

THE OFFICE OF THE LEE COUNTY

HEARING EXAMINER

CASE NO.: DCI2023-00052

IN RE: PELICAN LANDING MPD

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PROCEEDINGS: PUBLIC HEARING

BEFORE: Donna Marie Collins
Chief Hearing Examiner

DATE: June 19, 2025

TIME: 9:00 a.m. to 12:02 p.m.

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

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20 Jackie Larocque, Atwell
21 Ted Treesh, TR Transportation
22 Shane Johnson, Passarella and Associates
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24 Lisa Van Dien, London Bay
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1 P R O C E E D I N G S

2 HEARING EXAMINER COLLINS: Good morning, my name
3 is Donna Marie Collins. I'm the Hearing Examiner that
4 will be presiding over this morning's application,
5 which is pertaining to the Pelican Landing MPD. The
6 date is June 19th, 2025.

7 I have received the 48-hour letter. I am marking
8 that as Applicant Exhibit 1.

9 All testimony and evidence I accept during these
10 hearings must be taken in under oath. I will
11 administer the oath at the conclusion of my
12 introductory comments.

13 Quick question: Do we have any members of the
14 public here today?

15 MS. CRESPO: No.

16 HEARING EXAMINER COLLINS: No, okay. Well, then I
17 will abbreviate my introduction since we have seasoned
18 veterans here, and I will request the affidavit of
19 publication for the hearing.

20 MS. WORKMAN: Yes.

21 (Staff Exhibit 1 submitted.)

22 HEARING EXAMINER COLLINS: Are we sure this was
23 advertised? I'm a little suspicious because we have no
24 public.

25 MS. WORKMAN: It was advertised, and I have

1 received 120 emails.

2 HEARING EXAMINER COLLINS: All right, then. Well,
3 you must have satisfied them with your community
4 meetings, if they're not here today.

5 Okay. I will accept the affidavit of publication.
6 This will be Staff Exhibit 4. I will note that Staff
7 Exhibit 1 is the Staff Report; Staff -- condition
8 number 2 -- excuse me -- Exhibit Number 2 is the Staff
9 Report that was provided on the remand; and then
10 Exhibit Number 3 is the DRI-related Staff Report; and
11 this will be Exhibit 4, affidavit of publication.

12 Okay. I'm ready to begin.

13 MR. YOVANOVICH: Good morning. For the record,
14 Rich Yovanovich on behalf of the Applicant.

15 With me today are Stephen Wilson and Lisa Van Dien
16 with the Applicant. You'll hear from Mr. Wilson, who
17 is with London Bay; Jackie Larocque is our civil
18 engineer on the project; Ted Treesh is our
19 transportation consultant; Shane Johnson is our
20 environmental consultant; and both Jem Frantz and
21 Alexis Crespo are professional planners. They've all
22 been qualified as experts before you in the past; so
23 we're requesting they be accepted as experts in their
24 respective fields.

25 The application before you today is -- actually,

1 you have two, but I don't think you actually hear the
2 DRI portion of that today. But you have an application
3 to rezone 430 acres to a PD, a mixed PD. It's at the
4 terminus of Coconut Road. It's on the north side of
5 Coconut Road, and it's outlined in red before you.

6 The property is owned by the Applicant today, so
7 the acquisition of the property is not conditioned upon
8 any rezoning activity for the property.

9 Overall the property is 430 acres. It's currently
10 zoned Kersey-Smoot RPD and the Pelican Landing CPD/RPD;
11 and, again, we're requesting it be rezoned to the
12 Pelican Landing MPD.

13 I expected there to be some public here today, but
14 this is a -- this is part of the Pelican Landing DRI.
15 As you know, Pelican Landing has several PDs within it,
16 and we're rezoning portions of two of those PDs to the
17 Pelican Landing MPD.

18 I'm going to outline, and you'll hear in greater
19 detail, this rezone to MPD modifies density that was
20 originally allocated in the PD and some intensity for
21 retail and office and hotel; so there are additions and
22 subtractions from the -- the current PDs in the DRI.
23 However, at the end of the day, you'll hear from Ted
24 Treesh that -- and your Staff agreed, that the
25 modifications actually result in a reduction in trips

1 generated from the PD; and, specifically, Coconut Road
2 does operate at the adopted level of service with all
3 of the additions and subtractions from the PD that you
4 will hear about.

5 And you will see from the -- I believe Staff will
6 give you all of the emails that were received, and the
7 primary concern seemed to have to do with traffic on
8 Coconut Road. So we'll be providing you with testimony
9 as to the impacts of what we're proposing not only
10 within the DRI, but also specifically on Coconut Road.

11 HEARING EXAMINER COLLINS: Okay. Regarding the
12 DRI, the Code requires me to review the requested
13 amendment --

14 MR. YOVANOVICH: Right.

15 HEARING EXAMINER COLLINS: -- and prepare a
16 recommendation to the Board. My review is very narrow
17 in scope. I will be doing that --

18 MR. YOVANOVICH: Yes.

19 HEARING EXAMINER COLLINS: -- as part of this
20 request; correct?

21 MR. YOVANOVICH: You will be. That's a companion,
22 and you've already received those -- that's why we had
23 the continuance, if you remember --

24 HEARING EXAMINER COLLINS: Okay, right.

25 MR. YOVANOVICH: -- because we didn't have the DRI

1 materials --

2 HEARING EXAMINER COLLINS: I just want to clarify
3 that we are handling both matters.

4 MR. YOVANOVICH: Yes, yes. So there is the
5 companion DRI that you -- amendment to the DRI that you
6 will also be considering.

7 As I -- as I started to talk about, we are -- we
8 are increasing the overall number of dwelling units in
9 the DRI by 488 dwelling units. We are reducing the
10 overall retail by 147,000 square feet. We are reducing
11 the office by a little over 100,000 square feet. We're
12 removing one golf hole, and we are adding 232 rooms.

13 As Mr. Treesh will tell you in his analysis, that
14 actually is a reduction of the overall traffic for the
15 DRI, and therefore the PD is not creating any
16 additional traffic impacts other than what was
17 previously approved in the DRI; and, again, as I
18 mentioned, we did a specific analysis -- although I
19 don't believe it was legally required, we did do a
20 specific analysis on Coconut Road.

21 I'm going to turn it over to Stephen Wilson to
22 give you just a brief introduction to London Bay. They
23 are property owners in both Lee County, as well as
24 Bonita Springs, and are committed to this portion of
25 Lee County as a developer. They do nothing but

1 high-end first-class development, and I'll have Stephen
2 give you a brief introduction of London Bay. And then
3 Jem will come up -- Jem Frantz will come up and start
4 the planning presentation, and then we'll move through
5 the other experts with our presentation.

6 HEARING EXAMINER COLLINS: Will the golf course be
7 open to the public?

8 MR. YOVANOVICH: The golf course currently is open
9 to the public, but there is the possibility the golf
10 course could go private.

11 HEARING EXAMINER COLLINS: So the traffic was
12 analyzed based on public access --

13 MR. YOVANOVICH: Correct.

14 HEARING EXAMINER COLLINS: -- to the golf course?

15 MR. YOVANOVICH: Yes.

16 HEARING EXAMINER COLLINS: Okay, thank you.
17 Good morning.

18 MR. WILSON: Good morning.

19 My name is Stephen Wilson. I'm one of the owners
20 and executive vice president of London Bay. I just
21 wanted to give you a very brief overview of who we are
22 and what we do.

23 We were established in 1990 in Fort Myers, been
24 going for 35 years. Most of our work is in Collier and
25 Lee County. We've had a very good reputation for what

1 we do, including being called America's best builder at
2 some stage.

3 We see this as a real legacy project. It's over
4 500 acres, including land in Lee County and in Bonita,
5 which is absolutely world-class residential space --
6 you've got an image of our first phase up on the
7 screen -- and we see it as being very complementary to
8 Lee County and Estero and Bonita Springs, and very much
9 see that being combined with the core values of how we
10 operate as a company.

11 Thank you very much.

12 HEARING EXAMINER COLLINS: Thank you.

13 (Off-the-record discussion)

14 MS. FRANTZ: Good morning, Jem Frantz with RVi
15 Planning and Landscape Architecture. I'm going to run
16 through our request.

17 So taking a step back to looking at the project
18 location, there's been changes to jurisdictional
19 boundaries in this area over time. So what you're
20 looking at now demonstrates the portion of the property
21 and a couple of surrounding properties that are within
22 unincorporated Lee County; and then that's surrounded
23 by the Village of Estero, which is yellow, and the City
24 of Bonita Springs, which is blue.

25 HEARING EXAMINER COLLINS: Okay. So this

1 application pertains solely to the outline in red?

2 MS. FRANTZ: Correct.

3 HEARING EXAMINER COLLINS: The property in Bonita
4 Springs, is that part of London Bay's property, as
5 well?

6 MS. FRANTZ: London Bay does own some of the
7 properties over here, and they're within the City of
8 Bonita Springs. They have their own PDs in that
9 jurisdiction.

10 HEARING EXAMINER COLLINS: This is freestanding,
11 going to meet all the criteria on its own?

12 MS. FRANTZ: (Nods head.)

13 (Discussion at lectern)

14 MS. FRANTZ: So looking at the surrounding lands,
15 kind of in the doughnut hole here is the Hyatt
16 timeshares. This was a part of the Kersey-Smoot PD,
17 and we'll see that in a future slide.

18 HEARING EXAMINER COLLINS: And that's out?

19 MS. FRANTZ: That's not within the property.

20 HEARING EXAMINER COLLINS: Right.

21 MS. FRANTZ: This single-family residential over
22 here is the Fountain Lakes community; to the north is
23 the West Bay Golf & Country Club; this property here,
24 one of the London Bay-owned properties, is known as
25 Raptor Bay; to the south of that is the Ritz

1 Residences. You may have seen that, those towers going
2 up.

3 Again, to the south of the Ritz is the Hyatt
4 Coconut Point; to the south of Coconut Road is The
5 Colony, which is made up of a number of smaller
6 communities; and then our neighbor to the southeast is
7 El Dorado Acres.

8 Within the property, there are three separate land
9 use categories: Suburban is over here, currently a
10 golf course area; there's Wetlands throughout the
11 property running north and south, and then -- along the
12 western boundary; and then the remainder is Outlying
13 Suburban.

14 So the calculation of that acreage -- and,
15 actually, this -- this acreage here includes the
16 Kersey-Smoot acreage, as well. And we'll get to why
17 we're including both of those in a future slide but --
18 so including that Kersey-Smoot doughnut hole, the
19 calculation of allowable density in this future land
20 use designation is 893 dwelling units. That doesn't
21 include any density derived from any of the
22 nonresidential areas, and you can see the breakdown of
23 the wetlands, as well.

24 So here you can see the current zoning. The
25 Kersey-Smoot RPD is the blue -- you can see that

1 portions of it have been annexed into the City of
2 Bonita Springs and are included in those separate PDs,
3 and the red is the Pelican Landing CPD/RPD.

4 These areas over here are colored as if they're
5 within the PDs. This boundary line here represents the
6 mean high waterline. So this is kind of a remnant
7 of -- a mapping remnant that is not really a part of
8 the property. So just trying to make that part clear.

9 Here's the current Kersey-Smoot RPD. You can see
10 how at the clubhouse, it cuts to the west. So when
11 we're looking at that, you can see that some of those
12 properties have been annexed into the city. And,
13 again, down here, as well.

14 So Kersey-Smoot was accessed by what is now known
15 as Saltleaf Boulevard, Coconut Point Resort. It's a
16 private road, includes a golf clubhouse, the Hyatt
17 timeshares, and some additional sales centers to the
18 south.

19 It allowed for 362 multi-family units; 96 of those
20 are currently built. The maximum building height in
21 that PD is 75 feet. And so of the 362 total units
22 allowed within Kersey-Smoot, 241 of those units are now
23 owned by the Applicant today and have been assigned to
24 the Pelican Landing MPD as we move forward.

25 HEARING EXAMINER COLLINS: So they're unbuilt but

1 assigned to this -- available for development under
2 this --

3 MS. FRANTZ: Correct.

4 HEARING EXAMINER COLLINS: -- MPD.

5 MS. FRANTZ: Correct.

6 So that leaves the Kersey-Smoot PD with 121 units
7 remaining. So 96 of those are built, there's an
8 additional 25 units.

9 HEARING EXAMINER COLLINS: Okay. So when you say
10 121 units remain within Kersey-Smoot, is that then
11 outside this project --

12 MS. FRANTZ: Outside of this project.

13 HEARING EXAMINER COLLINS: In Lee County or Bonita
14 Springs, but not part of this?

15 MS. FRANTZ: In Lee County, but not part of this.

16 HEARING EXAMINER COLLINS: Okay.

17 MS. FRANTZ: This is the current master concept
18 plan for the Pelican Landing portion of the property.
19 It's currently entitled for the existing golf course
20 that's there, there's ancillary amenities and
21 preservation lands, as well.

22 HEARING EXAMINER COLLINS: And is this developed?

23 MS. FRANTZ: This is developed. The golf course
24 is open and exists today.

25 So this is all just a part of the Pelican Landing

1 DRI. As you know, as Rich mentioned, it's within the
2 overall DRI, and that DRI straddles Lee County, City of
3 Bonita Springs, and the Village of Estero. The DRI is
4 made up of just two separate development orders: One
5 in Bonita Springs and one in Lee County. That --
6 Bonita Springs covers all of the remaining lands
7 outside of -- out of unincorporated Lee County.

8 There's been quite a few amendments over time, 16
9 previous amendments to the DRI. We -- as we've
10 mentioned, we have a companion DRI DO amendment to
11 address the density changes that we're proposing
12 through this MPD, and the majority of the rest of the
13 DRI outside of the subject property today is already
14 built.

15 (Sotto voce between Hearing Examiner and reporter)

16 MS. FRANTZ: So looking at the entitlements within
17 the DRI -- stepping away from today's PD -- the total
18 approved residential units are 3,912. Of that, the
19 total unbuilt entitlements for residential units,
20 that's the 241 units from Kersey-Smoot that I mentioned
21 just a couple seconds ago.

22 HEARING EXAMINER COLLINS: And that's going to be
23 assigned to the MPD.

24 MS. FRANTZ: Will be assigned to the MPD today.
25 And then I won't run through all the numbers, you

1 can see those. You have the presentation. But,
2 essentially, the column here is the overall approvals,
3 and the column to the right demonstrates what has been
4 transferred to the Applicant today.

5 So in addition to those 241 units from
6 Kersey-Smoot, they've also obtained some retail and
7 office square footage, as well. And that square
8 footage is a part of --

9 HEARING EXAMINER COLLINS: Converted to other
10 uses.

11 MS. FRANTZ: Correct.

12 HEARING EXAMINER COLLINS: I got that.

13 MS. FRANTZ: Again, going back through the request
14 overview today. So for the MPD itself, the total
15 dwelling units is 729 dwelling units. You'll see in
16 the traffic report that that assumes 100 single-family
17 units and 629 multi-family dwellings. The PD will
18 retain 25,000 square feet of office uses; again, 27
19 golf holes; and 300 hotel -- 318 hotel rooms. There's
20 also private on-site recreation and accessory uses, as
21 well.

22 The building heights vary based on the different
23 tracts within the MPD, which we'll run through really
24 explicitly; but we have the highest heights of 290 feet
25 are more towards the west, and they step down as we go

1 further to the east. So 290, 110, 50 feet.

2 HEARING EXAMINER COLLINS: Oh, wait, go back. So
3 these represent caps; right?

4 MS. FRANTZ: Exactly.

5 HEARING EXAMINER COLLINS: What's MU?

6 MS. FRANTZ: Yeah. So we'll see on the master
7 concept plan, we've got several tracts for development.
8 The MU is the mixed-use tract, and that's where we have
9 the ability for those office uses.

10 HEARING EXAMINER COLLINS: Retail/office?

11 MS. FRANTZ: Just -- just office uses.

12 HEARING EXAMINER COLLINS: Okay.

13 MS. FRANTZ: I'll try not to get too in the weeds
14 on this table; but, again, we're looking at the overall
15 approved DRI entitlements. This is, again, the same
16 column that we saw on the previous slide compared to
17 the total proposed entitlements in the MPD and what
18 that represents in terms of increases or decreases in
19 the DRI.

20 HEARING EXAMINER COLLINS: So the reduction in
21 office and retail is allowing you to increase the
22 residential and the hotel, but still keep the traffic
23 below the original estimate?

24 MS. FRANTZ: Exactly.

25 HEARING EXAMINER COLLINS: Okay.

1 MS. FRANTZ: And we'll continue to look at that
2 throughout the presentation.

3 As we're looking at these numbers, so this 729
4 includes the 241 dwelling units, and so that's why it
5 is only an increase of 488 units for the overall DRI
6 approvals.

7 I mentioned that the future land use designation
8 table included the remnant portion of Kersey-Smoot,
9 that kind of like doughnut hole, and so this is why we
10 included that in that calculation, because we wanted --
11 as we're taking some lands out of Kersey-Smoot, moving
12 them into this Pelican Landing MPD, we wanted to ensure
13 that both -- this entire area was still consistent with
14 the Lee Plan in terms of allowable density.

15 And so, again, you see this is that same table
16 from before, a maximum of 893 allowable dwelling units,
17 and between the proposed Pelican Landing MPD, today's
18 subject property, 729 dwelling units, and the remaining
19 121 dwelling units that we went through, it's only a
20 maximum of 850 units. So well within the allowable
21 dwelling units in both of these areas.

22 Here's the master concept plan. Here some of the
23 heights and the tracts will make more sense.

24 So overall you've got the MU tract, the mixed-use
25 tract, adjacent to Coconut Road; we have a RES tract,

1 that's the 110-foot building height that you saw
2 previously; and then the MF tract up here. The
3 remainder is a mix of golf course, stormwater lakes,
4 and conservation areas. This blue here is an existing
5 flow-way. These preserve areas are all under existing
6 conservation easements.

7 HEARING EXAMINER COLLINS: So does this mixed-use
8 area include what -- it's like a parking facility right
9 now, or is that on another --

10 MS. FRANTZ: The parking facility is off-site next
11 door.

12 HEARING EXAMINER COLLINS: I see, okay.

13 MS. FRANTZ: This was previously all golf course,
14 and in -- the golf course has been redeveloped over the
15 last couple of years, there's been a couple of ADDs to
16 allow for that, and this area is no longer being used
17 for golf.

18 HEARING EXAMINER COLLINS: Okay. Well, I'm going
19 to have to do another site check after this hearing
20 because it was difficult to put things into context
21 just looking at the paperwork when I went out --

22 MS. FRANTZ: Sure.

23 HEARING EXAMINER COLLINS: -- prior to hearing.

24 MS. FRANTZ: As you're driving down Coconut Road,
25 this access point right here is the existing access

1 point for the golf maintenance facility.

2 HEARING EXAMINER COLLINS: Right, okay.

3 MS. FRANTZ: Just to orient you a little.

4 HEARING EXAMINER COLLINS: All right, thank you.

5 MS. FRANTZ: So access for the overall master
6 concept plan includes that access point on Coconut
7 Road. Also along Saltleaf Boulevard there are access
8 points into the RES and then into the MF tract. We
9 also anticipate some interconnections with the
10 surrounding Raptor Bay PD in Bonita Springs.

11 We're going to go through some more elements of
12 the master concept plan in the next few slides.

13 So we looked at the proposed building heights in
14 comparison to some of the building heights surrounding
15 the property. I'll walk through -- so West Bay has a
16 maximum of 290 feet, which is the same as our MF tract;
17 Raptor Bay, that piece adjacent to us, has a maximum of
18 20 stories over 2 parking; the Ritz Residences has a
19 maximum of 286 feet; Hyatt Coconut Point 213; Altaira
20 249; and Navona 254. So on our property within these
21 tracts, you can see the 291, 110, and 50.

22 The --

23 HEARING EXAMINER COLLINS: Where are the
24 single-family homes going to go?

25 MS. FRANTZ: So those will be allowed in the

1 mixed-use tract.

2 HEARING EXAMINER COLLINS: I see, thank you.

3 MS. FRANTZ: The buffers for the property, there's
4 a combination here:

5 So where there are preserves adjacent to
6 surrounding properties, there's no buffer proposed.

7 Where the golf course is adjacent to El Dorado and
8 West Bay, we have a 30 foot Type F. Those buffers are
9 in place now. They were required as part of the golf
10 course redevelopment. There's a maintenance road that
11 runs along here, and so that Type F was required for
12 that maintenance road.

13 We have Type D buffers along rights-of-way, along
14 the private road here, and then along Coconut Road.

15 And then as a part of the Staff conditions we have
16 a modified Type B buffer adjacent -- between the
17 mixed-use tract and the El Dorado Acres.

18 Oh, sorry, one more -- a couple more things to
19 point out here.

20 I mentioned this is an existing flow-way; so we
21 have a 50-foot waterway buffer on both sides of that
22 flow-way. And then our -- we have preserves that vary
23 in width along the western side of the property that
24 provide a buffer to the Estero Bay.

25 In terms of open space, there are 65 acres

1 required for the property, 204 acres provided. And,
2 again, I mention the preserves that are demonstrated
3 on -- on the map today are under an existing
4 conservation easement.

5 We have a number of deviations that I'll walk
6 through for the PD. Many of these have been previously
7 approved for different PDs and ADDs and -- all along
8 the way, so I'll point those out when it's relevant.

9 Deviation 1 allows for 5-foot sidewalks along one
10 side of internal roadways. This applies to all of the
11 different tracts. So we're just looking for
12 flexibility in site design, and it's consistent also
13 with adjacent approvals in Bonita Springs.

14 Deviation 2 applies, again, to most of the
15 tracts -- RES, MF, and MU tracts -- and allows for
16 parking spaces to back onto the right-of-way to allow
17 for on-street parking. This is one that has been
18 approved in the past for those two zoning resolutions.

19 Deviation 3 allows for 0-foot separation between
20 internal roads and drives from the development
21 perimeter, and a 15-foot separation when adjacent to
22 external parcels, again, looking for flexibility in
23 site design, and keeping the internal parcels'
24 mixed-use environment walkable. This has previously
25 been approved, as well.

1 Deviation 4 allows for a 0-foot setback for
2 identification signs when site distance requirements
3 are met. And, again, this is another that was approved
4 previously and allows for consistent signage throughout
5 the development.

6 Deviation 5, again, allows a 0-foot -- I think
7 this one is wrong.

8 HEARING EXAMINER COLLINS: That looks like a
9 repeat.

10 MS. FRANTZ: Yeah, I'm going to -- I'm going to
11 come back to that. I apologize for that. Let me come
12 back to that slide.

13 Deviation 6 allows for 4-to-1 slope on all lake
14 banks in all tracts. That's currently been approved
15 for the golf course area, and we're expanding that to
16 the remainder of the tracts within the PD.

17 Deviation 7 allows for a 5-percent reduction of
18 the required spaces at the golf clubhouse only. This
19 was previously requested for a reduction in unnecessary
20 parking, and approved in a past zoning resolution.

21 Deviation 8 is addressing those maximum heights.
22 The maximum height of 290 feet was previously approved
23 in zoning resolution 94-014.

24 Deviation 9 allows for no internal buffers between
25 tracts. It allows for -- again, addressing that

1 mixed-use walkability environment that we're looking
2 for. This applies to all tracts.

3 Deviation 10 allows for the indoor recreation
4 facilities to be parked at 1 space per 1,000 square
5 feet for those private facilities, where those
6 facilities aren't open to the public and just to the
7 residents. It's intended to reduce parking that would
8 be required. Some of these facilities will be located
9 within towers and so obviously don't require trips to
10 get there for the residents.

11 Deviation 11 allows a 0-foot setback when adjacent
12 to other tracts within the Pelican Landing MPD --
13 adjacent to the Pelican Landing RPD/CPD in Bonita and
14 the Bayview CPD in Bonita, as well; and a 50-foot
15 setback from the northern property boundary. In this
16 case we're in agreement with Staff's recommended
17 changes to this deviation.

18 Deviation 12 allows for a minimum separation of
19 buildings of 35 percent of the sum of the buildings for
20 buildings that are greater than 35 feet in height.
21 This allows for some flexibility in the design of those
22 towers. And we have a letter of no objection from the
23 Estero Fire Department provided as part of your 48-hour
24 notice.

25 Deviation 13 allows for no perimeter buffers where

1 on-site preserve areas abut the MPD perimeter, and we
2 saw that in the master concept plan when we were
3 looking at the buffers. Again, Staff's recommendation
4 has conditions associated with this deviation, and
5 we're in agreement.

6 Deviation 14 allows for a connection separation of
7 215 feet on Coconut Road. So that is where that
8 existing access point is for the golf maintenance
9 building and the access point for the adjacent
10 property. Those access points already exist and just
11 want to maintain those. This access also aligns with
12 access to the south, and so it makes sense to keep that
13 access in that location.

14 With that, I want to go back to Deviation
15 Number 5.

16 So Deviation 5 allows for recreation centers and
17 ancillary facilities to be located at least 40 feet
18 from residential dwelling units and allows for --
19 instead allows for a minimum of 20 feet for the
20 internal parcels, but not for parcels that are adjacent
21 to the property boundary. So, again, consistent with
22 some of those other deviations, looking for internal
23 buffers/separations to be reduced. And that is one
24 that was also previously approved.

25 With that, I'll turn it over to Shane Johnson for

1 environmental analysis.

2 MR. JOHNSON: Good morning. Shane Johnson,
3 Passarella & Associates, here to very briefly outline
4 the environmental aspects of the project.

5 I think Staff did a great job including the
6 environmental information in the Staff Reports, and Jem
7 included some of this information already in the
8 previous presentation so I won't belabor this
9 information here.

10 So with respect to the conservation easements,
11 again, Jem outlined that. Here's the larger tract that
12 belongs to the eco park, and an upside down "U" shape
13 which is dedicated to the South Florida Water
14 Management District.

15 I'm just showing here that the majority of the
16 wetlands, about 98 percent, are contained within
17 existing conservation easements, and the easement
18 total, between the two, is approximately 204 acres.

19 The blue areas outline the surface waters, which
20 are essentially the golf course ponds. I do want to
21 point out that the limits of those were mapped
22 originally as part of the golf course renovation
23 project, which was a renovation of the golf course
24 pretty much east of this conservation easement. So
25 that's -- it was older line work, and after the

1 renovation was completed, there was some
2 reconfiguration of some of the lakes -- you can see
3 here -- and some new ponds on the eastern side of the
4 property. So I just wanted to point that out. We used
5 our older mapping to be consistent with the record, the
6 previous reports that have been submitted.

7 HEARING EXAMINER COLLINS: So it seems that these
8 open space and preserve areas are going to remain
9 intact, and the golf course is going to remain intact;
10 is that correct?

11 MR. JOHNSON: Golf course? I -- yes.

12 HEARING EXAMINER COLLINS: Okay.

13 MR. JOHNSON: Again, the renovation was just
14 completed --

15 HEARING EXAMINER COLLINS: Right, that's --

16 MR. JOHNSON: -- so yeah.

17 HEARING EXAMINER COLLINS: -- internal. So
18 primarily the development entitlements that are sought
19 pertain to this area to the northwest and then down
20 below.

21 MR. JOHNSON: Looking at the team, I think the
22 answer is yes.

23 HEARING EXAMINER COLLINS: Yeah. I ask only
24 that -- you know, I'm not going to have to -- when I go
25 back, I'm not going to have to try to get into the

1 weeds of the east side. It seems as though that's
2 pretty established already.

3 MR. JOHNSON: It's pretty back there though so...

4 HEARING EXAMINER COLLINS: Yeah, well, if they'll
5 let me through.

6 MR. JOHNSON: Yeah, okay.

7 So with respect to listed species, Passarella &
8 Associates conducted multiple species (sic) on the
9 project site from June 2020 through July 2023, and the
10 results of those surveys are included as part of
11 Attachment X to the Staff Report, and they're also
12 summarized on this slide.

13 So the results of the survey:

14 We identified American alligator usage adjacent to
15 the wetland area.

16 A bald eagle nest in the northern portion of the
17 conservation easement area. There was a separate Bald
18 Eagle Management Plan prepared specifically for this
19 nest that's also included as part of Attachment X. And
20 just to point out, the buffer zones of this nest are
21 completely contained within the conservation area so no
22 issues there.

23 Also, gopher tortoises, I'll touch more on this on
24 the next slide, but there were three gopher tortoises
25 observed on the property, but 424 burrows observed on

1 the property. Again, I'll touch on that.

2 Also, some wading bird usage, little blue herons
3 and snowy egrets, and I believe that's it as far as
4 listed species goes.

5 So, again, a little bit more information on the
6 tortoises. So all these dots represent burrows. Many
7 of the burrows are contained within the existing
8 conservation areas, which are highlighted in gray
9 there. So those remain in place, but there was a
10 separate permit obtained from the Florida Fish and
11 Wildlife Conservation Commission to excavate and
12 relocate all these white dots, the tortoise burrows
13 within the development footprint. So that work was
14 completed.

15 HEARING EXAMINER COLLINS: That's already
16 happened?

17 MR. JOHNSON: That's already completed, yes.

18 HEARING EXAMINER COLLINS: So were they moved
19 off-site somewhere, or were they moved north of the
20 site?

21 MR. JOHNSON: They were -- they were excavated and
22 removed and placed in an approved off-site recipient
23 area, in accordance with the FWC permit.

24 HEARING EXAMINER COLLINS: Okay.

25 MR. JOHNSON: So knowing that we have 200 acres --

1 204 acres of conservation area -- which, by the way, I
2 forgot to mention, all the initial work associated with
3 the mitigation in those conservation areas has been
4 completed. It's essentially in the maintenance phase.
5 So since this conservation area on-site and listed
6 species utilization, there was an Indigenous Preserve
7 and Protected Species Management Plan prepared, again,
8 also attached, included as part of -- included as
9 Attachment X. So the details of the preserve
10 maintenance and species management are included in that
11 plan; but, you know, for future development order
12 applications, that plan may be updated and submitted.
13 The Applicant is aware of that.

14 HEARING EXAMINER COLLINS: Okay, thank you.

15 MR. JOHNSON: So in conclusion, it's my
16 professional opinion that the Pelican Landing MPD has
17 met all the applicable standards and demonstrated
18 consistency with the Lee Plan and the LDC.

19 HEARING EXAMINER COLLINS: Okay, thank you.

20 MR. JOHNSON: Sure.

21 HEARING EXAMINER COLLINS: I'm just going to take
22 a break for a quick second to find out -- I know some
23 people came into the room during testimony. Are these
24 part of your consulting team, or are these members of
25 the public?

1 UNIDENTIFIED SPEAKER: Members of the public.

2 HEARING EXAMINER COLLINS: Okay. So I just want
3 to briefly explain this proceeding in case you're not
4 familiar with it.

5 The Applicant, representing the property owner
6 making the request, makes the presentation first.
7 Their presentation normally consists of several
8 witnesses with various areas of expertise. At the
9 conclusion, and during their presentation, I may have
10 several questions. Once they've completed their
11 presentation, we will go to the County Planner who
12 prepared the Staff Report in this case. The Staff
13 Report is a recommendation of approval. The Planner
14 will go through the County's analysis of the case, not
15 repeating everything that the Applicant already said,
16 but focusing on highlights and perhaps special
17 conditions that may have been recommended.

18 And then at the conclusion of their presentation,
19 I will open up the proceeding to members of the public.
20 And at that time you may come to the podium -- you
21 don't have to speak, but if you wish to speak, you can
22 come to the podium. You can ask any question you want
23 to ask. We will note all your questions; and then at
24 the conclusion of all public input, we'll go back to
25 the parties; and they will proceed to address any

1 questions that were raised or clarify any issues that
2 may not have been clear to members of the public. You
3 will get -- you may speak as long as you like, but you
4 only get one opportunity at the podium.

5 And at the conclusion of the rebuttal, then there
6 may be some closing remarks by the parties, and then we
7 will close the hearing.

8 The decision is not final today with me. I
9 prepare a recommendation to the Board of County
10 Commissioners, who are the final decision-makers. If
11 you would like an opportunity to address the Commission
12 at the final hearing, you must put remarks on the
13 record during this hearing.

14 So with that, I am going to administer the oath to
15 everyone in the room because I know you were not
16 present when we first started, and I'm not sure whether
17 I did it in the beginning. So I would ask you, if
18 you're going to be speaking on the record, to please
19 raise your right hand. Do you swear or affirm the
20 testimony and evidence you place into the record will
21 be the truth?

22 (Participants respond en masse.)

23 HEARING EXAMINER COLLINS: Thank you.

24 One last thing for members of the public. We have
25 sheets against the wall. They're public participation

1 forms. Whether you intend to speak or not, if you fill
2 them out and provide your email address, you will
3 receive a copy of my recommendation in this case, and
4 also further notification of the final Board hearing
5 where the decision will actually be made. So I urge
6 you to do that maybe within a break or something this
7 morning and then just put it in the bin over here at my
8 table.

9 Okay. I'm ready for your next witness.

10 MS. LAROCQUE: Good morning, Jackie Larocque,
11 senior director of Atwell. I'm going to talk to you
12 today about public facilities and stormwater
13 management.

14 So with the Pelican Landing MPD, there is
15 currently existing water and sewer along Coconut Road
16 and along Saltleaf Boulevard. We've worked very
17 closely with Bonita Springs Utilities to verify
18 capacity, make sure that the plans that London Bay has,
19 the infrastructure is there to serve it. Fire and EMS,
20 we're two and a half miles from Station 42; and, again,
21 London Bay has worked very closely with the Fire
22 Department, and so the capacity is there. So with
23 that, for water, sewer, public infrastructure, the
24 capacity for the plans that have been presented for you
25 today, the infrastructure is there.

1 As far as water management, this is a nice one
2 because we already have our ERP. So we submitted a
3 water management permit in 2022 for the proposed
4 changes that London Bay is looking to make on the
5 property. That permit was issued in October of 2023.
6 Since then, you know, we've gone through countless
7 reviews with the District, and the location of this
8 project is such that it's on Estero Bay, impaired
9 waterbody. So water quality, nutrient removal, those
10 are the key things that we have to look at, and those
11 are the key concerns.

12 And so with this project, 150 percent water
13 quality treatment has been provided. We've done a very
14 in-depth nutrient-loading study for nitrogen and
15 phosphorus removal. We've met with the District, we've
16 gone through everything, and since then they've
17 approved that.

18 And for the project, the east side of the project
19 discharges into the slough system, which ultimately
20 goes to Estero Bay. The west side of the project
21 discharges directly to Estero Bay. The water
22 management system is set up as such where it's
23 perimeter bermed. The runoff for the project stays on
24 the project, gets treated within the ponds that are
25 created, interconnected control structured, and then

1 the treated water gets discharged through a series of
2 control structures at a controlled rate.

3 And so like I said, we've gone through the review.
4 The design meets all of the local Lee County criteria,
5 the State criteria. We have the Water Management
6 permit in hand. And it is my professional opinion that
7 the changes that they're making to this project will
8 have no adverse impacts to the neighboring properties
9 or the environment.

10 HEARING EXAMINER COLLINS: Thank you.

11 MS. LAROCQUE: Awesome, thank you.

12 MR. TREESH: Good morning, Ted Treesh with TR
13 Transportation Consultants. We prepared the traffic
14 analysis in support of this application. It's part of
15 the record and has been reviewed by Staff. There's
16 also -- I believe Attachment D in the Staff Report is
17 the memo from Lily Wu, the review of the transportation
18 analysis.

19 So this slide is just a summary of the change in
20 the uses that was analyzed as part of the overall
21 Pelican Landing DRI that we went through. This shows
22 the change in the uses that we analyzed to show the net
23 decrease in the trip generation to allow the increase
24 in the residential units that show on the first line of
25 the 488 dwelling units. The second line is the

1 decrease in the retail uses, and the second line is --
2 third line is the decrease of the office uses.

3 Because those uses were concentrated more towards
4 the US 41 corridor, as you saw on the master concept
5 plan, these uses are more towards the west that utilize
6 more the Coconut Road corridor. We went a little bit
7 further and looked at the impacts on Coconut Road,
8 since London Bay -- I've been working with London Bay
9 for a number of years. We worked on the Bonita Springs
10 project at the end of Coconut Road, in that case, and
11 traffic on Coconut Road is always a concern. That case
12 was in the City of Bonita Springs. Coconut Road is
13 under a multitude of jurisdictions. The majority of
14 Coconut Road is under the Village of Estero
15 jurisdiction. There is a short segment that's under
16 the Lee County jurisdiction. So it has a multitude of
17 jurisdictions. So London Bay was very concerned, and
18 so we looked at the impacts to Coconut Road in
19 furtherance of our analysis.

20 This table just shows, specific to this MPD, the
21 impacts -- or the uses that are concentrated on the MPD
22 in our section to the west on this property that we
23 analyzed in our analysis.

24 This table shows, in the overall DRI, the
25 reduction in the trips. So for the overall DRI, we're

1 consistent -- and, again, this DRI goes back a number
2 of years. There was significant transportation
3 mitigation that was paid as part of the DRI. That's
4 all been paid, and those mitigation impacts have been
5 taken care of in terms of off-site transportation
6 improvements.

7 HEARING EXAMINER COLLINS: So no impact fees --

8 MR. TREESH: No.

9 HEARING EXAMINER COLLINS: -- will be associated
10 with this request? It was addressed as part of the DRI
11 mitigation?

12 MR. TREESH: Well, we will be paying impact fees
13 for the uses, but there's no additional off-site
14 impacts that will be --

15 HEARING EXAMINER COLLINS: I see.

16 MR. TREESH: Yes. But we will be paying impact
17 fees, as we do normally, at the building permit stage.

18 So this is the -- this final slide just was our
19 specific analysis that looked at the Coconut Road
20 impacts. And what this looked at specifically, because
21 it's a -- Coconut Road is under the jurisdiction of the
22 Village of Estero, the Village of Estero collects
23 traffic data on Coconut Road. We started with that.
24 We grew the traffic volumes up to 2028.

25 We looked at a number of different projects. We

1 looked at the Bayview on Estero Bay, which I was
2 personally involved with. That's a London Bay project
3 that's currently under construction. Those are the two
4 towers that are under construction right now that
5 you'll see. The Woodfield project was recently
6 approved by the Village of Estero. That's the
7 mixed-use project right at the corner of US 41 -- on
8 the northwest corner. That's a significant project
9 that will be under development in the coming years at
10 that intersection. We looked at the London Bay MPD, as
11 well, and then we analyzed the impacts on Coconut Road;
12 and you see from this table that it will still operate
13 at a Level of Service D in 2028.

14 HEARING EXAMINER COLLINS: And is that the
15 projected build-out, 2028?

16 MR. TREESH: Yes.

17 HEARING EXAMINER COLLINS: Okay.

18 MR. TREESH: That's what we started with. Again,
19 we've been working on this for going on two years now
20 so --

21 HEARING EXAMINER COLLINS: I was going to say,
22 that's ambitious.

23 MR. TREESH: It is.

24 HEARING EXAMINER COLLINS: That's a lot of
25 development to get done.

1 MR. TREESH: We started with -- we started in 2023
2 so...

3 HEARING EXAMINER COLLINS: But we digress.

4 MR. TREESH: Right.

5 So, again, our analysis shows that we're
6 consistent with the goals and objectives of the Land
7 Development Code and the Lee Plan, and Staff agrees
8 with our analysis. And that's all I had to put on the
9 record. I'd be more than happy to --

10 (Discussion at lectern)

11 MR. TREESH: Oh, yeah, one thing -- and I did have
12 that note. Sorry, Rich. He brought that -- I even
13 have it written down here, and I just skipped right
14 over it.

15 One of the things that also this project
16 participated in was the funding of a traffic signal at
17 US 41 and Pelican Colony Boulevard. Pelican Colony
18 Boulevard is the intersection just south of Coconut
19 Road and US 41. The DRI, which we are a part of, has
20 funded the construction of a traffic signal at that
21 intersection. Right now it's an unsignalized full
22 median opening --

23 HEARING EXAMINER COLLINS: Where is this?

24 MR. TREESH: It's about 2,000 feet south of
25 Coconut Road.

1 HEARING EXAMINER COLLINS: Okay.

2 MR. TREESH: The LeeHealth facility is on the east
3 side.

4 HEARING EXAMINER COLLINS: Yes.

5 MR. TREESH: If we can go to the aerial -- do we
6 have an aerial photo?

7 MS. CRESPO: Yes.

8 MR. TREESH: Right here. So Coconut Road is just
9 off the aerial to the north. Here's the --

10 HEARING EXAMINER COLLINS: I see.

11 MR. TREESH: -- here's the LeeHealth south
12 facility.

13 HEARING EXAMINER COLLINS: Yeah.

14 MR. TREESH: Here's the -- here's the main --
15 Pelican Colony Boulevard is the main spine road going
16 into the Pelican Colony development. So if anybody
17 from Pelican Colony wants to head north on US 41 --
18 this is an unsignalized intersection so it's very
19 difficult to turn left out of here during -- any time
20 of the day, really. So either you go to Coconut Road,
21 you come out Spring Creek, which is further to the
22 west, or you can come out this road here, or you can
23 come out through -- through this intersection here.
24 This intersection will be turned into a roundabout as
25 part of this Woodfield -- this is the Woodfield

1 project. So this will be converted to a roundabout
2 intersection as part of that development -- and you can
3 make a left at the signalized intersection of Coconut
4 Road. This intersection will be signalized. It's
5 right now in the permitting stages with FDOT. It's
6 been designed. The -- it's right now just being --
7 going through the final design review with FDOT so --

8 HEARING EXAMINER COLLINS: So what's the timing on
9 that?

10 MR. TREESH: It should have been constructed by
11 now. They're just going back and forth right now with
12 DOT on the final aspects of the design. There's been
13 some going back and forth with DOT, from what I
14 understand, with the consultant that's designing the
15 signal. So once they get those worked out, then it
16 will go to the contractor for bid, and hopefully by --
17 I would say by the end of next year, it should be
18 operational.

19 HEARING EXAMINER COLLINS: So did the
20 transportation analysis on the impact on Coconut Road
21 take into account that less project traffic -- DRI
22 traffic would be using Coconut Road because now there's
23 a signal further in, or --

24 MR. TREESH: No.

25 HEARING EXAMINER COLLINS: -- did you just base it

1 on existing volume?

2 MR. TREESH: We just based it on the existing,
3 yes. I mean, once that signal is there, folks that
4 are -- that are now using this will be diverted to
5 this -- to this signal and have that option.

6 HEARING EXAMINER COLLINS: All right. I just want
7 this on the record because intuitively it's hard to get
8 your head around the increases that are proposed and
9 the fact that traffic is going down. Is it correct in
10 saying that retail commercial and office commercial are
11 big peak hour generators, whereas hotel not so much?

12 MR. TREESH: Correct. Hotel is more spread
13 throughout the day, whereas residential -- retail and
14 commercial, yes, are more peak hour driven, whereas
15 hotel is more spread throughout the day.

16 HEARING EXAMINER COLLINS: So less impacts during
17 peak hours with this change?

18 MR. TREESH: Yes.

19 HEARING EXAMINER COLLINS: Okay, thank you.

20 MR. TREESH: All right, thank you.

21 MS. FRANTZ: As we're getting the PowerPoint
22 pulled back up, I want to go back and correct a
23 statement that I made.

24 HEARING EXAMINER COLLINS: Am I going to be
25 getting the PowerPoint as an exhibit?

1 MS. FRANTZ: That was my next thing.

2 HEARING EXAMINER COLLINS: Okay.

3 MS. FRANTZ: So I'll give that to you now, the
4 PowerPoint and a hard copy of -- the DRI mappage (sic)
5 and the master concept plan are in there, as well as a
6 copy of the 48-hour letter.

7 (Applicant Exhibit 2 submitted.)

8 HEARING EXAMINER COLLINS: Okay. This will be
9 Applicant Composite Exhibit 2.

10 Okay. So it's the PowerPoint, it's the master
11 concept plan --

12 MS. FRANTZ: And the DRI mappage.

13 HEARING EXAMINER COLLINS: Master planned
14 development DRI mappage. Okay, thank you.

15 MS. FRANTZ: In response to your question about
16 the location of single-family development, I had stated
17 that it was located in the mixed-use tract. The PD
18 does allow for single-family in each of the
19 multi-family, the RES, and the mixed-use tract. It's
20 intended to be located in the mixed-use tract, but it
21 is allowed in the other tracts, as well.

22 HEARING EXAMINER COLLINS: Okay, thank you.

23 MS. FRANTZ: Okay. So I'm going to walk through
24 Lee Plan and Land Development Code compliance now.

25 The first set of policies identify densities

1 within those future land use categories; and, again,
2 looking at that same table that we've looked at a
3 couple of times in the past, we've demonstrated
4 consistency with the maximum densities in each of those
5 future land use categories; and as I mentioned before,
6 no density has been derived from the nonresidential
7 areas of the PD.

8 Objectives 2.1 and 2.2 require contiguous and
9 compact growth patterns. This is an area that's
10 readily served by public infrastructure, and it's
11 contiguous to a lot of existing and emerging
12 developments in the area.

13 Standards 4.1.1 and 4.1.2 require connection to
14 Lee County Utilities for water and sewer service. We
15 do have a letter of availability for potable water and
16 sanitary sewer.

17 Goal 5 is related to residential land uses.
18 Policy 1 -- sorry, 5.1.2 prohibits residential density
19 where physical constraints and hazards exist. Policy
20 5.1.5 protects existing and future residential areas.

21 So for these policies, we've walked through some
22 enhanced buffering for the adjacent residential areas.
23 We're, again, readily serviced by public
24 infrastructure, and we have a letter of availability.

25 The surrounding and proposed building heights are

1 consistent. We've maintained our highest height
2 consistent with some of the surrounding approvals.
3 We've taken a step-down approach as you move more
4 towards the single-family adjacent to us. So our
5 highest heights are along the bay, lowest where we're
6 adjacent to residential neighbors.

7 In particular wanted to look a little closer at
8 this mixed-use tract where we have a maximum height of
9 50 feet. That is where we're adjacent to the El Dorado
10 Acres subdivision. El Dorado itself allows for a
11 maximum of 35 feet. This community here, Cielo at the
12 Colony, is just to the south of us. That allows for a
13 maximum of 126 feet.

14 We also saw on previous slides that there's an
15 enhanced Type B buffer along the eastern property line
16 of the mixed-use --

17 HEARING EXAMINER COLLINS: All right. You want to
18 explain what that is?

19 MS. FRANTZ: Yeah. So it's a Type B buffer --
20 it's a 10-foot Type B buffer. All of the same
21 plantings that you would see in a Type B buffer, that's
22 10 feet.

23 HEARING EXAMINER COLLINS: And what would that
24 include?

25 MS. FRANTZ: I don't have the --

1 HEARING EXAMINER COLLINS: Okay.

2 MS. FRANTZ: -- the planting requirements for a
3 Type B, but we haven't requested a deviation from those
4 typical Type B plantings.

5 Goal 6 is related to commercial land uses; so
6 addresses the review criteria for commercial
7 development. In this case we have provided for a
8 reduction of commercial and office square footage in
9 the DRI to ensure that there's no impacts to the
10 surrounding transportation system. The buffers meet or
11 exceed the LDC requirements, and the utilities are
12 available from Bonita Springs Utilities. Our maximum
13 building heights, we've also demonstrated, are
14 comparable to those surrounding.

15 Policy 6.1.2 is related to a limitation to minor
16 commercial development within nonurban future land use
17 categories. Our request is limited to 25,000 square
18 feet of office and --

19 HEARING EXAMINER COLLINS: Well, you're really not
20 in a nonurban classification. You're outlying
21 suburban. That's an urban classification.

22 MS. FRANTZ: The commercial development is also
23 located, as Ted mentioned, near the intersection of
24 Coconut Road and Saltleaf Boulevard.

25 Policy 6.1.3, 6.1.4, and 6.1.5 require rezonings

1 to address compatibility with surrounding uses, public
2 services, and traffic capacity.

3 We've proposed -- the proposed rezoning complies
4 with the development centers in the LDC, except where
5 we have deviations requested.

6 The compatibility with surrounding neighbors is
7 provided through pretty expansive preserve areas,
8 setbacks, and the buffers that are throughout the
9 development.

10 Development in the PD generally is limited to
11 areas that have been previously cleared, and we have
12 not impacted any of the existing preserve areas.

13 And as Ted walked us through, the TIS demonstrates
14 a reduction in overall vehicle trips.

15 Looking more at Goal 6, Policies 6.1.6, 6.1.7, and
16 6.1.11 require open space, buffering, landscaping,
17 encourage commercial development in infill areas, and
18 encourage the revitalization of deteriorating
19 commercial areas.

20 Again, we've got the buffers on the screen
21 demonstrating buffering, open space, preserve areas.
22 We've also, again, mentioned that the development is
23 limited to the existing golf course areas or
24 previously -- areas that were previously programmed for
25 development.

1 Regarding Policy 11.1.2 to address calculation of
2 density and mixed-use developments, again, I've
3 mentioned that we have not obtained any density through
4 the nonresidential areas of the PD, and we are
5 consistent with the future land use categories'
6 allowable densities.

7 Again, another repeat slide demonstrating how we
8 calculated that density, the overall increase or
9 decrease to those intensities and densities in the DRI,
10 and how they relate to the proposed MPD.

11 Policy 59.1.3, Policy 60.1.1, and 60.1.2 address
12 floodplain regulations. We have no development
13 proposed in the floodway; the surface water management
14 system is proposed to provide treatment and protect
15 groundwater; and wetland and upland preservation
16 maximizes protection of the natural resource -- natural
17 surface water flow-ways and other associated habitats.

18 Continuing to look at floodplain regulations in
19 the Lee Plan -- that was a couple of additional
20 policies, as well, 60.4.1 through 60.4.3.

21 Policy 61.1.1 and 61.1.6 address management of
22 fresh waters and requires surface water and low-quality
23 groundwater to be used for irrigation where reuse is
24 not available. Again, the Applicant is obtaining an
25 ERP from the South Florida Water Management District.

1 The surface water management is designed in compliance
2 with the Lee Plan and LDC. And surface water is
3 proposed for all irrigation of landscaping, and potable
4 water will not be used for irrigation purposes. Reuse
5 water is not available in this location.

6 Policy 101.1.1, 101.1.2, 101.3.2, and 101.3.4
7 address protection of wetlands. They restrict
8 development in the coastal high hazard area, and
9 require information regarding hurricane evacuation and
10 shelter information to be provided to residents.

11 As we've mentioned, wetlands are protected
12 throughout the on-site preserve areas. The ERP
13 requirements and on-site surface water management
14 system will be in place, as well. The site protects
15 over 204 acres of preserve areas, including mangrove
16 wetlands; and there are no wetland impacts proposed
17 within the coastal high hazard area.

18 Policies 123.1.5 through 123.2.6, 123.2.8,
19 123.2.13, and 123.2.15 address protection of natural
20 habitats. Shane walked us through the preserve areas
21 and the protections that have been in place for the
22 wildlife species on-site or potentially on-site. The
23 proposed preserve areas exceed the LDC requirements,
24 and we're preserving large contiguous areas of habitat.

25 A few more policies related to the protection of

1 wildlife:

2 So Objective 123.3, Policy 123.3.3, we provide
3 on-site preserves to protect wildlife habitat, provide
4 long-term protection in these areas.

5 Objective 123.8 and the associated policy address
6 the protection of gopher tortoises, and Shane walked us
7 through the indigenous preserve management plan and the
8 location of burrows that have been on-site, and
9 relocation in accordance with State permitting
10 guidelines.

11 Objective 123.10 addresses the protection of wood
12 stork feeding areas and roosting areas. There were no
13 wood stork rookeries or roosting areas documented
14 on-site.

15 Compensation for impacts will be provided through
16 enhancement and preservation of on-site wetland areas
17 and through the purchase of credits from an approved
18 mitigation bank.

19 And on-site preserves provide for additional
20 potential forging habitat.

21 HEARING EXAMINER COLLINS: So this compensation is
22 necessary because there is habitat for these birds even
23 though none were spotted?

24 MS. FRANTZ: I'll let Shane answer that.

25 HEARING EXAMINER COLLINS: Okay. He can speak

1 after you. Continue.

2 MS. FRANTZ: Okay.

3 Objective 124, Policy 124.1.1 and 124.1.2, address
4 the protection of wetlands. The proposed development
5 is limited to previously impacted areas. Our density
6 is calculated at 1 dwelling unit per 20 acres in all
7 wetlands that are proposed to be impacted. There's a
8 condition that is proposed that requires construction
9 can't commence until an ERP is obtained to authorize
10 any impacts to wetlands.

11 Policy 125.1.2 addresses the protection of surface
12 and groundwater, and our stormwater lakes provide for
13 water quality protection; and, again, we're obtaining
14 an ERP from the South Florida Water Management
15 District.

16 Looking at the conditions, there were a couple of
17 changes noted in the 48-hour notice. This first change
18 is to the list of uses within the mixed-use tract. The
19 change is not intended to be substantive, but is
20 clarifying that what is currently listed as accessory
21 uses, building, and structures, with a sub-listing of
22 "limited to warehouse, hybrid, public, and mini," we're
23 just pulling that listing out and adding it to the end
24 of the list as a separate standalone item. It still
25 identifies that they're accessory to the principal uses

1 within the MPD only. The Staff and the Applicant are
2 in agreement on this change.

3 And then, as I mentioned, the type -- the modified
4 Type B buffer is provided as a change to Condition 5,
5 to allow for that buffering to occur along El Dorado
6 Acres.

7 With that, it's my professional opinion that
8 Pelican Landing MPD has met all the applicable
9 standards and demonstrated consistency with the Lee
10 Plan and the Land Development Code.

11 HEARING EXAMINER COLLINS: Thank you.

12 MS. FRANTZ: And that's the end of our
13 presentation. As we've noted, there's a Staff
14 recommendation of approval. We're in agreement with
15 all of the Staff recommendations in the Staff Report.
16 We've demonstrated consistency with the Lee Plan and
17 the Land Development Code, and we're compatible with
18 the surrounding land use pattern. So we're seeking
19 approval as requested and amended in the 48-hour
20 letter.

21 HEARING EXAMINER COLLINS: And your testimony was
22 Staff is accepting of the requested changes to the
23 conditions in your 48-hour letter?

24 MS. FRANTZ: Correct.

25 With that, we're open for any other questions, and

1 then Shane had to respond to --

2 HEARING EXAMINER COLLINS: Yes.

3 MS. FRANTZ: -- questions, as well.

4 (Sotto voce between Hearing Examiner and Ms.
5 Workman)

6 MR. JOHNSON: Hello, Shane Johnson for the record.

7 Yes, with respect to your question regarding the
8 wood stork, there were no wood storks observed on the
9 property. However, the property is contained within a
10 defined area called a core foraging area for the
11 species. I believe it's a 25-kilometer area from an
12 existing rookery. So if that buffer zone, that
13 25-mile/kilometer buffer zone, overlaps a project that
14 has wetland impacts, then mitigation for the wood stork
15 is typically required. So that would pertain to future
16 impacts, not anything that's, you know, previously --

17 HEARING EXAMINER COLLINS: Because none are
18 proposed here; right? No impacts --

19 MR. JOHNSON: Well, I mean, some could be in the
20 future with a -- a development application.

21 HEARING EXAMINER COLLINS: I see.

22 MR. JOHNSON: So I mentioned in my presentation, I
23 think it's 98 percent of existing wetlands are already
24 under conservation easement, so those cannot be
25 impacted. There's a very small amount of wetlands,

1 that 2 percent -- it's just over 2 acres -- under 3
2 acres of exotic infested wetlands that if impacts are
3 proposed to those wetlands, that would require not only
4 mitigation for those wetlands, but also compensation
5 for the wood stork.

6 So when -- if and when the Applicant goes to, you
7 know, development and proposes impacts to those
8 wetlands, they would likely purchase credit from a
9 mitigation bank to offset that mitigation need for the
10 wetlands themselves, which would in turn provide
11 mitigation for the wood stork. It's sort of a coupled
12 mitigation.

13 HEARING EXAMINER COLLINS: Dual benefit.

14 MR. JOHNSON: Dual benefit.

15 HEARING EXAMINER COLLINS: Thank you for the
16 clarification.

17 MR. JOHNSON: Sure.

18 HEARING EXAMINER COLLINS: Does that conclude the
19 Applicant's presentation?

20 MR. YOVANOVICH: We have one more clarification,
21 if you don't mind?

22 HEARING EXAMINER COLLINS: Yeah, a clarification?

23 MR. YOVANOVICH: Yes.

24 MS. CRESPO: Good morning. Alexis Crespo, I work
25 at RVi as a certified planner with Jem Frantz. I just

1 wanted to clarify a couple of points and questions you
2 had asked because I was able to look those up while Jem
3 was presenting.

4 The Type B buffer proposed adjacent to El Dorado
5 Estates (sic) will be, again, 10 feet in width. The
6 plantings within that buffer will be 5 trees per 100
7 linear feet, will also contain a double hedgerow
8 maintained at 60 inches to provide significant opacity
9 in that lower section of the buffer.

10 I'll also note that no deviation is being proposed
11 along that shared property line with El Dorado Estates.
12 The project will comply with Section 34-935, where the
13 setback will likely be driven by the proposed building
14 height, and that setback would be 25 feet at minimum,
15 assuming that the 50-foot building height is ultimately
16 constructed on development order plans.

17 And so, again, no deviation from that separation
18 being proposed.

19 You had noted in terms of Policy 6.1.2, that
20 relates to nonurban areas in the Lee Plan. We are in
21 agreement with you that this is a future urban area.
22 It is within predominantly outlying suburban, as well
23 as suburban, and therefore Policy 6.1.2 does not apply.
24 Be that as it may, we are consistent with Goal 6 and
25 the applicable policies related to commercial

1 development, and have certainly reduced the intensity
2 of the project through the application.

3 Lastly, Shane mentioned that there's the ability,
4 due to the exotic infestation, to potentially impact
5 approximately 2.7 acres of wetlands within the project.
6 Those would be freshwater, non-mangrove.

7 The density tables that Jem presented anticipated
8 those impacts. While it's not permitted yet or
9 necessarily planned, we did do a worst-case scenario
10 for the density related to potential wetland impacts
11 down the road.

12 HEARING EXAMINER COLLINS: And is that taken into
13 account in the ERP, or no?

14 MS. CRESPO: I'll defer to Jackie Larocque on
15 that.

16 HEARING EXAMINER COLLINS: Okay.

17 MS. LAROCQUE: Hello, Jackie Larocque again. No,
18 the current ERP does not have those wetlands taken into
19 account. If London Bay chose to do that in the future,
20 another ERP would be required.

21 HEARING EXAMINER COLLINS: All right. So they do
22 a permit mod if they end up having to impact those
23 areas?

24 MS. LAROCQUE: Yes, ma'am.

25 HEARING EXAMINER COLLINS: But at any rate, the

1 development order is going to require them to remove
2 the exotics from that area.

3 MS. LAROCQUE: Yes, ma'am.

4 HEARING EXAMINER COLLINS: Okay, thank you.

5 Okay, thank you. That concludes the Applicant's
6 presentation. I'm going to ask to take a five-minute
7 break, and then we will resume with Staff's
8 presentation. Thank you.

9 (Recess from 10:17 a.m. to 10:26 a.m.)

10 HEARING EXAMINER COLLINS: We are back on the
11 record with Staff's presentation.

12 MS. WORKMAN: Good morning. For the record, my
13 name is Beth Workman. I'm a principal planner in the
14 Zoning section. I've been accepted as an expert in the
15 Lee Plan and Land Development Code, and I wish to be
16 accepted today, as well.

17 HEARING EXAMINER COLLINS: Yes, please proceed.

18 MS. WORKMAN: Thank you. So I have a few
19 housekeeping items to start. I have the PowerPoint
20 presentation, and then I also have a binder with emails
21 that Staff has received since Thursday and Friday of
22 last week, and I've compiled them into this binder for
23 the public input via email.

24 (Staff Exhibit 5 submitted.)

25 HEARING EXAMINER COLLINS: So this will be -- the

1 PowerPoint will be Staff Exhibit 5, and Exhibit 6 will
2 be a composite of the emails you received and -- since
3 what day?

4 MS. WORKMAN: Since Thursday of last week,
5 Thursday, Friday, Monday, and yesterday, and that's
6 that binder.

7 (Staff Exhibit 6 submitted.)

8 HEARING EXAMINER COLLINS: Okay, thank you.

9 MS. WORKMAN: The Applicant has received those
10 emails, as well, via email. I compiled them and sent
11 them to them.

12 HEARING EXAMINER COLLINS: Give me a minute to
13 mark it.

14 You may begin.

15 MS. WORKMAN: So the case before you today, Madam
16 Hearing Examiner, is Pelican Landing Mixed-Use Planned
17 Development. It also has a companion, DRI2024-00001.
18 The zoning case is DCI2023-00052.

19 So going over the request for the rezone, it's to
20 rezone 430 acres from residential planned development
21 and commercial planned development to a mixed-use
22 planned development.

23 The request is 729 dwelling units, which consists
24 of 100 single-family and 629 multi-family; 25,000
25 square feet of office use; 27 golf holes; 318 hotel

1 rooms; private on-site recreation and accessory uses;
2 and building heights ranging from 50 feet to 290 feet.
3 So that's it in a nutshell.

4 The important part about the DRI's component in
5 this is that the density and the reduction in
6 commercial office, as well as retail commercial and the
7 golf holes and the increase in the hotel rooms, is
8 what's hinging on this zoning case. So without the DRI
9 DO amendment, we could not hear the zoning case. And
10 that was why we had to remand back to Staff, so that we
11 could get the DRI prepared and have them come in
12 together for the hearing. So you'll hear about the
13 DRI, like you did from the Applicant, because it
14 hinges -- the zoning case hinges on that.

15 So looking at the location, this is the zoning
16 case. So outlined in red is the Pelican Landing rezone
17 to mixed-use planned development.

18 As the Applicant stated, it's in three different
19 future land use categories. This is important to look
20 at not only from the land use aspect, but also to
21 ensure that what is going on in the DRI -- even if we
22 didn't have a DRI, and we were going to go on the
23 future land use category, we would be consistent with
24 the density in the Lee Plan.

25 HEARING EXAMINER COLLINS: So it supports itself.

1 MS. WORKMAN: Yes. So if the DRI was rescinded
2 tomorrow, this section would be able to support itself
3 with the Suburban, Outlying Suburban, and the Wetlands
4 Future Land Use category, and that is stated in the DRI
5 Staff Report in detail.

6 So this is the development of regional impact, or
7 the DRI2024-00001. This is the expanse of the DRI.
8 You can see it goes into -- south of Coconut Road,
9 there's a small little island piece down here.

10 So what does that mean? So what it means is the
11 breakdown of that density. So right now, as we sit
12 here, the DRI is approved for 3,912 dwelling units.
13 The Applicant wants a total of 4,400 to go into the
14 DRI, and what that looks like is, these are the
15 entitlements. And the Applicant did a nice job going
16 over this because it gets kind of confusing. This DRI
17 has been around since the late '80s, early '90s. So
18 it's had a lot of different changes as the years went
19 by, one of which was to increase the density to 4,400.
20 So back in the mid 2000s, there was a DRI DO amendment
21 that came in that allowed for 4,400 dwelling units
22 within the overall DRI, and then it was reduced back
23 down to the 3,912. So it's always been kind of capped
24 at 4,400. So the Applicant coming in to amend the DRI
25 DO to go to 4,400 is a natural cap that has been in

1 place throughout the history of the DRI.

2 What Staff did, per our requirements in the Land
3 Development Code, is to make sure that it could stand
4 on its own. It wasn't falling in the face of the Lee
5 Plan. So it could -- with the wetlands and the
6 conservative calculation on density, it could stand on
7 its own if they were to rescind the DRI. This is
8 almost at build-out so that's why we didn't -- we asked
9 the question during the DRI, you know, could you
10 rescind, could you -- because this thing is -- you're
11 going to see, and the Applicant stated, it's been
12 sliced and diced in different jurisdictions. And so
13 City of Bonita Springs has been tracking their own DRI
14 DOs with the changes that came in, and unincorporated
15 has our own DRI DOs. So there's been some waxing and
16 waning of density and uses throughout. But this chart
17 is important because it shows, at the very last column,
18 what's happening, what is the difference.

19 So the zoning case and the DRI, we're increasing
20 488 dwelling units; we're reducing office; we're
21 reducing retail; we're reducing to one -- the one hole;
22 and we're increasing the rooms in the hotel. This is
23 what helps the traffic impact statement, as Mr. Treesh
24 has stated.

25 And then there's also the component of the

1 Kersey-Smoot that Ms. Frantz went over in detail about
2 what the allocation is, the 241 dwelling units they're
3 entitled to, the subject property, and the 121 that are
4 left over in Kersey-Smoot. That's an important
5 component in the DRI and also in the rezoning, because
6 those are allocated to the subject property that gets
7 you to the difference of 488.

8 So this is looking at the development of regional
9 impact and the lay of the land on the units to get to
10 the 4,400 that's being requested. So it kind of goes
11 through the breakdown of what's available, what's
12 committed, and the same thing for unincorporated. So
13 it splits it into the Bonita Springs, Estero, and then
14 unincorporated, because this thing spans three
15 different jurisdictions.

16 This is the chart that goes over the future land
17 use category -- Ms. Frantz went over this in detail --
18 showing that 893 dwelling units could be permitted on
19 this site, and with the 121 and the 488, you're --
20 you're well under this number.

21 So looking at the height. So this is the master
22 concept plan for the subject property. The master
23 concept plan, really all it's doing -- as stated, the
24 golf course, the preserve, the flow-way, all the
25 conservation easements are all in place. The only

1 thing the Applicant is doing is coming in and coloring
2 in the MF, the RES, and the MU with uses that are in
3 the schedule of uses.

4 And then the height is changing. And as they went
5 over in detail, from the north to the south, the height
6 decreases as it moves closer to El Dorado Estates,
7 which has 35-foot single-family residential homes
8 existing on-site. And so with that, you can see that
9 multi-family, single-family could go up here; towers
10 could be built at 290; residential towers could be
11 built at 100 feet; townhomes/single-family, this --
12 where the golf barn is currently could be
13 single-family; the office -- the offices -- or I
14 believe townhomes can also go in here at 50 feet. And
15 that's important to notice, as the surrounding uses
16 that were permitted and already built, West Bay is at
17 290; and as you work down to the south, you get
18 290-foot, 285-foot buildings. So this kind of is the
19 puzzle piece in here that kind of goes in and wedges to
20 get the transition of height down as you work towards
21 El Dorado.

22 So this is the surrounding land uses and
23 jurisdictions. Reviewing the DRI and the zoning, we
24 vacillated into the City of Bonita Springs, we have
25 Village of Estero in this purple, and you can kind of

1 see that puzzle piece. This is unincorporated Lee
2 County. So this is that hole in the doughnut that
3 Ms. Frantz was talking about, and then you have the
4 subject property that wraps around that hole in the
5 doughnut, Kersey-Smoot, and comes over into this
6 region. So, really, all we're doing is we're coloring
7 in this piece, this piece, and this piece that wraps
8 around the doughnut with development. Everything else
9 is set. So the environmental, the drainage, you know,
10 the ERP is set. All they're really doing is bringing
11 in the uses in those three different areas.

12 As stated by Ms. Larocque, there's public
13 services. Bonita Springs Utilities provided a letter
14 of availability. There's estimated to be 301,400
15 gallons per day estimated for the usage, and the Bonita
16 Springs Utilities has stated that they have capacity
17 for the sewer, potable water, and the irrigation.

18 The police and fire are located in close
19 proximity, about two and a half miles. This is the
20 fire station and the emergency management, and then
21 this star right here is where the sheriff's office is
22 located. Our property is right here.

23 Schools. Through the 48-hour letter, the school
24 provided a letter saying that they do have the
25 availability. Spring Creek Elementary School is three

1 and a half miles to the southeast. The Estero High
2 School is three miles to the northeast.

3 There is public transit along 41. LeeTran serves
4 US 41 north and south. And there's also a number of
5 bikeways and greenways along 41 and a shared use path
6 that are all within the Lee Plan. That's along 41. So
7 to get to there, Coconut Road, the Applicant would be
8 required to put -- to demonstrate sidewalks along
9 Coconut Road for their property.

10 Transportation, went over in detail. Mr. Treesh
11 did a good job showing the differences in how this is
12 not going to affect the traffic. It's not going to
13 have a negative effect on Coconut Road. Coconut Road
14 is operating at a Level D level of service with or
15 without the project. So by reducing what currently is
16 allowed on the site, and balancing that site with the
17 increases to density and hotel rooms, we get a no net
18 increase or loss.

19 This shows the difference in the internal trip
20 capture. This is directly from the traffic impact
21 statement with the approved DRI versus the internal
22 capture. Per the proposed, there's a reduction.

23 And then this is the peak trip count that they did
24 for the p.m. weekday peak-hour trips that shows what
25 the capacity would need to be on those roadways. And

1 then this is the Level D showing with or without the
2 project.

3 Looking at Deviation 14 -- I'm kind of going to
4 skip around these deviations a little bit just by what
5 we're looking at. So Deviation 14 was for the inner
6 connectivity, the connection separation. DOT provided
7 a memo stating that they were okay with this deviation
8 because it lines up -- it's existing, and it lines up
9 with Via Veneto Boulevard, which is right across the
10 street. So that deviation was approved.

11 Environmental. Mr. Johnson -- as he stated,
12 everything's in place. There's a bald eagle management
13 plan; the flow-way is intact; the -- all the preserves
14 are in conservation easements, and they're under
15 maintenance right now with the State. So they've
16 already been inspected, and they're under maintenance.
17 This thing's been going on for that long.

18 We did have an ADD come in for Raptor Bay that
19 provided a connection through the wetlands, and that
20 showed mitigation for that connection.

21 All of those conditions are codified into this
22 zoning. So anything that had come in on the
23 Kersey-Smoot or the Pelican Landing, we codified the
24 conditions that apply to this -- this area so it's all
25 in one spot. So if there was an ADD, like the Raptor

1 Bay, all of those conditions and the exhibits of cross
2 sections are all part of the master concept plan and
3 the list of conditions.

4 HEARING EXAMINER COLLINS: Will there be an
5 amendment to the Kersey-Smoot project to reflect the
6 removal of this property? Because otherwise it's not
7 going to comply with the law.

8 MS. WORKMAN: So Staff originally had a condition
9 in that the Applicant and Kersey-Smoot would need to
10 amend their planned development to remove this section
11 of land and then codify to meet the DRI; and meeting
12 with the Applicant and the County Attorney's Office,
13 they decided that that was not necessary to have that
14 condition in there. So at the time of anything coming
15 in on Kersey-Smoot, that will trip the need to come in
16 and make the changes to their planned development.

17 HEARING EXAMINER COLLINS: Okay.

18 MS. WORKMAN: So this is for the open space. This
19 is the open space table directly off the master concept
20 plan --

21 HEARING EXAMINER COLLINS: So they rendered this
22 opinion to you in writing?

23 MS. WORKMAN: Not in writing.

24 So the Applicant is complying with the open space
25 for residential, nonresidential, and the mixed-use

1 area.

2 There's several deviations that were already
3 approved as part of past zonings, and Deviation 6 was
4 one of them for the lake bank slopes. So this thing
5 was developed and built prior to Code changes from a
6 4-to-1 lake bank slope to a 6-to-1 lake bank slope. So
7 we've granted a Deviation 6 to allow the lakes to
8 remain at a 4-to-1.

9 Deviation 9 is from internal buffering. If this
10 were to come in, there would be walls and 30-foot
11 buffers between single-family and commercial uses and
12 roadways and things like that. And so because this is
13 a mixed planned development, we are granting the
14 internal buffering to be allowed -- waived from the
15 requirements.

16 Deviation 13 is from perimeter buffers. When
17 there's preserves that abut perimeter buffers, we allow
18 the preserves to act as the buffer. And so what this
19 deviation does is it allows for that to be granted
20 around the perimeter of the development so that
21 those -- those preserves can act as the Type F buffer
22 in some instances. Those areas that do not have the
23 preserves will have to meet the Land Development Code.
24 So there's some sections periodically along the north
25 abutting West Bay where a Type F buffer is required;

1 and along the eastern side where the development
2 abuts -- the golf course abuts El Dorado, there's a
3 Type F buffer, and then we have a separate condition as
4 an enhancement along this area right here for a Type B
5 buffer, and a Type B buffer that's modified because
6 there's easements throughout this area, and the
7 Applicant can provide a 10-foot easement-free area to
8 plant the B buffer plantings.

9 The Type B buffer planting, as Ms. Crespo
10 indicated, is the same as a Type D. It's 5 trees every
11 100 feet. So for every 100 feet, 5 trees, and then
12 there's a double staggered hedgerow that is provided
13 throughout the whole property line. B buffer and D
14 buffer are matching. The only difference is this is
15 going to be 15 feet; that will be 10. So that's the
16 compatibility part because Staff was concerned about
17 the vantage point into the MU from the El Dorado
18 development, which I can show on the master concept
19 plan a little bit -- in a little bit. But even though
20 there's an F buffer going in up here, you still have
21 this angular access -- because this is 50 feet in here,
22 so we wanted to protect those folks that are abutting
23 this section.

24 There's a number of deviations from parking,
25 sidewalk, and signage that the Applicant went over

1 thoroughly:

2 5-foot-wide sidewalks along one side of the
3 internal roadway, this was previously granted on
4 another section of the PD. We're just granting it
5 again.

6 Deviation 2, back-out parking onto right-of-way
7 easements in all tracts. That was previously approved.
8 We're carrying that forward.

9 0-foot setback from right-of-ways (sic) on all
10 tracts, we're granting that easement. This is a mixed
11 planned development so you have this intensity inside
12 the development for the buildings and the uses; and
13 then as you work to the perimeter, you have your
14 buffers that are going in that will kind of separate
15 that intensity.

16 So Deviation 7 is the 5-percent reduction in
17 parking for the golf -- golf clubhouse only. This was
18 previously approved. This is just giving a little
19 reduction because this is a mixed-use, because, you
20 know, some of these -- the golf club there and golf
21 cart capability, walking capability to get there, so
22 the reduction was granted previously.

23 And then Deviation 10 is allow 1 parking space per
24 1,000 square feet of floor area for private rec, and
25 integrated into the mid- and high-rise buildings. And

1 this is because some of these buildings will have their
2 recreation facilities built in them; so by reducing
3 that parking because they're already in their building,
4 and it's walkable to be able to get to that.

5 So development pattern. This is going over the
6 setbacks, the building separation, and the height.

7 So looking at Deviation 3, it's a 0-foot
8 separation for internal parcels, and a 15-foot
9 separation for external parcels. So this was
10 previously approved and carried over.

11 The allowance in Deviation 5 for the 20-foot
12 distance between recreation centers and ancillary
13 facilities and the residential dwelling units, this was
14 previously -- a 20-foot distance from this because you
15 are entering into a mixed planned development. This
16 all goes back to that mixed planned development kind of
17 a scenario.

18 And then Ms. Frantz' testimony on Deviation 8 for
19 the height. It should be noted that the previous
20 approval allowed a 20-story over parking with 15
21 percent open space for each multi-family, and a minimum
22 building separation of 125 feet. So there's a building
23 separation deviation, that is Deviation 12. And so
24 when Staff was reviewing Deviation 8 and 12 to see how
25 it applied in this particular planned development, we

1 were concerned with fire. So with your separation
2 between buildings lessening, would the fire department
3 be able to get in there with a truck with the ladder,
4 and they provided, as part of the outstanding issue in
5 the Staff Report, in the 48-hour letter the Fire
6 District, Estero Fire District, provided a letter of no
7 objection for those distances.

8 So Deviation 11 was the 0-foot setback for the
9 perimeter. This is being granted except for abutting
10 preserves because the 0-foot setback does not meet the
11 preserve setback. So when you're a wetland preserve,
12 you're required to have a 20-foot setback for all
13 structures, and that wouldn't meet that requirement.
14 So Staff put except for abutting preserves and the
15 north property line, which has a 30-foot buffer.

16 So the master concept plan kind of shows you the
17 layout of where F buffers are located and where they're
18 not, and the runaround of the perimeter of this site
19 and the varying compatibility that's taking place. And
20 the highly sensitive areas to -- that Staff really paid
21 attention to was the El Dorado Estates, because these
22 are 35-foot-tall homes abutting the golf course, which
23 they've been abutting, and then this is going to be the
24 change, from a golf cart barn to the commercial
25 offices, single-family or townhomes, and so that will

1 be 50 feet in here. So that's where the B buffer is,
2 10 feet, because of that vantage into here, and then
3 you have a 30-foot F buffer --

4 HEARING EXAMINER COLLINS: So right now there is
5 no buffer between the golf course and El Dorado?

6 MS. WORKMAN: Right here, no.

7 HEARING EXAMINER COLLINS: What about the golf
8 course --

9 MS. WORKMAN: Here, yes.

10 HEARING EXAMINER COLLINS: -- isn't that already
11 developed?

12 MS. WORKMAN: Yes.

13 HEARING EXAMINER COLLINS: So that's just
14 acknowledging an existing condition?

15 MS. WORKMAN: Yeah, this is all what was
16 previously conditioned all the way around. The
17 Applicant is not changing anything. So we have F
18 buffers or preserves meeting -- meeting the
19 requirement. There's no buffer over here, and then
20 there's an F that runs along here.

21 HEARING EXAMINER COLLINS: Okay. So B has no
22 wall, it's just 10 feet landscaped.

23 MS. WORKMAN: Yeah. And the shrubs are increased
24 in height to 60 -- 60 inches.

25 So this is the lay of the land on that. There's

1 an interface preserve that runs along this portion
2 right here. This is where that setback comes in, where
3 they want a 0-foot setback, and Staff was like you can
4 have a 0-foot setback except for along the north
5 property line and this interface here, because you're
6 going to have to meet -- you're going to need a 20-foot
7 setback for the wetland preserve.

8 And so the Applicant went through the Lee Plan
9 analysis. I'm not going to go super in-depth into this
10 because Staff is in agreement with the Applicant that
11 they are meeting the Lee Plan when it comes to
12 commercial design, as well as residential. The public
13 services are being fulfilled. There's visual harmony
14 with the buffering. They've been sensitive to where
15 they're placing the height variations on the site
16 compared to the surrounding uses.

17 And so it's my professional opinion that the
18 Applicant is meeting the Land Development Code and the
19 Lee Plan for approval.

20 HEARING EXAMINER COLLINS: Okay, thank you. I
21 don't have any questions at the moment.

22 MS. WORKMAN: Okay.

23 HEARING EXAMINER COLLINS: You can take your seat.

24 MS. WORKMAN: Thank you.

25 HEARING EXAMINER COLLINS: We're going to turn now

1 to public input. I'm going to call the names on these
2 sheets. If not everybody filled out a sheet, I will
3 invite anyone else in the room that wishes to speak, to
4 speak.

5 So we'll start with Anne Cramer.

6 MS. CRAMER: Thanks so much, Madam Hearing
7 Examiner. I am not exactly organized in all of my
8 thoughts here. I will try not to be repetitive in what
9 I am saying.

10 We did receive a letter at the end of May saying
11 there would be a hearing, but it didn't give the date
12 of the hearing. It said it wasn't -- it hadn't been
13 established yet. Just ten calendar days away, most of
14 the people in Pelican Landing became aware that this
15 hearing was going to be today. So I just came in last
16 night, I'm a little disoriented with my notes, but I'll
17 try to get to my points here.

18 I have a copy of a map. It was a revision that
19 was done to the planned development, and a number of --
20 as was stated before, a number of revisions have been
21 developed over the years. And I believe, as was said
22 before, the bulk of the residential units had been in
23 the Pelican Landing Community Association area, which
24 is south of Coconut Road.

25 The traffic strain that will be established, if

1 this is approved -- we already have hundreds of
2 properties that have not yet been built. Some of those
3 are in Kersey-Smoot -- and I'm a little bit confused
4 over the jurisdiction of -- of where Kersey-Smoot is.
5 Is that in Bonita Springs, or is that in unincorporated
6 Lee County?

7 But in any event, London Bay purchased the
8 remaining unbuilt area of the timeshare property. So
9 there are about 290 units that had been permitted to be
10 built there -- there was a total of 300 -- or, I'm
11 sorry, 362, I believe. 72 or so have been built, so
12 that's another 290 that London Bay will be able to
13 develop.

14 In this section -- and I know this is not part of
15 today's discussion, so to speak; but in a section that
16 is part of the City of Bonita Springs, WCI and London
17 Bay at different times went to the City of Bonita
18 Springs, and even though at the time -- and I don't
19 know if it's still true for unincorporated Lee County,
20 but in some of these areas for the RPT, at the time the
21 minimum (sic) height was 45 feet. They were -- there
22 was an annexation agreement, a big portion of the
23 property was annexed into the City of Bonita Springs.
24 Some people call it contract zoning. There were about
25 400 units that were approved there, in towers, so that

1 was way higher than the 45 feet. So those units are
2 not part of this discussion, I don't believe, today,
3 but those are yet to be built, as well. We also have
4 the Ritz-Carlton properties that are being built; so
5 there's over 200 units there. So all of this will
6 contribute to the traffic issues on Coconut Road.

7 Now, Coconut Road also has feeding into it Spring
8 Creek Village; El Dorado Acres; Meadowbrook Estates;
9 Coconut Shores; there's a new development that was
10 talked about earlier today that will be at the corner
11 of 41 and Coconut; and then I believe on the other
12 corner, the southwest corner, there also may be a hotel
13 at some point. So all of that is going to contribute
14 to a situation that already has a considerable amount
15 of traffic, and I'm not so sure that a circle on the
16 portion of Coconut Road that's close to Route 41 is
17 going to make that big of a difference to all of those
18 people who are on the western part of that.

19 And it's already very difficult to come out of El
20 Dorado Acres, Meadowbrook, Coconut Shores, the Pelican
21 Landing beach parking lot, the CDD parking lot that's
22 there. If you're trying to take a left and get up to
23 Route 41, it's a very difficult situation as it is.

24 The Ritz-Carlton property is a -- you know,
25 they've got a restaurant there, too. It's going to be

1 a tremendous amount of traffic.

2 If the hotel room numbers are increased, the hotel
3 staff in itself creates a huge amount of traffic, let
4 alone the visitors to the hotel.

5 I have a document here that goes back a ways.
6 This is -- but it's still valid. This is, I think,
7 from 2000 and -- February of 2003, and it talks about
8 the DRI, and it talks about 8 residential buildings
9 being permitted to be 20 stories over parking, and that
10 was Condition 12 of a prior change to the DRI.

11 Now, those -- in the planned unit development in
12 the DRI, again, most of the development was going to be
13 south of Coconut Road, including -- it talks about 8
14 residential buildings and one hotel building. So we
15 already have the one hotel building. That's the Hyatt.
16 Now, apparently London Bay would like to build another
17 one -- maybe it would be a Ritz-Carlton, I don't know,
18 but at one time it appeared that there was only one
19 hotel that was approved. Now, I think it's just under
20 500 rooms. This would add a significant number of
21 hotel rooms to the area.

22 And all of the residential tower buildings for the
23 DRI were at one point intended to be along the corridor
24 that was south of Coconut Road in The Colony portion of
25 Pelican Landing, and there were none that were slated

1 to be north of Coconut Road. Obviously that has now
2 changed considerably, even with the four that the City
3 of Bonita Springs -- and the City -- one of the later
4 city councils -- after the annexation agreement
5 occurred, the city council that came about after that
6 tried to fight that approval. They made some sort of
7 agreement outside of court and apparently agreed to
8 allow for towers to be built there.

9 So in any event, we have a tremendous amount of
10 growth that even without the addition of these units --
11 and I think I've got that notation here somewhere in my
12 notes. Even without that addition, there would be 322
13 unbuilt -- at this point, I believe, there's 322
14 unbuilt residential units. So if you add 488 more,
15 basically you're up to that area trying to support
16 another 800 residential units in the DRI north of
17 Coconut Road. So 800 of those added to the 200 plus
18 that are in the Ritz-Carlton residential units, that's
19 a huge amount of additional traffic; and then add to
20 that the hotel rooms, and it's a very difficult
21 situation for the people who need to use that.

22 Most of the building was done in the PLC, the
23 Pelican Landing Community Association, very
24 deliberately, I would presume. There are three
25 entrances to the community on Route 41, entrances and

1 exits, and one on Coconut Road for the people in The
2 Colony, who can also get out on -- on some of the other
3 exits, but Coconut Road is certainly the most
4 convenient.

5 So I hope that that explains some of what our
6 concerns are.

7 For the rezoning, the DRI contemplated the office
8 and retail space would be located in the corridor by
9 US 41, which is currently built out, and therefore
10 reducing such space -- as is being said, you know,
11 they're going to trade off that space for residential
12 space -- really seems to be somewhat of an empty
13 argument, because that area north of Coconut Road was
14 really never intended to be commercial space. All of
15 that was put along the 41 corridor. So I think that
16 they've pretty much maxed that out.

17 And I'm just trying -- again, I apologize that I'm
18 not a little bit more polished in my presentation, but
19 this was done on very short notice.

20 The Village of Estero, my understanding -- who is
21 responsible for the major portion of Coconut Road, and
22 that would be from The Colony exit onto Coconut Road
23 north to 41. I understand they were not even notified
24 by the County of this hearing or even the
25 Applicant's -- the application for expansion of the

1 density in the Saltleaf area. So they became aware of
2 this when the president of The Colony Foundation
3 contacted them, which is a bit unfortunate.

4 Again, I just came back in last night. I flew in
5 from Buffalo. I know that there would be a lot more
6 people here, except as often happens -- I'm sure you've
7 seen this, oftentimes hearings such as this with
8 developers who want to do something in a seasonal
9 community sometimes, you know, try to schedule their
10 hearings when a lot of the people aren't here. But I
11 do believe that you do have, in the packet of
12 information that was given from Beth -- thank you,
13 Beth -- you do have some letters from the president of
14 the Colony Foundation and a number of other residents.

15 So I thank you for listening to me, and I may have
16 missed a few things, and I apologize for that, but I
17 hope that my input is helpful. Thank you.

18 HEARING EXAMINER COLLINS: Thank you very much.

19 Edward Lorenzini?

20 MR. LORENZINI: Thank you, madam. I appreciate
21 you giving me the opportunity to speak on this at this
22 hearing.

23 For the record, my name is Edward Lorenzini. I'm
24 a resident of Estero. And I just -- I actually, like
25 Miss Anne, just spoke about -- I actually learned about

1 this hearing last night. It was brought to my
2 attention by some neighbor friends, and they were
3 unfortunately unable to come here today. I took time
4 to come in.

5 Anyway, I'm here mostly as a resident, as a -- to
6 bring concerns and thoughts into this to be taken into
7 consideration as this project is being considered for
8 advancing into its other stages that the Applicant
9 would like to do.

10 So before I get into those concerns, listening to
11 what I heard today, and the research that I've done
12 little by little throughout the time -- hearing through
13 this, when I hear about the processes and the
14 legalities and the zoning and the -- everything
15 involved in trying to make a project go into -- become
16 fruition, whether it's this Applicant or any Applicant,
17 on face value it looks pretty straightforward. As far
18 as does it fit the rules, does it fit the Code, does it
19 fit the zoning, does it fit the legalities, does it fit
20 everything, on the surface it looks really good.

21 And I am a -- I'm a real estate broker in the
22 area. So it kind of -- it's kind of like an oxymoron
23 for me to be discussing this, but I always find -- look
24 for balances on things and practicality. And what I
25 see is despite the fact that this project, the way it's

1 being presented, makes sense, there's certain practical
2 aspects that I don't know if they really, truly are
3 being taken into consideration.

4 If I may start with traffic. The gentleman stated
5 today that -- and I'm paraphrasing because I took some
6 notes -- that there would really be no net impact on
7 the traffic on Coconut Road. Well, I'm a resident in
8 that area, that specific area. Now, I don't know if
9 the Applicant is -- any of the Applicant's
10 representatives are residents in that specific area,
11 but Coconut Road becomes extremely congested -- yes,
12 there's peak times, but even in off-peak times it
13 very -- a little difficult to navigate. As Miss Anne
14 mentioned, you have El Dorado Acres; you have
15 Meadowbrook Estates; you have Coconut Shores; you have
16 other residences in the back that have access into
17 that; you have Pelican Landing's and The Colony's exit
18 and egress into that; you have the Hyatt Regency
19 already there; you have other things going on.

20 For this level of increase in density, though in
21 the plan makes sense, in practical sense doesn't make
22 sense. Because now you're adding a potential 318
23 revolving hotel rooms, all this density in the
24 residential.

25 I do have a specific question about the

1 residential for the Applicant, if I may.

2 HEARING EXAMINER COLLINS: Yeah, you can ask the
3 question, they will make a note of it; and then at the
4 conclusion of public input, they will address all
5 questions raised. So, yes, please do ask questions.

6 MR. LORENZINI: Thank you, ma'am.

7 My question in regards to the dwelling units, what
8 percentage of that is being considered as full-time
9 residents versus vacation/seasonal residents? Do they
10 have a -- have they done a study on that? Who is their
11 specific clientele, if you will, okay, for this
12 project? Because that's important to know. If you
13 have seasonal, you can almost mitigate it. If it's
14 full-time residents, that's a big problem. What
15 percentage of it is it? Because I do not see
16 logically, in my mind, that there's going to be no net
17 impact on the traffic in that area.

18 Now, you have emergency situations, hurricane
19 season, this, that, and the other. Yes, there has to
20 be an emergency plan. They have only one egress and
21 one ingress, as far as I can tell from what I
22 understand from this project. I could be wrong. But
23 that also adds to traffic flow issues. So take into
24 consideration everyday use, emergencies, all of that
25 nature.

1 I don't know if they mentioned -- I don't know if
2 you mentioned consultation with FDOT, or if it was just
3 an independent traffic assessment being done, which
4 either way needs to be, I think, clarified. Maybe I
5 missed that. I apologize if I did.

6 As far as the roundabout, I would agree with what
7 Miss Anne was speaking about, that the roundabout
8 doesn't make any sense to put in that area there. What
9 it will do is it will actually slow down and back up
10 the traffic all the way down to Hyatt Regency. It
11 already backs up quite a bit in that area. Mostly
12 during -- obviously, during peak times, but during
13 season it's a nightmare. The residents over there have
14 major, major problems coming out of their communities.
15 Now, aside from an unrealistic approach of adding
16 lights at every community entrance, it doesn't make any
17 sense.

18 Is there also a thought about widening or
19 expanding -- you know, widening the -- the Coconut
20 Road? Is that part of the project or not? Was that a
21 consideration or not? Is that even feasible?

22 And, again, I'm going with practicality.
23 Everything on the surface looks good, but as far as
24 practicality and functionality, it's -- one is theory,
25 one is actual putting things to work.

1 The other aspect that I would like to ask about is
2 water management. Was the Army Corps of Engineers
3 consulted in any way, shape, or form? I can tell you
4 that that area over there -- and I've experienced this
5 on the light end of stuff because I'm actually closer
6 to 41. I live closer to 41 in that area, and it's a
7 flooding pain in the neck. You add more construction,
8 more buildings, more -- you affect the sheet flow of
9 water, you affect the absorbing aspect of the preserves
10 and the natural element there to help mitigate
11 flooding. We already have plenty of flooding as it is
12 there. And I understand there's existing
13 infrastructure; but when you add all of these things
14 into the entire project, you're affecting -- this is
15 not one house here, one house there. This is a massive
16 project that they're working on; and, respectfully, you
17 know, I think that has to be taken into consideration.

18 Yeah, they can probably -- in order to mitigate
19 that, being so close to Estero Bay, you have to elevate
20 those properties. Where is that water going to go?
21 It's going to flood back into Meadowbrook, El Dorado
22 Acres, Marsh Landing, Coconut Shores, Fountain Lakes,
23 and probably even into West Bay. Otherwise, you run
24 the risk of flooding all those homes there. That has
25 to be elevated. There has to be fill brought in. That

1 has to be elevated in order for people, who are going
2 to spend the kind of money that you're looking to do
3 for a project of this manner, to be able to invest in a
4 home that close to that waterway, and in a major area
5 that gets highly impacted by winds and storm surge, you
6 have to raise that. So you're going to create
7 unnatural pockets because of the construction that you
8 do.

9 Things to take into consideration: How is that
10 being mitigated? Was the Army Corps of Engineers
11 consulted on this, as well, to give their, hopefully,
12 unbiased opinion on this project? I'm not trying to
13 create any unnecessary obstacles. What I'm trying to
14 do is bring some reality and practicality into the
15 thought and development of this project. Because it
16 affects not just the bottom line for this project, it
17 affects thousands of people around, thousands of people
18 around.

19 So you have the traffic issues, you have water
20 management issues. What about environmental? I heard
21 today that -- you know, for example, the wood stork
22 issue and things of that nature. Now, I understand
23 that not all animals or -- I love animals. I'm sure
24 many people here do, too. That's why we're in
25 Southwest Florida. We enjoy the environment that we

1 are a part of, whether it's the dolphin, the birds, the
2 alligators, whatever. But animals are not susceptible
3 to our laws in the sense of they have migratory
4 patterns. Were those migratory patterns taken into
5 consideration when these assessments or so-called
6 studies were made? Just because you don't observe an
7 animal doesn't mean it doesn't come to that area.

8 The tortoises kind of threw me off a little bit.
9 There was a graph that was put up that had like over
10 100 different supposed gopher tortoise holes, yet only
11 3 gopher tortoises were observed on the property or
12 around that area. It makes no sense to me. Gopher
13 tortoises don't migrate from here to Miami and back.
14 I'm sorry, that's not how it works. I'm not a
15 specialist on -- on these animals or anything like
16 that, but I'm just trying to look at the practicality
17 and the reality and the logic behind it.

18 So you have those animals -- nothing was mentioned
19 about Florida panther. I know there's Florida panther
20 in there. I saw one. I know people that have seen
21 them. They're in this area. They don't just reside on
22 the -- on the little pockets close to 41. They have
23 large ranges that they traverse. It's a natural aspect
24 of the animal.

25 I've actually gone ahead and called up FWC and let

1 them know I saw a Florida panther at this place, at
2 this location, at this time. Gave them the best
3 coordinates, let them know about it. So we do have
4 Florida panther there. Nothing was mentioned today
5 about that.

6 We have bobcats, wild hogs, of course -- that's
7 another thing. How -- what is -- is there a plan in
8 place for handling invasive species, such as the wild
9 hogs, such as the iguanas, the green iguanas, things of
10 that nature? I haven't heard any of these things that
11 are very practical and very real to everybody there.
12 We're all affected by those things.

13 So traffic, water flow, flooding issues potential,
14 density, wildlife, conservation aspect. These are a
15 lot of very practical things, why people come here. So
16 those are things that -- that are concerns to me --
17 even though, again, I am a real estate broker in the
18 area. I understand the need for development and the
19 willingness and the wantingness (sic) to do that, but
20 there has to be a balance about things.

21 There was something else that I'd like to bring
22 up, and that was -- oh, as far as the water management
23 is concerned -- or, actually, not water management,
24 more of the buffers and things of that nature. What is
25 being done with the mangroves exactly, especially along

1 Estero Bay? Are they being relocated? Are they being
2 left intact as natural barriers for those areas along
3 Estero Bay? What is the actual process of what's being
4 done to handle those things? Because those are
5 natural -- not only do they provide natural buffers
6 against water surge, wind, but they also provide
7 habitat for animals, birds, fish, all kinds of
8 wildlife.

9 So those are some concerns that I'd like to bring
10 up and -- with those questions that I made. I'm sure
11 there's other things; but, again, I just heard about
12 this last night so my preparation is very limited.

13 HEARING EXAMINER COLLINS: Well, we'll try to get
14 you some clarification on the --

15 MR. LORENZINI: Yes.

16 HEARING EXAMINER COLLINS: -- issues that you
17 raised. Thank you for sharing them.

18 MR. LORENZINI: And I appreciate your time, and I
19 guess we'll go from there. Thank you.

20 HEARING EXAMINER COLLINS: Thank you very much,
21 sir.

22 Bernard Cramer?

23 MR. CRAMER: Good morning, thank you for hearing
24 me.

25 HEARING EXAMINER COLLINS: Good morning.

1 MR. CRAMER: My name is Bernard Cramer -- excuse
2 me -- a resident of Pelican Landing for the last 20
3 years, and I'm an elected representative of the Bayside
4 Community Development District.

5 HEARING EXAMINER COLLINS: Are you any relation --

6 MR. CRAMER: Yes.

7 HEARING EXAMINER COLLINS: -- Anne? Okay. But
8 you're speaking in your official capacity today?

9 MR. CRAMER: I am speaking in my official
10 capacity.

11 We have a maintenance building that is located in
12 unincorporated Lee County right off of Coconut Road.
13 We have approximately 35 people who work there on a
14 daily basis, 5 days a week. During storm season it's
15 more. I'm concerned about the traffic. We access and
16 egress our maintenance building on an hourly basis with
17 our carts across the road into Pelican Landing and The
18 Colony to provide surface water management, cleanup in
19 those areas. So it's a concern of mine. It's a
20 concern that we haven't been notified of this
21 particular plan.

22 We do know, through some of our communications,
23 that this is going to happen at some period of time;
24 but we need to be involved as custodians of our surface
25 water management and other individual activities in

1 Pelican Landing, going across the road primarily, the
2 traffic pattern.

3 So that's all I have to say, and hope to be kept
4 in contact as far as our management group is concerned.
5 Okay?

6 HEARING EXAMINER COLLINS: Thank you.

7 MR. CRAMER: Thank you.

8 HEARING EXAMINER COLLINS: Are there any other
9 members of the public present that would like to speak
10 on the record? Seeing none, we're going to close
11 public input. We will go back to the parties to
12 address questions and issues that were raised, provide
13 some clarification for members of the public, and then
14 we'll conclude the hearing.

15 Would you like a brief break?

16 MR. YOVANOVICH: Yes, please.

17 HEARING EXAMINER COLLINS: Okay. Let's take a
18 ten-minute break.

19 (Recess from 11:23 a.m. to 11:40 a.m.)

20 HEARING EXAMINER COLLINS: We are back on the
21 record with rebuttal.

22 MR. YOVANOVICH: Thank you. Again, Richard
23 Yovanovich, for the record.

24 I'm just going to address some of the -- some of
25 the math related things that lawyers can address, and

1 then I'll have my experts get back up and answer some
2 of the comments made by the -- by the public comments
3 specific to water management, environmental, and
4 traffic.

5 The first thing I wanted to address was your --
6 your initial reaction to are we going to amend the
7 Kersey-Smoot PD to reflect the changes. We had
8 extensive conversations with the County Attorney's
9 Office, and they were comfortable with the fact that
10 there's a DRI monitoring report to properly account for
11 all of the approved dwelling units; and as each project
12 comes in, there's going to be confirmation with that
13 DRI monitoring report. Should the remaining 25 units
14 in Kersey-Smoot move forward, they'll have to account
15 for the math that way. So there was not a requirement
16 for us to go back --

17 HEARING EXAMINER COLLINS: What I'm more concerned
18 about, is what remains in Kersey-Smoot going to be able
19 to sustain itself with regard to open space, et cetera,
20 to support, you know, the development.

21 MR. YOVANOVICH: Right. And that analysis was
22 apparently -- the County Attorney's Office became very
23 comfortable with that being available and not requiring
24 us to go back and reallocate each individual PD on that
25 basis. I think their main concern was density, because

1 remember the master concept plan shows where that
2 limited area of development can occur in Kersey-Smoot.
3 So if they wanted to get outside of the boundary of
4 that original development, they would have to make --
5 they'd have to come through the process to amend the
6 MCP.

7 HEARING EXAMINER COLLINS: Okay.

8 MR. YOVANOVICH: So that addressed your -- and I'm
9 not saying that you're -- I have the same -- same
10 issues when analyzing, as well --

11 HEARING EXAMINER COLLINS: I can't say I agree
12 with it, but if that's what they said.

13 MR. YOVANOVICH: Right. So -- so we're there on
14 that issue.

15 I couldn't totally follow the first public speaker
16 on the math; so I just want to reiterate the math
17 again, what exactly we're asking for. We are asking
18 for 488 additional units. Kersey-Smoot currently has
19 362 units. We were assigned 241 of those. So when you
20 add that to the 488 units we're asking for, that's the
21 729 in our request. So the net new density is 488
22 units. There were a whole lot of other numbers being
23 floated around, but that's what we're here talking
24 about from the DRI perspective.

25 There was also a question about -- from the

1 public -- and then I'm going to bring my experts back
2 up to address the things that require expertise --
3 because some of us in this room have been doing this a
4 long time; I've been doing this for 35 years.
5 Everybody thinks they're an expert in areas like
6 traffic, environmental, and water management. The
7 reality is you do have to have expertise, and we have
8 experts, and the City -- I'm sorry, the County has
9 experts. And the County's experts have confirmed
10 everything that our experts have testified to,
11 including traffic. The County's traffic individuals
12 have signed off on the traffic analysis done by
13 Mr. Treesh and the conclusions by Mr. Treesh; but
14 nonetheless, I'm going to bring him back up here to
15 address the public comments.

16 Likewise, the environmental looked at water
17 management, also looked at listed species concerns. So
18 I'm going to bring the experts up for that.

19 Now, the question that the Realtor asked was, who
20 is going to buy these units? Well, the reality is
21 anybody can buy one of the units. If it's typical of
22 what the market is in this area, they're going to be
23 seasonal residents that buy these units. It's probably
24 not going to be their first home, probably not going to
25 be their second home. We anticipate that the people

1 who buy these residences will be seasonal residents
2 that buy these residences, but obviously we can't limit
3 the market to who is going buy those units. But that's
4 what we anticipate the market -- to answer his question
5 about who is going to buy the units, but there is no --
6 there is no requirement that someone check a box to say
7 they're only --

8 HEARING EXAMINER COLLINS: Are there plans to make
9 it age restricted?

10 MR. YOVANOVICH: No.

11 HEARING EXAMINER COLLINS: Okay.

12 MR. YOVANOVICH: This is going to be -- this is
13 going to be market rate, top of class residential
14 units, with the anticipation that there's no commitment
15 to age restriction. It could be -- anybody who wants
16 to buy a unit, they can afford to pay the price -- can
17 buy a unit as long as they can afford to pay the price.

18 And with that, I'm going to bring up -- I'm going
19 to bring up Shane first to talk about the environmental
20 comments -- I'm working my way back from the last
21 speaker -- and then I'll have Jackie talk about water
22 management, and then finally I'll have Ted address the
23 traffic concerns that were raised.

24 HEARING EXAMINER COLLINS: Okay, thank you.

25 MR. YOVANOVICH: Thanks.

1 MR. JOHNSON: Hi, Shane Johnson, for the record.

2 So in no particular order, here to address some of
3 the environmental concerns raised today. A Corps of
4 Engineers permit was obtained for the project. That
5 did cover the entire project area. And the golf course
6 renovation project that I mentioned earlier, that was
7 kind of the final phase of impacts that that Corps
8 permit authorized. So all of the wetland impacts
9 authorized by the Corps permit have been completed.

10 So when the Corps issues a permit, they require a
11 water quality certification from the State. That is
12 the Water Management District. They have to have an
13 ERP in hand, and they incorporate those conditions of
14 that ERP as part of the issuance of their permit. So
15 the Corps doesn't regulate stormwater, but the Water
16 Management District does. So they kind of go hand in
17 hand. So the water management issues were handled,
18 essentially all wrapped up by the time the Corps permit
19 was issued.

20 So as part of a Corps permit review, when the
21 Corps receives an application, they do a number of
22 things. They analyze, and they take a look at a
23 project to see if there's going to be any potential
24 federal species impacts. That includes panther, that
25 includes wood stork, that includes other federally

1 listed species.

2 So as part of the Corps permit, they consulted
3 with the U.S. Fish and Wildlife Service, which is the
4 lead wildlife agency at the federal level, with respect
5 to impacts of federal species. That included wood
6 stork. That did not include Florida panther, and I'll
7 explain why. When the U.S. Fish and Wildlife Service
8 receives a request to review from the Corps of
9 Engineers, they look at all the species that could be
10 affected based on not only the site-specific
11 characteristics, but the location of the project.

12 So when it comes to panther specifically, the U.S.
13 Fish and Wildlife Service takes a look at is the
14 project located within the panther focus area, okay?
15 It's a geographically defined boundary, and here the
16 western limit of that boundary is I-75. So this
17 project is nowhere near being located within the
18 Florida panther focus area. So when mitigation is
19 provided for the Florida panther, what you're doing is
20 mitigating for impacts to habitat. That habitat is
21 located within the focus area. Therefore, this project
22 was never an issue with respect to the panther.

23 And the U.S. Fish and Wildlife Service, in
24 responding back to the Corps, issued what's called a
25 biological opinion, and it covers the species, you

1 know, that were potentially impacted, again, not
2 including the Florida panther. They provided that
3 information back to the Corps; and, again, that was all
4 incorporated into the Corps permit when that was
5 issued.

6 One more aspect on the Corps permit, all of the
7 wetland mitigation for impacts that were authorized by
8 the permit were previously completed. That includes
9 off-site purchase of wetland mitigation credits, and
10 also all the conservation area that we showed on the
11 maps as part of our presentation. That's already been
12 completed.

13 So essentially -- I know our project team has
14 already spoken to this, but this is pretty cut and
15 dried. You've got your conservation areas that are
16 already in place, that have already been maintained and
17 will be maintained in perpetuity, and you've got your
18 development areas. It's pretty cut and dried at this
19 point.

20 With respect to wildlife, specifically the gopher
21 tortoise, the reason I put the map up there with all
22 the burrow locations is to let you know and put on the
23 record that those burrows that were within the
24 development footprint, again, related to the golf
25 course renovation project, those have already been

1 addressed through a permit issued by FWC. So there
2 were a number of burrows, yes. We observed physically,
3 during our surveys, three tortoises above the ground.
4 That's not abnormal even in a high-density gopher
5 tortoise population because gopher tortoises spend most
6 of their time in their burrows. So it's not abnormal
7 to not necessarily see a lot of tortoises walking
8 around even in a high-density burrow area.

9 So I believe the tortoise issue's been addressed.

10 With respect to invasive species, there are
11 requirements by both the Water Management District
12 permit and the Corps permit to basically maintain the
13 preserve areas free of exotic vegetation; but with
14 respect to feral hogs and iguanas, there's no local,
15 state, or federal requirement tied to this project to
16 control those species.

17 Lastly, regarding concerns brought up about
18 mangroves, I think Ms. Workman already addressed that
19 in her presentation. We could put up the slide, if
20 need be, but that Water Management District
21 conservation area spans pretty much the entire western
22 boundary of the project. That's already under
23 conservation easement, and a portion of that contains
24 mangroves. They can't be impacted because they're in a
25 conservation easement. So there will be no impacting

1 that area, there will be no relocation of mangroves
2 associated with this project.

3 I think that was it from environmental.

4 HEARING EXAMINER COLLINS: Thank you.

5 MR. JOHNSON: You're welcome.

6 MS. LAROCQUE: Hello again, Jackie Larocque, for
7 the record. I'm going to talk about -- a little bit on
8 the surface water management side and a couple of the
9 comments that were made.

10 As far as the flooding comments, the core
11 fundamentals and the math that we do are to prevent
12 off-site impacts. So we -- we contain all of our
13 stormwater runoff, we hold it on-site, and then we
14 release it, honestly, at a much slower rate than
15 what -- what could be there today because it's very
16 controlled. We're in an impaired waterbody basin, and
17 so the restrictions on this project are higher than
18 some of the others throughout the county.

19 There are storm surge issues in this area. We're
20 right on the bay. FEMA recently just released new maps
21 where all of the elevations have been raised. So, yes,
22 the second gentleman was correct, you do have to bring
23 fill in. You have to meet all of the FEMA
24 requirements. Finished floors have to be base flood
25 elevation plus one foot or two foot, depending on what

1 kind of funding you get. And so there are rules and
2 requirements in place that the federal government, the
3 state government, and the local government has put in
4 place that we follow.

5 On water management, one thing that I didn't
6 mention is this project does have a CDD on it; so it
7 does have an entity that will own and maintain the
8 water management system in perpetuity. And during the
9 break Lisa with London Bay was talking with the third
10 gentleman. They actually share the same CDD manager,
11 and the information has been given to the third speaker
12 of here's our CDD information, please let's coordinate,
13 let's talk. Let's make sure that whatever information
14 we have that's public you guys have, as well.

15 One clarification that I do want to make on
16 irrigation, the Lee Plan consistency states that
17 irrigation shall not be used with potable water. That
18 is the intent of this project. What happens with the
19 location, since we're right on the bay, is we have
20 saltwater intrusion. And so with every project and
21 every DO that we do, we complete a saltwater intrusion
22 study, and that gets submitted. And then at that time
23 we make that determination, with our hydrologist and
24 our experts for groundwater, can we use the surface
25 water and/or a combination of groundwater to irrigate

1 the property, or do we need to do that with potable
2 water. Bonita Springs Utilities already knows this.
3 We have -- the Bayview residence in Bonita is using
4 potable.

5 So -- so those steps are made during the
6 development order process, but every -- every step is
7 documented and studied to make sure that we are
8 consistent with the Lee Plan, and we're consistent with
9 Staff as we go through the steps.

10 HEARING EXAMINER COLLINS: Okay, thank you.

11 MS. LAROCQUE: Thank you.

12 MR. TREESH: Ted Treesh, TR Transportation, just a
13 few comments.

14 One, the units from Raptor Bay are included in our
15 analysis. They're part of the overall DRI so they
16 are -- they are embedded within the analysis.

17 One, the roundabout that I spoke of on Coconut
18 Road, that's -- that's a Village of Estero project.
19 That's -- that's not a Lee County project. Again,
20 Coconut Road, the majority of it is under the Village
21 of Estero jurisdiction, and that project is being done
22 by the Village of Estero. So that's out of our
23 jurisdiction, that's -- that's within the Village of
24 Estero.

25 Was there anything else you need me to cover?

1 MR. YOVANOVICH: No, I think that answered the
2 question.

3 MR. TREESH: I believe that's it, thank you.

4 HEARING EXAMINER COLLINS: Well, the point that I
5 think is important for you to make, though, is that the
6 assumptions for trip generation for the DRI as a whole
7 predicted this level of traffic on these roadways; is
8 that correct?

9 MR. TREESH: That is correct.

10 HEARING EXAMINER COLLINS: Because what you're
11 proposing, although there is an alteration of the
12 development parameters, the output in traffic is at or
13 below what has already been approved.

14 MR. TREESH: That is correct.

15 HEARING EXAMINER COLLINS: So there's going to be
16 no worsening of traffic than what would have happened
17 under the original development scenario.

18 MR. TREESH: That's correct.

19 HEARING EXAMINER COLLINS: Okay, thank you.

20 MR. TREESH: Thank you.

21 MR. YOVANOVICH: I thank you for those additional
22 questions of Ted. We even went further and did the
23 initial analysis just specifically on Coconut Road to
24 hopefully allay some concerns about the public
25 perception that even though the DRI did project traffic

1 through the entirety of the project, we were more
2 focused on that one road, to show that what we were
3 always going to put on in traffic, together with what
4 was approved in other jurisdictions, still the road was
5 going to function based upon the adopted level of
6 service. So I hope we didn't confuse things by trying
7 to be too specific in addressing what we knew would be
8 public comments, by factoring in other jurisdictional
9 approvals by Bonita Springs and the Village throwing
10 additional traffic onto Coconut Road.

11 With that, that's our presentation and our
12 rebuttal. I don't know if I'm supposed to do any type
13 of a close at this time or --

14 HEARING EXAMINER COLLINS: No, I mean, it's not
15 necessary.

16 Does Staff wish to make any comment?

17 MS. WORKMAN: I have -- I have a couple things
18 about interlocal agreement and contacts, like how we
19 contact the public --

20 HEARING EXAMINER COLLINS: Okay, sure.

21 MS. WORKMAN: -- per one of the questions.

22 I just wanted to add some clarity because there
23 were some comments. So we have a DRI application, and
24 we have a DCI application. The DRI application, the
25 Applicant is required to notice everybody in the DRI.

1 So the Applicant notified 4,400 and some people about
2 the application. The DCI is required to notice 500
3 feet -- within 500 feet of this zoning application,
4 those folks that live in that 500 feet are notified of
5 the rezone. So there's a difference on how -- so a lot
6 of the emails that Staff received was about the DRI,
7 and because it's running piggyback with the DCI, they
8 commented on both.

9 As for the Village of Estero -- so Lee County
10 unincorporated has interlocal agreements with certain
11 jurisdictions. So you have to remember that this DRI
12 was all in unincorporated Lee County when it first --
13 at its inception, and over time it's been -- portions
14 of it have been annexed, including like the City of
15 Bonita Springs was annexed, and then further annexation
16 happened with the Village of Estero. So everything
17 that you see in this purple color is Village of Estero,
18 and this is the City of Bonita Springs.

19 So unincorporated Lee County has an interlocal
20 agreement with the City of Bonita Springs. So when
21 this application came in, Staff provided the City of
22 Bonita Springs with the review material, this is what
23 they're asking, this is what's going on. When we
24 issued the publication of the Staff Report, City of
25 Bonita Springs was notified.

1 We do not have an interlocal agreement with
2 Village of Estero. I double checked on the break just
3 to make sure I -- we have it for the roadways and the
4 fire, but we don't have it for zoning cases. However,
5 Staff did notice the Village of Estero on the review
6 material. As we were reviewing, we had phone
7 conversations with the Village of Estero, as well as
8 the City of Bonita Springs, and we also provided the
9 publication of the Staff Reports on both to both
10 jurisdictions. So they have the information. And in
11 the packet from public input, you are going to see the
12 Village of Estero emails that came in as this went
13 along in the process.

14 So I just wanted to clarify that because that's
15 come up on zoning cases. So for a zoning case, it's
16 everything within 500 feet is our limitation.

17 So I did get some calls from El Dorado early on in
18 the process, and it was a gentleman who backs up to the
19 golf course, and he just wanted to know. I sent him
20 the master concept plan, showed him what we were doing;
21 and as a result, we got the Type B modified 10-foot
22 buffer in there to answer some of his questions about
23 compatibility.

24 So I wanted to kind of shed some light on the
25 separation of those two kinds of cases.

1 HEARING EXAMINER COLLINS: Okay, thank you. I
2 appreciate that.

3 Well, if there isn't any further testimony, I will
4 complete this hearing. There's no need to leave the
5 record open for any additional submittals. So I will
6 close the written record, as well. I want to thank
7 everyone for their time --

8 MR. YOVANOVICH: Did you want to do a site visit?

9 HEARING EXAMINER COLLINS: I would like to do a
10 site visit.

11 MR. YOVANOVICH: So we'll get you contact
12 information so you can have --

13 HEARING EXAMINER COLLINS: Yes, please do that
14 and -- because I wasn't really able to access that much
15 when I did my original drive-by.

16 MR. YOVANOVICH: We'll give you free rein.

17 HEARING EXAMINER COLLINS: Okay, thank you very
18 much. I appreciate that.

19 Thank you, everyone, for coming.

20 (Proceedings concluded at 12:02 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 109, is a true and correct record of my stenographic notes.

Dated this 27th day of June, 2025.


Deborah M. Bruns, FPR

(This transcript was electronically signed.)

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