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(1) NO. GV409101
 (2)
 (3) CITY OF SUNSET VALLEY, TEXAS;) IN THE 201ST JUDICIAL
 SAVE BARTON CREEK ASSOCIATION)
 (4) INC.; AND SAVE OUR SPRINGS)
 ALLIANCE, INC.,)
 (5) Plaintiffs,)
 (6) vs.) DISTRICT COURT OF
 (7) CITY OF AUSTIN, TEXAS, and)
 LOWE'S HOME CENTERS, INC.,)
 (8) Defendants.) TRAVIS COUNTY, TEXAS
 (9)
 (10) *****
 ORAL DEPOSITION
 (11) OF
 TERRENCE IRION
 (12) *****
 (13)
 (14) ORAL DEPOSITION OF TERRENCE L. IRION, produced
 (15) as a witness at the instance of the Respondents and duly
 (16) sworn, was taken in the above-styled and numbered cause
 (17) on the 19th day of August 2004, from 1:00 p.m. to 5:25
 (18) p.m., before NANCY SALINAS, CSR in and for the State of
 (19) Texas, reported by machine shorthand, at the Law Offices
 (20) of Scanlan, Buckle & Young, 602 West 11th Street, Austin,
 (21) Texas, pursuant to the State Rules of Civil Procedure and
 (22) the provisions stated on the record or attached hereto.
 (23)
 (24)
 (25)

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(1) A P P E A R A N C E S
 (2)
 (3) FOR THE CITY OF SUNSET VALLEY:
 (4) MR. DOUG YOUNG
 Scanlan, Buckle & Young
 (5) 602 West 11th Street
 Austin, Texas 78701
 (6)
 (7) FOR SAVE OUR SPRINGS ALLIANCE:
 (8) MR. BRAD ROCKWELL
 Save Our Springs Alliance
 (9) 121 East 9th Street, Suite 201
 Austin, Texas 78701
 (10)
 (11) FOR LOWE'S HOME CENTERS:
 (12) MR. STEPHEN I. ADLER
 Barron, Adler & Anderson
 (13) 908 Nueces Street
 Austin, Texas 78701
 (14)
 (15) FOR THE CITY OF AUSTIN:
 (16) MS. LAURIE EISERLOH
 Assistant City Attorney
 (17) Law Department, Norwood Tower
 114 West 7th Street, Suite 500
 (18) Austin, Texas 78701
 (19)
 (20) ALSO PRESENT:
 (21) Jayme Foley
 (22)
 (23)
 (24)
 (25)

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- (1) Q And do you remember anything in particular about
(2) those conversations?
- (3) A I was trying to determine if the TCEQ had ever
(4) taken any final action and why it was taking so long for
(5) them to release Sunset Valley from the CCN.
- (6) Q Anything else that you can recall about any of
(7) those conversations?
- (8) A It just had to do with -- seemed like there were
(9) some interesting maneuverings going on about whose
(10) service area the subject property was in for purpose of
(11) water or sewer service.
- (12) Q And who was doing the maneuvering?
- (13) A Sunset Valley, Austin. We couldn't get a
(14) definitive answer from the TCEQ as to "Are we in, or are
(15) we out?"
- (16) Q And what did Sunset Valley do that you would
(17) describe as maneuvering?
- (18) A I don't know. There were -- there was a lack of
(19) candor and a lack of clear information that was provided
(20) to a property owner as to who he could look to to provide
(21) water and sewer service.
- (22) Q Are you aware that Sunset Valley provided notice
(23) to the property owners that Austin would be the provider
(24) of service?
- (25) A I'm aware that a letter was sent to Mr. Garza,

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- (1) yes.
- (2) Q And are you aware of any communications from any
(3) agent of Sunset Valley that you would describe as lacking
(4) in candor?
- (5) A As late as the late summer of 2003, there was
(6) still not a final decision as to whether or not the
(7) property was being released from the CCN of Sunset Valley
(8) and transferred to the CCN of Austin.
- (9) The application had been a transfer
(10) application. Austin -- and I believe Sunset Valley --
(11) were both saying, "Oh, no, no, no. That's not what we
(12) meant. He wanted a unilateral release from Sunset Valley
(13) CCN, and Austin wants the ability to serve at its
(14) discretion but does not want to accept an assignment and
(15) transfer of the CCN.
- (16) Q And what do you -- strike that.
- (17) MR. YOUNG: *Objection, nonresponsive.*
- (18) Q (BY MR. YOUNG) What do you know about any
(19) communication from Sunset Valley that was holding down
(20) anything that you perceive as frustrating in getting an
(21) approval from TCEQ?
- (22) A What was frustrating is there wasn't a decision
(23) that was made.
- (24) Q By TCEQ?
- (25) A There wasn't a decision made by TCEQ, and Austin

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- (1) and Sunset Valley were saying, "Our intent is not what is
(2) reflected in the documents that we filed."
- (3) Q And what did Sunset Valley -- what communication
(4) are you referring to when you say Sunset Valley was
(5) saying, "Our intent was something other than what was
(6) filed"?
- (7) A The document that was filed was a transfer and
(8) assignment of CCN.
- (9) Q Right. And then what did Sunset Valley agents
(10) say that was contrary to that?
- (11) A Well, I'm not sure. I'm not sure if Sunset
(12) Valley said anything that was contrary to that. It may
(13) have been what other people said was Sunset Valley's
(14) position. I don't recall now.
- (15) What I know is that there just wasn't a --
(16) it was an ambiguity that was up in the air for months and
(17) months after that application was filed.
- (18) Q Okay. But your information is that TCEQ had
(19) not, in your opinion, timely acted? You don't have any
(20) information that --
- (21) A Based upon objections that had been made at
(22) least by Austin. I don't know what Sunset Valley did,
(23) but I know what Austin did.
- (24) Q Okay. Would you agree that the city has a right
(25) to release territory from its ETJ?

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- (1) A Yes.
- (2) Q And you would agree that Sunset Valley did
(3) nothing wrongful when it released property that included
(4) the Lowe's site?
- (5) A I agree that Sunset Valley has the legal right
(6) to release property from its ETJ.
- (7) Q And would you agree that they did nothing
(8) wrongful in releasing property that included the Lowe's
(9) site?
- (10) A What do you mean by "wrongful"?
- (11) Q They exercised a legal right and --
- (12) A They exercised a legal right.
- (13) MR. YOUNG: *Okay. I'll pass the witness.*
(14) (Brief recess: 4:00 p.m. to 4:13 p.m.)
(15) (Deposition Exhibit No. 18 marked)
- (16) EXAMINATION
- (17) BY MR. ROCKWELL:
- (18) Q Mr. Irion, you are here today as a fact witness;
(19) is that correct?
- (20) A Yes.
- (21) Q And what is your current relationship with
(22) Lowe's?
- (23) A I'm their attorney, one of their attorneys.
- (24) Q So you are still performing attorney
(25) responsibilities in this litigation?

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(1) A Yes.

(2) Q Are you being paid by Lowe's or anyone else for

(3) your time at this deposition?

(4) A Yes.

(5) Q Who's paying you?

(6) A Lowe's.

(7) Q At what rate?

(8) A My normal billing rate, 275 an hour.

(9) Q And are you expecting to be a witness at trial?

(10) A I don't know.

(11) Q You have no idea?

(12) A No.

(13) Q You haven't cleared your calendar or anything?

(14) A Oh, I'm planning on being there.

(15) Q If you are a witness, is it your intention to be

(16) compensated by Lowe's for your time at trial?

(17) A Yes.

(18) Q Do you have a written agreement with Lowe's that

(19) defines your compensation for work in this case?

(20) A Don't know.

(21) Q You don't know?

(22) A (Witness shakes head.)

(23) Q Who would know?

(24) A I would. I would have to check my file and see

(25) if I have a written agreement, fee agreement, or not.

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(1) Q Do you have any understanding that you're aware

(2) of, either written or oral, in terms of the terms of your

(3) representation to Lowe's?

(4) A Say that again.

(5) Q Do you have any kind of understanding either an

(6) oral agreement or written agreement or any other kind of

(7) understanding as to the terms of your representation of

(8) Lowe's?

(9) A I have an understanding, yes.

(10) Q Have you ever made any effort to provide any

(11) written agreement between yourself or your law firm and

(12) Lowe's to SOS Alliance?

(13) A I don't know if I made an effort or not. I

(14) don't know if I've been asked.

(15) Q Well, who would know if you've been asked?

(16) A I suppose it would be in a document, in a

(17) request.

(18) Q But I'm asking you whether you've made any

(19) efforts to go through your files and provide a document

(20) to Save Our Springs Alliance?

(21) A I have not -- I don't recall that I have done

(22) that.

(23) Q And if there is a written agreement, is it

(24) between -- are you individually a party, or would it be

(25) your law firm?

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(1) A Well, it's one and the same.

(2) Q Okay. And how much have you or your law firm

(3) billed Lowe's?

(4) A I have no idea.

(5) Q Is it more than \$5,000?

(6) A Yes.

(7) Q Is it more than \$50,000?

(8) A Since when?

(9) Q Since forever.

(10) A Yes.

(11) Q Is it more than \$100,000?

(12) A I don't know.

(13) Q Might be?

(14) A Might be.

(15) Q Have you been paid for everything you have

(16) billed Lowe's?

(17) A No.

(18) Q How much have you billed that you have not been

(19) paid for?

(20) A I don't know.

(21) Q Is it more than \$5,000?

(22) A Yes.

(23) Q Is it more than \$10,000?

(24) A Yes.

(25) Q Is it more than \$50,000?

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(1) A No.

(2) Q What are -- what is your expectation in terms of

(3) being paid that sum of money that may be more or less

(4) than \$50,000?

(5) A My expectation is that I'll get paid.

(6) Q Are there any conditions upon you getting paid?

(7) A No.

(8) Q Is there a dispute over the payment?

(9) A No.

(10) Q Is it a relatively recent billing that this

(11) represents?

(12) A Relatively.

(13) Q Has it ever been necessary for you in your work

(14) with Lowe's to visit the Lowe's site?

(15) A Yes.

(16) Q When did you visit the Lowe's site?

(17) A Last time I visited the Lowe's site was probably

(18) about June 30.

(19) Q Was that during the Lauren Ross site visit?

(20) A Lauren Ross was there.

(21) Q What other occasions have you visited the Lowe's

(22) site as part of your work for Lowe's?

(23) A I've been out there a number of times.

(24) Q More than ten?

(25) A Probably.

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(1) Q What was the purpose of these visits other than
 (2) the June 30 visit?
 (3) A Understand the site, understand some of the
 (4) development issues, some of the real estate issues.
 (5) Q Were you ever out there when anyone was
 (6) attempting to see if there was any recharge features or
 (7) not?
 (8) A I don't know. Last time Lauren Ross was there,
 (9) she was talking about a recharge concern she had in the
 (10) water-quality pond.
 (11) Q While you were out on the site, and at a date
 (12) other than June 30, have you ever talked to anybody about
 (13) recharge features while you were at the site?
 (14) A Not that I recall.
 (15) Q Were you there when David Jaunst was out at the
 (16) site?
 (17) A I don't think I know David Jaunst.
 (18) Q Is that a no?
 (19) A I think he's somebody that works for the city.
 (20) I don't think I was there when he was there.
 (21) Q You've given some testimony about some events
 (22) that occurred in the year 2002. Before December of 2002,
 (23) can you identify each Lowe's employee or agent based in
 (24) Austin who was working on getting the Lowe's store set up
 (25) at Brodie Lane?

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(1) A Marc Millis, Bram Neal, these are the only two
 (2) Lowe's officials that I know of that are located in
 (3) Austin -- or Austin area.
 (4) Q And can you spell the name of the latter person
 (5) you mentioned?
 (6) A N-e-a-l or N-e-l-l -- I'm not sure which.
 (7) Q And the first name?
 (8) A Bram, B-r-a-m.
 (9) Q And before December of 2002, can you identify
 (10) any Lowe's agents or employees that you personally had
 (11) contact with other than Marc Millis and Bram Neal?
 (12) A Before when?
 (13) Q Before December of 2002.
 (14) A Probably Lee Bentley.
 (15) Q And what is his position?
 (16) A He is a corporate counsel for Lowe's in North
 (17) Carolina.
 (18) Q Anyone else?
 (19) A Not that I recall.
 (20) Q I'm going to ask you the same questions before
 (21) December of 2003. Were there any individuals at Lowe's,
 (22) employees or agents based in Austin, who were working on
 (23) the Lowe's store on Brodie Lane other than Marc Millis
 (24) and Bram Neal?
 (25) A Not that I am aware.

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(1) Q And how about Lowe's employees or agents
 (2) elsewhere that you had any contact with by December of
 (3) 2003?
 (4) A David Shelton, Eddie Hoffman, somebody in the
 (5) public relations department. I think her name is
 (6) Jennifer Smith now. It was something else before.
 (7) Q The first person you mentioned, David, can you
 (8) spell his last name?
 (9) A Shelton, S-h-e-l-t-o-n.
 (10) Q And what was his position?
 (11) A He's the vice-president.
 (12) Q And Eddie Hoffman?
 (13) A Eddie Hoffman is a vice-president for regional
 (14) new-store development.
 (15) Q Did anyone with Lowe's share planning documents
 (16) or planning information with you?
 (17) MR. ADLER: Object, attorney/client
 (18) privilege.
 (19) MR. ROCKWELL: The fact that the documents
 (20) were shared, he can't disclose?
 (21) MR. ADLER: I think we could share with you
 (22) what he has done as a Lowe's representative to third
 (23) parties. But the communications that went on between him
 (24) and his client, what his client showed him and didn't
 (25) show him, I think is privileged between him and his

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(1) client.
 (2) MR. ROCKWELL: Well, you understand it's
 (3) impossible for us to challenge a privilege if we don't
 (4) even know whether a document exists or not? I'm not
 (5) asking for him to reveal the substance of the
 (6) communications. I'm asking him to reveal whether such
 (7) communications existed and whether there were documents.
 (8) MR. ADLER: So your question is did he have
 (9) communications with his client?
 (10) MR. ROCKWELL: Right. With persons who
 (11) were more or less responsible for planning.
 (12) MR. ADLER: So without addressing what you
 (13) saw or didn't see or the nature of the communications,
 (14) the question was did you have communications with --
 (15) MR. ROCKWELL: Did he have written
 (16) communications.
 (17) MR. ADLER: Well, did he have any
 (18) communications.
 (19) MR. ROCKWELL: We can start out that way.
 (20) MR. ADLER: Did you communicate with your
 (21) client?
 (22) Q (BY MR. ROCKWELL) Did you have communications
 (23) with Lowe's individuals who were responsible for -- who
 (24) had planning responsibilities?
 (25) A Yes.

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- (1) Q Were any of these communications in writing?
- (2) A Yes.
- (3) Q Did they include what would be called financial
- (4) or planning documents?
- (5) MR. ADLER: *I object. I think it's*
- (6) *privileged.*
- (7) MR. ROCKWELL: *I think we have the right to*
- (8) *inquire the nature of the communications to determine*
- (9) *whether they are privileged or not. Are you instructing*
- (10) *your witness not to answer?*
- (11) MR. ADLER: *What was the question?*
- (12) MR. ROCKWELL: *Can you read back the*
- (13) *question?*
- (14) (Previous question was read back.)
- (15) MR. ADLER: *What do you mean by financial*
- (16) *and planning documents?*
- (17) MR. ROCKWELL: *Documents that would be*
- (18) *internal documents in an organization that would look at*
- (19) *financial feasibility of a project, profitability, costs,*
- (20) *things like that that are not, not directly related to --*
- (21) MR. ADLER: *-- this lawsuit?*
- (22) MR. ROCKWELL: *Legal advice.*
- (23) MR. ADLER: *Okay.*
- (24) A No.
- (25) Q (BY MR. ROCKWELL) Okay. Who was -- the

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- (1) preparation of the preliminary plat, that was the
- (2) responsibility of Duplantis; is that correct?
- (3) A Yes, primarily.
- (4) Q And who else?
- (5) A Site Line Surveying.
- (6) Q And who was responsible for giving directions to
- (7) Duplantis?
- (8) A Marc Millis.
- (9) Q Do you know when Duplantis was instructed to
- (10) prepare a preliminary plat to Sunset Valley?
- (11) A Precisely, no.
- (12) Q Is it true that Bruce Todd at one point
- (13) performed some work for Lowe's?
- (14) A Yes.
- (15) Q Do you know who hired Bruce Todd, in terms of
- (16) whether it was Lowe's or your law firm or some other
- (17) entity?
- (18) A Lowe's.
- (19) Q When did the Garza family sell the property to
- (20) Lowe's?
- (21) A I believe the closing was made effective
- (22) January 2, 2004 -- on or about January 2, 2004.
- (23) Q And does the Garza family retain any remainder
- (24) interest or future interest contingent or otherwise in
- (25) the property?

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- (1) A "Property" being defined as?
- (2) Q What is being submitted and talked about in
- (3) terms of the Lowe's development.
- (4) A I don't understand that question. That's too
- (5) vague.
- (6) Q Okay. You understand we're talking -- and this
- (7) lawsuit deals with -- the development of a Lowe's store
- (8) on Brodie Lane?
- (9) A Correct.
- (10) Q And that there's a settlement agreement that
- (11) encompasses certain property that Lowe's wishes to build
- (12) a store on?
- (13) A Correct.
- (14) Q Is it your testimony that the Garza family no
- (15) longer retains any ownership interest in this property?
- (16) A I don't know what you mean by the "property."
- (17) Q The property we were just discussing about that
- (18) Lowe's is trying to develop.
- (19) A There's the property that has been platted as
- (20) the Garza/Brodie subdivision. Garza family does not
- (21) retain any interest, property interest, in the
- (22) Garza/Brodie subdivision.
- (23) MR. ROCKWELL: *Off the record for a second.*
- (24) (Off the record discussion)
- (25) Q (BY MR. ROCKWELL) So what you're referring to

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- (1) as the Garza/Brodie subdivision is the 31-acre tract that
- (2) was the subject of the settlement agreement?
- (3) A The settlement agreement, that was part of it,
- (4) yeah.
- (5) Q Did the settlement agreement encompass any other
- (6) property in addition to the 31-acre Garza/Brodie
- (7) subdivision?
- (8) A Yes.
- (9) Q What other property?
- (10) A It talked about improvements on retained
- (11) property by Eli Garza, proposed for an extension of Ben
- (12) Garza Lane over to Mopac.
- (13) Q Okay. So let me ask my other question again.
- (14) In terms of this 31 acres that you've defined as the
- (15) Brodie/Garza subdivision, does the Garza family retain
- (16) any remainder interest or future interest, contingent or
- (17) otherwise, in this property?
- (18) A No.
- (19) Q Are there any agreements between Lowe's and the
- (20) Garza family relating to the settlement agreement with
- (21) Austin?
- (22) A Yes.
- (23) Q And what are those agreements?
- (24) A Has to do with cost-sharing arrangements on the
- (25) extension of Ben Garza Lane.

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- (1) Q Are there any other agreements?
- (2) A **Not that I'm aware of.**
- (3) Q Have you had any conversations with anybody
- (4) representing the Garzas or Garza family as to the
- (5) consequences to them of the settlement agreement being
- (6) void?
- (7) A **No.**
- (8) Q What development limitations should there be on
- (9) a recharge-zone development?
- (10) A **I don't understand the question.**
- (11) Q Should governments impose any limitations on
- (12) development in the recharge zone to protect water
- (13) quality?
- (14) MR. ADLER: *Is this Terry, individually,*
- (15) *that you're asking?*
- (16) MR. ROCKWELL: *Yes, yes.*
- (17) A **Yeah. I think it's appropriate to have some**
- (18) **development restrictions.**
- (19) Q (BY MR. ROCKWELL) And what should those
- (20) restrictions be?
- (21) A **I think there ought to be a requirement for**
- (22) **capture and treatment of runoff from the site.**
- (23) Q Anything else?
- (24) A **Well, obviously you can't capture and treat**
- (25) **runoff from the site if you cover the site with**

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- (1) **100 percent of impervious cover.**
- (2) Q So enough impervious-cover limitations to allow
- (3) capture and treatment of runoff?
- (4) A **Yes.**
- (5) Q I'm going to hand you a document marked as
- (6) Exhibit 18. Can you identify Exhibit 18?
- (7) A **Looks like a fax communication from Pat Murphy**
- (8) **to myself -- I mean, from myself to Pat Murphy dated May**
- (9) **18, 2004.**
- (10) Q And it looks like this document does not have
- (11) your signature on there; is that right?
- (12) A **No.**
- (13) Q Do you know why that is?
- (14) A **No. I'm not sure if it was sent or not.**
- (15) Q But this is your statement in this document?
- (16) A **Yes, I drafted this.**
- (17) Q Is what you're saying here, in part, that
- (18) Exhibit E1 of the settlement agreement proposes a certain
- (19) number of caliper inches of trees to be saved?
- (20) A **No. This says that at the May 4, 2004, meeting,**
- (21) **Lowe's agreed to calculate the number of caliper inches**
- (22) **of trees, which were on the E1. They hadn't been -- they**
- (23) **weren't calculated on the E1 exhibit, but we agreed to**
- (24) **calculate them.**
- (25) Q What is the significance of the E1 exhibit?

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- (1) What did it do or not require -- what did it require or
- (2) not require of Lowe's?
- (3) A **It was a conceptual landscape plan since the**
- (4) **property is not in the City of Austin, and the City of**
- (5) **Austin's landscape ordinances requirements don't control.**
- (6) **There was an agreement on the level of landscaping that**
- (7) **would be provided.**
- (8) Q And did Exhibit E1 say anything about saving
- (9) caliper inches of trees?
- (10) A **No. E1 was an exhibit. There was -- it**
- (11) **wasn't -- it was a graph.**
- (12) Q And it provided for the saving of certain trees?
- (13) A **It showed trees on the plan.**
- (14) Q And you state here, do you not, that "Lowe's has
- (15) concluded that 349 inches of existing trees were proposed
- (16) to be saved on Exhibit E1"?
- (17) A **That's what that says.**
- (18) Q Is that a true statement?
- (19) A **I don't know if it's a true statement or not.**
- (20) **Because -- well, it's a true statement that in looking at**
- (21) **Exhibit E1, it looked like there were 349 inches of**
- (22) **existing trees depicted on there.**
- (23) Q And is it also true that only 129 caliper inches
- (24) of existing trees were, in fact, saved?
- (25) A **Of existing trees.**

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- (1) Q Right. And that's a true statement?
- (2) A **That was the calculation that Lowe's folks came**
- (3) **up with on the ground.**
- (4) Q And so Lowe's knocked down a lot of trees when
- (5) they were developing this tract?
- (6) A **What do you consider to be a lot of trees?**
- (7) Q You ever used the term "a lot"?
- (8) A **Well, all of the 349 inches of, quote, "existing**
- (9) **trees" on Exhibit E1 weren't real trees. Some of those**
- (10) **trees didn't exist. It was a preliminary tree plan, and**
- (11) **some of those trees never existed.**
- (12) Q So the 349 inches of existing trees did not
- (13) exist?
- (14) A **Not all of them.**
- (15) Q It says, "Lowe's will agree to replace a minimum
- (16) of 13 removed trees." Do you see that?
- (17) A **Uh-huh.**
- (18) Q How many trees were removed by Lowe's?
- (19) A **Well, I don't know.**
- (20) Q At least 13, wouldn't you say?
- (21) A **At least 13.**
- (22) Q Who is a participant in this May 4 onsite
- (23) meeting?
- (24) A **I was there; Pat Murphy was there. I don't know**
- (25) **who else.**

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(1) Q Don't recall anyone else? Do you think it was
(2) just you and Pat Murphy, or do you think there's others
(3) that you can't remember?
(4) A I think there were others.
(5) Q Was anyone else there on behalf of Lowe's?
(6) A I don't know.
(7) Q At the bottom of this statement of yours, you
(8) refer to a construction delay experienced on April 30.
(9) Do you see that?
(10) A Yes.
(11) Q Is it true that there was a cease-and-desist
(12) order that was issued on or around April 30?
(13) A Yes.
(14) Q And this was issued by City of Austin?
(15) A By -- yes.
(16) Q And how long was this cease-and-desist order in
(17) effect?
(18) A Not long. I'm not sure if it had been -- I
(19) think it had already been lifted by May 4.
(20) Q Why do you think that?
(21) A Because we complained to the city that it was
(22) wrongful for Mr. Cantu to have done that. He was
(23) complaining he hadn't gotten a plan, and Pat Murphy had
(24) the plan.
(25) Q What plan?

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(1) A Whatever plan Cantu was complaining he didn't
(2) have, construction plans for the utilities.
(3) Q So the cease-and-desist order by the City of
(4) Austin caused some construction delays?
(5) A A couple of days, yes.
(6) Q Was there anything else that City of Austin did
(7) that caused any construction delays?
(8) A Not that I'm aware of.
(9) Q Do you know who Marisol Claudio-Ehalt is?
(10) A Yes.
(11) Q Who is that?
(12) A She is an inspector in the watershed protection
(13) development review department.
(14) Q Did she ever issue any complaints or comments to
(15) anyone at Lowe's with respect to failures of
(16) water-quality methods or procedures or practices on the
(17) site?
(18) A If she did, it would have gone to the general
(19) contractor probably.
(20) Q You're not aware of any?
(21) A I heard that she had done something. I don't
(22) know if it was rescinded right away or not, but I heard
(23) that she -- I never saw it.
(24) Q And if, in fact, Lowe's was not in compliance
(25) with regulations in -- concerning water-quality

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(1) protections and sediment in the construction phase, City
(2) of Austin could have issued a cease-and-desist order on
(3) that, correct?
(4) A Not directly.
(5) Q Why not?
(6) A Because the settlement agreement proposed the
(7) process that the City of Austin would have to go through
(8) before it could issue a cease-and-desist.
(9) Q And what was that process?
(10) A Notice, opportunity to cure, followed by demand
(11) for mediation, followed by going to court.
(12) Q And is that the normal procedure in -- provided
(13) for under city ordinances for cease-and-desist orders?
(14) A Well, we weren't in the city or subject to city
(15) ordinances. So that's why there was a separate procedure
(16) in the settlement agreement.
(17) MR. ROCKWELL: I'll object to the
(18) responsiveness of that answer.
(19) Q (BY MR. ROCKWELL) Was the procedure with the
(20) notice and mediation and everything, is that part -- that
(21) was in the settlement agreement, was that a normal
(22) procedure for cities to follow in terms of what their
(23) regulations would provide in terms of issuing
(24) cease-and-desist orders?
(25) A I can't answer that. I don't know what cities

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(1) you're talking about.
(2) Q City of Austin, City of Sunset Valley, City of
(3) Lakeway.
(4) A The procedure laid out in the settlement
(5) agreement, I have not seen in either the City of Austin
(6) ordinance, the City of Sunset Valley ordinance. And I'm
(7) not that familiar with Lakeway's ordinance.
(8) Q Could TCEQ had shut down your construction for
(9) failure to abide by the sedimentation and water control
(10) specified in the WPAP?
(11) A There's a procedure that they can follow to
(12) enforce their permit, yes.
(13) (Deposition Exhibit No. 19 marked)
(14) Q (BY MR. ROCKWELL) I'm going to hand you a
(15) document marked as Exhibit 19 and ask you whether you can
(16) identify Exhibit 19?
(17) A It's a letter that David Lloyd sent to Tom
(18) Nuckols and myself regarding an annexation of Canterbury
(19) Trails, and it's dated June 27, 2003. And it has some
(20) exhibits behind it.
(21) Q And you received all of these exhibits and
(22) attachments to this letter sometime around June 27 of
(23) 2003?
(24) A I assume so, yes.
(25) (Deposition Exhibit No. 20 marked)

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- (1) Q (BY MR. ROCKWELL) I'll hand you a document
(2) marked as Exhibit 20 and ask you if you can identify
(3) Exhibit 20?
(4) A **It's an unsigned letter from Virginia Collier in**
(5) **AICP, whatever that is, to Joe Gieselman dated January**
(6) **27, 2003.**
(7) Q There is a reference to proposed annexation
(8) areas that include Sunset Valley Apartments. Do you see
(9) that in there?
(10) A **Uh-huh.**
(11) Q Have you ever heard of any annexation of Sunset
(12) Valley Apartments that occurred after January 27 of 2003?
(13) A **Sunset Valley Apartments are not in the**
(14) **southwest quadrant. I don't know where that is. I don't**
(15) **think it's in Sunset Valley.**
(16) Q Have you ever heard of an annexation that
(17) occurred to some apartment buildings very close to Sunset
(18) Valley and very close to Lowe's that occurred sometime in
(19) early 2003?
(20) A **Yes.**
(21) Q In fact, the city did carry out annexation of
(22) some property that was released from the Sunset Valley
(23) ETJ at the same time the Lowe's property was released
(24) from the City of Sunset Valley ETJ, correct?
(25) A **Yes.**

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- (1) Q And this property is approximately across the
(2) street or catty-corner from the Lowe's site?
(3) A **Which property?**
(4) Q The property that was annexed by the City of
(5) Austin?
(6) A **Yes.**
(7) (Deposition Exhibit No. 21 marked)
(8) Q (BY MR. ROCKWELL) I'm handing you a document
(9) marked as Exhibit 21. This is just really to refresh
(10) your recollection. Do you recognize what's being
(11) portrayed here on the map of Exhibit 21?
(12) A **A proposed annex area along Brodie Lane, the**
(13) **east side of Brodie Lane.**
(14) Q And on the west side of Brodie Lane, there is a
(15) street called Allegro Lugar. Do you see that?
(16) A **Yes.**
(17) Q Is that anywhere close to the Lowe's site?
(18) A **Yes.**
(19) Q Is it on the boundary line of the Lowe's site or
(20) in the middle of it?
(21) A **Boundary.**
(22) Q Okay. Does the area marked in the dark area
(23) more or less show the area annexed by the City of Austin
(24) that's close to the Lowe's site?
(25) A **It purports to represent an area proposed for**

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- (1) **annexation.**
(2) Q And do you recall this annexation actually
(3) occurring?
(4) A **I have no recollection of it.**
(5) Q You don't know whether it occurred or not?
(6) A **I have heard that it did. I don't know when.**
(7) Q Okay. But you don't dispute that annexation of
(8) this nature occurred and was effective, do you?
(9) A **I don't dispute that the City of Austin annexed**
(10) **this property.**
(11) Q Okay. But you don't recall when that was?
(12) A **In 2003.**
(13) (Deposition Exhibit No. 22 marked)
(14) Q (BY MR. ROCKWELL) You recall it was sometime in
(15) 2003, but you don't remember when?
(16) A **Well, the notice says it was -- looks like it**
(17) **says April 3, 2000. The rest of it is marked off. But I**
(18) **assume, based upon that ordinance number, it was April of**
(19) **2003.**
(20) Q I'll hand you a document marked as Exhibit 22
(21) and ask you if you can identify Exhibit 22?
(22) A **It's a letter from Jeff Wentworth to Will Wynne**
(23) **dated June 24, 2004.**
(24) Q Did -- and it's from Senator Wentworth?
(25) A **Yes.**

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- (1) Q Did Senator Wentworth provide you a courtesy
(2) copy of this letter?
(3) A **No, he did not.**
(4) Q Were you surprised when you learned about this
(5) letter?
(6) A **No.**
(7) Q Did you help Senator Wentworth prepare this
(8) letter?
(9) A **I did not prepare this letter. Senator**
(10) **Wentworth did. I did have a communication with the**
(11) **senator indirectly.**
(12) Q Through one of his aides?
(13) A **Yes.**
(14) Q And did you provide Senator Wentworth with some
(15) of the information that's in the letter?
(16) *THE WITNESS: Is that work product?*
(17) *MR. ADLER: I don't think it is.*
(18) A **Okay. Yes, I did.**
(19) Q (BY MR. ROCKWELL) And did you -- at the time
(20) this letter came out, June 24, 2004, Mr. Garza had no
(21) interest in this property, correct?
(22) A **He had no property interest in the Garza/Brodie**
(23) **subdivision.**
(24) Q But did he have any interest in property that
(25) had been released by the Sunset Valley -- released from

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- (1) Sunset Valley's ETJ?
- (2) **A Did he have a property interest?**
- (3) **Q In any property that was released from City of**
- (4) **Sunset Valley's ETJ at the time it released the property**
- (5) **encompassed by the Brodie/Garza subdivision.**
- (6) **A No.**
- (7) **Q So there's nothing that occurred by the**
- (8) **settlement agreement or by this litigation we're in now**
- (9) **that has had any adverse effect on Mr. Eli Garza's**
- (10) **property interest that might have been affected by**
- (11) **release of an ETJ, correct?**
- (12) **A No.**
- (13) **Q What's incorrect about that?**
- (14) **A I think the collateral attack on the**
- (15) **Garza/Brodie subdivision and the injunction that impacted**
- (16) **the value of Garza's adjacent property.**
- (17) **Q In what way?**
- (18) **A Having a Lowe's retail store on that property**
- (19) **and having a road extended from the Garza/Brodie**
- (20) **subdivision over to Mopac could only enhance the value of**
- (21) **Garza's property between the Garza/Brodie subdivision and**
- (22) **Mopac.**
- (23) **Q There's a reference here to hundreds of**
- (24) **hardworking men and women who have been temporarily laid**
- (25) **off because of the shutdown of this project. It's in the**

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- (1) other location after having moved to Austin; is that
- (2) right?
- (3) **A I don't know who moved to another location and**
- (4) **who didn't. There were a number of different trades**
- (5) **involved.**
- (6) **Q Did you suggest to Senator Wentworth or his**
- (7) **office that this letter go out?**
- (8) **A I did not.**
- (9) **Q Were -- who initiated this letter, if you know?**
- (10) **A Senator Wentworth.**
- (11) **Q Did you receive a call from Senator Wentworth or**
- (12) **his office about this letter?**
- (13) **A I called Senator Wentworth's office.**
- (14) **Q So you initiated the contact with the office**
- (15) **about the letter?**
- (16) **A With the office about the situation.**
- (17) **Q Do you know anyone else associated with Lowe's**
- (18) **whether or not they contacted Senator Wentworth's office**
- (19) **about this letter?**
- (20) **A Anyone associated with Lowe's?**
- (21) **Q Lowe's.**
- (22) **A Not that I'm aware of.**
- (23) **Q Anyone associated with Mr. Garza?**
- (24) **A Yes.**
- (25) **Q And who was that?**

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- (1) second paragraph to the bottom.
- (2) **A On the first page?**
- (3) **Q On the second page; I'm sorry. Do you see that?**
- (4) **A Yes.**
- (5) **Q Is that information that you provided to Senator**
- (6) **Wentworth's office?**
- (7) **A I did.**
- (8) **Q And what were you referring to in terms of this**
- (9) **temporary layoff?**
- (10) **A Construction workers, masons, other employees of**
- (11) **McWhorter, subcontractors.**
- (12) **Q But isn't it true that these people just went**
- (13) **off to another McWhorter job site?**
- (14) **A Some of them. I mean, they still had**
- (15) **disruptions. They were temporarily suspended from -- I**
- (16) **mean, I don't -- some of them went on to other jobs. I**
- (17) **think some of them didn't. I mean, there were a number**
- (18) **of different trades and subcontractors impacted.**
- (19) **Q But you don't really know there were hundreds**
- (20) **that went on or hundreds that moved on to another job or**
- (21) **hundreds that had to stop working, do you?**
- (22) **A I haven't made an actual count. I checked with**
- (23) **McWhorter, and they said that a very significant number**
- (24) **of people were impacted.**
- (25) **Q "Impacted" meaning they had to move to some**

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- (1) **A Dan Wheelis.**
- (2) **Q Do you know whether or not Dan Wheelis is the**
- (3) **one that recommended that this letter go out?**
- (4) **A I do not know.**
- (5) **Q Have you made campaign contributions to Senator**
- (6) **Wentworth?**
- (7) **A Since when?**
- (8) **Q Since -- say, in the last two years.**
- (9) **A In the last two years, yes.**
- (10) **Q Do you know whether or not Bruce Todd has had**
- (11) **any contacts with Senator Wentworth's office about the**
- (12) **Lowe's development?**
- (13) **A I don't know.**
- (14) **Q You have never talked to him about it?**
- (15) **A About what?**
- (16) **Q About Senator Wentworth and what he could do or**
- (17) **not do for Lowe's?**
- (18) **A I have had discussions with Senator Wentworth**
- (19) **and Bruce Todd both last spring when the legislature was**
- (20) **in session.**
- (21) (Deposition Exhibit No. 23 marked)
- (22) **Q (BY MR. ROCKWELL) These were meetings in which**
- (23) **both Bruce Todd and Senator Wentworth were present?**
- (24) **A No.**
- (25) **Q I'm going to hand you a document marked as**

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- (1) Exhibit 23. I'm going to ask you if you can identify
(2) Exhibit 23?
(3) MR. ADLER: *It's 5:00? Do you have a lot*
(4) *more to go?*
(5) MR. ROCKWELL: *I would say at least a half*
(6) *hour or maybe an hour.*
(7) MR. ADLER: *Do you have that availability?*
(8) THE WITNESS: *I've got a loaner car from*
(9) *Infiniti that turns into a pumpkin at 6:00.*
(10) Q (BY MR. ROCKWELL) So do you want to take a
(11) break in about 45 minutes?
(12) A **I want to be through.**
(13) Q We can try and see.
(14) MR. ADLER: *Don't the rules now provide for*
(15) *how late can you go on a deposition?*
(16) MR. ROCKWELL: *I think it's eight hours.*
(17) MR. YOUNG: *Six hours per side, but I don't*
(18) *know if there is a time and day kind --*
(19) MR. ADLER: *Cutoff?*
(20) MR. YOUNG: *We can continue it until*
(21) *tomorrow if we need to.*
(22) MR. ADLER: *I'm not available to do it*
(23) *tomorrow. Let's see how much you can get done.*
(24) MS. EISERLOH: *I'm going to have to*
(25) *actually leave, and leave very soon. So if there's any*

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- (1) *specific questions about the City of Austin, if you can*
(2) *get those out of the way.*
(3) MR. ROCKWELL: *I don't think too much of*
(4) *this specifically pertains to the city -- well, this next*
(5) *set will after this.*
(6) Q (BY MR. ROCKWELL) Can you identify this
(7) document?
(8) A **Well, it's a letter from Jeff Wentworth to**
(9) **Jackie Goodman dated November 5, 2003.**
(10) Q Have you ever seen this before?
(11) A **I don't recall seeing this before.**
(12) Q Do you recall -- on November 5 or beforehand, do
(13) you recall talking to anyone about this letter?
(14) A **No, I don't recall.**
(15) (Deposition Exhibit No. 24 marked)
(16) Q (BY MR. ROCKWELL) I'll hand you a document
(17) marked as Exhibit 24. Have you ever seen Exhibit 24
(18) before?
(19) A **I don't know what this is.**
(20) Q Well, I'll represent to you it's a printout from
(21) In Fact Daily report. Have you ever seen In Fact Daily
(22) before?
(23) A **Yes.**
(24) Q Do you recall being interviewed by Jess Whittcan
(25) or someone else from In Fact Daily about Lowe's?

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- (1) A **She's called me on a number of occasions about**
(2) **Lowe's.**
(3) Q Do you see on there where it says, "Lowe's
(4) Lawyer Takes Credit for Bill"? Do you see that?
(5) A **Where?**
(6) Q Right in the middle of Exhibit 24, on headlines.
(7) It says, "Lowe's Lawyer Takes Credit for Bill."
(8) A **Oh, yeah.**
(9) Q Do you see that?
(10) A **Yes.**
(11) Q And then in that paragraph under there, it says,
(12) "Irion explained that he, along within Dan Wheelis and
(13) Chris Shields, were instrumental in the passage of
(14) HB 1204." Do you see that?
(15) A **I do.**
(16) Q Is that an accurate statement of your
(17) explanation?
(18) A **No, I don't know that it is. I worked to try**
(19) **and get that bill passed, as did Dan Wheelis, as did**
(20) **Chris Shields. I don't think I would have used the word**
(21) **like I was instrumental.**
(22) Q And who is Chris Shields?
(23) A **He's an attorney in Austin.**
(24) Q And who is he representing?
(25) A **He was representing Lowe's. Actually he was**

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- (1) **representing Lowe's and the Garza family.**
(2) Q And at this point in time, the Garza family had
(3) an ownership interest in what is now the Brodie/Garza
(4) subdivision?
(5) A **Yes.**
(6) Q Looking at the section of Exhibit 24 that's
(7) under the heading of "Lowe's Lawyer Takes Credit For
(8) Bill," can you tell me anything that you see that you
(9) think is an inaccuracy in terms of the reporting here
(10) other than what you've already testified about?
(11) A **No.**
(12) (Deposition Exhibit No. 25 marked)
(13) Q (BY MR. ROCKWELL) I'm going to hand you a
(14) document marked as Exhibit 25 and ask you whether you've
(15) ever seen that before?
(16) MR. ADLER: *Is that your only copy of that,*
(17) *Brad?*
(18) MR. ROCKWELL: *No, I'm sorry.*
(19) A **Yes, I have.**
(20) Q (BY MR. ROCKWELL) And can you tell me what
(21) that -- what Exhibit 25 is?
(22) A **It's a TCEQ form for applying for the sale**
(23) **transfer or merger of a retail public utility or portion**
(24) **thereof.**
(25) Q And is this the request by Sunset Valley and the

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(1) City of Austin to transfer the CCN that you testified
(2) about earlier?
(3) **A Yes.**
(4) **Q** And, in fact, you and Lowe's supported this
(5) application; is that correct?
(6) **A No.**
(7) **Q** You did not?
(8) **A No.**
(9) **Q** Tell me -- in what way did you not support this
(10) application?
(11) **A This application was filed by Sunset Valley and**
(12) **Austin in November of 2002. Nobody consulted with Lowe's**
(13) **before they did that.**
(14) **Q** But, in fact, you wanted City of Austin to
(15) provide you with water and wastewater services, did you
(16) not?
(17) **A I think Lowe's wanted water and wastewater**
(18) **service. I don't think they cared if Sunset Valley was**
(19) **the retail service provider or Austin was the retail**
(20) **service provider.**
(21) **Q** After this application was submitted to TCEQ,
(22) Lowe's wanted TCEQ to approve this, did they not?
(23) **A Lowe's wanted final action one way or the other**
(24) **on this application; approve it or deny it. But as long**
(25) **as it is pending, both cities were telling us they didn't**

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(1) know who could or would provide utility service to the
(2) Lowe's project.
(3) **Q** And so you wanted swift action by TCEQ, correct?
(4) **A I think by the time we started complaining,**
(5) **"swift" was no longer an option.**
(6) **Q** Well, as quickly as you could get them to move,
(7) you wanted them to move, correct?
(8) **A Correct.**
(9) **Q** Did you -- did Lowe's have any communications
(10) with TCEQ about this application?
(11) **A Yes.**
(12) **Q** What were those communications?
(13) **A Just to the effect of what I just told you, you**
(14) **know, approve it or deny it, but take final action.**
(15) **Q** And -- sorry. Go ahead.
(16) **A It's impairing Lowe's ability to process its**
(17) **utility permit applications.**
(18) **Q** Did those communications take the form of any
(19) kind of written communications?
(20) **A I think there probably were a few communications**
(21) **in writing.**
(22) **Q** Did -- has -- have you looked through your files
(23) and provided those written communications to either
(24) Sunset Valley or Save Our Springs Alliance in this
(25) litigation?

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(1) **A I don't know what Doug has gotten. He's been**
(2) **over once. I don't know.**
(3) **MR. YOUNG:** *To be correct, I haven't been*
(4) *over to your office in this lawsuit.*
(5) **THE WITNESS:** *In this one. Okay. So it*
(6) *was the last one.*
(7) **MR. YOUNG:** *Or the last one. You gave me*
(8) *some documents, but I didn't come to your office.*
(9) **THE WITNESS:** *Okay.*
(10) **Q (BY MR. ROCKWELL)** Do you know whether or not
(11) this application has ever been approved?
(12) **A I don't think it has. I mean, I think this**
(13) **application was amended, but I don't know for sure.**
(14) **Q** Do you know who holds the CCN currently for the
(15) service area that would include the Lowe's tract?
(16) **A No, I don't.**
(17) **Q** Did Lowe's lodge any objections or comments to
(18) this application with TCEQ, ask for any kind of
(19) modification or object to anything in here?
(20) **A No, we did not object to this.**
(21) (Deposition Exhibit No. 26 marked)
(22) **Q (BY MR. ROCKWELL)** I'll hand you a document
(23) marked as Exhibit 26.
(24) **MR. ADLER:** *Do you have a copy?*
(25) **MR. ROCKWELL:** *Sorry.*

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(1) **Q (BY MR. ROCKWELL)** Can you identify this
(2) exhibit?
(3) **A It is a letter from me to Casey Dobson, an**
(4) **attorney representing the City of Austin, dated July 23,**
(5) **2003.**
(6) **Q** And this is your signature and your statements
(7) in this letter; is that correct?
(8) **A Yes.**
(9) **Q** Can you explain what Lowe's was proposing in
(10) terms of annexation?
(11) **A Proposing in terms of -- I don't understand that**
(12) **question.**
(13) **Q** Second sentence in the first paragraph,
(14) "Obviously, if that were to happen, the city would be
(15) impliedly refusing the offer of voluntarily annexation
(16) that has been made by Lowe's."
(17) **A Well, that was referring to the settlement**
(18) **agreement.**
(19) **Q** And the settlement agreement provides for
(20) annexation of the property?
(21) **A Voluntary annexation.**
(22) (Deposition Exhibit No. 27 marked)
(23) **Q (BY MR. ROCKWELL)** I'm going to hand you a
(24) document marked as Exhibit 27, and I'll ask you if you
(25) can identify Exhibit 27?

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(1) I'm sorry. I think this may have already
 (2) been an exhibit. I'm sorry. Strike that. This is
 (3) Exhibit 11.
 (4) (Deposition Exhibit No. 27 re-marked)
 (5) Q (BY MR. ROCKWELL) I'm going to hand you a new
 (6) document this time marked as Exhibit 27. I have
 (7) withdrawn the other Exhibit 27 document. And I'll ask
 (8) you whether you can identify Exhibit 27? Have you ever
 (9) seen it before?
 (10) A It says defendant Lowe's response to plaintiff's
 (11) request for production.
 (12) Q Have you ever seen this before and the
 (13) attachment to this?
 (14) A I don't think I was copied on this. I don't
 (15) know if I have seen it or not.
 (16) Q Did you ever see Save Our Springs Alliance's
 (17) request for the production of documents?
 (18) A Which request for production of documents?
 (19) Q I think we've only made one in this case.
 (20) A I don't know if I have or not.
 (21) Q I would like you to go to the responses and to
 (22) Item 7, which is, I think, Page 5 of the actual
 (23) document -- Page 6 of the faxed document. Do you see
 (24) Item 7 there?
 (25) A Yes.

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(1) Q Have you ever gone through your files and looked
 (2) for all records of any communication to or from the Texas
 (3) Commission on Environmental Quality relating to the
 (4) property, development of the property in which the Brodie
 (5) Lane store is being constructed?
 (6) MR. ADLER: I object. His actions as
 (7) counsel I don't think are proper questions in a
 (8) deposition. It's privileged. It's attorney work
 (9) product.
 (10) MR. ROCKWELL: His conduct?
 (11) MR. ADLER: Right. What he has done on
 (12) behalf of his client, I think, is protected.
 (13) MR. ROCKWELL: Are you instructing him not
 (14) to answer?
 (15) MR. ADLER: Yes.
 (16) Q (BY MR. ROCKWELL) Are you refusing to answer?
 (17) A Yes.
 (18) Q Have you undertaken any efforts on behalf of
 (19) your client to look for documents in your files in
 (20) response to Save Our Springs Alliance's request for the
 (21) production of documents?
 (22) MR. ADLER: I object, privileged. That's
 (23) attorney work product. I instruct him not to answer.
 (24) Q (BY MR. ROCKWELL) Are you refusing to answer?
 (25) A Yes.

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(1) Q Are you familiar with House Bill 1197?
 (2) A By number, no. Can you tell me what that is?
 (3) Q I'll represent that it was a bill that passed in
 (4) the last legislative session that authorized development
 (5) agreements.
 (6) A Okay. Subchapter G.
 (7) Q Are you familiar with that?
 (8) A Yes.
 (9) Q Did you do any work on that?
 (10) A No.
 (11) Q Did you have any conversations with Dan Wheelis
 (12) about possibly using an 1197 development agreement with
 (13) the City of Austin on -- for the Lowe's development?
 (14) A I don't recall.
 (15) Q Let me hand you a document that may refresh your
 (16) recollection.
 (17) MR. ADLER: Do you have another copy of
 (18) that?
 (19) MR. ROCKWELL: Sure.
 (20) Q (BY MR. ROCKWELL) I would just like to draw
 (21) your attention on the first sentence of this e-mail.
 (22) A Which one, "Dan Wheelis?"
 (23) Q Yeah. "Dan Wheelis asked me to point your
 (24) attention to the attached HB 1197."
 (25) A Okay.

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(1) Q Does that refresh your recollection as to
 (2) whether you ever talked to Dan Wheelis about using an
 (3) 1197 development agreement in this context?
 (4) A I talked to Dan about a lot of things as we were
 (5) negotiating the terms of the settlement agreement and
 (6) issues related to zoning and how we would be assured of
 (7) zoning, if we agreed to voluntary annexation. So I could
 (8) have.
 (9) Q And, in fact, 1197 gives specific authorization
 (10) for agreements which would allow for an agreement for
 (11) things like zoning; is that right?
 (12) A Yes.
 (13) Q Were you at the CLE that Dan Wheelis is
 (14) referencing here?
 (15) A No.
 (16) Q And do you know who Chris Sileo is?
 (17) A Yes.
 (18) Q And he was one of the negotiators on behalf of
 (19) City of Austin; is that correct?
 (20) A He was outside counsel for City of Austin, yes.
 (21) Q And he was involved with discussions with you
 (22) and Dan Wheelis about settlement of the dispute over the
 (23) Lowe's tract?
 (24) A Correct.
 (25) MR. ROCKWELL: Pass the witness.