

July 28, 2022

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
July 28, 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 Director
Raymond V. Bellows, Zoning Manager
Craig Brown, Principal Environmental Specialist
Tim Finn, Principal Planner
Andrew Youngblood, Operations Analyst

PROCEEDINGS

HEARING EXAMINER DICKMAN: All right. Thank you.

Good morning, everybody. Today is July 28, 2022. This is the hearing examiner meeting.

We are going to start the meeting with the pledge of allegiance. Please stand.

(Pledge of Allegiance.)

HEARING EXAMINER DICKMAN: All right. Thank you very much, everybody.

We have two items on the agenda. But before we get started, I want to cover just a few preliminaries.

My name is Andrew Dickman. I'm an attorney in good standing with the Florida Bar for over 20 years. I have been working in the area of land use, zoning, environmental law for local government.

I am a contracted attorney by the board of county commissioners. I am not an employee of the County. I was retained by the board of county commissioners to handle all of the jurisdictional petitions that are under the hearing examiner, per code.

My job is to listen -- to conduct these quasi-judicial hearings, listen to the testimony that -- that's said here today and the evidence that's presented and apply it to the applicable criteria.

When I say it's a quasi-judicial hearing, it means that whatever I -- the decision that I have to make has to be made based on the information that I gather here. I will not be having any additional conferences or meetings, or anything like that afterwards. This is all based on the record.

My job will be to look at all the information, including everything that's been published by staff, the staff report, everything that's in the packet, and to render a decision within 30 days. I will not make an opinion today, here at this hearing. I will render a decision, per code, within 30 days.

Excuse me. I have a little bit of allergies this morning.

So we'll -- the way that we conduct these hearings -- they're informal. So everybody who is here -- you know, my job is -- I want to make sure that I give you the opportunities to tell me everything that I need to know. I can ask questions. I want to get every piece of information that I need, based the petition, so that I can make an informed, unbiased decision after we leave here.

So the way that we do this is that we're going to start with the County. They're going to come to the gray podium here and generally present the petition, their staff report, any advertisements that were done for notices and any recommendations and conditions that they have.

Then it will be opened up to the applicant or the applicant's representative to come over here to the larger brown podium and do their case in chief.

We will open it up to the public at that time.

We do have an in-person meeting and a virtual meeting today. The County has set that up for the benefit of individuals who can't make it here today, for whatever reason. So there might be speakers that are attending virtually. So we'll have public speakers that can come up here in person or speak over the internet.

And then I will give the petitioner or the petitioner's representative time for rebuttal, if they choose, so choose so. Then we'll have some discussion, if necessary, and then I will close the meeting.

All testimony is going to be done under oath, which means that in a minute I'm going to ask our court reporter to administer the oath to anybody that's going to speak here today, and we'll do that in a few seconds.

If you have any phones that are on, or if you need to have any conversations that come up, just step outside in the hallway, please, because we -- you know, we want to get through these meetings and give everybody the respect that they deserve when they're talking. And I, for one, can get distracted easily if I hear talking in the -- in the room, in the back, or whatnot. So it's easy enough just to step outside and take care of that.

As far as -- I think that's really everything that I wanted to cover here today. So why don't we go ahead -- if anyone is going to speak here today, please -- and anybody that's going to speak virtually

also, stand up, and the court reporter is going to administer the oath, please.

(The Oath was administered to the witnesses by the court reporter.)

HEARING EXAMINER DICKMAN: Check my list here real quick.

We do have also, there -- if someone is going to speak, we do have speaker cards over here.

MR. YOUNGBLOOD: Actually, they are over there.

HEARING EXAMINER DICKMAN: Over there and over here.

And they will take care of you. They know what they're doing back there. They're real good at what they do. So we're going to go ahead and get started with "A." We'll start with the County.

How are you, sir?

MR. BROWN: Good.

HEARING EXAMINER DICKMAN: It's nice to see you.

MR. BROWN: Good morning.

HEARING EXAMINER DICKMAN: Good morning.

MR. BROWN: For the record, Craig Brown, principal environmental specialist with Development Review.

This petition is PL2021001198. It's a request for a variance from the coastal construction setback line to allow construction of two in-ground propane tanks that are approximately 13.7 feet seaward of the CCSL.

The subject property is part of Tract A, Pelican Bay Unit 8, also known as Site 2, with a street address of 7409 Bay Colony Drive, located in Section 5, Township 49, South Range 25 East, Eastern Collier County, Florida.

The petition has complied with all the requirements of the notice of hearing in accordance with LDC Section 9.04.06.G.2.

Two signs were posted on the property on June 8, 2022, at the subject property.

The petition was advertised on July 8th, 2022. I have not had any communication regarding this petition. The project complies with the Growth Management Plan and the Collier County Land Development Code; therefore, staff recommends approval of this petition with conditions. There is a list of standard conditions that we associate with the CCSL. And I wasn't going to read all of them into the record, but there are some site-specific conditions that I will read into the record.

HEARING EXAMINER DICKMAN: Thank you.

MR. BROWN: It's number 8, for site-specific conditions.

All invasive exotic plants listed on the Florida Exotic Pest Control Council's list, Category 1 and 2, must be removed from the existing beach dune vegetation.

Any gopher tortoise or gopher tortoise burrows located on site must be protected in accordance with LDC 3.04.02. And all areas seaward of the CCSL outside of the footprint of the existing structures and improvements shall be left in their natural condition, landscaped with native coastal vegetation.

Also I want to note that the staff report that was submitted and uploaded has the incorrect hearing date, and I wanted to provide an updated version of that staff report. So I can just present that to you.

HEARING EXAMINER DICKMAN: Yes. Is that the only change, though, the date?

MR. BROWN: That's the only change.

HEARING EXAMINER DICKMAN: The date?

MR. BROWN: Yes.

HEARING EXAMINER DICKMAN: Okay. If you could present that to me, and I'll just -- for my purposes, I'll just change the date on here. Thank you, though. I appreciate that.

MR. BROWN: I'll be happy to answer any questions you have.

HEARING EXAMINER DICKMAN: I do have a couple of questions.

So the coastal construction setback line, or the coastal construction control line, whatever you want to call it, how -- this is a state-imposed line, I understand that. And is this a frequent -- do you -- how frequently is the County encroaching into or over -- is this a frequent request? I mean, I

haven't seen any of these --

MR. BROWN: It's very rare that we get requests for these.

HEARING EXAMINER DICKMAN: Okay.

MR. BROWN: We try and discourage people from putting structures beyond the lines.

HEARING EXAMINER DICKMAN: Yeah.

MR. BROWN: Most people don't want to go through the process to --

HEARING EXAMINER DICKMAN: Okay.

MR. BROWN: -- to do that. So if there's options --

HEARING EXAMINER DICKMAN: Right.

MR. BROWN: -- they don't.

HEARING EXAMINER DICKMAN: Right.

And I guess I'll hear more about this before we -- but I noticed that they -- it looked like the structure in this situation, the main -- the principal structure, I guess it's a single-family home, looks like it's almost built right up onto the line.

MR. BROWN: It's a common occurrence on the beach when you have a condensed lot --

HEARING EXAMINER DICKMAN: Yeah.

MR. BROWN: -- and the line's there.

HEARING EXAMINER DICKMAN: No room to --

MR. BROWN: No room to maneuver.

HEARING EXAMINER DICKMAN: Okay. Do you know if they -- did they get a setback with that structure at some point? Because the line has been in place for quite some time.

MR. BROWN: I'm not aware of a setback for the actual structure.

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

Appreciate you being here.

MR. BROWN: All right.

HEARING EXAMINER DICKMAN: All right. Let's hear from the applicant or the representative of the applicant. Good morning. How are you, sir?

MR. GODDARD: Good morning. Matt Goddard with Humiston & Moore Engineers.

HEARING EXAMINER DICKMAN: Okay.

MR. GODDARD: Is there any questions? I can talk about the setback line.

HEARING EXAMINER DICKMAN: Please do that, yeah.

MR. GODDARD: So that -- that -- the 1974 setback lines is a -- was an old jurisdictional line, and then it was reestablished in 1989.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. GODDARD: So 1989 is further landward, and that's the -- that's the current jurisdictional line. The '74 line isn't really a state line anymore, it's just a local or -- the County --

HEARING EXAMINER DICKMAN: Okay.

MR. GODDARD: -- still keeps it.

HEARING EXAMINER DICKMAN: So the line actually moved more landward.

MR. GODDARD: That's correct.

HEARING EXAMINER DICKMAN: So it moved landward. That's -- that would explain that, okay. So do you have a presentation or anything that --

MR. GODDARD: I -- I don't have a presentation. I --

HEARING EXAMINER DICKMAN: Okay.

MR. GODDARD: I mean, we can go through some of the exhibits, if you would like, if there was a particular --

HEARING EXAMINER DICKMAN: So these -- this is all about propane tanks, right?

MR. GODDARD: That's correct.

HEARING EXAMINER DICKMAN: All right. So you're going to put the -- are you doing the installation, or are you just engineering it?

MR. GODDARD: I was the -- just the environmental applicant for it.

HEARING EXAMINER DICKMAN: Applicant.

MR. GODDARD: We have somebody here that would -- with the general contractor that would do the install.

HEARING EXAMINER DICKMAN: Okay. All right. And you understand all the conditions that were read by -- into the record by staff? And you have looked at the staff report; is that correct?

MR. GODDARD: Yes.

HEARING EXAMINER DICKMAN: And does your client agree to comply with those --

MR. GODDARD: Yes.

HEARING EXAMINER DICKMAN: -- those conditions? Yes?

MR. GODDARD: Yes, yes.

HEARING EXAMINER DICKMAN: Yes. Okay. Good. All right. Why don't you sit tight, and we'll see if anybody is here to speak. Anybody speaking here?

MR. YOUNGBLOOD: I have one registered speaker online.

HEARING EXAMINER DICKMAN: All right.

MR. YOUNGBLOOD: Also one of the -- Greg, did you want to add anything?

MR. BRISSON: I am the general contractor. I'm here -- if you had any questions, I would be happy to answer them.

HEARING EXAMINER DICKMAN: All right. Why don't you just come up and put your name in the -- in the record. Right now I don't have any questions, but I just want to make sure that it's captured for the record.

MR. BRISSON: Sure.

Greg Brisson. I am president of BCB Homes, the general contractor building the home and installing the tanks.

HEARING EXAMINER DICKMAN: Okay. So the home is already built or isn't built? I mean, when I was looking at --

MR. BRISSON: The home is currently under construction.

HEARING EXAMINER DICKMAN: I see.

MR. BRISSON: We are at the last phases of construction. We are anticipating a CO in approximately the next 6 to 8 weeks.

HEARING EXAMINER DICKMAN: Okay. And is the structure, the principal structure, the home, is it right up on the CCCL?

MR. BRISSON: Essentially, yes. It was designed and permitted right up to the CCCL.

HEARING EXAMINER DICKMAN: It was.

MR. BRISSON: On the west phase, correct.

HEARING EXAMINER DICKMAN: Okay. All right.

Okay. Thank you very much. Stick around. Let's hear --

MR. BRISSON: Yep.

HEARING EXAMINER DICKMAN: Let's see who we have got here for the --

MR. YOUNGBLOOD: Online I have Katherine Corkell.

MS. KORKELL: (Inaudible) architect. I'm just here to --
(Comment by reporter.)

HEARING EXAMINER DICKMAN: One second. Say your name, please, again.

MS. KORKELL: Kate Corkell, Stofft Cooney Architects.
(Comment by reporter.)

HEARING EXAMINER DICKMAN: Can you spell the name of your firm, please?

MS. KORKELL: S-T-O-F-F-T, C-O-O-N-E-Y, Stofft Cooney.

HEARING EXAMINER DICKMAN: We'll get that to you.

THE COURT REPORTER: Thank you.

HEARING EXAMINER DICKMAN: Sorry. You're not coming across real clear. But did you have something you wanted to add?

MS. KORKELL: No. I'm just here if there's any further questions.

HEARING EXAMINER DICKMAN: Okay. So you're with the team, the petitioner's team, then? Okay.

MS. KORSELL: Correct.

HEARING EXAMINER DICKMAN: All right, great. Anybody else here?

MR. YOUNGBLOOD: No, sir. That's all the registered speakers I have.

HEARING EXAMINER DICKMAN: That's all there is, okay. All right. So -- all right. So I see that you have your licenses from the -- the association, and I see those in the packet. So you went there first? Is that correct?

MR. BRISSON: (Nodding head.)

HEARING EXAMINER DICKMAN: Okay.

MR. BRISSON: Yes, sir.

HEARING EXAMINER DICKMAN: Okay. Yes, sir. Okay. I only say that because she -- we got to say "yes" and "no." We can't nod our head, because the court reporter can't capture that or -- he's nodding his head in the affirmative, I guess.

MR. BRISSON: Yes, we did.

HEARING EXAMINER DICKMAN: Or thumbs up, something like that. Okay. All right. Does the county have anything else you want to present, or is that it?

MR. BROWN: For the record, Craig Brown. I have nothing further to add --

HEARING EXAMINER DICKMAN: Okay.

MR. BROWN: -- unless you have any specific questions.

HEARING EXAMINER DICKMAN: No, no. That's it. I was just curious about how the structure just got right up on the line, because I understood that there should be a setback, but -- you know.

MR. BRISSON: It is the setback.

HEARING EXAMINER DICKMAN: That is the setback.

MR. BRISSON: The line is --

HEARING EXAMINER DICKMAN: Is the setback.

MR. BRISSON: The line is the setback to the --

HEARING EXAMINER DICKMAN: Gotcha, okay.

MR. BRISSON: -- structure.

HEARING EXAMINER DICKMAN: Okay.

MR. BRISSON: So the house is not in violation of any setback.

HEARING EXAMINER DICKMAN: Okay.

MR. BRISSON: It's built where it was allowed to be built and --

HEARING EXAMINER DICKMAN: So that's --

MR. BRISSON: -- permitted.

HEARING EXAMINER DICKMAN: That is the line that --

MR. BRISSON: Correct.

HEARING EXAMINER DICKMAN: Okay. Instead of the CCCL, it's the setback line.

MR. BRISSON: They are one and the same.

MR. GODDARD: Well, so the -- the 1989 line is the CCCL, coastal construction. The '74 line is the coastal construction setback line.

HEARING EXAMINER DICKMAN: Right.

MR. GODDARD: It's the -- that's with the S, not the C.

HEARING EXAMINER DICKMAN: Okay. Well, I don't have any additional questions, so we'll leave it at that. Unless anybody has anything else to say, we'll close this hearing, and I'll get you a decision within 30 days. Thank you.

MR. GODDARD: All right. Thank you.

HEARING EXAMINER DICKMAN: Yeah, thanks for being here. Have a nice day.

MR. BRISSON: Thank you.

HEARING EXAMINER DICKMAN: All right.

All right. So we've got item 3-B. Who is handling that one?

MR. FINN: That would be me.

HEARING EXAMINER DICKMAN: How are you, sir?

MR. FINN: I'm doing very well. And you?

HEARING EXAMINER DICKMAN: And while -- while we get -- before we get started, I just want to disclose, I have no ex parte contacts to disclose. I have had no meetings, or anything like that, for either petition. No meetings with staff, no meetings with the applicants, no communications whatsoever. So those disclosures apply to both items on the agenda. Okay. Let's get started with B.

MR. FINN: For the record, I am Tim Finn, principal planner.

This is a request for a comparable use determination for a veterinary clinic and animal hospital, SIC Code 0742. It's comparable, compatible, and consistent in nature to other permitted uses in Section 3.2.2 of the Southwest Professional Health Park Planned Unit Development, PUD, adopted by ordinance number 96-81, as amended.

The subject property is located at 1713 Southwest Health Parkway in Section 26, Township 48 South, Range 25 East, Collier County, Florida. Staff recommendation. The zoning division recommendation for the proposed comparable use determination petition PCUD-PL20220001813 is denial. Zoning Division staff is restrained from recommending approval, as the veterinary clinic and animal hospital, SIC Code 0742 does not support a human hospital. The uses approved in Section 3.2.2 permit principal uses of Tract B of the Southwest Professional Health Park PUD were intended to support NCH, North Naples Hospital, within 1/4 mile of its location.

It should be noted that the GMP only supported the PUD rezone due to these medical uses supporting this nearby hospital due to its close proximity. Furthermore, staff does -- does recognize that some of these uses are similar to an animal hospital. The major difference is that the patients are animals. It should be noted that NCH does support this use, as the veterinary clinic will greatly benefit and support NCH and its partners by providing comprehensive care to pets that are utilized in therapy sessions with patients at the facilities as well as care and support animals prescribed by many other health care professionals. And there is a letter of support from NCH in Attachment D. As such, staff could recommend approval, with the condition that all animals are to be kept and stored inside the building to minimize any odors or noise.

Lastly, the applicant has complied with all hearing notices by our operation staff. The newspaper advertisement posted in the Naples Daily newspaper posted on July the 8th, 2022.

HEARING EXAMINER DICKMAN: Okay. So what I'm hearing is that you -- the reason for the denial is because the original intent of this PUD was for support of the hospital and nothing more? Is that --

MR. FINN: That's correct.

HEARING EXAMINER DICKMAN: That seems to be the gist of what you're telling me. You're not saying that the impact is going to be any greater or less. I mean, you're not addressing -- so you're not -- you're not -- it doesn't seem to be like you're concerned about some type of unique impact other than possibly the noise from animals outside, which in this case I -- I'm imaging an animal hospital, they're going to have all their animals inside. It's not --

MR. FINN: Right.

HEARING EXAMINER DICKMAN: -- a kennel.

MR. FINN: Right.

HEARING EXAMINER DICKMAN: But am I correct in --

MR. FINN: That's right.

HEARING EXAMINER DICKMAN: -- saying that?

MR. FINN: Yes.

HEARING EXAMINER DICKMAN: You're just relying on the original intent of this PUD.

MR. FINN: Right.

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: Mike Bosi, zoning director.

Just to add a little further clarification. This was outside of an activity center, the current location of the -- of the PUD. And the only reason it was allowed to change from a residential designation to a commercial designation was because of its proximity to the hospital.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. BOSI: So all the uses were to support the hospital.

So from the strict interpretation of that, the original intent, staff is constrained from their recommendation. But further, with the clarification and the support of NCH and the support and the recognition that animal support dogs are a recognized practice within holistic medicine, staff feels that the comparable use determination can be satisfied with that recognition.

HEARING EXAMINER DICKMAN: Okay. So thanks to the letter -- I saw the letter from general counsel from NCH. And they're recognizing animals as an important element of health care and rehabilitation and so forth and so on. But let's say it was -- because of that nexus, you're saying it's possible that this could be a use that would be intended or possibly compatible in that area, you know, as opposed to let's say, you know, like a -- a liquor store or something like that.

MR. BOSI: Correct. Staff views it as a support -- supportive of the activities associated with the hospital.

HEARING EXAMINER DICKMAN: All right. All right. Okay. I understand where you're coming from. All right. Let's hear from the applicant. How are you, sir? Good to see you.

MR. THRELKELD: Hi, hi. Good morning, ladies and gentlemen. My name is Joel Threlkeld, T-H-R-E-L-K-E-L-D. I'm a local real estate attorney and longtime Collier County resident. Nice to see you all today. Nice to see you, Mr. Dickman.

HEARING EXAMINER DICKMAN: Nice to see you, sir.

MR. THRELKELD: I do have a small PowerPoint presentation -- a short, rather, PowerPoint presentation. If -- if I could just have your attention for a few minutes, I'll go through it quickly.

And, you know, this isn't a very complicated matter, as -- as esteemed panel has pointed out, but I do want to just kind of touch on the finer points, if I may. Start out by offering a little background on the property, on my client, Dr. Alberto Lopez, and just kind of get into the nitty-gritty and just -- just, you know, focus on the meat and potatoes here and see if I could, you know, convince you of -- of, you know, our -- our -- our, you know, confidence in that this is a comparative -- comparable and consistent with the -- with the PUD.

So, if you would, if you would switch for me. So just to give you background on the property, so we're at 1713 Southwest Health Parkway, Naples, Florida. This is essentially catty-corner, across the street from North Collier Hospital, off Immokalee Road. I have got a little legal description there.

The building itself is made up of three larger units, but it is a stand-alone building. There is -- it is separated from -- from the other nearby offices. There is green space in between. There's plenty of parking around. There's plenty of room for people shuttling in their pets to and fro without, you know, causing any disruption to the neighboring properties and businesses.

The owner of the property -- so the -- the record owner on title is Florida International Solutions, LLC. That is a Florida limited liability company, and that is owned and operated by my client, Dr. Alberto Lopez. Dr. Lopez is a longtime Collier County resident. He has had a clinic here for 20 years. It's in the Vanderbilt Shoppes. It is a state-of-the-art veterinary clinic, a 24-hour surgery center. If -- if -- if you ever are in the Vanderbilt Shoppes and you walk by there, you will see that it is -- nothing is going on outside. You can't hear anything. You can't smell anything. It is a clean, sterile environment. And you walk in, and it is -- they have walls separating the back area, where they keep all the pets and -- and -- and equipment.

HEARING EXAMINER DICKMAN: So let me ask you a question.

MR. THRELKELD: Yes, sir.

HEARING EXAMINER DICKMAN: When you say -- so your client is Dr. Lopez, and --

MR. THRELKELD: Yes.

HEARING EXAMINER DICKMAN: -- he owns the entire building, or just the space that --

MR. THRELKELD: The building.

HEARING EXAMINER DICKMAN: The whole building.

MR. THRELKELD: The building, which is comprised of three units, exactly.

HEARING EXAMINER DICKMAN: The whole building.

And the other two units are occupied by?

MR. THRELKELD: They are -- he owns the building, and he is currently renting it.

HEARING EXAMINER DICKMAN: Okay.

MR. THRELKELD: These are one- to two-year leases with -- with the doctors that he purchased it from.

HEARING EXAMINER DICKMAN: Okay.

MR. THRELKELD: And when those leases expire, that's when it's his goal, his intent to start this veterinary clinic.

HEARING EXAMINER DICKMAN: For the -- for all three spaces of --

MR. THRELKELD: Yes, sir.

HEARING EXAMINER DICKMAN: He's going to use the whole space.

MR. THRELKELD: Absolutely.

HEARING EXAMINER DICKMAN: Okay. All right. So right now, there are -- there are medical doctors in the spaces. But once those leases expire, then your --

MR. THRELKELD: Yes.

HEARING EXAMINER DICKMAN: -- your client, who now owns the entire property --

MR. THRELKELD: Right.

HEARING EXAMINER DICKMAN: -- will --

MR. THRELKELD: They won't all expire at once. He will take over the building sort of one unit at a time and expand the business while -- as -- as the leases expired.

HEARING EXAMINER DICKMAN: Okay. Thank you.

MR. THRELKELD: So this just gives you an idea of where we're at. I'm sure everybody can kind of figure out where North Collier Hospital is.

So the green area, of course, is the building, the property where the building is situated.

Okay. There's a little aerial map. So, as you can see, there's plenty of parking around. There's plenty of separation, plenty of green space, plenty of distance between the building and the neighboring properties. Okay. So this just gives you an idea -- I kind of stole this from a -- from the staff report, but this -- this is just the surrounding land use and zoning.

So you have got -- to the north, you've got Immokalee Road. To the east, you've got a two-lane right-of-way that -- that -- that, you know, connects to some commercial properties. The south is a medical office. And the west is an assisted living facility, which is, you know, a pretty decent distance away from -- from the building. I don't -- I don't foresee any issues with barking dogs or anything like that. I mean, any barking would be limited to somebody putting a dog in a carrier or having them on a leash and bringing them directly inside the building from their vehicle.

This is just a little background on Dr. Lopez. So as I -- as I pointed out, he's a longtime resident of Collier County. He's well known in the community. He does a lot of pro bono work. He works with NCH. He essentially takes care of the rehabilitation animals for free, at no charge.

And he wants to expand this practice. He -- and both NCH and Dr. Lopez are interested in expanding their programs to bring in therapy animals. And he has committed to caring for such -- for such pets, for no charge, for -- for the good of the community. So, you know, the requested action is, I -- I believe everybody's well aware, is to -- we're requesting a comparable use determination that a veterinary clinic and animal surgery center is comparable, compatible, and consistent with the nature of the other permitted uses set forth in the PUD. And when I say "the PUD," this is ordinance 96-81. And the specific -- and I actually have it on here, if you would be so kind to change my slide. There is 3.2.2. So these are the permitted uses under Tract B, which is where the property is situated. I highlighted the areas where, you know, I think there is compatible -- a comparison.

Diagnostic radiology. I mean, they will be performing ultrasounds. Health education. Obviously, they're going to be advising patients, or sorry, the owners on their -- on the health of their

pets. Medical clinics, medical offices, outpatient surgery. They're going to be administering, you know, prescription drugs to the -- to the animals. Rehabilitation. Medical supplies. There will be some light medical supplies, I would -- I'm sure. And physical therapy.

So although these suggest human care, you know, my argument, which I will get into in the next few slides, is this is -- this human care is directly correlated with the care of the -- of the pets.

Okay. So going through here, it's the -- the -- the way the business is operated will be very similar to how any medical office would be operated in this facility. Okay?

Hours of operation, obviously, are going to be on par with 24-hour urgent care centers. So Dr. Lopez does offer 24-hour care. There's -- if you want to -- if your pet's got something lodged in their throat, you can bring -- bring your pet to the -- to the clinic at 3:00 in the morning, and, you know, you're going to -- you're going to get service. I think this is a valuable asset in the community and something that is needed in our community. Traffic volume is not going to be any different than a -- human patients that come in and out of the building. We actually did do a traffic analysis, which is part of our application. So we did do a traffic study, which showed that the traffic will be, you know, on par, will be -- will be essentially the same as the traffic that this intended use will propose, or will include.

Types of vehicles associated with use. There's not going to be commercial -- big, flashy commercial vans or trucks. The -- the vehicles that come to and fro from the clinic will be essentially the vehicles of the staff and of the -- of the -- of the owners of the pets. Nothing -- you know, maybe an occasional delivery truck that brings in supplies, medication for the animals. Number and type of required parking spaces. There are sufficient parking for that -- for that property, 40 spaces, two of which are handicapped. Business practices and activities. As I pointed out earlier, much like a 24-hour urgent care, just care for pets rather than humans.

The effect on neighboring properties, you know, is -- is -- in terms of glare, noise, odor. So, you know, the one thing that would -- obviously, the two major things that would cover -- obviously, there's not going to be any flashy signs, anything like that, anything that creates distraction or glare. It's going to be all professional signs that are -- that are approved by the landlord, all consistent with what a medical office signage would look like. Nothing -- nothing out of the ordinary.

Things that, obviously, would come up with pets would be noise. As I pointed out, there -- the noise is at a minimum. It is, you take your pet out of your vehicle, you walk right into the clinic, and that's it. The doors are closed. No -- nobody is going to be hanging out outside. There's no areas for anyone to congregate outside. There's no outside facilities at all. I want to stress that. There is absolutely no kennels or outdoor dog parks or anything outside of the building. Everything is within the confines of the building.

HEARING EXAMINER DICKMAN: So to that point, so animals that are there, are -- is it necessary for the animals to go outside from time to time to relieve themselves or to walk for --

MR. THRELKELD: They're not going to have an area like that at all. They have areas like that inside the building.

HEARING EXAMINER DICKMAN: Inside.

MR. THRELKELD: Yes, where it's going to be sanitized and cleaned.

HEARING EXAMINER DICKMAN: Okay.

MR. THRELKELD: And if there is an animal that goes outside, it's because an owner walked their dog maybe out to their car and let them relieve themselves. There is some green space around the building. However, as I pointed out in my presentation, Dr. Lopez has a very strict policy of pet cleanup. There will be the, you know, receptacles around the building for cleaning up pet waste. There will be signage outside. There will be signage inside. And Dr. Lopez's staff will periodically walk the property to ensure that there's no pet waste in and around the building. Okay?

HEARING EXAMINER DICKMAN: Okay.

MR. THRELKELD: Very clean operation. As I pointed out earlier, his -- his clinic in the Vanderbilt Shoppes is in a -- essentially in a strip mall. Okay? And it's all parking lot. There's no green space. And everything is inside, and there's no -- if you walk that building outside, there's no

noise, no odor, no flashing lights, no mirrors. It's a very state-of-the-art facility, which is what this will be. All right. So getting into the crux of our position is this -- I want to point out, this -- this is the executive summary to the actual PUD. All right? And this is verbatim. The intent of this rezone is to allow development of a professional health park, thereby -- thereby providing a diversity of medical-related uses that will be complementary and in close proximity to North Collier Health Center, NCH. Okay? So I want to point out this diversity. All right? So although, you know, these -- the use of a veterinary clinic, the -- the PUD itself, the -- the items in the PUD, medical offices, outpatient, implies human care. However, the care of our pets is linked, and I think -- I think we could all agree that it is linked to the health and wellness of the community. Most people have pets. They have dogs. They have cats. We -- you know, most -- there's -- there's many, many health professionals that prescribe emotional-needs animals to people with mental disabilities. We, obviously, have service animals that help the blind, that help the deaf, that help the elderly, that help the infirm. So, you know, our -- our position is this diversity of medical-related uses, it -- it includes a veterinary clinic. It includes the care of pets, who care for us, and so -- so to speak. So, you know, this is -- this is right there in the executive summary. So we -- we home in on this diversity. And then we come next to complementary. As we -- as I point out, NCH is -- you know, they use programs. They actually implement programs to bring in therapy animals to raise morale of terminally ill, sick patients, children, elderly. I spoke with NCH, the lead counsel, and he confirmed that there have always been programs in place, and they want to expand upon that. Well, this clinic being in direct -- you know, in proximity of the hospital, will care for these animals and will care for the animals who are prescribed to the patients of NCH. Okay? And, as I pointed out, Dr. Lopez wants to align himself to care for these animals at no cost.

HEARING EXAMINER DICKMAN: Well, I want to note on the letter from attorney -- I guess, Knoll {phonetic spelling}? Matthew Knoll?

MR. THRELKELD: Yes.

HEARING EXAMINER DICKMAN: Sorry. Okay, sorry. It's -- the signature's over the name, so it's hard to read it. But basically hoping -- hoping to -- basically, NCH intends to partner with Dr. Lopez through alternative medicine and community outreach programs. Is that the intent of your client? Would your client commit to --

MR. THRELKELD: Absolutely.

HEARING EXAMINER DICKMAN: -- partnering with --

MR. THRELKELD: Absolutely.

HEARING EXAMINER DICKMAN: -- NCH to make sure that that happens?

MR. THRELKELD: Absolutely. He is very involved with the community and understands the importance of that. And this was part of the reason why he bought this building so close to NCH. He -- he wanted to align himself with NCH.

HEARING EXAMINER DICKMAN: Okay. And I would imagine the hospital has a lot of employees that have animals as well --

MR. THRELKELD: Absolutely.

HEARING EXAMINER DICKMAN: -- and would benefit from -- possibly benefit from a nearby clinic, dropping off their animals for treatment while they're going to work and having to drop them by, so --

MR. THRELKELD: Of course, of course.

HEARING EXAMINER DICKMAN: Go ahead. I didn't mean to interrupt you.

MR. THRELKELD: No, no, no. Thank you. That -- that's -- that's to my point, so I appreciate that. And so I've kind of broke this down into elements in this, in this executive summary. We have got diversity of medical-related uses, complementary, and close proximity. Are three of those elements have been met, with the -- with the intended use of this veterinary clinic in that location. I want to point out the executive summary. The PUD further provides that the medical-related land uses permitted in this PUD are intended to provide an enhanced quality of life to the residents of Collier County to the highest quality health care available via their acknowledged supporting functional role

with the North Collier Hospital. Now, again -- and if you look below that, I sort of outlined how this -- how this would benefit NCH. One, we -- they're going -- we're going to be treating service dogs to assist patients with physical disabilities. Two, we are going to be treating emotional-needs pets who are prescribed by local doctors and mental health professionals. And, three, we are going to be treating therapy animals who are used by NCH and other local health clinics to raise the spirits of sick and terminally ill patients. Okay? So that is definitely a -- we are -- we are definitely supporting NCH by operating this veterinary clinic right across the street. I believe that wholeheartedly. So I want to go back to the letter that NCH provided. So the letter -- and this is a quote from the letter itself. NCH believes that the veterinary clinic that Dr. Lopez intends to operate at the property will greatly benefit and support NCH and its partners by providing comprehensive care to pets that are utilized in therapy sessions with patients at our facilities, as well as care for support animals prescribed by our many health care professionals. So NCH is completely on board with this and supports Dr. Lopez's venture wholeheartedly. I also pored through the GMP, the 160 pages of -- regarding the future land use designations. There's nothing in there that specifically prohibits this proposed use or specifically prohibits veterinary clinic in that -- in that district. So I also want to point out in the letter, talking about future use -- and this is something we've touched on. This is also from the letter. If the opportunity presents itself, NCH intends to partner with Dr. Lopez through alternative medicine and community outreach programs that will undoubtedly benefit our patients, institution, and community at large, end quote.

HEARING EXAMINER DICKMAN: Well, it seems like the opportunity is presenting itself.

MR. THRELKELD: So that's it. I -- I -- you know, I hope this was, you know, informative, and I -- and I hope that we can sway this panel and you, Mr. Dickman, to vote in our favor and to allow this -- this intended use as a veterinary clinic, so we can support our community and support NCH.

HEARING EXAMINER DICKMAN: That was very comprehensive. Thank you very much.

MR. THRELKELD: Thank you.

HEARING EXAMINER DICKMAN: You did a great job.

You'd have a good future in land use law instead of real estate law, or both. The county could always use more land use attorneys, right? I have a question of the County. So in the -- I mean, it does seem like there's been a lot of dialogue between NCH and service dogs, therapy dogs, emotional support dogs, things like that, animals, pets, whatever. In the event that r. Lopez -- that's -- Dr. Lopez's intent is to do that. But in this comparable use, if it were to be deemed a comparable use and go forward but then Dr. Lopez moves out, that runs with the land, right? That determination runs with the land?

MR. BOSI: Correct, correct. It -- it would -- it would run -- it would run with the land, and the next veterinary clinic would be allowed to move forward, even if they didn't have the same relationship with Dr. Lopez, but I think there could also be justification for that based upon the number of professionals that work within the community -- the hospital that would have a -- a benefit from having a facility as such in close proximity to where they work.

HEARING EXAMINER DICKMAN: So then the -- the -- then the conditions probably need to ensure that any future other use -- and I'm sure your client is going to have a long and prosperous venture there, hopefully. But, you know, we always have to think about the future. So the conditions that need to link that -- that use with the intended use of the PUD so that the -- whatever vet, whatever possible future clinic, animal clinic, that comes in, the conditions would have to make sure that it is clear that it's intended, in part at least, to be supportive of the hospital uses in the area, right?

MR. BOSI: I would -- I would agree with that, that those type of conditions and parameters --

HEARING EXAMINER DICKMAN: And in --

MR. BOSI: -- that's correct.

HEARING EXAMINER DICKMAN: In addition, the fact that they have -- he's got three units? Now, are the units all going to become one, or how is that going to work? My concern would be that, okay, well, let's say there's three units there, and then down the road, you know, your client

decides to, you know, retire and then rents out two of them as a vet clinic and then one to a medical professional, to another, so we have the -- what's -- can you speak to that?

MR. THRELKELD: Yeah, so that's -- that's why -- and I actually prepared the lease agreements between him and the physicians that are currently occupying the spaces. That's why the leases are short term --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. THRELKELD: -- six months to a year. Okay?

These are doctors who are near retirement age, and they essentially just wanted to finish out their careers. And as he takes over each unit, there's going to be a build-out. And eventually the whole building will be one -- you know, one encompassing medical -- veterinary clinic, state-of-the-art, 24-hour surgery center, fully staffed, probably two, three dozen doctors and support staff, in that area. Now, to that as well, when he purchased the property, which was about \$4.5 million -- this is a big investment for him. Okay? A very large investment. And part of his requirements by the lender -- because he -- he received financing for this. And the financing was very arduous. We went through a lot to procure financing for this purchase -- is that he is in this for the long term.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. THRELKELD: So there -- this is set up for a very long-term endeavor.

HEARING EXAMINER DICKMAN: Okay. So there wouldn't be any objection to tying the entire building together as an animal hospital so that it can't be in the future, say -- I mean, things happen. You know, we always got to think about the worst thing or the -- you know, any potential adverse negative incompatibilities that somebody would reverse that, and, you know, so we would tie this to the entire building, so that any -- if this were to change, they would have to come back and we would have to look at the compatibility of another use.

Let's say a -- a regular medical facility wanted to move into part of the building and then the -- the rest of it would be retained as an animal hospital. I don't know that that's, you know, compatible or not. We're not here to talk about that today. But, you know, I would want to -- you know, if the intent is to use the entire building, that we would tie this all as a condition to the entire building. You understand what I'm saying?

MR. THRELKELD: I do. I do.

The lease agreements that we prepared for the three separate physicians had to be approved by the lender. The lender is well aware of the timeline of them.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. THRELKELD: And a condition of Dr. Lopez's loan is that that facility, when those leases expire, are run as a veterinary clinic.

HEARING EXAMINER DICKMAN: Okay.

MR. THRELKELD: And not an opportunity to sublease.

HEARING EXAMINER DICKMAN: Okay. All right.

MR. THRELKELD: They're -- they're under sub -- they're leased now. But when those leases expire, it would be a violation of his -- of the conditions of his loan, to bring in new tenants.

HEARING EXAMINER DICKMAN: Okay. So does the County have a problem with that? Like, if there was a condition -- we have a condition here saying that if something were to change in the future, where the owner of the building wanted to repartition spaces, let's say they're really -- they're going to make -- they're going to turn this into one space. But then what if, in the future, they want to turn it into three spaces again? One space will still retain the -- the animal clinic and then renting out other spaces, that it would have to come back for an evaluation?

MR. BOSI: Mike Bosi, zoning director.

No, it wouldn't. It would not at all. This is a comparable use determination. The comparable use determination has made an assessment that it has a similar, like quality of supporting NCH. There's permitted uses for all kinds of medical offices. Those would not need to come back to be --

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: -- able to occupy that space.

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: So if he partitioned it back out and left one of his units as his veterinary clinic and then the other two as just regular doctor's offices, there would be no need for any zoning action.

HEARING EXAMINER DICKMAN: I understand that. I'm just saying, like, is it compatible with having -- like right next door, like having a veterinarian -- an animal clinic right next to a, you know, medical clinic? That's what I'm thinking about.

MR. BOSI: I think -- I think the existing facility that he has at Vanderbilt Commons has established that -- a veterinary clinic next to human-occupied commercial retail spaces or office spaces --

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: -- hasn't presented an issue of compatibility. So --

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: -- I think it sounds like the way that the construction, the soundproof, and things that are associated with the facility --

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: -- that we wouldn't have that issue of compatibility.

HEARING EXAMINER DICKMAN: Okay. All right. So that's why I'm asking the question. You guys are the experts. I need to get that expert testimony on the record.

And if it's -- if they are already on the list as permitted uses, then they wouldn't have to come back. I didn't know if you were -- if there were any concerns about compatibility, which is really -- when you're looking at comparable uses, you've got to evaluate the compatibility. And right now we are focusing on the -- you know, connection between NCH, which is in a different location, separate and apart, versus, you know, a possible use that would be right next door.

MR. BOSI: Well, I think the conditions that it's originally -- has originally been suggested by staff, that all activities and animals have to be maintained inside, with no outdoor activity, provides for that assurance of compatibility.

HEARING EXAMINER DICKMAN: Okay.

Any large farm animals going to be --

MR. THRELKELD: No, sir, no, sir.

HEARING EXAMINER DICKMAN: All right.

MR. THRELKELD: And I did want to point out to Mr. Bosi's point, is the current location of his -- of Dr. Lopez's clinic in the Vanderbilt Shoppes, he has been there 10 years now --

HEARING EXAMINER DICKMAN: Yeah.

MR. THRELKELD: -- in that spot.

HEARING EXAMINER DICKMAN: Yeah.

MR. THRELKELD: It's surrounded by restaurants.

HEARING EXAMINER DICKMAN: Yeah.

MR. THRELKELD: Okay? So it's a vet clinic, with restaurants on both sides.

HEARING EXAMINER DICKMAN: Okay.

MR. THRELKELD: So, if, you know -- he's -- he's managed to run that facility for the last 10 years without any issues.

HEARING EXAMINER DICKMAN: Okay, very good. Well, all that is on the record now, great. Thanks. Nice presentation.

MR. THRELKELD: Thank you, sir.

HEARING EXAMINER DICKMAN: Anything else from the County?

Do we have anybody here from the public wants to speak?

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

HEARING EXAMINER DICKMAN: Registered animals?

MR. YOUNGBLOOD: No.

MR. THRELKELD: All right.

Thank you very much, ladies and gentlemen, for your time today.

HEARING EXAMINER DICKMAN: Thank you. Well done. Thank you. I appreciate that.

All right. Anything else from the County? Anything else you want to add?

MR. FINN: No, nothing else.

HEARING EXAMINER DICKMAN: Okay. All right. I appreciate all that you all put on this on. I'll get a decision out within 30 days.

So I don't have any other -- any other questions. I think I have all the information I need on this item, so we're good. So we're going to close that. And I don't think we have anything else on the agenda. Do we?

MR. YOUNGBLOOD: I believe that's it.

HEARING EXAMINER DICKMAN: That's it. All right. Then we'll adjourn the meeting. All right. Thank you, everybody. Thanks for being here. Appreciate it. Have a nice day.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:56 a.m.

COLLIER COUNTY HEARING EXAMINER



ANDREW DICKMAN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 8/25/22, as presented or as corrected

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