

April 27, 2023

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
April 27, 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

ALSO PRESENT:

Michael Bosi, Planning and Zoning Director
Raymond V. Bellows, Zoning Manager
Sean Sammon, Planner III
Andrew Youngblood, Operations Analyst

PROCEEDINGS

HEARING EXAMINER DICKMAN: Let's call the meeting to order.

Good morning. Today is April 27, 2023.

Let's start the meeting by honoring our flag with the Pledge of Allegiance.

Thank you.

(Pledge of Allegiance.)

HEARING EXAMINER DICKMAN: All right. Good morning, everyone.

My name is Andrew Dickman, and I am the hearing examiner for Collier County. I was retained by the Board of County Commissioners to execute the functions that are under the hearing examiner and the Code of Ordinances and the Land Development Code, Administrative Code.

I am a lawyer. I have been a lawyer in good standing with the Florida Bar for over 20 years. I am very familiar with land use, zoning, and the Land Development Code in the county.

My job is to conduct a quasi-judicial hearing today. And that will entail basically hearing from the petitioner, the petitioner's representative, hearing from the County, hearing from the public, and trying to get as much information as I can today relevant to the criteria in the code that requires for review of the specific petitions. What I'm looking for is evidence -- competent, substantial evidence. I can hear that from experts or I can hear it from laypersons.

Everyone who is going to be testifying here today will have to do so under oath, and in a minute I'll ask you to stand and have the court reporter swear you in.

This is a -- while this is a quasi-judicial public hearing, the rules of evidence apply but informally. I want everyone to be relaxed here. This is a relaxed setting.

My job is to really make sure that I get as much information about the application as I can. The reason is because after today I can't take in any additional information whatsoever.

I have had no outside communication with the applicant, with the County, about any of this information.

In order -- the reason for doing that is to be here as an impartial decision-maker so that I can be here as a quasi-judge, essentially.

This is a meeting that is going to be a hybrid. So, in other words, the County has set up a method for having in-person meetings but also folks that can -- that want to attend virtually will be doing so, so you will hear some participation perhaps via Zoom.

I will be not -- I will not be making any decisions today. I will have 30 days, as per the code, to render my decision. And I will do that as expeditiously as I possibly can.

If you have any phones or anything that makes noises, please silence them, put them on vibrate or silence.

If you want to have a conversation with someone, please step outside into the hallway and do so, because the acoustics in here are very good and you can -- I want to make sure that everybody is able to get their information into the record as accurately as possible.

As I said, I have had no ex parte communications with anybody regarding -- I think we have one applicant here today, one petition here today. So my disclosures are that I'll have -- I've -- I've had the opportunity to read exactly what the public has read and on the agenda that's posted online, with all the information and the staff report, the application, all the information, the notices, things of that nature.

So the way that we're going to conduct this is that I'm going to have the County start off first here at this brown podium. And they'll introduce the item, and if -- and give me a little background and their recommendation and any conditions.

Then the petitioner or the petitioner's representative will come to the larger podium over here.

And then we'll open it up for public comment.

I'll allow for rebuttal, some rebuttal time for the petitioner to answer any questions that may have come up during the public hearing process.

The one thing I would do -- would ask that everyone try to speak as clearly as you possibly can so

that the court reporter can capture everything that's being said verbatim. There will be a -- there is a transcript that's made from these hearings. And it's very difficult if you get excited or nervous, or whatever, and you start talking fast. And she's going to raise her hand and say, "You got to slow down." Or if you answer questions by shaking your head or giving hand gestures, she can't capture that as well. So we'll have you -- Madam Court Reporter, you have my permission to stop the meeting at any time that you feel like you need to make sure you have an accurate record.

So with that, anybody who is going to testify here today, please stand and raise your right hand and I'll have the court reporter swear you in with the oath.

(Oath administered.)

HEARING EXAMINER DICKMAN: All right. Great. I think I covered everything.

We have one item here, I think. Is that correct? The petition -- this is the Viage Bayshore Marina.

Let's get started with that. Who we got? Okay, Sean.

MR. SAMMON: Good morning. Good morning, Mr. Dickman.

For the record, Sean Sammon, principal planner, zoning division.

Before you is agenda item 3 A. It's for a site plan with deviations for redevelopment, project number PL20220000558.

This is a request for you to approve a site plan with deviations pursuant to LDC Section 10.02.03.F and seeks four deviations:

One, from LDC Section 4.02.16.C.7.c, to instead allow an enhanced Type D landscape buffer and a solid 8-foot vinyl fence along Riverview Drive to screen the boats and boat racks.

Two, from LDC Section 4.02.16.C.10.d, to increase the maximum height of 17 feet for stored or displayed boats to 29 feet.

Three, from LDC Section 4.02.16.C.10.e, to reduce the required 50-foot setback to a 15-foot setback from Riverview Drive and a 10-foot setback from Lakeview Drive.

And, four, from LDC Section 4.02.16.C.10.g, to instead allow an enhanced 10-foot Type D buffer with an 8-foot solid vinyl fence along Lakeview Drive, Riverview Drive, and Bayshore Drive, with each street buffer consisting of specific planting and vegetation requirements, for the redevelopment of the Viage Bayshore Marina, which is for the benefit of the subject property located at 3470 Bayshore Drive, Naples, Florida 34112, also known as lots 25, 26, 27, and 28, Block 4 and lots 1, 2, 3, and 4, Block 5, Gulf Shores Subdivision, in Section 14, Township 50 South, Range 25 East, of Collier County, Florida.

The petition was reviewed by staff based upon the review criteria contained within LDC Section 10.02.03.F.7, A through J, and staff believes this petition is consistent with the review criteria in the LDC, as well as with the GMP.

It is important to understand that the request is for four primary deviations and two secondary deviations, per staff's recommendation.

With respect to the public notice requirements, they were complied with as per LDC Section 10.03.06.R. The property owner notification letter and the newspaper ad were taken care of by the County on Friday, April 7, 2023. And the public hearing signs were placed by the applicant on Tuesday, April 4, 2023.

I have received one public comment for opposition pertaining to this petition.

Staff recommends that you approve this petition as described in accordance with the attachments to the staff report.

There is one condition in association with the recommendation to approve: That the deviations be limited to what is depicted on the site plan with deviations for redevelopment SDPI2001-AR-1873, which is Exhibit B.

That is the staff's summary.

HEARING EXAMINER DICKMAN: Okay. Nice job. Thank you.

Petitioner or -- hi, how are you?

MS. HARRELSON: Good morning.

HEARING EXAMINER DICKMAN: You might be Jessica.

MS. HARRELSON: I am. I am Jessica Harrelson. I'm a certified planner with Peninsula Engineering.

And I have a PowerPoint presentation to review.

HEARING EXAMINER DICKMAN: Jessica, if you could, before you get started -- and obviously you're AICP, so you're a planner. Would you just give me a little bit of your background, just for the record, so I can qualify --

MS. HARRELSON: Sure.

HEARING EXAMINER DICKMAN: -- you as a --

MS. HARRELSON: I have been working in land development for about 20 years.

I have been a certified planner since 2019.

I was with Davidson Engineering for 17. I have been over at Peninsula Engineering for the last two years.

I'm local to Collier County, born and raised.

HEARING EXAMINER DICKMAN: Great. And you're a Florida Gator, right?

MS. HARRELSON: No.

HEARING EXAMINER DICKMAN: Yeah. Always happens to me.

I recognize you as an expert.

MS. HARRELSON: If you can go to the next slide.

So with me here today are Josh Fruth, vice-president of Peninsula Engineering, and Rich Yovanovich. He is legal counsel.

The subject property is located at 3470 Bayshore Drive. And it is 1.48 acres in size.

The site is within the Bayshore zoning overlay within the Waterfront and R-2 subdistricts.

The section of the property that fronts Bayshore that's shaded in blue, it's within the C-4 zoning district. And the remaining of the property shaded and hatched in yellow is residential RMS-6 zoning.

The marina has existed on the marina lots since the early 1970s. And the -- oh, I'm sorry, and the residential zoned lots are also within the accessory parking zone overlay. Sorry about that. Those were permitted for a parking lot associated with the marina in 2001.

Next slide.

Under previous ownership, the site was comprised of multiple dry storage racks, some exceeding 40 feet in height. You can see the poor condition of the site in these photos here. In the historic aerial, you can see that storage was occurring over the entirety of the property.

Next slide.

The property was sold to Viage Marina, LLC, in December of 2020.

And to provide a safe, functional development, all previously existing boat racks were completely removed. Subsequently, new two-level high racks were installed, 20 feet in height.

Next slide.

An insubstantial change was submitted with -- to permit the reinstallation of boat racks on the marina property. And through the SDPI review, County staff has confirmed that a companion DR submittal is required to get some of these deviations approved. The site doesn't comply with the existing Bayshore zoning overlay.

The site improvements include permitting 20-foot boat racks on the property to be used for storage and display, the removal of the existing 6-foot chain-link fence that surrounds the property along the north, the east, and the south. And that will be replaced with a solid 8-foot fence. And the addition of one ADA parking space within Lakeview Drive and the addition of sidewalk connections to enhance pedestrian movement and safety.

Next slide, please.

To walk through the deviations, I will go through these individually. I know staff has kind of lumped two of them together, saying there's four. I'm going to go through all six of them separately.

Number 1 and number 5 are both related to landscape buffer along Riverview Drive.

Number 1 requires that all boat racks be enclosed with a wall or fence. And we -- we requested to allow an enhanced buffer to screen the boats and racks.

And deviation number 5 is requesting the enhanced buffer along Riverview in lieu of code required landscape -- landscaping for outdoor storage display and sales areas.

Next slide.

HEARING EXAMINER DICKMAN: One second on that last --

MS. HARRELSON: Oh, sure.

HEARING EXAMINER DICKMAN: -- if we can go back.

So how -- the fence is -- I guess that's a fence pole right now, a chain-link --

MS. HARRELSON: Yeah, there is a --

Yes --

HEARING EXAMINER DICKMAN: How tall is that?

MS. HARRELSON: -- a chain-link fence.

HEARING EXAMINER DICKMAN: Is that --

MS. HARRELSON: It's 6 feet.

HEARING EXAMINER DICKMAN: Okay. So that's about 6 feet. Okay.

MS. HARRELSON: Yes.

HEARING EXAMINER DICKMAN: Just want to get additional -- thank you.

MS. HARRELSON: You're welcome.

Next slide.

The enhanced buffer along Riverview will consist of an 8-foot solid fence, a row of clustered cabbage palms, 16 to 24 feet in height at time of planting, a row of dahoon hollies, a minimum of 6 feet in height at time of planting, a row of green buttonwoods, a minimum of 10 feet in height at time of planting and spaced at a maximum of 30 feet on center, and a hedge that is a minimum of 36 inches in height at time of planting and spaced 36 inches on center.

And that's what that will look like at time of installation.

HEARING EXAMINER DICKMAN: Okay. And this is on Riverview?

MS. HARRELSON: Correct.

HEARING EXAMINER DICKMAN: Okay. And what material is the fence made out of?

MS. HARRELSON: It's just a solid fence, like -- I think we're looking at vinyl fencing right now.

HEARING EXAMINER DICKMAN: Vinyl fencing.

MS. HARRELSON: Yeah.

Next slide.

Deviation number 2 is seeking relief from the maximum height of 17 feet per boat rack to better store and display to instead allow a maximum of 29 feet. This includes the 20-foot boat racks and the additional 9 feet to accommodate the height of boats, the ones with T-tops and such.

And deviation number 3 seeks to reduce the setback from 50 feet to 15 feet for storage and display of boats that exceed a height of 6 feet, in view of residentially zoned properties.

And, again, this is an existing marina site and has constraints and the setback cannot be met.

Next slide.

Deviation number 4 is requesting to an allow -- to allow an enhanced buffer along Lakeview Drive to visually screen the site in lieu of code-required landscaping, similar to what has been requested for Riverview.

You can see the conditions of the site here.

And then if you'd go to the next slide, that's what the new buffer will look like, again with that solid 8-foot fence.

HEARING EXAMINER DICKMAN: And will the sidewalks remain on the roadways or --

MS. HARRELSON: So if you'd go to the aerial --

HEARING EXAMINER DICKMAN: Or if you -- if this is part of your -- if you're going to show that, then --

MS. HARRELSON: No. So -- yeah. If we'd go back to the site plan, which is on sheet -- or slide 6, I believe.

So, currently there is a sidewalk that exists along the northern property line directly north of the existing parking lot. We are going to extend that sidewalk along the northern property line all the way to connect to Bayshore Drive.

HEARING EXAMINER DICKMAN: Okay.

MS. HARRELSON: And there is no sidewalks currently existing on Lakeview Drive. We are going to add a sidewalk, connecting the ADA space to the building.

HEARING EXAMINER DICKMAN: Gotcha, okay. Thank you.

MS. HARRELSON: You're welcome.

I think we're on slide 12.

Yep, and then one more.

And then deviation number 6 is requesting to allow an enhanced buffer along Bayshore Drive to screen the site in lieu of code requirements. That's -- well, if you'll go back one more. You can go forward.

And that's what that buffer on Bayshore Drive will look like.

The proposed buffer will consist of a solid 8-foot vinyl fence, a hedge that is a minimum of 3 feet in height at time of planting, a row of cabbage palms 16 to 24 feet in height at time of planting, and a row of silver buttonwoods planted at a minimum of 14 feet in height.

The new fence will also be installed a minimum of 3 feet off the property line, to allow for future roadway improvements. And that's been coordinated with the Bayshore MSTU and the CRA. And then --

HEARING EXAMINER DICKMAN: What is -- are those two streetlights there?

MS. HARRELSON: Yeah.

HEARING EXAMINER DICKMAN: Okay.

MS. HARRELSON: Those are existing.

HEARING EXAMINER DICKMAN: This one and this one?

Okay, gotcha. All right.

MS. HARRELSON: And you can go forward.

We've presented the project to the Bayshore Gateway Triangle CRA Advisory Board back on March 4th. The board voted to approve support for the project, with some conditions.

We did have some on-street parking along Lakeview and Riverview. They asked for those to be removed.

And we also updated the conditions of approval, and I will review those on the next slide.

There are six conditions of approval. The underlying text that you see is what was coordinated with the advisory board.

These conditions include there will be no marina operations, boat or trailer parking, with -- within the accessory parking zone lots.

HEARING EXAMINER DICKMAN: And those are the lots that are more in -- in towards the neighborhood, right?

MS. HARRELSON: Right, and zoned --

HEARING EXAMINER DICKMAN: They're --

MS. HARRELSON: -- residential.

HEARING EXAMINER DICKMAN: -- not fronting on Bayshore right now.

MS. HARRELSON: Correct.

HEARING EXAMINER DICKMAN: Okay.

MS. HARRELSON: These lots will be used for vehicular parking only.

Site lighting will be shielded to protect adjacent residential properties from light pollution.

Hours of operation will be limited to 7:30 A.M. to 6:00 P.M. daily.

The site will not store or display more than 90 boats.

HEARING EXAMINER DICKMAN: Let me ask you about number 3.

MS. HARRELSON: Okay.

HEARING EXAMINER DICKMAN: When you say "hours of operation," does that mean that, if I take my boat out for the day, I have to be back and out by 6:00 P.M.?

MS. HARRELSON: No. Those -- the people that take their boats out will be able to come after 6:00 P.M.

HEARING EXAMINER DICKMAN: They'll be able to come --

MS. HARRELSON: Yeah.

HEARING EXAMINER DICKMAN: Okay. So they will be able to come -- I guess they'll leave their boat more along the -- along the seawall or wherever, and --

MS. HARRELSON: Yeah, there's an existing boat rack --

HEARING EXAMINER DICKMAN: And they can --

MS. HARRELSON: -- or boat docks.

HEARING EXAMINER DICKMAN: -- get in their car and then they have -- they have the ability to lock and unlock the gate --

MS. HARRELSON: Yes.

HEARING EXAMINER DICKMAN: -- and get in and out.

MS. HARRELSON: Yes.

HEARING EXAMINER DICKMAN: Okay.

MS. HARRELSON: Boat repairs will be limited to incidental repairs. Major boat repairs are prohibited and shall occur on the marina lots only.

And then docked boats will not extend any greater distance, and the length of the docks prohibit the docked boats from extending past the property line.

HEARING EXAMINER DICKMAN: What's the difference between incidental versus major boat repairs?

MS. HARRELSON: I can have -- if you want to come up and talk about the boat repairs that you do on site?

I don't want to miss anything.

MR. MARSHALL: I'm Barry -- I'm Barry Marshall.

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: I am the co-owner of the Viage Marina.

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: Boat repairs, we've limited it to mostly just really higher-hour services and rigging of boats. So we have eliminated all boat bottom painting, barnacle removal, heavy, heavy engine work. We call it -- in the marina business, we call it bad stuff, bad stuff. Yeah, dirty work, we have eliminated all of that.

HEARING EXAMINER DICKMAN: Okay. Are you going to have a retail component?

MR. MARSHALL: We do.

HEARING EXAMINER DICKMAN: You do.

MR. MARSHALL: And that's one of the -- you know, the focuses of -- we'll have, hopefully, you know, a few more boats in inventory.

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: But they'll be new-boat sales.

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: And they'll be under a certain feet, so not big boats.

HEARING EXAMINER DICKMAN: Okay. And thank you.

MR. MARSHALL: Thank you.

MS. HARRELSON: And I just have one more slide.

Since the CRA meeting that was held on March 8th, there's been some addition agreements made. They are not part of our conditions of approval.

But the property owners have coordinated with the CRA to install planters within the existing parking area that fronts the building along Bayshore. You can see how that's laid out now.

Planters will be installed to prevent parking in this area.

There's some line-of-sight issues coming off of Lakeview for individuals that live down that street, so that will improve that there.

And then also the property owners have coordinated with the residential -- the residentially zoned lots directly to the west, those owners there, to install some additional trees that will help screen the site better.

HEARING EXAMINER DICKMAN: Okay.

MS. HARRELSON: And then that concludes my presentation.

HEARING EXAMINER DICKMAN: Okay. So just real quickly.

So the -- there's not going to be any parking over the sidewalks.

MS. HARRELSON: No. There's going to be no parking -- through coordination with the CRA, they have talked about installing some "No Parking" signs within the right-of-way. But there will be no more parking from the marina within the right-of-way.

HEARING EXAMINER DICKMAN: Okay. Thank you. Nice job.

MS. HARRELSON: Thank you.

HEARING EXAMINER DICKMAN: All right. Do we have anybody -- do we have anyone signed up to speak?

MR. YOUNGBLOOD: I have -- Mr. Dickman, I have one registered speaker with us in the room --

HEARING EXAMINER DICKMAN: Okay.

MR. YOUNGBLOOD: -- David Woodworth.

And Mr. Woodworth has a presentation for us.

HEARING EXAMINER DICKMAN: Okay.

Good morning, sir.

MR. WOODWORTH: Good morning.

I live four lots from the marina, on Lakeview Drive.

When I moved into my house, there -- there was only 37 residential addresses on Lakeview Drive. The marina there was there, but I never felt that the managers ever felt a part of the area.

The residents always moved in the canal at the slowest speed to maintain their directions. Okay?

The marina customers always used the canal as, "How fast can we get through?" Okay?

And earlier, they used to be up on a plane. Okay?

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WOODWORTH: I did call the marine patrol. And they said, "As long as they're not on a plane, getting up on a plane, okay, that was legal." Okay? Because it says "Minimum Wake."

My -- my opinion should be the owners in -- on -- and the residents there treat the canal as a no-wake, but the customers at the marina treat it as, "Let's get through this." Okay?

I always felt that the marina site would be better used as a condominium, with boat access. Okay?

I really -- the -- the marina is at the very back at -- of Gulf Shores subdivision. They have to go all the way out. Okay? And needless to say, I have seen -- I would say a 45-foot boat, maybe it was 50-foot, going down the canal. I don't -- and it certainly -- I don't know what happened, but it wasn't one of the residents, I can guarantee that.

The marina expanded, what was it, back in 2000-something, four residential lots for parking. Those lots were permitted for parking, but they were never used for parking. That's what happens with development. They get permitted for something and they're not used for that. Okay?

But I get to see this every day. Okay? I live on the street. I'm retired.

What will happen will not be 90 boats. Okay?

If you have them have an 8-foot solid fence, we won't be able to see what's happening under that 8 foot. There might be 180 boats there in a year. What -- what can we do?

Anyway, we have a -- Haldeman Maintenance and Dredge MT -- MSTU. We wouldn't have had that if one of the previous owners of the marina wasn't on the board of the CRA.

I have a boat that I only -- I only need 12 inches of water to get out. I will -- I wouldn't have voted for anything like that. I wouldn't have even voted for the Bayshore beautification. Okay?

I'm -- I guess I would rather live in a residential area. I don't really like a lot of activity. Okay?

I'm sorry.

But the marina last year -- if they were -- are allowed to have 90 -- 90 boats, that's only \$21 a boat for the maintenance of the canal. The Gulf Shores owners, we pay \$185 to the maintenance of the canal, and most of us only have one boat.

The poor people down at Regatta Landing, they don't even have a boat and they pay \$575 to -- for the maintenance of the canal.

Besides the fast speeds that -- the customers going to and from the marina, they park on the sidewalks. They park on the pavement.

Now, the customers on Bayshore and Lakeview -- Riverview doesn't seem to get a lot of parking. I don't know exactly why.

Are you going to show them?

MR. YOUNGBLOOD: Mr. Dickman, we do have a video that Mr. Woodworth provided us, if you would --

MR. WOODWORTH: Yeah, I --

MR. YOUNGBLOOD: -- like to see it.

MR. WOODWORTH: -- wanted it to be shown while I was talking.

MR. YOUNGBLOOD: Okay.

HEARING EXAMINER DICKMAN: Go ahead and start playing it. It doesn't have any -- it's just visuals, right?

MR. WOODWORTH: Yeah, it's like a little movie.

HEARING EXAMINER DICKMAN: Yeah, just go ahead and play it.

MR. WOODWORTH: It just shows you what I'm up against.

HEARING EXAMINER DICKMAN: Okay.

MR. WOODWORTH: This is my -- this is what I see from my dock.

Okay. We have -- these are owners. Okay? These are people that live in the area. They go and -- on paddleboards and kayaks.

It's -- it sometimes gets very busy in the canal.

The problem with the marina is that they have limited number of hours that they operate. And the customers go out and they come back at all hours. Okay?

They lock the fences. There's no -- they will probably -- whatever they say, they lock the fence. They lock the gates. Where are the people going to park? On the street. No matter what they say. There's no other place for them to park. If they go out, they're not going to park inside the marina.

Nobody -- I mean, they haven't used that parking -- only just recently. Okay?

The end of my movie, if it ever gets shown, you can see what they've done. Okay? They get -- store boats. Okay?

If they have an 8-foot high fence, they'll be back there. Okay? You know, I don't know what they do. They're --

Anyway, Lakeview Drive -- we have 116 residential addresses on Lakeview and Regatta Landings. That's coming down Lakeview Drive. Directly across from Lakeview Drive is something called Naples 701. It's 188 one-bedroom apartments at that intersection that come into Lakeview. And the 701 is directly across. We have 307 addresses that come to Bayshore and Lakeview Drive.

When I moved there, Kelly Road was a two-lane road. The marina had a lot of parking in the front. Because they had -- you know, it was a two-lane road.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WOODWORTH: Now they're -- they're squeezed in the front. They're all on Lakeview Drive. And we're -- they -- we -- they will be back there. Okay? And if you let this happen -- the marina locks up at, what, 7:00 o'clock? 6:00 o'clock?

And I live there. I come around Lakeview Drive, and I don't know what to expect. There could be trucks, you know, in the path. They even move the boats down the street.

The end of this movie, I have some stills.

I come out of my house, and they're moving a boat down the street.

Now, that's legal. Okay? You can see it on a plane. He's doing fine. Phew.

HEARING EXAMINER DICKMAN: Is that too fast?

MR. WOODWORTH: That is my -- the owners don't do this. Okay? I -- when I leave here -- when I -- that's my sailboat. I -- I move it walking speed.

HEARING EXAMINER DICKMAN: Is that too fast?

MR. WOODWORTH: That's legal. Okay?

HEARING EXAMINER DICKMAN: Okay.

MR. WOODWORTH: Because it -- we have minimal wake. We really should have no wake.

HEARING EXAMINER DICKMAN: Is that minimum wake?

MR. WOODWORTH: Yeah, it's legal.

HEARING EXAMINER DICKMAN: Okay.

MR. WOODWORTH: You talk to the marine patrol.

HEARING EXAMINER DICKMAN: I'm just getting -- I'm trying to understand what your opinion is.

MR. WOODWORTH: It's not nice for me --

HEARING EXAMINER DICKMAN: Okay.

MR. WOODWORTH: -- because that creates more problems for the dredging. Okay? Because it stirs the -- the sand. It -- it fills in the bottom of the canal. Phew.

They pay nothing. There, you can see. Going down the street. Parking on the street. This is what they've done.

They even -- right there, I can't even go across the street. Phew. They park on the sidewalk, it's okay. The sidewalk doesn't mean anything. Phew. Phew.

That's a sewer connection. Okay? Phew. They do have it covered up now at the moment. Phew.

That's Riverview. And that's what happens every time I go down the street.

Thank you.

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

Jessica, do you want to come up?

MR. YOUNGBLOOD: Mr. Dickman, we do have one other online speaker.

HEARING EXAMINER DICKMAN: Oh, I'm sorry. I didn't --

MR. YOUNGBLOOD: Sorry about that.

Michael Summerfield is going to join us online.

Mr. Summerfield, you are being prompted to unmute your microphone, sir.

Michael, are you with us?

I see he's unmuted.

And, Michael, if you're talking, we can't hear you, sir.

It's beyond my control.

HEARING EXAMINER DICKMAN: Well, are you able to text him or chat with him through the thing?

MR. YOUNGBLOOD: One moment, please.

HEARING EXAMINER DICKMAN: Let's just give him one more minute.

What do you think, Andrew? No?

MR. YOUNGBLOOD: No.

HEARING EXAMINER DICKMAN: All right. We're going to -- if for some reason, he is able to do that, we'll decide then.

But let's go ahead and close that part of the public hearing.

And you -- I heard a lot of things that, to me, I would -- I would put into the bucket of operational issues.

And can you guys just kind of address some of these --

MS. HARRELSON: Okay, so --

HEARING EXAMINER DICKMAN: I think -- I think some of them are valid, and -- and I think

some of the changes, the physical changes that you guys are planning hopefully will help with that, so --

MS. HARRELSON: Again, for the record, Jessica Harrelson.

I think, regarding the parking in the right-of-way, I mean, we are happy to add another condition of approval that there will be no parking in the right-of-way, through coordination with the CRA. Again, the CRA is trying to get signs installed within the rights-of-way about no parking. I know they are having issues with parking in this same area for the Ankrolab Brewery across the street. So it's not just the marina customers that are parking within the right-of-way.

And I'm going to let Barry Marshall speak to the wake, the no waking.

HEARING EXAMINER DICKMAN: Thank you. All right.

MR. MARSHALL: So, you know, north -- I would say north and south of the property, there's -- there's parking now permitted, currently.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. MARSHALL: We have gone out of our way in the last probably three or four months to park there the least amount as possible. And the reason being is we have parking on property, meaning we don't -- as employees or management, we don't park there.

Is there occasionally some clients that do? Yes. What we foresee happening very quickly is educating clients once, hopefully, we are approved, telling them, "Hey, we have plenty of parking on property, therefore you will."

After hours, the property -- there will be one gate that's going to be open. It will be made very clear how clients are going to park after hours.

So we do not foresee any parking whatsoever outside of our fence area, and --

HEARING EXAMINER DICKMAN: Tell me about the parking after hours.

MR. MARSHALL: So I --

HEARING EXAMINER DICKMAN: Because this is what I envision. I know, like -- I mean, Naples is all about the water and --

MR. MARSHALL: Right.

HEARING EXAMINER DICKMAN: -- all about the sun. So people, I imagine, are going to -- the owner of the boat is going to be there, but then they're going to say, bring -- you know, bring friends, so you may have two or three cars showing up for people that want to get into a boat. I mean, have you -- do you have room to accommodate that onsite?

MR. MARSHALL: We do.

HEARING EXAMINER DICKMAN: You do.

MR. MARSHALL: Yeah. We have -- we don't have a lack of parking now.

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: And, you know -- now, granted, we're going to lose some parking out front, meaning right on Bayshore, which -- I mean, it's not safe anyways to back out into traffic, especially when the people are going 60 miles an hour.

HEARING EXAMINER DICKMAN: That's a faster street.

MR. MARSHALL: Uh-huh.

And so we're going to give up about 3 feet of our property to allow for the Bayshore CRA to -- to expand that sidewalk and beautify it and put in new pavers, et cetera, et cetera.

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: There will be one handicapped around the corner, but that will be -- that will be it.

HEARING EXAMINER DICKMAN: Okay. And as far as -- I mean, you have to sympathize with people that live in the area. Obviously, they are, you know, some people that may live a county away maybe storing their boat at your place just because it's a great access to Naples Bay and out to Kewadin and whatnot. They may not have the same concerns about the neighborhood as, say, somebody that lives in the neighborhood.

So, can -- is there anything you can do to just educate boaters on boater etiquette? Like, I imagine when you have a contract for someone to store their boats there in dry storage right there, are

there -- is there something in the contract or something that they have to sign that says that they will -- is there some kind of boater etiquette that they will abide by?

MR. MARSHALL: Great question.

What we have done, we have sent out, you know, a few emails here and there about educating people that, "Hey, we have great neighbors, and after hours it's just -- it's not acceptable to make much noise or party on your boats. It's not that type of marina."

They also have been made very clear that, "Hey, if you're drinking on the boat after hours, the police are watching our property diligently, because we've -- because of theft and -- in the area and so forth, and they are going to stop you."

HEARING EXAMINER DICKMAN: Right.

MR. MARSHALL: "And they are going to wait until you leave the property and then they're going to stop you."

So --

HEARING EXAMINER DICKMAN: Yeah.

MR. MARSHALL: -- I think that takes care of a lot of it.

The gentleman, the neighbor, is spot on, in that, you know, people take advantage of the wake issue and that, "Hey, I'm not throwing a wake." Well, you have a 28-foot boat and you have twin outboards and you have them it trimmed up, yes, you're throwing a wake.

HEARING EXAMINER DICKMAN: What is the time -- like, if you're at idle speed, you -- to get to where you -- to get into the bay, basically, what's that time? Like, what is it, 10, 15 minutes?

MR. MARSHALL: Depending on how fast you're idling --

HEARING EXAMINER DICKMAN: Well, let's just say legal idle, like -- like --

MR. MARSHALL: 17 --

HEARING EXAMINER DICKMAN: -- legal --

MR. MARSHALL: 17 to 19 minutes.

HEARING EXAMINER DICKMAN: Okay. That's not terrible.

I mean, you know, they'd know what they are getting into when they come to your marina and they'd store their boats. So, you know, if they know that -- you know, some of these boats are beautiful boats, outfitted with the best audio speakers you have ever -- you know, like -- you know, speakers that are so loud. And I would hate to have, like, you know, boats in my backyard at 9:00 o'clock at night, coming in blaring, you know, rock and roll, and whatever, on a Sunday night. It's just bad -- bad etiquette.

So what I would like to see is, like, in your contracts with your customers, you know, just maybe a list of, like, you know, this -- we're in a neighborhood, it's going to take you 16 to 17 minutes, depending on the tide, or whatever, you know, please be considerate of our neighbors as you come and go, and understand that you're going to be liable for -- you know, if somebody -- you know, if you damage somebody's property, you know.

MR. MARSHALL: I can absolutely -- we can absolutely do that.

HEARING EXAMINER DICKMAN: I mean, it just seems like, you know, because you're kind of bringing -- I mean, I understand that this facility has been here a long time, and the zoning has changed over time and everything like that. And, you know, marinas and storage and -- in the county is a premium. I mean, it's hard to find -- that's why people are trying to put two and three boats behind their house now, because they can't find storage. So I understand that.

But at the same time, this is a very unique property, and -- and I -- and it does take perhaps a winding trail through to get out to the bay. And I think that there's some responsibility you have, when you contract with people that are going to store their boats there, come there, and it's -- probably a lot of it's on the weekends, like day-trippers that want to go out on -- on the day and come back at night, you know, like have responsibility for -- accountability to the neighbors.

And I do like the -- I think, as opposed to chain-link fence, I think, you know, the fencing -- the fencing and the landscaping, I think, is going to make a massive improvement. You know, to me, it will -- you know, I would think, if I lived there, I would rather see that.

And then as far as like -- you know, you saw the photograph of the boat on the street, you know,

being pulled. You know, are you still going to be using the streets to relocate your boats or --

MR. MARSHALL: Yeah, I -- I'm -- no disrespect to anybody, that's a -- those pictures are before we took over. They are catamaran boats, and we don't -- we don't store catamaran boats.

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: Really, the only -- we were in business maybe for a week, and the last two left.

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: But, regardless, will there -- will there be a transport -- we are trying to limit the transports as much as possible. And we're -- we have four locations. So the boats that move -- the majority of the boats are going to Sarasota, and then I transport them down by trailer, which makes it a heck of a lot easier than a semi.

But when they do come, we are going to do it, obviously, on the -- we are going to offload them on the marina property. We're going to get them in as quickly as possible and try to eliminate any semis parking on the street at all, because --

HEARING EXAMINER DICKMAN: Okay.

MR. MARSHALL: -- it's a -- it's a big truck, obviously.

HEARING EXAMINER DICKMAN: Yeah, yeah.

And just speaking from a property value -- I mean, just putting aside quality-of-life issues, you know, property values, like, you know, your -- someone's residential property values are impacted by, you know, what I was -- you know, and -- and I'm not blaming you, because, obviously, you're a new operator/owner. Maybe it was a little cluttered and a little disheveled. And, you know, that does affect, you know, property values in the residential area.

So I think, you know, the -- those palm trees and -- and the landscaping, and hopefully the -- the fence will be -- the reason I asked what material is -- so it's a material that's not going to wear and tear in the sun, the Florida sun, you know. Some of the -- some of the nicer materials will stay looking really nice over the years and, you know, won't fade out and get torn up, or anything like that.

But from the renderings, I definitely think it's going to be an improvement from what's there now --

MR. MARSHALL: Absolutely.

HEARING EXAMINER DICKMAN: -- you know.

And as far as, like, working on engines, is that all done inside the -- inside the building, or --

MR. MARSHALL: As much as possible. Like I said, mostly the higher-hour services, where we replace the lower unit or work on an engine sensor, or whatever, absolutely. But we try to do as much inside the back of the barn as possible, obviously, because we're out of the sun.

HEARING EXAMINER DICKMAN: Okay. Don't want to be in the sun in --

MR. MARSHALL: There's motivation.

HEARING EXAMINER DICKMAN: Yeah, June and August is not nice --

MR. MARSHALL: No.

HEARING EXAMINER DICKMAN: -- working outside on the boats, I got it.

All right. And then what is the size of the largest size boat you think you're going to accommodate there?

MR. MARSHALL: 35.

HEARING EXAMINER DICKMAN: 35.

MR. MARSHALL: Yeah. The lift is a newer lift. I think it's four or five years old? I think four or five years old. It has something called a deadman's switch, which means that anything over 35 feet, depending on the center of gravity, it won't lift it. It flat -- it just shuts off.

HEARING EXAMINER DICKMAN: Okay. All right.

MR. MARSHALL: So -- plus the basin, the size of the basin, it's -- we try to limit it. As a --

HEARING EXAMINER DICKMAN: Right.

MR. MARSHALL: -- as a rule of thumb, we won't be storing very many boats at all over 30 feet.

HEARING EXAMINER DICKMAN: Okay. Well, that's why I was asking, because, you know, getting in and out of -- from the basin to the bay and back and forth, I mean, there are some tight spots back in there. And so, you know, any larger boats, it could get, you know, hazardous and dangerous, especially at low tide.

I have a question for the County, actually.

How do you monitor -- if you limit it to, let's say, 90 boats, I mean, how -- how do -- is there a -- is this just a code enforcement issue, like as far as monitoring?

MR. BOSI: Mike Bosi, planning and zoning director.

It would be. It would be a code enforcement, where we -- we -- we ask the local neighborhood to basically be the eyes and understand what the regulations are for this facility.

HEARING EXAMINER DICKMAN: Okay. So, hypothetically, if someone calls in and says, "I think they're over-intensifying the property, they're -- they're storing on trailers instead of just on the racks, and they're doing it in the parking area," you'd send somebody out and check that out and check that out and -- right?

MR. BOSI: Yeah. We'd coordinate with -- with code enforcement for an enforcement officer to go out and access their -- coordinate with the property owner, access the property, access the facility, you know, check the number of boats that were there.

HEARING EXAMINER DICKMAN: Okay. Excellent. All right.

Okay. Did you get the --

MR. YOUNGBLOOD: Do you want me to try one him more time?

HEARING EXAMINER DICKMAN: Yeah. Why not? Yeah, let's just -- I want to make sure everybody has had a chance.

MR. YOUNGBLOOD: Mr. Summerfield, we're going to try you one more time, sir. Let's see if -- let's see if we can get your microphone to work.

I did receive a written message from him, if you would like me to --

HEARING EXAMINER DICKMAN: Go ahead and read that.

MR. YOUNGBLOOD: Okay.

The message from Mr. Summerfield says, and I quote, "I want to object to any parking on Riverview Drive. It is a dead-end road with a turnaround at the west end. Despite the times of the operation, any parking will be used by the brewery after hours. The grass area on the north side of the marina on Riverview Drive is used by many of the dog owners. It is the only facility of that nature in the neighborhood. If that is no longer available, the dogs will be using people's yards, which will upset many people," end quote.

HEARING EXAMINER DICKMAN: Okay. All right. Point taken.

MR. MARSHALL: Yeah.

HEARING EXAMINER DICKMAN: I'm --

MR. MARSHALL: I'm sorry, I don't mean to laugh, but --

HEARING EXAMINER DICKMAN: You heard me say that the --

MR. MARSHALL: -- that's the -- the forklift mow that piece of grass, and they don't like that very much.

HEARING EXAMINER DICKMAN: Yeah.

MR. MARSHALL: But we understand and we have no problem with that.

HEARING EXAMINER DICKMAN: Okay. I don't -- anybody else have any questions?

I think I have everything I need to make a decision.

I want to thank the -- was it Mr. Woodward? Thank you for being -- was it Mr. Woodward? I'm sorry. Did I get that word right? Yeah. Thank you. I think the pictures helped a lot. The comments helped a lot with the dialogue, understanding what's going on.

You know, I do appreciate the effort. I think this is a site that's been in need of some TLC for quite a long time. So hopefully it's going to look as good as it does on the -- on the renderings, if I decide that direction.

I may -- you know, you said you're not opposed to a condition of no parking in the right-of-way,

so it's explicit.

MR. MARSHALL: Yeah.

HEARING EXAMINER DICKMAN: And then --

MR. MARSHALL: You're doing a -- I think if it's posted, I -- I'm pretty sure people will comply, you know, I -- I would think, saying, "Hey, you're going to be towed away if you park here."

HEARING EXAMINER DICKMAN: And when -- so 6:00 P.M., if you leave, that means no one is going to be on the site, right? No one from your operation is going to be onsite?

MR. MARSHALL: There may be some salespeople, but they will be out front, in the showroom and the offices, but yeah.

HEARING EXAMINER DICKMAN: Okay. All right.

Okay. Good enough. All right. Thank you, everybody.

Nice job.

MR. MARSHALL: Thank you.

HEARING EXAMINER DICKMAN: Nice to meet you and have a nice day.

Do we have anything else? Anything else on the agenda?

MR. BOSI: Nothing left on the agenda.

HEARING EXAMINER DICKMAN: Okay. All right.

MS. HARRELSON: Thank you.

HEARING EXAMINER DICKMAN: Then thank you very much. Have a nice day.

Appreciate it.

MS. HARRELSON: Thank you.

HEARING EXAMINER DICKMAN: I want to thank you all for -- the County, at least. You all have been great accommodating me for the last two months to appear virtually. It's been a real benefit. Going through cancer treatment, and it was very helpful to be able to stay engaged in my work rather than to just sit around and commiserate in -- in my -- in my problems. So thank you for accommodating that. I -- hopefully it wasn't too much of a burden, so I really appreciate that.

MR. BOSI: And I would like to say, it's -- most of that responsibility for the technical side of the shop goes to Mr. Youngblood. And just to let you know, he is leaving us. He is -- has accepted a promotion with the public utilities, so we're happy to see his career progress, but we'll -- obviously, we'll miss his technical and personal skill-set.

HEARING EXAMINER DICKMAN: We will be following your career, and call you back. I'll subpoena you in a year and see how it's going.

MR. YOUNGBLOOD: Okay. I'll be happy to come back.

HEARING EXAMINER DICKMAN: All right, gentlemen.

Thank you, everyone, and have a nice day.

April 27, 2023

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:52 A.M.

COLLIER COUNTY HEARING EXAMINER



ANDREW DICKMAN, HEARING EXAMINER

6/8/23

These minutes approved by the Hearing Examiner on _____, as presented or as corrected _____.

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