

July 11, 2024

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
July 11, 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
John Kelly, Planner III
Eric Ortman, Principal Planner
Ailyn Padron, Management Analyst I

PROCEEDINGS

HEARING EXAMINER DICKMAN: All right. Good morning, everyone. This is the Hearing Examiner meeting of July 11th, 2024.

Let's all rise for the Pledge.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER DICKMAN: All right. Welcome, everyone. My name is Andrew Dickman. I am the Hearing Examiner appointed by the Board of County Commissioners. I'm not a county employee but a contracted attorney with a specialization in land-use, zoning, environmental law, local government. My job is to perform the duties as the Hearing Examiner as prescribed in the Code of Ordinances.

What I will be doing here today is conducting a quasi-judicial hearing for the items that are on the agenda today, and I will be taking testimony from the county and from the applicant and from the public with regard to the criteria for whatever item it is in the code.

My job will be to look for competent substantial evidence as it applies to that criteria and the request and to render a decision within 30 days. I will not be making a decision here at this hearing.

The process that we're going to follow, I like to follow, is first to have the county introduce the item to give us an overview of the request, to describe any conditions or any other issues that might go along with it and any recommendations.

Then we'll have the applicant or the applicant's representative come forward to this podium by the court reporter and do their initial case in chief, and then we'll go to the public here in the middle.

If you are going to -- if you're a member of the public and you want to speak today here in person, there are speaker cards that you need to fill out and hand to this young lady over here.

And this is also a hybrid meeting which means that some folks may be attending via Zoom.

If anyone is going to testify here today, they must do so under oath, and in a moment, I will ask everyone to stand up and have the court reporter administer the oath. If you have the need to have a conversation with someone, please step outside in the hallway, because I want to make sure that I hear everyone clearly.

This is an informal hearing. If you have -- if you're nervous speaking publicly, hopefully you won't in this room because it's a fairly informal environment. I want to hear everyone -- everyone's opinions. Please try to stick to the facts, and we will get through this as expeditiously as possible.

So with that, I am going to ask everyone who is planning to speak here today to stand, raise your right hand, and I'm going to ask the court reporter to administer the oath.

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

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

HEARING EXAMINER DICKMAN: Great, great.

One final thing is my job is, as I said, to be here as the Hearing Examiner. I'm here as an impartial decision-maker. So what I want you to know is that I have no conversations -- private conversations with the staff or the applicant or anybody regarding any of these items.

I've reviewed all the documentation. I've reviewed the applications. I've reviewed everything that was submitted that's available to the public, so I'm aware of what these are. It's important to me to make sure that you understand that I'm here without any ex parte communication, which means, basically, private communications with anybody. So I'm here as a quasi judge.

MR. BOSI: Excuse me, Mr. Dickman. Mike Bosi, Planning and Zoning director.

Ailyn has let us know that the sound on Zoom is not working. She asked for you to take a quick pause.

HEARING EXAMINER DICKMAN: Time out, okay. We're going to take a

five-minutes recess to take care of some IT issues.

(A brief recess was had from 9:05 a.m. to 9:11 a.m.)

HEARING EXAMINER DICKMAN: Okay. We're going to reconvene the Hearing Examiner meeting. Thank you, everybody, for your patience.

We are, from what I'm being told, good to go.

So I've done my introduction. Are there any changes to the agenda? I see four items are. Are we good to go through all those?

MR. BOSI: No changes.

HEARING EXAMINER DICKMAN: All right, great.

***Let's start with 3A, 3A.

MR. ORTMAN: Good morning. For the record, Eric Ortman, principal planner.

This is Petition VA-PL20220003219, a request for a variance from 5.05.09.F.c.2 [sic] to reduce the minimum separation distance from abutting uses for an industrial zoned property for a 108-foot communications tower.

The LDC requires a 50 percent separation distance between the base of tower and the property line in industrial zoned -- industrial zones.

This request is to reduce the 54-foot requirement on the north side to 45 feet and on the south side to 46.75 feet. The requested relief is 9 feet on the north and 7.25 feet on the southern side.

The roughly one-quarter-acre property is surrounded on all four sides by land that is zoned either industrial or heavy commercial. The parcel is located on the west side of New Market Road approximately 400 feet north of the intersection of Main Street and New Market Road in Immokalee, further described as Lots 7 and 8, Block 59, New Market subdivision, in Section 3, Township 47 South, Range 29 East, Collier County, Florida.

During review of this petition, LDC 5.05.09, which is the section of the code for communications towers, was amended. This petition is gauged against the amended version, though it has not yet been codified, and the amended version was included as an attachment in the report.

HEARING EXAMINER DICKMAN: All right.

MR. ORTMAN: For -- the subject property has an industrial mixed-use subdistrict land-use designation in the Immokalee Area Master Plan of the Collier County Growth Management Plan.

The purpose of this subdistrict is to provide a transition from the industrial subject -- subdistrict to adjacent commercial and residential land uses and permit higher intensity commercial uses, such as those listed in the LDC for C-4 and C-5 zoning districts.

Communication towers, our SIC 4812 and 4813, are both permitted uses in C-4 and C-5; therefore, communication towers are permitted in the industrial mixed-use subdistrict of the Immokalee Area Master Plan. And the GMP focuses on land uses and not on individual variance requests; therefore, this petition is consistent with the Immokalee Area Master Plan.

Tower location is largely dictated by four factors that are largely beyond the ability of the applicant to control: An existing gap in service; an FCC mandate to increase service; the limitations of radio frequency, which the petitioner will go into in greater detail; and the availability of land that could accommodate a tower and a landowner willing to enter into a lease agreement.

The proposed communication tower will solve cellular communication service gap in the downtown Immokalee area. The tower will accommodate four sets of antenna, one for the applicant and the other three available for leasing.

If granted, the variance will be the minimum needed to comply with the LDC separation requirements, and the unusual shape of communication towers compared to conventional buildings creates an unusual request for relief on the part of the applicant.

If the variance is denied, Diamond Communications will not be able to install the tower,

and the existing coverage gap will remain.

No special privileges granted by this petition. Since variances are handled on a case-by-case variance -- case-by-case basis, this variance does not set a precedence, but it's gauged in its ability to meet the required criteria, which it has done.

In the unlikely event of a structural failure in a tower, it is designed to collapse within itself with a fall radius of 40 feet from the base of the tower, which is less than the distance between the base of the tower and any of the abutting property lines.

A legal ad for the petition was run in the *Naples Daily News* June 21st. Signs announcing the public hearing were placed on the property on the same day. Staff has received no public comments, no phone calls or questions on the petition either for or against.

And staff recommends that the Hearing Examiner approve this petition to reduce the northern side separation distance to 45 feet and the southern side separation distance to 46.75 feet.

HEARING EXAMINER DICKMAN: Great. Thank you, Eric.

Is the applicant's representative here? Good morning.

MS. JAHN: Good morning. I'm Mattaniah Jahn, 935 Main Street, Suite C4, Safety Harbor, Florida, 34695.

It's a pleasure to come before a Collier County dais again.

I also have with me Bill Compton with Verizon Wireless, and we have both taken an oath. I'll bring him up when I get to my RF section.

I know you have a full agenda ahead of you today, so I'll try to keep my presentation as brief as possible.

Next, please. Next.

So as you heard, I come before you today with staff recom- -- in all maps I show you today, up will be north. And this is just a general aerial showing the Immokalee area. And all maps I show you today will be -- up will be north.

Staff recom- -- I come before you today with staff recommendation of approval for a variance to allow the construction of a 108-foot-tall monopole style communication tower. This tower was originally 154 feet. It has been shortened because of FAA review due to proximity to the airport.

As you heard, this is on the west side of New Market Road and approximately 400 feet north of Main Street.

Next, please.

The yellow arrow points to the approximate location of the monopole.

Next, please.

This is just getting in closer. If you can make out some of the uses, we have Main Street curving around to the south running east and west. You can see the airport off to the east.

And would you please hit "next" real quick so I can get my arrow.

Yellow is my arrow. That's where the monopole will be, and you can see the state farmers market is on a larger parcel on the north of me as New Market bends off to the west.

Next, please.

And this is just a closer aerial. The parent parcel's a cleared lot. Essentially, since, with communication towers, were basically pinned to a spot on the earth because RF signals only propagate so far, we're stuck with the platting and availability of land that we have to work with, and Immokalee has very old platting with very small lots. And I respectfully submit that's a major component to what's necessitating the variance today.

Next, please. Next.

This is just a zoning map showing that we are industrial zoned where we are and, of course, you have C-5 zoning off to the west.

Next. Next.

And this is the future land-use map. One thing to keep in mind is that Immokalee has a downtown mixed-use overlay as you move west into its downtown, and that limits the placement of

communication towers. You'll notice that when we get to the -- when we get to the search ring page of the RF package, you'll see that this is actually Candidate G. They run alphabetically from A to G. So they've slowly moved east. And, of course, Mr. Compton will confirm that.

Next. Next.

This is Sheet C1 from the plans. It's in the record. Access will be off of New Market Road. The tower will be in the middle of the parcel, minimizing variances north to south; I'm not asking for east to west. The rectangle that you see -- the square that you see is the compound, and then there's a rectangle off to the east. That's just parking and driveway access.

HEARING EXAMINER DICKMAN: So one second. So the parking's here. This is the pole right here, right?

MS. JAHN: Correct.

HEARING EXAMINER DICKMAN: Fenced in?

MS. JAHN: The square with the squares on it is the compound, and then the dashed square line is the code-required landscape buffer. We're not requesting any relief from your design standards, your lot -- your setback requirements for the industrial district or the landscaping requirements.

HEARING EXAMINER DICKMAN: All right.

MS. JAHN: Next, please.

This is Sheet C1.1. It is the same line work as you saw on Sheet C1. This is in your record for your review when you draft your order, but the aerial's been removed in to more -- and more line work has been added. You'll notice the communication towers in the middle. We have our setback lines, of course, in our table giving all that.

You'll see the compound. But the other thing to keep in mind is that there are four -- there's three grayed-out rectangles. Those are collocation spaces for future carriers. This communication tower is proposed for Verizon Wireless. And then your code encourages the sharing of towers to reduce the overall need for towers in the county.

Verizon will be located on that southwest corner there, and their equipment is shown.

You'll also see a grayed-out circle. That's the 40-foot fall zone radius that is proposed for this communication tower. Essentially, it's designed -- it's engineered to fold over upon itself in the unlikely event of structural collapse. I don't have any example photos with me. I can dig one out of my laptop but, essentially, my example photo comes from hurricane Matthew where it folded a tower over upon itself. The rest of the area was in very bad shape, so it was one of the last things to yield.

Next.

All right. So there's our north -- there's our north variance.

Next.

And you can see I have applied arrows to our south variance.

Next.

This is just the elevations. So when I discuss a monopole-style communication tower, there's a single support pole. There's no lattice -- supporting latticeworks or guy wires extending out from it. This monopole will have a dull gray finish. It will be completely dark at night. We have an FAA determination of no hazard to air navigation in the record to back that up.

You can see Verizon will be collocated at the top of the monopole, and then you can see there's three future collocation spaces available.

Next, please.

Verizon's collocation is highlighted with a red arrow.

Next, please.

And just hit "next" about two more times, please. One more time.

Those three green arrows are the future collocations. This is Sheet C7 from the planning zone record.

Yes, sir.

HEARING EXAMINER DICKMAN: Can you go back to that -- one back. So when you talk about falling, collapsing, is it -- is there -- somewhere in here, right? Is that kind of what you're talking about, like, about halfway up the pole it would -- it's designed to fall over that way?

MS. JAHN: Yes, sir. It's engineered to, essentially, fold. This is the same technology as what the -- as what the DOT implements with those tall lampposts you see along I-75.

HEARING EXAMINER DICKMAN: Thank you.

MS. JAHN: Thank you.

Next, please.

This is just a closer view, Sheet C1.2. My engineers decided to move north around, so north is down in this photo.

HEARING EXAMINER DICKMAN: Strike one.

MS. JAHN: I'm sorry. I love Kimley-Horn. They do amazing drawings, and sometimes they get so into the drawings you end up with north moving around.

HEARING EXAMINER DICKMAN: It's fine. I'm kidding.

MS. JAHN: Oh, I know.

This has the required lampposts and everything, but that's more site plan issues, so that's outside your purview.

Next, please.

Yes. I've tried to flip it to make -- I tried to flip it to accommodate the fact that they changed north. So I apologize for any cuteness there, but -- all right.

Next, please.

All right. I'm going to bring Bill Compton up with Verizon Wireless.

HEARING EXAMINER DICKMAN: Good morning, Mr. Compton.

MR. COMPTON: Good morning. William Compton, for the record. Address, 7701 East Telecom Parkway, Temple Terrace, Florida.

MS. JAHN: What's your profession?

HEARING EXAMINER DICKMAN: Okay. You're going to do that --

MR. COMPTON: RF design network engineer.

MS. JAHN: And your education?

MR. COMPTON: Bachelor's of engineering from the University of Central Florida.

MS. JAHN: How many years have you been an RF engineer in the wireless industry?

MR. COMPTON: Too long. Twenty-six or so. Too long.

MS. JAHN: All right. I would respectfully -- unless you need additional voir dire on him, I would respectfully tender him as an expert.

Next, please.

HEARING EXAMINER DICKMAN: I view him as an expert.

MS. JAHN: Thank you.

I'm now showing a document titled "RF justification package, Immokalee Central." Do you recognize it?

MR. COMPTON: I prepared that.

MS. JAHN: Okay. Thank you.

And you will see that Mr. Compton's name is down in the lower left-hand corner.

Next, please.

This is all in your record. I will not belabor the -- I will not read out loud the slides to you.

Next please.

Mr. Compton, does this map show the two nearest Verizon towers with the yellow dots?

MR. COMPTON: Yes, it does.

MS. JAHN: And up is north in this map, correct?

MR. COMPTON: Correct.

MS. JAHN: Is that blue map -- is that blue dot the proposed Immokalee tower?

MR. COMPTON: It is, yes. Candidate G, yes.

MS. JAHN: All right. And I'm seeing distances of 1.8 miles and 1.7 miles from your nearest towers?

MR. COMPTON: That's correct.

MS. JAHN: Okay. Thank you.

Next, please.

This map -- I'm showing you a map that's labeled "search ring." What's a search ring?

MR. COMPTON: It's basically an initial search area that we tell our real estate team to go out and actually look for a candidate to try and maximize the location, the effectiveness of the site based on that location.

MS. JAHN: And would a tower located within the search ring, especially if it was in the middle like that Dot A there, be the most efficient location --

MR. COMPTON: Absolutely.

MS. JAHN: -- for Verizon for solving its gap? Wonderful.

MR. COMPTON: Yeah. Mainly due to most of the traffic coming from the schools in the area, the high school and the surrounding residential where most of our traffic's coming from today.

MS. JAHN: All right. I see a number of red dots labeled A through G. What are those?

MR. COMPTON: Those are our failed candidates that, for one reason or another, they were submitted for review by the RF team and then later canceled or not approved by the real estate team for whatever reason.

MS. JAHN: And G is our proposed candidate that succeeded, correct?

MR. COMPTON: That is correct.

MS. JAHN: All right. Thank you.

Was this tower originally taller for Verizon's design? Was it 150 feet?

MR. COMPTON: Yes. Due to that distance to the nearest site of over a mile and a half. Typically we range them 140, 150 feet to be able to get adequate coverage. So, yes, this is compromised due to the FAA that came back on this candidate.

MS. JAHN: All right. And then also just to kind of close the loop with that previous map, I see some icons with what looks like multicolored triangular pie shapes. What are those? One down to the south and one to the northwest.

MR. COMPTON: Those are our existing cell sites, and the actual little sector pies basically show the direction that the antennas are pointed.

MS. JAHN: Okay. And those are the same sites depicted on the previous map?

MR. COMPTON: That is correct.

QUESTIONING ATTORNEY: All right.

Next, please. Next.

What is this map?

MR. COMPTON: This is a coverage prediction based off our model tuning tool.

MS. JAHN: Is green liable?

MR. COMPTON: Green would be liable proposed coverage, yes.

MS. JAHN: Is red unreliable?

THE COURT REPORTER: I'm sorry. Can you repeat your answer? You're talking over each other.

HEARING EXAMINER DICKMAN: Yes, I was --

MS. JAHN: I apologize.

MR. COMPTON: Yes. Green is the predicted reliable coverage, that's correct.

MS. JAHN: All right. And this is a -- this is a model of your current coverage, correct?

MR. COMPTON: That's correct.

MS. JAHN: All right. Is red unreliable?

MR. COMPTON: That's correct.

MS. JAHN: All right. And I see yellow and blue dots. Do those correspond to our previous maps?

MR. COMPTON: Yes, yellow being the existing sites; blue being the proposed.

MS. JAHN: Thank you. And you can see the street grid of Immokalee underneath here; is that correct?

MR. COMPTON: That's correct.

MS. JAHN: All right.

Next, please.

And what is -- this is -- what is this map?

MR. COMPTON: This is just showing the included additional acceptable coverage area for the new proposed site with the existing sites.

MS. JAHN: Okay. Based upon these two maps, does Verizon have a gap in service in the Immokalee area?

MR. COMPTON: It's much reduced. It's not perfect, but it is what we got based off of the new location and the reduced heights.

MS. JAHN: Okay. But as it stands today, do you currently have a gap?

MR. COMPTON: Today, absolutely.

MS. JAHN: Okay.

MR. COMPTON: Yes.

MS. JAHN: And this -- it sounds like you said it generally solves it?

MR. COMPTON: It helps -- helps a lot, absolutely.

HEARING EXAMINER DICKMAN: May I ask a question?

MS. JAHN: Absolutely.

HEARING EXAMINER DICKMAN: Thank you.

So tell me what "reliable" means versus "unreliable."

MR. COMPTON: In the early days of cellular, basically your cell phone needed signal, and as long as it had signal, you have coverage; you had a cell phone call, basically. Now that we have data, we have different technologies going on at the same time.

There -- what creates -- what that creates is an issue where the closer you are to a cell site, the better your coverage is. But also the more throughput you get, the more service you get, the more capacity we get on our network.

So this is basically a blend between that coverage, which everybody looks at their phones and says, "Oh, I have bars on my phone" versus what we look at on our side, which is the capacity of the network. We can have service and your phone can be green, but you sit there, and it spins all day. That's not reliable coverage.

HEARING EXAMINER DICKMAN: Okay.

MR. COMPTON: So that's what's kind of trying to be depicted here.

HEARING EXAMINER DICKMAN: Okay. And that's for Verizon exclusively, right?

MR. COMPTON: Absolutely, yes.

HEARING EXAMINER DICKMAN: This map is for Verizon service?

MR. COMPTON: Yes, sir.

HEARING EXAMINER DICKMAN: Okay. Thank you.

MS. JAHN: All right. Next, please.

All right. That's getting to the end of my presentation, but I do have one more follow-up question.

Is Verizon part of the Florida e911 system?

MR. COMPTON: Absolutely, yes.

MS. JAHN: All right. Do you -- does your network provide 911 connectivity?

MR. COMPTON: Correct. Yes, it does.

MS. JAHN: All right. Thank you.

Mr. Hearing Examiner, just to take and wrap up -- because these are -- I would respectfully

submit to you these are essential services. I normally show the specific 911 calls statistics. They're usually in the 80 percent range.

You've heard my housekeeping, which is we have our FAA determination; no hazard. I haven't received any calls at my office since the notice came out either.

I'm going to forego the variance elements and leave those for the -- for the narrative that I have in the record as well as your expert staff's report, and I do adopt, by reference, their analysis and their proposed conditions of approval. We would respectfully request that you issue an order granting approval of this.

HEARING EXAMINER DICKMAN: Very good. And I'll give you some time for rebuttal if there's -- if it's necessary.

MS. JAHN: Understood.

HEARING EXAMINER DICKMAN: Let's go to the public. Any public speakers?

MS. PADRON: We have no speakers.

HEARING EXAMINER DICKMAN: No public speakers. Then there's nothing to rebut.

MS. JAHN: We waive rebuttal.

HEARING EXAMINER DICKMAN: All right. Great.

Anything else from the county?

MR. BOSI: Nothing further from the county. Thank you.

HEARING EXAMINER DICKMAN: Are you guys okay? Okay.

MS. JAHN: Thank you for your time.

HEARING EXAMINER DICKMAN: All right, great. Then I'll take a look at everything. Thank you for the testimony. Thank you for your expert being here, and I'll get a decision out as quickly as possible.

MS. JAHN: Thank you for your time, sir.

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

MS. JAHN: Nice to see you as well, sir.

HEARING EXAMINER DICKMAN: ***All right. Let's go to 3B. You guys are making me nervous down there.

MR. BELLOWS: It was just a question.

HEARING EXAMINER DICKMAN: Okay.

MR. KELLY: Good morning, Mr. Dickman.

HEARING EXAMINER DICKMAN: Good morning, sir.

MR. KELLY: Before you is Agenda Item 3B. It's a variance petition, PL20240000509. It's a request to have the Hearing Examiner consider a variance from Collier County Land Development Code Section 4.02.01.A, Table 2.1, to allow the construction or redevelopment of a single-family dwelling unit and accessory structures on a triangular shaped lot by reducing the required minimum front yard from 75 feet to 50 feet, the minimum rear yard from 75 feet to 25 feet, and the minimum side yard from 30 feet to 20 feet on the western side, and 13 feet, 6 inches, on the eastern side.

The subject property comprises 0.993 square feet located at 174 Cocohatchee Boulevard located southeast of the intersection of Cocohatchee Boulevard and Cocohatchee Drive in Section 22, Township 48 South, Range 25 East, Collier County, Florida.

I forgot to mention at the beginning of this, John Kelly, for the record, Planner III.

The subject property -- let's see. The zoning is within the Estates zoning district.

As for public notice requirements, they were as per LDC Section 10.03.06.F.2. The agent letter was sent by the applicant on or about April 23, 2024, per a notarized affidavit. The property owner notification letter and *Naples Daily Newspaper* ad were run by the county on June 21, 2024, and a public hearing sign was posted by myself on June 21, 2024.

This petition was reviewed by staff based on the review criteria contained within LDC Section 9.04.03 and is consistent with the Growth Management Plan and the Land Development Code.

Staff notes that the subject property is located within a historic archaeological probability area. The applicant has submitted a historical waiver application to the Historical Archaeological Probability Board, which will be heard and acted upon on or about July 19, 2024. Staff will notify the Hearing Examiner if the waiver is not granted.

No telephone calls have been received in response to advertising of the subject property -- subject project; however, a letter of support was received and has been provided as Attachment G.

Staff recommends that the Hearing Examiner approve Petition PL20240000509 as previously described to allow for the construction or redevelopment of the single-family dwelling unit and accessory structures as depicted within Attachment B subject to obtaining a waiver of historical archaeological probability and all required building permits. And the applicant is here.

HEARING EXAMINER DICKMAN: Great, yeah. I remember this neighborhood. I think we had a case in this neighborhood not too long ago.

MR. KELLY: Yep.

HEARING EXAMINER DICKMAN: Okay. Is the applicant here? Come on up -- or the applicant's rep.

Good morning.

MR. MURRAY: Good morning, Mr. Hearing Examiner. Patrick Murray, RVi Planning, 111 North Magnolia, Orlando, Florida 32801.

This request is for 174 Cocohatchee Boulevard, a variance request.

Next, please.

The property is located in a single-family residential neighborhood along Cocohatchee Boulevard north of Immokalee Road, east of U.S. 41, adjacent to the NCH North Naples campus and abutting the Cocohatchee River on the south side.

Next, please.

The parcel is just under one acre. It is in the Estates zoning district. The future land-use category is urban residential, and the existing structure was built in 1974 when the property was previously zoned agricultural, and it also includes a residential boat dock built in 2010.

Next, please.

Our request is for a relief from the minimum setback requirements in the Estate zoning district from Section 4.02.01, Table 2.1. The objective is to redevelop the property and construct a single-family dwelling unit with an accessory structure such as a pool and enclosure. The proposed single-family unit is intended to be comparable in size, scale, and quality to surrounding properties.

Next, please.

Additional properties along Cocohatchee Boulevard have also been granted a variance similar to our request. 2019, a rear yard variance was granted from 75 to 25, and then most recently in February, a similar request to the adjacent property to the west was granted.

Next, please.

Our concept plan is on the overhead and includes our request from a front setback from 75 to 50, a rear from 75 to 25, western boundary from 30 to 20, and then an eastern boundary from 30 to 13 and a half.

Next, please.

These pillars show the variance criteria and outline the justification for the request. The property is a unique triangular shape, which provides a challenge to construct a home that complements the neighborhood properties.

The property was previously developed. And when the property was zoned rural agricultural with setbacks that were less than the existing district allows, additionally, due to the irregular shape of the property and then the interpretation of the mean high-water setback, the property, some of it, is undevelopable. And then the property will be elevated to the minimum base flood elevation.

HEARING EXAMINER DICKMAN: What is the BFE on this area?

MR. MURRAY: I believe it is -- I believe it is nine.

HEARING EXAMINER DICKMAN: Nine feet?

MR. MURRAY: Yes, sir.

HEARING EXAMINER DICKMAN: Okay.

MR. MURRAY: And then the home itself will be constructed to 10. It's currently at seven. So it will be raised, providing mitigation for flood.

Next, please.

Ask just to sum, staff has recommended approval. We've gained letters of support from surrounding property owners, and the property will not negatively impact any neighbor. It meets all variance criteria and is consistent with the LDC and Growth Management Plan.

Thank you.

HEARING EXAMINER DICKMAN: Okay. Let's -- I'll let you rebut anything, if necessary.

Let's see if there's any public speakers.

MS. PADRON: There are no speakers.

HEARING EXAMINER DICKMAN: Okay. All right.

Yeah, I think it's the property right next door that recently came before me, so I am familiar with this area and the odd shapes of the lots because of the meandering Cocohatchee River, which meanders there but doesn't necessarily meander along Immokalee Road, but it's a nice area.

I don't have any questions. The variance criteria is pretty straightforward. You went over it nicely. And unless anybody else has any questions from the county, I don't have any questions. Then I'll get a decision out as quickly as I can.

MR. MURRAY: Thank you, Mr. Hearing Examiner.

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

MR. MURRAY: Thank you.

HEARING EXAMINER DICKMAN: ***Okay. Let's go to 3C. John Kelly, for the record, in case you forget.

MR. KELLY: Thank you, Mr. Dickman.

HEARING EXAMINER DICKMAN: Yeah.

MR. KELLY: Okay. This is Agenda Item 3C, a conditional use, PL20220001199. It's a request for the Hearing Examiner to approve an application for Conditional-Use No. 9 of the heavy commercial C-5 zoning district as provided in Section 2.03.03.E.1.c of the Collier County Land Development Code allowing for a hotel/motel located outside of an activity center and within the Immokalee Urban Overlay District, Immokalee Agribusiness Overlay Subdistrict, OASD, and the Airport Overlay, APO.

The conditional use is being requested to raze an existing 15-unit motel and then construct a new three-story hotel with 38 rooms in full compliance with current design and development standards.

The subject property comprises 0.93 acres located at 504 East Main Street at the northeast corner of Jefferson Avenue and East Main Street in Section 3, Township 47 South, Range 29 East, Collier County, Florida.

Public notice requirements were as per LDC Section 10.03.06.C.2. The applicant scheduled a duly advertised neighborhood information meeting at 5:30 p.m. on April 2, 2024, at CareerSource, Southwest Florida, located at 750 South 5th Street in Immokalee; however, no members of the public attended, and the meeting was terminated shortly after.

Property owner notification letter and the newspaper ad were run by the county on June 21, 2024, and a public hearing sign was posted by staff on June 25, 2024.

This conditional-use petition was reviewed by staff using LDC Section 10.08.00 and Chapter 3.C.1 of the Administrative Code. It is consistent with both the Land Development Code and the Growth Management Plan. No public contact has been received in response to the

required advertising.

Staff recommends that the Hearing Examiner improve this petition to allow for the construction of the new three-story 38-room hotel as depicted within Attachment C subject to the following conditions of approval:

One, the maximum number of hotel rooms is limited to 38;

Two, outdoor amplified sound is not permitted unless permitted under a temporary-use permit for a special event;

Three, the maximum daily trip generation shall not exceed 22 two-way p.m. peak hour net trips based on the use codes in the FTE manual on trip generation rates in effect at the time of any future application for a Site Development Plan or Site Development Plan amendment or subdivision plat approval;

Four, the project site light pole structures and fixtures will be shielded away from residential property lines.

That concludes staff's presentation, and Wayne Arnold is here to present.

HEARING EXAMINER DICKMAN: Thank you.

Good morning, Mr. Arnold.

MR. ARNOLD: Good morning, Mr. Dickman.

HEARING EXAMINER DICKMAN: So this property is really close to the Verizon pole, isn't it?

MR. ARNOLD: It is.

HEARING EXAMINER DICKMAN: Such a coincidence.

MR. ARNOLD: Good morning. I'm Wayne Arnold. I'm with -- a certified planner with Grady Minor & Associates here representing Mr. Patel, the property owner.

And with us today I have Oscar Lugo from our firm, who's a professional engineer, and I have Michael Facundo, who's the project architect who also is involved with the Community Redevelopment Agency for Immokalee.

So if you could advance to the aerial photograph, that would be great. There you go.

So this property is -- Mr. Kelly indicated is located at the northeast corner of Jefferson Avenue and Main Street. It's an existing 15-unit motel built in the 1970s. Its shelf life is nearing its end, and Mr. Patel wishes to construct a new modern hotel on the site.

If you could advance.

As John indicated, we're C-5 zoning. It requires, outside of an activity center, for us to seek a conditional use for the hotel. Even though it's an existing facility, we are expanding it, obviously, to add the existing -- tear down the existing hotel and build a new one. We're in compliance with all the LDC requirements otherwise, other than seeking the conditional use.

Advance, please.

Here's the proposed site plan for the hotel. You can see that the access shifts from Main Street, which has a small circular drive on it today. The access will go to a location on Jefferson Avenue, which is preferred by the State, which Main Street is also State Road 29. And so this is a better and safer traffic condition for the site. You can see that the hotel will comply with all the setback requirements for the C-5. It complies with all parking standards, all heights, et cetera.

Next slide, please.

This is a rendering of the proposed three-story new hotel. You can see there's a small courtyard that faces Main Street that will be a walled landscape area.

Next.

So I have all the conditional-use criteria that are in your staff report. I don't think I'll go through each one of those. We're in compliance with those standards and think we've achieved the standard for getting your recommendation for approval of the conditional use.

We had no attendees at our neighborhood meeting, and I don't believe there's been any correspondence received by staff or us with regard to the project.

So we hope that you will recommend approval of the project.

HEARING EXAMINER DICKMAN: Yeah, let me ask a couple questions.

MR. ARNOLD: Sure, of course.

HEARING EXAMINER DICKMAN: I mean, I think this is known -- I think they call these, like, limited services -- limited service hotels or motels, like, where they're not going to have conventions or --

MR. ARNOLD: Correct.

HEARING EXAMINER DICKMAN: -- space like that for weddings or a restaurant? There's not a restaurant in it?

MR. ARNOLD: No, sir.

HEARING EXAMINER DICKMAN: So -- things like that. It's just -- really just the room -- room-and-board type thing?

MR. ARNOLD: That's correct.

HEARING EXAMINER DICKMAN: All right. That's what I thought.

Anybody from the public here to speak on this?

MS. PADRON: There are no speakers.

MR. ARNOLD: If you'd like a hard copy of the PowerPoint presentation, I have one for you.

HEARING EXAMINER DICKMAN: That would be great, yeah, if you want to submit that into the record.

MR. ARNOLD: Do you need one, too, Terri?

THE COURT REPORTER: I don't need one.

HEARING EXAMINER DICKMAN: All right. Thank you. I'm certainly going to have to start doing something more interesting to get people to come out.

All right. Anything else?

MR. ARNOLD: I don't think so. No, we're consistent with the Land Development Code and the Comp Plan, and we hope you can approve it.

HEARING EXAMINER DICKMAN: Okay. Great.

So unless the county has anything else, I'll close this and get a decision out as soon as I can.

MR. ARNOLD: Great. Thank you so much.

HEARING EXAMINER DICKMAN: Nice to see you, Mr. Arnold.

MR. ARNOLD: Good to see you, too.

HEARING EXAMINER DICKMAN: All right.

MR. KELLY: ***Again, John Kelly, Planner III, for the record.

This is Agenda Item 3D. It's a variance, Petition PL20230005243. It's a request to have the Hearing Examiner consider a variance from Section 4.02.01.A, Table 2.1, of the Collier County Land Development Code to reduce the minimum required rear yard setback for a proposed single-family dwelling from 28 feet to 8.8 feet.

The subject unaddressed property, Folio No. 26082280000, comprises 0.15 acres located in Chokoloskee on the west side of Smallwood Drive, approximately 150 feet south of Demere Lane, D-e-m-e-r-e, in Section 36, Township 53 South, Range 29 East, Collier County, Florida.

It's located within a Village Residential, VR, zoning district.

Public notice requirements were as per LDC Section 10.03.06.F.2. The required agent letter was sent by the applicant on or about May 31, 2024, per a notarized affidavit. The property owner notification letter and Naples news ad were run by the county on June 21, 2024, and a public hearing sign was posted by myself on June 21, 2024.

This petition was reviewed by staff based upon the review criteria contained within LDC Section 9.04.03 and is consistent with the Growth Management Plan and the Land Development Code.

One phone call requesting information was received and returned; however, no contact could be established after several attempts, and a detailed description of the project was left on the

caller's voicemail. There's been no additional correspondence or phone calls.

Staff recommends that the Collier County Hearing Examiner approve this petition as previously described to allow for the construction of the single-family dwelling unit as depicted within Attachment B subject to obtaining all required building permits.

And we have Mr. David Swift present to present for himself, the property owner.

HEARING EXAMINER DICKMAN: All right. Welcome Mr. Swift, come on up.

MR. SWIFT: Thank you.

My name is David Swift. Address, 22533 Nyack Avenue, Port Charlotte, Florida. I've been in the construction business for approximately 50 years. I worked 40 years with the Steamfitters Local Union 420 in Philadelphia, nuclear power plants, and pharmaceuticals, basically. I now work for Charlotte County as an on-site technician and hope to retire to this place --

HEARING EXAMINER DICKMAN: Well, Chokoloskee is certainly a beautiful town.

MR. SWIFT: -- when they let me go.

HEARING EXAMINER DICKMAN: All right. Let me ask a couple of questions. So, obviously, you were here. You heard John Kelly's presentation.

MR. SWIFT: That's correct.

HEARING EXAMINER DICKMAN: He's one of the -- you're aware that he's one of the county's professional planners, correct? Right?

MR. SWIFT: If it wasn't for Mr. Kelly and his generous help, I would not be here right now.

HEARING EXAMINER DICKMAN: Okay. Well, he and others have put together a staff report which is in the record, and they are recommending approval of that. That's considered competent substantial evidence. And my question to you is, are you adopting his recommendation?

MR. SWIFT: Yes, sir, I am.

HEARING EXAMINER DICKMAN: Okay. All right. And with that, obviously, unless you have anything else you want to present -- you've got a professional planner from the county recommending approval. I have that in the record. And unless you have anything else you want to state, I have all of the documents I need to be able to evaluate this.

MR. SWIFT: Okay.

HEARING EXAMINER DICKMAN: You don't have to if you don't --

MR. SWIFT: I have pictures of the property adjacent to it which shows the very marsh-like condition. That is -- the only thing I'm concerned about is staying away from that property. It has standing water on it. It's loaded with concrete debris dumped by somebody. That's my only concern is to stay a little bit away from that; otherwise, I fully accept Mr. Kelly's -- I think he even mentions that.

HEARING EXAMINER DICKMAN: Yeah, he did.

Mr. Swift, let's see if anybody's here to speak from the public.

MR. SWIFT: Sure.

HEARING EXAMINER DICKMAN: Any public speakers on this item?

MS. PADRON: There are no speakers.

HEARING EXAMINER DICKMAN: No surprise. All right.

MR. SWIFT: I did have several phone calls from people.

HEARING EXAMINER DICKMAN: You did, okay.

MR. SWIFT: Yes, sir. I got four agent letters returned as undeliverable.

HEARING EXAMINER DICKMAN: Okay.

MR. SWIFT: I got three phone calls just asking me to describe in general what I was doing. I explained it to them, and they were fine with it. And one return call asked me to help me [sic] sell their property.

HEARING EXAMINER DICKMAN: Okay. All right. Fair enough.

Well, unless the county has anything else to say, we'll close this. John?

MR. KELLY: No, sir.

HEARING EXAMINER DICKMAN: Okay. Then I thank you for being here. I will get a decision out as quickly as I can.

MR. SWIFT: Thank you, sir. I appreciate you listening.

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

MR. SWIFT: Thank you, sir.

HEARING EXAMINER DICKMAN: I believe that's it for today.

MR. BOSI: Just one thing. Mike Bosi, Planning and Zoning director.

At the request of the HEX to let -- the next meeting will be the April 22nd meeting, and that meeting will be starting at --

HEARING EXAMINER DICKMAN: April?

MR. BOSI: Or August. Oh, I'm sorry. August 22nd, thank you. And that meeting will be starting at 1. And moving forward, the Hearing Examiner will -- the start time will be switched from 9 o'clock to 1 o'clock until further notice.

HEARING EXAMINER DICKMAN: Yes. Thank you very much for saying that. You know, I had heard that you and Ray and the others like to take long lunches, and so I didn't want to interrupt your schedule, so -- no, I appreciate that announcement and the accommodation.

So unless we have anything else, I'm going to adjourn the hearing. Thank you for everyone putting this together. I know it's a lot of hard work for less than an hour, but it's work that needs to get done. Have a great day.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:55 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.