CITY OF BILOXI
AGENDA ITEM
FACT SHEET

Item No.: 4 A

Council Meeting Date: December 12, 2023

ITEM TITLE: ORDINANCE (2nd Reading)

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: E. Michael Leonard, CAO

Jerry Creel, Director of Community Development

SUMMARY EXPLANATION:

Ordinance to amend the Biloxi Land Development Ordinance, specifically to amend Section 23-4-3(D)(10)e pertaining to the addition of limits for Conditional Use Short-Term Rental approval.

Case No. 23-095-PC

Resolution _____ **Ordinance** ✓ **Public Hearing** _____ **Routine Agenda** _____

Exhibits for Review

Contract _____ **Minutes** ✓ **Plans/Maps** _____ **Deed** _____ **Lease** _____

Other (Specify): Case Fact Sheet

Submittal Authorization: **Council President** _____ **Mayor** ✓

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: **Motion By:** Tisdale **Second By:** Glavan

Vote:	Councilmember	Yes	No	AFR	ABST	Councilmember	Yes	No	AFR	ABST
	Lawrence	___	___	___	___	Tisdale	___	___	___	___
	Gines	___	___	___	___	Glavan	___	___	___	___
	Newman	___	___	___	___	Barrett	___	___	___	___
	Deming	___	___	___	___					

ACTION TAKEN: First reading on December 5, 2023

cdl/120523apc

ORDINANCE NO.

ORDINANCE TO AMEND THE BILOXI LAND DEVELOPMENT ORDINANCE, SPECIFICALLY TO AMEND SECTION 23-4-3(D)(10)e PERTAINING TO THE ADDITION OF LIMITS FOR CONDITIONAL USE SHORT-TERM RENTAL APPROVALS

WHEREAS, on Thursday, November 16, 2023, the Biloxi Planning Commission held a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 23-095-PC, City of Biloxi, with respect to a proposed **Text Amendment** to the Biloxi Land Development Ordinance; and

WHEREAS, the Planning Commission members were apprised of the particulars of this case, being made cognizant of the fact that the City of Biloxi has proposed a Text Amendment to the Biloxi Land Development Ordinance, to amend Section 23-4-3(D)(10)e of the Land Development Ordinance, requiring the cumulative total of short-term rentals permitted with conditional-use approval will not exceed 125; and

WHEREAS, on November 16, 2023, the Biloxi Planning Commission, upon much discussion of this text change, voted (12-0-0) to amend Section 23-4-3(D)(10)e of the Land Development Ordinance, as follows:

23-4-3-(D)(10)e

e. Short-Term Rentals

Short-term rentals shall be allowed as permitted uses upon properties situated within the following zoning districts: CB Community Business, RB Regional Business, DT Downtown, and WF Waterfront district zones, subject to compliance with all of the standards provided below.

Short-term rentals may be authorized as Conditional Uses upon properties situated within the following zoning districts: A-Agricultural, LB-Limited Business, NB-Neighborhood Business, RM-20 Medium-Density Multi-Family Residential, and RM-30 High-Density

Multi-Family Residential district zones, subject to Conditional Use review and approval. The cumulative total of short-term rentals permitted in these Conditional-Use zones will not exceed 125.

Short-term rentals may also be authorized in a PD-GE Planned Development-Gaming Establishment, PD-HB Planned Development-Hospitality Business, PD-C Planned Development-Commercial, or PD-I Planned Development-Infill zone subject to an approved Planned Development Master Plan by the City Council.

Short-term rentals are not permitted in single-family zones: RS-5 Residential Single Family, RS-7.5 Residential Single Family, RS-10 Residential Single Family, RE-Residential Estate, RER-Residential Estate Restricted, A-Agriculture, and AR-Agriculture Restricted. Short-term rentals are prohibited by any tenant or lessee in the City's harbors or marinas; and

WHEREAS, the Biloxi City Council, after careful review of the minutes of the public hearing, adopts the report and findings of the Biloxi Planning Commission and, in so doing, determines that modifications to the short-term rental section of the Land Development Ordinance are appropriate.

NOW, THEREFORE, BE IT ORDAINED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI; as follows:

SECTION 1. Portions of the text of Chapter 23 of the Code of Ordinances of the City of Biloxi, Mississippi, are hereby amended, specifically, Chapter 23 Section 23-4-3(D)(10)e as follows:

23-4-3-(D)(10)e

e. Short-Term Rentals

Short-term rentals shall be allowed as permitted uses upon properties situated within the following zoning districts: CB Community Business, RB Regional Business, DT Downtown, and WF Waterfront district zones, subject to compliance with all of the standards provided below.

Short-term rentals may be authorized as Conditional Uses upon properties situated within the following zoning districts: A-Agricultural, LB-Limited Business, NB-Neighborhood Business, RM-20 Medium-Density Multi-Family Residential, and RM-30 High-Density Multi-Family Residential district zones, subject to Conditional Use review and approval. The cumulative total of short-term rentals permitted in these Conditional-Use zones will not exceed 125.

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SECTION 2. All other sections of said Section 23 of the Code of Ordinances of the City of Biloxi, Mississippi, shall remain in full force and effect.

SECTION 3. This ordinance shall become effective from and after its passage and publication in accordance with applicable law.

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RESOLUTION NO.

RESOLUTION CALLING FOR A PUBLIC HEARING WITH RESPECT TO AMEND THE LAND DEVELOPMENT ORDINANCE, SECTION 23-4-3(D)(10)e PERTAINING TO THE ADDITION OF LIMITS FOR CONDITIONAL USE SHORT-TERM RENTAL APPROVALS

WHEREAS, on Thursday, November 16, 2023, the Biloxi Planning Commission held a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 23-095-PC, City of Biloxi, with respect to a proposed **Text Amendment** to the Biloxi Land Development Ordinance; and

WHEREAS, the Planning Commission members were apprised of the particulars of this case, being made cognizant of the fact that the City of Biloxi has proposed a Text Amendment to the Biloxi Land Development Ordinance, to amend Section 23-4-3(D)(10)e of the Land Development Ordinance, requiring the cumulative total of short-term rentals permitted with conditional-use approval will not exceed 125; and

WHEREAS, on November 16, 2023, the Biloxi Planning Commission, upon much discussion of this text change, voted (12-0-0) to amend Section 23-4-3(D)(10)e of the Land Development Ordinance, as follows:

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Business, RM-20 Medium-Density Multi-Family Residential, and RM-30 High-Density Multi-Family Residential district zones, subject to Conditional Use review and approval. The cumulative total of short-term rentals permitted in these Conditional-Use zones will not exceed 125.

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WHEREAS, the City Council of the City of Biloxi, Mississippi, having given the Planning Commission's recommendation full consideration, has determined that this is a matter of general public concern, and being so, it is in the best interest of the community to hold a public hearing on this matter before the City Council.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, will conduct a public hearing in reference to Case No. 23-095-PC, City of Biloxi, on a date to be set and in accordance with all requirements as prescribed by the City of Biloxi Land Development Ordinance governing the conduct of public hearings.

RESOLUTION NO. _____

RESOLUTION TO DENY A TEXT AMENDMENT TO THE LAND DEVELOPMENT ORDINANCE, SECTION 23-4-3(D)(10)e PERTAINING TO THE ADDITION OF LIMITS FOR CONDITIONAL USE SHORT-TERM RENTAL APPROVALS

WHEREAS, on Thursday, November 16, 2023, the Biloxi Planning Commission held a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 23-095-PC, City of Biloxi, with respect to a proposed **Text Amendment** to the Biloxi Land Development Ordinance; and

WHEREAS, the Planning Commission members were apprised of the particulars of this case, being made cognizant of the fact that the City of Biloxi has proposed a Text Amendment to the Biloxi Land Development Ordinance, to amend Section 23-4-3(D)(10)e of the Land Development Ordinance, requiring the cumulative total of short-term rentals permitted with conditional-use approval will not exceed 125; and

WHEREAS, on November 16, 2023, the Biloxi Planning Commission, upon much discussion of this text change, voted (12-0-0) to amend Section 23-4-3(D)(10)e of the Land Development Ordinance, as follows:

23-4-3-(D)(10)e

e. Short-Term Rentals

Short-term rentals shall be allowed as permitted uses upon properties situated within the following zoning districts: CB Community Business, RB Regional Business, DT Downtown, and WF Waterfront district zones, subject to compliance with all of the standards provided below.

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NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, that having given the Planning Commission's recommendation full consideration, hereby rejects said recommendation and hereby denies the proposed Text Change to the City of Biloxi Land Development Ordinance, as provided by Case No. 23-095-PC, City of Biloxi, based upon a determination that_____

_____

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Scheduled for
November 16, 2023
PC Meeting

City of Biloxi
Case No. **23-095-PC**
Request for a **Text Amendment** to the LDO

Planning Commission
Case Fact Sheet

Case No.:	23-095-PC
Name of Applicant:	City of Biloxi
Address of Property:	N/A
Tax Parcel/Ward:	N/A
Request:	**Text Amendment** to the **Land Development Ordinance**
Purpose of Request:	To consider a Text Amendment to the Land Development Ordinance charged by the Biloxi City Council pursuant to Section 23-2-4(A)(2)b of the Biloxi Land Development Ordinance, to entertain proposed changes to said Land Development Ordinance, specifically **Section 23-4-3-(D)(10)e** concerning **Short-Term Rentals**.
Size of Property:	N/A
Present Zoning:	N/A
Present Use:	N/A
Most Nearly Bounded By (streets):	N/A
Adverse Influence:	None apparent.
Positive Influence:	The Planning Commission was charged by the City of Biloxi City Council to entertain proposed changes to said Land Development Ordinance, specifically **Section 23-4-3-(D)(10)e** concerning **Short-Term Rentals.**
Letters or Concerns stated:	The Planning Division Office has not received any letters or other written communications relative to this proposed Text Amendment to the LDO, as of November 9, 2023.
Comments/ Recommendations:	Pursuant to a charge extended by the City of Biloxi City Council to consider a Text Amendment to the Land Development Ordinance related specifically to **Section 23-4-3-(D)(10)e** concerning **Short-Term Rentals**, Case No.

23-095-PC.
Proposed modifications and changes to the Land Development Ordinance to be discussed at this Public Hearing are as follows:

23-4-3-(D)(10)e
e. Short-Term Rentals
Short-term rentals shall be allowed as permitted uses upon properties situated within the following zoning districts: CB Community Business, RB Regional Business, DT Downtown, and WF Waterfront district zones, subject to compliance with all of the standards provided below.

Short-term rentals may be authorized as conditional uses upon properties situated within the following zoning districts: A-Agricultural, LB-Limited Business, NB Neighborhood Business, RM-20 medium-density multi-family residential, and RM-30 high-density multi-family residential district zones, subject to conditional use review and approval. <u>The cumulative total of short-term rentals permitted in these conditional-use zones will not exceed 125.</u>

Short-term rentals may also be authorized in a PD-GE planned development-gaming establishment, PD-HB planned development-hospitality business, PD-C planned development-commercial, or PD-I planned development-infill zone subject to an approved Planned Development master plan by the City Council.

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Options:

1. Recommend approval of this Text Amendment to the Land Development Ordinance.

2. Recommend denial of this Text Amendment to the Land Development Ordinance, as offered.

BILOXI PLANNING COMMISSION MEETING
NOVEMBER 16, 2023
COMMUNITY DEVELOPMENT,
DR. MARTIN LUTHER KING JR. MUNICIPAL BUILDING,
676 DR. MARTIN LUTHER KING JR. BOULEVARD,
BILOXI, MISSISSIPPI,
BEGINNING AT 2:00 P.M.

PLANNING COMMISSION MEMBERS PRESENT:

David Washer, Chairman
Ronnie Bogard
Kyle Carron
Steve Delahousey
Charlie Dellenger
Dr. Larry Drawdy
Joe King
Gary Lechner
August Parker
Jimmy Poulos
David Stanovich
Michael Todaro

ALSO PRESENT:

Jerry Creel, Director of Community Development
Felicia Serpas, Senior Planner
Caryle Lena, Planner I
Zach Harris, City Arborist
Mandy Hornsby, Historic Administrator

REPORTED BY:

Melissa Burdine-Rodolfich
Simpson Burdine & Migues

C-O-N-T-E-N-T-S

CONTINUED PUBLIC HEARING(S)	PAGE:
(None)	--
NEW PUBLIC HEARING(S):	
23-095-PC	6
23-098-PC	15
23-099-PC	29
TREE HEARING(S):	
(None)	--

CHAIRMAN WASHER:
Let us call the Planning Commission meeting to order, please.
We'll record the members present. Mr. Lechner, Mr. Todaro, Mr. Parker, Mr. Bogard, Mr. Stanovich, Mr. Dellenger, Mr. Poulos, Dr. Drawdy, Mr. Carron, Mr. King, Mr. Delahousey, myself, David Washer; Jerry Creel, Director of Community Development; Caryle Lena, Planner. On the table at the front there is Felicia Serpas, Senior Planner, and Melissa Rodolfich, court reporter today. Behind them is Zach Harris, City Arborist, and also new face today is Mandy Hornsby, Architectural Administrator.
MR. CREEL:
Historic.
CHAIRMAN WASHER:
Historic.
Ask Mr. Delahousey to please open the meeting with a moment of prayer.
(Moment of prayer.)
CHAIRMAN WASHER:
Dr. Drawdy, would you lead us in the pledge, please, sir?
(Pledge of Allegiance.)

CHAIRMAN WASHER:
We welcome everyone here with us today. We would ask that anyone that desires to speak, please come to the podium when your case is called. If you would, please sign in at the pad provided and also give us your name and address for the record.
Also, let me recognize Dr. Paul Tisdale, Councilman Ward 5, in the audience with us.
Any cell phones, we ask that you either mute them or turn them off.
Ask if all members of the Commission received a copy of the minutes from the last meeting, and if there's any additions or corrections.
MR. DELAHOUSEY:
I move that we approve.
MR. CARRON:
Second.
CHAIRMAN WASHER:
Motion by Mr. Delahousey recommending approval; seconded by Mr. Carron.
All those in favor, say "aye."
(All in favor.)
CHAIRMAN WASHER:

Any opposed?
(None opposed.)
CHAIRMAN WASHER:
Thank you.
Committee reports today?
MR. CREEL:
Yes. Mr. Chairman and members of the Commission, over the two weeks, the department has issued 126 building permits. We had a total construction valuation of $1.1 million. We collected $21,000 in permit fees. We have issued 15 certificates of occupancy; four of those were for short-term rental. And other permits issued, three of those were actually the sub-permits for the new Rouse's. They pulled their plumbing, mechanical and their electrical permit. That was a total of a little over $3 million, but because they're sub-permits, they don't show up on our total report. Only the new construction permits show up. Also, we issued a permit for The Sanctuary, which is the church that's on Camellia Street just behind the Waffle House there across from Treasure Bay Casino, and three new single-family houses.
CHAIRMAN WASHER:

Thank you.
No continued public hearings.
New public hearing, Case Number 23-095-PC, City of Biloxi. This is a text amendment to the Land Development Ordinance to consider a charge extended by the City of Biloxi Administration to consider a text amendment to the Land Development Ordinance related to Section 23-4-3-(D)(10)e concerning short-term rentals. This was advertised on November 2nd and November 9th.
Jerry, anything you want to say?
MR. CREEL:
Yes, sir. I'll do that.
Okay. What this is, this came as a request from the City Council. You know, we have had a number of cases where short-term rental -- or requests for short-term conditional use in RM-20 and RM-30. This is not a challenge to any of the ones that are going in the zones where it's allowed as a use-by-right but only to those that are being considered for conditional use.
We currently have 57 that are existing, and the recommendation is that we put a ceiling on the number that we would issue of 125. The

Planning Commission has the right to consider -- approve this or not to approve it. If they feel that the number is too high, they can reduce that number down to something they feel like -- they feel is more realistic, but that's basically the part of the request.
We have so much opposition to a lot of these, especially in the areas that are zoned RM-20 and RM-30 where they abut single-family zoning, and we have had a number of neighbors to come out. We understand that some of the cities around us have limits on the number that they're allowing, and so the recommendation that came to us from the Council was to limit the total number to not more than 125.
CHAIRMAN WASHER:
Okay. Thank you.
Mr. Delahousey.
MR. DELAHOUSEY:
I had a question. I did a good bit of research on this and it sounds like cities certainly have the authority to regulate the number of short-term rentals.
My concern is what if this passes and someone with a lot of money decides to come before

us and gobble up a bunch of the 125 short-term rentals and they just sit vacant? Have you had any experience where there has been a condition placed on this type of restriction that if there has been no occupancy, say for six months or more, that it reverts back to conditional use?
MR. CREEL:
We haven't been faced with that yet, that type of a situation yet. You know, is that possible? It's possible, yeah, but we would still have to deal with the properties through code enforcement. I mean, if someone buys up a number of these properties that are in these multi-family zones and some of them even in some of the lower business zones where it would require a conditional use, we can't stop them from purchasing the property. But if the properties are unkempt, we just have to address it through code enforcement.
MR. DELLENGER:
Where did the 125 come from?
MR. CREEL:
That was just a recommendation that came from one of the council members that --
MR. DELLENGER:

So there's no reason behind that number?
MR. CREEL:
No.
MR. DELLENGER:
I didn't know if that's just --
MR. DELAHOUSEY:
Charlie, I checked with Gulfport. If I'm correct, Gulfport's limited to 55 or something.
MR. STANOVICH:
Ocean Springs was 75 for the whole city, not in a particular zone. I think they recently upped that.
MR. CREEL:
Yes.
MR. STANOVICH:
They've had restrictions for years.
MR. CARRON:
How many total do we have --
MR. DELAHOUSEY:
57.
MR. CARRON:
-- in the permitted areas?
MR. CREEL:
Just the conditional use, we have 57.

We updated this this morning. 57 that are conditional use. We have a total 452 overall.
CHAIRMAN WASHER:
All right. Any other questions?
MR. CREEL:
Yeah. This would not relieve anyone from still having to come before the Planning Commission or the City Council in order to get a conditional use approval. It's not affecting that at all. We just have a ceiling number on the total number that we can allow as conditional use.
MR. DELLENGER:
Will this allow us to up that at some point if we --
MR. CREEL:
Planning Commission and City Council can always recommend that it be increased, yes.
CHAIRMAN WASHER:
All right. Is there anyone in the audience that wants to speak in favor of the proposed regulation change? Anyone speaking in favor? No one speaking in favor.
Is there speaking in opposition? No one speaking in opposition.
We will consider that hearing closed.

You pretty well heard Mr. Creel's comments on that, so we will entertain a motion.
MR. DELAHOUSEY:
I move that we approve the recommendation.
MR. CARRON:
I will second it.
CHAIRMAN WASHER:
Motion by Mr. Delahousey recommending approval; second by Mr. Carron.
MR. CARRON:
But I still -- under discussion, I've got a question about once we've reached that 125 targets, basically it will be frozen and then if some should drop out for some reason or another, then it would open it back up for more, correct?
MR. DELAHOUSEY:
Or we could increase it.
MR. CREEL:
The way that the ordinance would work, let's say that we've maxed out. We have 125. Someone comes in to fill out an application, I would have to deny that application, which means that their option -- only option would be to file an appeal, and my guess would be is that they

would have to file that appeal based on some legal basis, you know, that maybe we didn't have the authority to limit it. But once we get to the 125, I just have to not accept any applications.
MR. CARRON:
One of the other issues that I think we would have with it, as the ordinance stands now, the Realtors are telling people there are conditional uses in these areas. And once we hit that 125 number, unless they're notified, they're going to still be selling property to people thinking that it's conditional use, that they could possibly make them short-term rental.
MR. CREEL:
Well, we can use Public Affairs to make sure that that message is sent out to let people know. And I'm sure we're going to hear from real estate agents and other people, but we will do everything that we can to publicize the fact that there was a limit if this goes through.
MR. DELAHOUSEY:
That was going to be my question also. In addition to that, perhaps that could be one of our regular agenda items, that you can report on where we are with meeting that 125 ceiling.

MR. CREEL:

We can do that, yes.

MR. DELLENGER:

What happens if somebody comes in -- let's just say we hit the 125 cap. Somebody comes in in January and you say, I have to deny this; we're at the 125 cap. All of a sudden that frees up the next month. Somebody closes theirs or whatever, one frees up.

Am I supposed to just come in every month and check on that or is there a check and balance to say, okay, you're on a waiting list?

CHAIRMAN WASHER:

No. We could keep copies of those applications in order, the order that they were received. And if for whatever reason somebody just decides to stop doing short-term rental, then we can notify that next person in line, that, you know, because one has stepped aside, we're back down to 124 and you can now apply for it.

MR. DELLENGER:

I mean, is that a procedure that you guys are planning on putting in place, or was that just kind of, well, we could do that?

MR. CREEL:

No. We can do that. I mean, we haven't talked about it in that depth yet, but certainly, that's reasonable and that will work within the ordinance.

MR. CARRON:

There would have to be some wording put in there, too, that these people should have a time limit that they have to respond back to you saying yay or nay, you know, whether they are going to do it.

MR. STANOVICH:

I'm pretty sure Ocean Springs had a waiting list like you're talking about. I think that's a good idea. Let somebody know they can get in line. If somebody drops off, they would be next up.

CHAIRMAN WASHER:

All right. Any other discussion?

(No response.)

CHAIRMAN WASHER:

All right. We have got a motion and second on the floor recommending approval to put a cap on at 125.

All those in favor, raise your hand, please.

Mr. Lechner, Mr. Todaro, Mr. Parker, Mr. Bogard, Mr. Stanovich, Mr. Dellenger, Mr. Poulos, Dr. Drawdy, Mr. Carron, Mr. King, Mr. Delahousey; myself, David Washer. We'll let the record show that's unanimous.

Our next case is 23-098-PC, Best Holding, LLC, Owner; Marty Hardy, applicant. It's an application for a PD-C, Planned Development-Commercial District Master Plan, under the working title Tomaston Medical Park on 17.79 acres, more or less, in size, presently zoned, RB, Regional Business, and identified as 12290 North Oaklawn Road and an unaddressed parcel fronting Shriner's Boulevard. This is Municipal Tax Parcel Number 1108H-04-001.000 and 1108H-04-002.000. This case was also advertised on November 2nd and November 9th.

Got the video on that, Felicia?

MS. SERPAS:

Yes, sir. That's Shriner off the top right of the screen. That's looking back to the west and I-10 right there.

CHAIRMAN WASHER:

Thank you.

Mr. Hardy, are you presenting this case?

MR. HARDY:

Yes. Well, I'll let Mr. Bart --

CHAIRMAN WASHER:

All right, sir.

DR. EDMISTON:

Thank you. So my name is Bart Edmiston. I'm one of the anesthesiologists with my partner Samir Tomajian, who -- we take care of Merit Hospital and we're also the chiefs at Memorial Hospital.

What we're doing is -- and I wish we had a drone to show you, because we do have some good pictures to show you what we want to do. So what we want to do is we want to take Merit Hospital, Memorial Hospital, ourselves and some of the best physicians in each representative specialty, such as plastic surgery, oncology, neurosurgery, gastroenterology, and we want to put it all together in a complex. Right now, we don't have enough space at Memorial or Merit to put everyone in a place.

So we have gotten the endorsement of Memorial Hospital, of Merit Hospital, both CEOs and the administration. And we want to combine it because this property sits kind of equal distance