

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER

Naples, Florida

March 23, 2023

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  
(Appeared Via Zoom)

ALSO PRESENT:

Michael Bosi, Planning and Zoning Director  
Raymond V. Bellows, Zoning Manager  
Suzanne Miceli, County Staff  
Kevin Summers, County Staff

P R O C E E D I N G S

HEARING EXAMINER DICKMAN: All right. Good morning, everyone. It's 9:00 o'clock on March 23, 2023. This is the hearing examiner meeting for Collier County.

Why don't we kick things off with the Pledge of Allegiance to the flag. Please stand. (Pledge of Allegiance.)

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

So let's look at the agenda real quick. The agenda that I have shows only one petition, Petition 3A. Is there anything else that needs to be taken up?

MR. BELLOWS: Good morning, Mr. Dickman.

Yeah, we do have a change to the agenda, an addendum. It's a -- it would be placed under other business. It's a request from Jeff Rogers for reconsideration of a recent boat dock extension petition for Port of the Islands. Jeff's not in right now, but if we could -- no, he just walked in. But I have it slated for other business, unless you want to hear it first.

HEARING EXAMINER DICKMAN: No. I just wanted to know if it was there, because, quite frankly, I came into the office this morning and it was in a folder on my desk. So it's the first time that I've heard it, so I'm -- I'm willing to talk about it under other business, in terms of just what to do with it, but I'm not prepared to have any substantive discussions about whether it's to be heard or not, so it would be more about, like, when do you want to schedule it and that kind of thing.

MR. BELLOWS: Understood.

HEARING EXAMINER DICKMAN: Yes?

MR. BELLOWS: Yes, I agree.

HEARING EXAMINER DICKMAN: Okay. Great. Thank you. All right. So we'll take that up under -- put it under other business, reconsideration. All right.

Okay. So before we get started, let me just say a few things.

My name is Andrew Dickman. I am a Florida Bar attorney. I have been in good standing with the Florida Bar for over 20 years. I have been working in the area of land use and local government for the entirety of that -- that 20-plus years.

And I have been retained by the Collier County Board of County Commissioners to function as the hearing examiner, which the duties and scope are outlined in the Code of Ordinances, the Land Development Code, and the Administrative Code.

I am not a county employee. I am an independent party in this proceedings, meaning that my job is to make sure that these meetings are conducted fairly under the rules for quasi-judicial hearings.

These are informal quasi-judicial hearings, and I do everything I can to make sure that fundamental fairness is adhered to, due process is adhered to, that the -- all the parties get an opportunity to put into the record what they feel is required of them, and then also give the public a chance to speak on the items, since these were all advertised.

When you come up to speak, if you are going to speak, I would ask that you address your comments -- use your time wisely basically. You know, address your comments to the particular criteria as it applies to the petition.

There are different types of petitions that I hear. Today we have an administrative appeal.

But use your time focused on that, because after today -- I will not be making a decision today, but I have the -- I have the responsibility to review everything that's been provided in the record up to now. And I have everything in front of me, everything that's been filed, a whole packet, all the documents, and then I'll be taking information, testimony, and evidence into the record today.

But after today, I can't -- the record will be closed and I'll have my 30 days to make that decision.

So it's very important that we take our time.

I like to do this somewhat informally, if we can. I want everybody to be relaxed so that they can get out whatever information is necessary, and -- and that way we can all leave here feeling like we've done the best that we can.

This is a hybrid meeting. The County has set up a procedure for the public to participate not only in person, in the room, but also -- excuse me -- also to virtually log in and make comments.

If you -- if anyone is going to speak today to -- at the public hearing, you will have to do so under oath. And I'll ask everyone to stand in a few minutes to be sworn in by the court reporter.

If you have anything -- if you're in the room and you want to have a conversation with a colleague or something, please step outside in the hallway so you're not interrupting anyone. And this process should go very smoothly.

Now, the reason I brought up the fact that I'm a contracted attorney by the Board of County Commissioners is because I have noticed that over time people sometimes think that I'm a County employee and that the folks that are sitting over there on my right-hand side are -- are -- you know, we're all part of the same staff. And while I immensely respect them, we are -- I am independent of them. They are County -- they are the County planners, and they are the ones that basically process the applications and simply render their staff reports and recommendations.

And then the other party will be the petitioner or the petitioner's representative, and then we'll ask them to come up and use the larger podium on my left. And then in the middle, the podium can be used for any public speakers that want to come up and speak there.

So with that, if anyone is going to speak today at this hearing, please stand, raise your right hand, and be sworn in by the court reporter.

(Oath Administered.)

HEARING EXAMINER DICKMAN: Okay. Thank you very much.

So it's my understanding we have an administrative appeal. So just -- and I'll -- and, Mike, you can correct me if I'm wrong, but sometimes I like to do a little educational thing here.

So in the development world, there are certain things that must be approved at a public hearing. And then under the code, there are certain things that are allowed to be done administratively. Those things that can be done administratively, most jurisdictions have a procedure if somebody wishes to appeal that administrative decision. And so what we have before us today is exactly that. It's something that was done administratively. It wasn't required to have a public hearing. And it has been -- an -- an administrative appeal has been filed.

So why don't we start with the County and go from there.

MR. BOSI: Good morning, Mr. Dickman. Thank you.

And you are correct. A site development plan was filed by -- by the applicant to switch an AT&T for a 250-foot telecommunications tower which is in a rural agricultural zoning district. A site development plan is a -- a petition that is reviewed administratively. There is no public hearings that are associated with it, so it's an administrative process.

We do have a section which allows for parties to appeal that administrative decision, and our code provides that the -- that the hearing examiner has jurisdiction over those administrative appeals.

From the County's standpoint, on December 28th of 2022, after an extensive review, we issued approval of the site development plan that is currently being appealed.

The current code within our Land Development Code that deals with telecommunication towers is 5.05.09. Within 5.05.09, there is a provision, 50509.G.2.b, which states that agricultural zoning districts within the rural designated areas, towers shall not exceed 250 feet in height. And that's under the permitted use within -- within that tower section.

So, clearly, this tower is a permitted use within the zoning district, but 5.05.09 also has some additional requirements for when you have a tower that is over 185 feet. And when you have a tower that's over 185 feet, three individual sections apply.

It's 5.05.09.D, which requires a tower with a height in excess of 185 above natural grade shall not be approved unless the applicant demonstrates that no old or approved tower within the effective radius can accommodate the applicant's proposed antenna and auxiliary equipment.

5.05.09.E, which is applicable, a tower with a height in excess of 180 feet -- 185 feet above natural grade shall not be approved on a new tower site unless the applicant demonstrates that the proposed tower and -- and antennas and accessory structures and uses cannot be located on any conforming old site or approved site situated within the effective radius.

And 5.05.09.F, which requires that the tower that's over 200 and -- or 185 feet provides a shared-use plan, therefore maximizing the opportunity for additional carriers to be placed upon that tower.

There's also a note within -- within our staff report that describes the requirements of 5.05 in terms of the effective radius, and that -- that's the area in which a tower has to explore are there other opportunities of existing towers or existing sites that -- that they could locate before they're allowed to move forward onto the new site.

And one of the comments that we put within our staff report was the effective radius that is contained within our Land Development Code is six miles. And that six miles is a -- in -- is a regulation that is indicative of the age of our telecommunications section.

This -- this section was approved to the Land Development Code prior to 1996. And why I say that date, 1996 was the Telecommunications Act, which was a federal -- a federal act that provided for how a -- how telecommunication towers can be governed by local -- states and jurisdictions.

Why that -- that is pointed out, the age of that requirement is that six-mile radius was established when telecommunication towers provided cellular communications. There wasn't -- there wasn't texting. There wasn't graphics. There wasn't video. There wasn't images. It was strictly cellular communication. And those towers had a much wider -- those older towers -- those older technology towers had a much wider radius of effective -- effective area.

What has happened through the industry, it has gone from that -- from that cellular technology to a term now -- I think everyone is probably familiar with it. It's called 5G. And what 5G means is the -- the bandwidth capacity that's associated with that -- that wireless transmission signals are so much more robust in terms of data analysis. And why that's important, and it's important to this specific case, is that robustness of data has really reduced the effective radiuses of our towers. So what 5G requires is a much more robust tower system to be able to provide the coverage that we need.

Another aspect that was pointed out -- and this is just a side note, and it shows the age of our code again, is our code has a section that talks about any tower that provides E911 service is considered an essential service tower. The basis of zoning is health, safety, welfare. E911 means that these towers are required to provide emergency -- emergency contact services with your safety service providers, directly related to health, safety, and welfare.

It -- that -- that's -- that's pertinent into -- our code has a section -- our wireless communication code has a section that says that towers that provide E911 are considered essential services, but the fact is that the 1996 federal Telecommunication Act requires that all telecommunication providers provide E911 service. So just another indication of a code that doesn't -- isn't really aligned with the current technologies.

And why I bring all of this up is when we looked at the effective radius that was being proposed within the city net AT&T tower, it was much -- that the -- their effectiveness in terms of their propagation maps that were submitted within attachments D and E, which was attached

to our staff report, shows a much reduced area; whereas, if it was able to provide a six-mile radius, I think there -- there would not be justification for this tower, from staff's perspective. And what was provided from an RF engineer from AT&T was that this radius was greatly reduced, and because of that, the -- the attached -- or the exhibits that were provided for showed propagation maps that -- that justified the addition of this 250-foot tower. And based upon that, staff issued a -- an approved -- an approved SDP.

We were conscious of the objections of the Penners and Mr. Lombardo, who was in regular communication with staff, to ensure compliance with the LDC. It's within their right. They feel that the -- the full compliance with 5.05.09 has not been satisfied.

But staff puts forward that the attachments D, E, and F that were contained within -- or attached with -- to our staff report provided staff with the ability to set -- to say that the tower has satisfied the additional requirements that were -- that were provided for in 5.05.09, with the understanding that a 250-foot tower is deemed a permitted use within the -- the rural -- the agricultural area.

That's staff's position, as is expressed within the staff report, as expressed within the approved SDP.

And I would be willing to take any questions that you may have.

HEARING EXAMINER DICKMAN: Yeah, two things: One, this -- this address or an address similar to this seems familiar to me. I feel like a communication tower came in front of me a while ago, but it had a variance attached to it. Is this a different site? Do you know?

MR. BOSI: I am not aware of -- of that site that you may be speaking, but I -- I'm -- I do not -- I -- I don't recall a telecommunication tower with a variance, and it may have been in the time that I was out.

HEARING EXAMINER DICKMAN: Yeah, no, it was -- I think it was -- I'll find out how long ago.

I -- I think what I'm getting at is that, so there are no variances associated with this. This is strictly a -- it meets all the requirements, according to you, and you're satisfied and you issued your administrative approval. But I guess when the petitioner gets up, they can explain this. But I think -- I -- the reason I bring it up is I think that there has been discussion about this area and the -- the coverage issues in this area before, but we'll get into that.

The other thing I was going to ask you, I know both the applicants and the -- the appellant, I guess, has brought up standing. Do you have anything you want to say about that, or do you want to leave it to them?

MR. BOSI: Staff is -- staff is not ready to opine upon standing. It's -- it's not something we would cutomly -- it's not something we would cutomly address within our determination. Our determination had -- was strictly related to the site development plan and the compliance with 5.05.09.

HEARING EXAMINER DICKMAN: Okay. But as far as -- as far as the appellants here, they -- they have been aware of this process, the decision. They weren't caught off guard. It seems like they have been involved in this process through their attorney for a while. Correct?

MR. BOSI: Correct.

They have -- as this has been going through the review over the year, year and a half that it's been within -- within the system, Mr. Lombardo has a -- has raised a couple -- a number of concerns. And, actually, within Attachment C was the request for an official interpretation related to compliance with 5.05.09 that was submitted by Mr. Lombardo on behalf of the Penners.

HEARING EXAMINER DICKMAN: Okay, I see. Okay. Thank you. Thank you for that. I appreciate that introduction.

Why don't we go ahead and go to -- it's the -- I guess the Penne -- Mitchell and Melanie Penne? I guess they're represented by Mr. Lombardo.

Good morning --

MR. LOMBARDO: Good morning.

HEARING EXAMINER DICKMAN: -- counselor.

MR. LOMBARDO: And it's, for the record, Penner.

HEARING EXAMINER DICKMAN: I apologize.

MR. LOMBARDO: No worries.

HEARING EXAMINER DICKMAN: There's no R. It's misspelled, I guess.

MR. LOMBARDO: Strange.

Can we put the PowerPoint up?

And just procedurally, on the front end here, I believe we both had some additional material. I think Mr. Wright emailed it to you. I provided it in digital format to staff. I just want to make sure it gets in the record, but one of the things is this PowerPoint.

And then to address the question you asked, this is -- there was a variance, the same applicants, but it was a different site, but the site is very close to the site geographically.

HEARING EXAMINER DICKMAN: Okay. That's why it sounds familiar.

MR. LOMBARDO: So it should sound familiar, but we're not -- we're not saying that this needed a variance. We are --

HEARING EXAMINER DICKMAN: Okay.

MR. LOMBARDO: -- administratively appealing the site --

HEARING EXAMINER DICKMAN: Okay.

MR. LOMBARDO: -- development plan.

If you can go to the next --

HEARING EXAMINER DICKMAN: Okay. So the --

MR. LOMBARDO: Go ahead.

Oh, more into the microphone? Okay. I apologize.

For the record, Zach Lombardo on behalf of the appellants, Mitchell and Melanie Penner.

If you could go to the next slide.

This is an appeal, as described, of a 250-foot communications tower in a rural agricultural district. And we are seeking a reversal principally for three reasons.

If you'd go to the next slide.

Oh, sorry. Before we get into the reasons, we are in agreement with staff's description about the jurisdiction; although, I do want to highlight on this slide what scope of review is. And in -- under 1-A, it's the criteria of the type of application being requested. And I'm pointing this out because staff referenced the FCC statutes and rules, federal law.

Whether or not this ordinance is in compliance with federal law, I don't think that is actually an issue here. But if it is an issue, one, I'll note that the County had over 20 years to amend this ordinance; but, two, I don't think that it's within your purview to decide that this decision was made correctly, because we were not applying the ordinance as written to comply with the FCC act. But it's just -- just a side note. And I can come back to that, if you want to discuss it.

Let's go to the next slide.

Our three reasons for appeal -- and I think two of these are related and one of them is independent, and each of them support a full reversal.

One is that --

HEARING EXAMINER DICKMAN: And if I can interrupt you for a minute.

For some reason, the slides are not advancing on my end.

MR. LOMBARDO: Okay. It should be -- the top says SDP approval should be reversed for three reasons. Which one are you seeing?

HEARING EXAMINER DICKMAN: I'm seeing the very first slide.

MR. LOMBARDO: Okay.

HEARING EXAMINER DICKMAN: There's an issue on mine.  
Maybe there needs to be a refresh of that screen.

MR. LOMBARDO: Yeah, we're -- looks like we're on it.

HEARING EXAMINER DICKMAN: Okay. If it takes too long, then you can just -- you can go ahead. I'm taking notes, and I'll have your -- I'll have your presentation.

MR. LOMBARDO: But I'd like to -- there's at least -- there's one very important slide I need to --

HEARING EXAMINER DICKMAN: There we go. Okay, we're good.

MR. LOMBARDO: All righty. Resuming.

So the first reason is about insufficient documentation on the colocation requirement for effective radius and coverage. The second, same requirement about height. And the third is about co-siting. On that third one, I'm going to come back to this.

Co-siting is not addressed anywhere in this application, as far as I can tell. And, in fact, in the appellee's answer brief, it's not addressed there either. And I'll, you know, get to that when we get to that section, but let's go to the next slide.

The County already read forward the standard. Our primary issues are with D and E. But what I want to highlight in D is the requirement is the applicant needs to demonstrate, not assert, what needs to be considered are both old and approved towers. And the approved tower category, that would include towers that may not be physically existing right now. And as we'll see in a second, that matters.

And then the standard is can accommodate, not optimally accommodate or be the ideal scenario for the applicant.

If you can go to the next slide.

This is the shared siting requirement. I'm going to come back to this one in reason three.

Next slide.

I put up the purpose and intent of the code here because the -- I think this is very important when we get into how we should be reading this code. The code clearly says it's intended to minimize towers. That's in the highlighted section. Intended to minimize, where applicable, adverse visual impacts of towers and antennas through careful design, siting, and vegetation screening.

And it talks about maximizing the use of other towers. That's why we have D and E, colocation, co-siting. And I want to note on those the difference between those.

Colocation is putting facilities, like antenna, on other towers. But co-siting is building the tower at another site. And that's going to be very important when we get to the application.

If you go to the next slide.

So let's talk about the first reason. Next slide.

Here's what was submitted by the applicant. This is also included in one of two main documents submitted by the applicant. This was included in the appellee's brief. And this is the inventory of all the towers within six miles. And on the top right, you'll see there are asserted reasons as to why these towers will not work. So you'll see a little green dot in the center. That's the proposed tower, but you'll see -- the two that I want to focus on for these first two arguments are number 3 and number 9, the bottom right corner.

For both of these, it's asserted they're outside of the coverage area. And for the Benton tower, that would be Number 9, it's also asserted that it's not tall enough, insufficient height.

I want to start with coverage area, if we can go to the next slide.

These are not showing up very clearly on this PowerPoint, but if you look at these in the -- in the handout that you have, what these are are excerpts from RF maps, RF maps prepared by AT&T, both of them. So the one on the left is the RF map showing the justification for this tower. The one on the right is the RF map submitted by AT&T showing the justification for the

Benton Road tower.

When you can see these a little more clearly in the original form, which is attached to my briefs, you can use the lakes and the roads to locate that.

What they do is they both show a coverage hole approximately where the Kapok tower is going to be, and they both show that that coverage hole is filled by both towers.

And here's what's important. And I'm not -- I'm not saying that you today should look at these RF maps and second-guess staff. What I'm saying is staff was not provided, in the left coverage map, an indication of what the coverage will be when the Benton tower is complete.

So the prior -- if you could go back one slide.

There's -- and this is referenced in appellee's brief. This document originally does not have the Benton tower. And we objected to that and they put it on here. So it was inventoried. But what was never updated -- go back -- go back to that slide.

I'm going to need to get a clicker, I'm sorry. So many slides.

What was not updated was the RF map for the -- this tower.

And the reason this matters - and I've got these excerpted a little bit - is AT&T wrote a letter to both Benton Road and to this tower saying we want to be on this tower and this is the hole that exists, but this goes back to the language new or approved -- or sorry -- old or approved.

What this is is an RF map of the old towers. It does not show the new tower.

So we, right here, have an issue where D was not met. I don't know what -- looking at this, whether it could be met. Maybe it could be met. But staff was not provided an RF map to show this. And these secondary maps from the Benton Road tower -- I'm not relying on staff to go back and look at old approvals. We provided these to them from staff's record, as submitted by AT&T.

If you'd go to the next slide.

A little bit about lesser effective radius. This was addressed. Proof is needed to show the lesser effective radius. And I would submit that what the proof was submitted, the old AT&T letter, the new AT letter, show that the Benton Road tower location has -- is not outside of this lesser effective radius.

We don't take issue with the fact that six miles in this particular circumstance is too far. We're saying 2.5 miles away on Benton Road, that's not too far. And how do we know that? AT&T's documentation. And if that's the case, we know that the Alpert tower, a thousand foot tall tower, is also in this area.

So we have two towers that could be available for colocation within the effective radius, not because I'm asserting so or anyone's asserting so, but because AT&T's RF engineers said so in their RF maps, or they didn't provide enough information on the RF map to staff to indicate that there was still a hole, even with the approved Benton tower active with an AT&T antenna.

If you'd go to the next slide.

And I addressed this a little bit in the beginning about the code being outdated. It very well may be. 1996 is a long time ago in cell phone technology. But the code then needs to be amended. I don't think it's appropriate, because in 5.09.D and E, the word is "shall," not "may." There is no discretion here. Staff cannot use a perceived concern about technology and the FCC regs to amend the code amorphously. We need to follow the code as is, proposed amendment. And I understand that staff is proposing an amendment, so I don't -- I think that this will be addressed on a go-forward basis.

If we could go forward again, because if we come back to these renderings, we are seeing that the left map does not account for the proposed right map tower.

So the very simple reason -- next slide -- that the first reason for appeal should be granted is that the applicant had an obligation to demonstrate that the old and approved towers can accommodate the antenna and did not do so. Instead, they updated an inventory map, which



is akin to saying they made unsupported allegations that were conclusory and supported their position.

Again, I don't know, because we don't have the RF analysis from them, as to whether or not this is possible, whether there's still a coverage hole even after the Benton Road tower. But if we look at the Benton Road tower's RF-engineered documentation, it looks like that's unlikely.

If we could go forward.

Forward again.

The second reason is height. Go forward again, please. This is dealing not with the Alpert tower. The Alpert tower is -- there's no contention it's not tall enough, because it's taller than this tower by a factor of four. This is only about the Benton Road tower.

Next slide.

Here's the letter from AT&T for the Benton Road tower. And it says in the first paragraph -- the whole letter is in your packet. So, as far as any completeness goes, you have the entire letter. But for the purposes of this presentation, it indicates that what it needs is 200 feet to place an antenna.

If you'd go to the next slide.

Here's the RF letter from AT&T for this tower. It talks about the tower being 250 feet and it talks about optimal height, but it doesn't indicate that it can't put it on that other facility. Because it says optimal height, it doesn't say it's not possible. It does indicate that it would be below, but it doesn't indicate that it's not possible. But even if this section is considered concerning, we still have the Alpert tower. It's a thousand feet tall.

Next slide.

Next slide.

And the reason why I'm harping on the Benton Road tower is because this was a heavily contested tower. It went to the county commission. And one of the contested items was about shared-use plans. The Alpert tower, it came out during that hearing process, did not have a shared-use plan, so it was -- although they did seem willing to host the facilities, the Benton Road tower was specifically required to have a shared-use plan under Subsection F. Mr. Bosi referenced that section.

And this is cut and pasted from it, but you have the entire resolution in your packet. They have to allow a minimum of five carriers to be colocated on the tower. And as we saw on the AT&T letter, AT&T said they intend to be on that tower. So we know that this was the intention. It appears in several we have is tower builders vying to build a tower first to attract AT&T. But AT&T, from the documentation in the record, indicates it can be on either tower.

Next slide.

Next slide.

This is the last reason we have. And I -- and in a way, this is the simplest. There's nothing in the record anywhere that explains why co-siting is not possible here. That is building this tower on the same piece of real property as an existing tower.

And I want to highlight the reply brief or the answer brief. It says in support of the appellant's position, referring to not meeting D and E, E being colocation, the applicant asserts that it did not include information -- that the applicant did not include information on the tower located on Benton Road on the colocation diagram. That's not what we have asserted. We have asserted that for the coverage area, for D. But for E, what we're saying is you didn't provide any reasons at all as to why this can't be on a different piece of property that already has a tower.

Could you go to the next slide?

And now this map changes, because, number one, which is very close to this location, it's an insufficient height. And we agree with that. It's 185 or less tower, so it's not tall enough for what they want to do. But it doesn't mean that site can't have a second tower. It doesn't

mean the site at three can't have a second tower.

Number two. They provide number two as being outside of the coverage area, insufficient height, but that doesn't mean you couldn't put a new tower there.

So these need to be addressed. There may be good reasons for this. Maybe the site is not large enough. Maybe there's not enough setback. But this is not anywhere in the record. So there needs to be a reversal here for this reason. Again, not that it can't be proven, it just wasn't proven. And they are obligated, "shall," to prove, demonstrate.

Next slide.

Okay. Next slide.

Next slide.

So essentially the LDC has two requirements that we're concerned with, D and E. We don't take any issue with staff's description of the requirements here. We agree. I think what this appeal is about primarily is interpretive issues when it comes to coverage area. But when it comes to co-siting, the dispute is very clear. No documentation was provided at all. Needs to be provided.

Next slide.

There are a series of public speakers here today, both commenters. This is the section in red. All of the yellow properties have submitted letters of objection, letters of support for the appeal, and a request that the County reconsider this and apply its code. So all the yellow properties have submitted this documentation.

Next slide.

I want to briefly address standing because it was raised in the answer brief.

I cited in the reply brief Carroll vs. West Palm Beach. This is a case where standing was found, challenging a utilities, challenging basically infrastructure. That's -- that's where we are here. The appellants are nearby property owners. They have esthetic and visual concerns. They have property value concerns. And those are the kinds of concerns that the Fourth District Court of Appeal found in Carroll vs. West Palm Beach to provide standing. Whether or not the Carrolls go on to prevail doesn't matter; they do have standing.

Next slide.

And the purpose here hints at this, because what we are trying to minimize is adverse visual impacts. So even -- even just the impact of this 250-foot tower visually is what this code is designed to protect so that if you, as a property owner, are impacted by this negative visualization, you have standing. But we are worried about more than that. We're worried about the impact of the property values and general RF concerns. So we believe that the Penners do have standing.

Next slide.

That's my presentation.

I will be here to address any questions you might have specifically. But one of these reasons, the lack of co-siting, is cut and dried. It just wasn't addressed. It's not addressed in the briefs, not addressed -- maybe they will address it today. But, importantly, if they do address this today, everything that I have talked about has been -- is in the record before staff before December 28th, when they issued the approval. If they are going to stand here today and put on testimony that says those sites are too small, we can't do it, that wasn't before staff at the time.

So, this is an appeal, this is not an original proceeding. It needs to be reversed, and we need to go back to the drawing board on that issue. If that's -- if that is what you consider to be the issue, I think we need to go back on all three.

Any questions?

HEARING EXAMINER DICKMAN: I do -- I do have a question for you.

MR. LOMBARDO: Sure.

HEARING EXAMINER DICKMAN: On the issue of -- let's just call it lack of information or things that weren't addressed, let's say that hypothetically the applicant does go

back and supply the County with information, what's your position with regard to that? I mean, do you agree that the County has discretion to review it and -- and determine one way or the other whether it's -- it meets the criteria?

MR. LOMBARDO: Yes. The staff absolutely made its administrative decision. We are not challenging that. Because this particular tower did not need a conditional use or a variance, staff is the arbiter. So we don't take issue with that.

What we would expect to see is any documentation at all on co-siting for the -- all towers within the -- whatever their effective radius is. Let's call it three miles.

And then on the coverage area issue, there needs to have been an RF map analyzing what happens when the Benton Road tower comes online, because what's causing this, from my client's perspective, is that there's an approved but unbuilt, not-online tower. And as soon as that goes online, the RF landscape in this zone is going to change.

So it's true to stand here today and say, we've got a big hole, we've got a big problem, we're trying to fix it. But it turns out we've already fixed it by the Benton Road tower. But -- but that was sort of going off topic. Your question was, can staff rereview this with more information? Absolutely. That's what we are advocating for.

HEARING EXAMINER DICKMAN: Right. And I -- and I guess what I'm getting at is that I -- I think, to what level are you going to take the position that there's -- because you have mentioned that there has to be an RF map. I mean, is that in the code, where it says there has to be an RF map to show what the impact is going to be with the new tower?

MR. LOMBARDO: No. But let me address why I'm saying that. And this, in part, comes from staff's -- staff analysis.

In the staff report -- let me get to that page. On page 3 of the staff report, there's a -- hold on. I'm sorry.

Okay. On page 3, paragraph 1, 2, 3, 4, staff explains how it got to the lesser effective radius. And what they say is we looked at the RF map. We looked at the --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: -- within Attachment D.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: This is -- Attachment D is the RF map that I was highlighting.

And so staff looked at this map. And what -- and what I'm saying is, right there, that's the appellate reason, because that map does not include the Benton Road tower, which is an approved tower. So --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: So if this map were updated to show the impact of the Benton Road tower on this, staff would have enough information. Should they approve or deny it depends on what the information is.

But clearly staff was looking at this rendering and they were able to determine, presumably by looking at the large red area, that the -- there is some kind of coverage hole, and then they concluded that there is a lesser effective radius as a result of that. But this map was incomplete.

So I guess what I'm saying is, if this map were updated, that would address that issue.

If documentation were provided on co-siting, that would address that issue.

And if, in this letter updating this map, the AT&T explained more about the height issue and explained the apparent contradiction in their two letters, that would address our third issue.

So I guess, Jeff, if you're taking notes on this, that's the three things we are looking for.

But I think that you're asking the question in part to determine, are you just going to appeal this again if I send it back to them and say, you know, that they couldn't review it? And I'm not saying that. I'm saying the code had specific requirements. We see three shortcomings in their review. Not necessarily in staff's review, but when applicant submitted, applicant gave

this -- this rendering here is misleading, because it's paired with an inventory that shows a tower that is not shown on this rendering.

HEARING EXAMINER DICKMAN: I understand.

Okay. Thank you. Nice presentation.

MR. LOMBARDO: Thank you.

HEARING EXAMINER DICKMAN: Does the County want to respond to that, or do you want to let Jeff -- or Mr. Wright come up and speak?

MR. BOSI: The staff will wait until after Mr. Wright's presentation.

HEARING EXAMINER DICKMAN: Okay. All right.

Good morning, sir.

MR. WRIGHT: Good morning, Mr. Hearing Examiner.

Jeff Wright with the Henderson Franklin law firm, for the record.

We are here on behalf of the applicant, I guess the appellee.

And we agree with everything the County is saying and all the hard work they have put into this to -- to make sure they crossed their T's and dotted their I's on this application.

As Mike Bosi mentioned, there was an extensive review period. And early on during that review period, Mr. Lombardo and his clients started scrutinizing this project, which they have every right to do. And they did a request for an official interpretation. I'm not sure the status of that.

And they have also, obviously, appealed the approved SDP.

And from this -- this may sound familiar. And you alluded to a previous hearing. And I was here for that. And it was in February of 2021, over two years ago.

And in that -- I'm not sure if our PowerPoint is ready, but I do have a couple of slides I would like to use as part of my presentation.

But in that prior proceeding, it was too tight. The --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: The site was too small. And you're right, we needed a variance for that.

And during the course of that proceeding back in February 2021, there were two attorneys representing the opposition, and there was also a professional planner. You may recall Doug Lewis and Ralf Brookes were both here. And Ralf, an attorney, was an expert on variances for that proceeding. And during that proceeding, Ralf Brookes said, why don't you guys just go to the south of where you're at right now? It's not tight. It's the same owner. You have plenty of room, and it's allowed by right. What are you doing?

And I think the hearing examiner wisely said, well, we can't force that on them, so let's move on.

But it is in the record. Mr. Brooks said, go to the south. And what did we do? We went to the south. And if --

HEARING EXAMINER DICKMAN: That's this site? So this site is that --

MR. WRIGHT: Exactly.

HEARING EXAMINER DICKMAN: -- site that Ralf Brookes told you to go to?

MR. WRIGHT: Yes, sir.

HEARING EXAMINER DICKMAN: All right, great. Okay.

MR. WRIGHT: Yes, sir.

And I have some graphics to kind of, you know, get you oriented. A little blast from the past.

HEARING EXAMINER DICKMAN: Okay. I had hair back then.

MR. WRIGHT: But one thing that's really important, I think, in light of Mr. Lombardo's comments is our Exhibit F.

Exhibit F is our -- this is the -- in our -- in our answer letter, we had several exhibits.

Exhibit F is the updated colocation and inventory map.

And Mr. Lombardo pulled up the graphic of that Exhibit F. And it's the six-mile radius with all the towers within it.

HEARING EXAMINER DICKMAN: Right.

MR. WRIGHT: And Mr. Lombardo has pointed to tower 9, which is the Benton Road tower, and tower 3, as the -- the Alpert tower.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: And what -- this is all new information. I certainly don't want to surprise anybody. But since this has all evolved, the Benton Road tower got a conditional use. That's not a tower. It's arguably a tower site, but they just have the right -- just like anybody who has uses that are allowed on the property, they have a right to pursue that use, but it's not a tower. It's just a conditional use that was issued.

And Mr. Lombardo's reply brief, I'll call it, was I think 175 pages long. It was a PDF. But within that reply brief, he included copies of the Benton Road resolution, the conditional use resolution, at least five times. So over 100 of those pages, of the 175 pages in the reply, are the same exact thing. It's the resolution granting a conditional use for the Benton Road tower.

So that tower is not up. It's in the SDP process. There's no tower there.

Conversely, tower number 9 -- or, I'm sorry, tower number 3, the Alpert Road tower -- and you'll see, I think, in that -- in -- in our Exhibit F, that the reasons for not using Benton Road and the reasons for not using the Alpert tower.

Well, fast forward to today, and I sent in an email with three attachments: Our PowerPoint; an updated propagation map Mr. Lombardo referred to; and also a letter from emergency services in favor of our tower.

But the -- the second document that I mentioned is the updated propagation map. And what happened was the AT&T did colocate on tower number 3. They have done that. And I provided that to everybody this morning. It's a March 21, 2023, letter. And it shows the before and the after.

And the before picture of the -- the tower, the number 3, the Alpert tower, the before picture shows a gap, and the after picture shows the coverage gap closed in now that at the Benton Road tower is -- or the Alpert tower is there.

So Benton Road is not built, but Alpert is. And AT&T has colocated onto number 3. So the suggestion that we should have considered 3, we should have colocated on 3, it's -- it's a done deal. It's online. And we have a map to show the coverage, the updated coverage map. And I will show that to you briefly. It's in our PowerPoint, and I have provided it via email this morning in a separate transmission.

But if you go -- you can just start with that first slide.

MR. SUMMERS: One second. Let me get it set up in here.

MR. WRIGHT: Thank you.

Okay. And now, if you go to the second slide -- and sorry if I'm just going to recap a little bit. But this is the property that you originally heard that was too tight.

Second slide.

There, that yellow pin shows the former unapproved tower.

Next slide.

HEARING EXAMINER DICKMAN: The graphics are not advancing on the screen.

MR. WRIGHT: Okay. Well, it's just a depiction of what I was saying earlier. We have gone to this other site where it's allowed by right and no variances are necessary.

I just wanted to highlight the fact that --

HEARING EXAMINER DICKMAN: There it goes. All right. Now they're moving.

MR. WRIGHT: So the red circle there is the SDP that's under appeal right now.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: We already have the SDP in hand, it's just under appeal, which puts a pause on everything. You can't move forward if someone's appealing your SDP. So our building permit is on hold.

And, as you can imagine, going back two years-plus trying to get coverage for this area, time has been a killer for us.

But, nonetheless, that's our new tower. It's the location in red. And that's exactly where the opposition, Mr. Penner -- the Penners were in the crowd. They were part of the record. They spoke at the last hearing. They should be well aware that this is allowed by right. And I don't even think that's in dispute. Obviously, that's not in dispute. The essential services question is not in dispute. But what is in dispute are three things:

Number one, standing.

Next slide, please.

If you -- if you look at this slide, you see the appellant's properties are in yellow, and the SDP -- the approved SDP is in blue.

Now, it looks like they might be kind of close, but if you look at property number 2, for example, it's vacant. There's no one there to -- I don't -- to be impacted. I suppose campers and walkers could -- could have some impact there. But it's hard to say that somebody is going to be aggrieved by this decision who is an owner of number 2. If there is some reason why they would be aggrieved, I don't believe it's been articulated. Perhaps a reference to the view, but I'm not sure who's viewing from where on parcel number 2.

If you look at parcel number 3, you have kind of the same situation. There's -- from what I can see in this graphic, there's no residential structures. It's just some approved -- looks like roadways on the northern part of that parcel number 3.

Now, if you go to parcel number 1, no dispute. There's a house there, a lake there. Beautiful property. But the house, the residential structure, is 2,000 feet away from the closest corner of this SDP site. So there is a question about standing. We don't think we need to hang our hat on that, but it is a preliminary question, whether they have standing.

And the cases that they have cited to all refer to abutting or adjacent, and I would say that these are neither.

So as a preliminary matter, I don't believe they have standing, but I think that, aside from that, we can still show that this SDP was properly decided.

HEARING EXAMINER DICKMAN: Mr. Wright, can I ask you a question about this? Because I want to get it right.

It looked like the Renard case -- most lawyers know about Renard when it comes to standing. Is that the line of cases you believe should be applied here?

MR. WRIGHT: Yes.

HEARING EXAMINER DICKMAN: Okay.

MR. WRIGHT: And I did look through some of the cases that they have cited in that line of authority, the Renard case, and what kept popping up was abutting or adjacent. The Renard case was an abutting property. And so under that line of authority, it's a stretch to say that they have standing, they are aggrieved. They are not abutting. They are not adjacent. They could be affected. I'm not sure how. I think it's view, esthetics, presumably. But I would say they're not impacted any greater than the rest of the community that's around them. So --

HEARING EXAMINER DICKMAN: To your knowledge, has the County adopted any kind of more liberal standing definition?

MR. WRIGHT: You know, and I -- I believe we included this in our answer, but I -- the County, I believe, has -- says they are someone that has been adversely impacted with respect to an interest that is protected by the County regulations. And that's --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: -- where we said that they hadn't identified any such interest.

Now, I don't want to discount the fact that Zach put up some sections of the code that relate to the view. And so that's the only thing I can remotely discern from their argument that they are adversely affected, aggrieved, in -- especially in light of the fact that there's a lot of distance between their habitation and this proposed site.

HEARING EXAMINER DICKMAN: Okay. So if -- taking into consideration during the approval process, staff has to -- if it's listed in the code that, you know, the view is one of the considerations, then, you know, while standard case law doesn't protect, you know, view corridors, so to speak, in general, but if a local government adopts something saying that that's part of the administrative review process, then if someone alleges that that is being impacted, you know, does that bring them into the orbit of standing, or it takes a little bit more analysis than that?

Because I can see that, you know, clearly the tower falling over isn't going to affect these properties. And I think that that was -- if I recall right, two years ago, when we were looking at the other site, you know, there was that -- I think that came into play, you know, the danger of, you know, the tower hitting something.

But, you know, I know what abutting means. I frequently use abutting and adjacent in different -- different ways. And some people don't think there's a difference, but I -- I think abutting is pretty clear, that there's cojoining lines, boundary lines, but adjacent is a little more nebulous, depending on the situation.

MR. WRIGHT: Yes. And I think they use the term "immediate vicinity."

But I -- you know, the -- he did put the code up on the screen. He did say immediate vicinity. But what they haven't specifically alleged is whether or not their interests will be negatively impacted.

You can throw the code up on the screen and say, this code exists to protect the esthetics of the county, but they have never said, it's ruining our esthetics.

Presumably -- I'm not going to make their case for them, but they haven't alleged what -- what exactly is harming them about this tower. They have alluded, suggested, maybe it's a view esthetic thing, but I haven't heard a specific allegation that, if they put this tower up, our review is going to be harmed. I haven't heard that, and I --

HEARING EXAMINER DICKMAN: To that point -- to that point, if -- if their argument is about view or even property values, more substantive arguments, is it your opinion that they would need to have expert testimony here to demonstrate that?

MR. WRIGHT: Well, one of the things I like about this tribunal is the flexibility. And I would think that, in order to have a really good case, they would want to have an expert. Maybe perhaps demonstrate the before value and the after value. Or maybe --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: -- even get somebody to say this is going to -- you know, at the last hearing, for example, they came up with conceptual drawings where they showed physically how this is going to look for this particular property. We don't have any of that here.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: So they -- they -- I don't even know that they have alleged it, is what I'm getting at.

HEARING EXAMINER DICKMAN: Yeah.

MR. WRIGHT: So there's a -- I guess with the standing, this preliminary topic, they are too far away and they haven't alleged any particular interest that will be adversely impacted by the approval.

HEARING EXAMINER DICKMAN: Okay. I'll take a look at that.

So, I mean, I think Mr. Lombardo did an excellent -- gave you a great roadmap for what -- you know, summarizing what their issues are. And it seems to me that it -- procedurally they're saying that there was lack of demonstration that the tower would actually -- you know, what -- what the tower would ultimately do. And they -- they indicated that they wanted a map

for that, and that there was -- that the co-siting was not even addressed. So it seems like these are procedural issues. And that's why I was asking him that, well, if this was supplied to the County Planning, would that -- would that be sufficient? Because I tend to believe that, in these situations, the County -- at the end of the day, the County is the one that determines whether the application is complete, and then when the -- and then complete and ready for analysis and then ultimately a decision.

So I'm -- I'm -- am I wrong in hearing that? That's what I'm hearing, is that they're seeing some procedural missteps, almost like the application is incomplete, like it didn't -- you didn't supply enough information to check off all the boxes that are in the code.

MR. WRIGHT: Yes, and -- and, like I said, three issues, as I see them: One's standing, which we just covered. And the other is lack of proof that you can't colocate on a tower and lack of proof that you can't colocate on a site. And what --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: -- we did -- and maybe the next slide, please.

So this is -- this is all new. And Mr. Lombardo just said, had you -- if you were to update the prop maps for the Benton Road site, then we would have a better idea of what the problem is and whether or not there's enough proof. Well, this is all constantly evolving. So this wasn't available during our application process. But since we have applied for this SDP and gotten approved, the -- like I said, the original hearing was 2021. Benton Road got its conditional use in 2022. And we've recently activated -- or the site here was activated. It's actually the number 3 site, the guyed tower, the thousand feet tall. And AT&T has colocated on this site, so -- and if you look at the next slide, please.

That is -- will be the new coverage area. And you can see this -- ideally, you want green. You want green. And when you get into the yellows, that's when you have trouble indoors with reception. So green --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: -- is good indoors and outdoors.

And, you know, if you widen this map out, which we don't have a slide right now, but these green are supposed to be touching each other. So this is what's going to happen.

Now, Mr. Lombardo said they need to update the maps to show the Benton Road site. Well, here it is.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: And there's our tower, with the coverage gap closed.

Now, if you go back one slide, just to show the difference, there's our proposed site. There's a lot of red around the fringes of the Benton Road site.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: And the next slide, then we fill it in.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: And that's the kind of coverage you want if you're a citizen or an emergency responder or if you're just using the service passing through. So that's the idea.

Now, Mr. Lombardo said if they were able to provide an updated coverage map for the Benton Road site, we would resolve that issue. Well, thankfully --

HEARING EXAMINER DICKMAN: Well, yeah, in fairness, let's talk about that.

MR. WRIGHT: Uh-huh.

HEARING EXAMINER DICKMAN: I mean, so you have now supplied this, but it's -- in your view, how does -- how do you use this information? Because I'm not the decision-maker, in terms of issuing this -- this administrative approval on this -- the ruling on the administrative appeal. So how do you intend -- how do you perceive using this new -- this additional -- I guess your supplemental information to the application?

MR. WRIGHT: The reason that we provided this is, in our Exhibit F we list the nine towers that are within a six-mile radius of this site.



HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: And we also color-coded each of the towers to show why we cannot use that site or that tower for our needs.

And so if you'd go back one on the slide.

So this -- you know, staff looked at all of it. And, now, they didn't have the benefit of this Benton Road information, but they looked at all the information within that -- that six-mile radius that was provided by the applicant, and they decided that, yes, this proposed site needs -- or has -- has a coverage gap that needs to be filled.

So the reason that we're supplying this additional information is to show that we can't -- we still need to cover this coverage hole that you see right there on the screen.

Even if we were to colocate on the Benton Road site or the Alpert site, which we have already done -- so this -- what I -- what I'm really getting at with this slide is, number one, to provide the update to put this issue to rest that there is a coverage need for this tower and also to -- to confirm staff's analysis that the -- regardless of how many towers that you look at within that six-mile radius, there's still a coverage gap and it's not addressed by the Benton Road site. It's not addressed by the Alpert site. We're on the Alpert site, and it's still a need -- a hole that needs to be filled, and it has not been filled by the Alpert site.

So the idea with this is just to give an updated map, put this issue to bed, that we can't colocate on Benton Road, and we can't locate on Alpert.

We tried -- we tried Benton Road. It's not up. And it's going through conditional use. It's going through site-planning approval.

We're on the Alpert site already. So this idea that you need to jump on the Alpert site is a great one, and we did it. So even with that additional site, we still have a coverage gap and a coverage need.

And I also wanted to show that even if we did exactly what the appellants want us to do, colocate on the Benton Road site, it's not enough. We have done that.

Now, this is, like I said, two issues: Lack of proof for a tower and lack of proof for -- for site -- co-siting. In my view, within that six-mile radius, we provided whatever staff asked for, whatever the application required. And because there was opposition, staff went out of its way to get extra information from us. And that's why we have that Exhibit F showing the updated information.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: If there were available sites, we would have shown them and we would have pursued them, but there were not any available sites that would -- that would meet our coverage needs, so we --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: And they are all depicted within the six-mile radius.

And if staff wanted us to demonstrate further that we don't have the ability to use these sites or towers, then we would have provided further proof, but we provided all the proof that staff needed to make a decision on this.

And this idea of second-guessing staff on something that involves discretion is -- I think it's bad policy and it really puts an applicant in a bad situation, because it puts a hold on their whole project, regardless of the merit of the underlying appeal.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: So just to reiterate, we don't think that they have demonstrated that they have standing. And we have provided sufficient proof for staff to determine that we don't have enough coverage within the six-mile radius from other towers or sites.

And based on that, we request that you affirm the appeal and --

HEARING EXAMINER DICKMAN: Okay. So --

MR. WRIGHT: -- the SDP decision.

HEARING EXAMINER DICKMAN: Okay. So let me just summarize here.

So on the issue of insufficient demonstration, you've got this map now, and it's updated, so forth.

On the issue of, like, the Benton Road tower, you're saying that's just a -- an approval for a tower, but the tower hasn't been built --

MR. WRIGHT: Correct.

HEARING EXAMINER DICKMAN: -- correct?

MR. WRIGHT: Yes, sir.

HEARING EXAMINER DICKMAN: Okay. And then on the co-siting, which Mr. Lombardo says was not addressed at all, what was your response to that?

MR. WRIGHT: Well, we believe we have addressed it, and staff believes we have addressed it to their satisfaction.

HEARING EXAMINER DICKMAN: Okay.

MR. WRIGHT: And one of -- you know, the code is not perfect. And one of the things is, you know, what is an approved site? Is it any site that has the right, the stick in their bundle, to put a tower up?

But what we did was we followed staff's direction and mapped out every possible location within the six-mile radius where we could have a tower, and --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: -- that's the result that you see in Exhibit F. And that was enough for staff and we believe for you to feel comfortable that we could not have --

HEARING EXAMINER DICKMAN: Okay.

MR. WRIGHT: -- colocated this tower.

HEARING EXAMINER DICKMAN: Okay. All right. Thank you. That was a good presentation. Thank you.

MR. WRIGHT: Thank you.

HEARING EXAMINER DICKMAN: I'm going to give Mr. Lombardo some rebuttal time, if you don't mind.

MR. LOMBARDO: Thank you.

MR. WRIGHT: Not at all. Thanks.

MR. LOMBARDO: A couple quick points on rebuttal.

One, as acknowledged by the applicant's attorney, this document, which is a very helpful document, was not provided to anybody until today. So what we appealed was staff's approval of the information it had on December 28th. This was not included in the answer brief. It was provided today.

And as acknowledged by the applicant's attorney, this was a long process. Really this process starts in 2021. And so the idea that it took until today to produce this document feels like ambush.

But, regardless, what you're being asked is to overturn the decision based on the information that staff had. Everyone -- there's no dispute, staff didn't have this document.

But that's not --

HEARING EXAMINER DICKMAN: Well, they have it now.

Let me just -- let's just talk through that --

MR. LOMBARDO: Sure.

HEARING EXAMINER DICKMAN: -- because it's an important issue.

MR. LOMBARDO: It is.

HEARING EXAMINER DICKMAN: So you -- you have it now. I have it now. Staff has it now. I -- does that answer -- in your opinion, does that answer the one issue that you brought up, which was demonstration? Like, they didn't have sufficient demonstration of what the tower would do?

MR. LOMBARDO: I need to read the entire document. But from looking at the pictures, it does appear to address my issue number one, which is --

HEARING EXAMINER DICKMAN: Okay.

MR. LOMBARDO: -- coverage areas. But I need to read all of the qualifying language. Again, I was just handed --

HEARING EXAMINER DICKMAN: Yeah, and I don't want to make you stand there and --

MR. LOMBARDO: I'm not making an admission on behalf of my client, but I do -- but I -- this is the kind of document that they should have provided.

HEARING EXAMINER DICKMAN: Yeah, you asked -- you asked for a map, and I -- I know in your presentation, you said a map would be the one --

MR. LOMBARDO: This is the kind of document.

HEARING EXAMINER DICKMAN: Yeah, yeah. Okay.

MR. LOMBARDO: Two, just -- you asked the question do property owners have standing to testify about their home values? The answer to that question is yes.

Indian River County vs. Ocean Concrete, property value -- property owners can show up at a land-use decision and provide lay testimony as to their own property value. Ms. Penner will, during public comment, provide that testimony. So as far as standing is concerned, that is the case law.

Three, on this idea that in the variance hearing Mr. Brooks stood before you and made a representation, it was acknowledged that Mr. Brooks was an expert, not the counsel for the applicant. So I don't know that Mr. Brooks had the authority to stand here and waive the argument of people he was not engaged to represent.

I was unaware of that, but I think that that doesn't mean that Mr. Brooks gets to waive an argument for future --

HEARING EXAMINER DICKMAN: I --

MR. LOMBARDO: -- other people.

HEARING EXAMINER DICKMAN: Yeah, I don't -- I -- that -- I wouldn't focus too much on that. I was just trying to remember. I knew I had remembered this site, but I didn't know it was the one that was exactly the -- the adjacent site. So --

MR. LOMBARDO: But I'll get to the -- to the -- so the next piece is this idea is the Benton Road tower approved? You asked was it approved, he said it was approved. It's approved for a conditional use. Does that mean site development plan? Does it mean conditional use? I don't know. But I don't know that we need to get into that, because we were leaving the Alpert tower in the mix and they provided this map.

The last point on my rebuttal is co-siting.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: They -- Mr. Wright indicated, how -- you know, how just to gather these sites. They did gather the sites. It's the nine towers within the six-mile radius.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: And this document does show what happens if you put a tower on that, on the Alpert tower. Appreciate that.

What it doesn't show is what happens if you build an additional tower on the Frangipani site or provide any reason as to why the Frangipani site was not appropriate. Frangipani, I'm not sure how to spell that. Put that on the record, Zach can't spell.

But I want to -- I want to hone in on that one on E. And we put -- and we put this up before.

Essentially what the applicant is arguing is staff didn't ask us for this and -- and, you know -- and the Penners are now questioning staff's actions. No, we're not. We're looking at the code and we're acknowledging that the burden of proof is with the applicant.

It says the applicant shall demonstrate that no approved site works for co-siting. So it's not on staff to tell them what they need to do. Staff is just applying the code as they see it.

The applicant needs to show up and say, hey, here's the nine sites. Here's why each of

them don't work for co-siting. What they did is said, here's nine sites. Here's why they don't work for colocation.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: And as I pointed out, we take issue with the way they did that.

But that -- but, to be clear, that's why this document is not the end of this story. Even if you were to say, sort of like the Topsy Coachman Doctrine, look, we didn't -- we didn't -- staff didn't have this at the time, but now that they have it, it resolves the issue. No. We don't know what's going on with the Frangipani site, which is right here. And we don't have any reason to believe that that site isn't sufficient.

So, in sum, our position is it's -- you called it procedural. It is procedural. This is -- there are things that were needed to be provided, they weren't provided. One of them was provided today, which I think is approaching bad faith.

But I think that this needs to be reversed. And, in fact, the provision of this today acknowledges that, yes, it needs to be reversed. Why? Because this document was never given to staff.

But the last thing I want to point out, it was acknowledged, you know, what -- these are undeveloped parcels. I do not believe that the case law in Florida says that only homes have standing rights. These are developable parcels. There could be homes on these sites. And when those homes get built and when this area gets developed, they are going to be impacted by a 250 tall cell tower that is immediately in the vicinity of where these future homesites can be. So I don't think that -- my position is that you don't need to have a house, you can have developable land.

But do you have any further questions? Otherwise, that's my rebuttal.

HEARING EXAMINER DICKMAN: Yeah, no, I do have a question for you.

So in your -- in your opinion, who gets to decide whether an application like this is complete or not?

MR. LOMBARDO: Staff, by applying the code. And so staff makes the determination -- I believe in this case, I would have to -- I think this is a delegation of authority down from the county manager, if I recall correctly from the code, but it's -- but it's delegated. And I believe Mr. Bosi is the decision-maker, but I will defer to whatever the County says as far as who gets to make the decision. What we are doing is we get to appeal administrative decisions that were made contrary to the code.

HEARING EXAMINER DICKMAN: No, no, I -- 100 percent I -- 100 percent I understand that part. But I'm just saying that, you know, there's a part of this process that says you have to make application. This is all the -- all the things that you have to supply to us in order to do an evaluation. And if at some point, you know, they -- according to the code, if they feel -- if it is believed that all of those boxes are checked and that -- and that enough information has been supplied under the code, somebody has to make that decision. And it's not you, and it's not Mr. Wright, and it's not me, because this is an administrative approval. Somebody has to make that decision that, okay, we can go forward to our next step, which is analyzing this.

So I guess what I'm asking is if you agree that it's ultimately the County's job, and it might actually be Mr. Bosi, because he's probably got a big sign in front of him that says "The bucks stops with me." But they have to decide at some point did they fill out the application and have they supplied -- you know, I'm thinking, if I were in Mr. Bosi's position, have my planners been given enough information to analyze this fully and prepare a staff report that complies with the code, et cetera? So I guess what I'm saying is that, do you have a disagreement with that, I mean, that Mr. Bosi has that ability, or whoever he delegates it to? It does come down through this -- or the county administrator or manager, but somebody has to decide, okay, the application is complete, now let's do the analysis, and --

MR. LOMBARDO: I don't disagree. I have just a qualifying comment, which is Mr. Bosi presumably is the decision-maker. However, he's subject to appellate review. And

so -- but -- but because he's the decision-maker, I would suggest that you could not look at this new map and say we're all good here, let's go home. Mr. Bosi needs to --

HEARING EXAMINER DICKMAN: I'm not saying that.

MR. LOMBARDO: Well, no, I know. I'm just pointing out that he -- he is absolutely the decision-maker. This needs to be provided to him and his staff. But what we're saying here today is that in the -- that the applicant had the burden of proof to provide the documents and didn't provide all of them. And even today they still have not provided co-siting information, and so it was -- it was error, reversible error, for staff to determine this was complete, to the extent they did, and approve the application.

HEARING EXAMINER DICKMAN: So if Mr. Bosi or -- is -- however they administratively do it, if they felt like whatever information is provided in that map that's there now, if that was needed, it seems to me that they would have probably communicated to Mr. Wright and said, you need -- you still need to supply us with this information. But it seems the opposite, is that they -- that they -- the County seems to be saying that they were provided enough information to satisfy that, that -- that type of analysis.

MR. LOMBARDO: Well, actually, there are a series -- there are many review comment letters. And in those review comment letters in the planning review, there was --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: -- a request for more documents.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: What I take issue with is when the County stopped asking for more documents, because --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: -- we never got to a submission point of this map and co-siting information, because, again, this doesn't address co-siting.

HEARING EXAMINER DICKMAN: I understand. It's just difficult when you try to put yourself in Mr. Bosi's seat and you say, this is how I would have done it. As Mr. -- and Planner Lombardo, this is how I would have done it versus, you know, how Mr. Bosi did it.

MR. LOMBARDO: Well, and that's why I just want to, I guess, be very clear this is not a personal attack or a critique, that I think he should have done it differently. What I think happened here is the applicant didn't submit enough information.

I mean, I think what's very clear on this section is this is a complicated approval process. My understanding is the County does not employ any RF engineers, and so this is a hard code section to apply. I don't think that this is an easy task. I think that Mr. Bosi and his team have a borderline impossible task, frankly, but we are not raising that here today.

But I think that what we're saying is -- just looking at the code, it says "shall," it says "demonstrate." It has requirements. Those weren't submitted. I don't know that this was -- I'm not -- certainly not saying that the County engaged in any kind of bad faith or action that wasn't appropriate. I'm saying that this is a complicated application. There are hundreds of pages of content, and this was missed.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: And that's okay.

The point of the appellate process is error correction, so we're here pointing out procedural issues. We're not kicking and screaming about no towers anywhere. We're saying we have this rule set. It has specific things that it's protecting. It wasn't followed to the T here, which matters, because the word "shall" was used.

If this was all discretionary, we would absolutely not be here. If this was amended to say "may do this, may do that, could consider this," but these are "shall," this is enumerated items, and so there's no discretion.

HEARING EXAMINER DICKMAN: Okay.

MR. LOMBARDO: And so I don't -- I don't think that -- I'm not sure I understand the

exact direction of the questions, because we don't take issue with the County and their thoroughness. We take issue with the fact that here we have an applicant, a well-funded, sophisticated applicant, that knows how to apply for towers and they are just not providing all the documentation. Why?

HEARING EXAMINER DICKMAN: Uh-huh. Okay. All right. Let me -- are you -- are you finished?

MR. LOMBARDO: Yeah, yeah, I'm done. I'm just here hanging out now.

HEARING EXAMINER DICKMAN: Okay. Let me ask the -- let me ask the County a quick question. Mr. Bosi, are you there?

MR. BOSI: Yes, sir.

HEARING EXAMINER DICKMAN: Okay. So Mr. Wright has supplied some new information, a map. And you have heard Mr. Lombardo's arguments that these are basically procedural, that, you know, the -- the demonstration wasn't sufficient enough and that the co-siting wasn't addressed, et cetera, et cetera. I mean, does any of the information that was supplied to you here today, the new map, so forth, I mean, does that -- is that something that would change your decision, or do you feel like -- I mean, you heard my dialogue with Mr. Lombardo, and I think you understood what I was getting at, is that at some point you, or whoever you delegated to, has to say, okay, the application's complete, let's go forward with our analysis. So does this map change anything, or do you still feel like you have plenty of information to satisfy the code?

MR. BOSI: First let me preference my response and the recognition of one of the areas -- when you had asked me if I was going to provide any comments to -- to Zach's -- Mr. Lombardo's presentation. I said I'll defer until after Jeff, and then -- but then you brought up one of the main points that I wanted to point to, that within the planning world there's two types of objections. There's substantive objections, meaning the content of the application is -- is missing a -- a primary component, or there's a procedural objection.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. BOSI: And I think everyone recognizes and agrees this is a procedural objection.

One of the things I wanted to have a discussion with -- with you is, as you're making your decision, everyone would be -- would recognize that these -- the -- the -- the support of Mr. Lombardo's appeal would only put the applicant back to the SDP review stage, and the areas that you're -- if your findings were found that there was deficiency within colocation, deficiency with -- within terms of the available towers, that there was a hole within the evidence that was provided, that that --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. BOSI: -- that the applicant would have the ability to -- to try to address those to see if they can be satisfied.

So with that understanding, I did want to point out one aspect within the code, within 5.05.09, within the early part, it's 5.05.09.B.2, and it talks about the effective radius. And it says the effective radius shall be six miles unless a lesser radius is approved, and then it says -- B.3 says lesser effective radius means an approved radius of less than six miles.

And what staff has established with -- in working with the SDP reviewer who was assigned to this case, in discussion with myself, based upon the RF maps that were provided for, what we were finding within their coverage, that you were only at the -- the two, the two and a half mile radius mark towards where you had that green coverage, where you had solid coverage indoor and outdoor. And based upon that, staff felt that that established a lesser effective radius.

With that being said, staff does recognize that there is an existing tower site that is within -- I -- I believe it's -- it's half of a mile of this current location. The code requires that they would have had to explore the opportunity to colocate on that site, but there's a provision within the code, and it's -- it's E.2.d. And it states the applicant is not required to supply the

information to the owners of conforming old sites unless the old site appears to be available to the applicant by a shared-use plan.

And within that -- within that close proximity tower I believe on the RF map, they were called -- it was tower number one, which was -- a little under half a mile away.

Staff was not able to locate a shared-use plan, so --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. BOSI: -- the code exempts them from having to explore that site because of the lack of a -- of a shared-use plan.

But that doesn't address Mr. Lombardo's point. I think what Mr. Lombardo's point was staff did not have enough information to make a conclusive decision on -- on the colocation, on the co-siting, and if that was provided, he feels the record could be complete. I don't disagree with that.

HEARING EXAMINER DICKMAN: So you don't disagree with the fact that -- that information needed to be supplied or if you -- it was already available?

MR. BOSI: It -- at the time of approval, I can't -- I can't state that -- that that map that shows what the coverage location with Benton Road included was -- was available for us to make the decision.

I believe if it was supplied -- if you rendered a decision and said this needed to be addressed and the -- and co-siting needed to be addressed, I believe those two things could be addressed by the provisions in the code and the new map that they would provide it for, so that would be -- the end result of the appeal would be a delay further until that information was officially resupplied, attached to the SDP application, and then staff would make the determination as appropriate then.

HEARING EXAMINER DICKMAN: Okay. I understand. And I -- I -- I -- it's well taken that what this does, if Mr. Lombardo's successful here, it just puts the applicant back in the application process; right? That's what you're saying?

MR. BOSI: That's -- that would be my understanding. It's a procedural due process objection that a full record was not provided for, as required by the code. It's a permitted use within the ag zoning district at this height, but there's additional information that the code says needs to be supplied for it to be -- to be approved.

HEARING EXAMINER DICKMAN: All right. But your -- but the County's position is that they feel that -- you feel that there was -- it was sufficiently -- enough information was supplied, the staff report was prepared, a decision was made, you know, the code was followed. Yes, this new information would be helpful, yes, but it probably -- it would or wouldn't change your opinion.

MR. BOSI: The new information only further confirms our opinion.

HEARING EXAMINER DICKMAN: Okay. Gotcha.

All right. Why don't we take public comment at this point and get through that.

Thank you.

Does she need a break?

THE COURT REPORTER: I'm fine, thank you.

HEARING EXAMINER DICKMAN: Okay. All right. Let's -- who do we have signed up for public comment?

MS. MICELI: Good morning, Mr. Dickman. We have eight registered speakers in the room.

HEARING EXAMINER DICKMAN: All right.

MS. MICELI: And if you are a remote participant online, we are unable to access which people only wanted to observe and which people would like to speak. So if you could type your name, full name, in the chat box if you would like to speak, then we can know how many speakers we have today.

I have one so far.

Okay, just one virtual speaker.

HEARING EXAMINER DICKMAN: Okay, great.

MS. MICELI: So I'll start with the first speaker.

We have Salvador Ho. Sir, you have five minutes to speak.

MR. HO: Good morning.

My name is Salvador. I am adjacent to the tower being built, about 300 feet away from that. We are at a Christian farm that has 350 citrus trees --

MS. MICELI: Microphones.

MR. HO: -- 350 citrus trees.

Our concern is the effects that it will do to the -- to the farm in the future. And that's why I'm here in support of the Penners' arguments, and I oppose the tower.

Thank you, sir.

HEARING EXAMINER DICKMAN: Thank you.

MS. MICELI: Thank you so much.

Next we have John Howen. Is that correct, sir?

MR. HOLDEN: Holden.

MS. MICELI: Houden?

MR. HOLDEN: Holden.

MS. MICELI: Holden. Thank you. Apologies.

MR. HOLDEN: Just like the actor.

MS. MICELI: Just like the actor.

Thank you. All right. You have five minutes, sir.

MR. HOLDEN: Good morning.

Well, my name is John Holden. I live in Golden Gate Estates, at 2560 2nd Avenue. I also own a property that's on Frangipani to the north and west of where the tower is going.

I'm here to support the Penners 100 percent. And I would like to say that it's not just a Penner issue. They are the president and -- specifically for us all out there, so we have them speak for us. That's why they contacted the attorney and have been representing us in this case. It's for all of us, not just them.

I would like to also say that a -- some of the information that I have seen today presented by Mr. --

HEARING EXAMINER DICKMAN: Wright.

MR. HOLDEN: -- Mr. Brooks? Is that your name?

HEARING EXAMINER DICKMAN: Mr. Wright.

MR. HOLDEN: Oh, Mr. Wright.

HEARING EXAMINER DICKMAN: Sir, if you could --

MR. HOLDEN: Mr. Wright. It was misleading or misrepresented.

For instance, the map that he showed of the Penner property doesn't show all the Penner properties.

What the map also doesn't show is a house that's probably -- maybe 95 percent completed, within the fall zone on the property that's just south of where the tower's going.

It doesn't show the property that's across the street from that that's been cleared and construction going on over there.

My property up there, I bought my piece of property three years ago, and then this whole mess started. I have a six-acre field up there where I was going to put a house. I haven't started construction on that because I'm still waiting to see what happens with this tower. I don't want a tower there. I didn't buy that piece of property to go out there and look at a tower.

Now, last time I was in here I talked about a better location for it being at the fire station under construction on DeSoto. I live near that intersection of Everglades and Golden Gate, and I probably have maybe 20 percent of the time phone service there. I have to, at night, write out all my texts and get all my phone calls lined up and then go to the farm the next day on



Frangipani, so everything can start getting sent out, because the phone service over there works beautifully.

Now, I agree 100 percent -- I mean, these rules are in place. And if they want to sit here and change the rules for things and all -- we need to just stick to the rules, is my point. And I agree with the Penners about sticking to the rules.

I do have a -- again, the County said that they -- they represented the fact they need to have E911 service for everybody. The tower at that fire station at DeSoto and Golden Gate is going to serve those needs of the E911 calls.

I can't make an E911 call where I'm at now because of the lack of service.

But that tower there is going to serve a lot more people than the few people that are down in Frangipani area.

True, construction is being built out there, the lots are big, but there's still not very many people that are going to be down there. Most of it's all mitigated land.

Other -- there's other technology for -- for emergency services down there. The -- the -- I have forgotten the name of the type of service they were trying to provide or that the -- the -- for the fire department to be able to use phone service, but that same company provides a truck free of charge for the County, or whoever's needing it, that will go out and put a mobile tower up if there is a fire, to help those firefighters. So the argument of having that tower just for the E911, I -- I don't think really applies, with all the other technology available now, and -- and where it really needs to be.

Lastly, I don't know how this is going to affect it, but within the last three weeks I have got two bald eagles that are now nesting on my property within --

MS. MICELI: You have one minute remaining, sir.

MR. HOLDEN: -- within a thousand feet of where this tower is going. By law, I have to contact the federal government to register that nest. So I don't know now if the federal government is now getting involved or is going to get involved in this and say, no, nothing's going up. You know, we have got to determine now whether or not this tower is going to affect the endangered species nesting and the existence of a tower there is going to affect it.

So I'm just putting that out there, that -- you know, both attorneys didn't realize that was coming into the picture, but be coming -- it could be coming down the pike.

Okay. So thank you all.

HEARING EXAMINER DICKMAN: Thank you for being here.

MS. MICELI: Thank you.

I have Whitbeck. I apologize, I cannot read the first name. My apologies.

You have five minutes, ma'am.

MS. WHITBECK: Okay.

Hello. My name is Peggy Whitbeck. I live at 1450 Kapok Street.

MS. MICELI: Can you speak into the microphone, please?

There you go.

MS. WHITBECK: Coming down, okay.

I live at 1450 Kapok Street.

The only one I recognize here is Mr. Bosi. We have been involved in many meetings about the North Belle Meade area. I'm so tired of people trying to take, pull, push, in our area.

Section 154927 is a receiving area. We get no receiving in our area. We don't have any county maintenance. We don't have any mail delivery. We don't have any -- many UPS drivers don't come in. Our roads are all private. We're privately maintained, privately owned.

There are no right-of-ways, none. How is this -- this company going to work on the roads for us? Are they going to take away the -- the -- the -- I'm not good at this. I used to speak a lot, but I haven't in a long time.

But there's --

HEARING EXAMINER DICKMAN: Ma'am, just take your time to --

MS. WHITBECK: -- about 20 feet of road available on Kapok. Is this company going to widen Kapok? Are they going to pave Kapok? Are they going to maintain Kapok? Who is going to do this for us?

What are the residents of Kapok going to get out of having this tower? I don't see any benefit.

That's all I have to say.

MS. MICELI: Thank you.

HEARING EXAMINER DICKMAN: Thank you.

MS. MICELI: Next I have Mitchell Penner. Mr. Penner, you have five minutes.

MR. PENNER: Good morning.

Mitchell Penner, for the record, speaking on behalf of the Frangipani Ag Community Civic Association.

HEARING EXAMINER DICKMAN: Wait, one -- one second.

Can I just be clear here? Are you the appellant, or are you -- is the association the appellant?

MR. PENNER: I, as Mitchell Penner, am the appellant.

HEARING EXAMINER DICKMAN: Okay. We'll have to clear that up, because I don't see that on any -- I don't see the association. What organization is this?

MR. PENNER: This is the Frangipani Ag Community Civic Association.

HEARING EXAMINER DICKMAN: Okay. Is this the --

MR. PENNER: It's our --

HEARING EXAMINER DICKMAN: Parties appear as Mitchell and Melanie Penner. I guess that's your -- you and your wife.

MR. PENNER: Yes, sir.

HEARING EXAMINER DICKMAN: It doesn't say -- it doesn't say the ag.

But go ahead.

MR. PENNER: No, it does not. I'm just speaking as a -- as the president of the ag civic association and for some of the members that couldn't be here today.

HEARING EXAMINER DICKMAN: Okay.

MR. PENNER: Some of our members have expressed concerns. They believe that the multiple towers in this section of land will have an industrial effect.

HEARING EXAMINER DICKMAN: Let me -- let me just stop you there for a minute.

And, Mr. Lombardo, could you come up, please?

So this is your client; right?

MR. LOMBARDO: I represent Mr. Penner individually. He wanted to provide additional comment on behalf of the association.

HEARING EXAMINER DICKMAN: Yeah. And so I respect lay testimony. I think it's important to hear that. And so I thought that you were going to use your client as -- for lay testimony as to maybe standing and other issues and things like that rather than speaking for other third parties that aren't here. And I'm not sure that that's -- is what -- you do what you want. I'm just saying, like, how do you want to use your time?

MR. LOMBARDO: Mrs. Penner is also here, and she was --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: -- going to provide speech on behalf of the appellants themselves.

Mr. Penner wanted to use his time to talk about the association, which he is the president of.

HEARING EXAMINER DICKMAN: Okay. Well, he's under oath, so I'll take his word for that.

MR. LOMBARDO: And I guess, maybe just for clarification, when you speak, if you

also share these opinions individually, if you could just, so these are his -- on behalf of the association and himself, this is what he's going to say, and then --

HEARING EXAMINER DICKMAN: Okay.

MR. LOMBARDO: -- Mrs. Penner will speak.

HEARING EXAMINER DICKMAN: Okay. Gotcha. Thank you.

MR. LOMBARDO: Thank you.

HEARING EXAMINER DICKMAN: Sorry for the -- all right.

MR. PENNER: I also share these opinions individually.

HEARING EXAMINER DICKMAN: Okay.

MR. PENNER: Founded in 2003, the Frangipani Ag Community Civic Association serves residents and property owners in an area of three square miles in North Belle Meade.

The members have expressed several concerns. Multiple towers have an industrial effect.

One resident has an ag tourism business and thinks this tower will negatively affect them.

The Frangipani Ag Community Civic Association joins in the appeal and supports the arguments submitted on behalf of the Penners. I know that sounds a little weird, but --

And kind of lastly, we have them. They are out there. It's not a not-in-my-backyard issue for us. One's fully permitted in our neighborhood, ready to go. We can see the existing towers.

We are ultimately against the proliferation of the towers and would really love to see the tower companies take this resource and use it to areas where we hear -- people in the Estates and things like that, the Golden Gate Estates, have concerns.

Thank you.

HEARING EXAMINER DICKMAN: Before you leave, I just want you to understand that I don't recognize the association as joining in on the appeal. You have -- the association has not appealed. And you just said that they join in. So just -- just to be clear, you used all of your time to speak on behalf of the association, which is not a party to this appeal.

MR. PENNER: Okay. Thank you.

MS. MICELI: Next we have Bridget Berens.

MR. LOMBARDO: We acknowledge that the association is not a part of the appeal, and he did say that this was also his individual opinion, but understood.

MS. MICELI: Okay. Again, next we have Bridget Berens.

You have five minutes, Ms. Berens.

MS. BERENS: Good morning. My name is Bridget Berens. I live at 1340 Kapok Street. Basically that tower is going to be right in my backyard.

I stand with the Penners. None of us want the tower out there. We do not want our property values to go down.

The people that bought property right beside this site just are CO'ing a brand-new home right beside a site that they want to put a tower.

I'm not no lawyer, but maybe you need to revisit if it would fall, because they are very close to that site. Their house is just getting CO'd. And all this come about after they bought, after they started building, and it's not fair.

That's all I have.

HEARING EXAMINER DICKMAN: Thank you.

MS. MICELI: Thank you.

Next we have Jon - and I apologize if I say this incorrectly - Bliahu.

You have five minutes, sir.

MR. BLIAHU: My name is Jon Bliahu. I live at 1535 Kapok.

I just built a new home.

I do not want to drive under the -- this cell tower. I stand with the Penners. I didn't

expect to be looking at this thing. I just believe that you could move it to a more appropriate location.

Thank you.

MS. MICELI: Thank you very much.

And finally here in person, our last speaker is Melanie Penner.

Ms. Penner, you have five minutes.

MS. PENNER: Is this good?

MS. MICELI: Yeah.

MS. PENNER: Yeah?

Hi. Melanie Penner.

I live at 1235 Sugarberry Street, and I am one of the appellants.

And I wanted to address some things that were said, particularly about the standing.

My husband, Mitchell, and I have taken the brunt of this appeal. We're quite close to the tower, but, as you said, maybe not abutting or adjacent. But, as you can see from our map that's highlighted in -- with the yellow, and as well as all the property owners that are here, many of them are abutting and adjacent. And we have kind of taken the brunt of this, because it is quite expensive to go through this process, not only with attorney's fees, but also County fees for requesting interpretations. And the appeal process is expensive. So it's something that we have taken on, on behalf of everyone around the tower.

Particularly -- I don't know if you remember the gentleman that did the -- the first appeal of this tower with the variance. His name was Richard. And he's not here today, because he's having some health issues. But his house is right next-door to this site. And he has very real concerns about property value, as -- as well as all of us, and -- and also safety, with the tower falling.

Although Mr. Wright highlighted our property being not being right next, or not being developed, that is property that we plan to develop. We are large property owners in receiving areas, and it's definitely something that we plan to develop in the future.

We are very concerned about our property values. And Mr. Wright said we hadn't brought that up, because, frankly, the last time we did this, they said that it didn't matter if our property values were affected.

Property value is a huge -- like, our number one concern with this tower. And that's -- that's why we are appealing the process.

We also just really believe the code has not been applied in this situation.

And it's very frustrating as a resident to watch the process and kind of feel like these tower companies have greased hands when it comes to getting approvals with the County.

It seems as though, from my perspective, that when they submit things, it's kind of like they're just saying, oh, yeah, that other site won't work because we said it won't work. And it seems very -- just -- it just seems like they're like, yeah, yeah, it won't work.

And the County's like, oh, it won't work? Okay, cool. Yeah, that's fine.

It seems they're not really showing the true burden of proof to the requirements that, as a resident, I believe should be carried out.

I also believe that if -- if they did truly submit the information and the code was truly followed, that this SDP would not have been approved. I feel that some of the sort of skimping, in terms of trying to prove that there's other sites or other colocations, if that would truly have been thoroughly dived into, that this wouldn't have been approved.

The second -- or another point. I -- I just really don't want to see - I don't think the County wants to see it either - a proliferation of towers.

So I live in the section. There's a very large Alpert tower to the south of me that has always been there. Big lights. Another tower going up right next to it that has been approved for conditional use --

MS. MICELI: You have one minute.

MS. PENNER: -- Benton tower, as well as an approved tower at the corner of my street, at Sugarberry and Frangipani, which is a 180 feet, approved.

And then, with this tower as well, if it were to be approved, I would literally be in a triangle of towers that I could see all from my house.

And it just doesn't seem like a good use of resources.

I think the code is trying to eliminate the proliferation of these things, and we are sort of being hammered in with these in our section, primarily because they can't get them built in the Estates sections, which is really where they need them, because there's just not a lot of people out where we live.

And we like where we live and how it is.

But, in conclusion, we just are -- we are very concerned about property value. We're very concerned about proliferation. And we feel the code has not been followed.

Thank you.

MS. MICELI: Thank you.

HEARING EXAMINER DICKMAN: Thank you, Ms. Penner. That -- that was very good information to have. Thank you for providing that. I appreciate it.

What I'm going to do is -- so I guess we're finished with public comments, right?

MR. BOSI: We still have one online.

HEARING EXAMINER DICKMAN: Oh, one online. I'm sorry.

Okay. Go ahead.

MS. MICELI: Our virtual speaker online is Michael Clark.

Michael, unmute your microphone.

MR. CLARK: All right. Can you guys hear me?

MS. MICELI: We can hear you. Thank you.

MR. CLARK: Fantastic.

My name is Michael Clark. I live at 1220 Kapok.

And I do about this proposed building site. And as was mentioned before, we are in the final weeks of a CO for this property.

It could very well possibly be less than 250 feet away from the property line where this tower is being proposed.

I am, obviously, in opposition of building this tower.

And I do, you know, support the arguments made by the Penners. You know, kind of -- I feel like they have been doing it on our behalf.

Do have great concerns over, you know, physical damage to our property if anything was to happen with this tower, the safety concerns of that, in addition to the property value decreasing.

You know, we -- we probably would have made different decisions, you know, had we have known that there was a proposed tower, you know, basically that could fall halfway across our property if something happens and the value decreased accordingly.

I think that's all I've got.

You know, I would encourage you to review all the information.

You know, I -- I believe, as Melanie said, that there are other sites. You know, this area out here is a -- it's -- it's a growing area. It's not an industrial area. You know, there's possibly some existing sites or commercial sites that sound like they weren't properly investigated to resolve this coverage issue.

And thank you for your time.

HEARING EXAMINER DICKMAN: Okay. Thank you, sir.

MS. MICELI: That is all the speakers we have, sir.

HEARING EXAMINER DICKMAN: Okay. All right, great.

So what I want to do is I want to give all of the parties some -- like maybe three minutes for conclusions, if they care to do so.

You know, a couple of things came up during public testimony. So I want to, in fairness, give the two attorneys the ability to address anything that they feel needs to be addressed, since this is the last time we'll have a chance to talk.

And I -- while they get ready, I want to ask the County real quickly, was Mr. -- the last speaker, Mr. Clark, apparently he's -- he has new construction near the site? Was that taken into consideration, or were you aware of that?

MR. BOSI: That -- that would not be something that would be appropriate for us to take into consideration. This is a --

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: -- use that's permitted with an agricultural zoning district.

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: I mean --

HEARING EXAMINER DICKMAN: It's -- okay. All right.

So there's no safety, like, fall -- fall area, or anything like that, that --

MR. BOSI: There are setbacks that would have to be -- that have -- that are being adhered to related to the --

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: -- tower placement, but --

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: -- the -- the -- we -- it's an administrative process. It's a permitted use. There's no consultation with adjoining property owners as to whether they feel it's an appropriate use or not.

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: When they purchased their land, they would have to know what was permitted and what was not a -- uses that were permitted within that zoning district.

HEARING EXAMINER DICKMAN: Right. I understand that. Okay. That's what I wanted to hear.

Okay. Who wants to go first, Mr. Lombardo or Mr. Wright? Take your pick. Take just a few minutes and wrap up your case for me.

MR. LOMBARDO: Is this still on? There we go.

Just to touch on one thing from public comment, the -- is we -- I want to highlight Ms. Penner's comments on property value concerns, as the -- as the primary additional component to the view issues for standing.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: To -- to summarize on a little bit of what Mr. Bosi said when you were interrogating him, you asked about whether he had the information at the time -- or you asked about that process, and he said that he did not have the information at the time.

This is an appeal of the County's decision on December 28th. The new information has to go back to the County. They can look at it. We can go through the co-sites, Section E. We can look at the -- or they can look at the RF maps, and they can make a determination based off the additional information.

It would not be appropriate to take evidence at an appeal when the point of this was it was not provided before.

And to touch on some of that, I mean, the -- the Penners did not -- there's no recoverable fees, et cetera, but the Penners incurred costs and went down this road because none of this was provided. So showing up here today at the hearing and saying, oh, look at that, there's no issue, it's right here, is -- is something that should not be taken into consideration for the appeal itself.

So, in summary, in conclusion, nothing else is -- we have standing. We -- the Penners have standing. That's my client, the Penners. The Penners are the appellants. They have standing.

The documents that were before the County did not show that D or E were met.

The documents that were brought today do not show that E was met.

I don't know whether they show whether D was met, although I suspect that the County will conclude that it was, and that's their determination, and that -- you know, with -- without having -- getting into the substantive level, as Mr. Bosi pointed out, without us showing up with our own RF engineer, that's a whole different issue.

But what you have for review is, even if you say, okay, they brought this new map, they still did not address the co-siting issue even today on appeal.

So the appeal needs to be granted. It should be reversed. It does get -- it would be sent back to County staff for review, and we can go from there.

Thank you very much.

HEARING EXAMINER DICKMAN: Let me ask a quick question.

So is there anything preventing the County from -- now that they have whatever new information they have -- and, by the way, I wasn't interrogating Mr. Bosi. I was --

MR. LOMBARDO: Sorry. The word -- the word I was -- I was going to say questioning, and then I said interrogating, and then I -- I got -- I saw the facial reaction and I felt bad for saying it.

Examining.

HEARING EXAMINER DICKMAN: All right. It's okay. He probably wants to interrogate me at some point.

MR. LOMBARDO: Mike's idea of --

HEARING EXAMINER DICKMAN: Is there any reason why, if he's got some new information from the applicant, why he can't go back and hand it over to the planners that reviewed all this and say, hey, add this to your -- your list of items, this is supplemental. And is there any reason why he can't, you know, issue an amended approval?

MR. LOMBARDO: It would have to, I mean, go back through the review period; right? I mean, it would go back to -- like, the -- the appeal would push this back into review.

The way I'm envisioning this -- but I don't think the code is very clear on this, but I'll defer to Mr. Bosi on this, is this would go -- this would be like a review comment in a sense. It would go back to staff. The applicant would submit the new information. Staff would review with the new information.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. LOMBARDO: If they feel -- I mean, there was discussion about Subsection E for the co-siting. There's review of the -- of the -- the maps. All that needs to be reviewed.

If there's new information -- I don't know, these bald eagles that I have never heard of -- that would need to be reviewed as part of this review.

And then they could issue the approval, if it meets all the standards.

HEARING EXAMINER DICKMAN: Okay.

MR. LOMBARDO: If it doesn't meet the standards, then they need to issue a review comment letter.

HEARING EXAMINER DICKMAN: Okay. All right. Thank you. Have a nice day.

MR. LOMBARDO: You, too.

MR. WRIGHT: For the record, Jeff Wright for the applicant.

Just wanted to make a couple things real clear. And I appreciate this opportunity to have a couple minutes.

We had several speakers today. None of them are the appellants. Some of them spoke for their own interests. And I just wanted to point out that still have not had -- that I'm aware of, I might have missed it, but I'm not aware of any specific testimony that the views will be negatively impacted. We can -- we can imply that, but that's, I think, as far as we got, was an implication that the views will be negatively affected by this approval.

And the property values, that's completely speculative. There has been no evidence to show that the property values are going to be hurt by this site. Maybe an implication, but no evidence.

Now, co -- colocation of the towers. We have, as you know, provided a very detailed map with the six-mile radius showing every single tower and why it won't work. I'm not sure what else staff would need besides that thorough list of towers that won't work, with the specific reason why they won't work. I'm not sure what else the appellant is expecting staff to do.

Now, with respect to the colocation of sites, you heard Mr. Bosi. They don't just willy-nilly just let it go and without looking at it. They have looked at the map. They have looked at which tower's sites within the affected radius might have a shared-use plan, and there were none.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: So all of those sites that potentially could be colocated on are exempt, because there's no shared-use plan. So they did cover that.

And they did -- and the applicant did demonstrate to staff that there's no sites that will work for this tower.

So those were two things that I wanted to clarify, because those are the two main things on appeal.

The standing issue, I can't emphasize enough that there's no -- there's literally no allegation that they're going to be hurt. If they are going to be hurt, there's no specific reason why they would be hurt. Use, property --

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: -- values, presumably.

And as far as this new exhibit goes, it's one of those every-good-deed-goes-punished, I guess, because we just -- we were scrambling to get that updated map in time for this hearing just to support what staff has done this whole time. They didn't need that map to make a decision on this -- on this tower application. They didn't need it at all. They had sufficient demonstration right in front of them that none of the towers within the six miles would work.

So we provided that additional -- just as additional support. We're not asking even for it to be part of the County's consideration of the SDP approval. They have already considered it. We have already met all the requirements. And they didn't need that map.

But even with that map, it shows that, if we did what they said on the colocation for those towers, it wouldn't have worked. And that's just more of a pictorial demonstration of it wouldn't work, what they're proposing. So what we're left with is this co-siting question and whether or not staff sufficiently addressed co-siting.

And, respectfully, I submit that Mr. Bosi went through their process. They do a matchup to see what shared-use plans are available for co-siting, and there were none.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WRIGHT: And it -- and I would also add that that exhibit that we provided, I suppose you could call it rebuttal, because they brought it up. They specifically said, boy, if they had this exhibit, we'll drop the issue. And we have the exhibit, and apparently they've dropped the issue.

We don't want staff to include that in their -- in their review of the SDP. We don't need staff to include that in their review of the SDP, because we have the SDP in hand already, and we've satisfied all the requirements of the code.

We respectfully request that you affirm staff's decision on this SDP.

Thank you.

HEARING EXAMINER DICKMAN: Okay. Thank you very much.

Ray, Mike, do you guys have anything final that you want to put on the record, or are you finished?

MR. BOSI: Just one thing, Andrew -- Mr. Dickman.



The --

HEARING EXAMINER DICKMAN: I'm not interrogating you. I'm just asking you the questions.

MR. BOSI: Well, what we mentioned earlier, there was like a sign on my door, and I think that sign is more of a bull's-eye, but that's -- that's just interpretation.

Staff has already approved this SDP. We felt we had adequate information.

For us to augment the record, I think we would need an action of -- of -- of your office to indicate that there was a deficiency within that --

HEARING EXAMINER DICKMAN: Yeah.

MR. BOSI: -- that determination that would need to be filled for us to be -- for us to -- to -- to take further information from Mr. Wright's client to evaluate the -- the -- the issue of that incomplete record to make a determination that is -- has this additional information satisfied that -- that -- the hole within -- within the record.

So we would need some sort of determination from -- from yourself that there is something that has been missed within our review process related to satisfying 5.05.09.

HEARING EXAMINER DICKMAN: Understood, understood.

Thank you.

All right. This has been a very -- a very hardy hearing, and everybody's been heard. Appreciate all the participation, especially the community coming out and speaking. I know this is important to everybody. And that's what these hearings are all about.

So one more thing?

MR. BOSI: Just one more thing.

I -- I would personally like to thank Mr. Lombardo and Mr. Wright for their professionalism and their -- the -- the way they have handled the dialogue. And I know these can be combative at times, but they have been utmost professionals. And I truly respect the way that they have conducted themselves. And it's been -- it's been enjoyable to work with them, as far as it can be.

HEARING EXAMINER DICKMAN: Okay. Given the fact that they're lawyers.

All right. Good. Nice job, everybody.

I'm going to close this. And I'll review everything and get a decision out as soon as possible.

Nice job, gentlemen.

Thank you, everyone, for being here.

You guys want to talk real quickly about what to do with this motion?

It's a motion for reconsideration. And, frankly, it was given to me -- I wasn't here in the office yesterday afternoon, but it was on my desk this morning, so I have not even seen it. So I think it would be somewhat inappropriate to talk about the merits of it here today, since it wasn't on the agenda at all and no one had the ability to -- I guess -- it looks like it was filed, so I guess you could say, well, yes, it was filed. And then what do we do? We put it -- I guess we'll put it on a future meeting for a decision on whether or not it meets the criteria for reconsideration. And then if it does, then we go forward and have a fuller hearing. Does that make sense?

MR. BOSI: It does.

And I think from -- from the appeal standpoint, I think that recognition that it was filed within a timely manner, but it was filed at a time that didn't provide enough opportunity to have a full discussion on it and -- and having it designated for the next meeting or a meeting that you feel appropriate in terms of being able to -- to have absorbed all this -- all the information that was provided to you.

HEARING EXAMINER DICKMAN: Yeah. So I have -- this is what I have. It was filed by Mr. Rogers yesterday at 11:15 A.M. via email to the County, which I think is timely. It's within the -- the time between my decision and the -- I think it's -- isn't there, like, 30 days?

I think it's a 30-day period.

MR. BOSI: Correct.

HEARING EXAMINER DICKMAN: So I'm willing to -- by its face, it's timely filed. I just don't feel comfortable getting into the merits of it right now. I would prefer that it be put on an -- on an agenda so that -- because I know that there were people that spoke in opposition to this particular matter, and at least have the opportunity for them to have notice of it, that this is going to come up.

And you could, I don't know -- I know -- you know, I think April, I believe there wasn't anything scheduled for the first meeting, so the first meeting was canceled. Or how do you want to handle it?

MR. BOSI: Correct. We -- we've -- we've already put notification that that meeting will -- was being canceled. We could hold it within your second meeting in April?

HEARING EXAMINER DICKMAN: Yeah, sure. Let's put it on that agenda. And then, you know, get -- do whatever you have to do to advertise it, whatever your requirements are, just that so no one can say that it wasn't -- you know, fairness wasn't provided.

MR. BOSI: Understood. We'll -- we'll do that.

HEARING EXAMINER DICKMAN: And then what I'll do is I will -- between now and then, probably this week, next week, I'll send out an email just saying I have accepted this, it's going to be filed.

And I will probably set a deadline for -- if anyone wants to supply additional information to -- for me to consider, I will set a deadline for that.

Okay?

MR. BOSI: Understood. Yes.

HEARING EXAMINER DICKMAN: All right. Anything else?

MR. BOSI: No, that --

HEARING EXAMINER DICKMAN: Wait. Let me -- Jeff, can you -- do you mind coming up here for a minute?

Put your name and -- name and rank, and the --

MR. ROGERS: Good morning.

HEARING EXAMINER DICKMAN: Do you understand what we were talking about?

MR. ROGERS: Yes, sir.

Good morning. For the record, Jeff Rogers with Turrell Hall & Associates.

HEARING EXAMINER DICKMAN: Okay.

MR. ROGERS: Yes, sir, I do.

HEARING EXAMINER DICKMAN: Procedurally that's the way we'll handle it, because I -- this just came in yesterday, and I don't have any ability to --

MR. ROGERS: Yes, I was surprised --

HEARING EXAMINER DICKMAN: -- to really get --

MR. ROGERS: To be fair, I didn't even know this was an option. So this is new to me, as well, so --

HEARING EXAMINER DICKMAN: Okay. Who told you?

MR. ROGERS: -- here we are.

Doing a little digging through the LDC, look what you find.

So yes, sir. So don't want to appeal things. Would rather have a little more dialogue with you versus going around your decision and see if we can come to a compromise. That's why I'm here.

HEARING EXAMINER DICKMAN: Okay. So one thing I will -- but I don't want to go too deep into this. But one thing I do want to mention -- and I'll just do it, I guess, more theoretical -- is that I notice that on a couple of hearings where BDEs were being considered and specifically coming out of your -- you know, your firm, you know, where there was -- this is the

design that we filed and noticed to the community that we want, but, you know, we're here at the hearing and here are some other options, option A, B, and C, but yet A, B, and C were never really evaluated by staff.

And so if, in fact -- I think that we need to think about if -- if there is going to be, like, in the alternative scenarios, then I think all those alternatives need to be supplied to County staff so that they can provide an adequate staff analysis of all of them, if they -- if, in fact, staff is going to allow for, in the alternative, A or B, you know, type of thing, because otherwise I feel like we're -- we are being deficient in due process and also giving staff get the opportunity to review it and put it into their staff reports and not -- those staff reports are -- are evidence, competent, substantial evidence, that have to be supplied. And so I think if that's -- if that's part of the -- if that's part of the discussion that you want to have on the reconsideration, then -- and I'll put this in an email -- then, you know, we need to get that in front of staff so that those alternatives are fully vetted.

MR. ROGERS: Understood.

HEARING EXAMINER DICKMAN: Okay?

MR. ROGERS: Yes, sir. No, I totally agree -- I totally agree with that, and that's what we'll do moving forward.

This is, you know, just -- in the past, there would be a little bit more dialogue with the HEX, and we would --

HEARING EXAMINER DICKMAN: I know. I know.

MR. ROGERS: I know you do it your way, and that's totally fine. We're getting used to it together.

And I just want a -- the clients spend a lot of time and money and effort to get here, and there are alternatives always considered, but --

HEARING EXAMINER DICKMAN: Okay.

MR. ROGERS: -- you know, that's -- I'll be happy to submit all of them and work with A, B, and C with you on that. And if that's the way we want to go without asking for continuances and coming back with an alternative design, which is kind of how it was done historically, but --

HEARING EXAMINER DICKMAN: Yeah.

And so let me -- let me explain that and why that's not happening now, is that -- you know, in order for me to be an independent decision-maker here at this hearing, in all fairness, if I were to be having private meetings with the applicant and going through them privately and saying, well, I like this one better, so why don't you go -- why don't you run with this one? And then the community doesn't know about it. Nobody else knows about it. It's not done out -- it's not done in the sunshine. It's not -- so it's --

MR. ROGERS: Right.

HEARING EXAMINER DICKMAN: That's -- I think that's what you're alluding to. And I understand the frustration, because there was practice and procedures that took place prior to -- to me coming on board. But as a hearing examiner in a quasi-judicial hearing, I can get -- it's improper for me to meet with the applicant and direct, you know -- you know, basically like direct the designing of it. But I think there's a way to do it, which means, like, maybe your application needs to be filed so that at least the public and the -- and the -- and staff are aware that, hey, at the public hearing I'm going to put these alternative designs up, so that, you know, there's an ability -- there's some flexibility to talk about these. But those have to be, you know, noticed, you know, to the public, so the public, if they were to look at the file, they would be able to see, okay, well, this -- and even when, you know, what's being requested, you know, the notices could say or alternative A and B, we could figure that out. But I -- I do think it is helpful to see some alternative designs, but I also want to stay within the framework of due process and fairness to all, everybody involved, you know.

You understand?

MR. ROGERS: I do, yes, sir.

HEARING EXAMINER DICKMAN: But I think we can do that, though. I mean, it's just a procedural step that we need to all agree to how to do it.

But I'll get an email out stating that you have timely filed this. It's not going to say, you know, I agree with it, I disagree with it. It's just going to say that you filed it and it's going to be scheduled for the -- this -- the last meeting in April, because the first meeting got canceled.

Fortunately, hopefully, I will be able to be there in person and won't be doing these virtual anymore.

And then -- and then if there's additional information you want to supply, I'll put a deadline in. And then anybody -- you know, maybe there's neighbors that -- you know, I'm sure they're unaware that this is happening right now. So, you know, I'll set a hard deadline for when additional information, you know, has to be supplied, if at all.

Okay?

MR. ROGERS: Understood. Yes, sir. Thank you --

HEARING EXAMINER DICKMAN: All right.

MR. ROGERS: -- for the consideration.

HEARING EXAMINER DICKMAN: Okay. No problem.

Mike, Ray, are we okay?

MR. BOSI: Yes, Mr. Dickman.

April 27th is that second meeting in April, and we'll make sure we get the notification to the required property owners and advertisements, so -- in proper time for that meeting.

HEARING EXAMINER DICKMAN: Yeah.

And I think there were some -- there were some folks that -- that came and spoke and maybe they listed their emails, or maybe they sent their emails to John. I don't know. I think John was the -- may have been the planner on this, I'm not sure.

So just -- just cover our bases here. Just give everybody an opportunity to know what's happening.

MR. BOSI: We most certainly will.

HEARING EXAMINER DICKMAN: All right. Anything else we need to talk about?

MR. BOSI: No.

MR. BELLOWS: No.

MR. BOSI: I believe that's it.

HEARING EXAMINER DICKMAN: Okay. Well, I look forward to hopefully being there in April with you guys.

MR. BOSI: Look forward to seeing you, Andrew.

MR. BELLOWS: Yeah, we miss you.

HEARING EXAMINER DICKMAN: All right. Have a good day.

MR. BOSI: You, too.

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March 23, 2023

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 11:16 AM.

COLLIER COUNTY HEARING EXAMINER



ANDREW DICKMAN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 4/24/23, as presented  or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF FORT MYERS COURT REPORTING, BY MARIANNE E. SAYERS, COURT REPORTER, AND NOTARY PUBLIC.