

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER  
Naples, Florida  
February 24, 2022

LET IT BE REMEMBERED, that the Collier County Hearing Examiner, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m., in REGULAR SESSION at 2800 North Horseshoe Drive, Room 609/610, Naples, Florida, with the following people present:

HEARING EXAMINER ANDREW DICKMAN

ALSO PRESENT:

Michael Bosi, Planning and Zoning Manager  
Raymond V. Bellows, Zoning Manager  
John Kelly, Senior Planner  
Gabriella Castro, Principal Planner  
Andrew Youngblood, Operations Analyst

PROCEEDINGS

MR. YOUNGBLOOD: You have a hot mic.

HEARING EXAMINER DICKMAN: All right. Good morning, everybody. Today is February 24th, 2022. Russia has formally invaded the Ukraine for whatever reason. That's the news today.

It's 9:00 a.m. on Friday [sic], or a little bit after. I saw the -- I apologize for the delay. We were waiting for our court reporter, but we do -- we are going to take minutes according to law.

So my name is -- well, let's just get started with the Pledge of Allegiance and get into the other business real quick.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER DICKMAN: All right. Great. Thank you, everyone.

If you would silence any technology you have that makes noise, et cetera. If you want to have a conversation, please do so out in the hallway, because I can pick up on this, and I like to concentrate on what I'm doing.

I'm Andrew Dickman. I'm a Florida Bar certified attorney in good standing for over 20 years, concentration in land use, local government. I am not an employee of the county. I was contracted with by the County Commission in order specifically to handle these hearings that are under the jurisdiction of the Hearing Examiner.

My job is to run these meetings. They're quasi-judicial meetings, which means that I take in the information that's presented to me today, whether it's testimony or evidence, and apply that to the criteria which is for each one of the different petitions. Then -- I will not be making a decision today. I have 30 -- up to 30 days to render a decision, which I will do. It will be rendered in writing and supplied to you according to code.

The process that we're going to follow, according to these quasi-judicial proceedings, is that I'm going to ask the county staff, which is right here to my right, the infamous county staff professionals that have put together the staff reports and will supply me with information if I need it, additional information. Then we'll head over to the applicant at the large brown podium, and then we'll allow for public comment.

This is a hybrid meeting, meaning that the county has accommodated the public who still may feel uncomfortable being in an in-person meeting due to the COVID situation. We will take public comment, and then I will close the public comment period. Public comment will -- that are here in person will be at the gray podium. We'll close it. I'll give applicant time for rebuttal -- time for rebuttal, if necessary, and then -- okay, who's out there?

MR. YOUNGBLOOD: That's Heather.

HEARING EXAMINER DICKMAN: Heather. How you doing, Heather?

All right. So I think we know the rules here. I want to disclose that I do not -- I do not participate in the drafting of the staff reports. I do not talk to staff or the applicant about the substance of any application. The reason being is I'm here as a neutral, impartial professional decision-maker, and I want to hear the information right here, the same information that everybody is going to get.

I do have copies of the staff report. I have everything on the agenda that's been supplied that everybody else has. And once I get everything here today, the testimony, et cetera, that's when the hearing stops. I will not accept any additional information. From that I will develop my decision, again, based on the evidence and testimony that I believe is credible by experts and maybe laypersons, depending on how it is, and developing the decision based on that.

So with that being said, anybody who is going to testified here today needs to do so under oath, and I'm going to administer the oath for everybody here today for all the cases. So if you would stand and raise your right hand.

All right. Do you swear to tell the truth today during this hearing? Say yes, if you will.

(The speakers were duly sworn and indicated in the affirmative.)

HEARING EXAMINER DICKMAN: All right. Thank you. You are so sworn in.

All right. So why don't we get started. Ray, anything else? Did I miss anything?

MR. BELLOWS: For the record, Ray Bellows. No, I think you got it all.

HEARING EXAMINER DICKMAN: All right. Thank you very much. Great.

\*\*\*All right. Let's get started with No. A. This is 3A on the agenda. It's Petition No. PL20210002390. Take it away.

And except for Gabriella, it looks like this is going to be the John Kelly Show.

Hi. Glad to see you.

MS. CASTRO: Glad to see you, too. Gabriella Castro.

So this is a request for an insubstantial change to the Creekside Commerce Park for a Commercial Planned Unit Development to modify a deviation to allow Tract 7 to qualify for alternative architectural compliance process. Subject site is 5.25 acres located at 1336 Innovation Boulevard.

The project is compliant with the GMP and LDC and, therefore, staff recommends approval. The applicant has complied with all hearing notices, advertisements, and mailers went out on around February 4th. The property signage was constructed by the applicant, and the signed affidavit is located in Attachment E of the applicant backup materials.

HEARING EXAMINER DICKMAN: Okay. And the recommendation?

MS. CASTRO: Oh, approval.

HEARING EXAMINER DICKMAN: Approval.

Conditions?

MS. CASTRO: None. Just the attachment, the modifications to the ordinance.

HEARING EXAMINER DICKMAN: Gotcha, okay. Thank you very much. Don't go anywhere.

MS. CASTRO: Okay.

HEARING EXAMINER DICKMAN: Is the applicant here?

MR. ARNOLD: Yes, sir.

HEARING EXAMINER DICKMAN: How are you this morning?

MR. ARNOLD: I'm great. Thank you.

HEARING EXAMINER DICKMAN: Sorry for the delay in getting started.

MR. ARNOLD: No problem. I'm Wayne Arnold. I'm here representing Arthrex. Trent Lewis from Arthrex, who is head of their facilities and corporate infrastructure, is here with me today.

As Gabriella said, it's kind of a procedural deviation that we had previously approved that allowed for the Arthrex office complex to be constructed as well as their hotel complex to be a similar architectural design. So we're here to modify the PUD to add Tract 7 as one of the other areas that would qualify for this architectural design review through the county because they recently acquired what I know as the Wofford College building, and they want to make that part of their campus infrastructure as well.

As part of our review, that's a very simple change to the deviation to add Tract 7. Your staff asked for us to include monitoring language that's standard for other PUDs that are newer PUDs, so we're incorporating that language at no objection.

And I have a short presentation if you need location information, et cetera; otherwise, I'm --

HEARING EXAMINER DICKMAN: Yeah, let's go through your presentation --

MR. ARNOLD: Okay.

HEARING EXAMINER DICKMAN: -- if you don't mind.

MR. ARNOLD: Andrew, do you have to advance for me? Okay. Maybe just go to the aerial photograph. That should be there.

MR. YOUNGBLOOD: If I can get it to move here.

MR. ARNOLD: There you go. If you can go back to the aerial, that would be great. Just one more slide.

So on the -- on the screen you can see we've identified Tract 7, which included formerly the Arthrex administration building. It's been replaced by the new multistory building that's now constructed. It's under construction in that image, and the portion that we're adding is Tract 7. So Arthrex controls all of Tract 7 as well as the other property north of Creekside Boulevard except for the post office.

You can go to the next slide, please.

So as Gabby said, we're modifying Section 3.5, deviations, to include now Tract 7 in addition to the other two tracts that were allowed to go through the alternate architectural review.

We're also adding that notation to the master plan and then adding the language relative to monitoring that the county has asked us to include.

You can go forward, Andrew.

So this is the simple strikethrough/underline language for the deviation. You can see we struck -- it's Tract 5, 6, and 7 now rather than just Tracts 5 and 6.

You can advance that forward, please.

And, again, this is the existing PUD master plan. You can see Tract 7 identified. It's one of the industrial commercial tracts within the Creekside PUD owned entirely by Arthrex.

You can go forward again.

So, again, we added the language here on Tract 7 that was similar to that for Tract 5 and 6 that says architectural standards deviation, and then it references the PUD section to refer to. That was the simple change to the master plan.

Next.

So we showed this rendering. We had one member of the public that came to our neighborhood information meeting, but Arthrex has a desire to replace the existing building that's there with a new modern building that's similar in architectural style to what they've done for the hotel and their main office complex.

This was a conceptual rendering. It's probably changed since we started the process, knowing my clients. But this gives you an idea that they want to do a little bit more linear building, and the architectural alternative process will allow them to do that.

And that's my presentation.

HEARING EXAMINER DICKMAN: So the administration building's going to go way in this -- it's a replacement of the administration building?

MR. ARNOLD: No. This won't be an administration building. It's probably going to be a training center for employees, et cetera. They -- so the new building that was constructed over the last couple of years is their new main office building. Their former office building was just a smaller building. I'm not even sure -- it houses administrative staff still, but this will be an adjunct facility for the Arthrex Corporation.

HEARING EXAMINER DICKMAN: Okay. Is -- real quick question. As far as, like, internal traffic circulation, is this mostly -- I notice in there that a lot of -- there's a lot of pedestrian -- like, bicycle use and other electronic vehicles that are being used in there. So -- but there's also -- is there not a connection between Goodlette and -- has that been cut off? I know it's --

MR. ARNOLD: It has been.

HEARING EXAMINER DICKMAN: It has been?

MR. ARNOLD: It has been, yes. There's a small roundabout now that takes traffic if you come in off of Goodlette-Frank Road where they established a traffic signal recently. So if you turn into Arthrex, you would then be directed north, and you can get back to U.S. 41 by going north. And I can show you on the aerial, if you go back to the aerial, Andrew.

HEARING EXAMINER DICKMAN: So can you go all the way through (indiscernible)?

MR. ARNOLD: Not directly. You formerly could. But Creekside Boulevard used to connect U.S. 41 and Goodlette-Frank Road.

HEARING EXAMINER DICKMAN: Right.



MR. ARNOLD: That connection's been severed at Creekside Street, which has now been renamed anyway, but -- so you go --

HEARING EXAMINER DICKMAN: That's where the post office is, correct?

MR. ARNOLD: The post office is on the left side of your screen.

HEARING EXAMINER DICKMAN: That's right.

MR. ARNOLD: And so the -- you would go on the north side of the post office and then back south to Creekside Boulevard and out to U.S. 41, but that connection was severed as part of our last amendment.

HEARING EXAMINER DICKMAN: Yeah. I just want to track this as this area develops.

So no increase in traffic based on your analysis?

MR. ARNOLD: No.

HEARING EXAMINER DICKMAN: No?

MR. ARNOLD: No traffic analysis was required. It's an existing building, existing use. It's simply a procedural deviation.

HEARING EXAMINER DICKMAN: Okay. Well, I'm looking at the criteria to that.

MR. ARNOLD: Yes, sir.

HEARING EXAMINER DICKMAN: I realize it's just that, but I saw (indiscernible).

All right. Let's open it up to the public. Anybody here in person to speak on this item? Has anybody registered?

MR. YOUNGBLOOD: Mr. Dickman, I don't have any registered speakers for this item.

HEARING EXAMINER DICKMAN: Okay. The neighborhood information meeting must have been thrilling. Where did you conduct that?

MR. ARNOLD: At the Arthrex.

HEARING EXAMINER DICKMAN: At their facility?

MR. ARNOLD: At their facility, yes. I got a nice tour of the facility, yes.

HEARING EXAMINER DICKMAN: Okay. All right. I'll close the public hearing. County, anything else you want to say?

MS. CASTRO: Nothing to add.

HEARING EXAMINER DICKMAN: Okay. So you told the truth, the whole truth?

MR. ARNOLD: I did.

HEARING EXAMINER DICKMAN: Okay. I trust you.

All right. It seems pretty straightforward. I will take a look at this. I don't have any other questions. And, again, as I said, I will get my decision out in 30 days. Anything else you wanted to --

MR. ARNOLD: No. Thank you so much.

HEARING EXAMINER DICKMAN: -- reply or anything?

All right. Good, great. Great work. Appreciate that.

\*\*\*So we're going to move on to the next item. 3B. Oh, come on Gabriella. Really?

MS. CASTRO: I'm done.

HEARING EXAMINER DICKMAN: Oh, man.

Mr. Kelly?

MR. KELLY: Good morning, Mr. Dickman. How are you this morning?

HEARING EXAMINER DICKMAN: I'm good. Thank you for asking.

MR. KELLY: Okay. Before you is going to be Agenda Item 3B. This is boat dock extension PL20200002208. It's a request that you approve a 36.9-foot boat dock extension over the maximum permitted protrusion of 20 feet allowed by Section 5.03.06 of the Collier County Land Development Code for waterways greater than 100 feet in width to allow a new boat docking facility with two boat slips, each with a boatlift, that will protrude a total of 56.9 feet into a waterway that is 271.6-plus-or-minus feet wide for the benefit of the subject property which comprises of .26 acres located at 226 Malibu Cove further described as Lot 20, South Port on the

Bay, Unit 1 in Section 6, Township 48 South, Range 25 East, Collier County, Florida. It's located within Tract H, which is a residential component of the Lely Barefoot Beach Planned Unit Development.

Public notice requirements were contained in Section 10.03.06.H. The property owner notification letter, newspaper ad, and public hearing signs were all effected on February 4, 2022.

This petition was reviewed based upon the criteria in LDC Section 5.03.06.H of the primary criteria. It satisfied five of five of the secondary criteria, five of six, with the sixth being the Manatee Protection Plan, which is not applicable, and has been found to be consistent with both the Growth Management Plan and the Land Development Code.

I received no public comment in response to any advertising for this project, and staff recommends that you approve this petition as described in accordance with the proposed dock plans provided in Attachment A, Sheets 3 to 5.

HEARING EXAMINER DICKMAN: Quick question for you. I'm looking at your staff report, which is Page 3 of 7. It's a graphic map aerial photograph. Are you there with me?

MR. KELLY: Yes.

HEARING EXAMINER DICKMAN: So the big yellow arrow is pointing at -- it says 226.

MR. KELLY: Correct.

HEARING EXAMINER DICKMAN: Is that the subject property?

MR. KELLY: It is.

HEARING EXAMINER DICKMAN: And why are some of the other properties in blue?

MR. KELLY: I believe they each have a boat dock extension.

HEARING EXAMINER DICKMAN: Gotcha, okay. For some reason this place looks familiar to me. I don't know.

MR. KELLY: You'll see a lot here because of the -- there's a 10-foot -- I'm sorry -- a 10- or 20-foot conservation easement there and, because of that conservation easement, most of the people need a boat dock extension.

HEARING EXAMINER DICKMAN: Okay. All right. I just thought that maybe I had had a case in here before, but I don't know. Maybe -- maybe there's a lot of coves in the waterways around.

Okay. Let's hear from the applicant.

Good morning, sir.

MR. NELSON: Good morning. My name's Bill Nelson. I work with Greg Orick Marine, and I represent the owner in this matter.

HEARING EXAMINER DICKMAN: Okay. Great.

MR. NELSON: We're just requesting a boat dock extension to extend the dock out 39 -- 36.9 feet beyond the allowable 20-foot protrusion. This is due to the water depth in the area, the natural shoreline, and the existing mangroves that we are trying to avoid altering.

And we're just basically asking for two slips with boat lifts so we can keep two boats on and also paddlecrafts. One of the lifts will be shared.

HEARING EXAMINER DICKMAN: I noticed that. Any letters of support or opposition that you've had whatsoever? Have you -- any --

MR. NELSON: We had no opposition. And I know we did work closely with the neighbor to the north, which is probably why this looks so familiar. You approved a boat dock extension for them a couple weeks back.

HEARING EXAMINER DICKMAN: That's right. Okay. Okay. Do you have any -- obviously, staff's recommending approval for you. Any -- I see that there is -- I recognize that there is a fairly large or wide -- it looks like mangroves that are between the property line going out to where you want to put the boat dock.

MR. NELSON: Yeah. The mangroves are definitely fully mature. They're up above 10 feet in most areas, and they overhang the shoreline, making it basically impossible to moor a

vessel within 20 feet from the mean high-water line.

HEARING EXAMINER DICKMAN: And that's the conservation easement that's being referred to; is that correct?

MR. NELSON: The conservation easement, I believe, is only 10 feet, but it is part of that, yes.

HEARING EXAMINER DICKMAN: Yeah, okay. The mangroves will grow.

All right. So there's not going to be any trimming back of that or encroachment other than the access to the dock into the area?

MR. NELSON: Correct. There's a four-foot-wide access to the dock through the mangroves, but that's it. That's the only alteration. But, I'm sorry, the conservation easement is 20 feet, you're right.

HEARING EXAMINER DICKMAN: Okay. Anything else before we go to the public?

MR. NELSON: No, sir.

HEARING EXAMINER DICKMAN: Okay. Anybody signed up to speak on this?

MR. YOUNGBLOOD: I don't have any registered public speakers, sir.

HEARING EXAMINER DICKMAN: Okay. Nobody here to speak in the public. I'm going to close the public hearing.

John, do you have anything else you want to state?

MR. KELLY: No, sir, that about does it.

HEARING EXAMINER DICKMAN: That covers it, huh? Okay. Great.

Anything else you want to say, sir?

MR. NELSON: No thanks. That's it.

HEARING EXAMINER DICKMAN: That's it.

MR. NELSON: Thank you.

HEARING EXAMINER DICKMAN: Okay, great. So I will -- pretty straightforward. I will render my decision in 30 days. Thanks for being here.

MR. NELSON: Thank you.

HEARING EXAMINER DICKMAN: Appreciate it. Have a nice day.

\*\*\*All right. This is Item 3C -- is there a companion item in here?

MR. KELLY: The next two following this one.

HEARING EXAMINER DICKMAN: Okay. Gotcha. All right. So let's do (indiscernible).

MR. KELLY: This is going to be boat dock extension PL20210000104. It's a request that you approve a 21-foot boat dock extension over the maximum permitted protrusion of 20 feet for waterways greater than 100 feet in width to allow a boat docking facility that will protrude a total of 41 feet into a waterway that is 121.6-plus-or-minus feet wide pursuant to Section 5.03.06 of the Collier County Land Development Code for the benefit of property comprising .23 acres located at 1680 Vinland Way further described as Lot 19, Landings at Bears Paw, in Section 32, Township 49 South, Range 25 East, Collier County, Florida.

It's located within a residential component of the Landings at Bears Paw Planned Unit Development, Ordinance 13-66, as amended.

Public notice requirements are as per Land Development Code Section 10.03.06.H. The property owner notification letter, newspaper ad, and public hearing signs were all effected on February 4, 2022. The review was completed based upon the criteria contained in Section 5.03.06.H of the primary criteria. It satisfies five of five of the secondary criteria, four of six, with the sixth being the Manatee Protection Plan, which is not applicable, and has been found to be consistent with both the Growth Management Plan and the Land Development Code. No public comment was received.

And it's our recommendation that you approve the petition as described in accordance with the proposed dock plans which are provided within Attachment A.

HEARING EXAMINER DICKMAN: All right. I think the applicant's probably going to

address this, but on the secondary criteria it looks like the one that has not been met is due to the width of the water canal frontage. Is that -- this is No. 3 of secondary criteria, Page 8 of 9 on your staff report?

MR. KELLY: That would be correct.

HEARING EXAMINER DICKMAN: Thank you. Okay. Well, let me get the applicant up here and --

MR. KELLY: I don't believe your applicant's been sworn.

HEARING EXAMINER DICKMAN: Had you been late?

MR. ROGERS: I was tardy today, sorry.

HEARING EXAMINER DICKMAN: Raise your right hand.

MR. ROGERS: Yes, sir.

HEARING EXAMINER DICKMAN: Do you swear to tell the truth, all the truth?

MR. ROGERS: I do.

HEARING EXAMINER DICKMAN: Thank you.

MR. ROGERS: Good morning.

HEARING EXAMINER DICKMAN: Good morning. How are you, sir?

MR. ROGERS: Good, thank you. For the record, Jeff Rogers with Turrell, Hall & Associates. I'm here today representing the applicant, David Sherrill, who just recently purchased his home at 1680 Vinland Way and has since hired a contractor who has turned and hired me to do a boat dock extension for them for their proposed dock at their existing house.

This is a single-family residential lot which is allowed two boat docks or, excuse me, two boats to be kept at the docking facility. This particular development did go through some PUD amendments when they first got developed which allowed them to approach in the typical side-yard setbacks and things, which we can discuss; however, I'll just go through the primary criteria and the associated slide show.

HEARING EXAMINER DICKMAN: A couple of quick questions before you get started.

MR. ROGERS: Yeah, sure.

HEARING EXAMINER DICKMAN: So this -- this is at the top of the Gordon River; is that right?

MR. ROGERS: Correct, yes, sir.

HEARING EXAMINER DICKMAN: Is this technically considered the Gordon River or --

MR. ROGERS: It's -- yes, it's labeled the Gordon River, but the actual natural Gordon River waterway went up towards the Conservancy over towards, I believe, the Freedom Park that the county has right there. That is the actual Gordon River.

HEARING EXAMINER DICKMAN: It flows into Naples Bay, so that's the estuary that it deals with?

MR. ROGERS: Correct, yeah. So boats here will go down to the 41 bridges, go under the bridges by Tin City, and then out.

HEARING EXAMINER DICKMAN: So this is actually a -- not a natural -- or at least it's been straightened --

MR. ROGERS: It's a man -- this would be considered a manmade waterway.

HEARING EXAMINER DICKMAN: Okay. It looks very familiar. I think I've had a couple cases in here recently --

MR. ROGERS: Yes, sir.

HEARING EXAMINER DICKMAN: -- is that true?

MR. ROGERS: I personally have done at least four to six boat dock extensions in this neighborhood myself. We worked with the developer originally with --

HEARING EXAMINER DICKMAN: (Indiscernible.)

MR. ROGERS: Yeah.

HEARING EXAMINER DICKMAN: Now, is there a requirement to have the association

sign off on this?

MR. ROGERS: Well, because of the fact that we're -- the association owns the shoreline, the riprap shoreline, we had to get a letter of support from them.

HEARING EXAMINER DICKMAN: And we have that, right?

MR. ROGERS: Yes, sir. It should be in the record -- I believe it's in the package. Knowing John, being so thorough, it's in there.

HEARING EXAMINER DICKMAN: Yes, John is though. He probably went out there himself.

MR. ROGERS: Yes.

HEARING EXAMINER DICKMAN: All right. So let's roll through it.

MR. ROGERS: Per your request, you know, typically we like to see pictures of the existing site conditions.

HEARING EXAMINER DICKMAN: Thank you.

MR. ROGERS: These aren't the best photos. I took these when I was doing the submerged resource survey per Craig Brown's request. So the waterway -- this is the subject waterway. You can see there's, obviously, docks immediately to our west, which this photo's taken from the eastern property line looking westward down the canal.

So first and foremost, let's go through the criteria real quickly. Primary Criteria No. 1, number of docking facilities and boat slips proposed, is it appropriate with the waterfront length? Yes. To answer this question, yes, we are allowed a boat dock here as well as two slips. The applicant is proposing one slip so, therefore, we meet this criteria.

Number 2, water depths are proposed so shallow. Where the county's making us take the point of protrusion from, being the upland property line, which is the most restrictive point per the code, we are crossing over about 10 to 11 feet of riprap shoreline. So there is not sufficient water depths within 20 feet from the shoreline, so that's why most of these docks have boat dock extensions along this shoreline.

Number 3, proposed dock facility may have adverse impacts on navigation. No. Unfortunately, this whole waterway is open. Fortunately, or unfortunately, it's open for navigation anywhere. There is no threat of channel here. We are within 25 percent width of the waterway, which is the criteria that we have to meet for a protrusion, so we do meet that. State and federal permits have been issued for this as well, and they take navigation into consideration with their criteria.

I just touched on No. 4 in regards to 25 percent width of the waterway. We do meet that.

Number 5, whether the proposed dock location and design is such the facility will not interfere with the use of neighboring docks. You know, no. In this case these setbacks have been reduced per the PUD. It is a tight access, but it's -- everyone's got the same, basically, along this shoreline, all 11 properties.

Number 1 of the secondary criteria, are there other special conditions? I touched on this before in regards to where we're taking our point of protrusion being the property line. That, in this case, is the additional special condition driving the boat dock extension request.

Number 2 of the secondary, whether the proposed dock facility would allow reasonable, safe access to the vessel. If we go ahead and move forward, I'll show the diagram of the proposed dock. That's the existing condition. So you can see it is tight on this aerial view.

Go to the next one, please.

So here's the proposed dock, and it's a very common design for this neighborhood. I believe I did the first boat dock extension with the county probably five years ago along this shoreline with this dock design that you see in front of you, and this is at least the third or fourth other residential unit that would have this same design. It provides access. It provides storage for recreational activities and gives them areas to moor the boat up within their allowed area.

HEARING EXAMINER DICKMAN: Is there any -- I mean, I agree with you. I mean, I'm looking at the larger aerial, and I see some angle mooring at the very top, but it doesn't look

like those are even residential lots. Otherwise, the only way to do this is practically this way, yeah.

MR. ROGERS: Right, 100 percent.

If you move forward on the slides, Andrew. Keep going. There's the -- well, here. Let me touch on this. Go back.

There's 11 foot from the mean high-water line to the red bold line of just rock that we're crossing over, which is more than half of the area we're allowed for a dock, so you can see it doesn't work.

Go to the next slide.

You can see the -- from the aerial, here's the aerial that you're speaking of. The docks on the angle on the far east side of this development are the association's docks. So people that live -- that have homes up on the golf course side are still able to have a slip down on the association docking facility, which is the angled finger piers that you see. So they can still have boats, but they don't live on the water.

HEARING EXAMINER DICKMAN: So the -- what's the neighborhood directly --

MR. ROGERS: Bears Paw.

HEARING EXAMINER DICKMAN: Bears Paw.

MR. ROGERS: Yes, sir.

HEARING EXAMINER DICKMAN: Are they put on notice of these?

MR. ROGERS: Oh, yeah. They were -- they worked with the applicant. They actually -- the owners of these units are allowed to have golf memberships to Bears Paw. They mutually -- you know, they're very friendly, which has helped with the development of this in general.

So, quickly, let's just finish this. Number 4, secondary impacts to waterfront view. Everyone's got the same view, unfortunately, here. You're going to see your neighbor's dock no matter what even though your view's within your riparian rights. It's a boating community. So it's not going to really impact anyone differently than they already are.

HEARING EXAMINER DICKMAN: It's a slow speed to get out through --

MR. ROGERS: Yes, sir.

HEARING EXAMINER DICKMAN: -- all the way?

MR. ROGERS: All the way -- all the way down past the City Dock.

HEARING EXAMINER DICKMAN: Past the zoo, past the Conservancy.

MR. ROGERS: Past the City Dock.

HEARING EXAMINER DICKMAN: All that stuff.

MR. ROGERS: All the way down to Aqualane.

HEARING EXAMINER DICKMAN: Underneath that city bridge?

MR. ROGERS: Your 20, 30 minute putz, so...

HEARING EXAMINER DICKMAN: Past the airport.

MR. ROGERS: Yep, all that. All that, yes, sir.

Five and 6, 5 being seagrasses, there were no seagrasses here. I dove it myself. And No. 6 being the Manatee Protection Plan, it's not applicable to single families.

As you can see, we're 41 feet on this request, and that is a 21-foot boat dock extension. It's very -- it's consistent with others. I have -- personally have gotten ones further out into the waterway approved on this, so I'm confident that we will be consistent with everyone out there.

Happy to answer any additional questions you might have. If not, I close.

HEARING EXAMINER DICKMAN: Not at all. Thank you for the photographs today. Those do help me.

MR. ROGERS: Yes, sir. We'll get them better each time.

HEARING EXAMINER DICKMAN: Street level. No, you're doing great. Unfortunately, you never put your profile picture on there.

MR. ROGERS: Nope, I'm not doing it.



HEARING EXAMINER DICKMAN: Your colleague likes to do that, but you don't.

MR. ROGERS: No.

HEARING EXAMINER DICKMAN: So --

MR. ROGERS: That's all him.

HEARING EXAMINER DICKMAN: All right. I just like to see how you guys change over time.

MR. ROGERS: More gray, more gray.

HEARING EXAMINER DICKMAN: Okay. Stick around. I'm sure we have lots of people to speak on this.

Any members of the public signed up to speak on this?

MR. YOUNGBLOOD: I don't have any registered speakers for this item.

HEARING EXAMINER DICKMAN: Are you sure we noticed this?

MR. YOUNGBLOOD: I was the one that did it.

HEARING EXAMINER DICKMAN: Okay. All right. And that's testimony to a good application.

John, anything else on this item?

MR. KELLY: Nothing further.

HEARING EXAMINER DICKMAN: All right. I have closed the public hearing. I have no other questions. I have all the information I need. I will be rendering a decision within 30 days. Thank you for being here.

MR. ROGERS: Thank you.

HEARING EXAMINER DICKMAN: \*\*\*All right. Let's move on to 3D. These are the companion ones, right?

MR. KELLY: These are your companion items.

HEARING EXAMINER DICKMAN: Real quickly, how are you going to handle this? Just one presentation, and then I'll deal with them?

MR. KELLY: Just one presentation.

HEARING EXAMINER DICKMAN: Okay, great. Let's do that.

MR. KELLY: These are your Agenda Items 3D and 3E. It's variance PL20210001516 and the companion boat dock extension PL20210000155.

It's a request for you to approve both a variance from Section 5.03.06.E.5 of the Collier County Land Development Code to reduce the required eastern side riparian setback for dock facilities on lots with water frontage of 60 feet or greater from 15 feet to 5.1 feet for a lot width 63.2-plus-or-minus feet of water frontage and for a 31.1-foot boat dock extension over the maximum permitted protrusion of 20 feet allowed by Section 5.03.06 of the Land Development Code for waterways greater than 100 feet in width for a total protrusion of 51.1 feet into a waterway that is 125.1-plus-or-minus-feet wide for the benefit of the subject property which comprises .22 acres located at 177 Topanga Drive, further described as Lot 86 South, Port on the Bay, Unit 1, in Section 6, Township 48 South, Range 25 East, Collier County, Florida. It's located in Tract H, a residential component of the Lely Barefoot Beach Planned Unit Development.

The public notice requirements for the variance are contained in Section 10.03.06.F.2 and for the boat dock extension within LDC Section 10.03.06.H. The agent letter required for the variance was sent by the -- by the agent within -- for owners within 150 feet as well as the homeowners association, and that was sent by the applicant on December 9th, 2021. The required property owner notification letter for the hearing, newspaper ad, and public hearing signs were all effected on February 4, 2022.

The variance application was reviewed by staff based upon the criteria contained within the Land Development Code, Section 9.04.03, A through H, with the findings stated within the staff report.

The boat dock extension was reviewed based upon the review criteria contained within Section 5.03.06.H. Of the primary criteria, it satisfied four of five, of the secondary criteria, four



of six with the sixth being the Manatee Protection Plan, and has been found to be consistent with both the Growth Management Plan and the Land Development Code.

No public comment was received in response to any of the advertising, and it's staff recommendation that you approve both the variance and the boat dock extension in accordance with the plans provided within Attachment A of each of the individual staff reports. And that concludes my presentation.

To assist the applicant, I would like to request that a photo be placed on the screen, and that will be the one I provided for you, Andy. I think you might have some questions that the exhibit will explain.

HEARING EXAMINER DICKMAN: Okay.

MR. KELLY: Okay.

HEARING EXAMINER DICKMAN: Well, I'm going to -- yeah, I'll address this with the contractor. So where -- just real quickly, John, let me ask you a quick question. On the notices, were they -- was it one notice that went out or with both --

MR. KELLY: The agent letter's required for a variance. It goes to property owners and homeowners association within 150 feet of the subject location. The other advertising is for the hearing itself, and they're sent as per usual by the county staff.

HEARING EXAMINER DICKMAN: So they were done separately, one for each of the applications?

MR. KELLY: Correct.

HEARING EXAMINER DICKMAN: Okay, gotcha.

MR. KELLY: Well, actually, I need to defer. I think they were set as one advertisement and one letter containing both items.

HEARING EXAMINER DICKMAN: Okay, great. Thank you.

How are you, sir?

MR. NELSON: I'm doing good. Thank you.

HEARING EXAMINER DICKMAN: Nice to see.

MR. NELSON: For the record, I'm Bill Nelson. I work with Greg Orick Marine Construction, and I represent the owner in this matter.

HEARING EXAMINER DICKMAN: Bill, I want to tell you a quick story. So I really respect marine contractors. The reason why is I got out of high school when I was 17, did marine construction for about two-and-a-half years for Bay Construction in Tampa Bay and decided this is not for me. I'm going to college.

So thanks to that I went to college, because it was really hard work. Lifting -- and, fortunately, it was right when they went to pressure treated pilings and got rid of the other ones.

MR. NELSON: Creosote.

HEARING EXAMINER DICKMAN: Yeah, that was terrible. That was terrible. So tough job, really tough job, guys. I can guarantee you that, so...

Go ahead.

MR. NELSON: All right. Well, we are proposing a new dock facility at a single-family residence. We're asking to go 31.1 feet beyond the allowable 20 feet, and this is due to water depth, the natural shoreline, and the mature mangroves that are existing along the shoreline which would prevent any boat from being moored within that 20 feet. There's also a 20-foot conservation easement in this neighborhood.

We're proposing a dock with two slips, which is consistent with the -- the LDC, and --

HEARING EXAMINER DICKMAN: Let me ask you about that real quickly, because I'm looking at your diagrams, and they're showing, actually, the smaller slip. They're showing two -- are those watercraft, personal watercraft, or is that actual boats?

MR. NELSON: The client, yeah, wants personal watercraft, also the ability to launch paddlecraft such as kayaks, paddleboards.

HEARING EXAMINER DICKMAN: Okay. So on the diagram, we're not talking about

three boats; we're talking about two lifts?

MR. NELSON: Two lifts, yes.

HEARING EXAMINER DICKMAN: Okay.

MR. NELSON: One regular boat, and two personal watercrafts.

HEARING EXAMINER DICKMAN: Okay. Well, I'll get back to that.

MR. NELSON: Basically, we are -- I can go through the criteria if you'd like. Again, we're just asking for the two slips consistent with the LDC. The water depth there at the site, Criteria 2, we are a little too shallow within the 20 feet, plus the mangrove growth. So we do need to move it out further to be able to moor any vessel.

Whether or not we'd have adverse impact on navigations, Criteria 3, there is no marked channel here, and we are designing it consistent to be able to not hinder any other docks, and boats will still have at least 80 feet to navigate by this area.

As far as Criteria 4, we do not meet that. We are asking for a protrusion for more than 25 percent but, again, we are leaving more than 80 feet for boats to get by still.

And Criteria 5, we designed this dock so as not to hinder any other existing docks from accessing what they already have. As you can see, the dock to the east has an approach from the east, so we should not get in their way with the new design.

As far as the secondary criteria, there are other special conditions not related to water depth, and that would be the conservation easement and the fully mature mangroves within that 20 feet, which is pushing the dock system out deeper.

As far as Secondary Criteria 2, we did not design this with any excessive space. Basically, we are just designing it to be able to access the vessels and also store any paddlecraft, kayaks, or anything else they may want to use on the secondary lift.

As far as Criteria 3, the links combined, we don't meet this criteria. It is a very narrow water frontage, and he's asking for a 32.7-foot-long boat and two 11.7-foot-long PWCs, which does push us over the 50 percent linear water frontage.

And then Criteria 4, we are not impacting any neighboring waterfront views. We're keeping everything within the riparian lines, and we're also -- there's fully mature mangroves out there, so it would be hard to just see over those.

And then, No. 5, there are no seagrass beds located as we provided in our submerged resource survey from Turrell, Hall & Associates.

And Criteria No. 6 is not applicable as the Manatee Protection Plan.

Other than that, I really have nothing else to input. We did ask for the variance on the right side for the side setback and that, again, is due to the narrower shoreline and the nature of the riparian lines kind of making a pie shape and getting narrower and narrower as you move the dock system further away from the shoreline.

HEARING EXAMINER DICKMAN: All right. Let me go to the public, and then if you need time to rebut anything that's been said, then I'll give you that.

Anybody signed up for the public on this?

MR. YOUNGBLOOD: I don't have any registered speakers for this item either.

HEARING EXAMINER DICKMAN: Okay. John, please, I have a question for you. I guess what's throwing me off a little bit -- and maybe it's just the way the design is shown. Tell me -- okay. So the -- some of this is rhetorical, but I want to hear it on the record. The allowance for single-family boat slips, is it two, or is it referred to boats?

MR. KELLY: Two slips.

HEARING EXAMINER DICKMAN: Two slips, okay. So two slips. And what I'm -- so what I'm looking at -- and maybe it's just, like, the icons that you're using on the diagram, because they look like a total of three boats. But you're saying the smaller slip is a lift for two personal watercraft --

MR. NELSON: Yes.

HEARING EXAMINER DICKMAN: -- is that correct? Okay. So it's going to be one

boat and two personal watercraft?

MR. NELSON: Yes.

HEARING EXAMINER DICKMAN: Does that meet with code?

MR. KELLY: Yes. Most of the time you see it says the decked-over lift. I don't know why it's not in this case, but -- so -- also, I just wanted to point out, this exhibit that I had put up is contained within the applicant's backup material, so it's part of your attachments to the staff report.

HEARING EXAMINER DICKMAN: Yeah. I appreciate that. Thank you. Anything else, John?

MR. KELLY: No, sir, other than I also wanted you to see from this photograph that -- the side with the variance, the adjoining property owner enters their dock space from an alternate direction. So, actually, they designed it that way, so...

HEARING EXAMINER DICKMAN: Say it again. The --

MR. KELLY: The dock -- I'm not seeing a north arrow, but if north is up, the dock to the east. They would enter from the east to west so the five -- the decrease in the setback should not impact entry to that dock.

HEARING EXAMINER DICKMAN: You are talking about this area, right?

MR. KELLY: Yes.

HEARING EXAMINER DICKMAN: East? East?

MR. KELLY: Right. And they enter their dock facility from east to west.

HEARING EXAMINER DICKMAN: So this is a property line, but this is the riparian line; is that correct?

MR. KELLY: Correct.

HEARING EXAMINER DICKMAN: PL -- okay. So you're saying their entranceway is here. This is going to be a straight in, straight out. Gotcha. Okay. Over here, this is the dock for the -- this is associated -- this is the neighboring house; is that correct?

MR. NELSON: Yes. The neighbor to the west right now does not have a dock facility. And I showed that as part of the reason why we're asking for the variance on the east side was because of the existing dock to the east and his access to it. That way the future dock for the neighbor to the west, depending on what they do -- we're trying to avoid creating any conflicts with them.

HEARING EXAMINER DICKMAN: So their riparian lines may end up being something like this, something like that, which would be in here.

MR. NELSON: Yeah. It would probably be parallel with the rooflines of the two homes there on the left side of the drawing.

HEARING EXAMINER DICKMAN: Okay. Anything else, John?

MR. KELLY: No, sir.

HEARING EXAMINER DICKMAN: Any letters of support? Objection?

MR. KELLY: There is a letter of support from the Conservancy that applies to the 20-foot conservation easement. Other than that, nothing from the public.

HEARING EXAMINER DICKMAN: Support, okay.

Great. Nice work.

Anything else? Anybody? No members of the public sign in between the last minute?

MR. YOUNGBLOOD: I don't have any registered speakers for this item.

HEARING EXAMINER DICKMAN: Okay. All right. Thank you. Nice presentation. I appreciate it.

MR. NELSON: Thank you, sir. Have a good day.

HEARING EXAMINER DICKMAN: All right. Have a good day. I have 30 days to get out a decision. I will do that. Thanks.

MR. NELSON: Thank you.

MR. BELLOWS: I should get some more controversial items for you.

HEARING EXAMINER DICKMAN: I think because we're doing our job.

All right. Anything else you want to talk about, guys? Any other business? Anything else? What have we got on the next agenda? A couple of -- is it a big agenda? Average agenda? Is John going to be allowed to come back in?

MR. BELLOWS: Let's see.

HEARING EXAMINER DICKMAN: You are the boat dock guy. I think you need to go out and build a boat dock and appreciate some of this stuff.

MR. KELLY: No, no.

HEARING EXAMINER DICKMAN: Yeah. Most people go to college because their parents want them to go to college. I went to college because it's too hard to do marine construction. I saw the writing on the wall. It's really hard.

Andrew, you will -- you know, I'm -- just out of safety, I'm concerned about the stenographer if something happened, you know. I mean, this is unusual. It's never happened the whole time I've been here, so hopefully they're okay.

MR. YOUNGBLOOD: Yeah. To my knowledge, everything is fine. There was just a misunderstanding and a scheduling conflict, from what I heard, but I'll share more information with you later.

HEARING EXAMINER DICKMAN: Thank you very much.

MR. YOUNGBLOOD: Of course.

HEARING EXAMINER DICKMAN: Okay. If this is too difficult to figure out the next agenda, that's fine. I can handle anything you throw at me.

MR. YOUNGBLOOD: Mr. Dickman, I actually have the next tentative schedule in front of me.

HEARING EXAMINER DICKMAN: Andrew, you're the guy.

MR. YOUNGBLOOD: It looks like we have a variance and another boat dock extension, and it's going to be the John Kelly Show on March 10.

HEARING EXAMINER DICKMAN: Okay. So two items on the marine -- tentatively, two items on the agenda and, John, you're the man, okay.

All right. Anything else you guys want to talk about?

MR. BOSI: Other than if you watched -- Mike Bosi, zoning director. If you watched the Board of County Commissioners, we have a renewed interest in trying to advance some further opportunities to provide affordable housing based upon the housing crisis that has arose in the county just in terms of lack of availability, and it seems like we're not the only location in this country that's dealing with it right now. There's just a shortage -- I heard, on average, seven-and-a-half million units short of what the country needs now, and we are most certainly within a deficit in that regards.

HEARING EXAMINER DICKMAN: Yeah. And I definitely commend the Board of County Commissioners for addressing this. There's so many folks that help run the county, not just public but private, and these are working-class folks. And, unfortunately, the housing costs are really going up quickly, very, very quickly. I think, like, 30 percent in the last year. So hopefully -- I condemn -- I compliment them for taking that on. I know it's a concern.

MR. BOSI: Yep.

HEARING EXAMINER DICKMAN: So thank you. If we have nothing else, then I will adjourn the meeting. I appreciate everyone's hard work. Thank you very much, and have a good day.

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There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner.

COLLIER COUNTY HEARING EXAMINER



ANDREW DICKMAN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 3/29/22, as presented  or as corrected

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