input would come in, and that we'd be able to start rebuttal first thing on the 8th of April.

HEARING EXAMINER COLLINS: Okay. I have a number of questions. I'm on -- at least two pages, and I have not summarized what I've heard yesterday and today that may have raised a question that I wanted clarification on. I will work on that list, because some of the questions I have of Staff, some of them were directed toward the Applicant and their experts. And I will endeavor to get that out -- I'm looking at my calendar right now.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: So you're saying we resume on the 8th?

MS. MONTGOMERY: That's my understanding, yes, ma'am.

HEARING EXAMINER COLLINS: Okay. Well, I've got hearings on Monday, Wednesday, Thursday next week. I will try to get it out on or before the 28th, but that may not happen. So when you receive this list, you may want to continue extra days. I don't know.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: We may have to convene -- if you feel you need, you need to ask that. I will do my best to compile it, but you understand what my hearing schedule is next week.

MS. MONTGOMERY: Yeah, I recognize that. And, again, we want to have coherent rebuttal. I know you've heard a lot of information, and obviously we don't know yet what your questions are. So we want to make sure we fully respond to your concerns and questions, as I'm sure Staff does.

MR. MENDEZ: (Nods head.)

HEARING EXAMINER COLLINS: Yeah, and there will probably be other experts from the County that I'd like to also respond to some of the issues I have questions on -- environmental, traffic, public safety, et cetera. So I'll try to get that out by next Friday; and if I can't, I'll do it as soon as I can thereafter.

MS. MONTGOMERY: Okay, I understand that.

HEARING EXAMINER COLLINS: And understand I'm

going to be going through a voluminous amount of information. I took a lot of notes, but there's going to be documents I'm going to want to look at again, and your PowerPoint, and -- I don't know, maybe the 8th is ambitious.

MS. PEREZ: We have the 11th.

MS. MONTGOMERY: We can't do the 11th because one of our experts is not available on the 11th, and he's important to the water quality issue which has come up innumerable times. So we want to make sure we adequately respond.

HEARING EXAMINER COLLINS: What's the next day we have?

MS. PEREZ: We had reserved the 18th but you --

HEARING EXAMINER COLLINS: No, that's not -- only afternoon is good for me on the 18th.

MS. PEREZ: If we do it in our hearing room, it's an easier way to schedule. We could do it April 27th.

MS. MONTGOMERY: We could start on the 8th --

HEARING EXAMINER COLLINS: Let's hope for the 8th, and we'll go from there.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: How's that?

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: And I will do my best,

even if I have to work on the weekend, I will try.

MS. MONTGOMERY: I'm not -- I'm not looking to make you work on the weekend but --

HEARING EXAMINER COLLINS: I prefer not to.

MS. MONTGOMERY: I know.

HEARING EXAMINER COLLINS: It's been a heavy week.

MR. GROSSO: Your Honor, I realize I'm not a party. Can I be heard on the matter of the 8th?

HEARING EXAMINER COLLINS: No, because you're not a party, and it's between the parties to decide when we continue to next. And as I said, I don't even know if I'm going to get all my questions out by then so -- I'm sorry.

MR. GROSSO: Okay.

MR. MENDEZ: Madam Hearing Examiner, I want to check with Staff, if they'll all be able to be present on the 8th for your questions. So we'll be reaching out to your office with confirmation on that.

HEARING EXAMINER COLLINS: Okay.

MR. MENDEZ: I know it's already a tight deadline, and the 8th may not work.

MS. MONTGOMERY: Yeah, and what I want to do is --

HEARING EXAMINER COLLINS: So there's -- there's nothing the week of the 14th, Maria?

MS. PEREZ: The 14th? The 14th is available.

HEARING EXAMINER COLLINS: Well --

MS. PEREZ: You have an appointment at 1:00 on the 14th.

HEARING EXAMINER COLLINS: April 14th?

MS. PEREZ: Yeah.

HEARING EXAMINER COLLINS: Oh, yeah, all right.

MS. PEREZ: And then the Board has April 15th. So I don't know if some of the planners need to be there.

HEARING EXAMINER COLLINS: That's just a regular Board meeting though --

MS. PEREZ: Yes.

HEARING EXAMINER COLLINS: -- right?

MS. MONTGOMERY: Well, here's what I would suggest. I heard what Adam said. We -- we have about 200 slides that -- I think, give or take, that Alexis has kind of compiled already. We have to reorganize those and adjust. So I don't -- we can coordinate with Staff about how long we would take so that --

HEARING EXAMINER COLLINS: Oh, so you want to go -- you want to go first before Staff speaks?

MS. MONTGOMERY: I thought we had to. Oh, no --

MR. MENDEZ: That is typical.

MS. MONTGOMERY: Yeah. So I was thinking we were going to follow that process, and we would go first --

HEARING EXAMINER COLLINS: Well, yes, normally,

except I'm actually asking questions.

MS. MONTGOMERY: Okay. So you want them to go first?

HEARING EXAMINER COLLINS: I may want them to.

MS. MONTGOMERY: Okay. Well, then I don't know what we want to do because I don't know what the questions are you're going to ask them --

HEARING EXAMINER COLLINS: Well --

MS. MONTGOMERY: -- or their answers.

HEARING EXAMINER COLLINS: -- let me -- let me compile my list, and then you'll have a better idea on the scope and the degree of the additional information I'm going to want.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: And we'll go...

MS. MONTGOMERY: And if we haven't, can we officially close public input so --

HEARING EXAMINER COLLINS: Yeah, I already did.

MS. MONTGOMERY: Okay. I just want to make sure.

HEARING EXAMINER COLLINS: Public input is over, and I announced who did not speak. So we're finished with public input --

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: -- and we're back to the parties.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: So we're talking about when we're going to get to answering questions that were raised by the public, because there were quite a few, and answering my questions, of which there's quite a few.

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: And then after those questions are answered, you may or may not want to incorporate that into your rebuttal, then you could have a rebuttal.

MS. MONTGOMERY: Okay.

MR. MENDEZ: Madam Hearing Examiner, I want to share with you that CCA has just expressed to me that they won't be able to make it on the 8th, and they just wanted to put that on the record, that --

HEARING EXAMINER COLLINS: Okay.

MR. MENDEZ: -- that wouldn't work for them.

MS. MONTGOMERY: Yeah, and my response to that would be in light of they -- the fact they had 15, at least, people from CCA, I'm quite confident they can come up with one of their members who can attend. You're giving me the look.

HEARING EXAMINER COLLINS: No, I'm just -- we do not plan when the next hearing day is based on the

public. So --

MS. MONTGOMERY: Okay.

HEARING EXAMINER COLLINS: -- it's between the parties, and it's looking like it's the 8th. You may ask for additional time, and we will try to coordinate a day that that might be. And of course everyone who has filled out one of these sheets, including all the members of the CCA, they will receive notice of that alternate hearing day.

MS. MONTGOMERY: I appreciate that.

HEARING EXAMINER COLLINS: Because at this point they're basically just observing. They've had their opportunity to speak, and we're back to the parties, and the case is --

MS. MONTGOMERY: I know, and I appreciate that, but -- but they wouldn't have asked to put that on the record if they weren't trying to create an issue; so I felt the need to respond.

HEARING EXAMINER COLLINS: Okay.

MS. PEREZ: The location of the hearing will be in the hearing room on the 8th?

HEARING EXAMINER COLLINS: Yes.

MS. PEREZ: Okay.

HEARING EXAMINER COLLINS: The location of the hearing will be in the Hearing Examiner's Hearing Room

at 1500 Monroe Street on the second floor. We will plan to begin at 9:00.

MS. MONTGOMERY: Thank you.

HEARING EXAMINER COLLINS: Thank you, everyone, today for all your testimony.

And that concludes the hearing for today.

MR. MENDEZ: Thank you.

HEARING EXAMINER COLLINS: We will resume with day eight on April 8th.

(Proceedings concluded at 2:19 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 142, is a true and correct record of my stenographic notes.

Dated this 27th day of March, 2025.



Deborah M. Bruns, FPR

(This transcript was electronically signed.)

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