

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER

Naples, Florida

June 13, 2024

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

Tim Finn, Principal Planner

John Kelly, Planner III

Eric Ortman, Principal Planner

Ailyn Padron, Management Analyst I

PROCEEDINGS

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

Today is June 13th, 2024. This is the Collier County Hearing Examiner meeting. Let's all rise for the Pledge of Allegiance, please.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER DICKMAN: All right. Thank you. Thank you very much. And welcome, everyone.

My name is Andrew Dickman. I am the Hearing Examiner for Collier County. By way of background, I am not a county employee. I was retained by the Board of County Commissioners to fulfill the duties of the Hearing Examiner which are prescribed in the Code of Ordinances and so forth.

My job here today is to conduct these quasi-judicial hearings on the various petitions, hear from the county, they'll tell me about their staff report, their analysis, any recommendations or conditions, then we'll hear from the applicant or the applicant's representative over on this podium over here, and then we'll open it up for public comment. And we'll do that -- there may be folks here in person. And if anyone wants to speak, there are speaker cards over here at the table, and please provide it over here.

We're also virtual. We have a Zoom link so that if anyone wants to join via Zoom, there may be people that way.

I will allow for some time for rebuttal for the applicant or applicant's representative, if necessary.

I will not be making any decisions here today. Under the Code of Ordinances, my job is to do this hearing, conduct this hearing, take in as much information -- relevant information as possible related to the various criteria for the petition, and then to render a decision within 30 days. I'll try to do it as soon as I can, but it will definitely be before -- within 30 days.

As far as, like, disclosures, I have -- I have read all the material that is associated with each petition. All of it's being published. It's made available.

As a rule, I do not have ex parte communications or discussions or meetings with any party, either the county or the applicant or the community or anything. I like to bring myself here as a neutral decision-maker so that -- so that I can hear everything right here, build the record. And after this hearing, I cannot take in any more -- I won't do any more research outside of what is already in the record. That's the way the quasi-judicial process works.

The folks that are here on my right are the county planners.

We have a court reporter here who will be taking down verbatim transcripts of everything that's said, which is why I'm talking as clearly and relatively slowly as possible, because once someone starts talking really fast, she's going to stop the meeting, and she has full authority to stop the meeting because I want to make sure that there's an accurate transcript of the meeting.

Let's not talk over each other. Let's just get through this. This is a very informal process, and I don't want anyone to be afraid to speak publicly. You know, this is, obviously, a more intimate environment, although it is a formal meeting. So I'm really anxious to hear what everyone has to say. I want to get it all out today so that I can make a very informed decision.

Anyone who is going to speak today must do so under oath, and in a minute, I'm going to ask everyone who is going to speak on any of the items to stand and raise your right hand, and then the court reporter will administer the oath.

If you want to have a conversation, please silence your phones, please. It does get distracting. The acoustics, at least from where I'm sitting, are pretty good, and I can hear people talking in the audience there. So just step outside and have those conversations, if you would. That would be much appreciated.

So with that, why don't we go ahead, and anyone who is going to testify here today, stand and raise your right hand, and I'm going to ask the court reporter to administer the oath.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the

truth, the whole truth, and nothing but the truth?

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

HEARING EXAMINER DICKMAN: Thanks. I appreciate that.

So going forward, we have four items on here. Is there any change to the agenda that we need to accommodate?

MR. BOSI: Mike Bosi, Planning and Zoning director.

Yeah, as of right now, A and B, the agents are not here.

HEARING EXAMINER DICKMAN: Okay.

MR. KELLY: B just pulled in. He'll be here in five minutes.

MR. BOSI: Well, then he can wait. So I would suggest having C and D --

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: -- first up, and then hopefully the agents for the first two could --

HEARING EXAMINER DICKMAN: Okay. So the -- so that's the same -- yeah, it's the same.

Okay. Got it.

So we'll start with Item 3C and then go -- right? We're going to start with 3C, then we'll go to 3D, and then we'll go back up to 3A and B. Does that sound good?

MR. BOSI: Sounds good.

HEARING EXAMINER DICKMAN: \*\*\*All right. Let's get started with 3C.

Good morning.

MR. FINN: Hi, Andrew.

HEARING EXAMINER DICKMAN: Hi. Good morning.

MR. FINN: For the record, I'm Tim Finn, Planner III.

This is Petition No. PDI PL20240000770, Hammock Park Development, LLC, requests an insubstantial change to the Hammock Park MPUD, Ordinance 07-30, as amended, for one deviation from the required parking for a multi-tenant commercial building pursuant to Land Development Code (LDC) Section 4.05.04.G, Table 17, not meeting the LDC shopping center threshold, to be calculated based on the square footage of each use to allow, instead, the parking for a multi-tenant commercial building containing a minimum of seven tenants/units and a minimum floor area of at least 15,000 square feet to be calculated as a shopping center, for example, at one space per 250 square feet, pursuant and subject to LDC Section 4.05.04.G, Table 17, shopping center.

The subject 2.7-acre parcel is part of the 19.13-acre MPUD and is located at the northeast corner of Collier Boulevard and Rattle Hammock Road in Section 14, Township 50 South, Range 26 East, Collier County, Florida.

The project is compliant with the GMP and LDC; therefore, staff recommends approval.

And the applicant has complied with all hearing notices by our operations staff. The advertisements and mailers went out on May the 24th. The hearing advertisement's property signage were constructed at the property by the applicant per the affidavit of posting notice included in Attachment E of the backup materials.

And that's it.

HEARING EXAMINER DICKMAN: That's great. So, Tim, just by way of just big picture here, so Collier County does most of its zoning by PUD type zoning, correct?

MR. FINN: Right, yes.

HEARING EXAMINER DICKMAN: Yeah. Which is kind more of a detailed zoning rather than the Euclidian, you know, single-family home, multifamily-home-type zoning where --

MR. FINN: That's correct, yes.

HEARING EXAMINER DICKMAN: And so that's the purpose of having this -- so when things change in the future, you know, you have to have -- you have to have that change here.

MR. FINN: Yes.

HEARING EXAMINER DICKMAN: So that's the purpose of an insubstantial change?

MR. FINN: Exactly.

HEARING EXAMINER DICKMAN: And there are some major changes, which would go a

different route.

MR. FINN: Right.

HEARING EXAMINER DICKMAN: Some of them might be done administratively as well. So that's kind of, like, the big picture of how this is done.

So, like, when the county does its zoning, it actually does a very detailed zoning for the area, and then, obviously, things change in the future, technology changes, businesses change, things change, so they have to come one route or the other --

MR. FINN: That's right.

HEARING EXAMINER DICKMAN: -- to do that? Okay. Thank you much.

All right. Is the applicant here or the applicant's rep? Good morning.

MS. CRESPO: Good morning. Alexis Crespo with RBI Planning and Landscape Architects. I'm joined today by representatives of the applicant, Taylor Whitcomb and Alex Licata, with Florida Star Development. We're in complete agreement with staff and the staff report, the findings of fact.

I do have a brief presentation if you'd like to see it.

HEARING EXAMINER DICKMAN: Yeah, please, I would. Yes, thank you.

MS. CRESPO: Oh, it's working. Good, great.

Okay. As Tim correctly noted, we are just seeking this insubstantial change to add one deviation to an existing Mixed-Use Planned Development that is currently in late stages of development. The proposed -- or the approved commercial component of this has seven tenants and 15,000 square feet. It's basically one unit shy of being able to calculate the parking as a shopping center, which requires eight units and 20,000 square foot. So we're very close to that threshold.

The key benefit and the reason we're seeking that deviation is if you're not allowed to do a shopping center parking calc under those standards, every time you have a tenant change, you have to do an insubstantial change to your site development permit or an SDPI, which is not a public-hearing process, but it does take between one to two months, typically. We know staff is overburdened with the influx of applications, and so this, being so close to the threshold and also being in walking distance of units within the property, as I'll show you, we believe this is appropriate and meets the code's intent for appropriate parking on the site without having that additional permitting process every time a tenant changes, because commercial does tend to turn over a little bit quicker than other land uses.

So as Tim noted, this is within the Hammock Park Mixed-Use PUD, which is just under 20 acres in size. It's outlined in the blue. You can see the 265 multifamily apartment units are well under construction. There is an existing 7-Eleven gas station, which is fully permitted and up and running, and then the commercial area in question's outlined in yellow just under three acres in size, and it would be a multi-tenant commercial building, and we are at an activity center at the corner of Collier Boulevard and Rattlesnake Hammock.

This is the approved current PUD Master Concept Plan. You can see it allows for the mix of uses we've discussed. It allows up to 80,000 square foot of commercial based on the available land. We are seeking a lower square footage, but the 265 units will be realized. And there is preserve area on the east side of the site transitioning into the Hacienda Lakes community.

This request is specific to just the parcel outlined in yellow, as it's written up in the staff report. It would allow a standardized parking calculation for ease of permitting and business licensing as they get tenants and then, in the future, new tenants.

Florida Star Development tends to hold their properties. They're very committed to Collier County, and so they would be -- they're not looking to sell this and flip it. They want to hold the property and, over time, work with different tenants as leases change. So they're looking long term at the success of the project.

And as I noted, we are very close to the threshold to allow this by right. And we do have an integrated project with multifamily units where we do need to provide parking. There's going to be people arriving by automobile, but we are well connected to a fairly high-density residential development that can easily walk to these uses. We also, as noted in the staff report, have bicycle parking, so we think

the multimodal aspects of the project will also warrant approval of the request.

I won't belabor. The insubstantial change criteria as well as the PD analysis, those are in our application materials as well as the staff report. We meet all of the criteria to be treated as an insubstantial change. No change to square footage, density, intensity, traffic, and as well as the criteria for approval that staff has outlined.

So we are in agreement. We respectfully recommend your -- or respectfully request your approval of the application to allow for the calculation. We are consistent with your Growth Management Plan and Land Development Code.

HEARING EXAMINER DICKMAN: Okay. And there was a -- there was a neighborhood information meeting held?

MS. CRESPO: Yes, there was.

HEARING EXAMINER DICKMAN: Okay. Got it.

All right. Let's see if there's anyone here to speak from the public.

MS. PADRON: We have no speakers.

HEARING EXAMINER DICKMAN: No speakers.

Would you like to rebut that?

MS. CRESPO: No.

HEARING EXAMINER DICKMAN: No? Good choice.

I don't have any -- I mean, this is pretty straightforward, the criteria. The staff report's very well done. The presentation materials are done, and they're in the record. So I really don't have any question -- any further questions unless staff has anything that needs to be corrected. I think I'm good on this one.

MR. BOSI: Nothing from staff.

HEARING EXAMINER DICKMAN: Okay. Great. All right. I'll get a decision out as quickly as I can. Thanks for being here.

MS. CRESPO: Thank you.

HEARING EXAMINER DICKMAN: \*\*\*All right. So now we're going to go to 3D, correct?

MR. BOSI: Correct.

HEARING EXAMINER DICKMAN: All right. You guys are testing my skill sets here.

Good morning.

MR. ORTMAN: Good morning, Mr. Dickman.

For the record, Eric Ortman, Planner III, zoning.

This is also an insubstantial change to a PUD petition. Its number is PL20230016103, the Hacienda Lakes PUD.

The petitioner requests an insubstantial change to Ordinance No. 2011-41 for the Hacienda Lakes Mixed-Use Planned Unit Development to reduce the minimum floor area for multifamily dwellings from 750 square feet to 650 square feet, and also to -- secondly, to modify the language of the fourth transportation commitment to remove the 300 p.m. peak-hour trip cap limitation over the bridge where the PUD connects to Collier Boulevard. This is one -- just one of the connections of the PUD to Collier Boulevard.

The subject parcel is -- it's a 20-acre parcel on the PUD, which is approximately 2200 acres. It sits on the east side of Collier Boulevard, approximately 2500 feet north of Hacienda Lakes Parkway in Section 14, Township 50 South, Range 56 East, unincorporated Collier County.

The PUD was originally approved in 2011. In round numbers, there's 1800 homes permitted, 325,000 square feet of commercial retail space, 70,000 square feet of office space, 135 hotel rooms, and 140,000 square feet of business park educational facilities.

There's been one minor amendment to the ordinance since 2011, and there have been five HEX determinations.

The applicant's justification for lowering the minimum unit size is that they will provide outdoor patio space for each of the units which will match or exceed the difference of 750 and 650. So they will be providing a minimum of 100-square-foot patio space for each unit. The applicants and Ms. Crespo

can go into greater detail about that.

The application's justification for modifying the developer commitment concerning the trip cap in the northern area is it clarifies that the trip cap was always intended to be temporary until a commitment had been made to fund what was Benfield Road and is now Hacienda Lakes Parkway.

The applicant chooses to add one sentence to the PUD to make clear that when the commitment for funding to Hacienda Lakes Boulevard is made, the 300 trip cap will be removed.

A NIM was held May 21st at the Shepherds of the Glades -- Shepherds of the Glades Rattle -- at 6020 Rattlesnake Park. Approximately 10 people attended in person and three by Zoom. All the questions that were asked and -- that were asked were answered. There were some questions about the density. This PDI will not change the density. There was questions about the market rate for the apartment rentals and questions about the temporary restriction, which the applicant responded to all of them.

The meeting started at 5:30, ended at 6 o'clock, and the applicant has complied with all hearing notices. The advertising mailers went out May 24th, and the hearing advertisement signs were placed on the project property on May 29th and are scheduled -- they're included in Attachment 3 of your backup materials. And staff recommends approval of this petition.

HEARING EXAMINER DICKMAN: Okay. Very good. Nice job. Is the -- hi, Alex. Come on up. You should have just stood there. Good morning again.

MS. CRESPO: Yeah. Good morning again. Again, Alexis Crespo with RBI representing the applicant.

The applicant's representatives, Taylor Whitcomb and Alex Licata, are also here this morning, as well as Norm Trebilcock, who provided transportation consulting on the general Hacienda Lakes projects as well as this request.

I, similarly, have a brief PowerPoint, if you'd like to see it. Thank you.

HEARING EXAMINER DICKMAN: Yeah. I mean, just so -- conceptually, the way I understand this is you're changing your multifamily units to have more outdoor space. I mean, it's not going to change the density, but you're just changing the living space versus -- the ratio between living spaces and outer door spaces. Does that sound about right? That's what it sounded like to me.

MS. CRESPO: Correct, correct.

HEARING EXAMINER DICKMAN: All right. Great.

MS. CRESPO: The first change is to allow for 650-square-foot minimum floor area, which is the air-conditioned portion of the unit indoors. Outdoor living is growing in popularity. This would only apply to the one-bedroom units within the project, and that's a relatively small proportion. About -- under 30 percent of the units would actually have this square footage. The remaining two- and three-bedroom units would be more than meeting and exceeding that 750 square feet. And for those one-bedrooms, you've accurately said that when you combine the outdoor living with the air-conditioned space, they do meet or exceed the 750 square feet.

HEARING EXAMINER DICKMAN: So it's about 100 square feet of, like, lanai or porch, or whatever you want to call it?

MS. CRESPO: Correct.

HEARING EXAMINER DICKMAN: Okay, gotcha.

MS. CRESPO: And the second condition is more of a housekeeping condition that we're amending in the PUD commitments. There was a requirement that only 300 p.m. peak-hour trips could be built in this portion of the PUD because of the single access for the bridge. Now that there is Hacienda Lakes Parkway under construction to connect this site down to Rattlesnake Hammock providing multiple means of ingress and egress, we are requesting elimination of that condition, and staff was in agreement with that as well.

The overall MPUD DRI has been around for a very long time, 2300 plus-or-minus acres, 1,760 residential dwelling units. These units would be a part of those approved dwelling units. We are not seeking any increase to density, as was noted. We also have a mix of commercial, office, hotel, business park, recreation for this to really be a self-contained holistic community.

The subject property in question relating to this request is in the northern portion of the PUD. It's shown on that slide. That's an aerial look at the property fronting on Collier Boulevard. It will connect and abut single-family uses to the east also within the PUD DRI, and then you can see the circulation network -- my pointer stopped working, but -- to the south of the property that will connect on the external street network within Hacienda, providing further ways to get in and out of the community.

As was noted, we are seeking the reduction to -- square footage down to the 650. All units will still meet or exceed the 750 when -- including outdoor living, and it's really just based on the county's definition that floor area's limited to air-conditioned areas. And this will just allow for, as I said, about 25 to 30 percent of the units to be one-bedrooms and meet more of the demand for those smaller units.

The highlighted text is what we're proposing to add to the transportation commitment. That simply says, "Upon construction of Benfield," which it's referred to throughout the PUD document. It's now known as Hacienda Boulevard, but at the time it was Benfield. Once construction and connectivity has been provided to this parcel, that 300 p.m. peak-hour trip limitation would sunset, so this just memorializes that finding.

This was vetted, actually, pretty extensively by staff. We wanted to make sure this was the intent of the condition. And this dates back to 2011, so we actually -- I believe Mike Sawyer and staff reached out to previous administration just to make sure this was what was intended by the condition and, upon that evaluation, did recommend removal approval of this change.

Kind of covered that.

So we meet all of the insubstantial change criteria. Again, no increase to unit count, intensity, things of that nature. Of course, at the neighborhood meetings they're always concerned we're adding more to the project, which is not the case, so we'll rely on the staff report and application materials in regards to our compliance with that criteria as well as PUD criteria and GMP analysis.

We do have your staff's recommendation of approval. It is consistent with your Growth Management Plan and Land Development Code. It simply addresses infrastructure improvements since 2011, of which there have been many in this project, and allows for a change to square footage to meet market demand for smaller units.

HEARING EXAMINER DICKMAN: Okay.

MS. CRESPO: Thank you.

HEARING EXAMINER DICKMAN: Thank you very much.

Any public speakers?

MS. PADRON: There are none.

HEARING EXAMINER DICKMAN: No public speakers.

And that's why you have a neighborhood information meeting.

All right. Thank you very much.

Anything else from the county?

MR. BOSI: Nothing more from the county.

HEARING EXAMINER DICKMAN: Okay. Thank you.

Again, this is a pretty straightforward insubstantial change to the units' composition as far as, like, the indoor/outdoor space, and then that restriction on the peak p.m. traffic count. So that connection's been made. Very straightforward.

If there are no other comments, then I have enough information to make a decision, and I will do that as quickly as possible. Okay. Thank you very much.

MS. CRESPO: Thank you.

HEARING EXAMINER DICKMAN: Appreciate it.

So we're going back up to the top 3A; is that right?

MR. KELLY: \*\*\*This is going to be Item 3B.

HEARING EXAMINER DICKMAN: 3B. All right. Climbing our way back up to the top.

MR. KELLY: Good morning, Mr. Dickman.

HEARING EXAMINER DICKMAN: Good morning.

MR. KELLY: For the record, John Kelly, Planner III.

This is going to be Agenda Item 3B, Boat Dock Petition PL20230002187.

The petitioner requests the Hearing Examiner approve a boathouse pursuant to Land Development Code Section 5.03.06.F and a 10-foot boat dock extension over the maximum permitted protrusion of 20 feet for waterways greater than 100 feet in width to allow the construction of a boat dock facility and boathouse protruding a total of 30 feet into a waterway that is 49 feet -- 149 feet wide pursuant to LDC Section 5.03.06.E.1 for the benefit of the subject property located at 159 Tahiti Street, also known as Lot 285, Isles of Capri No. 2, in Section 32, Township 51 South, Range 26 East, unincorporated Collier County, Florida, which is within a Residential Single-Family 4 (RSF-4) zoning district.

The subject property comprises .19 acres and has not been homesteaded. Staff notes that the subject property was razed, and a new three-story single-family residence has been approved per Building Permit No. PRFH20230625810, issued on March 13, 2024.

The subject boat dock petition is required, as the petitioner desires to expand upon a preexisting nonconforming dock facility to accommodate a larger 26-foot vessel. The required 15-foot side riparian setbacks will be respected on both sides of the new dock facility.

Public notice requirements: The property owner notification letter and newspaper ad were satisfied by the county on May 24, 2024, and a public hearing sign was posted by myself on May 29, 2024.

The petition was reviewed by staff based upon the review criteria contained within LDC Section 5.03.06.F and H. Of the primary criteria, it satisfies four of five. Of the secondary criteria, it satisfies five of six, with the sixth being not applicable; it's the Manatee Protection Plan. And of the boathouse criteria, all seven were satisfied.

The petition was also found to be consistent with the Growth Management Plan and the Land Development Code.

To date, no public comment has been received in regards to this petition, and staff recommends that you approve the petition as described in accordance with the proposed dock and boathouse plans provided within Attachment A.

And I'll turn this over to Jeff Rogers with Turrell Hall.

HEARING EXAMINER DICKMAN: All right.

Good morning, Jeff.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

MR. ROGERS: I do. Good morning.

HEARING EXAMINER DICKMAN: Good morning.

MR. ROGERS: Sorry for being five minutes late.

HEARING EXAMINER DICKMAN: Where the -- where's the jar, the dollar jar?

MR. ROGERS: I left it out front.

I did notice -- yeah, I do have a PowerPoint presentation. But, again, Jeff Rogers here today representing the applicants, Peter and Jacqueline Travisano, who do reside at 159 Tahiti Street, or will reside there, as they're currently looking to build a new home there. They do reside in Collier County currently.

This property is located in Isles of Capri and has historically been used as a single-family residence and has an existing dock that is consistent with what we are proposing today.

You can go forward, if you would.

As you can see here in these pictures, this shows basically the existing dock, seawall, shoreline, and the boathouse. And you can kind of notice in the bottom two pictures, the roof elevation is pretty low based on, you know, historical vessels back in the day, and lower T tops and such. So a part of this petition is a new boathouse, which I'll run through the criteria, but ultimately razing it.

Go to the next slide, please.

That's the survey.

Next one.



This is a historical aerial showing you the existing dock, and you cannot really exactly see it very well, but it's there. There is a marginal dock here, and then that square portion is also existing. So we're -- the petition is basically -- they came to me, the petitioners, and said, "We want to rebuild -- the seawall's failing since Ian, and we want to rebuild; however, the boat slip is a little small."

So really what's driving this boat dock extension and boathouse is the increase of two feet more protrusion out to accommodate a 26-foot vessel versus what the slip is currently designed for, which is more of a 23-, 24-foot boat. So, unfortunately, they're subject to the whole process; otherwise, it would be considered a grandfathered structure.

Moving forward. That's more of the existing. I'll run through the criteria.

Go one more, please. I'll show you the proposed.

There's the proposed dock. So, you know, running through the primary criteria, whether the number of dock facilities and/or boat slips proposed is appropriate in relationship to, basically, the subject property. And in this case, this is a single-family zoned lot and is allowed two boat slips, and as proposed, we are really proposing one slip but leaving the middle section open for lay-along mooring of another vessel and/or potentially, you know, coming back to the site to load and unload off of the lift.

HEARING EXAMINER DICKMAN: Okay. That's what I wanted to ask about this, because that looks perfectly set up for mooring of a vessel.

MR. ROGERS: Right.

HEARING EXAMINER DICKMAN: So that's the intent of that.

MR. ROGERS: Yeah. Ultimately, we're restricted by water depths in all of our waterways here, and the vessel's at a low tide, and the functionality of a boatlift is restrictive unless you happen to be on a deep waterway. And the water depths here are sufficient per the criteria to moor a boat inside 20 feet; however, at a low, low tide, you come back. You know, the boatlift might not go all the way down enough for you to pull the boat on. Plus, manufacturers don't want you to load and unload the boats from on and off the boatlifts. It's a -- you know, I'm sure there was a lawsuit against them, so they recommend you pulling the boat off and loading it and not riding the boatlift down.

So looking at this, doing many of these with you guys, in my opinion, if I was -- if this dock wasn't existing, I would definitely cut it back in regards to excessive decking.

HEARING EXAMINER DICKMAN: Yeah. So that's what I was --

MR. ROGERS: So that's where this is unique in that we are really leaving that portion of the dock as-is, and the only increase is the additional protrusion out associated with the boathouse and the finger docks adjacent to the boat slip for ingress and egressing on and off the boat when it's on the lift, basically.

So Criteria No. 2, whether the water depths -- I kind of touched about this. The site is so shallow that the vessel, the general length, type, and size cannot be moored. This is the one criteria, as John stated, of the primary that I said we don't meet, because the depths are sufficient; however, you can see riprap there, and there is riprap currently. So that does push you out further because you can't bring the docks right up and the vessel right up against the seawall when there is riprap there. As the tides change, you'll end up potentially on the rock. So it doesn't mean we would need a BDE, so we don't meet this criteria.

Moving forward, No. 3, whether the proposed dock facility may have an adverse impact on navigation within an adjacent marked or charted navigable channel. We are -- the answer to this, in short, is no because it is a wide waterway. If you do move forward, I've got a -- there you go. So, you know, you can see the waterway, and you can see the boat navigating just to the, you know, south of the proposed property and dock.

There is a shoal. Obviously, you can see the shoal on the adjacent shoreline, so navigation does hug the northern part of the waterway. But based on the waterway widths, we are consistent even at the most restrictive point. We're about 20 -- jumping ahead to the next criteria is --

HEARING EXAMINER DICKMAN: Before you do that --

MR. ROGERS: Yeah.

HEARING EXAMINER DICKMAN: -- I just wanted to get your opinion on, you know, what is

your opinion on the definition of navigation -- within an adjacent marked or charted navigable channel versus --

MR. ROGERS: An open water? So this is what you would consider a local-knowledge waterway because it isn't fully marked. A marked channel has federal markers on it -- navigation, red and green -- that you're supposed to stay in between to safely navigate that subject waterway. This one, with -- with no marked channels in this area, it would classify as a local-knowledge channel, and the shoal and the land/the docks then become basically the markers that you navigate between. So it is --

HEARING EXAMINER DICKMAN: It's interesting --

MR. ROGERS: It is.

HEARING EXAMINER DICKMAN: -- because I've always wondered about that, and I've always thought about it, and we've talked about it. I mean, obviously, from a legal point of view, I can understand why you literally can't interfere with a marked, you know --

MR. ROGERS: Right.

HEARING EXAMINER DICKMAN: -- because those are permitted, right, by the State and others?

MR. ROGERS: Right.

HEARING EXAMINER DICKMAN: But still, navigability's an issue regardless, right, so --

MR. ROGERS: Yeah. And to be honest with you, as you navigate further up into the waterway northeast, there's -- there's a dry stack storage, there's a high-use commercial restaurant, and there is future development that our office is working on currently for another marina in the neighborhood. So traffic here will constantly, you know, either increase or stay pretty heavy.

HEARING EXAMINER DICKMAN: And who initiates that, the marked channel or -- officially marked channel? Is it through FWC or --

MR. ROGERS: Yeah. If it's a federal channel, like the intercoastal waterway of Naples, Naples Bay, that's really the only area in -- no, not Collier County, but in our general vicinity that is a federal waterway. Even Marco Island, Marco River, is not classified as a federal channel until you get closer towards, like, Goodland area. So the Marco River is -- you know, can be 20 feet deep, but that's a marked channel by the county --

HEARING EXAMINER DICKMAN: Okay.

MR. ROGERS: -- which you would have to coordinate with the State --

HEARING EXAMINER DICKMAN: State.

MR. ROGERS: -- to establish that.

If you remember -- I remember growing up here. Naples Bay, there was always those lawsuits about the wake zones in Naples Bay and the city applying a no wake zone onto a federal waterway, which they didn't legally -- it turned out, legally, they didn't have the right to do because it was a federal waterway. So if it was a local waterway established with the State, then you could put those restrictions onto the waterway.

HEARING EXAMINER DICKMAN: It's incredible the layers of government in the waterways. But, yeah, I get it. But, I mean, that criteria always gives -- I mean, I want to focus on -- I also want to make sure that, you know, navigability in general is not impacted, but I think that criteria goes to more of don't interfere with things that are permitted, you know, by other agencies.

MR. ROGERS: Yeah. No, I totally agree and would love to work with staff on a lot of this criteria to update some of it, to be honest with you. Not to get in the weeds here, but we could definitely fine tune this a little bit more as we proceed, because it is getting a little bit harder and busier waterways than it ever has been, growing up here and being on the water all the time.

Move forward one more slide.

I do have a little -- there, you've got the width of waterway. So working with staff -- you know, obviously, I've got the longer one down here, but -- I can't see what that is off the top of my head. But I don't believe that's the waterway width that we used to show that we're still inside the required 25 percent, which is the next -- you know, part of the primary criteria.

We are actually at 20.13 percent, which I'm pretty confident is in this area, because that is where

the protrusion is proposed to be greatest on this dock. So we use that for the calculation. I'm not going off of this number.

HEARING EXAMINER DICKMAN: Yeah. In this criteria -- I mean, I love talking about these dock criterias because they're very interesting, but -- you know, I know we had one in the past, and I think it's probably going to come up again, where it was like shooting down a very narrow canal, and that just doesn't seem like that was the proper calculation. Because this is really about safety, right?

MR. ROGERS: Yep.

HEARING EXAMINER DICKMAN: Maintaining the -- this is exactly what we were talking about before. Like, forget about marked channels and things like that. Like, maintaining the 50 percent in the middle assumes that it's -- the intent is for navigability and safety, right?

MR. ROGERS: Right. Yes, sir, correct. Yeah. So I --

HEARING EXAMINER DICKMAN: I think you're doing it right here by, like, where the boat is coming in and out versus other boat traffic, yeah.

MR. ROGERS: Because this is the thread of channel, let's call it, right? So in my opinion, you know, I navigate through here all the time, personally. I think we should have some markers along here because this is -- you know, based off safe navigation rules, it's a shoal. I mean, it is. It's clear as day here. So, you know, something to talk about with Chris D'Arco and those guys someday in the future.

HEARING EXAMINER DICKMAN: Someday. Someday.

MR. ROGERS: Someday, exactly.

Okay. So touched on Primary No. 4, which was the 25 percent. We're at 20 percent, as proposed; a little bit over. So we're consistent there.

Number 5 of the primary is whether the proposed location and design of the dock facility is such that the facility would not interfere with the use of neighboring docks.

In this case, it's an existing dock that we're just rebuilding, pushing it out a little bit farther. So, yes, it is consistent and would not interfere with any future development on this subject property, and this guy already has a dock, and he's -- you know, he's more parallel to the shoreline than we are, so...

HEARING EXAMINER DICKMAN: To the northwest, the property is still vacant?

MR. ROGERS: Yes, sir. It's been vacant for forever. If you look at the historical aerial, I don't believe there's ever been a single-family home on it. To be honest, I think this guy owns it and has owned it forever. I think that's the case. I did his dock, and I'm pretty sure he owns that lot as well.

HEARING EXAMINER DICKMAN: It makes a nice football field or cricket or something.

MR. ROGERS: Yeah. Good investment.

Moving on to secondary criteria. I'll try to go through this as quick as I can. Whether there are any special conditions not involving water depth related to this. You know, in this case, it's basically the -- it's the existing dock. And there are some mangroves over here that we're trying to avoid. You know, state and federally, we were basically considered grandfathered. We did get their permits as well, but it's consistent. So that, in this case, is unique.

And back to, you know, the actual design, I would have never probably brought this in front of you the size that it is, you know, if it wasn't existing in that case.

So No. 2, whether the proposed dock facility would allow reasonable, safe access to the vessel for loading, unloading, and routine maintenance. Yes, that's one of the reasons we're extending the fingers to match the vessel size. When a boat's on a lift, you're typically loading and unloading the stern of the boat. The bows of the boats tend to be higher. So crawling over, you know, midship to stern is easier getting on and off the boat as well as leaving this portion open, as we discussed for a lay-along mooring for temporary purposes which, if we did put the vessel out here -- I do want to talk -- we would not increase the overall protrusion than what we're requesting today. You know, it's 8-foot plus, let's say, a 12-foot beam boat at the most, you know. So you're --

HEARING EXAMINER DICKMAN: It would stay within 20 feet.

MR. ROGERS: It would stay -- it would stay right at the 20 feet, and a 26-foot boat is typically, you know, 9- to 10-foot wide, typically. So that one we're consistent.

Number 3, for single-family docks, whether the length of the vessel or vessels in combination

described by the petitioner exceeds 50 percent of a subject property's linear footage. In this case, the property actually has a significant amount of shoreline. I believe it's 134.4 feet. So 26-foot vessel, we're well under the 50 percent threshold in this case. So this one is met as well.

Number 4, whether the proposed facility would have a major impact on the waterway view from neighboring properties. No. In this case, it is existing. We are increasing the overall boathouse height to match today's code limitations, which is 15 feet above the deck.

So I guess there is a visual change, but it's -- there is nobody on this side. The dock's there. It's a boating community. We feel it's not an impact to anyone's views.

Number 4 [sic] pertains the seagrasses. There is no seagrasses within the 200 feet. I did dive this, not on the weekend when everybody's going up to the Island Gypsy, but -- I didn't want to get run over, but I did dive it. The only place you would probably find it would be over here on the shoal this time of the year with, you know, the better water quality and warmer waters, but it was not present when I dove.

The next one is the Manatee Protection Plan, which is not applicable for single-family docks.

So that's the BDE criteria.

We are also proposing a boathouse, which does have seven criteria that are pretty quick and easy. I'll just touch on them. The first one is do we meet the setbacks of 15 feet. We do. In this case, I believe we're 29 feet and 26 feet, a little bit over each. So we're well over the required setbacks.

I will say this is state lands, too. So we are -- we do have to maintain 25-foot setbacks for them, which we met that, so that's more restrictive than the county is in this case.

The maximum protrusion in the waterway, 25 percent. Touched on that in the BDE criteria. We are consistent with that.

The boathouse will extend 31.5 feet out. Let me touch on that. Per the boathouse criteria, you're allowed an 18-inch overhang for the roof. So, technically, the boathouse will be out 31.5 feet.

If you go back on my PowerPoint to the cross-section; there you go. So you can see the additional 1.5. The protrusion is right here, 30 feet, but then you've got the 1.5 little overhang. So the boathouse -- I just want to be clear that is the criteria for boathouses, and we are consistent with that.

The maximum -- No. 3 is the 15-foot measurement from the top of deck up. We do meet that. It's hard to see here, but that's 15 feet to the top, and the roof material has to match whatever the main residence has. So if it's a tile reroof, we've got to be consistent so they're both aesthetically pleasing from the neighborhood.

Number 4 -- or excuse me. Number 5 is open on all four sides. Yes, it is open on all four sides.

Number 6 is roofing material. Touched on that.

Number 7 is the boathouse or covered structure must be located as to minimize the impact on the view. It's well inside the required setbacks. It's an existing boathouse. We are razing it, but again, we don't feel there's any additional new impacts to view on the subject waterway as proposed.

With that being said, I think I touched on it all. Happy to answer any questions or respond to anybody that might have any comments.

HEARING EXAMINER DICKMAN: Okay. Great. Just FYI, in the future, we're going to need to see proof of you actually diving out there.

MR. ROGERS: You've said that to me before. I'm going to end up -- I'm going to put some pictures up there.

HEARING EXAMINER DICKMAN: You claim you dive these things. I'm not sure.

MR. KELLY: I think he's asking for an invitation to witness.

HEARING EXAMINER DICKMAN: All right. Get your GoPro out.

MR. ROGERS: We can do that, too.

HEARING EXAMINER DICKMAN: Get your GoPro out.

Do we have any public speakers?

MS. PADRON: We do not.

HEARING EXAMINER DICKMAN: We do not.

All right. Anything else from the county to add?

MR. KELLY: No, sir.

HEARING EXAMINER DICKMAN: Okay. I understand the presentation. Thank you very much. Again, very detailed, nicely done, and it's good to see you. I'll get a decision out as quickly as possible.

MR. ROGERS: Thank you very much. Appreciate it, guys.

HEARING EXAMINER DICKMAN: \*\*\*Now we're going to 3A, right?

MR. BOSI: Yes, sir.

HEARING EXAMINER DICKMAN: All right.

MR. KELLY: Okay. This is going to be Agenda Item 3A. It's Boat Dock Petition PL20230008897.

The petitioner requests the Hearing Examiner to allow the construction of a 24-foot by 50-foot boathouse which will be located upon a lawfully permitted boat dock for which the roof overhang will extend three feet beyond the maximum permitted protrusion of 20 feet for boat dock facilities on waterways 100 feet or greater in width pursuant to Section 5.03.06.F of the Collier County Land Development Code. The subject property is located at 148 Seabreeze Avenue also known as Lot 21, Block D, Connors Vanderbilt Beach Estates, Unit No. 1, in Section 29, Township 48 South, Range 25 East, unincorporated Collier County, Florida.

This is located within a Residential Single-Family 3 (RSF-3) zoning district. The subject property has not been homesteaded and comprises .22 acres. The proposed boathouse is to be constructed over an existing dock per Building Permit No. PRMAR20230309503, issued on March 20, 2023, for which inspections have not yet commenced and a certificate of completion has not yet been issued.

As per LDC Section 5.03.06.F.2, the maximum protrusion for a boathouse is 25 percent of the canal width or 20 feet, whichever is less; however, the roof alone may overhang no more than three feet into the waterway beyond the maximum protrusion and/or side setbacks. The proposed boathouse is unenclosed and will be constructed within the required 15-foot side riparian setbacks, will stand 15 feet in height, and the roof overhang alone will protrude three feet beyond the maximum allowable protrusion of 20 feet.

Public notice requirements were per LDC Section 10.03.06.H, the property owner notification letter and newspaper ad were satisfied by the county on May 24, 2024, and a public hearing sign was posted by zoning staff on May 29, 2024.

This petition was reviewed by staff based on the review criteria contained within LDC Section 5.03.06.F and was found to be compliant with all seven criteria and is consistent with both the Growth Management Plan and the Land Development Code.

No public comment has been received in response to advertising for the subject property. And staff recommends the Hearing Examiner approve this petition as described in accordance with the boathouse plans provided within Attachment A.

That concludes staff's presentation.

HEARING EXAMINER DICKMAN: Thank you very much. Is the applicant or applicant's representative here?

MR. NELSON: I am.

HEARING EXAMINER DICKMAN: Come on up. Grab a microphone.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

MR. NELSON: I do.

HEARING EXAMINER DICKMAN: Good morning, sir.

MR. NELSON: Good morning. My name is Bill Nelson. I work with Greg Orick Marine Construction, and we are representing the owner in this matter.

HEARING EXAMINER DICKMAN: Okay.

MR. NELSON: I can briefly go over the criteria if you'd like or answer any questions.

HEARING EXAMINER DICKMAN: Why don't we do that. I mean, staff's report is

considered competent substantial evidence, and if you want to adopt that and say you agree with it, do that. But I think a little bit of information from you would be helpful just to add to the record as well.

MR. NELSON: Sure thing; yeah.

So as -- I do agree with staff as -- all the criteria being met for the boathouse. The owner is basically just looking to build a boathouse to protect his boat and other vessels that are on this existing dock.

We do meet the first setback criteria of 15 feet on either side. We're also within the protrusion for the dock, but the roof will overhang that protrusion by the three feet allowed.

We're also going to be in compliance with the roof height at 15 feet above the seawall cap and dock, and the roofing material will match the house. As he mentioned, the permit's not closed on the dock yet. Basically, he's building a house there, and there's no electric to hook up to. So as soon as we have an electric source, we'll be able to do all of our final inspections.

HEARING EXAMINER DICKMAN: Okay.

MR. NELSON: The boathouse will be open on all four sides. And also, we do feel that there is no impact on the neighbors' views mostly because we're going to adhere by the 15-foot setbacks and not go over into anyone else's property lines or anything like that.

HEARING EXAMINER DICKMAN: Okay. Do me a quick favor, tell me what is your -- I just want to get it in the record. What is your position with the company and --

MR. NELSON: I'm the chief information officer and chief operating officer.

HEARING EXAMINER DICKMAN: Okay.

MR. NELSON: I've been with Greg Orick Marine for over 12 years --

HEARING EXAMINER DICKMAN: Okay.

MR. NELSON: -- and I've participated in probably a little over a dozen of these hearings and other hearings with the City of Naples concerning marine construction matters.

HEARING EXAMINER DICKMAN: Excellent. Great. I recognize you as an expert, then.

MR. NELSON: Thank you.

HEARING EXAMINER DICKMAN: Anybody here from the public to speak?

MS. PADRON: We have no speakers.

HEARING EXAMINER DICKMAN: All right.

MR. NELSON: I'm really sorry about our tardiness. A little miscommunication in our office. I appreciate you guys.

HEARING EXAMINER DICKMAN: That's all right. You got bumped to the end. No problem. We're happy to accommodate.

All right. Anything else from the county?

MR. KELLY: No, sir.

HEARING EXAMINER DICKMAN: All right. Good. I have no other questions for you, and I will get a decision out as quickly as possible. Nicely done.

MR. KELLY: All right. Thank you very much.

HEARING EXAMINER DICKMAN: Have a great day. Enjoy yourself.

What else do you guys want to talk about?

MR. BOSI: I think we've reached the end of our conversation.

HEARING EXAMINER DICKMAN: Okay, great. Almost at an hour.

So thanks, everyone, for the hard work putting this together. I appreciate it. It's always appreciated. These meetings go smoothly because of you.

So have a great day.

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There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:59 a.m.

COLLIER COUNTY HEARING EXAMINER

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ANDREW DICKMAN, HEARING EXAMINER

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

TRANSCRIPT PREPARED ON BEHALF OF FORT MYERS COURT REPORTING, BY TERRI L. LEWIS,  
REGISTERED PROFESSIONAL REPORTER, FPR-C, AND NOTARY PUBLIC.