

June 19, 2014

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
June 19, 2014

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m. in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Mark Strain, Chairman (Absent)
Stan Chrzanowski
Brian Doyle
Diane Ebert
Karen Homiak
Charlette Roman (Absent)
Mike Rosen

ALSO PRESENT:

Heidi Ashton-Cicko, Assistant County Attorney
Ray Bellows, Zoning Manager
Thomas Eastman, Real Property Director, Collier County School District

VICE-CHAIR HOMIAK: Okay, good morning. Could you please be quiet, please, the meeting is going to begin now. It's Thursday, June 19th meeting of the Collier County Planning Commission.

And would you all please rise for the Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

VICE-CHAIR HOMIAK: Okay, Diane, would you do roll call, please.

COMMISSIONER EBERT: Yes. Good morning.

Tom Eastman?

MR. EASTMAN: Here.

COMMISSIONER EBERT: Stan Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER EBERT: Mike Rosen?

COMMISSIONER ROSEN: Here.

COMMISSIONER EBERT: Ms. Ebert is here.

Mr. Strain is absent.

Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: Mr. Doyle?

COMMISSIONER DOYLE: Here.

COMMISSIONER EBERT: And Ms. Roman is absent.

VICE-CHAIR HOMIAK: Okay, thank you.

And we have an addenda to the agenda. The RMC-Enclave MPUD, PUDZ-PL201210001981, be continued from this meeting to our next meeting, which is July 17th.

And we need a motion to continue that.

COMMISSIONER EBERT: I make a motion to continue.

VICE-CHAIR HOMIAK: Diane.

COMMISSIONER CHRZANOWSKI: Second.

VICE-CHAIR HOMIAK: Second by Stan.

All those in favor?

COMMISSIONER DOYLE: Aye.

VICE-CHAIR HOMIAK: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

VICE-CHAIR HOMIAK: That's unanimous.

And Planning Commission absences. Our next meeting is July 17th. We will have no July 3rd meeting.

Anybody going to be absent that day or you'll all be here?

COMMISSIONER DOYLE: I'll be here.

VICE-CHAIR HOMIAK: Everyone? Okay.

And approval of the minutes. May 15th minutes.

COMMISSIONER CHRZANOWSKI: Move to approve the minutes, May 15th.

COMMISSIONER EBERT: I'll second.

VICE-CHAIR HOMIAK: Second.

All those in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

VICE-CHAIR HOMIAK: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

VICE-CHAIR HOMIAK: Opposed like sign.

(No response.)

VICE-CHAIR HOMIAK: And the May 19th?

COMMISSIONER CHRZANOWSKI: Move to approve the minutes of May 19th.

VICE-CHAIR HOMIAK: Stan.

COMMISSIONER EBERT: I'll second.

VICE-CHAIR HOMIAK: Diane.

All those in favor?

COMMISSIONER DOYLE: Aye.

VICE-CHAIR HOMIAK: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

VICE-CHAIR HOMIAK: Unanimous.

Okay, BCC report recaps. Are there any, Ray?

MR. BELLOWS: Yes. On June 10th, the Board of County Commissioners heard the Buckley PUD amendment. That was approved by the BCC by a vote of 5-0, subject to the CCPC conditions.

On the Board of County Commissioners summary agenda, they heard and approved the Walgreen's PUD rezone and the PUD for the Golf Club of the Everglades, and those were approved on their summary agenda.

VICE-CHAIR HOMIAK: Okay, thank you.

Chairman's report. I don't have a report.

We'll move on to the consent agenda items. And on our agenda we have listed the GMP amendment under consent, but there was no -- for the Rattlesnake Hammock/Collier Boulevard PL20130002249, but there was no consent on that, so do we have to have a motion to remove that or --

MS. ASHTON-CICKO: No.

VICE-CHAIR HOMIAK: It's just --

MS. ASHTON-CICKO: That one, the 8.A, you can remove from your agenda. And you don't need to vote on it because you didn't vote that it go to consent agenda at your last hearing.

VICE-CHAIR HOMIAK: Okay, we'll remove that and we'll go on to consent agenda Item B, which is RZ-PL20130001652. And this is the LDC amendment.

And I guess, Nancy, you have some --

MS. GUNDLACH: Yes. Good morning, Commissioners. We do -- can you hear me?

VICE-CHAIR HOMIAK: Yes.

MS. GUNDLACH: We do have some changes to Collier Boulevard commercial properties rezone and conditional use. I will begin this morning with the revisions to the rezone. And that is the document that I placed on the visualizer. Staff has some changes, and there may be some changes on behalf of the agent as well. And that's Bob Mulhere. So we'll share them with you together this morning.

And the first change is to the conditions of approval for the rezone. And it's regarding item number one, sexually oriented businesses. And these are the edits that have been recommended by the Collier County attorney. Oops, sorry, I'll keep that still.

If there's any questions or comments about that.

MR. MULHERE: I do have one, if I could. For the record, Bob Mulhere.

I don't have a problem with the change. Heidi and I spoke about it and I understand that there's some legal issues with the county prohibiting this use because it's like other uses, constitutionally protected. I'll let Heidi speak to that issue. But I just think it would (sic) be clear.

The way it's written, the way I look at it, I can't sell, I don't know, Huckleberry Finn, it's an adult oriented -- it could be argued to be an adult oriented book.

I think if we use the word sexual adult, sexually oriented, sexually oriented, then I think it's a little bit clearer of what the intent is. Now, I don't know if that -- I mean, that word was struck through in the change. So it seems to me that it might be a little bit clearer if we said -- if we said the sale or rental of adult sexually oriented. And I don't know if that's okay, but it seems a little bit clearer to me. We're not trying to prohibit what might otherwise be an adult oriented book, tape or whatever.

MS. ASHTON-CICKO: Okay, the reason the language that was originally proposed, we cannot have a flatout prohibition in our PUD because of Constitutional issues. And we have a sexually oriented business ordinance that addresses where in the county these types of businesses can go. They cannot go within 500 feet of a residential development. So you have one limitation there. They can't go within 1,000 feet of a church. But I think the church may exceed the distance for this particular site.

What we've typically done in PUDs is when there's a sale of books or video tapes, we've used the language adult oriented sales or rentals are excluded.

So I'd prefer to stick to what we've done --

MR. MULHERE: That's fine.

MS. ASHTON-CICKO: -- in the past, and that's why you have the language here.

MR. MULHERE: Is that term defined in -- I don't think so -- in the ordinance, sexually oriented?

MS. ASHTON-CICKO: No, it is not defined, but we use it typically in PUDs.

The only thing that could be done to fully exclude these types of businesses would be if the owner of the property filed a restrictive covenant against the property stating that those things could not be, you know, operated from the site. So that would be done privately by the owner who would then record a restrictive covenant in the public land records.

MR. MULHERE: I think we're okay. I mean, we know what the intent is, we've stated the intent on the public record here. If anybody was to challenge that, I think we could successfully argue what the intent of that restriction is. It's okay.

VICE-CHAIR HOMIAK: So we can leave this overall language and not -- previously we used to do it in specific SIC codes.

MS. ASHTON-CICKO: We did --

VICE-CHAIR HOMIAK: And that's how I had started to -- that's what I mentioned last time. But then I also questioned whether we could do it overall and that's why this is --

MR. MULHERE: I wrote it so that it was overall. But, I mean, we're okay with the changes.

MS. ASHTON-CICKO: I think the reason that Nancy and the other attorney that was handling this developed it this way is because you're listing prohibited uses. So now you'd have to list now the permitted uses and restrict them and encapsulate them all, which would have been a significant change from what you saw last time. That would be my guess.

VICE-CHAIR HOMIAK: Okay. So this is the language that you're suggesting is all right to the new language?

MS. ASHTON-CICKO: Yeah, the strike-through language is acceptable to have -- as struck through.

VICE-CHAIR HOMIAK: And that's acceptable. And the board -- is it acceptable to the Planning Commission?

COMMISSIONER EBERT: Well, this is just a consent item for us, so --

VICE-CHAIR HOMIAK: Right.

MS. ASHTON-CICKO: Well, there was directions to make certain changes to the language and bring it back. So this is your language.

COMMISSIONER EBERT: The County Attorney is doing so.

COMMISSIONER ROSEN: If the County Attorney is okay with it and the petitioner is okay with it, I am.

COMMISSIONER EBERT: Yes.

VICE-CHAIR HOMIAK: All right.

MS. GUNDLACH: The next change that we have is item number three in that same conditions of approval. And under item number three it was previously land use number six. We've added in land use number five. Because it always was there, it's just the way the condition is constructed. Same meaning, just constructed better.

MS. ASHTON-CICKO: So the way it was listed under the C-4 category is amusement and recreation services indoors, and that related to number six. So if you didn't limit it with number six, it would be open to anything. But then physical fitness facilities are defined under 7991, which is rather broad, so they

combined the two sections and clarified it.

So the only thing that is permitted under 6 and 105 are physical fitness facilities, gyms, yoga, karate, dance instruction and similar indoor fitness facilities.

VICE-CHAIR HOMIAK: Okay.

MS. GUNDLACH: Thank you, Heidi.

And then on the very last page of that -- these conditions of approval, actually, second to last under notice of proximity to Florida Sports Park, the first paragraph has been added.

MR. MULHERE: And that was -- that actually was part of your motion. Remember Corby had talked about adding that paragraph because it dealt with residential uses? And I thought why, we're not residential, and he correctly pointed out, well, an ALF is residential, so we did add that.

MS. GUNDLACH: Thanks, Bob.

And now we're moving along to the conditions of approval for the conditional use. And conditional use condition of approval number two --

MR. MULHERE: I have one -- let me ask a question. I do have one additional comment on the zoning conditions. And before we move on, maybe I should call that to your attention.

VICE-CHAIR HOMIAK: Okay.

MR. MULHERE: And this was brought to my attention by the folks at Naples Lakes Country Club, and I think it's a really good catch and I probably should have realized it myself and I didn't.

When we changed our conditions from permitted uses, a list of permitted uses to a list of prohibited uses, some of those uses -- and we list them verbatim the way they are in the C-4 district. And that was done by intent.

But some of those uses have an exception. So they're -- if you think about it, they're listed in the C-4 district. And let's look at number nine, animal specialty services, except veterinary. Well, we're saying it's prohibited except veterinary, which would mean veterinary was permitted, and we don't want that. So there are a number of use here that have that term except, but the unintended consequences, we're actually saying that those exceptions are now permitted. So we do have to go in and strike through all the excepted language and just list the use in the SIC code that's prohibited. We'll strike out all that extemporaneous language that doesn't have to be there.

It's not substantive. The intent is exactly the same. It's just that we had an unintended consequence, that the way we left it with that exception is the opposite. We're actually permitting those uses, and we don't want to do that.

MS. ASHTON-CICKO: Well, keep in mind that your numbers that are listed, 7, 8, 9, 13, each of those are verbatim --

MR. MULHERE: Yes.

MS. ASHTON-CICKO: -- from what's in the LDC.

MR. MULHERE: Yes.

MS. ASHTON-CICKO: So now you're going to tinker with that language when they're just trying to say each of these categories, and if go to the LDC in number seven, that's prohibited.

MR. MULHERE: I know. But it's confusing, Heidi. Just look at number nine, because it's a really simple one. Animal specialty services except veterinary without outside kenneling. If you look at the way the additionally following C-4 uses are prohibited, I know that it's intended to prohibit the entire uses that's listed in the C-4, but I think it's a little bit confusing. We would be accomplishing the same thing by striking through that except veterinary and just listing animal specialty services 0752, period, that's prohibited. And that would be much clearer. It's still the same number, we'll still need the same numbering system, but otherwise I think someone could be confused to say what's prohibited is that use except kenneling or veterinary services. You know, it's a little bit confusing, but it will be much cleaner if we strike through that exception language and it will be clear what's prohibited. I mean, I'm just --

MS. ASHTON-CICKO: So you want to just strike through except or do you want to put including?

MR. MULHERE: No, I want to strike -- well, I guess what we could do is make it clear -- we can make it clear I guess where we say additionally the following C-4 uses are prohibited, including any accepted uses, we could do that, and that would cover everything.

MS. ASHTON-CICKO: No, I'm just asking, are you proposing to just strike through except or are you proposing --

MR. MULHERE: I'm proposing to --

MS. ASHTON-CICKO: -- to change except to the word including?

MR. MULHERE: We could do that too. We could do that.

MS. ASHTON-CICKO: Okay, so it's --

VICE-CHAIR HOMIAK: Just change except everywhere to including.

MR. MULHERE: Yeah, that would work. That would be clean. Yeah, that's a good suggestion.

VICE-CHAIR HOMIAK: It makes sense to me.

MR. MULHERE: Thank you.

MS. GUNDLACH: We're ready to move along to the conditions of approval for the conditional use.

MS. ASHTON-CICKO: Are we ready to take a vote on the rezone?

MS. GUNDLACH: Thank you, Heidi.

VICE-CHAIR HOMIAK: Okay, is there a vote to approve consent on the --

COMMISSIONER ROSEN: I make a motion to approve consent with the changes that were stipulated.

VICE-CHAIR HOMIAK: And is there a second?

COMMISSIONER EBERT: I'll second.

VICE-CHAIR HOMIAK: By Diane.

All those in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

VICE-CHAIR HOMIAK: Aye.

Opposed, like sign.

(No response.)

VICE-CHAIR HOMIAK: Okay, conditional use.

MS. GUNDLACH: Moving along to the conditional use. We've made a change to conditional use condition number two as shown on the visualizer. Language still means the same, it's just stated more clearly.

VICE-CHAIR HOMIAK: And this is -- we were emailed a different --

MS. GUNDLACH: This is an update from the email.

VICE-CHAIR HOMIAK: Okay, all right.

COMMISSIONER EBERT: Bob, you are making this very difficult.

VICE-CHAIR HOMIAK: Do you have a comment?

MR. MULHERE: I do. I guess I felt that the indoor air conditioning self-storage height restriction -- or excuse me, setback restriction, indoor air conditioned self-storage building shall not be located closer than 100 feet from the property line, or if closer than 100 feet, the self-storage building shall not be visible from Collier Boulevard.

That was my language.

It's been changed I presume to try and simplify it to read: Indoor air conditioning self-storages may only be permitted within 100 feet of the property line adjacent to Collier Boulevard if the building is not visible from Collier Boulevard.

I'm going to leave it up to you, your choice. I thought mine was clearer. It's the same thing, so --

VICE-CHAIR HOMIAK: Is this changed by the attorney or --

MR. MULHERE: Yes.

MS. GUNDLACH: Yes.

MS. ASHTON-CICKO: I think this language makes more sense.

MR. MULHERE: Touche'.

MS. ASHTON-CICKO: No offense.

VICE-CHAIR HOMIAK: We have two different attorneys.

MR. MULHERE: The other issue, I just want to put it on the record, this would be a substantive change.

There was some discussion between Naples Lakes Country Club in our meetings and myself regarding height for indoor self-storage. There was discussion about limiting it to two stories. My client didn't agree to that. And so I don't think you can change that here, but we will have some continued discussion with them between now and the Board of County Commissioner meeting.

So I just -- you know, we think that the setback and the location of the doors and the architectural standards, any self-storage building will look like an office building anyway.

But it doesn't matter, this is a consent item. I just told them I'd mention it and that we would have some discussions between now and the board.

COMMISSIONER EBERT: So the 50 feet you want kept in.

MR. MULHERE: Well, I think it would have to be. That would be a substantive change. You approved it that way, so --

VICE-CHAIR HOMIAK: Okay. Is that all you --

MR. MULHERE: That was it. I just --

VICE-CHAIR HOMIAK: Is there a motion to approve on consent the conditional use?

COMMISSIONER ROSEN: I propose a motion to approve this item.

VICE-CHAIR HOMIAK: And second?

COMMISSIONER DOYLE: I'll second.

VICE-CHAIR HOMIAK: Brian.

All those in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

VICE-CHAIR HOMIAK: Aye.

Opposed, like sign.

(No response.)

MR. MULHERE: Thank you very much. Sorry about the confusion.

VICE-CHAIR HOMIAK: All right, Bob.

All right, now with the advertised public hearings of Haldeman's Landing. Can we -- Heidi, can we do these two together, or do they have to be --

MS. ASHTON-CICKO: Yeah, you can hear them together, just a separate motion of approval or disapproval.

COMMISSIONER ROSEN: Mr. Chairman, I and my firm represent an entity that is in contract with the petitioner, and therefore I have to recuse myself. I filled out Form 8.B, and I'm going to step down from the podium and I'll hand this into the court reporter.

VICE-CHAIR HOMIAK: Okay, thank you.

Okay, Haldeman's Landing P -- it's a boat dock extension. It's PDE-PL20130001765. And the special treatment ST permit -- ST-PL20140000896. And we can hear these two together, vote on them separately. And on the ST permit we would have to vote as the AC also.

So any -- all those that are going to testify or speak on this item, would you please rise and be sworn in by the court reporter.

(All speakers were duly sworn.)

VICE-CHAIR HOMIAK: Okay, disclosures on the part of the Planning Commission?

COMMISSIONER CHRZANOWSKI: Yeah, I had about a dozen -- it's a combination of letters to my house, emails through the county and emails through my county email address from people that live along Haldeman Creek. And I've talked to the petitioner and I've talked to his engineer.

VICE-CHAIR HOMIAK: Okay. Diane?

COMMISSIONER EBERT: Yes, I've spoke with Tim Hall, Mr. Cook. I have spoke with several county staff, Nicole Johnson, several constituents that live in the area, and there's just too many to mention in the area with the constituents from that area. And I have had emails until this morning.

VICE-CHAIR HOMIAK: And I spoke to Mr. Cook, and I've had emails and letters and a conversation with Commissioner Fiala.

Brian?

COMMISSIONER DOYLE: I've met with Mr. Cook myself of Coastal Enterprises, and have received various emails as well.

COMMISSIONER EBERT: I do want to mention, I did make a site visit and went on a boat. I was invited to go on a boat to see it from the Creek's perspective.

VICE-CHAIR HOMIAK: Okay, so we'll hear from the petitioner first, then the staff report, and then we'll take the public speakers.

MR. HOOD: Madam Chair, Commissioners, good thinker no. For the record, Frederick Hood with Davidson Engineering, representing the applicant Standard Pacific.

With me today are Tim Hall with Turrell Hall and Associates; Charles Cook with Coastal Enterprise Services; Andrew Rath with Davidson Engineering; and John Longergan with Standard Pacific.

I'm going to give a brief description of the boat dock extension application and then allow Mr. Hall to provide you with more specifics related to the application.

The request that we are seeking will provide 42 boat docks on the south side of Haldeman Creek that will be associated with the Haldeman's Landing residential project.

We're here before you today to discuss the location of the mean high water line as it relates to the location of the proposed docks.

The boat docks associated with Haldeman's Landing project have been previously permitted at the state and federal level. Approval of the boat dock extension application by this body, contingent upon final approval by the ST application in front of the Board of County Commissioners, is the final step before the placement of the dock as presently designed can occur.

As you may have noticed in the packets before you, the dock design at the western side of the proposed extension area has been revised to make the docks hug the shorelines and existing mangroves more closely and therefore lessen the extension in the Haldeman Creek.

With that, Tim Hall will continue the discussion and answer any specific questions you may have.

MR. HALL: Good morning, Commissioners. For the record, Tim Hall with Turrell, Hall and Associates.

Since we're hearing both of these together, I figured I'd start with the BDE and go through the criteria of the boat dock extension that's in the Land Development Code, show how the project meets those criteria and then have a brief discussion about the ST application as well.

I'll start with the staff report. As Fred had told you, as a result of some discussions, a public meeting that we had with the residents in the area, there was a modification made -- a modification made to the west side of the docks. The original application had the docks further out into the creek. And the 52-foot extension that was noticed was at this point of the docks right here from the mean high water line out to the outside edge of the boat.

The changes made brought that portion of the dock in closer to the mangroves. It will involve more dredging associated with that, but it brings those docks within the 25 percent width of waterway line, and it reduces the extension from the 52 feet that was measured here to 45 feet, which is now measured down at this end of the docks.

A general overview of the area shows the project site located just west of Kelly -- I'm sorry, Bayshore Road. I still have problems with that.

It's a mix of parallel and perpendicular mooring, and it kind of follows the perpendicular mooring that starts over here on the east side of the bridge, on the north side, then continues on on the south side of the canal and then into this multi-family project.

Going through the actual criteria, as you all know there are five primary and six secondary criteria. We believe and staff has agreed that the project meets all of the applicable BDE criteria.

The first one is whether or not the docks are appropriate in relationship to the waterfront location and the zoning.

From a waterfront standpoint, the county has a Manatee Protection Plan which outlines how many slips should be allowed on certain properties. There are three different categories, from a protected ranking, which is the least amount of slips to a moderate ranking to a preferred ranking. In its current condition, this site qualifies as a moderate ranking, which allows up to 10 slips per 100 feet of shoreline. The project has 938 feet of shoreline there, which would equate to 93 slips.

There is a further restriction in the Land Development Code about appropriateness, which limits multi-family facility, or which recommends that multi-family facilities only have one slip per unit on this site. The current land plan is proposing 64 upland units, which would equate to 64 slips. And the application that's before you is for 42 slips. So given all of that information, we believe that the proposed plan is appropriate and does meet that first primary criteria.

The second criteria has to do with whether or not the site is shallow; if there are shoreline issues which necessitate an extension in this case. There are mangroves along the entire shoreline which take up the majority of that 20 feet. If we did only parallel mooring without any perpendicular slips, we would still have an extension out to 41 feet at the western end of the application because of where the mean high water line is and the mangroves and then the outside edge of the docks. So regardless of anything that we had to do here, a BDE is going to be required. And so the extensions that we are proposing due to the mangroves make us meet that secondary -- second primary criteria also.

Third criteria has to do with navigation, whether or not there is an impact to navigation. Generally navigation has to do with appropriate water depths and where boats can move through there.

When we were at the public meeting, a couple, or at least one, of the boat captains said that he needs four feet of water to be able to appropriately navigate through there.

We had the creek bottom surveyed from shoreline to shoreline as part of that, and showed that the -4 contour is what is hatched in blue there. And you can see that the location of the docks is actually south of that -4 contour. The dredging that will be done in conjunction with this will move that -4 contour up into the slips themselves. But in terms of what is out there right now existing, we're not -- the docks are not impeding or going into that navigation area. So because of that we believe we meet the third primary criteria as well.

Fourth criteria has to do with maintaining the open waterway. It limits you to no more than 25 percent -- or protrusion of no more than 25 percent the width of the waterway. And the slips that we have proposed, we've estimated that 25 percent width, which is these red lines, the 25, 50, 75.

And basically what that is, is a -- it's the mean high water line on both sides, and then the distance between that and then you kind of connect the dots.

But we show that the facility as proposed is within that 25 percent width of waterway, so we meet that criteria also.

And then the last criteria, last primary criteria, is that the docks should not interfere with any of the neighboring docks.

In terms of adjacency to the east and west, there are no neighboring docks immediately adjacent to either side. As you go across the waterway, and I'll use this exhibit, if you will, the applicant actually owns this portion of the northern shoreline and has committed to the put that under a conservation easement, so there will be no docks placed on that northern part of the shoreline.

There is a small privately held parcel right here. It was permitted as the Sanctuary de Mer Landing, I believe was the full name of it. They did go through the BDE process and had a boat dock extension approved for 49 feet, which went out to 25 percent of the waterway on the north side. A cross section of the facility from that shows that the 25 percent width of the waterway of our facility is a couple of feet short of the 25 percent. The de Mer landing docks, as previously proposed, went right out to the 25 percent, and the criteria of 50 percent of the remaining width being left open for navigation is still met.

So from that information we believe we meet the last primary criteria as well.

As you go into the secondary criteria, as I said, there are six of those. First being if there's any special conditions other than water depths that create the need for the extension.

As I said, the mangrove shoreline, which was actually created back in the mid Nineties -- I have

some photos of that. Along the waterway itself when this project was permitted back in the Nineties, part of the approvals required them to build this mangrove plant or shelf, which extended the width of the canal in terms of the mean high water line, but it restricted it in terms of the Land Development Code by then making any docks that were proposed there be further out from that actual mean high water line.

So because of the mangroves, as I said before, the extension is a requirement, it is a special condition, and it makes this consistent with that first secondary criteria.

Second one, second secondary criteria, whether or not the docks provide safe access. As proposed, the docks currently have eight-foot access walkways to a six-foot marginal wharf and four-foot finger piers, which is kind of standard in terms of access. It does provide safe access and going a lot smaller than that with the finger piers would we believe be contrary to that.

So I'll talk about those access points later on in conjunction with the ST application. I know the staff had made a recommendation to eliminate some of the walkways, and we've discussed that and we have a counterproposal, but I think it meets what staff was looking for.

The third criteria has to do with the amount of shoreline taken up by the facility, but it's only applicable to single-family residences, so it's not applicable to this petition.

The next criteria is whether the facility has a major impact on the waterfront view of the neighboring properties.

The boat docks are associated, as I said, with this property. It will have -- the view of the neighbors across the waterway will change. They will be looking at docks in front of mangroves. But it has not impacted their waterfront view, because their view of the water in front of their properties is the same as it always has been. So across the waterway, that view will change. But we're not blocking anybody's views of the waterway and we are not -- well, basically we're not blocking anybody's views of the waterway. We're changing them but not blocking them.

The fifth criteria, will any seagrasses be impacted. We've done a couple of submerged resource surveys on this project, and no seagrasses were located, so the project will not have any impacts on those.

And last is whether or not the project is subject to the Manatee Protection Plan. I alluded to that when I was going through the primary criteria. It is subject to the Manatee Protection Plan, but under that plan this project would be allowed up to 93 slips. We're only proposing 42.

So going through the criteria, we appreciate all of the time that the staff and the Commissioners themselves have put into reviewing this.

I do have a couple of modifications or corrections to the staff report that I'd like to address.

The boat dock facility protrusion, due to the changes that we made, has been reduced from 52 to 45 feet. And in that first paragraph it says into a waterway that varies from approximately 97 to 120 feet wide.

The waterway itself actually varies from 134 feet to 180 feet from mean high water to mean high water. That 97 to 120 came out of our application response to primary criteria three where we said that 97 to over 125 feet would remain after the construction of the docks. So that's the width of the waterway that is going to be there after the docks are built. What's there right now is actually 134 to 180. And that will be in that first paragraph and then in the last paragraph on Page 1 as well where the -- where it says the waterway varies from 97 to 120.

Moving on from the staff report of the BDE into the -- oh, wait, no, I needed -- I'm sorry, I forgot I needed to clarify. There were three conditions to approval that the staff had recommended, and I want to make sure I clarify a couple of those.

The first one about construction of docks shall not commence until the approval of the SDP and the issuance of a building permit for the upland housing development as well as the docks has been issued.

And we want to clarify that that's the issuance of a single building permit, not all 16 building permits before we can start construction of the docks. I mean, I know that because the docks are an accessory use we need to have upland construction going, but we don't want to have to have the entire site built before we're allowed to start the docks. So we just wanted to clarify that that means we need to have the issuance of a single building permit before we can pull the dock building permit.

And the same with condition number three, that that applies to a single certificate of occupancy, not the certificate of occupancies for the entire development.

And I have -- I kind of question that because from a logistical standpoint, if the docks are completed before the building is, it would be beneficial to be able to get those docks C.O.'d while the contractor is still there on site. If there is a lag between when the building gets C.O.'d and when the docks get C.O.'d, if there's an issue with the C.O. and the contractor has to come back, that could be a substantial cost, as well as, you know, more impacts to bring barges and all up in there to make any changes that may be required if for some reason the C.O. is not authorized or if there are changes that have to be made.

So I would like to get that third -- if staff is okay, I'd like to get that third condition changed to the C.O. shall not be issued, you know, until the upland building is substantially completed, rather than C.O.'d.

MR. REISCHL: Fred Reischl, Planning and Zoning.

A suggestion might be to include it as a temporary C.O. until the C.O. is given to the building, because by issuing a C.O. you're saying that the use is okay and the use is not okay until there is the use of their housing on the site. So I think we could work with a temporary C.O.

MR. HALL: I could live with that.

You guys okay?

Yeah, that would be fine.

VICE-CHAIR HOMIAK: So on number three it would be a temporary?

MR. REISCHL: A C.O. or temporary C.O.

VICE-CHAIR HOMIAK: Okay, temporary C.O.

MR. HALL: Okay, moving on to the ST application. It's much shorter, we really don't have any issues with that.

I will show you the -- the area in pink shown on this exhibit is the ST overlay area. It runs basically consistent with the canal, the creek itself. A portion of the access walkways and the docks lie within it. As I had said, those mangroves were put in place as part of the previous development authorization for the property.

The impacts to those mangroves are associated with some of the retaining structures on the upland and then the access walkways out to the docks.

The staff recommendation for approval, and they're -- one of the conditions or the condition that they put in was to eliminate two of those walkways. And what we would propose right now, as I said, those walkways are eight feet wide. And in talking with the applicant, with the petitioner, what we would like to counter propose is we will eliminate one of those walkways and three of the four will reduce down to six feet wide instead of eight feet wide.

I would like to keep the eight feet wide one there for the canoe launch facility and all. It's just a lot easier to maneuver a canoe or a kayak through a little wider access than a narrower one. So the reduction of the two access walkways would have been 16 feet of reduction. We will eliminate one, modify the locations of the other three to fit within the buildings themselves, and reducing the width would be a 14-foot reduction in the overall impacts through that ST area.

So I'm -- that's the -- we hope that you would agree with us and with staff that the project is consistent with the BDE criteria. We'd like to get your approval contingent upon the Board of County Commissioners final approval of the ST application with the hopes that you would forward that ST application to them with a recommendation for approval as well.

We'd be happy to answer any questions.

VICE-CHAIR HOMIAK: Okay, any questions?

COMMISSIONER EBERT: Oh, boy, yes.

Tim, where would you put these 93 slips that you keep saying that they could have in here?

MR. HALL: If you were going to do 93 slips?

COMMISSIONER EBERT: Yeah.

MR. HALL: You could -- previous plans that were done back in the mid Nineties actually had part of that L portion of the project part of this piece of the project right here, actually dug out and a marina basin created in there.

From a logistical standpoint, fitting boats of the sizes that most people want to own nowadays, I don't think you could fit 93 on there, but 93 is what is allowed under the code. If you went to a much smaller, you

know, 15 or 18-foot boat, you could fit a lot more in than what we are showing.

COMMISSIONER EBERT: Okay. So you would have wrapped it around the corner?

MR. HALL: I would not wrap it around the corner. There's two reasons. If you look at the width of this canal going around the corner, it's only about 45 or 50 feet wide. So if you try to put boats along that canal, you'd be really restricting that waterway even more.

The county Property Appraiser's site also shows that the property owner across that canal actually owns that canal bottom. Whether that's accurate or not, I don't know. But in order to do that, we'd have to have outside permission, given the way that the Property Appraiser shows the property lines.

COMMISSIONER EBERT: Okay. What about to the back side of this, it looks like there's a little bay in there?

MR. HALL: This area right here?

COMMISSIONER EBERT: Yes.

MR. HALL: That's -- it's very shallow. It would require a lot of dredging, a lot more mangrove impacts to be able to get to it. And if you look at that, that configuration would limit the amount of slips that you could put in, more than what you have along the waterway.

I will say that that configuration was looked at when we went through the state and federal permitting, and the state's response was that they would prefer to see the docks on the manmade portion of the waterway, not in those natural water bodies that would entail more impacts to put them there.

COMMISSIONER EBERT: Okay. Because I understand previously that the previous owner was planning and that's where he was planning on putting them.

MR. HALL: No, not the previous owner. At least the last two owners of this property, these docks have always been located where they are. But back in the Nineties, when I showed you those old -- some of the older site plans and all did show some docks in there, as well as along the river.

COMMISSIONER EBERT: Yeah, we were seeing that for the first time today.

I told you I was going to ask you, how many boats could you put on a parallel dock? The same dock area that you propose, how many boats could you put in there parallel and what size?

MR. HALL: Of the same sizes as we have with a mix of 25 and 30-foot boats, you could probably put about 29.

COMMISSIONER EBERT: And can you show us all the approved neighboring docks on this tidal creek?

MR. HALL: I had mentioned the other perpendicular docks. Is that what you mean? Or, I mean, I --

COMMISSIONER EBERT: Yes.

MR. HALL: In terms of going through on the east --

COMMISSIONER EBERT: No, no, not those. Hu-uh. That's on the other side of Bayshore. That's -- you have to have a tinier boat just to even get under that bridge.

MR. HALL: Correct.

COMMISSIONER EBERT: There is something permitted across from this dock that you're proposing. You don't have a drawing of that?

MR. HALL: I had a cross-section drawing. I don't have a plan view drawing of it.

COMMISSIONER EBERT: Tim?

VICE-CHAIR HOMIAK: It's in the ST permit cross-section.

MR. HALL: If you go to this --

COMMISSIONER EBERT: I know it's in the cross-section, but just a minute.

MR. HALL: I was going to say, if you go to this exhibit, it's this property right here that's partially cleared. And their docks would go out to that red line. So from -- from here to about here those docks would go out to this red line.

And on the cross-section view, again, that's the docks on that side, these are --

COMMISSIONER EBERT: Yeah, I thought you'd show us this.

Fred, could you come and get this so he can put this on the -- on the viewer.

MR. HALL: Okay, is it --

COMMISSIONER EBERT: Well, I mean, I thought you'd be showing us that, because I had kind of

asked you. And also, in this on the property boundary it also said that they got the information from Turrell-Hall. So I thought, well, Tim will bring that.

MR. HALL: Well, I mean, that's why I showed it. And we put it on that -- to me the cross-sectional view shows you what the actual widths are there in conjunction with the docks themselves, so that's why --

COMMISSIONER EBERT: And by the way, that is the Army Corps of Eng -- that's their permit from the Army Corps.

What is the width of this canal at low tide; do you know?

MR. HALL: From mean low water to mean low water, it can come in probably as much as 30 feet less than what it is. Or from the mangrove shore to mangrove shore, if you consider that the open waterway, at the lower low tides you can lose maybe 30 or 40 feet.

UNIDENTIFIED MEMBER OF THE AUDIENCE: On each side.

VICE-CHAIR HOMIAK: You can't speak from the audience, please.

MR. HALL: I mean, given the survey elevations. But the drawings that we show and the permitting that's done is based on what the water level elevations are at low tide. So we have to be consistent with the state, you know, standards and that's why we're --

COMMISSIONER EBERT: But that is quite a bit of distance that it shrinks.

MR. HALL: Again, but I showed you the exhibit based on the survey that we had done that shows that we're not impacting that waterway that would still be open. We're going to be dredging under our docks, not putting our docks out into where it's already deep.

COMMISSIONER EBERT: Okay. Can you show us the dredge area? It was kind of confusing to me in reading this in the staff report on Page 6 and 7. You just keep saying a maintenance dredge. This is -- you're going to be dredging a new dredge, correct?

MR. HALL: No, ma'am. The dredging -- those photos that I showed you when that mangrove shelf was done, here, there was dredging done outside to help fill in that shelf. So what's being done here right now is another maintenance dredge.

COMMISSIONER EBERT: You call that a -- okay, where is the rip-rap on this?

MR. HALL: The rip-rap is here on the outer edge. And when this was built, this rip-rap was placed, material from outside of the rip-rap was dug and placed inside of that. So this is --

COMMISSIONER EBERT: When were those photos taken?

MR. HALL: 1994.

COMMISSIONER EBERT: Okay. So you consider that a maintenance dredge, even though you're going to -- you're going to go close to the mangroves. And how far down are you going to go on this dredge?

MR. HALL: The depth under the boats will be four feet, and then as you get closer to the rip-rap and the shore it will come up and tie into what the existing elevations are.

COMMISSIONER EBERT: So there will be no sand bar?

MR. HALL: No, ma'am.

It's not just me that considers it maintenance. The state has reviewed it as well and they classified it as a maintenance dredge also.

COMMISSIONER EBERT: But this developer will be paying for all of that; is that correct?

MR. HALL: Yes, ma'am.

COMMISSIONER EBERT: You mentioned that on the north side of this is going to be planting. You're going to be taking some things out because of overgrowth, removing the exotics and planting some more red mangroves; is that correct?

MR. HALL: From here to here, this section of the shoreline and this piece of property up here, they'll be doing removal of exotic vegetation. And where the areas are denuded as a result of that exotic removal, we'll be replanting with either mangroves or with a more uplands species like sea grape or something, whichever is appropriate for the elevation.

COMMISSIONER EBERT: Okay. Yeah, because in reading the material that you sent -- and I notice a lot of this stuff goes back to 2008, most of the drawings and everything -- that was with the previous owner. And for them even to come with these docks, they had to put that in -- give it to the state; is that correct?

MR. HALL: Well, it's put under a conservation --

COMMISSIONER EBERT: An easement.

MR. HALL: -- easement. It's not given to the state but it's put under a conservation easement --

COMMISSIONER EBERT: In favor of the state.

MR. HALL: -- in favor of the state, which gives the state then enforcement in terms of making sure that the docks and the construction and the dredging and everything is compliant with the permits that were issued.

COMMISSIONER EBERT: Okay. That's all I have for right now. There will be more though, Tim.

VICE-CHAIR HOMIAK: Stan, do you have something?

COMMISSIONER CHRZANOWSKI: Yeah, just two comments.

When I looked at this project I looked at Google Earth, I looked at the Appraiser's website, I looked up and down Haldeman Creek, and it seems like most of the docks that I saw are perpendicular docks?

MR. HALL: Most of them going towards Bayshore, as you go out the other direction, there's some T-docks and some others, but there are a lot of perpendicular docks in the area.

COMMISSIONER CHRZANOWSKI: Okay. The view, I -- some of the letters I got said that you're going to destroy their view of the canal, and you said you wouldn't even interfere with their view of the canal. So I assume the difference is they're talking about their view of the mangroves on the other side of the canal, they will no longer see the mangroves on the other side of the canal because of your boat docks. Your opinion is they're going to still see the canal and the boats going up and down it?

MR. HALL: Yes, sir.

COMMISSIONER CHRZANOWSKI: Okay. What's the speed on Haldeman Creek? How fast can you go? Because the reason I ask is there's a picture posted on Google Earth and that guy looks like he's doing 30 knots.

MR. HALL: The signs that are there say no wake. Whether or not they are officially there under the auspices of the Conservation Commission and all, I didn't follow up on that. But we've been under the assumption that this is an idle speed, no wake creek. Or at least this area.

COMMISSIONER CHRZANOWSKI: All the way out, both sides, even through the mangroves?

MR. HALL: Yes.

COMMISSIONER CHRZANOWSKI: I'm curious, because I do kayak a lot and there's a lot of blind turns on here, and I'd hate to run into somebody coming the other -- well, I'd hear them coming, you usually do. And then you start hugging the shore and grabbing a mangrove so they don't flip you over.

MR. HALL: As I said, I know that this area is posted that way and there have been no -- as far as I know, no issues with the Conservation Commission to remove that signage, so we're assuming that it's there legitimately.

COMMISSIONER CHRZANOWSKI: Okay. Even though the rest of the bay might not be a no wake zone anymore?

MR. HALL: Correct.

COMMISSIONER CHRZANOWSKI: Okay, thanks.

VICE-CHAIR HOMIAK: You're staying within the 25 percent for the whole length of the docks?

MR. HALL: Yes, ma'am.

VICE-CHAIR HOMIAK: You're all staying just as the people across got approved for and everybody else? I noticed when I did look on the Property Appraiser's site and measured some of the docks down further, I think some of them might be -- where the boats extend, they might be a little over.

MR. HALL: They might be. Some of the ones in the canals definitely are, but there are different rules for the canals which allow up to a third rather than the 25 percent on narrow canals.

But for the most part, I mean, the ones even further up the way are -- I don't know whether they're grandfathered or not, but there's still been plenty of room for the people to navigate by them.

VICE-CHAIR HOMIAK: And so the extension -- how many feet are you asking for for the extension?

MR. HALL: 25 feet over the allowed 20 for a total of 45.

VICE-CHAIR HOMIAK: And all the time it will stay within the 25 percent, though? Because some

of them are parallel and they're not -- they don't go out but 25 feet.

MR. HALL: Correct. Well, like on --

VICE-CHAIR HOMIAK: The protrusion intrusion is 25 feet, right?

MR. HALL: What's that?

VICE-CHAIR HOMIAK: The intrusion into the waterway is 25 feet for some of the --

MR. HALL: Well, the intrusion into the waterway itself is probably 30 feet. I mean, the boat itself and the boat dock is 30 feet. You have the six-foot width of the walkway and then the location of the mean high water line behind the walkway which at the furthest point is nine feet. So that gives us -- that's where the 45 comes from.

VICE-CHAIR HOMIAK: But the ones that are parallel are --

MR. HALL: The ones that are parallel aren't -- like right here is the closest we get, because the mean high water line is so far behind the docks. So the 25 percent is actually closer to the mangroves. But those parallel slips are still within the 25 percent. And that's a result of the change we made. When I first started I said that these docks originally went out further. And we did that knowing that the 50 percent width of waterway criteria would still be adhered to in this point because this shoreline will be under conservation easement and no docks put on there.

But because of some of the community issues and so forth, we decided to go ahead and straighten that out, so the entire facility is consistent with the 25 percent on the south side.

VICE-CHAIR HOMIAK: Okay. And this is part of the Haldeman Creek MSTU?

MR. HALL: Yes, ma'am.

VICE-CHAIR HOMIAK: Okay.

Do you have anything?

COMMISSIONER DOYLE: Yes. Tim, with the changes made and knowing the opposition from some of the community members and some of the reductions you've addressed, have we gotten to any common ground as far as what's acceptable to the community or to the opposition? And do we need some more mediation to reach a place where we can see both sides?

MR. HALL: I don't know. I mean, I know a lot of the emails that I saw that we got from the staff were based on the April submittal that went out that said a 50-foot two-foot protrusion into the waterway. I think a lot of people took that to mean from the edge of the mangroves we were going out 52 feet. That's not the way the BDE criteria works. You have to go from the mean high water line which in some cases is 15 or 20 feet into the mangroves themselves.

So the protrusion -- as I said, the furthest protrusion into the waterway itself from the edge of the mangroves is going to be about 35 feet, 36 feet. So that's where the outside edge of the dock to the longest dock that we have, the 30 and the six.

And the way that these will be built, they're actually going to -- the marginal wharf itself will be over the top of the rip-rap, again to try to bring everything in closer to the shoreline, as close to the shoreline as we can.

COMMISSIONER DOYLE: So perhaps some of our opposition is leaning a little more softly towards this project?

MR. HALL: I know that there are -- I don't know. I would assume that you're going to hear from some speakers that may not be satisfied yet.

COMMISSIONER DOYLE: Thank you.

COMMISSIONER EBERT: Tim, I have one question here.

In speaking with the developer yesterday -- or with Mr. Cook, he said that there was a mistake and he only wanted -- the 20-foot extension, he only wanted 15 feet for a total of 35 feet for the mean high water line. He says we're only asking really for a 15-foot extension.

MR. HALL: Yeah, I think there was some confusion on a couple of our earlier cross-sections in terms of where some of the lines were, and he misread one of those cross-sections. But the 25 feet extension is what we need for the facility we have proposed.

COMMISSIONER EBERT: Okay, thank you.

VICE-CHAIR HOMIAK: Anything else?

(No response.)

VICE-CHAIR HOMIAK: Okay, we'll go on to the staff report then.

MR. REISCHL: Thank you, Commissioners. Fred Reischl with Planning and Zoning.

Give you a little background of why you're hearing this. Because since last October, boat dock extensions go to the Hearing Examiner. However, the Hearing Examiner's ordinance says that if there's public concern, great public concern, that it will go to the Planning Commission. So you are the body that's charged with decision-making on this.

Also, so we had scheduled this for the Hearing Examiner last April. There was a sign; Naples Daily News and the mail notice that was sent out for that. In fact, at that Hearing Examiner meeting, even though we tried to get word out to everybody, I think there was two folks that showed up at the meeting and it was announced that it was continued 'til a date when the Planning Commission could hear it.

And in addition to the regular advertising for the Planning Commission, I was invited to the Haldeman Creek MSTU to answer questions, which I did. And the room was filled. As you probably know, it's not a really big room, but probably 30 people were there.

And then the applicant asked to speak to the Bayshore CRA and they did, and I was in attendance at that meeting and answered some procedural county questions on that too. So just to give you a little bit of how you're getting to hear this.

As Tim said in the -- and you read in the staff report, I looked at all the criteria of the applicable criteria according to what was presented to me. The application meets those criteria so we're recommending approval. And I'll be happy to answer any questions.

VICE-CHAIR HOMIAK: The conditions that you have here of approval --

MR. REISCHL: Yes.

VICE-CHAIR HOMIAK: And after Tim will the first one remain the same or is that going to be a --

MR. REISCHL: I can confirm, it's for the -- I think your question was for --

MR. HALL: Just one.

MR. REISCHL: One, yes.

VICE-CHAIR HOMIAK: And so that would need to be changed?

MR. REISCHL: Well, I said a building permit.

COMMISSIONER HOMIAK: So that means one.

MR. REISCHL: That was my intention, and we're clarifying it on the record.

COMMISSIONER CHRZANOWSKI: You want to change it to the first?

MR. REISCHL: That works.

COMMISSIONER CHRZANOWSKI: At least it's a lot clearer.

MR. REISCHL: Okay.

VICE-CHAIR HOMIAK: And the third one would be changed to single C.O. or temporary C.O.?

MR. REISCHL: C.O. or temporary C.O., right. As long as we have that protection for the temporary, because otherwise you're authorizing a use that the code doesn't authorize.

VICE-CHAIR HOMIAK: Okay. But then this whole -- then this would need to -- the request is for a 25-foot extension, not 30 --

MR. REISCHL: You can check with Heidi on this, but because it was advertised at a greater extent, I believe it's okay to hear it. And my staff report still reflects that, because our time lag in preparing staff reports and advertising and everything is almost 30 days. So this change was made after the staff report was written and signed.

VICE-CHAIR HOMIAK: Okay.

MS. ASHTON-CICKO: Yes. So if it's reduce from 32 to 25, then that's permissible.

COMMISSIONER EBERT: Originally it said 52 feet.

MS. ASHTON-CICKO: Well, it's the extension is over the 20 feet that's allowed, so you would add the -- so it's 45.

COMMISSIONER EBERT: Okay.

VICE-CHAIR HOMIAK: Anybody have anything else?

(No response.)

VICE-CHAIR HOMIAK: No?

Okay, for the ST, Summer?

MS. ARAQUE: Good morning. Summer Araque, Natural Resources Department, for the record. And essentially as described by Tim, you're looking at the special treatment permit. There's an ST overlay, and staff reviewed the impacts. And we are recommending the reduction of the accesses. And I think we're acceptable to what's been proposed.

Do you have any questions for me?

VICE-CHAIR HOMIAK: So you're acceptable with what they're proposing --

MR. SUMMERS: Yes.

VICE-CHAIR HOMIAK: -- to knock it down to four and three at six feet and one at eight feet wide?

MS. ARAQUE: Yes.

VICE-CHAIR HOMIAK: Anybody?

(No response.)

VICE-CHAIR HOMIAK: No?

COMMISSIONER EBERT: Summer, I have a question for you.

In talking to you, you said the county no longer does mangroves, that this is a state. You have no control over this anymore; is that correct?

MS. ARAQUE: The state -- I don't know about --

COMMISSIONER EBERT: The state regulates it?

MS. ARAQUE: I don't know about anymore or how long that's been, but for quite a while the state has had jurisdiction over the mangroves.

COMMISSIONER EBERT: Okay. And Tim told me these -- one of the first owners of this property completely pulled everything off from it, that it made it barren and that these were all hand-planted mangroves. I mean, do you know that?

MS. ARAQUE: I don't personally know. I wasn't -- I didn't live here in the Nineties.

COMMISSIONER EBERT: I didn't either. Okay, I'll ask Tim that later then, thank you.

MS. ARAQUE: I believe there were Australian pine there. So it's actually an improvement.

VICE-CHAIR HOMIAK: Anybody else? Do you have -- no?

COMMISSIONER CHRZANOWSKI: Those photos Tim had was from '94 and Windstar was done about in '83 or '84, right? And that area was all Australian pine.

MR. REISCHL: It was the early Eighties. Because in response to some questions, I looked at the Windstar PUD, and it was '80 something. So it was in the Eighties when it was approved and I would assume that the first building was done in the Eighties then also.

COMMISSIONER CHRZANOWSKI: Yeah, and you can look at the archived Property Appraiser's website photos. And you can go back on Google Earth now and look at the old photos and see what's there. But at this point, it doesn't matter.

VICE-CHAIR HOMIAK: Okay, I think -- it's almost a quarter past 10:00 now, I think we'll take a 15-minute break and then we'll take the public speakers.

(Recess.)

VICE-CHAIR HOMIAK: Okay, could you please be seated.

Fred, did you have something you wanted to --

MR. REISCHL: Thanks. Yes, I wanted to put something on the record that I heard during the break. Someone told me that there were plans to -- if the docks didn't sell to the residents of the project that they would be sold to outside persons. And the code prohibits that. This is residential zoning. It's -- if they were sold to an outside source, that would be a commercial marina and this is not zoned for a commercial marina. So it would have to be the owners of the residents. Thank you.

VICE-CHAIR HOMIAK: You heard that from -- is that the -- I thought they were going to be owned by the owners in this development and in Windstar.

MR. REISCHL: Yes, that's what would have to be -- they can't be sold --

COMMISSIONER EBERT: To a third party.

MR. REISCHL: Well, that would be a question to County Attorney. Can an adjacent development own these?

VICE-CHAIR HOMIAK: They can't extend to Windstar, so they are -- they're part of Windstar. Is that -- is there someone from the applicant's side that the can speak to that?

MR. REISCHL: Someone had told Ashley from the CRA and talked to me, so --

MR. HALL: I know that the permits, the state and federal permits that have been issued, as well as the county code, like Fred said, has to be a residential component. I'm not a planning or zoning expert, so I don't know whether their annexation into Windstar is reciprocal and allows the ownership that way. The agreement that they have right now, if it's permissible this project, the Landings, or Haldeman's Landing and Windstar would have access to those docks. But if it's not permissible or if it's determined not to be permissible under the county code then it would be limited to the owners of the Haldeman's Landing.

VICE-CHAIR HOMIAK: Okay.

COMMISSIONER EBERT: Could you clarify that?

MS. ASHTON-CICKO: I can't answer the second question.

The first question, you know, clearly the owners in the uplands, you know, can use the docks. Whether or not the people across the way or in a different development can use the docks, I would think not. But we'd have to see the specific facts.

MR. BELLOWS: For the record, Ray Bellows.

The docks are accessory to the residential community that's under the property ownership interest. Now, if there's a change in ownership interest where the property's incorporated into a larger development, there may be a possibility that those owners within the larger ownership interest could utilize those docks. But I think we need to verify what's shown on the SDP for the multi-family and how those docks are related to that. Then what happens when subsequent purchases take place. Normally adjacent residential communities would not be allowed to utilize docks for another development.

VICE-CHAIR HOMIAK: Okay. So it's within the code that's -- county code that's going to govern that anyway.

MR. BELLOWS: Yeah, definitely it will. And a lot depends on how they configure their site development plans for the residential and how it's incorporated within a larger part. Projects are zoned differently. Windstar's a planned unit development. This is straight zoning.

COMMISSIONER CHRZANOWSKI: Can I get something on the record?

VICE-CHAIR HOMIAK: Sure.

COMMISSIONER CHRZANOWSKI: I totally forgot.

In the Eighties I worked for Coastal Engineering up until about '91, and then I worked 20 years for Collier County. I was one of the engineers on the Windstar project. Coastal was the firm that designed Windstar. And I have -- the people I dealt with were Bernard Johnson and Charlie Schowing. I haven't heard their name in so long. I have no monetary interest in this. But I guess maybe I should just put it on the record. I'm familiar with the property. We had looked at it back then. But I -- there's no other ties.

VICE-CHAIR HOMIAK: Okay. Okay, thanks.

Okay, we're going to start with public speakers. And if there's anybody who hasn't signed up on a sign-up sheet, could you please do that so that the court reporter can have your name spelled correctly.

MR. REISCHL: And please feel free to use either of the podiums.

If you do have something that you want, photos or anything like that, this is the one that has it. If you're just going to speak, you're free to use the other podium also.

First registered speaker is Richard Sawicki. Followed by Kate Riley.

MR. SAWICKI: Richard Sawicki. I reside at 3150 Lakeview Drive.

I was always under the understanding that when you do a dock it is either in this case 20 feet from the property line or 25 percent of the canal, whichever is more restrictive. I guess maybe someone can answer that question.

And also, I think it's -- it appears to be somewhat subjective as to what the actual mean high water line is of that canal. The canals within the -- off of Bayshore, the one I reside on, those are all 50 feet wide. And using that as a scale, I would say that this canal is probably closer to 100 feet wide. And to me it just

seems like it's a variance that they're asking for that other people in our neighborhood have been denied where they have to put their boat dock even inside that lake that you were referring to where at one time they were going to have a basin there, they're even required to do their dock parallel to their property, even though they were on a probably 100 foot wide lake. Thank you.

MR. REISCHL: Did you want me to answer that?

VICE-CHAIR HOMIAK: Yeah, please.

MR. REISCHL: There are different regulations for different widths of waterways. This waterway is greater than 100 feet, and that does allow for the boat dock extension, if you meet the criteria.

Canals that are less -- or waterways that are less than 100 feet are limited to a certain protrusion, depending on the width of the waterway. So there are different rules for different widths of waterway.

VICE-CHAIR HOMIAK: Okay.

MR. REISCHL: Next speaker, Kate Riley, followed by Jack Hale.

MS. RILEY: Hello, members of the Planning Commission. My name is Kate Riley. I live closer to the subject property than anyone else on the creek.

These photos were taken from my property. I'm sure everyone in this room has seen these pictures.

This was taken from my dock. This is what low tide looks like. This is where the six docks are proposed to be that go out 49 feet.

This is the subject property at low tide. This was just taken in 2012.

These boats are no longer there, but they were last year. And this is what the boats look like at low tide.

I guess I'll use both.

I know you have read my letter and are aware of how this impacts me personally, so rather than repeat myself, I will propose some things to consider. Where else in Collier County is there a 1,000 foot long boat dock? Let me give you a visual of 1,000 feet.

It's the Naples Pier. Can you imagine boats bow to stern, bumper to bumper, along the Naples Pier?

I don't know if you can see this, but this is what the Naples Pier looks like with boats all along -- all the way up to the bath house. From here to there. All the way to the bath house are boats. That's what's going to be down Haldeman Creek.

Let me ask you a question: Are we going to allow this just because it's here in East Naples? We know it would never happen in old Naples, Wiggins Pass or Doctors Pass.

If Windstar wants to tuck their boats into the shoreline as designed, they will have to cut mangroves. Why would we remove a natural filtering system on a shallow narrow manmade creek just to accommodate 1,000 feet of boat docks?

I'm going to show you another image. This is from Google Maps, 2014, pulled off the Internet just last night. A picture of the property that we're speaking about. Of course we've already seen that picture once today.

So let me give you a -- let's see. There is my house. So let me give you another picture of what it will look like with what they are proposing.

Where's the boat now?

Now, remember -- let me put that back up. From here to here, the Naples Pier, down Haldeman Creek. Here to here. And here are the six docks that are placed 49 feet out. So the little -- the boats are going to go back and forth. What happens when the boats come out and the boats come out?

We've seen this picture a lot. This is Turrell and Associates -- Turrell, Hall and Associates' aerial view of the proposed dock dated 2009. If you were to compare it with the 2014 aerial view that was just shown of the creek, it looks -- it certainly looks like the waterway has become narrower in the last five years. What's going to happen in another five years?

Someone said to me just yesterday, would you be happy if all the boat slips ran parallel to the shoreline all the way down the creek? My answer: No. No. We wouldn't want the choochoo train strung along the entire Haldeman Creek.

So what do we want? We want the integrity of the creek in its natural state. We want what's fair. We want what's been extended to those of us who have lived on the creek for years and years, paying taxes

and maintaining the creek.

It is my understanding that there are three separate pieces of property being developed on the petitioner's application. What happened to having no more than two boats per property on this creek as it has been granted to the rest of us?

If you give the developer this variance, it will set precedence for the creek. What will happen after that?

It disturbs me when I was asked -- when I asked a person who has a vested interest in these docks getting approved what's going to happen to the wildlife. The response was: They're just going to have to find someplace else to live.

I want to show you a few photos taken of the last couple of years. Trust me, I have many of them. But I'm going to show you a few.

This is a very familiar friend in Haldeman Creek. This is right at the said property. This is taken from my porch.

This is the property that we're talking about at low tide. Most of the photos that we've seen are all at high tide where one would say, what's the problem here? That's the problem right there.

This is a great blue heron, strutting along the shoreline where boats are proposed to be placed.

And this last one, it's my favorite. It was taken just after Turrell, Hall and Associates placed their buoys along the shoreline to supposedly mark their outer dock limits.

So there's the manatee right there. I often see manatees in the creek, sometimes two or three. But this little fellow right here, he decided to just show us the real deal on Haldeman Creek with what's going to be happening here.

I've always been a believer in when it doesn't sound right, 1,000 feet of dock, and it certainly doesn't look right, then it isn't right.

There is nothing right about this. Thank you for listening.

MR. REISCHL: Next speaker is Jack Hale. Followed by Jean Van Arsdale.

UNIDENTIFIED MEMBER OF THE AUDIENCE: Jack ain't here.

MR. REISCHL: Okay. Jean Van Arsdale, followed by Roy Wilson.

MS. VAN ARSDALE: Good morning. I have some questions for you.

I wonder, has an impact study been conducted? Has the developer conducted a plan of how it will affect the waterways?

This waterway goes from Naples Bay all the way under 41 near Wal-Mart close to where we're standing. Do we know what the impact is of building a 1,000 foot dock?

My next question is, if the new dock plan, the second dock plan, brings the dock seven feet closer to the shore, doesn't that mean that we will have to give up seven feet of filtering mangrove that are valuable to this manmade creek?

Already the mangroves are no longer extending into the water. Manmade rip-rap has choked the mangrove. It doesn't need to be cut further to accommodate boats.

I'd like to see a visual of this proposed project as it would be seen from the waterway, not from the way a flying hawk sees it. A birdseye view is deceiving. If views are not going to be blocked, then show us. I want to see pictures from the water of what a 1,000 foot dock looks like. And because when I stand on the shore and look now, I need my binoculars.

The Naples Pier looks very different from the air than it does when you're standing at the shore. Stand on the shore, look to the end of the pier and picture boats all along that. Wouldn't you need binoculars to see the end?

My next question: Will these docks have water? Will the boats be washed at their docks? Where will the runoff go? Will there be boat lifts and electricity? Will there be lights on the dock? Will 1,000 feet of dock be lit at night?

As a boater I know that there is mean low tide and there is dead low tide. The boater is concerned with dead low tide. Haldeman Creek already has a problem. Please don't add to it. Thank you.

MR. REISCHL: Next speaker is Roy Wilson, followed by Robert Messmer.

MR. WILSON: Good morning. I'm Roy Wilson, chairman of the Haldeman Creek Maintenance

Dredge MSTU.

We first became aware of this proposal through questions brought up by local residents. While we had knowledge of the previous plan for Fisherman's Village, we did not know that there was a current proposal.

Through staff contact with county planning organization, we were able to obtain copies of the questionnaire document and arrange for Fred from the planning department to attend our MSTU meeting and brief us on a proposal. He mentioned the turnout that ended up at that meeting, which was all people just picking up just by word of mouth that there was an opportunity to find out more information about this plan.

A Lot of people attending were -- well, I say all of them -- were members of -- property owners that were members of the MSTU. Lots of questions voicing both specific and general opposition to the plan.

It was at that meeting that everybody first became aware of the Sanctuary at De Mer Landing development plan. I had no knowledge of it, and nobody there seemed to have any knowledge that that plan even went through and was approved.

As a side note, I think it tells you something about the notification process and how it's not keeping with the times.

Taking Mr. Reischl's explanations, the residents' comments and our committee members in the discussion, I formulated that detailed document that I emailed to each one of you that I'm presuming that you read. I know there's evidence that it's been read, so I did not plan to go through that point by point. But I will try to summarize where I'm coming from.

Incidentally, I would note that a lot of the documents that were referred to by the previous presenters are documents that are not in our hands. Okay? I didn't even know to ask for them. So I've never read Fred's recommendation and documents like that that we've heard mention today. Just the questionnaire and the attachments to that questionnaire.

But to me, when I look at it, it's easy for me to see and I think others that the answers to the planning questionnaire were carefully designed to figure out the maximum amount of docks that could possibly be put in the proposed area. I mean, when you look at that -- the dock plan and where all of a sudden there's a recommendation for six or seven 25-foot docks and then five 30-foot docks, only because on the far side of the creek there's a little irregularity. You know, this is to me working backwards from -- and I guess if I was a developer I probably would have asked them to do the same thing, give me a plan that can maximize my revenue and income. How many docks can we possibly get on there? Including down at the west end. For the life of me, I can't figure out a rationale for extending past the side property line just because the previous deed showed that they owned under water before that dock was -- before the canal was dug.

Again, back to what's the real objective here?

I would make a comment kind of out of order in my context here. But the statement about selling docks to outside people, I think the people that are saying that have read the Windstar website that has documents that are allegedly agreements between the developer and Windstar. And there is an item on there that says first priority is people who live in this new development. If they don't sell all the docks there, then Windstar residents. And if they don't sell them there, they can sell them outside.

Now, that might be against code. Maybe the Windstar people aren't aware of that. In fact, occasionally there's ads in the newspaper for an owner of a Windstar dock in Windstar selling their dock. So there's just a question there of clarification that was made. But that's probably where somebody's picked up that point. It's not just, you know, frivolous.

The proposal to dredge near the shoreline may or may not impact the currently dredged channel. I originally was worried about it creating what I call a sand bar. But taking what the developer said, they will grade that down so that there isn't, you know, 20 feet of their four-foot deep dredge to a level that doesn't meet up with the current dredge.

I thought it was a very interesting picture that the last presenter put up. One of the things that happens if you're a boater when these -- when docks are built. Her original picture where you saw the boat navigating to center channel. If you're not in a marked channel, you always go center channel.

This takes and moves that center channel north. And where we had a 40-foot dredged channel, you now have boats that will be on the hairy edge of deep enough water. So I'm coming here of the opinion that it

might be affecting the dredge that we did -- or the county did -- the next one will be on our dollars -- about seven years ago.

From a practical matter building out from the shoreline, we all have to agree, narrows the channel. No doubt about it. I mean, you've got building coming out from both sides. How that affects safety, I developed in my notes in my other paper that I sent you.

But with these docks the way they're proposed, you've got people backing out. If the you're the 20th boat down, you're backing out blind 'til you get half of your boat out of that. Now you've got boats coming up and down.

With the exception of east of this development there are no docks on Haldeman Creek. They're all on channels. And if you go on Haldeman Creek and you look east of this development, it gets into a commercial area and some widening. There's no -- well, there are very few boats that go past the Bayshore bridge. Because as mentioned, it's so shallow up there, and the bridge height restriction makes it be very small boats. And they're only people who are very familiar with Haldeman Creek.

So the rationale that there are some other docks east of there to me just doesn't hold water as a rationale of why this should be there.

When I look at the whole proposal, in fact when I listened to the presentations today, I had the feeling that there were -- in a development plan there's a basic guideline, the 20 feet. And you could file, you could file for an extension. In layman's term, I call that a variance. It may not be the same. But for an extension.

The people talking today seem to be saying -- oh, and there's some restriction on that extension that you can ask for. The people talking today from the developer's standpoint act like if we can show that we're inside those restrictions you've got to give us a permit. I don't think that's true. But the tone of the thing, blah, blah, blah, we're within 25 percent. Blah, blah, blah, we're within 25 percent. I don't think that's the way it should be looked at. They're looking for an exception to the basic rule. I think we ought to look very carefully at what that is.

Now, I must admit, when I came here today, before I heard some of the public comments already, I was willing to suggest that a reasonable compromise might be to take and just make all these docks parallel, you get a bunch of docks, less impact. I certainly think it helps the safety issue that I'm concerned about with boats backing in and out of dock space day and night. And if you live on the creek you know you've got boats coming by at 11:00, 12:00, 1:00, 2:00 in the morning.

But after listening to a couple of the presentations today, I must admit, I did not in my prepared and -- preparation for today think become the impacts on the wildlife and the natural things that go on.

As one person said to me, we've got -- whether it's 900 or 1,000 feet there of places where those little things live that feed the bigger things that feed the bigger things that will all be knocked off balance with this.

And as I said earlier, I can't find any rationalization for that westward extension at the end of their property line. It just -- it befuddles me. I'll probably find out from somebody in zoning or legal if possible. But just because you owned land that was somehow taken by the county to create a new canal that you have rights over that land. Thank you.

MR. REISCHL: Thank you.

Next speaker, Robert Messmer, followed by two people on the same slip, Debbie Strand and Sean Lutz.

MR. MESSMER: Members of the Collier County Planning Commission, good morning. My name is Bob Messmer, and I have been a property owner on a canal on the north side of Haldeman Creek for 21 years.

Mr. Wilson's questioning about proper notification of this project reminds me to make another point. I believe there's been only one sign erected by the petitioner informing interested parties. And that is on a dead-end spur of Lakeview Drive just as Lakeview goes from east to west to north to south.

To see that sign, you'd have to be a resident driving home and not make your turn to go home but keep going straight for a few hundred feet, get out of your car and read the sign.

There has never been a sign erected where it really should be, on Haldeman Creek, to notify the boaters of what this might become. So it's very possible this hearing has not been by code properly noticed.

Your informational packet contains my letter of June 4th, outlining my concerns, including suggested alternatives to the currently planned docks' configuration and location.

Since I now have had more time to study this project, I wish to withdraw two of my previous suggested alternatives. One was build the docks along the west shore of the pond and the adjacent channel running further south. That was a bad suggestion I made. Those homeowners on the east shoreline on Lakeview do not want to look at 42 docks, boats, lifts, when they now have vegetation blocking their view of Windstar buildings to the west.

Nor was my suggestion to change the perpendicular docks to parallel docks a viable option. Those homeowners on the north shore of the creek, including the Land and Yacht Harbor homeowners, do not want to look at 930 feet of docks, boats and lifts.

Commissioners, this project of 42 slips will be exactly one-half as large as all of Naples City docks. That marina has 84 slips.

The developer still has plenty of alternatives at his disposal, some of which will give him an even higher profit. He can sell to golfers, tennis and pickle ball players, wildlife enthusiasts or couch potatoes. Or, seriously, build the 42 docks and even more if he wishes by expanding Windstar's existing two-dock structures located east of channel marker 24, well away from any boat traffic.

Please walk out on those two pier walkways and observe this alternative location.

Haldeman Creek is the only waterway of its kind in Collier County other than those leading to Goodland and Everglades City. This project will destroy the integrity of Haldeman Creek.

If the Commissioners have any questions regarding my letter, your packet or my statements this morning, I will try to address them. Thank you.

MR. REISCHL: Thank you.

The next speaker, two folks on the same slip, Debi Strand and Sean Lux, followed by Melissa DeSavigny.

MR. LUX: Okay, good morning. My name's Sean Lux. I'm speaking for myself and Debi Strand. We're both residents at 2736 River View.

And we do navigate this area of Haldeman Creek often, as boat owners, and we're very happy that at least one of you went out there on a boat to actually see this area.

And on the overhead I'm showing the picture that we've all seen a couple times that shows -- Google was nice enough to capture a boat going through the area in question.

Now, we also saw an overlay of the docks that protruded back over the top of that boat. At the same time, can you imagine a second boat? Boats have to be able to cross and pass each other within the channel as well. So you have docks on the north side, docks on the south side, two boats, but there's no way that's going to happen. If you're not an engineer, if you're not a surveyor, don't have monetary interest in the project, I can't understand how it's even a possibility. That's a tremendous safety hazard; it's going to create a bottleneck on this channel at the very best. I wouldn't be surprised if it completely closed off the channel to the people living back in the Bayshore area.

Now, you know that all of the property values, for everyone living back in that area, is completely tied to the use of the waterways, okay. If that gets restricted, everyone's property value goes down.

And at the same time, if you look back in the Bayshore area, over here, Lakeview, River View, yes, there is a reason why everyone builds docks parallel to their property, because they are narrow channels, narrow canals.

This is also another narrow, shallow canal. It just doesn't make sense. So I really can't understand why this is even open for discussion, seriously.

I think they certainly put that 20-foot restriction in the books for a reason. And that's to protect us as property owners, protect the public and keep these safety issues from being a concern. Thank you.

MR. REISCHL: Thank you.

Melissa DeSavigny, followed by Maurice Gutierrez.

MS. DeSAVIGNY: Good morning. My name is Melissa and I've lived on a canal on Bayshore for 16 years. I have a four and a five-year old which I constantly take out on a kayak or a paddleboard, and they see all the nature, all the animals and everything.

So like the gentleman said before, this doesn't make any sense whatsoever. The numbers do not add up. Just because it's within the parameters doesn't mean that it could be done. When you are actually in the water and you're actually boating, it's just -- I just don't see it. Like they say, we're all going to be to the right, our boats are going to be hitting the other mangroves. It just doesn't make any sense.

When were these parameters established? What kind of boats? Maybe it was 20, 30 years ago.

The gentleman said that the law allows 100 -- 10 boats for 100 feet for something like that. That means my 53 wide (sic) lot, I could put five boats in there? It's just -- five kayaks, maybe, five jet skis, not five boats. So the fact that they can put 93 slips in there, I just don't see what kind of boats they're putting in there.

And this is -- like everybody says here, it just doesn't make any sense whatsoever. We need to look at those parameters and see when were they established, what year, what boat they were thinking about.

So that's basically -- and like the property values are going to go down because they're based on that. I'm not going to be able to go on my boat in low tide. We're going to have to think about it. We're going to have to stop, let the other person come through, because we're not going to fit. They need to go on low tide. The numbers that they got, I really don't see that as being a factor. So that's my word, thank you.

MR. REISCHL: Thank you.

Maurice Gutierrez, followed by Michael Heiser.

MR. GUTIERREZ: Good morning, Commissioners. Maurice Gutierrez. I've been on the creek for over 30 years.

There's a lot of emotions here today, primarily because a lot of us are longtime property owners.

I'm on the CRA board and the Bayshore MSTU because I feel that development's important, but development that doesn't impact us negatively is more important. And hopefully we can make that, that input, so that we get the best bang for our buck. After all, there's nothing left to the north, they've got to come in our direction.

You know, this is a really colorful piece of property. It's changed with every owner that it's had. And we live on a creek that the state does not even recognize as a navigable waterway. This is a flow way. It does not flush if it does not rain. And all the rains that collect in the basin come out this creek.

We're simple people that live there. And if it's a fish and it swims and it smells like a fish, by God, it's a fish.

No one's called this a marina. This is a marina. I mean, where else do you get a congregation of 42 boats in a length that is less than all the homes combined in Gulfshore subdivision? We have 150 homes. And look at all the waterfront we have. Now, they've taken this and stacked them like a sardine can for the purpose of sales.

This particular piece of property originally was four or five single-family homes. Now it's been combined with a multi-family facet. And through legal processes we are here today. Unfortunately the impact that it presents the owners upstream is one of density, and density's not a very good word. If it is, then everybody can go move next to the Holiday Inn. You know, this is a small waterway, congested to the point of this is going to push it over the edge. A marina doesn't need fuel. A marina needs boats and docks.

I recall when Jackson Fish Camp was granted permits for dredging to benefit Jackson Fish Camp. Today it's called South Point Yacht Club within Windstar. This is the north end of Windstar's marina operations. It will be subsequent to, oh, partnerships and cozy relationships which will allow both residences to interact while impacting everybody on the creek, specifically those on Lakeview Drive. There's been years of discussions and problems and projects that have failed because of the impact.

So now we're looking at a development that isn't really Windstar PUD but it kind of is and all of that smells like fish out of water after about a week. I've got to say it because you've got to call it the way it is. It is a marina operation. Marina operations do not belong on narrow waterways that are one of the last waterways available that are natural, that are non-flushing tidal flow only, and that actually the residences have taxed them to improve. Yet now we're going to have to share a 42-foot boats in the air, because if you buy in this development your boat's not going to float, you're going to put a lift. And in the summer everybody goes home. So we're going to have 42 boats up in the air during hurricanes, during storms, during issues that is a safety problem for the creek.

20, 24 slips make it not a marina. 42 makes it a marina. You've got to call it what it is.

There are no other T-docks on the creek other than the commercial waterfront. The commercial waterfront's been there for 50 years. It was created because the state dug this street. The state won't ever maintain this. Because three-foot minimum depth of low tide is what they consider applicable to allow the water to flow, not for boats to navigate. Congestion is only going to add to the impact of the creek and all the residences who live up here.

The LDC has said limited number of boats. I imagine they did that for a reason way above my pay grade. But I understand it. I don't agree with it because originally it was five or four single-family home sites. Single-family homes don't have 42 slips in their backyard.

But also, look at the picture we haven't been presented here today. Where are 42 vehicles going to park to access their 42 boats? You know, if you own a boat you've got friends, they want to come with you too. So where are they going to park?

So now I can only envision some type of clubhouse up against these docks, with noise, with lights, with people, with garbage falling off the boats, with, as it was mentioned on the creek, how are they going to wash them? Where is all that bleach and water going to go? Everybody who owns a boat uses bleach. Sorry, it's not economically feasible, but they do it because it works.

All of these things are just part of the impact that is going to flow right out that canal and into Naples Bay.

Allowing this to go in is setting a very bad precedent. The county doesn't let you build anything on the water as a dock unless you have a structure behind it. So how is it that that extended pier on the far west end that is literally looking at one of the greens on Windstar allowed to have a dock? You can't put a house in that little 10 foot of wetlands area, so how can you justify that and complicate it with allowing so much dockage?

Yes, this is all emotional, because we all have a vested interest here. But more so, it just doesn't fit the neighborhood. If they want a 20-story building there, I'm sure they're going to get zoning that's going to say you can do it. But is it the right fit?

I think most of us here are talking and taking time off of work to make the Commissioners understand it's got to fit the neighborhood. Development's good, but a marina on a creek is not a good idea.

I am not a marine scientist, nor do I have any data that can prove this will happen or no, it won't, except for the fact I've lived there for 30 some years and I've seen the changes that have occurred. And those changes will ultimately impact us financially, ecologically. But the whole development as a whole is going to impact Gulf Shore subdivision beyond belief. It didn't make it when it was Fisherman's Village because of the access. Yet the relationship between Windstar and this development may have separate pillows but it sure looks like one great big bed. And the impact is going to felt up the creek.

I ask that you don't leave us residences up the creek without a paddle and be forced to deal with this for the rest of our lives, because I'm not going to sell my property.

Thank you for your time.

COMMISSIONER EBERT: I have a question for you, sir.

You mentioned the perpendicular docks at the commercial area. I noticed those too. You said they've been there for about 50 years so they're more than grandfathered in? Is this true, they've been there that long? Approximately?

MR. GUTIERREZ: I live directly across the creek, the boat yard --

COMMISSIONER EBERT: Yes.

MR. GUTIERREZ: In 1976 they were there. And since then I don't believe any has been built, but I know some have been removed. And it's all been right at the corner where the main creek intersects Gulf Shore's entrance. I don't know why they were removed but recently they have been removed.

And the rest of the docks in front of the residential homes are not T-docks. As a matter of fact, at the end of the one dead-end street, which is where our canal comes out, right here, I am under the impression that they tried to get a lift and a T-dock installed and they were denied so they put a floating dock where they drive their boat up on that floating dock. It's currently there, it shows in any aerial photograph.

But other than the commercial working waterfront there is no T-docks between Bayshore and Naples

Bay.

This will set the precedent -- imagine Land Yacht Harbor turning around and going wow, hey, why don't we just put 15 T-docks coming out of each one of our three piers in Naples Land Yacht Harbor, because after all, they did it, why can't I? That unfortunately is what I fear as a resident.

I was raised in Miami as a young man, moved here in the Seventies and stayed here for a reason. I saw all that happen over there. And I will fight and hopefully discourage that from occurring here. Thank you.

COMMISSIONER EBERT: Thank you.

MR. REISCHL: Next speaker is Michael Heiser, followed by Kevin Sieg.

MR. HEISER: My name is Mike Heiser. I cut my Achilles tendon, if you're wondering.

I've been on the creek for 38 years. My sons both fished on the creek, hunted on the creek, learned to look for arrowheads on the creek and go through the little canals that go back in there where the Calusas used to put their -- take their dug-out canoes back in there where you follow those creeks back in. And this is definitely going to change a lot of that.

Nothing's been said at all about hurricanes today, so that's what I'm going to address.

What you're making here is a killer. All the water from Thomasson Road when we have a hurricane comes down and ends up going into Haldeman Creek. Millions of gallons of water.

When Donna went through -- we have a duplex over across from K-Mart, and it blew the roof off. And when Donna came through, the only thing showing was the top of the cement blocks. It was nine or 10 foot deep there. And if you put five or 600 -- four or 500, at least 400 pilings in there, what you're doing 50 foot out is when all this water starts flowing through and all the trees and the trash and all these boats sink and go down between the docks, you're making a dam. And the people on the other side with the 50-foot dock and theirs sink, and they're going to sink, when the Donna hurricane comes through, they're all going to be on the bottom and they're going to be between these pilings.

And so now you've got a 50-foot dam on this side, a 50-foot dam on this side, and now you have 25 to 30 foot between them with all these millions of gallons of water that's coming from Lakewood, the Glades, all of that area has to go through this little 20-foot area. And you're going to see a lot of dead people. So that's what you've caused by doing this if you continue this on.

What else have I got to say? Put these glasses on so I can see what I'm doing.

Oh, yeah, there was -- I was noticing he was talking about how wide this was. And there seems to be an awful lot of fuzzy math going on today. And that's all I've got to say.

MR. REISCHL: Thank you.

Next speaker, Kevin Sieg, followed by Joe Bucemi.

Kevin Sieg's not here?

MR. SIEG: I'm here, but I have nothing to say.

MR. REISCHL: Joe Bucemi, followed by Tom Briscoe.

You don't want to speak?

MR. BUCEMI: No.

MR. REISCHL: Okay, Tom Briscoe, followed by Vicki Tracy.

MR. BRISCOE: Hi, I'm Tom Briscoe. I live on Shore View.

And my only problem with this is is that during low tide it's very hard to navigate out. I had a boat that had a draft of 18 inches. At low tide I would get stuck in the S curve. These people are going in here with a 31-foot dock with a boat B on it. Well, how long is that boat? Boats are measured from the bow to the stern. If it's an outboard you have to add the motor to it. So they could be encroaching into the waterway further than what they're talking about. And when you have a 26-foot long boat, same thing happens.

So where's the rules and regulations on how long a boat they can put into these slips? And, you know, unfortunately I've seen a lot of sailboats coming in at the wrong tide, they get stuck. They wait for eight hours until they can get enough water to float.

So if you get these boats going in and out all times of the day, we're going to have a lot of stuck boats and all the rest of us are going to have to suffer because of it. Thank you.

MR. REISCHL: And for the record, to answer Mr. Briscoe's question, the code states that the

measurement is for the boat and dock facility. So it includes the boat. So if there are -- and motors. That would have to be to the outermost piling. If it goes beyond that, it's a code enforcement issue.

Final speaker is Vicki Tracy. And I notice it says defer my minutes to Maurice. I don't know if you want to keep with your --

UNIDENTIFIED MEMBER OF THE AUDIENCE: She had to go.

MR. REISCHL: Oh, she had to go. Okay, that's why it says defer. Thank you.

That was the final registered speaker.

VICE-CHAIR HOMIAK: No more speakers?

COMMISSIONER EBERT: I have some questions for Tim.

VICE-CHAIR HOMIAK: Oh, for Tim?

COMMISSIONER EBERT: Tim, I have some questions for you.

MR. HALL: I thought you might.

COMMISSIONER EBERT: This four-foot dredge that you plan on doing as a maintenance dredge, is that from mean high tide or mean low?

MR. HALL: The -4 is to mean low water.

COMMISSIONER EBERT: To mean low water.

MR. HALL: So at normal low tide it would be four feet deep. At -- I'm sorry, normal low tide it will be four feet deep.

At extreme low tides, like what you see in the photos, it will be shallower than four feet.

COMMISSIONER CHRZANOWSKI: Do you have numbers for that, elevation numbers? Just rough idea. Like elevation two, elevation three.

MR. HALL: The mean low is -.5 NGVD. High is 1.5, positive 1.5. So there's about a two-foot tide swing according to the DEP --

COMMISSIONER CHRZANOWSKI: Between mean low and --

MR. HALL: Mean high.

COMMISSIONER CHRZANOWSKI: -- mean high.

How about low low tide?

MR. HALL: Low low goes probably almost another foot and a quarter lower.

COMMISSIONER CHRZANOWSKI: And you're still dealing with NGVD?

MR. HALL: Yes, sir.

COMMISSIONER CHRZANOWSKI: Good.

COMMISSIONER EBERT: Okay, I'm not like Stan, not an engineer, or like you. But you're saying that you're going to dredge four feet from low tide; is that correct?

MR. HALL: The depth measured --

COMMISSIONER EBERT: The depth.

MR. HALL: The four-foot depth is from the average low tide.

COMMISSIONER EBERT: Low tide. So you're digging up -- and yet you're measuring everything from mean high water tide. The measurement across the canal and everything?

MR. HALL: That's what the county code says we have to do.

COMMISSIONER EBERT: Yeah, I know, but it just --

MR. HALL: If I reference it to mean high tide, I'll be six feet deep at high tide.

COMMISSIONER EBERT: Okay.

The property line on the south side, many people have asked this: I know you tell me that because he owns the property on the north side which is going to be off limits anyway, that he owns everything underneath. Why -- if the property line on the south side stops, why does he get to go into Windstar property?

MR. HALL: He's not. The docks are over property that he owns.

COMMISSIONER EBERT: So what you're telling everyone then is he owns -- he owns that property where Windstar's golf course is?

MR. HALL: No, ma'am, not where the golf course is but along the shoreline. This red line right here is his property line.

COMMISSIONER EBERT: Okay. So his property line on submerged lands is what you're saying.

MR. HALL: Well, it's not -- he owns some submerged lands. But the property line itself is landward of mean high water in places along here as well. So it's not all submerged.

COMMISSIONER EBERT: Okay, so that's why you originally came out with that dock at that one point there where you brought it --

MR. HALL: Well, I came out with that dock because of this photo. This area right here is shallow and we had the docks originally outside of -- or along the outside edge of this shoal to minimize the dredging. But when -- we've closed it now. Where our docks are located is dry land in this photo.

That's what I'm trying to say, we're not affecting this waterway width. Our docks are going to be -- these mangroves, the edge of these mangroves will be trimmed, the docks will be up against the roots and the boats will actually be sitting here on what's dry land in this photo.

COMMISSIONER EBERT: Is this going to be a hard dock or floating dock?

MR. HALL: They have to be fixed docks because they don't have the water depths for floating.

COMMISSIONER EBERT: Okay, so you cannot put in floating docks. I was wondering on that. I noticed they said they were going to have a kayak launch and storage, you mentioned?

MR. HALL: Yes, ma'am.

COMMISSIONER EBERT: Can you tell us about that?

MR. HALL: Well, I mean, it's --

COMMISSIONER EBERT: I mean, besides these 42 slips they're also going to be able to do kayak, I understand.

Stan, you can get out there and kayak.

MR. HALL: They kayak storage is all upland. It's part of the upland development. They will just have a place at the -- the reason that I wanted to leave this walkway eight feet wide, the kayaks will be stored up here on the upland, but the access to put them in the water will be right here off of this walkway. And it's nothing fancy, it's just a place where they can drop them over the edge of the dock and get in and out of them.

COMMISSIONER EBERT: Okay. The developer did tell me yesterday that -- and I should probably talk with him, whoever is representing the developer, that he has a site plan that he is willing to show today?

MR. HALL: I've got a copy here.

MR. COOK: Good morning. Charles Cook. I'm representing Standard Pacific Homes.

The color rendering that we have on the overhead is the current site plan for the Haldeman's Landing SDP that's currently being reviewed by Collier County. So that consists of 16 buildings representing 64 home sites. They're carriage homes.

COMMISSIONER EBERT: They're carriage homes.

Okay, and I think you told me your main entrance is going to be through Windstar; is that correct?

MR. COOK: Yes, ma'am. The property's been annexed into the Windstar homeowners association, so we'll be paying homeowner association dues through Windstar.

The road -- that's Haldeman Creek Drive which currently is a cul-de-sac within Windstar. We'll be extending that into the property as the primary means of ingress and egress, into the Haldeman Creek -- Haldeman Landing property.

There will be a secondary instance, as you can see on the far right-hand side that will tie into Lakeview Drive.

COMMISSIONER EBERT: Okay. And the Lakeview Drive, that's going to be the construction entrance?

MR. COOK: Yes, ma'am.

COMMISSIONER EBERT: And I think you also told me this is like a gated community within a gated community.

MR. COOK: There will be a gate on both ends. On the back side where Lakeview ties in, you can see the roundabout there on the far right-hand side in this area. There will also be a secondary gate in that area, thereby establishing a controlled access into the community itself.

So, for example, Windstar residents will not be able to egress or leave the property through

Lakeview. It's intended only for the residents of Haldeman's Landing.

COMMISSIONER EBERT: Okay. Are you willing to make some compromises on these docks and do these elsewhere where people are mentioning, down towards -- I believe it's Sandpiper or something, I heard somebody say, where it's really not on Haldeman Creek?

MR. COOK: We don't own or control those properties at all, so I couldn't at all make a commitment to build something on property that we're not involved with, no, ma'am.

COMMISSIONER EBERT: Well, you were annexed in. Just a question.

Will boat lifts be optional?

MR. COOK: Yes, ma'am.

COMMISSIONER EBERT: So Tim, do you think most people will have boat lifts? Do they on this creek?

MR. HALL: There are a lot of boat lifts on the creek, but it's going to be up to the residences and, you know, whether they're seasonal or full-time, you know, how often they use their boat. It's really a user choice.

COMMISSIONER EBERT: And I think you told me when I asked you that if you had to put these in there parallel that you could get 29 in?

MR. HALL: I think that's the number that we put, yes, ma'am.

COMMISSIONER EBERT: A question on the docks again. When I heard Fred say that if the stern sticks out a little bit with the motors and stuff this would then be a code enforcement violation, what size boats can you put in these slips?

MR. HALL: Generally if you're talking about a 30-foot slip, which is the biggest slip, then it's a 30-foot length overall, LOA. So if you've got a bow pulpit on the front which is a couple of feet and outboard motors on the back which is another couple of feet, then you're talking about a 26-foot boat with the appurtenances.

COMMISSIONER EBERT: For the 30-foot slip.

MR. HALL: For a 30-foot slip.

But that's very dependent on the boat and how it's tricked out. But, you know, that's the --

COMMISSIONER EBERT: Does everybody know that when they buy a boat that it fits in these boat docks?

MR. HALL: It's part of the sales documents. A lot of times what the developers will do is they'll provide them with an exhibit of the slip and the box, and it will have a width and a length and a requirement that your vessel has to fit within this box or you will not be compliant with our permits in the county code.

COMMISSIONER EBERT: How wide are these? What are you allowing for width on the 30-foot and the 25-foot slip?

MR. HALL: I believe the perpendicular slips we allow 11 and a half to 12 feet. And when you put in pilings for those center pilings, you can't always be exact, so it's going to vary between that 11 and a half to 12 feet. And we have a 12-foot allowance for the BDE in terms of the paralleled moored slips and how far out from the dock they could be.

COMMISSIONER EBERT: Okay. Is there going to be a clubhouse here towards the --

MR. COOK: On the uplands site plan, let me point to it for you, in the area right there, there will be a community clubhouse, pool and cabana for the residents of Haldeman's Landing.

COMMISSIONER EBERT: What about parking?

MR. COOK: There's adequate parking there. That was addressed during the SDP process.

COMMISSIONER EBERT: I was just thinking of the boat docks too. Because even if you live back here you're going to drive up, you know, with the car.

That's all I have for right now. Thank you.

VICE-CHAIR HOMIAK: Do you have anything?

COMMISSIONER DOYLE: Yes, the community concern is always a big part of this. And it seems that most of what we've heard is the integrity of what they have there now as far as what's going on.

I'm still hoping that there's some type of mediation, you know, where we can get to. How less are you willing to put there? I mean, I thought I heard half a boat dock, half the boat slips. Is that even feasible

for you guys?

MR. COOK: Commissioner, I don't believe so. We've made adjustments to our design. We're well under what we could technically apply for. We've tried to observe the navigability issues, we've surveyed the bottom to verify where the bottom is. We've expanded our dredging that we're proposing to do. I believe at this point in time the developer has made a number of concessions trying to address these concerns and those we've heard from the public. So no, sir, I don't believe we're prepared to do any further adjustments at this point.

COMMISSIONER DOYLE: Thank you.

MR. HALL: If I could, I mean, a lot of the comments were how this project is not consistent with the rest of the neighborhood. But the rest of the neighborhood is all single-family residences. This is a multi-family residence which is treated differently under the county code and has different allowances.

And if you look at the other multi-family residences that are in the area, this is not inconsistent with those. And I'll show you -- I showed you the facility earlier on the other side of the bridge which has the perpendicular docks, okay. That's about a 750 to 800-foot long run of docks.

The other multi-family facility down here runs along the creek and they also have a dock that runs the entire length of their shoreline. It's parallel mooring because of the narrowness of the creek there. It's not perpendicular, but it is in keeping with this one in that it does run along the entire length of their shoreline, and in front of mangroves which are, you know, outside of their residences.

So in terms of consistency with other like types of projects, you know, I believe that this one is consistent.

COMMISSIONER EBERT: Tim, I -- I have something that has width of waterways that was in our packet from you. And it shows -- just says width of waterways. And it shows 84 feet and 99 feet. What is --

MR. HALL: That's the width left in the area at those points after the construction of the docks. However, this 84 feet is now going to be about 92 or 93 feet because this was based on the old dock plan that was pushed out a little further. So that 84 feet actually becomes more.

And we were doing this to show that in terms of constriction, you know, of the waterway, if you look further downstream -- and I heard a couple people say that they have problems at the S curve and all, and I believe that's this area down here, that's how they refer to that -- that the widths down there are similar or less than what is being -- than what's being proposed.

And again, these are from shoreline to shoreline, not necessarily the marked channel portion. If you look at where the navigation markers are -- I heard one of the gentlemen say that this isn't recognized as a navigable channel, but there are navigation markers in it. And the width between those navigation markers in a lot of places is 50 feet, you know, between 50 and 60 feet. So the channel is already marked and defined as constricted. And Stan, maybe you know, I think you've canoed this area, but the --

COMMISSIONER CHRZANOWSKI: No, Rock Creek I've done. I've never done this one. It's too hard to get to.

MR. HALL: The waterway that's being left after this facility is designed is sufficient in our opinion and in the Army Corps of Engineers' opinion and in the State of Florida's opinion as sufficient for the navigation that occurs through there.

COMMISSIONER CHRZANOWSKI: Is there a definition of navigable waterway? I always thought it was anything you could get a kayak in.

MR. HALL: Anything you can get a canoe through, that's correct. That's the federal definition. We did this exhibit showing the four-foot because of the concerns at the public meeting and them saying that this was the depth that they needed. So we had a survey done of the creek over and above what's required by the county processes to try to find out where that water depth was.

And, you know, based on the information from a professional licensed surveyor with the docks, that -4 contour line is 73, 69, 52 and starts getting narrower as you get west on the waterway. And where these docks are, this line is now going to be pulled back to where the dock is. So it will be wider here after the construction than it is right now.

COMMISSIONER EBERT: So you're right, navigable -- I remember that from The Dunes. I think that's kind of -- I could not believe that if you can get a kayak -- the only problem is I don't think most of

these people living here have -- that they travel up and down via their kayak. I think what --

MR. HALL: It was based on -- a history lesson. It was based on commerce clauses. And anything that could transport sellable goods through a waterway made it navigable. So people, furriers and --

COMMISSIONER EBERT: You're going back really to the days of the Indians.

COMMISSIONER CHRZANOWSKI: Square grouper.

COMMISSIONER EBERT: That's all I have right now.

VICE-CHAIR HOMIAK: There was mention by one of the speakers that there will be damage to the mangroves, but that's why you're going out further, because you can't damage the mangroves.

MR. HALL: We're not removing any mangroves. There will be trimming. Because along a lot of that waterway where the roots of the mangroves are and where the outside edge of the mangroves, they grow out to light, so they grow out towards the water. So some of them will be trimmed up in order to push the docks in closer to the shore. But that is a trimming operation, it's permitted under the DEP permit, and it's not removal. There will be trimming.

VICE-CHAIR HOMIAK: Right, I read the permit.

And there's also restrictions on washing.

MR. HALL: Yes, in the permit there are.

VICE-CHAIR HOMIAK: And then there was questions about lighting. What kind of lighting would be --

MR. HALL: For safety sake we'll have lights on the docks so that people traveling the waterway can see them. But they will be directional low level lights. They're not going to be shining into anybody's, you know, bedroom windows or anything like that. They'll be directed -- either directed down at the water or directed water wayward so that people traveling the waterway could see them if they're coming in or out at night.

VICE-CHAIR HOMIAK: Okay. Okay, is there any other questions from anybody or --

(No response.)

VICE-CHAIR HOMIAK: No?

Okay, do you have anything you want to add or --

MR. HALL: Well, I mean, just that, you know, I mean, I think you've heard a lot of testimony here today. I think that the application that we gave you adequately addresses the criteria that are required to be addressed as part of this application.

Our information is based on professional engineers, licensed surveyors, and we have the backup for that in support of the application. So I think we've shown that we meet the criteria, staff has agreed with us, and we hope that you guys agree with them.

COMMISSIONER EBERT: Tim, one other quick -- two quick questions.

This is about 1,000 feet, this dock, if you go from one end to the other?

MR. HALL: Yes, ma'am. It's 968, I believe.

COMMISSIONER EBERT: Well, I did get kind of a kick out there when you said we could have, what did you say, 93?

MR. HALL: The Manatee Protection Plan allows 93. There are a lot of properties where the plan allows more than you could ever reasonably fit. And I was not saying that it was ever our intent to do 93, I said that our -- the code allows 93.

The limitation associated with the units, as you all know, a single-family residence could have two slips per unit. Multi-family, it's reduced to one. So under that, 64 could potentially be allowed. Because of the restrictions which we have tried to work within, 42 is what we're proposing. So we're under all of the allowances that are --

COMMISSIONER EBERT: I don't know on whose property you were going to put these 93. I think you'd have to continue down a little ways.

MR. HALL: And like I said, as far as I know it was never our intent to do 93, even if we could fit them. Because there's only 64, we couldn't do 93 anyway.

COMMISSIONER EBERT: Off the property, code-wise. Okay, thank you.

VICE-CHAIR HOMIAK: Okay, that's it then.

COMMISSIONER CHRZANOWSKI: Ready for a motion?

VICE-CHAIR HOMIAK: Yep.

COMMISSIONER CHRZANOWSKI: I move to approve boat dock extension PL2013000 --

COMMISSIONER EBERT: Wait, there is a problem here. We have to close the meeting and see if there's any comments from us first?

COMMISSIONER CHRZANOWSKI: Okay.

VICE-CHAIR HOMIAK: Close the public hearing.

COMMISSIONER EBERT: Close the public hearing?

MS. ASHTON-CICKO: Sure, you can close the public hearing and ask for comments.

COMMISSIONER EBERT: And then ask -- yeah, you want to close the public hearing?

VICE-CHAIR HOMIAK: Yeah, I just did.

COMMISSIONER EBERT: Okay, closing public -- I cannot support this. I've been -- I have been out there. I see the pictures, it is so narrow. There are way too many docks for this area.

I was hoping that we could do a little bit of a compromise. I cannot even see where he will be able to sell these 42.

As far as perpendicular, yes, when you ask for an extension you can do so. I don't see any in the canal. As we went up and down the canal, there were no docks really in this tidal canal anyway going from one place down to the Naples Bay to, what, Sandpiper, is that where the bay starts? There were not any docks. The docks that I pretty much saw were in the fingers of this.

So I cannot support this at all. I just feel it's the safety, it's low tide. I understand that Mr. Wilson was nice enough to look at the original dredge back in 2007, saying it was supposed to be 40 feet wide. But, you know, silt gets in there, things change.

I would really love to see something that's -- and you can get two or three different engineers and get many different water depths and widths. So I cannot support this.

COMMISSIONER CHRZANOWSKI: Can I ask a question, Heidi?

MS. ASHTON-CICKO: Yeah.

COMMISSIONER CHRZANOWSKI: There's four of us here and there has to be a unanimous vote. I don't think we're going to see a unanimous vote, so what do we do?

VICE-CHAIR HOMIAK: It doesn't have to be a unanimous vote.

MS. ASHTON-CICKO: It doesn't have to be a unanimous vote.

COMMISSIONER CHRZANOWSKI: So if we -- if somebody makes a motion for approval, we're going to get so many for and so many against, and if someone makes a motion for denial we'll get so many for and so many against. So is that how it ends up, whoever makes the first motion?

MS. ASHTON-CICKO: Well, you had already started to make the motion, so I think once everyone finishes speaking, then I think you were in the middle of making a motion.

COMMISSIONER CHRZANOWSKI: Okay.

VICE-CHAIR HOMIAK: Do you have any --

COMMISSIONER DOYLE: No, my comments is I'm against this as well as it stands.

COMMISSIONER CHRZANOWSKI: Well, then maybe Diane can make the motion.

MS. ASHTON-CICKO: Have you had a chance to look through the criteria and which ones that you believe it doesn't meet? Could you state that for the record?

MR. REISCHL: Should there be a motion on the floor first?

MS. ASHTON-CICKO: Well, there is. He started a motion. I don't know that he's --

COMMISSIONER CHRZANOWSKI: Okay, I'll finish it.

I make a motion we approve boat dock extension PL20130001765, Haldeman's Landing boat docks. And I guess the companion to the ST item would be a separate motion.

MS. ASHTON-CICKO: Yes.

COMMISSIONER CHRZANOWSKI: So that's my motion.

THE COURT: So that's with the conditions --

COMMISSIONER CHRZANOWSKI: With all the conditions --

COMMISSIONER CHRZANOWSKI: Corrected conditions as per the staff report.

VICE-CHAIR HOMIAK: The conditions in the first --

COMMISSIONER CHRZANOWSKI: Right, the corrected conditions --

VICE-CHAIR HOMIAK: Corrected conditions --

COMMISSIONER CHRZANOWSKI: -- from the staff report.

VICE-CHAIR HOMIAK: And that it would be a 25-foot --

COMMISSIONER CHRZANOWSKI: Right.

VICE-CHAIR HOMIAK: -- extension?

Okay. I guess I'll second the motion.

All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

VICE-CHAIR HOMIAK: Aye.

All those opposed?

COMMISSIONER EBERT: Aye.

COMMISSIONER DOYLE: Aye.

VICE-CHAIR HOMIAK: So there you go.

MS. ASHTON-CICKO: What was it? Is it 2-2?

VICE-CHAIR HOMIAK: Two-to-two.

COMMISSIONER EBERT: Two-to-two.

COMMISSIONER CHRZANOWSKI: Two-to-two.

MR. REISCHL: So it fails.

COMMISSIONER EBERT: So it fails? So it -- okay. But this -- Heidi, I'm going to ask you, this now goes to the Board of Commissioners?

MR. REISCHL: No, you are the --

VICE-CHAIR HOMIAK: No.

MR. REISCHL: -- deciding body in this.

COMMISSIONER EBERT: So it fails.

MR. REISCHL: Correct.

(Applause.)

MR. BELLOWS: For the record, the ST permit would still go to the Board of County Commissioners and you still need to vote on that. And there's a possibility of an appeal of the decision of the Planning Commission.

VICE-CHAIR HOMIAK: Okay. So we would still do the -- vote on the permit. And you just made that motion.

COMMISSIONER CHRZANOWSKI: Want me too make a motion on the ST? We'll go through the same drill?

VICE-CHAIR HOMIAK: Uh-huh.

COMMISSIONER CHRZANOWSKI: Okay. I move we approve ST-PL201400000896, Haldeman's Landing boat docks.

MR. REISCHL: With the limitation or with the four --

VICE-CHAIR HOMIAK: Accesses.

MR. REISCHL: -- or five access? Or three?

VICE-CHAIR HOMIAK: With the four accesses --

MR. REISCHL: We discussed the possibility of --

COMMISSIONER CHRZANOWSKI: With the four accesses.

THE COURT REPORTER: Okay, I have a lot of people talking at the same time.

COMMISSIONER CHRZANOWSKI: Four accesses.

VICE-CHAIR HOMIAK: Okay, I'll second it.

All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

VICE-CHAIR HOMIAK: Aye.

Opposed?

COMMISSIONER EBERT: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER CHRZANOWSKI: Two-to-two.

COMMISSIONER EBERT: It's only a recommendation, correct?

MR. BELLOWS: Correct.

VICE-CHAIR HOMIAK: Yes. We also have to vote on it as the EAC on the special treatment permit?

MS. ASHTON-CICKO: Just one second.

While I'm looking through this to provide you an answer, could you look at your list of primary and secondary criteria so you can articulate on the prior item which ones it fails, for the record?

VICE-CHAIR HOMIAK: Those that voted against it need to --

COMMISSIONER EBERT: Yes.

VICE-CHAIR HOMIAK: You need to state which criteria that it doesn't meet, or they don't meet.

COMMISSIONER EBERT: Mine is mainly health, safety and welfare. I mean, this just does not even make sense to me, to be honest with you.

Criteria. There was a gentleman here and he spoke, but he has left. In low tide his boat actually is sitting in the muck. So when they were saying that yeah, we have to dredge, that means almost everybody here is going to have to dredge for low tide. And to me it just -- no.

Besides, we don't need -- we don't need a Naples Pier along here. It's -- Heidi, I'm sorry, I just --

COMMISSIONER CHRZANOWSKI: Are you saying that they actually have to list which criteria this doesn't meet in their opinion?

UNIDENTIFIED MEMBER OF THE AUDIENCE: No.

MS. ASHTON-CICKO: Yes.

COMMISSIONER CHRZANOWSKI: Okay.

MS. ASHTON-CICKO: And the answer on the Environmental Advisory Council is that yes, you're sitting as both the CCPC and the EAC and the CRA. So if there's anything you want to add related to the EAC on the ST permit, you can add it or it can be included in what you previously --

VICE-CHAIR HOMIAK: There's not another vote that we need to --

MS. ASHTON-CICKO: No, you're just --

VICE-CHAIR HOMIAK: Leave it the way it is? Okay.

COMMISSIONER ROSEN: If this subject is done, I'll take my seat.

VICE-CHAIR HOMIAK: I think they're still -- we voted, so --

COMMISSIONER EBERT: Well, for one thing, some things changed when we came to this meeting. For one thing, it was the 52 feet. The mangroves can be trimmed? I just don't -- the proposed maintenance dredge. To me this is not a proposed maintenance dredge, even though -- and Tim's probably right, he's just going to take it and go down.

I just won't -- I will not support this.

MS. ASHTON-CICKO: How about if we go through the primary criteria and you can let us know whether you felt that it met that or not? That might help assist in determining which ones.

COMMISSIONER EBERT: On the primary?

MS. ASHTON-CICKO: We'll go through primary and secondary and then --

MR. BELLOWS: Madam Chairman?

VICE-CHAIR HOMIAK: Yes.

MR. REISCHL: Did you want us to read it or --

MS. ASHTON-CICKO: Yeah, why don't you read it and then they can each let you know whether it was met or not met.

MR. REISCHL: Okay. Whether the number of dock facilities and/or boat slips proposed is appropriate in relation to the waterfront length, location, upland land use and zoning of the subject property. Consideration should be made of property on unbridged barrier islands where vessels are the primary means of transportation to and from the property. The number should be appropriate. Typical single-family use should be no more than two slips. Typical multi-family use should be one slip per dwelling unit. And in the

case of unbridged barrier islands, additional slips may be appropriate.

COMMISSIONER EBERT: No, it does not meet that for me.

MR. REISCHL: Criterion one.

COMMISSIONER EBERT: One.

COMMISSIONER DOYLE: Met.

MR. REISCHL: I'm sorry?

COMMISSIONER DOYLE: It seems to be met.

MR. REISCHL: Okay.

COMMISSIONER EBERT: Well, that's what staff is saying.

COMMISSIONER DOYLE: Right, according to --

MR. BELLOWS: Then you compare with that assessment.

MS. ASHTON-CICKO: Yeah, you look at staff's assessment and what you heard from the public as evidence.

COMMISSIONER EBERT: Whether the number of boat dock facilities or boat slips proposed is appropriate in relation to the waterfront length? No, I do not agree with that.

MR. BELLOWS: Mr. Doyle, do you -- since you were voting in opposition to the motion, are you concurring with that?

COMMISSIONER DOYLE: With staff's criterion being met, I do concur with that. Do I have to --

MS. ASHTON-CICKO: That's sufficient, let's go to the next one.

MR. REISCHL: Whether the water depth at the proposed site is so shallow that a vessel of the general length, type and draft as that described in the petitioner's application is unable to launch or moor at mean low tide. The petitioners application and survey should establish that the water depth is too shallow to allow launching and mooring of the vessel described without an extension.

COMMISSIONER EBERT: Without an extension. And they cannot do that without an extension, so to me it's not met. I had question marks there anyway.

COMMISSIONER DOYLE: And according to the petitioner's application, it would be met. So I'll have to concur with staff's recommendation on that.

MR. REISCHL: Whether the proposed dock facility may have an adverse impact on navigation within an adjacent marked or chartered navigable channel. The facility should not intrude into any marked or chartered navigable channel, thus impeding vessel traffic in the channel.

COMMISSIONER EBERT: No, it does not meet that criteria to me.

COMMISSIONER DOYLE: I don't believe it meets that criteria either.

MR. REISCHL: Whether the proposed dock facility protrudes no more than 25 percent of the width of the waterway and whether a minimum of 50 percent of the waterway width between dock facilities on either side is maintained for navigability. The facilities should maintain the required percentages.

COMMISSIONER EBERT: Well, I can say I was expecting drawings of all docks that were approved. They did not bring them in. We had one of the people bring it in. And I really don't know whether it is 50 percent of the channel that will be open.

COMMISSIONER DOYLE: And it seems that that criteria will be met and maintained as far as I see.

MR. REISCHL: Whether the proposed location and design of the dock facility is such that the facility would not interfere with the use of neighboring docks. The facilities should not interfere with the use of legally permitted neighboring docks.

COMMISSIONER EBERT: Well, the other docks aren't there yet, so I really expected Tim to bring both of this to show. And I had asked that they bring this, because I think it's important to see.

COMMISSIONER DOYLE: And I don't believe that criteria will be met, or has been shown to be met.

MR. REISCHL: Whether there are special conditions not involving water depth related to the subject property or waterway which justify the proposed dimensions and location of the proposed dock facility. There must be at least one special condition related to the property. These may include type of drawing, type of shoreline reinforcement, shoreline configuration, mangrove growth or seagrass beds.

COMMISSIONER DOYLE: I believe that will be met.

MR. REISCHL: Commissioner Ebert, do you --

COMMISSIONER EBERT: Well, there is mangroves there. I suppose that will be met. It's just that the state's regulating them and it makes a difference if the county's not in there on this also.

MR. REISCHL: Whether the proposed dock facility would allow reasonable safe access to the vessel for loading, unloading and routine maintenance without the use of excessive deck area not directly related to these functions. The facilities should not use excessive deck area.

COMMISSIONER EBERT: I think they cut down the deck area some which does help.

COMMISSIONER DOYLE: It seems like the criteria can be met.

MR. REISCHL: For single -- it's not single-family.

Whether the proposed facility would have a major impact on the waterfront view of neighboring property owners, the facility should not have a major impact on the view of neighboring property owners.

COMMISSIONER EBERT: That's the opinion of the developer. If they put -- if you're looking down at the water, that's one thing. If you're looking across the shore and these boat docks have lifts on it, that's a completely different thing.

COMMISSIONER DOYLE: And I'd have to agree. Depending upon what you feel that the view is, I would have to say that's not going to be met.

MR. REISCHL: Whether seagrass beds will be impacted by the proposed dock facility. If seagrass beds are present, compliance with subsection blah of the LDC must be demonstrated.

COMMISSIONER EBERT: That is met. I believe Tim said they went out and they checked for seagrasses; is that correct, Tim?

MR. HALL: Yes, ma'am.

COMMISSIONER EBERT: Thank you.

COMMISSIONER DOYLE: And it seems that criteria has been met.

MR. REISCHL: And the last one, whether the proposed dock facility is subject to the manatee protection requirements of subsection of the code. If applicable, compliance must be demonstrated.

COMMISSIONER EBERT: Well, as far as manatee protection, it's in the, what, moderate at this point? So at that point it does.

MR. REISCHL: Moderate range.

COMMISSIONER DOYLE: And it seems that that will be met as well.

MR. REISCHL: Thank you.

COMMISSIONER EBERT: Does that satisfy you, Heidi?

MS. ASHTON-CICKO: Yes, it does. Thank you.

COMMISSIONER EBERT: Thank you.

VICE-CHAIR HOMIAK: Okay. So that's it. Do we have any old business?

(No response.)

VICE-CHAIR HOMIAK: New business?

(No response.)

COMMISSIONER ROSEN: I'm exhausted. Motion to adjourn.

COMMISSIONER CHRZANOWSKI: Second.

VICE-CHAIR HOMIAK: All those in favor?

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

VICE-CHAIR HOMIAK: Aye.

COMMISSIONER HOMIAK: Aye.

MS. ASHTON-CICKO: Did you mention when the next meeting is?

VICE-CHAIR HOMIAK: At the beginning of the meeting.

MS. ASHTON-CICKO: You did. July 17th, thank you.

June 19, 2014

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 12:10 p.m.

COLLIER COUNTY PLANNING COMMISSION



KAREN HOMIAK, Vice-Chairman

These minutes approved by the board on 7/17/2014 as presented or as corrected ✓.

Transcript prepared on behalf of Gregory Reporting Service, Inc.,
by Cherie' R. Nottingham.