

May 30, 2024

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
May 30, 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
Sean Sammon, Planner III
Ailyn Padron, Management Analyst I

PROCEEDINGS

HEARING EXAMINER DICKMAN: Okay. Good morning, everybody. Good morning. It's May 30th, 2024. This is the Collier County Hearing Examiner meeting, and it's 9 a.m. And we're going to all rise for the Pledge of Allegiance, please.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER DICKMAN: Okay. Great. Thanks, everybody.

We have four items on the agenda today, but before we get started, I want to go through a little housekeeping. My name is Andrew Dickman. I'm an attorney, a Florida Bar attorney, for over 20 years, practicing in the area of land use, zoning, environmental law. I'm very familiar with Collier County code and Comprehensive Plan.

I am not a county employee. I was appointed by the Board of County Commissioners to sit here as an independent decision-maker over the petitions that are designated to go to the Hearing Examiner.

The folks -- the good folks here to my right are the county employees, the county planners. We have a court reporter. We have a young lady over here who's handling all of the IT stuff and everything.

If anyone's going to be speaking here tonight -- or today, please get a card and give it -- please hand it in over here (indicating).

The meeting is a hybrid meeting which means that there are going to be folks attending in person and, perhaps, also via Zoom, so we will have that capability.

If you're going to have a conversation with anybody, please step outside in the hallway so that it doesn't interrupt anyone while they're speaking.

The main -- the main point of this hearing is for me to collect as much information, testimony here today from the county planners, from the applicant, from the public, and then make a written decision within 30 days. I will not be making a decision here today. I will issue a written decision within 30 days.

The procedure that we like to -- I like to follow here is first to have the county introduce the item here at this podium in front of you, go over some of the basic facts, any recommendations, any conditions. Then we'll have the applicant or the applicant's representative come over to this podium over here and present their case in chief; then we'll open it up to the public. Anyone who's going to speak here or via Zoom will have their allotted time to speak.

This is an informal meeting. If you're nervous about speaking publicly, please don't be. It's really important for me because it after today I cannot collect any more information. I can't take any more testimony. I can't do any more adding to the record or anything like that. So it's very important that when you speak, please speak to the issues that are related to the item, whichever item it is. You know, I do want to hear everybody out. This is going -- again, as I said, if you're -- this is informal proceedings. My job is to collect the information and make an informed decision based on the code and what I hear here today.

As far as disclosures, I have had no communications with any outside -- any applicant, any member of the public. I have not met with the county on any of the items. I'm literally here -- I have read everything on the applications. I've read all the materials. I'm here very informed. I'm aware of what's being requested, but I do not have any what are called ex parte communications outside of this hearing in order to -- in order to preserve the sanctity of this proceeding so that everybody has a fair -- a fair hearing here.

With that, also turn off any phones, anything that you have that may make noise. Again, if you're going to make a phone call, step outside.

Please try to speak as clearly as possible into the microphones. We are transcribing the entire meeting.

When you come to the podium, just state your name and address for the record, please, so that we have that.

I frequently like to go back and look at the transcripts if I want to confirm something. So it's

really important not to speak too fast or talk over each other, you know, so that we make sure that we capture everything as accurately as possible.

So before we get started -- everyone that is going to speak today has to do so under oath, so at this time if you're going to speak on any of the items that are on the agenda today, I'm going to ask you to stand, raise your right hand, and the court reporter will 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: Thank you, everybody.

Okay. So let's move right into the -- so first of all, I just want to confirm, there's three items here. The last two items seem to be the same address. So I think that what we're going to do on that one -- I just want to confirm for the record that we're going to have that done as a companion item. So what that means is that there will be one presentation -- since it's the same applicant, one presentation covering both the variance and the conditional-use aspects of it, but we'll -- the decisions will be separate. So when the decisions come out, they'll be separate decisions. But it's just easier if the whole project is presented together.

Any objection to that?

MR. BOSI: No.

HEARING EXAMINER DICKMAN: No? Okay, good. All right.

***So let's get started with Item 3A on the agenda.

Good morning.

MR. SAMMON: Good morning.

Good morning, Mr. Dickman. For the record, Sean Sammon, Planner III in the zoning division. Before you is Agenda Item 3A. It's for a variance, Project No. PL20230015505. This is a request for a variance from Land Development Code Section 4.02.01.A, Table 2.1, Footnote E, for an industrial zoned lot to reduce the required minimum side-yard setback on the south property line from 10 feet to zero feet.

The subject property is approximately a 0.51-acre parcel, Parcel ID No. 69030000668 at 1478 Rail Head Boulevard, Naples, Florida, 34110, also known as Lot 14, Rail Head Industrial Park, in Section 10, Township 48 South, Range 25 East, Collier County, Florida.

The petition was reviewed by staff based upon review criteria contained within LDC Section 9.04.03, A through H, and staff believes this petition is consistent with the review criteria in the LDC as well as with the GMP.

With respect to the public notice requirements, they were complied with as per LDC Section 10.03.06.F.

The agent letter was distributed by the property owner on Thursday, March 14th, 2024. The property owner notification letter and newspaper ad were taken care of by the county on Friday, May 10th, 2024, and the public hearing signs were placed by the county staff also on Friday, May 10th, 2024.

I've received a couple calls from the public pertaining to this petition. One was a business owner in the industrial park asking for information. The other was from the titled president of the Rail Head Industrial Park Owners Association, whose opposition is included in Attachment E, and there was another communication submitted yesterday from a member in the industrial park.

Therefore, staff recommends that you approve this variance petition to reduce the required minimum side-yard setback on the south property line from 10 feet to zero feet as depicted in Attachment C.

There was an agent authorization letter that I provided to you and the court reporter. It was mistakenly left out from the backup package.

That concludes staff's summary.

HEARING EXAMINER DICKMAN: Thank you very much. I appreciate that.

Is the applicant or the applicant's representative here? Whoever's going to present, please come

up on.

Good morning. How are you?

MS. GREEN: Good morning. I'm very well, thank you.

HEARING EXAMINER DICKMAN: All right. Let's get started.

MS. GREEN: Gina Green, professional engineer, for the record, representing my client, Cabrera Luxury Car Storage.

Do we have a thing for me to do this?

HEARING EXAMINER DICKMAN: No such luck. It's voice-operated. Just say "next slide."

MS. GREEN: Just say "next"?

MS. PADRON: Yes.

MS. GREEN: Okay. Our variance request, as was stated by the planner, was that we would like to reduce the south side setback to zero feet from 10, this -- on this lot due to the existing conditions on the lot. There is an existing building on this lot.

Next.

This building was built under SDP 97-116. The side-yard setbacks at the time this was developed was 20 percent of the lot width. And you could have zero -- you could just administer that any way you wanted between the side yards.

This is a corner lot, so it has two front yards and two side yards. And this building was built with it being on the zero lot line on the south and the other 24 feet of the required total on the east side.

There was a condition that you had to be at least 10 feet away from any adjacent structures, which this site has more than that. I think the building to the south is about 47 feet away. There's a parking area between the two that services that building. And with today's standards, that building now would be required to be 10-foot off the property line.

My client wishes to take this building and raise it into the height of 35 feet and maintain that zero setback. It is for the car storage racks inside and to be able to have maneuverability and storage capability.

Today's code for industrial is now 50 feet. At the time that this building was constructed, the building height could have been 35 feet if the owners chose to build that building at the maximum height at the time that the building was built. So this building could have been built at the zero setback at 35 feet, and we're not asking for any more than 35 feet today.

Next.

This is the existing SDP as it was constructed. It has the building sitting to the southeast with two entries off of Rail Head, and adjacent parking. It was all approved and built, and it was constructed in accordance to these plans.

It has water management in accordance with South Florida Water Management District, you know, so it does not have any issues with water management. The new owner does not plan to change anything about the site. He's keeping the access and parking as is. He's just merely taking the footprint of the building and raising it to 35 feet; 35 feet minimum along that south line.

This is our variance plan highlighting the area that -- where we're asking for this variance there along the south line. You can see the adjacent structures to the east and the south and to the southeast. We are buffered with Rail Head on the north and the west.

And we -- you know, everything else about this site meets the criteria of today.

Next.

I did take a -- give a few pictures of the adjacent -- this structure and the adjacent structure. This is the structure that is on the site right now. It is 16 feet tall. This is taken from the north side, looking at the north facing the building.

Next.

This is the building to the south that's directly behind it where the zero lot line is. You can see the gates there to the parking area. The adjacent buildings to this are already taller than this building. They may only have a one-story use, but they're -- because it's an industrial subdivision, they are much taller than normal buildings due to storage and the type of businesses that are in here. So their eaves are

sometimes at two-story level.

Next.

So this is the building that is across the street to the west. And as you can see, it has a raised height compared to what this building is also.

Next.

This is the building that's adjacent to the east, as it is a two-story structure.

Next.

And this is the large building that's to the north across Rail Head. It does have a FedEx warehouse in it, and it, as you can see, is at a two-story level also.

Next.

HEARING EXAMINER DICKMAN: Can I stop you? The one on the east side -- the building on the east side, is that also a zero lot line building?

MS. GREEN: Yes. The south on it is sitting on -- yes, it is sitting on the -- on the south property line.

HEARING EXAMINER DICKMAN: Okay.

MS. GREEN: And then this is the building that's to the southeast that is directly south of that building, that two-story building to the east.

Next.

With this site being with him -- with what he wants to do on this site, the benefits to the public for this, if we're granted this variance, is the renovations in addition to the height of this building will be constructed to hurricane codes today, so it will be a stronger, safer building compared to what the hurricane codes were back in '97 when the building was constructed and, therefore, it will be safer for the surrounding community.

You know, because of the type of business he's going to have, there'll be -- you know, he'll have to meet Land Development Code for landscape and everything as he goes through this process for the change of use with an SDP. So he'll be enhancing the landscaping. The architectural enhancements to the building facade, which will be required by county code, they will meet those requirements along with the Architectural Review Committee for the Rail Head POA.

We have no changes to our ingress or egress or the parking area. And this -- there's no increase to the impervious area of the site; therefore, there's no change to our stormwater management system. We're still within the criteria of South Florida Water Management District that -- which was what was permitted and constructed on the site.

And then, this proposed car storage use will have less impact to the traffic for the site than the prior to uses, which was an Everlast Saw and carbide tool distributor. It's had other building materials that had many people coming in and out.

This type of business is a concierge service, you know, luxury car storage to where it stores the cars there. I think he said he has four employees there that handle cleaning the cars. You know, this is the type of service where people can -- the owners can maybe come and look at their cars, you know, and hang out and admire or bring friends to show their cars, but they also offer a concierge service, almost like a Carvana service. You want your car for dinner, you call them up. They clean it. They put it on a truck. They take it to your house. They deliver it.

When you're ready for them to come pick it back up, they come pick it back up, clean it, and put it back into their facility. So it's not a high-traffic area, much less compared to what -- you know, contractors and everything else coming in and out of the site every day. Because I do know that traffic is an issue getting out onto Old 41 with Rail Head and all. So, you know, this will actually be less impact to this community than what was there prior.

Next.

And in summary, you know, this site was approved under an original SDP. It was built in accordance with that SDP. The increased height of the overall building footprint is needed to allow for the car storage lifts to store approximately --

THE COURT REPORTER: Can you slow down a little?

MS. GREEN: Yes.

THE COURT REPORTER: Thank you.

MS. GREEN: Sorry. I am a fast talker. Sorry.

HEARING EXAMINER DICKMAN: I was just waiting for her to --

MS. GREEN: You know, I thought about that about a minute ago. I thought, yeah, I am talking a little fast. Sorry.

Yes, the increased height over the entire building footprint is needed to allow for the car storage lifts to store approximately 60 to 70 cars, which is needed to meet the financial feasibility of the business.

And the side-yard setback of zero feet is a preexisting condition, increased height of 35 feet, is below the present LDC maximum of 50 feet, and it's equal to the 35 feet maximum height from Ordinance 82-2 that the building could have been originally built.

And that ends my presentation, if you have any questions.

HEARING EXAMINER DICKMAN: Yeah. Just -- I think what I'm -- what I'm understanding about this is that this building and maybe the one to the next -- next door to the east is a legal nonconforming use at the point. It was developed properly under the old zoning. New zoning came in, and because you're doing, I assume, a substantial change to it, then you're required to come into conformity with the current zoning. That's why you're here for the variance.

MS. GREEN: Yes, sir.

HEARING EXAMINER DICKMAN: Okay. Just to summarize that. So just so everyone knows, like, these buildings were built under the old zoning, which was perfectly permitted at that time because the old zoning allowed for zero setbacks. Now the new zoning doesn't allow for that even though the site itself stayed the same. The size of the property stayed the same. So I understand.

Why don't you reserve a little time for rebuttal.

MS. GREEN: Okay.

HEARING EXAMINER DICKMAN: And then we'll go to the public and hear from the public, and then you can come up and address any issues that come up, okay?

MS. GREEN: Okay.

HEARING EXAMINER DICKMAN: All right. Thank you.

Anybody signed up to speak for this one?

MS. PADRON: Good morning. We do. Our first speaker is Robert Somouce.

MR. SOMOUCÉ: Here? Okay.

MR. BELLOWS: Yes.

HEARING EXAMINER DICKMAN: Sir, before you get started, I just want everyone to know that if I'm not looking at you the whole time, it's because I'm reading my notes. And I don't want anyone to get offended like, hey, I'm not listening to you or anything like that. I'm actually trying to, like, look at a lot of different things at the same time. So please don't take offense to that.

Good morning.

MR. SOMOUCÉ: Good morning. My name is Robert Somouce. I'm an attorney with Somouce and Gal. We represent the Rail Head Industrial Park Owners Association, Inc. My address is 1219 Salvia Lane, Naples, Florida 34105.

The reason I'm talking today is because this property is within the Rail Head Industrial Park Owners Association property, and it means it has to -- all the lots have to conform to the covenants that oversee the park to make sure it's a kind of community that the business owners in there want to have. And part of that requirement, of course, is any change to the property, adding, deleting, changing the size of a structure, whatever, that has to go through the association, the Architectural Review Board of the association, to make sure it's what, you know, conformed with that community.

Part of the requirements or the plans and specifications shall be evaluated as a harmony of external design location in relation to surrounding structures and topography.

We sent a letter back on March 27th, 2024, to the owner of the property and to Mrs. Green, who's here, and we copied you and the planning board, you know, indicating this issue. We have received no response whatsoever from the owner of the property or Ms. Green as to our concern.

And our position is, well, usually if there's an association governing the property, the government wants to see that the association approves whatever that request is and behind [sic] it before they're willing to consider it, and that has not happened here.

So our position is until that happens and they get approval from the association, that then they can come back to you-all and ask for that variance if the association would approve such a variance. But none of that has been done up front to us yet.

HEARING EXAMINER DICKMAN: So the applicant hasn't approached -- has not approached your client at all with regard to the Architectural --

MR. SOMOUCÉ: Not filled out an application, submitted plans, and, you know, in response to my letter, nothing has happened.

HEARING EXAMINER DICKMAN: Okay. Is this a deed-restricted association?

MR. SOMOUCÉ: Correct.

HEARING EXAMINER DICKMAN: It's required? It's not a volunteer association --

MR. SOMOUCÉ: It's totally required, yeah. Mandatory.

HEARING EXAMINER DICKMAN: Okay. One of the things that, you know, we -- the county does not typically and probably should not, like, get involved in trying to understand each area's deed restrictions and procedures, whether it's a homeowners association, condo association, things like that. It just can't be in the business of enforcing those provisions. It's just way too difficult, especially with the number of HOAs and condo associations and associations like yourself.

So I tend to think that that's an issue between private parties. But I'm definitely happy to hear any arguments you might have that go to the criteria for the variance.

MR. SOMOUCÉ: Well, you know, it's kind of like if an owner wants to go zero lot line on his neighbor. As far as I've ever seen, the county wants that neighbor to approve that variance before they're going to grant it. Well, this is the exact same thing. You know, they have no approval yet, and here they can go through all this and get approval from you-all. Then they come to the HOA, they say, "No, you can't build it that high. We don't care if you've got the zoning variance." Well, that's not too good for the petitioner, you know, or the association.

So we're just thinking they need to come to us, try to get an agreement with us before they come back to you and ask for this.

HEARING EXAMINER DICKMAN: Have you-all approved any zero lot line internally?

MR. SOMOUCÉ: Since the association turned over from the developer way back then, none of this -- no, there hasn't been a request for one to be done. So this is the first, yep.

HEARING EXAMINER DICKMAN: Okay. All right. That's all you have?

MR. SOMOUCÉ: That's it.

HEARING EXAMINER DICKMAN: Okay. Anybody else?

MS. PADRON: Yes. Our next speaker is Marcel Vezina.

MR. VEZINA: How you doing?

HEARING EXAMINER DICKMAN: Good morning.

MR. VEZINA: I am Marcel. I'm the president of the Rail Head Owners Association.

My --

HEARING EXAMINER DICKMAN: What was your last name?

MR. VEZINA: Vezina.

HEARING EXAMINER DICKMAN: Okay, thanks.

MR. VEZINA: I represent the Rail Head Owners Association. I'm the president of the association. As such, I'm the guy that kind of fields all the questions and everything that goes on. Everybody's kind of, "Hey, Marcel, what's going on?" when they hear something's happening.

We have been shrouded pretty much in a complete shroud of -- "Well, we're going to do this," and they're not telling us what they're doing, as Rob said. That brought to the attention a lot of the local people, a lot of the abutters bringing me concerns.

One of them was serious concerns that was brought forward that's directly related to the variance; that was a fire protection. One of the neighbors brought to the point that the community to -- the

building to the south of it, as well as the other one, have gates and fences. In the event that a fire was to break out -- and we all know vehicles have gas and fire, and they break out -- guess what? There's basically no way to -- the fire department's going to have to fight -- work to fight the fire. Any kind of emergency situation comes up, it's going to do it.

Another neighbor brought up a point that said, Marcel, you know, these buildings were built zero lot line, and that was something we can't -- we couldn't do anything about when they were built. But now the new zoning was put in place so we could improve our community so that the community could become better.

A couple of the buildings on the south end over there, when we got heavy rain, due to the way that the park is designed through a series of drainage ditches that goes to one master pond at the south end, what it does is everything drains out. So if the buildings don't have enough on-site water retention, it basically floods the parking lots of the buildings around it.

So a couple of the people have said, "Hey, Marcel, this is the perfect opportunity. If this building has to be brought up to code, let's bring it up to code in a manner which gives proper water retention for the area as well as, you know, the protection for the fire."

One other --

HEARING EXAMINER DICKMAN: Are you saying that there's flooding on this lot?

MR. VEZINA: No, not on that lot, but what happens is that area over there -- the Rail Head Association, the way it's designed is there's a series of canals that run into one master pond at the south end of the park. And what happens is if you don't have enough water retention, the water basically builds up, goes across the road with sheeting action, and fills the parking lots of surrounding parking lots. Are you following me?

HEARING EXAMINER DICKMAN: Uh-huh, yeah.

MR. VEZINA: It's not like you get a rising water or a flood from a storm. What you get is, basically the water that's on site doesn't have the opportunity to drain into the pond, because when it was designed, it didn't take into play that zero lot line being -- not giving the sites as much on-site water retention, which we believe is one of the reasons why I believe the new zoning was put in place. That was one of the concerns.

The last concern that a gentleman brought to me was one over environmental. In the event that a vehicle leaked gasoline, fluid, oil, radiator fluid, battery, whatever -- and the car washing issue. The water in the water runoff that would end up in those ditch -- in the drainage behind it would eventually end up in the main pond to the south of us.

Our water pond to the south of us is a marsh that is a protected wetlands, which is protected by Florida -- by Florida Water Management. One of the concerns is that the runoff from the car washing would probably end up in the drainage ditch which, during season when it has water in it, would eventually end up where toxins would end up in the pond at the south end. As an end result, we would end up with either, A, an environmental cleanup that the association does not want to incur or, B, we'd end up with damaged wetlands.

So that's basically the complaints that I've been fielding.

HEARING EXAMINER DICKMAN: So -- okay. One, how long have you been the president or --

MR. VEZINA: Oh, I've been president for about three years now.

HEARING EXAMINER DICKMAN: Three years.

MR. VEZINA: Yeah. The previous president retired, and that left me in the position.

HEARING EXAMINER DICKMAN: And these are just individuals --

MR. VEZINA: Yeah.

HEARING EXAMINER DICKMAN: -- in the area that --

MR. VEZINA: Neighbors.

HEARING EXAMINER DICKMAN: Individuals -- let me finish -- individuals in the neighborhood that don't want to be named, or are they here to speak?

MR. VEZINA: No, they -- some of them don't want to be -- some of them don't want to be

named because they don't want to be involved.

HEARING EXAMINER DICKMAN: Yeah. The reason I'm saying is that a lot --

MR. VEZINA: And to be honest with you, I own a building there, and I actually agree with them on some of these subjects.

HEARING EXAMINER DICKMAN: Okay. That's different. So as I said earlier, this is an informal proceeding. I have to weigh evidence, layperson testimony, things like that. You're -- I recognize, you know, you're under oath, you're saying you're the president of the property owners association, but then you're also providing me what, if we were in court, someone would object and say that's hearsay because he's just conveying information from people that aren't here to be asked those questions of.

But since this is informal, I'm going to take it for what it is. You're under oath, and you personally have said you agree and -- you agree with these three issues that you've brought up.

Have there been -- I mean, for some reason this seems like a familiar area. Have we heard an application in this -- in this area before? I don't know why this is ringing a bell. Maybe not.

MR. BOSI: Mike Bosi, Planning and Zoning director. Not in --

HEARING EXAMINER DICKMAN: Maybe I'm thinking of a different industrial area over there. Anyway. I'll look into it.

All right. As far as the property to the south of this, who is that?

MR. VEZINA: That's a gentleman -- I knew him as Leo's Masonry, but it got sold to another company. I don't know them.

HEARING EXAMINER DICKMAN: They seem to be the most affected.

MR. VEZINA: No. Actually, I believe probably 1479 is the one that floods.

HEARING EXAMINER DICKMAN: Okay.

MR. VEZINA: Okay.

HEARING EXAMINER DICKMAN: I'm talking about, like, this would be the closest to that property, right?

MR. VEZINA: Well --

HEARING EXAMINER DICKMAN: The south property?

MR. VEZINA: That's probably the closest, yeah, physically.

HEARING EXAMINER DICKMAN: Okay. Okay. Anything else?

MR. VEZINA: No, that's it. Thank you for your time.

HEARING EXAMINER DICKMAN: Okay. Thanks a lot. Thanks for being here. I appreciate it.

MR. VEZINA: Thank you for your time.

HEARING EXAMINER DICKMAN: All right. Do we have any other speakers?

MS. PADRON: We do.

HEARING EXAMINER DICKMAN: Okay.

MS. PADRON: Our next speaker is Michael Chanssee.

HEARING EXAMINER DICKMAN: Good morning.

MR. CHANSSEE: Good morning. Michael Chanssee, 1475 Rail Head Boulevard, kind of building on points that have already been made. I am an additional property owner in the neighborhood as well as a professional engineer, builder, and electrical contractor.

HEARING EXAMINER DICKMAN: Okay.

MR. CHANSSEE: So some of the current concerns are water retention and zoning being changed to allow for on-site water retention where, again, that is a concern. If you have a property and you are trying to bring it up to current codes, you're supposed to accommodate for additional on-site water retention there, because my direct neighbor does substantially flood from that sheet action water during regular rain events. So given this property is in close proximity, you know, possible runoff from that property is contributory to that flooding action.

There's also concerns of architectural aspects.

HEARING EXAMINER DICKMAN: So let me ask you about that, that runoff. I mean, the

footprint's going to stay exactly the same.

MR. CHANSSEE: Correct.

HEARING EXAMINER DICKMAN: You understand that, right?

MR. CHANSSEE: Right. But this is an opportunity, as Marcel said, to correct wrongs of the past. Obviously, zoning and development codes have changed.

HEARING EXAMINER DICKMAN: Wait, wait, wait. Let me correct you here.

MR. CHANSSEE: Yeah.

HEARING EXAMINER DICKMAN: This was not a wrong of the past.

MR. CHANSSEE: Well --

HEARING EXAMINER DICKMAN: This was constructed --

MR. CHANSSEE: Correct.

HEARING EXAMINER DICKMAN: -- according to -- the experts here have said --

MR. CHANSSEE: Yeah.

HEARING EXAMINER DICKMAN: -- that it was constructed properly under the prior zoning ordinance, so it's not a wrong.

MR. CHANSSEE: Okay.

HEARING EXAMINER DICKMAN: I mean --

MR. CHANSSEE: It was constructed under zoning at that time, and zoning changed for some reason. We don't know why that zoning changed, but, presumably, the zoning has changed due to input from other experts that suggested or said modifications are required because we didn't think of this, or we didn't do that or to help improve the community or -- that is the -- that's my rationale. Not that the building was built improperly, but the zoning has changed because of either input of building commissioners or of property owners or legislatures.

HEARING EXAMINER DICKMAN: Well -- okay. That's better. Thank you.

Again, you know -- and we'll get to the flooding issue and some of these other issues later. I'll ask some other questions about it. But, I mean, it just seems to me that it's -- the footprint is exactly the same.

MR. CHANSSEE: Correct.

HEARING EXAMINER DICKMAN: Are you saying that this particular -- because of the way that this is designed, like, the way that this sits -- I mean, it looks like the one to the east is also the same, that it's contributing to, you know, stormwater flooding?

MR. CHANSSEE: I can't attest to that. All I can say is that with building --

HEARING EXAMINER DICKMAN: Well, you're a builder, right?

MR. CHANSSEE: Correct, as a builder. So with current building, when you're doing substantial renovations to beachfront property or whatever, you're required to conform -- if you do over 50 percent, to meet current setbacks and requirements.

HEARING EXAMINER DICKMAN: Okay.

MR. CHANSSEE: This property is going to be doing more than 50 percent and is not being required to meet current zoning.

HEARING EXAMINER DICKMAN: How many properties are in your property association?

MR. CHANSSEE: I don't have that information.

HEARING EXAMINER DICKMAN: How long have you lived there or worked -- owned property there?

MR. CHANSSEE: 2018.

HEARING EXAMINER DICKMAN: Okay. Do you have any idea how many other buildings are legal nonconforming uses?

MR. CHANSSEE: I do not know that, no.

HEARING EXAMINER DICKMAN: You do not know that. Okay. Thank you. Appreciate it.

MR. CHANSSEE: Thanks.

HEARING EXAMINER DICKMAN: Anybody else?

MS. PADRON: Yes, our final speaker is on Zoom, Artem Perchenok.

HEARING EXAMINER DICKMAN: He is -- oh, on Zoom.

Hello?

MS. PADRON: Can you hear us?

MR. PERCHENOK: Hello? Hello?

HEARING EXAMINER DICKMAN: Hello. Go ahead.

MR. PERCHENOK: Hi. Good morning. My name is Artem Perchenok. I'm actually the owner next door, 1474 Rail Head Boulevard. We own the Rail Head 239, LLC.

So I just wanted to touch base with everyone saying -- so I'm actually the building that is directly affected. My building is also -- I'm not sure if we're the same or the building is higher, but my building's also 16 feet tall.

We do have drainage issues already. So I mean, I'm assuming the whole point of the variance was to give space for, like, landscape and proper drainage. We have mature ponds on the property. Anytime it does rain, we do flood out already. So I kind of feel that, you know, putting up a 35-foot building with a giant wall to repel water onto the property is going to -- is going to cause much more issue to our property as well.

We have a school there that does sports for college. We feel like, you know, 60 to 70 cars not making noise -- luxury cars, obviously, is noisy. To say that it wouldn't cause any traffic, you know, saying that we're going to put them on flatbeds and deliver them to the clients on a corner and not cause either accidents of car racing or muffler noise or oil spills into the drainage is kind of irrational. That's exactly what's going to happen.

People have luxury cars. Sixty to 70 luxury cars in the area is going to cause a lot of traffic. It's going to cause accidents. It's going to cause a lot of noise.

And to say -- and put them on flatbeds and deliver them to clients, you know, it's pretty -- it's not good for the area, in my opinion.

We do have a drain in the back. It does get flooded out. So going another 10 feet over it, I don't even know how the property's going to survive.

HEARING EXAMINER DICKMAN: Can I ask you a question? So you're the property to the south, right, south of this subject property?

MR. PERCHENOK: Yes.

HEARING EXAMINER DICKMAN: And you're --

MR. PERCHENOK: The closest property to it.

HEARING EXAMINER DICKMAN: Okay. So you're saying that there is drainage on the east side?

MR. PERCHENOK: Yes.

HEARING EXAMINER DICKMAN: Okay. Thank you.

MR. PERCHENOK: So, you know, I don't think the property was designed for car storage. It's a small, middle-sized building.

So I think FedEx owning the whole line, being a taller building -- and they're on their own little island over there next to us. But every -- the building behind it, my building to the right of it, the building across the street, they're all 15, 16 feet tall. There's no 35-foot buildings there. Just the amount of shadowing that's going to go over the buildings, you know, it's going to -- you're going to have to remove all the mature ponds.

I mean, my main issue is the drainage and just the noise and, you know, the environmental fact. I'm also in the fire protection business, 23 years in. We are gated for egress [sic]. It would never fly on our end but, you know, that's not -- I'm not the fire department locally there. But I agree, cars go on fire. They're going to have oil there. They're going to be, I'm assuming, doing maybe oil changes or draining, car washing. It's just going to cause building damage. Not only ours, but next door. I mean, we're brick and mortar over there. So it's tough to see a big building go up like that next door.

HEARING EXAMINER DICKMAN: Okay. Thank you for your time. I appreciate it.

MR. PERCHENOK: Thank you.

MS. PADRON: We have no additional speakers.

HEARING EXAMINER DICKMAN: Okay. Great. All right.

Can the applicant's representative come up, please.

So we have a number of issues that we need to talk about and address. And I just want to understand a little bit more about -- you know, while I'm not going to get in the weeds on it, I do -- you know, they have an attorney here who's saying you didn't, you know, follow the property owner association's procedures, also it seems like there's quite a lot of concern for stormwater runoff and retention. There's fire protection, environment issues.

I also was going to ask about this as well, because in your presentation you talked about washing the cars and transporting them. I want to know a little bit more about that, and is it going to be outside? And if these are luxury cars, I'm assuming, you know, Ferrari, Lamborghini, they tend to have a little bit more noise than your electric hybrid car.

MS. GREEN: Maybe just a little.

HEARING EXAMINER DICKMAN: Just a little. I know this because, you know, my office is right by the Ferrari dealership.

MS. GREEN: Well, start asking away. What would you like to know first?

HEARING EXAMINER DICKMAN: Go right down the line. Tell me about the property owners association.

MS. GREEN: Okay. So I did have a conversation with Marcel Vezina. After the letters went out, he called me. I had a lengthy conversation with him, and I explained to him that -- that this procedure here -- the property owners association cannot grant variances. And so to go with them with plans and spend money on plans of something that we don't have approved and know if we can even build, that's wasting money on something that we don't even know if we can do.

And the owner -- the property owner has every intent of, if we get this variance approved, of putting together all the specifications, going into full building plan mode of what they're planning on building and going to the property owners association, and I told him that.

We are not trying to circumvent them at all. It's just that this proceeding here of getting -- being allowed to go this height has to happen first. And my client is willing to spend that money today here to see if the county will allow it, because you're the only one that can grant that permission. The property owners association cannot.

And so we're not at full building plans. We have a concept that was included in the variance package of what they plan to do, and if we get granted, then it will go to full construction, full -- then it will go through the SDP process for the renovations to the building, you know, all the landscaping. Everything will be handled and all -- we will go through that whole Architectural Review Committee to give them what they plan to do and work with them on what their guidelines are.

Now, I have read their documents. Their documents are very silent on things such as height. It's just that if you're going to propose demolition, alteration, change, anything of your building and sites, that you have to put together your plans and give it to them.

And so, you know, that's what we're here for is to see if we can even do this first, then go through all of that procedure with a building we can actually build instead of -- you know, everything has dollars and cents to it, and why put together a full set of construction plans which costs thousands of dollars if you can't build it and the county won't approve it?

So we have had conversations with them, and we have made them fully aware or less -- I'll take that back. I have talked to Marcel. I have not talked to anyone else. And he's the president, so I'm assuming he takes that back to his constituents on the board. So, you know --

HEARING EXAMINER DICKMAN: Yeah. So on that subject -- and, again, we're not -- I'm not going to get into -- I've seen it done both ways. You know, people come in after they have gone through their internal private processes, you know, whether it's a homeowners association or a condo association, and then they come here with a letter of -- you know, of support from that, or they do it the other way around. The problem with the other way around, which is what you're doing -- and I totally understand the logic of it, because if you don't get through this process, then what's the point, right?

MS. GREEN: Exactly. And that's what I told him. I said, if we don't get approved, then all this becomes a moot point.

HEARING EXAMINER DICKMAN: But I think what you're -- what the attorney is going to -- is going to say, which was what I would say, is that, okay, well, if it's approved, I have a certain amount of time to appeal it. You know, how quickly -- you know, I've got to be careful because I've got to preserve my client's appellate rights while you then go and seek approvals from the local -- the local groups, and then, you know, what happens with this variance if they deny it? Are you going to withdraw it? Are you going to -- you know, it's still there, the variance is still --

MS. GREEN: Well, yeah. I mean -- but see -- and I look at it -- I guess I'm looking at it a different way. The variance procedure -- since the POA cannot grant that, they can't tell us --

HEARING EXAMINER DICKMAN: I agree with that.

MS. GREEN: -- that we can build that. Only the county can.

HEARING EXAMINER DICKMAN: Yeah. The county is concerned about its codes.

MS. GREEN: Right. And so that's why we're here, and that's why I've only provided what we've had. And like I said, we aren't trying to hide anything. The variance petition, everything in it, is the public record. And since they can't grant this variance and only -- only the county can, you know, we have to get through that hurdle first, and if we can't get through that hurdle, then why spend money to put together plans and specifications?

Because what I'm familiar with with HOAs and POAs, they want full construction building plans like what you're going to turn in for a building permit, and those cost thousands of dollars, you know, because you're looking at architectural materials. You're looking at all sorts of things.

And right now we just are getting approved a variance for the concept to then be able to go on to the building phase and jump through all the hoops that people have to go through on this.

So that is -- that is why, other than my conversation with Marcel, we did not -- you know, we didn't take it further with them.

You know, I did get their letter. I was not directed by my client to respond to it. I don't respond to attorneys on anything unless my client tells me to. And we discussed it, and we were in agreement that the proper procedure here was, see if we can even do it. Then we will jump through all their hoops. And we have told them -- both my client has told them, and I told Marcel -- we are not looking at hiding anything from anybody. We will go through proper procedures if we get this variance approved.

HEARING EXAMINER DICKMAN: Let me do something. Is Marcel -- would you mind coming up here, please? Give me a minute, please.

Do you mind if I call you Marcel?

MR. VEZINA: Absolutely.

HEARING EXAMINER DICKMAN: Oh, thank you.

How difficult is it to go through your Architectural Review Committee for something like this? Is it something that's going to cost a lot of money for -- I mean, would you require someone to, like, do, you know, really expensive plans that --

MR. VEZINA: The way that we're set up is that the board is separate from the Architectural Review Committee so, therefore, the Architectural Review Committee makes all that, not me. I'm not on the committee. When this variance ends, I'm pretty much on the "complain to" committee, if you would. And when this is done, I'm pretty much out. So I really wish I could answer that, but I can't.

HEARING EXAMINER DICKMAN: Okay. Yeah. So the Architectural Review Committee makes the final decision?

MR. VEZINA: Yes.

HEARING EXAMINER DICKMAN: Not the board?

MR. VEZINA: No.

HEARING EXAMINER DICKMAN: Okay. So it's just one stop to them?

MR. VEZINA: Pretty much.

HEARING EXAMINER DICKMAN: Okay. Thanks for your help. Thank you.

All right. Anyway, again -- once again, I'm focused on the city's [sic] code here. You're asking

for a variance. Some other things came up. Tell me a little bit about stormwater issues here.

MS. GREEN: Okay. The stormwater management system there is governed by a South Florida permit -- South Florida ERP permit, which was approved and put in place. And the way that it works in Rail Head is when the initial subdivision was done, they did up an ERP permit, that the trunk system --

HEARING EXAMINER DICKMAN: Slow down.

MS. GREEN: The trunk system of the subdivision has to provide a half inch of dry pretreatment for the subdivision along with the conveyance system of the weir, or whatever is the discharge system. Then as each lot comes in, they have to get a modification to that permit that is applied to South Florida, and they have to provide the other half of dry pretreatment, which is what every lot in there is supposed to do, and that has to get approved with an ERP. The SDP for that site for the county will not get -- they can't start construction without having that modification.

So the water management system is twofold, because you've got the trunk system that handles it for the whole subdivision, for the streets and everything like that, then you have an additional dry pretreatment that each lot is required to provide.

HEARING EXAMINER DICKMAN: One second. Let me ask the county a question. So -- and this is also just for the general public. So we're here on a variance, basically, the footprint of the building. After that, should I approve this decision, it goes to site development -- site plan development [sic], right, which is an administrative process, right --

MR. BELLOWS: Correct.

HEARING EXAMINER DICKMAN: -- Ray? And you can answer this, like -- so part of that would also be looking at stormwater runoff and management, right?

MR. BELLOWS: Yes. For the record, Ray Bellows.

The next step in the process would be going through Site Development Plan, and they have a review team that includes water management -- stormwater management.

HEARING EXAMINER DICKMAN: And the purpose of that is to ensure that the stormwater that -- wherever you have impervious surfaces on this property, that it's contained -- either -- contained on site, right --

MR. BELLOWS: Property.

HEARING EXAMINER DICKMAN: -- or each property have drainage?

MR. BELLOWS: Correct.

HEARING EXAMINER DICKMAN: Okay.

MS. GREEN: So let me -- could I just add one more thing on all of this?

HEARING EXAMINER DICKMAN: Absolutely.

MS. GREEN: So with this whole -- the stormwater management process, so each one of those lots in there should have their own retention system that maintains their half inch for their site per the South Florida criteria.

HEARING EXAMINER DICKMAN: What's causing the flooding?

MS. GREEN: Well, I will tell you I have 38 years' experience here in Collier County, and I've been doing South Florida permits for many, many years, and I've had to go back on projects that I did 25 years ago. They call me up. They see my name in a public record, and they say, "We're having problems with our drainage."

Well, I go out and I look at it. Well, swales that are supposed to be there are now filled in. You know, they -- the system -- or the system hasn't been properly maintained. But prominently in -- I will tell you, in industrial subdivisions and even in residential subdivisions, people have a tendency that, "It's my property damage. I'm going to do whatever I want with it."

HEARING EXAMINER DICKMAN: Let me just stop you. So in other words, you know, what was once pervious becomes impervious over time?

MS. GREEN: Pervious, exactly, or they throw gravel down to park trucks not realizing that was a water management area. And this happens -- I see it in Bonita. I've seen it at Airport Road. I've seen it in all the subdivisions because I've lived here and done my whole career here.

So a lot of times if you start having drainage problems it's because your property owners in there

have done little modifications and taken away and chiseled away at that storage that they were supposed to provide. And guess where it goes? Onto the neighbors' --

HEARING EXAMINER DICKMAN: I like to call it pervious creep over time.

MS. GREEN: Yes, yes. And so that is --

HEARING EXAMINER DICKMAN: I get you.

MS. GREEN: That is predominantly the reason, or the other thing could be this is an old -- you know, this place is older. If it hasn't been maintained or a pipe has collapsed or -- you know, there's just things that happen with time of maintenance that cause those sort of things.

HEARING EXAMINER DICKMAN: You answered my question.

MS. GREEN: Okay.

HEARING EXAMINER DICKMAN: I know exactly what you're talking about.

MS. GREEN: Okay.

HEARING EXAMINER DICKMAN: All right. So tell me about this process of the cars. Tell me the operational process about the cars being washed. Are they being washed outside, and --

MS. GREEN: They are not going to be washed outside. All of this facility is internal to the building. They will not see any of this. They have -- the building with its building permit will have a place where they're going to detail and, you know, wash the cars inside, and it will be hooked up through the county system with a water separator, much like what a car wash uses. So, you know, all of this is going to be going into the sanitary sewer for use, not the stormwater system, and it will be inside where they won't even know that a car is being washed.

HEARING EXAMINER DICKMAN: Okay. So it will -- will a car owner be coming and going there, or is it delivery to that car owner?

MS. GREEN: There will be a mix of both --

HEARING EXAMINER DICKMAN: Okay.

MS. GREEN: -- you know. It's -- you know, if the car owner's there and they want to come and look at their car or they come in to talk to Marcel about -- or not Marcel -- in to Charles about, you know, stuff -- you know, because, you know, having the car detailed, having it ready, you know, it's like a lot -- I mean, these car condos are going up everywhere here, and most of them are in industrial subdivisions.

HEARING EXAMINER DICKMAN: Right.

MS. GREEN: So this is not a new thing to this area. There's one by the Porsche dealer. There's one on Taylor Road that's just opened up or getting ready to open. You know, these -- you know, there's ones on Livingston Road. They're everywhere. They're next to residential.

HEARING EXAMINER DICKMAN: I've seen quite a few of them.

MS. GREEN: Yes. It's a very popular thing because a lot of people have nice cars here.

HEARING EXAMINER DICKMAN: So in other words, I'm looking at the site plan, and it's showing parking spots outside. What are those parking spots outside for?

MS. GREEN: That's for the employees. That's for the people that are going to come to look at their cars. And I will tell you, the parking that's on this site, compared to what they would have to have, this has about five times the number of parking spaces needed just because it's existing parking, and we're not taking it away.

HEARING EXAMINER DICKMAN: Just for parking, okay.

MS. GREEN: It's just for parking.

HEARING EXAMINER DICKMAN: Okay. And you'll be --

MS. GREEN: Come-and-go parking, not car parking as far as storage.

HEARING EXAMINER DICKMAN: Right. And you'll be upgrading the landscaping and the -- it looks like there's a swale. It looks like --

MS. GREEN: Yeah. That's the -- the swales that you see on there that were on the original SDP, that is that half inch of dry pretreatment that's required per the South Florida permit, and that will all be maintained and -- you know, if any of it's -- you know, because it's been many, many years, if any of it's silted in or whatever, we'll re-establish it back to what it originally needed to be when it was built so that it's storing the amount that it's supposed to be.

And as far as runoff onto properties, this building will have gutters that will not be directed to the south. You know, it will be taken to those retention areas and maintained that way, not onto anybody else's property.

HEARING EXAMINER DICKMAN: Okay. So I recognize you as an expert, okay? You're here giving me expert testimony, competent substantial evidence. Tell me a little bit about the special conditions and circumstances related to this particular property.

MS. GREEN: I guess I need to know a little bit more specific about special circumstances.

HEARING EXAMINER DICKMAN: Well, it's part of the criteria for a variance. You know, in fact, it says, "Are there special conditions and circumstances existing which are peculiar to the location, size, and characteristics of the land, structure, or building of all" -- I'm assuming you saw this criteria.

MS. GREEN: Yes. Well, yeah. I mean, what makes this site special -- and this is the whole reason that we're here was -- is that this existing site was built under old code that allows a zero setback on the south. And, you know, now the present owner, to do what he wants, which is a permitted use in the industrial zone, you know, he needs to raise that building up to be able to put the indoor racks in there to be able to store the cars, and if we had to set -- you know, if we left the base building of the 16 down and tried to step the building in the 10 feet, then you can only store to 16 feet, and the maneuverability for taking the cars up and down off the racks -- it's kind of like a boat storage facility. You've got to have maneuverability.

HEARING EXAMINER DICKMAN: Okay. Let me ask you a question. So in your professional opinion, does the fact that it's a corner lot with two street frontages, does that affect --

MS. GREEN: Yes.

HEARING EXAMINER DICKMAN: Is that peculiar? Does that affect --

MS. GREEN: That is a peculiar. That is a peculiar circumstance when you have two frontages because you've got two front yards which are usually larger than any side or rear setbacks. And in this county, you have two fronts and two sides. And so this building was built back under the code to where they put it all zero on one and the 24 feet the other side, because 24 total.

HEARING EXAMINER DICKMAN: I have a request.

MS. GREEN: Yes.

HEARING EXAMINER DICKMAN: Let me finish my questions before you answer them.

MS. GREEN: I didn't know you weren't done. I'm sorry.

HEARING EXAMINER DICKMAN: I know. I speak slowly because I was born in Tampa, raised in the south. I can't help it. Give me a break.

Let me finish -- let me ask you a couple more questions.

Is there anything regarding this that -- going in height -- because you're keeping the main footprint, but you're going higher than what the current building is.

MS. GREEN: Yes, 19 feet more higher.

HEARING EXAMINER DICKMAN: Okay. Are you doing anything -- is it possible to do anything to ameliorate any possible adverse impacts to the property to the south? Like, are there windows there? Are there going to be -- is there going to be any -- anything done on that side since it's a zero lot --

MS. GREEN: I'm not aware of anything being there now other than a blank wall, and it would be maintained as a blank wall there, you know, as what it is now. And, you know, that building to the south has a parking lot in between with garage doors facing it. So it's not -- it's not like it's a primary --

HEARING EXAMINER DICKMAN: I'm asking what you-all are going to do. Since you're asking for the variance, I was just curious if there would be any design considerations to make sure that there isn't any open windows or open doors to the south or anything to that effect.

MS. GREEN: No. There will be no -- there will be no open windows or anything. That will be a blank wall to --

HEARING EXAMINER DICKMAN: Okay.

MS. GREEN: -- you know, almost like what zero lot line -- you know, when -- zero lot line on houses, they maintain that privacy wall between on that zero lot line. Same thing here.

HEARING EXAMINER DICKMAN: Okay. And then with regard to -- just once again, in your professional opinion, is there a hardship here that is related to the property, in your opinion?

MS. GREEN: Well, the only hardship of this piece of property is that it was built -- you know, it was built -- well, I'm going to go back to -- or not back to, but, you know, this has been rented out to several different people, and businesses haven't seemed to be able to stay in there. And so, you know, what's gone in the past of building supplies and tools and that sort of thing hasn't been able to sustain a long term, you know, business there.

And, you know, my client has history with doing these kind of facilities up north. You know, he has, already, people that know he's going to be, you know, trying to do this that have already talked to him about wanting to put their cars in his facilities because of the services he provides. And his service is very -- it's a little more unique than just being a man cave where people are going to come hang out. You know, it's not that kind of place. And a lot of these luxury garages are, like, their personal man caves.

HEARING EXAMINER DICKMAN: Person cave.

MS. GREEN: Person cave. Sorry, I'm not very politically correct.

HEARING EXAMINER DICKMAN: We take offense to that. All right.

MS. GREEN: So, yeah. So, the -- you know, in order to make it -- because it is in a large lot, in order to make it financially feasible to store enough cars -- kind of like a boat storage facility. You've got to be able to store enough items in order to make it financially feasible.

HEARING EXAMINER DICKMAN: And if you were to have to take down the entire building and meet the current setbacks, how would that impact the rest of the site with regard to parking and internal circulation and that kind of thing?

MS. GREEN: Well, it could hurt the internal circulation because if you take 10 feet away from the depth of that building and not the -- you know, the length, you'll gain 100 feet of length, but the amount of depth there in order to get the racks and do everything you want to do on the inside, it would be a maneuverability problem of being able to store the cars on the four- and five-stack racks that they have. That's why we need the height.

Same as a boat storage facility. They need the height in order to maintain the boats up, and then they have machines that lift them down off, and you've got to have room for those machines to work.

So if we were to tear down the building, we could not be able to meet those criteria because of maneuverability within the building.

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

Quick question for the county. If -- same question: You know, if they were forced to meet the setbacks, do you believe that it would impact the site design with regard to ingress/egress, the parking, or anything with regard to that?

MR. BOSI: Mike Bosi, Zoning director.

It's a challenging question to us because we don't design sites.

HEARING EXAMINER DICKMAN: Yeah.

MR. BOSI: We review sites for compliance.

HEARING EXAMINER DICKMAN: Right.

MR. BOSI: We would lean upon our professional engineer or architect to be more specific for that. So I really am at a loss to be able to try to design this site or --

HEARING EXAMINER DICKMAN: That's fair. I'm sorry about that. That's fair. I'm just wondering, because it does look like a tight piece of property, and I'm just looking at moving it -- moving it at -- it would narrow the -- I mean, logically, it would narrow the internal circulation drive, I would think.

All right. Lots of good -- I want to thank everybody. Everybody's given me a lot of good information, first of all. I want to thank the people that came out from the neighborhood and gave me very good information, very good -- the public hearing is closed. I'm sorry. I saw a hand in the back, but I've -- we've already closed the public hearing.

Thank you for your information. I want to thank the county for doing their analysis. There's a

lot to go through here.

I have heard enough. I think I know the issues here. And I feel I can get a decision out as quickly as possible.

And then the other question, I guess, is what happens if they go through their internal process and their -- and, again, I get it. We're not -- the county's not going to get involved in the various hundreds and thousands of associations. But, you know, they get denied by the Architectural Review Committee, and then we've got a variance hanging out there. Does it -- if they don't -- if they don't -- do these expire if they don't act on them within a certain period of time?

MR. BOSI: No. The variance would be --

HEARING EXAMINER DICKMAN: Running with the land?

MR. BOSI: -- running with the land, yep.

MS. GREEN: And any person would have to go through their ARC committee in order to do anything with that variance, just like we're doing.

And I was going to ask one more question. Did you have any issue with the fire concerns that they had and the cars and all that kind of stuff? Because it just so happens that the contractor on this job is a North Collier firefighter that also has a contracting business that -- if you want any questions regarding --

HEARING EXAMINER DICKMAN: Why don't you bring him up and put some testimony into the record about --

MS. GREEN: Okay. He would need to be sworn in.

MR. WIENK: Can the owner speak?

MS. GREEN: Well, you don't want to speak, Colton? I mean, coming from you, because you're a fire professional.

HEARING EXAMINER DICKMAN: I mean, you need the expert testimony on these things, so if you've got --

MS. GREEN: I mean, unless you have any fire service experience.

MR. WIENK: I'd just like to --

MS. GREEN: If you want to come up and -- I mean, either one of you.

MR. WIENK: I mean, I'll withdraw my employer though out of it.

MS. GREEN: Your what?

MR. WIENK: You've got to withdraw my employer out of it.

HEARING EXAMINER DICKMAN: Yes, he's speaking --

MS. GREEN: No, no, yeah.

HEARING EXAMINER DICKMAN: Come on up. We'll protect you. Come on. You're -- yeah, come on up. Give us your -- just credentials. You don't have to say where you work or anything like that, but -- come over there.

MR. WIENK: Do I need to be sworn in?

HEARING EXAMINER DICKMAN: Yes, you need to be sworn in.

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. WIENK: I do.

My name's Colton Wienk.

THE COURT REPORTER: What is it?

MR. WIENK: Colton Wienk.

THE COURT REPORTER: Wing?

MR. WIENK: Wienk, W-i-e-n-k.

THE COURT REPORTER: Thank you.

HEARING EXAMINER DICKMAN: Okay. And your relationship to this application?

MR. WIENK: I'm the contractor.

HEARING EXAMINER DICKMAN: You're the contractor?

MR. WIENK: Yes, sir.

HEARING EXAMINER DICKMAN: And so your background and experience is in what?

MR. WIENK: I've been a certified firefighter since 2014.

HEARING EXAMINER DICKMAN: Okay. So did you hear the testimony with regard to concerns from the neighbors of fire protection and things of that nature?

MR. WIENK: I did, yes. I don't necessarily know what their concerns are, whether it's putting a fire out or if it's internal fire sprinklers or whatnot. But if it's internal fire sprinklers, we're going to have meet --

HEARING EXAMINER DICKMAN: Slow down. Slow down.

MR. WIENK: Sorry. The building is going to meet fire -- it has to meet fire code as an industrial building, and it is going to be sprinklered, you know. That's not on the -- on the paperwork right now. That's going to be on the next step when we go to apply.

HEARING EXAMINER DICKMAN: Okay.

MR. WIENK: So if there's necessarily an exact concern, I would be more than happy to address it if you would like to ask.

HEARING EXAMINER DICKMAN: So in your professional opinion, as long as this new building complies with the Florida Building Code and all the other codes that relate to fire -- fire codes, then there should not be a problem; is that your -- is that your testimony?

MR. WIENK: I would say that the codes and the requirements on the fire side seem to be very well placed and do their job very well.

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

Okay. Do you have anything else? We talked about car washing. We talked about traffic. We talked about noise. We talked about water management. The environmental part, I think, was addressed. We've dabbled in the internal workings of the property owners association.

I am a little concerned, obviously, about a variance just being out there and you can't go forward because of -- your ARC committee doesn't approve it. I mean, I understand your logic of not wanting to produce a whole bunch of plans. I don't know what they require. I don't really need to know. But it does bring up the question of, you know, would you withdraw this or notify the county that you want to withdraw this, you know, if, in fact, you don't get to go -- you don't get approved?

MS. GREEN: I'm going to leave that to the owner of the property, because that's -- you know, I only help him -- I only facilitate him through the process of getting it. Decisions made there, from there on, I'm directed by him. So he would like to come up and speak.

HEARING EXAMINER DICKMAN: Yeah, sure. Please come up.

So this is a procedural question. I'm the one that's responsible for issuing the decision of yes or no on a variance. And if, in fact, my decision is yes, and then you -- then you go to the property owners association, the Architectural Review Committee, which is the committee that, under -- apparently under your deed and articles of incorporation, whatever, require you to get that permission. You know, what if they say no? You know, what are you going to do about this variance?

THE COURT REPORTER: Were you sworn?

MR. CABRERA: Yes, I was sworn in.

THE COURT REPORTER: Okay. Your name.

MR. CABRERA: My name is Charles Cabrera. I'm the building owner.

Can I -- I have to answer this question, or can I say something first?

HEARING EXAMINER DICKMAN: Say whatever you want.

MR. CABRERA: All right. So I purchased the building a year ago, and I had no idea that we had an HOA.

HEARING EXAMINER DICKMAN: Okay.

MR. CABRERA: Where I come from in New York, they don't exist.

HEARING EXAMINER DICKMAN: Okay.

MR. CABRERA: So I didn't have good communication from the Realtor. You know, not many things for sale, so when I found the property, I liked it, and I told him exactly what I was going to do with it, and I purchased it.

So no disrespect to the HOA, but I feel like -- they feel like they've been disrespected by me not coming forward and asking for their blessings first, which that wasn't my plan.

We only found this out when we got a phone call from Mr. Marcel to my engineer and then the contractor. And then he called me, and he's like, "Did you know you had an HOA?"

I said, "No."

I called the Realtor up, and I said, "What's going on? You didn't tell me. I told you exactly what I'm going to do."

And he gave me the runaround. "You know, oh, you don't have to worry about this. You don't have to worry about that."

I spoke to Mr. Marcel, and they were upset that they weren't contacted and, you know, asked for the blessing, which I understand, you know, and I apologized, and I was sincere with it. We had no idea. If I would have known this from day one -- and, you know, I don't know how HOAs are -- I would have never purchased it.

But the whole idea of this was for me to build the building for me to fit this rack system in. On that south wall, the rack system is anywhere from 25 to 30 feet high. No one can walk up there. It's controlled electronically by a machine.

So you pull a car in, the car gets parked, it goes up on the rack, and it will rotate. So if I need Car No. 14B, I'm going to hit the button, and the rack's going to come down and give me that car.

Most of the cars that are going to be there are going to be stored for months at a time. Seasonal -- you know, families that live in Naples, live in New York, New Jersey, all over the country, it's a seasonal thing. I noticed that most of the clients and people that I've been meeting at these events, they're only here four months out of the year. For the remaining year, they keep them on a rack. And what we'll do is we'll make sure that they're, you know, maintained, they're wiped down and cleaned. And it won't be an in-and-out thing. It's a storage facility.

As far as us transporting, we support our concierge service where we have a private vehicle that loads the vehicle and delivers to you.

Modern cars, yes, they do make noise, but a lot of the cars are electric now. Ferrari, for instance, you know, all the SF90s, those are all electric cars now.

And the new vehicles coming out are all electric. They do make noise, the older cars, but the goal here is not to make noise and to respect the public.

The facility that I want to build is going to be a professional facility. And I've been doing this for 25 years in New York. I have a lot of clientele that's moving south, and I want to relocate with my family here and open this business.

I've had a successful business for 25 years, and I'm very professional. I do not want noise, ruffraff. That's not my thing.

HEARING EXAMINER DICKMAN: Okay. So now that you know about the property owners association and the need to go through the Architectural Review Committee, are you going to do that?

MR. CABRERA: Yes. My plans are to follow code.

HEARING EXAMINER DICKMAN: Okay.

MR. CABRERA: I do not want to do anything illegal.

HEARING EXAMINER DICKMAN: We're the code.

MR. CABRERA: Yeah, yeah. I want to follow code. Whatever it takes for me to build; I want to follow their guidelines. I want to follow from A to Z.

I do not want to do anything illegal. Now that I know this, whatever we have to do to make things work, you know, I'm going to bring whatever paperwork I need to bring.

And I tried to have a meeting with them when I got here -- because I live in New York, and I came this week for this. And I reached out to Mr. Marcel, because we had a beautiful conversation. He supported -- after we had an hour conversation on the phone of what I planned on doing and how I built my business from the ground up and I wanted to move here to raise my family, he actually agreed with me that, you know, well, it's a great idea that you bring this to the community.

And he also supported me on trying to sell the building in case that it doesn't -- you know, I don't

get your approval and your blessing, that he could help me, assist with selling the building and trying to find another location, which I did. I spoke to his Realtor, and I said, "If things don't work out, then I guess we'll sell the building, and then I'll try to find a location where I'm going to do what I know."

HEARING EXAMINER DICKMAN: And in that conversation with the president --

MR. CABRERA: Yeah.

HEARING EXAMINER DICKMAN: -- did he tell you you needed to go through the Architectural Review Committee?

MR. CABRERA: Yes. He told me this, that I needed to go through this, and he wanted me to give him a presentation prior to this meeting, and he wanted to know everything about my business, which I had an hour and a half conversation with him on the phone on how the business works and what the plans are and what I do for the community and how I give back and how -- he supported me in following through with the business.

And I reached out to him a few days ago, and the tables turned. He was really upset because there was about eight complaints, and nobody wants me there, and whatever they have to do to stop me to build my building through the architectural review board is going to happen.

And I was just like, "Wow." I'm trying to do something for myself and my family to -- you know, to live here and continue my business, and he's like pretty much, "Okay. It's going to stop here." Because now he's out of it, and it's going to have to go through the board.

So I know it's going to be a fight, and that's not what I want. What I want is to follow the code and, if it's possible, to continue my business here.

HEARING EXAMINER DICKMAN: Okay.

MR. CABRERA: So if we do not -- if we do not get approved --

HEARING EXAMINER DICKMAN: Well, I can tell you this: So I'm going to -- I think we're almost done here. But you have an opportunity right now to meet with Marcel -- Mr. Marcel and their attorney maybe outside and talk it through and try to get -- try to figure out how you're going to get through the Architectural Review Committee, because I have a feeling you were told to go there and -- you were never told to go to the Architectural Review Committee?

MR. CABRERA: No, I didn't know, because -- this paperwork has taken six, seven months to go through finally, and that's when the letters went out. I didn't know about the HOA until recently, a month and a half ago --

HEARING EXAMINER DICKMAN: I understand.

MR. CABRERA: -- when they contacted us and said, "You have to go through our meetings," and then he sent me a couple of text messages with the information on how I need to build the building, and I need to do stucco or veneer. No problem. I will follow all the guidelines. So at no point did I try to avoid them or disrespect them in any way.

HEARING EXAMINER DICKMAN: I understand.

So with this, I will just say that, typically, when you buy property and you do a title -- title review or title insurance or any of that, usually the recorded documents of the association come up and also as a Realtor, Realtors are -- if they know about an association, they're supposed to be informing their clients about those things.

So, you know, it seems kind of -- kind of a shame, let's just put it that way, that, you know, those typical procedures when you're buying real estate didn't reveal that there apparently is a very active association, deed restrictions, and internal workings that I'm not going to get in the middle of --

MR. CABRERA: Of course.

HEARING EXAMINER DICKMAN: -- and the county's not going to get in the middle of, okay?

So I think -- thank you for your comments. I understand what's going on. Your engineer did a very nice job. You know, again, your new neighbors are here --

MR. CABRERA: Yeah.

HEARING EXAMINER DICKMAN: -- so you're welcome to use the hallway or anything else out here --

MR. CABRERA: Yes, of course, of course.

HEARING EXAMINER DICKMAN: -- to maybe try to talk to them a little bit.

MR. CABRERA: Which I tried -- I tried to meet with them this week and give a presentation of what I'm bringing and what I'm doing --

HEARING EXAMINER DICKMAN: Right, right.

MR. CABRERA: -- but they pretty much just shut me down.

HEARING EXAMINER DICKMAN: Okay. So I will get a decision out within 30 days. I've heard enough.

I want to thank, once again, everybody, to take the time to come out today to speak, also the property owner on Zoom. It's been a very interesting hearing. There's some legal issues that I need to look into, but I'll get a -- I have 30 days to get a decision out, and I will do that.

MR. CABRERA: Okay.

HEARING EXAMINER DICKMAN: Thank you very much.

Sean, this affidavit goes with that matter, right?

MR. SAMMON: Yes.

MR. BOSI: Take a break.

HEARING EXAMINER DICKMAN: You need a break? You want a break?

THE COURT REPORTER: Yes.

HEARING EXAMINER DICKMAN: Okay. Let's take a --

THE COURT REPORTER: Ten minutes.

HEARING EXAMINER DICKMAN: Ten-minute break, you got it. Ten-minute recess. We'll come back at 10:30.

(A brief recess was had from 10:20 a.m. to 10:32 a.m.)

HEARING EXAMINER DICKMAN: Okay. We're going to reconvene. It's now 10:32. We're back on the record.

Before we get started, I wanted to introduce some very important people to me. Our associate in our law firm, Sharon Linsner, is here, and our legal assistant, Katie, is here. So they've come to meet the folks that they convey with electronically and get a little sense of the county ongoing here. So thank you all for being here. I appreciate it.

***So we're going to 3B. And then, again, 3C and 3D are going to be companion items. So 3B. And, hi, Sean.

MR. SAMMON: How you doing, again?

Good morning, Mr. Dickman. For the record, Sean Sammon, Planner III in the zoning division.

Before you is Agenda Item 3B. This is a request for an insubstantial change to Ordinance No. 88-93, as amended, the City Gate Commerce Park Planned Unit Development and Exhibit A-1, Master Development Plan, by seeking deviations from the Land Development Code Section 5.06.04, development standards for signs in nonresidential districts, specifically; from LDC Section 5.06.04.F.4, wall, mansard, canopy, or awning signs from LDC Section 5.06.04.F.6, projecting signs; from LDC Section 5.06.04.F.9, on-premise directional signs; and from LDC Section 5.06.04.F.8, flags and flagpoles. This request is more specifically detailed in the staff report.

The subject property consists of approximately 20.18 acres and is located at 3890 City Gate Boulevard North, Naples, Florida 34117, also known as Lot 10 of City Gate Commerce Park, Phase 3, Re-plat No. 5 in Section 35, Township 49 South, Range 26 East, Collier County, Florida.

The petition was reviewed by staff based upon review criteria contained within LDC Section 10.02.13.E.1, A through K, and 10.02.13.E.2.A, and staff believes this petition is consistent with the review criteria in the LDC as well as with the GMP.

The applicant conducted one neighborhood information meeting on Wednesday, April 17th, 2024. Two members of the public attended in person, one other person was online, and details from this meeting are included in the backup package, Attachment A, to the staff report.

With respect to the public notice requirements, they were complied with as per LDC Section 10.03.06.H. The property owner notification letter and newspaper ad were taken care of by the county

on Friday, May 10th, 2024, and the public hearing signs were placed by the applicant on Monday, May 13th, 2024.

I've received no calls from the public, and there has been no public opposition pertaining to this petition; therefore, staff recommends that you approve this petition subject to including Attachment B, PUD revised text, in the HEX decision.

That concludes staff's summary.

HEARING EXAMINER DICKMAN: Thanks, Sean. Appreciate it.

Okay, Great Wolf Lodge. Good morning, Mr. Wright. Sorry to keep you with --

MR. WRIGHT: Good morning. No problem.

HEARING EXAMINER DICKMAN: -- exciting times.

MR. WRIGHT: No problem at all.

For the record, I'm Jeff Wright with the Henderson, Franklin law firm here on behalf of the applicant, GWR Naples, LLC.

And next slide.

Our project team, Steve Jacobsen, Bryson Heezen, myself, Tiffany LaPointe are all present today. Paul Knepley's an on-site manager, and he's busy putting the resort together today. So that's our team. Steve's going to be giving the bulk of the testimony today.

HEARING EXAMINER DICKMAN: Great.

MR. WRIGHT: Next slide.

Great Wolf Lodge is seeking an insubstantial change to the existing City Gate PUD, a PDI, to accommodate and approve standard facility signage. Because of the unique nature of the facility, we need deviations from the sign code. Obviously, the sign code was not designed with this type of facility in mind. The sign code has a default of one sign per building, for example.

So given the uniqueness of this facility, four deviations are needed, and the first two relate to the building. The third relates to the on-site directional signage, and the fourth relates to flags. So two building, one on-site directional, and flags. Just a preview of what Steve will cover in greater detail.

Just wanted to thank staff. They've been great, professional, and wonderful to work with. We also appreciate the recommendation of approval.

In addition, I think it's important to point out, especially after the last hearing, we do have a property owners association at City Gate, and they are in favor; they are in support of this. And we do have -- Mr. Rice is present in case there's any questions along those lines. Mr. Rice also represents the CDD which governs this PUD, the City Gate CDD. They're on board.

Also staff is on board, as I mentioned, and the neighbors to the north are mostly on board except for one, which is the South Florida Water Management District. We just haven't heard from them. But Roger represents the line of neighbors to the north, and he's also said, on behalf of that group of owners, they're not in any opposition to this project.

This is a time-sensitive application. We appreciate everyone's effort. There is a little history. Several years ago, we approached the county and said, "How does this sign package look?" And the county -- it was a zoning verification letter. The county was really detailed in answering a lot of things, but they didn't quite get to whether or not the signs would be permissible as they're presented.

So several years later, when they went to file the permit application, they were told, "You need to get deviations from the sign code." That's why we're here.

Before I turn it over to Steve, two preliminary matters, kind of legal in nature. The first is the LDC insubstantial change criteria. Sean went through them, that's 10.02.13.E.1, A through K. All of those have been met and, therefore, would qualify for a PDI.

And just for reference, in the applicant's backup packet, those criteria are addressed on Pages 9 and 10, and in the staff report, those criteria are addressed on Pages 8 and 9.

The other preliminary matter I wanted to address was the justification for the deviations. Obviously, you need to provide justification, and we did so in our backup packet Pages 7 and 8, and on Pages 6 and 7 of the staff report you can find those justifications.

And just to summarize those justifications, the unique scale, design, features of the facility

require deviations from the sign code. This will allow them to enjoy the reasonable use of their property, it provides a public benefit of increased visible, also improvement to traffic circulation on and off site. And the Paradise Sports Facility is there, too, so there's a big public benefit, we believe, and it's tasteful and consistent with other Great Wolf Lodges, and Steve will cover that with pictures, too.

One last thing I wanted to mention is that none of the signs face north where you'll find the residential properties, and they made quite a bit of effort to configure it that way to avoid impacts to the neighbors.

Steve's going to give a brief PowerPoint covering the four deviations, and our team's here to answer any questions as we go along.

HEARING EXAMINER DICKMAN: All right. Thank you, Mr. Wright.

MR. WRIGHT: Thank you.

HEARING EXAMINER DICKMAN: Before you get started, I just wanted to do a little PSA for the county.

So when Mr. Wright referred to the pre-application meeting, one of the things I think is really great about the Collier County procedures is that it allows for applicants to come in and have a pre-application meeting and just kind of test the waters with all of the professional planners that would be relative to that application, and they pay a fee, but you get a lot of feedback. Unfortunately, this is a big project, and I'm sure, you know, you can't catch everything. But I think it's a great process. I know there's a lot of local governments that don't do that, and, you know -- so once you -- if you choose to go forward after the pre-application process, I believe that fee gets applied to your filing fee, right?

MR. BOSI: (Nods head.)

HEARING EXAMINER DICKMAN: So that's fair. So I think it's a great procedure, and I want to compliment the county on that procedure because I know local governments don't all do that, and you get to a hearing like this, and you've just got to unravel a whole bunch of stuff. So it's a good way to kind of flush out things. So a little PSA statement there. So good job, guys.

All right. Good morning.

MR. JACOBSEN: Good morning. Steve Jacobsen, vice president of development at Great Wolf Resorts. Address: 350 North Orleans, Chicago.

Just to follow up on that, Bryson and I do these projects through most of North America, and you're absolutely correct, this process was extremely beneficial. Think about all the money we have to spend. And to be able to get clear direction early on, very much appreciated. So kudos to the county for having that procedure set up.

I also want to thank Sean for all his efforts, and staff. It was a deviation, and so -- they were receptive to why and understood the issues, so we appreciate that.

Next slide.

So, again, maybe reiterating what both Sean and Jeff said. So we did have the community meeting. No opposition. Staff is recommending approval.

This application is for PDI approval to allow four deviations for the county sign code, and I'm just briefly going to go through those four and show you examples so you can understand why this -- the importance of it and how it fits into the brand and to the overall project.

Next slide.

This is more of a context map. Again, just to show you the site, Great Wolf, along City Gate Boulevard, adjacent to Uline and, obviously, adjacent to Paradise Coast, which we're very excited about.

Next slide.

This one will be a little bit hard to see, but this is our project in Maryland, and you can see this is typical signage for our buildings. I think you can see it's not in your face. It's tastefully done, everything from the monument sign to the -- yeah, maybe the lights; that would be helpful, yeah.

So you can see the paw prints that flank either side, and then way in the background the Great Wolf sign, and then over the porte cochere there's an additional sign.

HEARING EXAMINER DICKMAN: So we have a sign here, entrance, and you've got them on the buildings?

MR. JACOBSEN: Correct.

HEARING EXAMINER DICKMAN: Okay. I see. All right. Great.

MR. JACOBSEN: And then we have some signs that actually project that actually look like hand-carved wood signs over our conference center as well as the porte cochere.

HEARING EXAMINER DICKMAN: Got it.

MR. JACOBSEN: And I have details. I like showing this. It kind of -- because this is an existing property. It kind of shows the context of, you know, how it's fitting the scale. It's the building and the design of the architecture that's important.

Next slide.

Again, I'm not going to read through all this. Sean already did. But, basically, the first request deals with the signage on the building, and let me go through those examples.

Next slide.

This is a key map. What we did is the signs that you'll be seeing -- we can flip back and forth if anybody has any questions, but it will show what each one of those signs are for. And as Jeff noted, there's nothing facing the residents to the north. The two that flank the taller building, those actually face east and west.

HEARING EXAMINER DICKMAN: This one on the building?

MR. JACOBSEN: Yeah.

HEARING EXAMINER DICKMAN: On the building.

MR. JACOBSEN: Yeah.

HEARING EXAMINER DICKMAN: On the porte cochere?

MR. JACOBSEN: Yep. On the tower there, yep. Over by the water slides, and then the other tower. Again --

HEARING EXAMINER DICKMAN: And this is Water Management, right?

MR. JACOBSEN: Correct.

HEARING EXAMINER DICKMAN: All right.

MR. JACOBSEN: Next slide, please.

So here's an example of our paw print, internally illuminated, and it's strategically put. It's part of branding, and it's important to the overall concept of the project.

Next slide.

Here is our stack sign. We use the Great Wolf Lodge signage in two manners. One is the stacked, as you see, when you're limited based on the elevation and architecture, and there's other locations where it actually is one linear sign. Again, internally illuminated, individual letters.

Next.

The water tower -- the slide tower has a little more square footage, and so that's why we're allowed to -- we can fit in the more linear sign. We look at the exterior rides as being part of our branding, and this particular signage will be facing the sports complex and all the folks that will be enjoying that facility.

Next slide.

The next deviation has to deal with projecting signs. And like I said earlier, that, which we'll show on the next slide, please, is the porte cochere and the conference center.

Next slide.

So, you know, these signs are -- look like hand-carved signs. They're not internally illuminated. They're in two locations, porte cochere and our conference center, and they hang free or projected from the building, and that's why this second deviation is required.

Again, they're really well done, and as you -- when we get into the site signage, you'll see that there's a constant theming of these hand-carved signs to fit the theming of the lodge.

Next slide.

And then the next -- this deviation deals with just simple directional signage, everything from how to get the guests in, where to park, to where trash is, and pack members park. So next slide will highlight that, please.

And this, again, is what those signs look like. Not illuminated, more or less, you know, a couple feet off the ground, and everything from deliveries to pack member parking to where a truck delivery should go. And as you saw in your packet, the little red boxes or rectangles there locate where all that signage is, and it's strategically located to direct people, to facilitate, as Jeff said, internal circulation on the site.

Next slide.

The next are -- or the last deviation deals with flagpoles. The ordinance, as set up, allows only one. In our lodges, we always put three flagpoles: The American flag, state flag, and Great Wolf. And so we're asking --

HEARING EXAMINER DICKMAN: That's the state flag?

MR. JACOBSEN: For Texas, right? It's not built yet.

HEARING EXAMINER DICKMAN: I just want to make sure I knew where it was.

MR. JACOBSEN: Yeah. It's Texas.

HEARING EXAMINER DICKMAN: I do have jurisdiction over this, then.

MR. JACOBSEN: So we'd be asking for this deviation as well.

Next slide.

And, again, in conclusion, as has been stated by Sean and others, this meets the approval requirements. We're consistent with the LDC and GMP. Staff has recommended approval. There's been no opposition. This will allow us to do what we do best. This will be our 22nd lodge, and it will also be our Gen 4. What that means is you're going to be getting the latest and greatest.

HEARING EXAMINER DICKMAN: Good.

MR. JACOBSEN: Pretty cool stuff within the amusement park, a lot of different rides in the water park, so you'll be getting a pretty incredible project later this year.

Any additional questions?

HEARING EXAMINER DICKMAN: Let me get the lights for you.

MR. JACOBSEN: And as Jeff said, Roger Rice is here if there's any particular questions as it relates to the association of surrounding landowners.

HEARING EXAMINER DICKMAN: This is pretty straightforward. The materials -- I reviewed the materials, the backup materials, things like that.

So let's see if there's anybody here from the public to speak. Anybody?

MS. PADRON: We have no speakers.

HEARING EXAMINER DICKMAN: No speakers, in person or virtually.

So, yeah, the materials are pretty straightforward. The illustrations, the descriptions, everything like that, are pretty self-explanatory. I will -- unless you have something else, anybody else to present -- does the county have anything else they want to say on this?

MR. SAMMON: It's been very nice working with Great Wolf and Jeff Wright. This project -- I wanted to stress that as planners we like to stress compatibility. The fact that they're not having any north signs that illuminate towards residences shows being a good neighbor and compatibility.

HEARING EXAMINER DICKMAN: Yeah. Let's just get that Florida flag straight, all right?

MR. JACOBSEN: Guaranteed. We won't make that mistake.

HEARING EXAMINER DICKMAN: Somebody might notice. Somebody might notice it. I'll get a decision out as quickly as possible.

MR. JACOBSEN: Okay. Thank you. Appreciate it.

HEARING EXAMINER DICKMAN: That's it. Thank you.

MR. JACOBSEN: Thank you.

HEARING EXAMINER DICKMAN: All right, great.

***All right. So the next two items are companion items, and so what I mean by that is that they've had to file for two different -- two different petitions, one is a variance, and one is a conditional use, but since it's one project, it's allowable for this presentation to be done as one and to cover both topics and, ultimately, I would be making a decision on each one separately. But for efficiency's sake and also for the ability just to see the whole picture of it, I think it's more -- it's more logical to have to

just do one presentation.

If the county's amenable to that -- I know that the applicant's okay with that, so we'll get started.

MR. SAMMON: One last time, good morning, Mr. Dickman.

HEARING EXAMINER DICKMAN: Good morning.

MR. SAMMON: For the record, Sean Sammon, Planner III in the zoning division.

Before you are Agenda Items 3C and 3D. This is a request for you to approve a conditional use to allow a church pursuant to LDC Section 2.03.02.F.1.c.3 and a companion variance request from Land Development Code Section 4.02.02.E to reduce the required minimum lot area for conditional uses in the VR zoning district from one acre to 0.54 acres for the development of a church on approximately a 0.54 acres of lot located on Lots 17, 18, and 19, Block 3, Palmetto Park Subdivision, also known as 626 Maple Drive, Immokalee, Florida 34142, in Section 9, Township 47 South, Range 29 East, Collier County, Florida.

The conditional-use petition was reviewed by staff based upon review criteria contained within LDC Section 10.08.00.D, 1 through 4, and the variance petition was reviewed by staff based upon the review criteria contained within LDC Section 9.04.03, A through H, and staff believes both petitions are consistent with the review criteria in the LDC as well as with the GMP.

The applicant conducted one neighborhood information meeting on Tuesday, February 20th, 2024. Fourteen members of the public attended. There were no new commitments made by the applicant. A question regarding parking was provided a response. A summary of this provided -- was provided in the staff report, and a record is provided in the backup package by the applicant in Attachment A to the staff report.

With respect to the public notice requirements, they were complied with for the conditional use as per LDC Section 10.03.06.C and for the variance as per LDC Section 10.03.06.F.

Regarding the variance requirement, the agent letter was distributed by the agent on Monday, April 8th, 2024. The property owner notification letter and a newspaper ad for both petitions were taken care of by the county on Friday, May 10th, 2024, and the public hearing signs were placed by county staff on Wednesday, May 8th, 2024.

I've received only one call for information pertaining to this petition. Therefore, staff recommends that you approve this conditional-use petition as described in accordance with the attachments to the staff reports and subject to the 11 conditions of approval in association with the recommendation to approve, and staff recommends that you approve the companion variance in accordance with Attachment B to staff report.

That concludes staff's summary.

HEARING EXAMINER DICKMAN: Thank you, Sean. I appreciate it.

MR. ARNOLD: Good morning. Wayne Arnold.

HEARING EXAMINER DICKMAN: Good morning.

MR. ARNOLD: I'm a certified planner representing the Lilly Bass Church of God. And here with me today we have Mike Facundo, who's the project architect, and also a community member out Immokalee. We have Michael Delate and Oscar Lugo, both engineers from our office. So we're here to give you a short presentation.

And, Ailyn, if you'd like to go ahead and forward that through our project team to the locational map.

So the subject property is in the southern part of Immokalee. It's just over a half an acre. It has a -- had had a church on the property until 2022, since 1978. Unfortunately, it was destroyed by fire and has since been removed from the site.

So going through the process of the VR zoning district, we're required to get the conditional use. The variance comes about because your code now says that for nonresidential uses you have to have a one-acre minimum site.

So back in the day when this was constructed, all the properties were under the former Immokalee zoning code, which was a separate code than our coastal area utilized, and there were no minimum standards for a church at that time.

Next slide, please.

So this is just some of your project information. We're asking to build a 56-seat, 4,500-square-foot church. It is a larger facility than was previously there, but the site will no longer have a residential property associated with it, and that allows us, essentially, to put all of our parking on site. I don't know if -- you probably have not made a site visit to it, but there was really no parking of record. It was just haphazard parking along the area. Of course, the variance comes about, again, because of the one-acre required size.

Next slide, please.

Here's a proposed site plan. You can see the proposed church is labeled on the northern half of the project. We have the required parking spaces that will be in a, you know, parking space that meets Land Development Code. Buffers will be put in to meet minimum code criteria, and we'll have a stormwater management system on site, which is something the site has not historically had. So a lot of site improvements get made by the placement of the building.

I would say for our neighborhood information meeting, out of the 14 people that were there, there was about, I think, one person that was an actual resident. Everybody else was affiliated with the church in some capacity, so not a lot of interest from the community. But I think it's been, obviously, in this neighborhood for over 40 years, so a good neighbor, and I think that it's well received. A lot of pedestrian traffic utilizes the site.

Next slide, please.

Here's a conceptual building rendering. You can see a floor plan on the upper left side of the facility. The rendering on the bottom left kind of shows you a perspective where you can see the parking and the proposed building, and you get a sense of the small courtyard that they'll have in front of the building along Maple Street.

Next slide.

So there are eight variance criteria in your code. And I'm not going to hit on each and every one of them, but obviously, the project's consistent with the Comprehensive Plan, which is one of those, and except for the lot size -- we didn't create the change in the code, and unfortunately, had the church not burned down, we probably wouldn't have been here because they had no need. But to build the church back, they wanted to build it to meet current codes and have parking on site and things like that.

So, again, I know that the variance criteria typically is, you know, what is the hardship? Well, the hardship is the code has changed since 1978 that now requires the minimum one-acre size. We don't have one acre, and there's no opportunity to really expand to one acre. So we're here asking for you to support the variance so they can rebuild the 4,500-square-foot church that we've shown you.

Next slide, please.

We've offered up several conditions of approval. We -- this process -- I don't know how familiar you are with that, but for churches and other conditional uses, we offer up a set of proposed conditions. Staff reviews those. We make adjustments with dialogue back and forth with staff, and we've come up with these proposed conditions that have a limitation on the size of the church, number of seats, hours of operation, number of special-event-type activities we can have. No on-site alcoholic beverages to be served, et cetera.

Those are pretty standard conditions you've seen with regard to other church conditional uses.

Next slide.

So just, in conclusion, we're consistent with the Immokalee Area Master Plan. We've met all the criteria for the conditional use which, if you'd like, we can certainly go through all those criteria, but it talks about site access, it talks about consistency with the Comprehensive Plan, compatibility, things of those nature, and we've responded to those, and Sean did a great job in your staff report analyzing those, too.

The variance, of course, is necessitated by just the simple lot requirement now that's in place for the VR zoning district.

We've offered up a set of conditions that have been acceptable to staff. There's no member of the public here today, so I think there's no opposition to what we're proposing and hope that you can

recommend approval of both the variance and the conditional use.

HEARING EXAMINER DICKMAN: Okay. This is either for you or for the county. Can -- just for the record, can somebody describe the Type B landscape buffer? I just want to get that into the record.

MR. ARNOLD: I can try to do that.

HEARING EXAMINER DICKMAN: You want to do that?

MR. ARNOLD: Sure. Type B landscape buffer is a 15-foot-wide landscape buffer that includes opacity up to six feet in height with either a hedge, berm, wall, or combination, and then it also has a tree every 30 feet, canopy tree.

HEARING EXAMINER DICKMAN: I wanted to get that in the record just because, you know, that does -- since this is fitting into a residential area, it does give quite a bit of a buffer and attractive landscaping. So it's mature landscaping. I was just trying to get that into the record. I knew what it was.

MR. ARNOLD: Sure.

HEARING EXAMINER DICKMAN: But I think that's important -- an important topic of this, you know, that you do have that kind of very lush, as you say, not opaque or -- situation at six feet. So that's -- I think that's helpful for the neighbors.

MR. ARNOLD: And I'll be happy to give you a hard copy of our presentation if you don't have one. But you'll see in the architectural rendering that there's a small courtyard that's proposed in front of the church building along Maple so that the building is pushed away from the street with more green space.

HEARING EXAMINER DICKMAN: Great. Okay.

And with regard to the stormwater in the back, is that required to be contained within a fence or anything like that?

MR. ARNOLD: It's going --

HEARING EXAMINER DICKMAN: Will it be a dry --

MR. ARNOLD: It is dry detention.

HEARING EXAMINER DICKMAN: Okay, okay. All right. So I didn't know if that was going to be a hazard or something like that. Okay.

MR. ARNOLD: No.

HEARING EXAMINER DICKMAN: Okay. So why don't we go to the public -- any public comments for this.

MS. PADRON: We have none.

HEARING EXAMINER DICKMAN: No public speakers? Okay.

Sharon, I asked you to sign up for this. I'm just kidding.

By the way, I know where your office is. I stumbled across it.

MR. ARNOLD: Is that right?

HEARING EXAMINER DICKMAN: I was picking up my niece at church after school.

MR. ARNOLD: Right next door.

HEARING EXAMINER DICKMAN: And I was just wandering around in your neighborhood and said, "I know that."

MR. ARNOLD: Yeah.

HEARING EXAMINER DICKMAN: I always wondered where that road was.

So this is pretty straightforward for me. There are two items here. I think the issues are not complicated. I appreciate -- the NIM part about this is another great thing that I think the county does is, on certain items, requiring these neighborhood information meetings. I think that goes a long way to giving an opportunity for the applicant and the neighbors to have a conversation and work out any issues, if there are any, and kind of, you know, come before me after that conversation so that -- I think -- I think that's another really good part of the county process.

So a lot of local governments don't do that, and I think that they should. It would work out a lot of problems before they get into the public-hearing process.

So unless you have anything else, Mr. Arnold, this is very straightforward, and I can get a decision out as quickly as possible.

MR. ARNOLD: Appreciate it.

HEARING EXAMINER DICKMAN: As you know, I have up to 30 days, but I'll do my best.

MR. ARNOLD: I appreciate it very much.

Would you like a hard copy of the presentation?

HEARING EXAMINER DICKMAN: Yeah, sure, that would be great. In case I -- I know we have one, yeah.

Grab a muffin while you're over there. They are delicious.

MR. ARNOLD: Thank you very much. I appreciate it.

HEARING EXAMINER DICKMAN: You're welcome. Have a great day.

Do we have anything else? Any announcements? Any birthdays? Any --

MR. BOSI: Nothing further from staff.

HEARING EXAMINER DICKMAN: Okay. Once again, I want to thank everybody here at the county that puts on this meeting. It's going very, very smoothly.

Our court reporter does an awesome job of stopping people when they talk too fast and is a great baker. Thanks for the snacks. I appreciate it.

All right. We are adjourned. Have a good day, everybody.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 11:04 a.m.

COLLIER COUNTY HEARING EXAMINER

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.