

Meeting Transcript

*\*\*\*Disclaimer: Please do not use this transcript as a direct quote from any of the participants without contacting them. Due to the poor quality of the recording and the size of the room, it was difficult to make out what stakeholders were saying at times. It has been transcribed to the best of our ability, and should not be taken for verbatim. If we have misquoted anyone, it is not intentional. In some cases where we couldn't even make a guess, we have just left a blank line: \_\_\_\_\_. Time stamps for areas in the video have been placed throughout, in parentheses, in case a reviewer would like to try to find certain parts of the recording. The first 30 minutes are very difficult to understand, then the audio improves. – CCA staff.\*\*\**

Meeting began with pledge of allegiance, then there were opening remarks from Commissioner Ruane:

**Kevin Ruane:** Good evening all, I'm Kevin Ruane, County Commissioner for District 1. It's a pleasure to have you all here tonight. I'm hoping tonight will provide an opportunity to have some discussion with various stakeholders who are around the table. Tonight we hope to have clarity and certainty as much as we can do so. It is safe to say obviously, uncertainty brings anxiety, obviously certainty is better and giving input. So let's hope we can try to accomplish that tonight.

We are going to have three meetings, this is the first of three. So just a couple housekeeping situations I want people to understand. First and foremost I'm a County commissioner and this ultimately will be an amendment that will come to the board of county commissioners in September. But ultimately, if it comes before myself and before the commissioners as a zoning matter, charter but we have no...whatsoever unlike Sanibel, where they can probably have ex parte conversations, I cannot. So at some point in time, word of caution, when Timbers actually needs to entertain conversation I may need to exit the room. It's not because of anything anybody says in this room, it's because what I want to do is have an opportunity to participate when that opportunity comes up next year and...Lee County.

I think there's a lot of uncertainty along these amendments, I've talked to many different people, and I think if we can try to come up with some guiding principles, to come up with some type of understanding, where we have clarity, or have certainty (and come to an agreement), and where we may not...fragile island, I've been here for a long time and recognize that there's only so much capacity you can have for potable water whether its sewer, and you know my goal when I was serving for the county and for the city of Sanibel and as mayor was keeping Sanibel and Captiva together and keep it...conversion from septic to sewer, and so I've a political role to make sure that takes place. With that there are a lot of restrictions, and you've got to recognize that to do that \_\_\_\_ indicating how trafficky the island is... Again, that becomes moot point for this \_\_\_\_ and can't necessarily \_\_ for any decisions here whatsoever. Those are still this commissioner's desire and I recognize what a special place this island is, and I always call this an island, I don't call it Sanibel and Captiva - there's no place when you go from one to the other where there's a sign that says "entering Captiva \_\_\_\_" so let's recognize that we're one island and we've got it for one we've got it for all. I don't think anyone on City Council has any difference of opinion, and we know we are happy to have the mayor here from Sanibel and in this capacity obviously help us as partners of the county. I have dealt with \_\_\_\_\_ Sanibel has its own city charter \_\_\_\_\_ an awful lot and we need them to be great partners in an opportunity, where will be some conversion opportunities if we do this properly; I recognize that if we overburden the capacity there may be reservations. So with that in mind I'm going to obviously do introductions around the table real quickly and then come on back and Mr. Rodriguez from County staff will certainly revisit with an overview of the code amendments.

The stakeholder participants introduce themselves, going around the room from right to left as audience views them:

1. Anthony Rodriguez –Manager, County Development
2. Sandy Stilwell –CEO, Stilwell Enterprises & Restaurant Group
3. Ken Saurez – President, Council of South Seas Association Presidents
4. Richard Johnson –Mayor, City of Sanibel
5. Greg Spencer – CEO, Timbers Resort
6. Lisa Riordan – Board of Governors, Captiva Civic Association
7. David Mintz – Vice President, Captiva Community Panel
8. Kevin Ruane – County Commissioner
9. Marc Mora – Assistant County Manager
10. Matt DePaolis – Environmental Policy Director, SCCF
11. Sarah Spector - Attorney, RLR Investments
12. Ashely Suarez – Attorney, RLR Investments
13. Mikki Rozdolski – Interim Director, County Development

**Kevin Ruane:** Thank you all. I'm going to turn it over to Anthony. What we want to do is really try to try to stay to our schedule, this is the first of three meetings so let's understand that don't need to \_\_\_\_\_. Let's try to move this along if we can \_\_\_conversations \_\_\_ Anthony\_\_\_. Thank you.

**Anthony Rodriguez:** Good evening again. Can everyone hear me ok? My name is Anthony Rodriguez again, and thank you all for being here. As I stated before I'm the zoning manager for community development for Lee County, and prior to the stakeholder discussion I wanted to just provide a brief overview of Captiva and South Seas, and more specific the county's land development code that will be the topic of this evening's discussion. I understand that there's probably varied level of familiarity with these regulations but we thought it would be appropriate just to provide a summary for you to orient things, to orient this evening's discussion.

So by way of background these amendments were prepared in response to the direction of board of county commissioners back in January of 2023, specifically the intent was to review imposed amendments to the county's regulations addressing height, setbacks other development limitations that were potentially restricting reconstruction of homes and businesses in a manner that reduces the \_\_\_\_\_ (11:18), including LDC provisions put forth \_\_\_ South Seas Resort. In conjunction with the county attorney's office staff from the department of community development worked together to coordinate those efforts and to \_\_\_\_\_. Just by way of existing regulations, Section 33-1627 of Lee County's Land development code which is specific to Captiva Island provides that building heights in Captiva are limited to the least restrictive of 35 feet above the average grade of a lot in question, 42 feet above mean sea level as measured to the peak of a roof, or 28 feet above the lowest horizontal member at or below the (vault?) of base-flood elevation to the mean level of a roof which means eave average. The proposed amendments propose to take this language and relocate it to Section 34.21.75 land development code and revise the regulations to provide a base of 35 feet as measured either from grade, or from the lowest habitable core elevation for which building permits could be issued if a property is located in a flood zoning area, that would be measured from the highest point from that elevation to the highest point of the roof surface (or\_\_\_\_\_), (12:45) to the deck line of a gambrel roof, or the mean height (ridge gable...) These drawings that are on this slide are the County website, so some of you may be familiar with them, but these drawings essentially depict mock ups of existing regulations which is on the top, and also proposed regulations, on the left side depicts the building height as measured from the lowest point for which a building permit could be issued to the point of the roof, dimensions on the right hand side of this mock up

provide for measurement from grade. With respect for South Seas Island Resort, South Seas is governed by Administrative Interpretation that was adopted by the Department of Community Development as directed by the board of county commissioners back in 2002, and what this administrative interpretation does is it establishes a maximum building height of 35 feet above the surrounding grade of the building at its foundation, or 42 feet above mean sea level, whichever is less. The proposed amendments to the land development code will modify the way that building heights are measured providing a consistent method of measurement throughout unincorporated Lee County. And in this instance we would rely on the underlying zoning district regulations for zoning measures in South Seas which is 35 feet in height. Again, this is governed by administrative interpretation and so the issue here what we have is that there's no recognition of base-flood elevation within this administrative interpretation. Height again would be measured from grade of the lowest point from where a building permit could be issued to the midpoint of the roof, depending on \_\_\_\_.(14:43) And similar to what you saw two slides prior South Seas (14:49\_\_\_for South Seas Island resort) top shows how the height is measured within the administrative interpretation while the drawings again show measurement of the vertical line of the building from its lowest point from which building permit could be issued to the midpoint of the roof and also on the right hand side from the grade to the midpoint. A couple of other proposed amendments, section 33-1611 removes a reference to the administrative interpretation while retaining exemption from Captiva specific development regulations. That is not to say that that administrative interpretation will not remain in effect. It will still be in effect until such time that an application for rezoning is pursued by the current owner of South Seas Island Resort. In addition, section 33-1614 is proposed to be an amendment to the established definition to what South Seas Island Resort is, and a corresponding map to be proposed to be incorporated \_\_\_\_15:53 land development code. And that has the graphic depiction of what South Seas Island Resort would be \_\_\_15:58\_\_\_established. In addition to the changes on the previous slide, section 34-1805 is proposed to be amended by that hotel and motel units (16:13?) within South Seas are not subject to density limitations for hotel/motel units on Captiva Island. And finally as referenced on the previous slide \_\_\_(16:22) would be modified to provide a map that would be cross referenced to section 33-1614 that South Seas definition and graphic depiction of South Seas Island Resort. And this is a picture of that map.

That concludes my presentation. I appreciate your time and your patience, and I'll turn it over back to Commissioner Ruane to facilitate our stakeholders session.

Commissioner Ruane: Thank you, Anthony. Sorry I wasn't aware that I wasn't speaking into the mic. I'm going to give David Mintz an opportunity to talk about policy, the land development code and obviously, his role on Captiva, on the Panel and some of the things that he has already done. And so, David?

**David Mintz:** Thank you to the community for everything they've done the last couple of weeks, because but for the community I don't think we'd be here today. So, the, I'm not just going to go through the Principles.

What I'm going to try to do is put our cards on the table so that we can have a real discussion about where we are. First thing I'm going to say is three things happened that caused this incredible community reaction. The first is that our Captiva Plan and our Captiva Land development code was changed on some of the most important features without any consultation with the Captiva Community Panel or Captiva property owners. And I say that to the staff, to the county attorney's office. I think it was a mistake, I don't think anybody was served by it, and I hope it doesn't happen again. And I hope we can all learn from that and work together going forward so that it doesn't happen again. That's number one.

Number two, this has nothing to do with South Seas. Nothing. Number two is the proposed amendments increase the building heights outside the gates of South Seas from two liveable floors to three liveable floors, habitable floors, above base flood elevation. And that change was made even though no one on Captiva asked

for it and what that change does is creates problems for increasing intensity, you increase the intensity use on Captiva by 50% outside the gate, you go up two floors to three floors, creates problems for our waste water treatment calculations, because it increases the amount of waste water potentially if you increase the intensity of use, creates problems for our fire department, because we don't have any tools now that could fight a fire up on the third floor, and it creates, as Commissioner Ruane said, may create problems for Island Water, and so the changes for the village where we have 50 and 75 foot lots. It's also unfair to homeowners who built since 2012 under our code that allows 28 feet above base flood elevation, it's unfair to the homeowners who built following those rules for all those years. So, our building heights on Captiva, which incorporate base flood elevation with the result of long deliberation in our community, and we're very proud of them and adding another floor on top of that does not increase resiliency. And I guess what I would ask the staff now, now that you understand this, 'cause I don't think there was an understanding that our building heights already incorporated base flood elevations when these proposals were made and I would ask the staff to recommend to the county commissioners or to whomever it is you recommend to, to remove these amendments and as they relate to Captiva Building heights, and keep it the way it is per our existing Captiva community plan and our Captiva code. It's worked since 2012, it's worked well, nobody wants it changed, there's really no reason for it on Captiva.

So that's my 2nd request. The third thing that happened, the, a special exception was made for Seas Seas from Captiva's density regulation of three hotel units per acre and any Captiva building height codes. So there is both an exemption from density for hotel units which was three in the plan and from any building height rules that apply to Captiva. So the truth is, there will be no limit written in the code on the number or size of hotel units in any new planned development that South Seas may propose, and building heights in that proposed planned development could reach 70 feet above base flood elevations in some circumstances. I want to make it clear, I'm not saying that South Seas has asked for this, or that they will ask for this, what I *am* saying is that the code as the changes are made would *allow* them to ask for it because the guardrails of three hotel units per acre, the guardrails for existing building heights, will be completely removed. So increasing density or building heights for one property owner as far as I'm concerned is unfair, it's unfair to the other hotels on Captiva, it's unfair to other resorts on Captiva, and it doesn't make sense. But more importantly, it sets a precedent for future development. For once you do it here, what's to say you can't do it anywhere else? And it would be wrong for the county to say, " ok, South Seas can have these amendments, but nobody else can have these amendments." It doesn't work. The precedent doesn't work. And that would change the character of South Seas and the island, and eventually it would create pressure on the rest of Captiva and even Sanibel to have increased rate of development because we had a precedent set at South Seas.

Now, I just want to make one thing clear. Everyone on Captiva and Sanibel wanted Timbers and South Seas to succeed, but we want them to play by the same rules as everybody else on Captiva. We support amending the administrative interpretation to comply with current Captiva building heights, base flood elevation. The administrative interpretation is different, for whatever reasons from the rest of Captiva which is 28 feet above base flood elevation. And last, we fully support South Seas building back what it had, while incorporating any new based flood elevation, or any other required resiliency rules whether it be wave attenuation or be seaward of the CCCL, whatever is required to build back and meet the current regulations Captiva Community Panel supports. And we believe sitting here today it is the intent of of the county's build back policy and if there is any ambiguity. The Panel fully support every nonconforming structure, every structure on South Seas or anywhere else on Captiva to be built back to what they had and to incorporate whatever new base level elevations and resiliency requirements are necessary. Here's the rub - two floors above base flood elevation - we worked for over a year to pass. Many didn't want it to go up, but we passed it. We convinced the community to do it. The problem is that South Seas doesn't want, as far as I can tell, two floors above base flood elevation many

people have heard you say this, South Seas wants at least three floors, that's more than the rest of Captiva and that's where the problem lies. These are the differences we have to deal with.

We support the building heights on South Seas to be applicable with the rest of Captiva. There is a provision right in the administrative interpretation and right in the Captiva Code that would allow that to happen. And the other thing is that South Seas --Timbers -- has been very very quiet about is density and that's the elephant in the room. Under the administrative interpretation, Timbers has 247 total units: 140 the old employee housing units, 107 harbor side hotel units. The rest of the South Seas are the residents, of the 912 units, and are covered by the administrative interpretation on future development on South Seas. Of those 912 units, Timbers has 247. The question I want to pose to Timbers, since they are here and I am grateful that they are here, is are they willing to live with the 247 units that's been allocated to South Seas, or are they going to ask for greater density that takes them above 912 units on South Seas. I've read that Timber's doesn't want to replace the 107 hotel units at the north end with just 107 units, that they want to replace it with closer to 175 units. That's what I read in the magazine quoting Mr. Spencer. But a question I have is is that 175 units subtracted from the 247 that they're allocated or are they looking for an additional, say 68 units above the 247 that would increase density on South Seas and then the same question arises when you go for the 140 units.

So the question for South Seas and for all of us is to understand what the density that South Seas is looking for. So if we could get an answer to that today that would be helpful and that would help us and inform us as we go forward. Those are the key issues, I don't need to spend any more time, I hope a lot will be said. At some point, I just want to make clear you may hear that the administration interpretation is not part of the Captiva Code and that nothing on South Seas has anything to do with the Captiva Code, but today the administrative interpretation is exempt from the Captiva Code and Lee County land development code our view is that it is just not true. And when we get to that later I can show us exactly why that's not true...That administrative interpretation is governed by the Lee County Land Development Code.

**Kevin Ruane:** Thanks, David. Ken, I'm going to put you on the spot.

**Ken Suarez:** Mr. Ruane, thank you for hosting this meeting. I appreciate the fact that the community has taken the time out to come. As David said we wouldn't be where we are today if it wasn't for the community. These stakeholders inside South Seas and here we are. And we are able to sit in a room and have conversation about what's important to us, what we hold dear near and dear to our hearts on Sanibel and Captiva island.

I would focus a little bit on density. Because density through our process has sort of been kind of under the bridge a little bit and I want to bring it to the forefront. The past owners of the resort has always lived with the fact that there are 912 density units inside the resort. Ok, 912. And it was the foresight of the Mariner Group, the two gentlemen who started Mariner Group that made that happen in the early 70s. They're the ones that went to Lee County and changed the density code to reflect the three units per acre. They wanted a low density, tropical island resort. Ok. So understand where that came from later on it's taken effect on Captiva Island. Now I've been told, over and over again, that this whole situation that has come up is because of resiliency. Ok. And certainly that's important to all of us that have been affected by the hurricane who live here, we all in some way in some way, some capacity have been impacted by Hurricane Ian. And we are all for resiliency. There is not one of the owners inside South Seas that has come to me and said, "You know what? I want things left as is." Not one. Everybody understands there is a need for resilient builds. Ok. So sort in my crazy common sense mind I say, let's focus on resiliency. Let's strip out the confusion. Let's take away the density portion of the resiliency plan and leave it alone. Just leave it as is. I know that South Seas and Timbers and Greg Spencer, resiliency is important to them. I've been told that. In fact, I sat through a one-hour long presentation. they're doing a very nice job of presenting some facts directly to the condo and homeowners associations. They take an hour to explain. Strictly height. Strictly. Not one time yesterday at the meeting was

density discussed. So I'm thinking to myself if it is not discussed, then it is very easy for us to strip that out, leave it as is, get down to the fact that we need to talk about resiliency and how we make our buildings stronger and keep our island the way it is. We received a very important letter from the Island Water Association explaining why this needs to happen. We have heard from SCCF on why this needs to happen for our environment. So, let's talk about resiliency. And let's come up with a plan that makes sense. Let's streamline this process and stop being confused about what we're talking about. We're talking about resiliency and density – increased density – has no business being in resiliency. And that's what's important to our ownership group, to our stakeholders, to this island. Thank you.

**Kevin Ruane:** Sarah, can I put you on the spot?

(33:49)

**Sarah Spector:** Again, I'm Sarah Spector, if you couldn't hear me before, and I am here with Ashley representing RLR and Royal Shell. And one thing we do want to say is that we've been working with the Panel representatives and Royal Shell and RLR is in favor of the principles as they've been presented. As was discussed at the beginning, the true issue is treating everyone the same. From RLR and Royal Shell's perspective because they're developers like South Seas is, so, and a landholder. So we just ask that everybody be treated the same. And to Mr. Mintz's point I would ask that we look at the buildback section specifically because it could be written more clearly. And 'cause it's always been my understanding that buildback means that you can build back what you had before, you just have to go higher. But you can't really read that in the code and I think that's something that we need to discuss so it is clear from this point forward. Thank you very much for the opportunity to participate.

(35:00)

**Kevin Ruane:** Thank you, Sarah. So, you know, basically I think as we continue to go through this process there's two parts to this and as I opened up, you know we have amendments that ultimately will come up with some sort of master plan that will come to us sometime in 2024. So there's two steps, and what I'm hoping to do in the three meetings is try to identify areas where we have some clarity, we can provide some clarity, and obviously some older issues we continue to have at all the meetings. But it has impacts when you're on a barrier island and it has impacts to whether it's your services for fire, your utilities... Island Water. We all need to understand what are the necessary ingredients for our infrastructure to be able to handle what we do. And then on top of whether it's additional density, whether you need different utilities, water, a sewer, you know then we'll also have a traffic issue, which put strains on the roads which will also impact the island, and you know, any barrier island only has so much capacity, and this island obviously has really prided itself on the environment and having a (cash flow) value that it, when I first got in office Sanibel's cash flow value is about 25% less than Fort Myers, there was 7000 people here and there were 90,000 people in Fort Myers. So when you look at what Sanibel does, they like to do obviously more with less not more with more and that's a principle we all seem to understand. So, I just want to go over those issues and then obviously turn over to the people from Timbers. I know they have ... community some point in time, if I feel or my representatives I need to step out I might go out... and if Cecil you're here, you need to be aware if we both have to step out because we cannot have if I didn't make it clear earlier, in our charter it does not allow us to have an ex parte conversation whatsoever, when I governed on Sanibel I would disclose the ex parte conversation, but I've certainly been advised that when.... there is conversation on a zoning matter that if I have ex parte conversation that I could potentially not be able to vote on the matter. So as a point of precaution if this gets too deep in the details I will exit the room. I'll turn it over to you, sir.

(37:37) (This next part where Greg Spencer is talking, refers a lot to slides that can be found at <https://www.southseas.com/community-information/> )

**Greg Spencer:** Thank you, Commissioner. Thank you everyone for the opportunity to talk to you. Commissioner, as I mentioned earlier.... we don't have any zoning submission pending before the county so you could sit right back and don't have to get up. Related to the height, you know I heard several people say, "well, you just have to be treated like everyone else." But South Seas currently today is not treated like everyone else when it gets to height. We're measured at, based at, either the grade or at the 14 feet above sea level. I think that the ...other... is a long list somewhere out there of what exists today in South Seas. And 55% of the residential structures today are three stories or more over parking... That exists today. And you know I did just want to set precedence that the real issue that we came up with is what happened after the hurricane, that, you know I have to be honest with you, we've been, you know Ken says we being... bought it.. but Ken we were having daily meetings with you and the other board presidents after the hurricane hit trying to get materials to the island, trying to get everything back. We spent literally the whole rest of '22 just trying to get cleaned up. We hauled off 110...of debris, for everybody, not just our stuff, everybody. We didn't tell you to call anybody, we handled it. So you know there was no kabuki theater going on here. We were focused on trying to just, you know, we got punched in the nose and were trying to recover. Around the end-of-December/ January timeframe we started looking at getting our hotel back online. We didn't have any intentions of tearing the hotel down. We talked for a second when we first bought it and then we just ran the numbers and said, hey, Blackstone only repaired a handful of the rooms, so you had two different properties... let's at least just bring everything up...didn't have hurricane-rated windows, it didn't have a lot of things...wanted to get a good...experience. We started working with the county, and the county said, "hey by the way, when we went to go pull the building permit you're now in a flood zone." And we're like well why are we now in a coastal A flood zone? Well it happened after the storm hit so we were pretty shocked and stressed. And when we started looking into that, that's when we started realizing looking at the buildback code that what was allowed we had to be assessed for 50%. I know a lot of people have said, "hey you know I've driven by those buildings they don't look that bad." We got literally tens and tens of thousands of gallons of water, there's mold throughout, it's totally shot, so we have to tear the buildings down. I'd rather not fiscally. You know we took about a four hundred million dollar hit. But that's the reality. So this when this first started, and I know more about LiMWA lines, which is lines of moderate wave action, and more CCCL things than frankly I wanted to know about, but we had to deal with it. So I'm not going to bore everybody who had to go through this, I know some people have said they've seen this already, we really did this as ... for owners just to try to figure out how to navigate this, and I'm happy to post this to our website since I see some people trying to take pictures, but it will be posted to our website. But we're just really trying to help the lay person figure out how to ....

Next page please. (41:00)

And again, all we did is we followed the actual language in the code. We didn't make (up stuff) we just started looking at the code and what's it say? And you know one of the big principles that... the Lee County website, and there's a website dedicated to this. It talks about what happens in a significant flood hazard area, that's a HA's.

Next page.

Then we went to the 2002 ADD, again we're writing this for our owners to be able to try to follow us. It's a confusing subject, a thousand percent. Our ADD that you know clearly you see what it is for the island, it points us to the Lee County buildback provision

Next page.

This is the Lee County buildback provision. And some of the issues that we've run into is people stop reading when they get to what they like. But the reality is you have to read the entire code and I believe Ms. Spector mentioned it before it is ...it is not clear. 'Cause in one section, fast forward a couple of pages, you know, a little more, you know, sorry one more.

So it does, it basically, it steers you to, it says that – I'm sorry, go back, sorry, it's hard when you're not driving, go back one more – so right there.

I see the confusion, on B it says, hey, you know for multi-family commercial structures, right, it says that you get the dimensions setback, lot coverage, height...access... recovery, it mentions all that, right? But then you jump over to the next section and it talks about modifications, right, and it says, you know, board will allow—so this is the, the immersive review board, to my knowledge, I have not been informed by, but it basically says that you have to essentially build back to the \_\_\_\_ height limitation, and the \_\_\_\_ height limitation, if you go forward, go forward one more, in 34.21.75 the entire island of Captiva says that in the buildback permission, you have 35 feet over grade, 42 feet over habitat. That's written language. It's not us interpreting it, that's what it says. Now, I know that the County has said "Well, it could be, the situation where possibly, we don't hold you to that." That's not what code says. And when you have lenders, and you have financial partners, and you have insurers, and you've got to build something back, they're looking at that. What's the code say? They check this stuff for compliance. So we started asking the question of the County, you know how do we deal with this? How do we deal with this in certain areas where we might have an 18 ½ foot base flood elevation? Because, what the County does not have any power to do is to rate what the base flood elevation is. That's a federal guideline. The County cannot—I mean I'll let the county speak for themselves—but to my knowledge, the county can't wave a wand and say, "no, no, no you you can build below the flood level." That is not allowed. And by the way in certain zones, when you get forward of the LiMWA line or the coastal control line, you have to actually have to go to the State DEP to get approved for what you're building back.

Next page.

Again, to demystify the units, 55% of the units are three stories over parking...\_\_\_\_\_ (44:27)

Next slide.

You know these are [lot?] \_\_ buildings today. You know again it shows exactly what they are and we can get no more than three units per acre, two, none of these comply with that acre.

Next slide.

So, again, today, there's 47 buildings at 47 feet over mean high tide, today. And they don't conform with either the ADD or the buildback height equation.

Next slide. Next one, please.

Again, 47.8 feet.

Next slide. Next one.

42 feet. So this one actually complies but again, there's a difference between outside the gates and inside the gates. Inside the gates there's no "whichever is least restrictive." Inside it says \_\_\_\_ so it's either 35 feet over grade or 42 feet over high tide, whatever's more restrictive.

Next slide, next one please.

Beach Villas, again this one is 47.6. Both Beach Villas and Bayside Villas are actually four stories. So they're three stories with a loft, so they're actually four habitable floors.

Next slide, fast forward please. Next one.

So the LiMWA line. Ok, I think this surprised us. We weren't aware of the change and shame on us and maybe we should have \_\_\_\_ . It was decided in spring of 2022 that these lines were going to change and it went into effect I believe it was November 15th or 17th \_\_\_\_\_

Next slide.

November 17th. So fifty days after the storm hit this actually went into effect and so I can show you what the lines mean.

Next slide.

We just put some language in there because it's very confusing of what's zone V, what's in coastal zone A so again this is being shared with our owners so they can try to stay on it. This is on the \_\_\_\_'s website.

Next slide. Next one.



So what's the impact on South Seas. You see the purple, that's what's in this coastal zone A, before the storm, that didn't exist, right. You know you can see our entire north pool, all of our 1800 building of our hotel, most of the 1700 building of the hotel, even part of \_\_\_side, luckily it's removable, so we can just take it off to get it out of the line, but all that is within now this LiMWA, so it changes when you're in a LiMWA line of forward of a CCL line, it's not – I know Mr. Mintz mentioned base flood elevation. Base flood elevation is not is not what we can build at, it provides a reference for what you have to be to even be a flood insured building, but depending upon where you're building, the measurement changes. And in the case of a LiMWA line, it goes from the floor that you stand on to the lowest horizontal structure. So that's another two and a half feet that you lose. On top of that, Lee County is governed by the Florida Building Code. Florida Building Code has different calculations for that as well depending upon if you are forward or right on the line. So that can be an issue when people get the [ ], that's not the end of the equation, you can still lose two and a half to three feet, even when you get past that.

Fast forward please. (47:50)

Again we show, you know, Bayside Villas, it super \_\_\_ right. And I understand why some people could say, "that doesn't need to be changed, nothing impact\_\_\_." Well, if you live behind the line that's probably true. But if you live along the bay, or on the beach you know these lines have changed. They've changed since 1984 ten times. The FEMA flood map measurement has changed ten times. And if we think it's not going to change when it was decided in spring of 2022, it's not going to change after the storm, after all the data points, I think people are kidding themselves.

Next page. Keep going forward. We're trying to educate folks on what the CCL line is. Next page.

This just shows where the line is, the \_\_\_ line is development, and it really shows anything forward of that CCL line between the calculation of the significant flood zone and with the wave action and the building codes, you could be sized 18 ½ feet. And this just shows you, it's not just us, it's a lot of the island, of the South Seas that's impacted by this.

Next slide.

This shows all the way \_\_\_ has multiple buildings that are impacted by this, a lot of single family homes are impacted by this.

Next slide.

All down the beach, all the single family homes, beach homes, are impacted by this.

Next slide.

And then finally you get to the \_\_\_\_\_. And so there's an impact for these changes. \_\_\_ would say that there's no impact. And I appreciate Mr. Mintz's acknowledgement that there's an impact because when when we first started on this it was like well, South Seas Island Resort \_\_\_ and he pointed out that what was out there, there's nothing to see here, there's no problem, and there's clearly a problem.

Next slide. Keep going forward please.

Again, we wanted to show – this isn't us, this is off Florida DEP's website what the calculation is to the monument next to one of these buildings. So again, we're not making this up, we're pulling all these links, that why we put all these links to the County sites to the State sites, so people can educate themselves.

Next slide.

Again, we just showed in an interpretation that exists today, what is lost. Again, maybe the county can waive it, maybe that's ok for certain lenders, but I'll tell you what code says, you would lose the yellow-hatched lines part of the building.

Next slide.

Bayside Villas, that's the impact there. Those are the two least impacted areas.

Next slide.

If you get out to Land's End. Land's End is all the way out, all the way seaward of the blue line, it's a significant impact. The blue line is where your permitted habitable floor is. And the red line is what the height is calculated today. So again, there's going to be an impact.

Next slide.

And there you have the Beach Villas, and they have a loft. They are beachfront, \_\_\_ some of the Beach Villas are behind the line, some are in front of it, so that's not representative of everybody at Beach Villas, it's some of them.

Fast forward.

On to resiliency, I've heard references that we're hiding behind resiliency, this isn't really about resiliency. The irony is we actually funded the resiliency plan for the entire island of Captiva. It was done twelve days before the storm hit. It actually predicted with almost a hundred percent accuracy what was going to happen from a flood perspective, particularly down at Blind Pass. And why would we do that? When we were doing our due diligence and we came here and we saw – and there was a tropical storm \_\_\_ - and we saw the flooding on Andy Rosse and we were concerned about that. We saw some of the water penetrating the Red Fish Pass from Land's End. You know there were lakes out there before, but some of them were only 18 inches deep, they really weren't functional. So you know I started talking to some folks about this to try to figure out what needed to do internally to deal with stormwater, and then they basically said, well you can't get any grants but you know the island hasn't done their \_\_\_ study, So we funded that. And now everybody, you know, CEPD, SCCF, other people are eligible for State resiliency grants because of the \_\_\_ study done by us. So I think \_\_\_ it was done before the storm. You know the golf course we're building right now we're building back resilient? We're adding additional drainage where we can handle up to five inches an hour for \_\_\_ at least four hours to try to handle some of the flooding that was happening up in \_\_\_ property. And we paid for that out of our own dollars. No grants, there's no nothing we can get for it. But as we're building the golf course back we wanted to try to fix some of the stormwater issues that exist out there.

Next slide.

So, you know, everybody says oh, you don't need height to be resilient. I disagree. A hundred percent. If you look at some of the associations out there, forty percent of their damage came from mold because they didn't have HVAC systems, because they didn't have power. They didn't get wind damage, windows didn't blow in. They didn't get water damage. There was a lot of \_\_\_ where water drained out but there's units out there that were impacted by mold. And I just think that there's got to be a smarter way. We developed out in Kauai (Hawaii), Hurricane Iniki category 5, hit the island, and destroyed seventy percent of the structures on the island and this is what Hawaiian \_\_\_ is for you to put your mechanicals to try to put some renewable energy – sixty five percent of the island is renewable – try to put that in the parapets to try to get it out of the wind load. Because we had, I'll let the associations speak for themselves – there's quite a bit of impact damage from trees falling, and from the surge, where the compressors for the HVAC systems were taken out.

Next slide. Next one.

So, why do you need the whole extra height? We lost 140 vehicles. We had them parked on the highest point on the property. And I know some people are saying well, \_\_\_, you should have gotten them off the island. We were trying to evacuate \_\_\_. The whole point about evacuation – we had zero, zero people on our property during the storm. We evacuated everybody off, and you know we got everybody off, but in doing so we don't have time to caravan 140 vehicles. So we did have this impact. If you went across the island, both Sanibel and Captiva, how many trailers full of cars did you see get hauled off because people couldn't get their vehicles out of there. So why wouldn't we try to get things – you can't handle 16 feet over grade but why couldn't you try to get things a couple of feet higher than what a possible storm surge would be or even just a possible flooding rain would be. So you know we would love to have the opportunity to add a couple of feet...it doesn't change the language the county has for the permissible inhabitable floor, you don't get the extra height it just evens out whatever you have, 35 feet, 45 feet, if you want to raise vehicles up out of the water.

Next slide. Next slide please. Keep going.

So again I did another \_\_\_ illustration. Just this shows what happens if you have static height and what happens when the DFE, the design flood elevation, we're using that term because that can be \_\_\_ etcetera, you know what happens from that \_\_\_ and we show the frequency of how quickly things change. And you've already

seen the next slide which just shows what happens when it gets\_\_\_ obviously when it's extreme you don't have screening and things like that and tuck parking up underneath the building. You could have both where you get vehicles out of the flood.

But that's what we're here to talk about. We're here to support Lee County. Again, this wasn't – we weren't sitting there rolling our hands after the storm saying well how can we take advantage of this, on the contrary, we were trying to clean up the resort. We really started going down this rabbit hole when we started looking at what we build back on the hotel. Frankly, before this we were focused primarily on getting amenities and getting those things up, and we have a lot of amenities planned. But to be honest with you, you know everybody keeps saying, well what is your plan? I don't know what my plan is. Because I don't know my height restrictions. Because I can tell you, if you don't have any allowances, if you're 35 feet over grade, then guess what? You're not building seaward of the coastal control back, you're building behind that, I can frankly \_\_\_\_\_. Another item that you have is when you have a restricted height you start getting flat roofs, right because people \_\_\_\_ put mechanicals up there. Our conference center is uninsurable. You know most of the mechanical systems got blown off of it because it doesn't have any wind load protection. At the end of the day we have to be able to build back stuff that's insurable, that is market, that is what is responsible in our climates and that's the challenge.\_\_\_\_\_ My specific reference to that in the energy was that there's no such thing as a 107 feet hotel, I mean if there was one out there you could Google in the last twenty years, 107 feet new hotel is opened. And they don't exist. It's just not an accurate number, so what we're trying to say is that you have to be able to build what's market and you know I think the other thing that I'll make a commitment to, because I'm not here to talk about zoning, is that the reality is we haven't asked for anything yet. We asked questions of the County. The County I believe - and I'll let them speak for themselves– they had some conflicts, ambiguity of the code, we are treated differently, and it's not just us it's all development, we are treated differently than the rest of Captiva Island. And I think that there is changes that need to be made. I will tell you that before, before we submit anything to the county, we will have a public meeting with all the owners at South Seas and we will put our cards up on the table of what we're going to ask them. But I'm not prepared to do that right now because we haven't done any \_\_\_analysis on just trying to figure out what the lines mean, what we build. The other thing I'll just say is that, you know, we're committed to building responsibly and trying to build the right things. I encourage anybody to go out and look at our website and find something that you go oh, that's out of place. You know of course naturally in Vail you know you have \_\_\_stores and you're in a valley but that's a regular five story building. You know you have a most of our properties is really three stories, two to three stories.\_\_\_\_\_ we've developed on barrier islands, we developed on Kiawah Island South Carolina, you know and you know that was a susceptible development and we did it in a responsible way. So I just would you know say that when it comes time to have a substantive conversation on plumbing, when we've done an analysis, traffic, water, sewer, economic impact which hasn't been discussed, all those things, we'll lay it out, lay cards up on the table before it goes to the county. I committed that to Commissioner Ruane, county commissioners, and we'll have that briefing out at South Seas, but we'll need to get some type of direction on height before we can do that. The last thing I'll leave you with is, you know, the earliest we could possibly get a hotel back online legally is sometime in 2026. And so, I hear, oh, just push this off a little bit more, you know, we believe, and we've been told by the county, that the ADD is not something that can be changed. We have to go through a PD to convert, right? Frankly we would like to have clarity. The land development code provides clarity on what you can do. The problem is we have a bunch of things that are outside of the land development code in this ADD and I think, at some point in time, it should be converted just so you understand what the rules are. So that's what we wanted to at least discuss and I appreciate everybody for listening and I'm not \_\_\_enough to think that everybody is going to agree, support whatever that I say but I did want to try to just set through what we believe the impact is not just ourselves but everybody who is inside the gates of South Seas and what we need clarity on so we can figure out what our next steps are to build back. As it is right now we haven't torn the hotel down, you know we are trying to \_\_\_\_\_ permitting process right now, there's other things we are frankly more focused on right now, pools, golf courses, we built a three million dollar \_\_\_\_ at Red Fish Pass that we \_\_\_\_ it

wasn't \_\_\_before but we did it anyway just to try to not have this happen again \_\_\_\_ And I think that's something that hopefully at some point in time –I know we can band aid it, but why have the catastrophic damage we had \_\_\_ and I think that is part of the challenge that we have to try to address is that it's just get to an insurance point, you know we can all get fifty million dollars of insurance for the entire \_\_\_\_ that's what our total insurance is, because basically Blackstone got hit with two other events and they didn't make any changes to the structures and that's a problem. So I appreciate you all for your time, thank you for being respectful and letting me get through it, and I'll turn it back over to you.

(1:01:39)

**Kevin Ruane:** Well, thank you. Obviously there's questions and obviously what we're trying to do tonight is to try to provide whatever clarity we can. I've listened to a few people that are attorneys indicate that our [BDD ] certainly is ambiguous to say the least and is complex throughout. So I don't think anyone is against resiliency. I don't think anyone is trying to avoid \_\_\_\_\_. Obviously as you talked about before, Greg, you have capacity issues and you're going to have capacity issues that are going to correlate back to fire, to correlate back to utilities, you're going to have sewer, water, I mean, again everyone is going to have to plan no different than you for our island water to try to do what's necessary. So I think resiliency is one aspect and density is another. And they're separate.

**David Mintz:** Can I just say something about Greg's presentation? I think it was really helpful, but it is really a red herring. Because, what he is showing on the issues related to buildback, and I think that it's very good for the county to see it because there are issues such as the CCCL, structures seaward of the CCL, there's issues of wave attenuation, there's issues of base flood elevation, and no one here doesn't support building back to incorporate all the resiliency measures that every, every jurisdiction requires. And our understanding of the Lee County buildback provisions, which are very comprehensive, and well-thought out, may be needing a little bit of updating since we had a couple of hurricanes since then. And that's reasonable. And all these drawings you saw about what's necessary to make sure you can build back what you have should be incorporated in the build back provisions and that's important, but that is very different, very different, than eliminating the density limitations of three hotel units per acre on South Seas because that has nothing to do with buildback, it has nothing to do with resiliency, and that's what caused this uproar from the community, is because what the amendments do is eliminate the density limitations for South Seas different than anybody else on Captiva. And it also eliminates the height restrictions, not for buildback, but for a new building that has nothing to do with hurricanes. And they want heights that's different than anybody else building on Captiva. That has nothing to do with hurricanes. And that's the problem. We support everything the county can do to make buildback provisions clearer, and resilient, and allow people to get exactly what they have, and still be able to meet the new requirements for resiliency. But we're not in favor of creating a blank check on density for hotel units on South Seas, or anywhere else on Captiva. We're not in favor of having 70 foot buildings above base flood elevation for new construction that has nothing to do with buildback. And that's what the amendments do, and that's the problem.

(applause)

**Kevin Ruane:** Obviously we are having a meeting and we can't have—I appreciate what you're doing but we're trying to have a productive conversation about this. This isn't the way we're supposed to have a conversation. I appreciate everyone's emotion here but let's just try to stay focused on what we're trying to have a conversation about. One is resiliency and height and two is density. They are two separate issues. You know, the person that actually put this amendment together worked with the county and was really someone who headed up the task force for resiliency and building back resiliently. I want to see everything we can do for

resiliency. And I also want to make sure that we are looking to the \_\_\_\_ not looking at something for some – realize that this storm has some issues. I don't think there is anyone in this room that's going to question resiliency when you are trying to have \_\_\_\_\_. And I think that's something that there is a lot of ambiguity inside the amendment. So, you're now asking five commissioners to pass something that contradicts each other and I have a couple of attorneys just on this panel that would say there's contradiction in the actual amendments themselves. So when I have people that specialize in land development code, and that's what Sarah's firm does, and they're obviously concerned. As a commissioner I'm listening, as a zoning commissioner and how this firm \_\_\_\_\_ before me, I believe they are the experts, I have to at least listen to their concerns to make sure we address those. So there's resiliency, there's height, and then there's density. They're two separate issues. And I don't believe we are going to get to density tonight and that's not really my objective. We have three meetings. But there needs to be clarity in amendments and I think there's enough ambiguity that right now as commissioner, when I don't like something, it's no. It's that simple. And that's basically, I have my own anxiety, so I've listened to several attorneys say their interpretation. Which, like anything else, when you have two attorneys you might have two different results but we can't have that amount of ambiguity in \_\_\_\_\_ at all.

**Ken Suarez:** Kevin, so as I spoke earlier about density, there is no ambiguity on density. I just want to make sure that everybody understands that. So there is on this height and buildback, there's not on density. I just want to make sure that is, that is said.

**Kevin Ruane:** It's two separate issues. I mean certainly we have height and we have density. Two separate issues. Everybody is going to have an issue with insurance, we're all getting renewals, we'll certainly go through that travesty. So you want to make sure your property is as insurable as possible. And you want to show your insurance company that you've done everything to mitigate the risk. I understand that point and certainly want to make sure we continue down the path. But it's a conversation that we need to have and I don't know that I've heard anything about density tonight that gives us any clarity. But I'd like to try to get to a point with height where we have an understanding of where we need to be because, again, there's an interpretation that one could get to that would require 75 feet, and that just seems to be too high. Again, I was just at a hearing two weeks ago where height was limited in a rural area. I can't imagine the same height or greater height in a coastal area.

**Lisa Riordan:** Commissioner Ruane, if I could just add my thoughts to this. First of all, some folks have asked why is the CCA involved in this and I just want to give folks a little bit of background. CCA has been in existence on Captiva since 1936. We have a standing Land Use Committee and we have a standing Land Use policy. And part of that policy says that we would preserve Captiva's environment and maintain the strict limits on density and heights as currently stated in the Lee County Plan and oppose any exceptions. So that gives the basis for CCA being involved, we've been involved for decades, and old lawsuits and disagreements going back on South Seas and areas outside South Seas. But to your point, Commissioner, where do we want to get to? The Captiva Community Panel in the last week or so has put together, as David mentioned earlier, a series of principles that they felt the community could work around in order to get to where we need to get to here. And we had the CCA, our Board of Governors reviewed them and wholeheartedly and unanimously endorsed them. And I'm not going to read them verbatim, but just to give you the highlights of it so people understand where we as the stakeholders here are coming from. It says we opposed any increase in the three units per acre, gross acre, oppose special exemptions, support the elimination of any ambiguity in the county's buildback policy, and we request that the county correct the outdated height limitations in section 34 of the land development code, and make sure you include what is stated in chapter 33 on base flood elevations, that of course in an area where you have additions to the base flood elevations, as Mr. Spencer mentioned, that would add to that and increase that element as well. And we support efforts in order to make sure that Captiva is more resilient and that that resiliency be built into all this that we're discussing here tonight. And I think if we

focus on those principles, we can begin to develop language that gets us there. And I think that's what the commissioner is talking about. How do we get there, and what is it that we include? So (1:11:26) (at the end of the day)\_\_\_ we look forward to working with whomever we need to sit down with to make sure that is what is accomplished here. We do not favor one landowner of course having exceptions that other landowners don't have. We believe it should be the same for everyone, whether you're inside the gates or outside the gates. And the ADD should be modified in order to make sure that everyone is treated the same way.

(1:12:05)

**Richard Johnson:** Thank you commissioner for coming out here tonight. I think it's a great leadership step for you to have taken this and get this conversation out in the open. I think one of the things that ignited this public response was the fact that we didn't have clear, transparent communications up to this point. And I think that's exactly what ignited this fire that's burning, and tearing our communities apart. I think when we talk about resiliency I don't think there's anyone in this room, I don't think there is anyone from the island of Sanibel or the beaches of Fort Myers that would disagree that we all need to be taking steps towards being more resilient. We talk about it on Sanibel endlessly, we're taking steps to do exactly that. We look to our island of Captiva as our sister island the same way. I think the other thing that's really important is the community of Sanibel has been here before. Not quite fifty years ago when there were some changes that were proposed for a rapid development, an intense development, on the island of Sanibel. The community at that time rose up and said wait, stop, this is not what we want, this is not what we want for our community. Commissioner, your opening remarks, you mentioned some of those things, you stood as a champion for those very ideals. Since, I think what was it, a week or two after you got here? Two weeks? I showed up I think at about three weeks, but I applaud the efforts that you took then and I applaud the efforts that you're making today. And I think there is plenty of opportunity for conversation about resiliency. But when you shift gears and you move from resiliency, and you move into density, Commissioner, I would agree with you. Those are two different problems. Two totally different subjects that we need to take a look at, but not in congruence with each other. The building height, I think there's some conversation there because if you're going to be resilient and you're going to build back, you're going to have to look at your building heights. I'm not saying what you have to do there, I wouldn't do that. But I will say that the City of Sanibel held a special meeting with regard to these LDC changes once we've learned of these and we invited everyone in the community, we invited the County of Lee to join us that night, we invited all of our Captivians to be there, including Greg and his team from Timbers to be there and talk about what these LDC changes really mean and what it could potentially do to our community. And I've heard this several times tonight from different speakers, that – and there was a time on Sanibel when we didn't concern ourselves with what happens outside of the city limits, and you and I both know that that was a mistake, and I'm not going to be here as one of five leaders of the City of Sanibel to make that same mistake again. What goes on around us absolutely impacts us on Sanibel. So at that meeting, I want to go on the record and tell everyone, at that meeting there was a clear, clear, crystal clear position from everyone at that meeting, and as far as I know everyone who attended that meeting via Zoom or whatever electronic means were available to them that the LDC changes that are being proposed as is are an absolute no-go with the City of Sanibel. That it absolutely cannot go forward. I think the Board of County Commissioners, respectfully I request that you vote no on that topic. And then let's get back and take a look at that and find out where yes is and at what point is yes there. And there's been a lot of discussion tonight on what's needed, there's been a lot of discussion tonight on what's appropriate, what's there in the past and what's worked well for us, and I think there's an opportunity to do exactly that. We all need to be thinking more resilient. We live, folks, we live on barrier islands. We need to think about that and we need to think about resiliency first. But resiliency does not include increased density. Thank you.

(1:17:00)

**Kevin Ruane:** Thanks, Richard. So I really want to keep the two separate if we can and I think what we need to do is do as good a job as we can to identify what height is needed, and I don't think anyone's here to have this conversation who doesn't want to protect ourselves, to insure ourselves, and height's a whole different conversation. And I think that \_\_\_ staff could certainly \_\_\_ and hopefully we can tighten that up. I think they are two separate elements, and I'd like to see everything we could possibly do. As someone who received the twenty pages of amendments, and the changes, there's paragraphs as Sarah had indicated that contradict each other. So \_\_\_ language I'm going to vote no, it's that simple. Unless you provide clarity, I can't have certainty, and with uncertainty, gives me anxiety, gives my community anxiety. We received over 5000 emails on this topic alone. So again, I think none of us wanted to do it this way \_\_\_ and unfortunately this got in front of us. So we are where we are and so I'd like to try to move and separate the two items between height and density. And if anything we can do to bring clarity by the third meeting, that identify height and work with staff. I'd like to try to achieve that.

**David Mintz:** Commissioner, I think that this is maybe easier than it seems. I think that we all can agree to the principles and ask staff \_\_\_ to recognize that building heights are going to be different in different parts of Lee County. They're going to be different based on base flood elevation, where you are in CCL, where you are in terms of wave attenuation, and wind, etcetera, etcetera. And I think we want the heights to be what they are above that resiliency. So on Captiva whatever you need for resiliency. And if Greg you're right and it's 18.6 feet then I would say take your 18.6 feet, and under the Captiva code you can do two full floors above 18.6 feet and you would be consistent with the Captiva code and we would work with you, we would work closely with you and make sure your ADD, your administrative interpretation is amended to incorporate the new building heights on Captiva. And if your base flood elevation or resiliency is a hundred feet, not 18 but turned out to be a hundred feet, we would support you at 28 feet above a hundred feet, so you still had two full liveable floors. So in answer to your question of height, we figure out what the resiliency measures are in the different parts of Lee County, and then we start at that point and we go from there. And that seems to be pretty easy. \_\_\_ the heights for new buildings, which have nothing to do with resiliency, and nothing to do with buildback don't belong in this particular, piece of ordinance. And density I agree with you is a completely different issue and doesn't belong in an ordinance about resiliency. And if we could eliminate those things and work on height and resiliency, I think we can all agree, I really do.

(1:20:43)

**Kevin Ruane:** I mean the other other thing I think that [Greg?] said that I agree with is that we have to be prepared that after Ian FEMA is going to come in and potentially change our maps and potentially give us more height that is required. And I don't want to see anyone have development where all of a sudden they move \_\_\_ and we have to move five feet more. So we have to have provisions that also codify when changes come in as a result of Ian and whenever that comes out, whether it's two or three years from now, we need to make sure that obviously the businesses the people that are the people that are making the investments have an opportunity to incorporate those and not be penalized as a result. So I think if we can work towards height, I think that's one factor. And I obviously don't want to try to achieve density requirements. We're not there and we're already at an hour and twenty some odd minutes. So if we could just have an understanding among the stakeholders that if we could separate the two, height being one and density being another – we're not going to address density tonight – it's not \_\_\_ we don't have a plan and density is something we will forego into the next meeting \_\_\_ come before September. But I think we can certainly \_\_\_ point of view we need to do some tightening of that. First I don't think anyone in this room doesn't want to have a product that's not insurable, I don't think anyone in this doesn't want to get the greatest protection when it comes to height and resiliency so if we can all agree as stakeholders that we all agree to the principle of height and resiliency, we want to have the greatest protection possible.

(1:22:27)

**Greg Spencer:** I think again this is getting a little twisted. The real issue is where do you start measuring whatever the height is. I don't understand why we keep trying to box it into the 28 or whatever, I just showed you that there's 47-48 feet tall buildings. The issue is the code doesn't calculate – it's where you start measuring - whatever the height is, whether it's 28 feet – and by the way, I've never asked for 75 feet, I said publicly that we would like 45 feet and three habitable floors, but if it's not 45 feet you know it's up to the county. Three habitable floors are in 55% of the units out there today. You know so I don't understand the nonconformance, that's what exists today. But I think the real issue that is getting lost is where do you start measuring from. And there's inconsistencies throughout the county. And I think I agree with you, Commissioner, that I don't think you need to say for the next years, you need to just say for the lowest, minimum, permitable habitable floor is and it calculates. If the Florida building code says well you need an extra two feet \_\_\_it's the lowest permitable\_\_\_ because the bottom line is that is where you start measuring from. Now whether you want to have vehicles up two or three feet below that, and you want to eat into some of the height, you can, but you don't extra height because it's measured at the lowest permitable habitable floor. And I think that's the biggest thing that is being lost. If that really needs to be – and that's what I believe the county staff is trying to do \_\_\_that's what the county staff is trying to do is say where you start measuring, wherever it is, in whatever part of the county and I think that's the point that might be getting lost here.

**Anthony Rodriguez:** So, if I could, those amendments that are before us this evening, one of the main goals is to establish exactly that. Where we start to measure the building height and it's tied to your lowest inhabitable floor, floor where the building permit is issued. So in a non-flood prone area, that starts twelve inches above grade, which is already a code provision we have on the \_\_\_\_. If you are seaward of the CCCL and your elevation is set by \_\_\_ we would start the measurement from there. So that I think we are all in agreement on. That particular "where do you start" is \_\_\_ and based on what I'm hearing I think we all agree that that's appropriate. The question really is in where you finish.

Kevin Ruane: And you know, I think I've said it tonight, I haven't talked about 42, 45, or 48– I've never boxed in. But what I want to try to do is establish that height is something that we need to achieve, to make sure we're insurable and that we're resilient. So I wouldn't put a limitation – and I'm not saying the sky's, you know, obviously. But we have to have an understanding. I think Anthony summarized what I think we all agree upon and let's see what we can do to tighten that language up so there's not an ambiguity because I have attorneys to my right indicate there's ambiguity. And they're before a couple of times a month in zoning matters so I have to at least trust their expertise.

**Greg Spencer:** (did not use mic, cannot make out) (1:25:55)

**Kevin Ruane:** I think for our next meeting that certainly can be achieved. I don't if in twenty minutes we're going to be able to pen that and I've never been one to do that on the fly, so that's go back and do that. I mean I think we can all agree upon that and Anthony did a good job in summarizing it. So I think we can have that as a revision to restart the conversation because nobody doesn't want to see an insurable or a noninsurable issue. No one wants to \_\_\_\_\_. (1:26:50) We can separate. It's going to be a different conversation. And my concern in general is when you start looking into those conversations you have the chief of fire, obviously you have utilities, you have Island Water, you have certainly infrastructure issues that are going to be affected. And we are all going to have to make adjustments to that but in the moment I think everybody in this round table can indicate that we want to have something that's insurable, something that obviously is resilient, and something that gives a fair representation and fair \_\_\_\_\_. (1:27:29)



**Sandy Stilwell:** I just have a comment. It would be great if you could come up with this language sooner rather than later and have everybody come up with a draft of what we're proposing \_\_\_\_\_ have everybody look at and make sure that it is something that is reasonable to do. And then that would be off the table, hopefully by that September meeting, that that's already been taken care of. Hopefully \_\_\_\_\_ anything and with that off the table people can go forward \_\_\_\_\_ and understand what they can build again. Do you think that's reasonable to do within like a month? \_\_\_\_\_ (1:28:05)

**Kevin Ruane:** I'd like to challenge staff to see if we could have this amendment and/or revisions by the next meeting wedown on Sanibel.

**Greg Spencer:** (did not use mic, hard to make out) (1:28:15)

**Anthony Rodriguez:** (1:28:32) I think that the commissioners, when they considered these amendments, and I don't want to put anybody right on the spot, but I think when they consider these amendments they have the ability to make amendments based upon a staff recommendation \_\_\_\_\_ a recommendation for a particular change based upon the feedback \_\_\_\_\_. (1:28:55)

**Kevin Ruane:** Just to clarify since you bring an interesting point. All the subcommittees are advisory boards to us, we are the policy makers, and honestly when I have 5,000 emails there's a lack of certainty, and there's a lack of clarity that we owe to our residents here. So that's what we're going to achieve. And again we can have a goal, it may be far-reaching, say let's have it for the August meeting, but we certainly need to have it clarified by the thrid meeting at the latest and I'd like to see us there for the second meeting so we at least can come up with an understanding of height, resiliency, where we measure from, where we go to. I think that's achievable.

**David Mintz:** I have a question for you, Anthony. It seems to me this discussion we keep having really talks about amending and clarifying section \_\_\_\_\_, which is the build back policy of Lee County, and that's where there's a lot of ambiguity in terms of height. Because in that build back policy \_\_\_\_\_ build back with the same intensity, square footage, and in one place it says height and in another place doesn't mention height. So I think it's in that section, \_\_\_\_\_, which is a very well-done section, but it's got to be clarified. That's the build back policy, that's, Comissioner Ruane, what you're asking staff to look at. But I just want everybody understanding that there's nothing in the proposed amendments that have to do with that section. That section is something the Captiva Community Panel has been saying, endorse, to clarify, make sure you can build back exactly what you had, incorporating all the things that Greg Spencer has talked about in terms of resiliency. And so I would ask the staff to take a look at that provision and not the other provisions.

**Anthony Rodriguez:** So there's actually a substantially similar if not identical provision in \_\_\_\_\_ land development codes. Section 34-32.4 b2b, I see it when I close my eyes at night, and it basically says, and I think it probably \_\_\_\_\_ clarify point, that we can build back a nonconforming building to its documented height, density, and intensity provided that you comply with current building code regulations.

**David Mintz:** And that actually exists in our in our Captiva Code, too, in that section. And that's why I think there's a lot of confusion here. Because people are getting scared that they can't build back, but the policy that the county already has in place, and you're dreaming about at night, allows you to build back what you had, but it will be higher because it's incorporating the new regulations. And I think when you say we need clarity on that, we can do it. And I think we all agree. But again I want to emphasize that's different than what's being proposed now in terms of new construction that has nothing to do with build back.

**Anthony Rodriguez:** I do want to add one comment, there's a little bit of a hamstring in the administrative interpretation for South Seas. That's where the ambiguity I think lies and we'll take a look at that between now and hopefully our next meeting. Per Commissioner Ruane's challenge to try to bring some clarity to that.

**David Mintz:** Anthony, my understanding if you take a look a look at this, is that under the administrative interpretation, the 35 feet above grade and 42 above sea level in the administrative interpretation is different from build back. If you're building back it's Lee County's build back provisions under the Lee County land development code that applies. Even under the administrative interpretation. And that's an important act, and it says it right in there and it couldn't be any clearer, it's in there so you know this, it's in section E on page 13. The height standards on South Seas are applicable to all new structures except those being replaced under the existing Lee County build back provisions of the land development code. And so the administrative interpretation does not prevent South Seas and the associations on South Seas from building back what they had. The extent of this ambiguity and \_\_\_\_ build back provisions and the provision that Anthony \_\_\_\_ (1:33:38)

**Greg Spencer:** Hand me the mic, please. That is simply not true. It's not true and I (hate?) the examples. It points out to it specifically references that, to section 34-2175 it does, it specifically references that fact and it doesn't any allowance for what the flood elevation issue are. And we've had our attorneys look at it, and again that's what the language says. If there's a different interpretation then, you know, if there's a different interpretation but the language says and when you go further if references back to that we go straight through the build back provisions (13 ½ 57). I agree, it doesn't say, hey 13 ½ 57, you have to go to a different section. It directs you to 34. And the height, the special height district, that's the language in the 13 ½ 57. It references that special height district language under 34-2175 A2 it says 35 feet over grade 42 feet over high tide. But I'd love to get the county—the county can put it up right now—I'd love to hear it. That's what the language says. The written language.

(1:34:48)

**Anthony Rodriguez:** Ok. I hear the different perspectives. We'll take a look at it, we'll bring it back to the committee and try to get it resolved.

**David Mintz:** I think we don't take action here. We want to resolve this. I think everybody agrees the build back provision should allow full build back with the incorporation. What Greg is talking about is there's a provision in the build back provisions of the Lee County Code that creates an emergency review board that allows you to expedite the building back in terms of parking and various other forms of permitting. And they set out the criteria for emergency review board can do it says you can do all these things on an expedited basis, but you can't ignore restrictions from the particular community. So you can do it quickly but don't ignore the height restrictions allowed – heights greater than you're entitled to in that particular community. And the provision that Greg is referring to is a provision in the code which was mistakenly not propagated by the County when we updated our building heights on Captiva to go 28 feet above base flood elevation. And yes he's right. It says 35 feet and 42 feet. But everybody knows – except maybe South Seas – everybody knows that's just a mistake, it's an error because we didn't update for section 33 when we did 28 feet above base flood elevation. So that should be updated and it should also and it should also include the build back nonconforming provision of our Captiva Code. So that there's no mistake about it and he doesn't have to dream about it any more, the build back provisions will incorporate all building that is necessary to incorporate those regulations.

(1:36:54)

**Greg Spencer:** Well, I have a point blank question for you. For that ADD it says 35 feet over grade 42 feet over high tide. Do you support 35 feet over whatever the design flood elevation is? And why not?

**David Mintz:** I support for South Seas exactly what everybody else in Captiva has. Which is 28 feet above base flood elevation, which is two full floors, or if base flood elevation has to be made higher, because of some sort of CCL requirement, or under your flood requirement, I would support 28 feet above that and the reason I support that is because the community on Captiva spent more than a year debating this issue, deciding what should be right for Captiva, what protects Captiva but gives people two full liveable beautiful floors. And that was a decision that was made by this community and it applied to everyone.

**Greg Spencer:** (interrupting, not mic'ed) Except for South Seas.

**David Mintz:** Well, you're wrong about that and this is what's important to understand. The administrative interpretation – what's being amended, what's being amended in the proposed amendments by the county is a section that says South Seas is governed by the administrative interpretation, which we know, because we all heard it, has the same density as the rest of Captiva, three units per acre, or two units in any other unit, we also know that the building heights on the South Seas administrative interpretation are more restrictive because they're older than the 28 feet above base flood elevation, right, we know that. But, so with the administrative, what the Captiva Code says is that the administrative interpretation applies to South Seas, ok, it applies to South Seas, and South Seas is exempt from the Captiva Code so long as it complies with the administrative interpretation. So long as it complies with the three units per acre, and so long as it complies with the 35 and 42 feet. If South Seas chooses to change its administrative interpretation, no longer complies with that document, it is then governed by the Captiva Code. And that would be 28 feet above base flood elevation and also still three units per acre. People have to understand that, for example, South Seas is governed by other parts of the land development code. Our Captiva Code on lighting applies to South Seas. Our Captiva Code on beach chairs applies to South Seas. The only thing that doesn't apply to South Seas is development rules and those development rules are specific to the administrative interpretation, and if those development rules are changed then it reverts back to the Captiva Code. And that's what's important. There was no "you're totally separate from Captiva Code" South Seas, that's just not true. It's only true if you lived under the administrative interpretation we've been discussing. And if you look under the administrative interpretation \_\_\_ the exact words that, it says the things are not specifically included in the administrative interpretation are governed by the remainder of the Lee County land development code. So they're totally integrated. And, you know, I hear what you're saying but if somebody told you that the administrative interpretation completely exempts South Seas from anything in the land development code from the Captiva Code that's just in how we read it. That's something that the lawyers, and something you can work on, Commissioner.

(1:41:21)

**Kevin Ruane:** I've had the conversation with Marc Mora, had the conversation with Anthony and think we can certainly let's take a look at this, let's do some revisions, let's see if we can get that, that development meeting, because frankly I think we've identified where there's some misinterpretation, I think there's opportunities for clarity. I think we can certainly come back and have that conversation because I think it's things left out and we all agree that we can do a \_\_\_\_\_ job on making sure we measure properly, make sure we identify where we're supposed to go with the objective of insurability and resilience. So I don't think anyone goes away from those principles, that we want to achieve those. Let's try to do this. I think you know tonight was helpful in regard to having the discussion, \_\_\_ the I wanted to do is to see if we could address the height issue and density was not an issue we were even going to try to have a conversation about tonight. So if we could do that, Anthony,

you have some some clarity, South Seas have some clarity, I would an opportunity to see some things that obviously need clarity. And bring back some revisions so I want to make sure that this community achieves what we want to. Because the other issue is going to be a much more complicated issue and density will have constraints on our infrastructure in so many different ways. And so again, maybe it's a big issue, maybe it's not, I don't know. But I think there's an understanding here where we all want to have insurability and resiliency and we want to try to give the best opportunity to make sure we adhere to protection, not only today but if the FEMA maps change the national \_\_\_\_ which probably a high probability they will, that we cover that.

(1:43:14)

**David Mintz:** Commissioner, I really want to thank you on behalf of the Captiva Community Panel for making this happen. I think but for you we probably would not have it, and I thank the staff who are working with commissioners to make this happen and all the things you have done.

(applause)

**Kevin Ruane:** Thank you, I would ask for comments but I really wanted to have the first meeting stay within the two hours. We've really gotten a discussion with stakeholders and not that I don't want the public to be engaged, we'll allow it as we get a more refined product to be engaged. Because right now we're having a discussion and I think everyone could appreciate the fact that we're trying to have clarity up here, and not that I want to suppress public comment but to have your comments on something that we haven't clarified may be premature. I'm going to ask for your indulgences and for that adherence on this \_\_\_\_ of the workshop and I've adhered to workshops in both ways, in Sanibel where you get public comment and in county we don't so we'll give you an opportunity as we try to refine language and we have a decent understanding amongst the people here. Which I think right now everybody wants to achieve resiliency, everybody wants to achieve insurability and we just need to try do a better job in seeing if we can codify that.

(1:44:39)

**Matt DePaolis:** I'd like to say just real quick, thank you also for making this happen, for getting this out in the open. It's so important that this happened in a public space. And I think that the discussion that we had tonight was really indicative of why that needs to happen because there is this ambiguity out there, there is this lack of clarity between some of the stakeholders and at the end of the day we all want the same thing. We want the success of Captiva, we want the succes of South Seas, and we want succes of all stakeholders who are out there. And it's all about resiliency, that's why we're here today, that's what it boils down to, that's why we're here because it started in January with a request to make the Lee Plan, the land development code more resilient and help people build back in a way that can be resilient. And that was a very well-founded request and I think that it's put us on a path to really improve our regulations that govern how we rebuild after some of these massive storms. But resiliency can mean a lot of things to a lot of different people and it can mean the resilience of buildings, the resilience of a community like this, resilience of the environment, resilience of our economy, these are all considerations that we need to be taking into account when we're considering how to move forward with this. And I think as we've seen today, when we don't have a clear understanding, when we don't have a path forward to exactly what is going to be coming from the decisions we're making then that breeds fear and when we have that we're not in a position to understand how the decisions we're making today, tomorrow, and in these next coming meetings are going to be affecting that resiliency down the line. And as we all come together going forward I think it's really great that we have now a path forward to see what we can do and what the decisions and ongoing development code will be doing in the future. But we need to realize that if we don't understand what those are clear, sustainably, all agreed on what these decisions will be

doing, then we have to apply the precautionary principle. And we can't just open up the code or open up the land development plan with the thought that well, we'll deal with resiliency later, we'll take the guardrails off now and we'll see what can be done. Because the fact of the matter is we don't know what these decisions are going to be, and we can't even agree on what is being said in the proposed amendments. So there's no way we can assess how that's going to impact traffic, or sewer, or water, or wildlife, or the future of the economy of these islands. So it's really great to see all of us having these discussions and agreeing that what we want is success for everybody in the room and everyone on these islands, success for Lee County, and we want to make it in a way that is sustainable going forward. So this has been a really great thing to be a part of, and thanks for giving us that opportunity to do that tonight.

**Kevin Ruane:** Any other closing comments? (pause) I'm going to thank you all for coming out tonight and we'll certainly look forward to the revisions and accept the challenge to see if we can achieve that by the next meeting. Thank you all.

Additional resources:

For the slides Anthony Rodriguez used, go to

For the slides Greg Spencer was referring to, go to <https://www.southseas.com/community-information/>.