

July 2, 2015

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, July 2, 2015

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:

CHAIRWOMAN: Karen Homiak
Stan Chrzanowski
Diane Ebert
Charlette Roman

ABSENT: Mark Strain
Brian Doyle

ALSO PRESENT:

Fred Reischl, Zoning Division
Raymond V. Bellows, Planning Manager, Zoning
Heidi Ashton-Cicko, County Attorney's Office
Tom Eastman, School District Representative

PROCEEDINGS

CHAIRWOMAN HOMIAK: Good morning. Could you please take your seats. This is the July 2nd, 2015, Collier County Planning Commission meeting.

And could you all please stand, after I told you to sit down, for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRWOMAN HOMIAK: Okay. Diane, roll call, please.

COMMISSIONER EBERT: Yes. Good morning. This is a sparse roll call.

Mr. Eastman?

MR. EASTMAN: Here. Good morning.

COMMISSIONER EBERT: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here. Good morning.

COMMISSIONER EBERT: Ms. Ebert is here.

Mr. Strain is absent.

Ms. Homiak?

CHAIRWOMAN HOMIAK: Here.

COMMISSIONER EBERT: And Mr. Doyle is absent.

And, Ms. Roman?

COMMISSIONER ROMAN: Here.

COMMISSIONER EBERT: Thank you.

CHAIRWOMAN HOMIAK: Okay. Addenda to the agenda. We have a request for a continuance for 9C?

MR. REISCHL: Thank you, Madam Chairman.

9C has requested a continuance to an indefinite date. They're going to do a redesign of the dock.

CHAIRWOMAN HOMIAK: Okay. So we -- is that right, Richard?

MR. YOVANOVICH: Are you sure?

CHAIRWOMAN HOMIAK: He has a confused look on his face.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich. I was recently retained to work on that project, and my understanding was it was for a two-week continuance. But could we hold off on how long the continuance will be while I -- after this next hearing I can confirm how long the request is?

CHAIRWOMAN HOMIAK: Sure.

MR. YOVANOVICH: That's why I had that puzzled look.

CHAIRWOMAN HOMIAK: Okay. Sure.

MR. REISCHL: Yeah. The email I got just requested a continuance. It didn't say till any date. So if you want to amend that, that's fine with us.

MR. YOVANOVICH: Yes. The intention was, I believe, to continue for two weeks.

CHAIRWOMAN HOMIAK: Till the 16th?

MR. YOVANOVICH: To the 16th, assuming you guys have a meeting on the 16th.

COMMISSIONER EBERT: Oh, yes, we do.

CHAIRWOMAN HOMIAK: We do? Do we have a meeting on the 16th?

MR. REISCHL: Yes.

MR. YOVANOVICH: That's my understanding.

CHAIRWOMAN HOMIAK: So you want to wait till that item, because of anybody that might be here to speak on it?

MR. YOVANOVICH: Well, no. We would like the continuance, but I didn't like the indefinite nature of that.

CHAIRWOMAN HOMIAK: Oh, okay.

MR. YOVANOVICH: That was -- I didn't want to misrepresent that it could be far off in the future.

CHAIRWOMAN HOMIAK: Do we need a vote from this board to continue?

MR. YOVANOVICH: We could always further continue in two weeks if it turns out we do want to go a longer period of time.

CHAIRWOMAN HOMIAK: Okay. Could we have a --

COMMISSIONER ROMAN: Yeah. I'll move to continue BD-PL20140002207 to our July 16th meeting.

COMMISSIONER EBERT: I'll second.

CHAIRWOMAN HOMIAK: All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRWOMAN HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRWOMAN HOMIAK: All those opposed?

(No response.)

CHAIRWOMAN HOMIAK: Okay.

Planning Commission absences. Not too many of us here. We'll be -- will any of you be gone on the 16th, or are you going to be in attendance?

COMMISSIONER EBERT: I'll be here.

CHAIRWOMAN HOMIAK: Everybody? Okay.

(No response.)

CHAIRWOMAN HOMIAK: And approval of the minutes, the May 21st. Anyone?

COMMISSIONER ROMAN: I'll move to approve.

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRWOMAN HOMIAK: Second. All those in favor?

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRWOMAN HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRWOMAN HOMIAK: Okay. And the August 6th -- I mean, not August. I'm sorry. I wrote this down. June 4th, 2015, minutes. Are there any changes or corrections or --

COMMISSIONER ROMAN: I'll move to approve.

COMMISSIONER CHRZANOWSKI: Second.

CHAIRWOMAN HOMIAK: All those in favor?

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRWOMAN HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRWOMAN HOMIAK: BCC recaps. Ray, is there anything?

MR. BELLOWS: Yes. On June 9th, the Board of County Commissioners approved the rezone for Argo Manatee. That was approved 5-0, but they had an additional condition that it was approved without the sidewalk deviation. Planning --

MR. REISCHL: Yeah. The sidewalk deviation on the western side of Manatee Road. The deviation only applied to the eastern side, the small, little cul-de-sac on Argo Manatee.

COMMISSIONER EBERT: Okay.

CHAIRWOMAN HOMIAK: Oh, okay.

MR. BELLOWS: They also heard and approved the PUD amendment for Vincentian. That was approved 5-0.

Then on June 23rd, the Board of County Commissioners approved Lido Isles PUD rezone, and that was a vote of 4-1 with Commissioner Henning opposed.

COMMISSIONER EBERT: On Lido Isles?

MR. BELLOWS: Yes.

CHAIRWOMAN HOMIAK: Okay. Thank you.

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

***And no consent-agenda items, so that brings us right to 9A and B, which are companion items. So I think we could do those both at the same time, vote on them separately.

And -- so that would be BD-PL20150000486, that's the Haldeman Creek docks, and the Special Treatment Development Permit, ST-PL20150000500. And we would also vote that as the EAC.

So we'll first hear from the petitioner, then the staff, and then we'll have the --

COMMISSIONER EBERT: Swearing in.

CHAIRWOMAN HOMIAK: Yep. And I just want to let them know, then you can -- the speakers that have registered, there's slips out in the hallway. You'll be speaking after we hear the reports.

MS. ASHTON-CICKO: Madam Chair, would you like to do ex parte disclosures before the swearing in?

CHAIRWOMAN HOMIAK: Yep. Oh, before the swearing in or after?

MS. ASHTON-CICKO: Whatever you want to do.

CHAIRWOMAN HOMIAK: Okay. Anybody wishing to speak on this item needs to stand and be sworn in by the court reporter now, please.

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

CHAIRWOMAN HOMIAK: Okay. Disclosures. Stan?

COMMISSIONER CHRZANOWSKI: I spoke to Mr. Yovanovich about this project, and I kayaked the site, and I believe I might have -- I sent a copy of the GPS track of what I did and a few of the photos to Mr. Yovanovich, but I got a bounce-back on my computer. So I don't know if he got them or not.

MR. YOVANOVICH: I did not.

COMMISSIONER CHRZANOWSKI: Not, okay.

CHAIRWOMAN HOMIAK: Diane?

COMMISSIONER EBERT: Okay. I spoke with staff, tons of staff, tons of county employees, Mr. Hall, I spoke with Davidson Engineering, I spoke with Nicole Johnson, the assessor's office, Bayfront homeowners, and God.

CHAIRWOMAN HOMIAK: Okay. And I spoke with Mr. Yovanovich and had read all the emails and letters that I received.

Charlette?

COMMISSIONER ROMAN: Yes. I spoke with staff, the emails from the community, I also spoke with Tim Hall from Turrell Hall & Associates, Nicole Johnson.

CHAIRWOMAN HOMIAK: Okay. Okay. Rich? Yep.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich on behalf of the petitioner. With me today as my experts are Tim Hall with Turrell Hall & Associates; Jeff Rogers also with Turrell Hall & Associates; and Andrew Rath with Davidson Engineering.

I think they've all been previously qualified as experts before the Planning Commission, so I just want to make sure that they are, in fact, tendered as experts, since we've been doing that lately as part of the process.

COMMISSIONER EBERT: That's crazy.

MR. YOVANOVICH: So I want to briefly go over the history of this project and discuss what we're here to do today.

I've put on the visualizer the location of the property and the outline of the property that includes both the uplands project, which is a 64-unit multifamily project, as well as what is -- includes the area where the boat dock extension request is being heard.

If the Planning Commission recalls, the original request was for 42 boat slips. I think the original request was for a total of 52 feet of extension and, ultimately, during the original presentation, that was reduced down to 45 feet.

The vote was 2-2, which meant that the boat dock request failed. We had filed an appeal to the Board of County Commissioners to have the item heard by the Board of County Commissioners. The Board of County Commissioners then referred the matter back to the Hearing Examiner and for the Hearing Examiner to hold a fact-finding hearing. The Hearing Examiner held a fact-finding hearing and issued a report.

In lieu of going to the Board of County Commissioners and saying we hereby revise our request to make the changes requested by or required by the Hearing Examiner in his report, we withdrew our

application. We redesigned the application and resubmitted the application addressing and incorporating all of the recommendations of the Hearing Examiner.

Tim will take you through in much greater detail the actual petition but, essentially, what we did was we angled the boat slips, we removed the boat slips from the property that's in front of Windstar, and we reduced the boat slips down -- the number of boat slips to 27 boat slips, and now the extension is for a total of 38 feet from the mean high-water line. Keep in mind, roughly 16 to 20 feet of that 38 feet is mangrove area that was planted -- planted by the previous property owner.

So, effectively, we're out into the waterway 18 to 20 to 22 feet depending on the widest parts into the waterway with no portion of the boat docks encroaching into the area that the mean high-water line is 4 feet or deeper at low tide mean high -- low tide. The low tide is -- we're never into any of the navigable waterway that will have a water depth of less than 4 feet with our boat docks. In fact, we'll be doing dredging to make sure that our own boat docks have the minimum depth that they need, as Tim will get into in greater detail.

This is -- the waterway is a little bit unique in that it's a drainage easement and a man-made waterway. It is not sovereign lands. And if you've looked at the DEP permits, the DEP acknowledged that this is not sovereign lands. In fact, the waterway is owned by my client. My client owns both sides of the waterway, as you can see on this -- the overhead and outlined in red.

So what we're simply requesting is to install boat docks on our own property. And we have the right to install boat docks on our own property.

We are not, in any way, impacting navigability for people who are using our property to get access to other water bodies. So we find it a little ironic that people -- some of the objectors, based upon their addresses on their letters, are coming across our property but don't want us to be able to put boat docks on our own property, leaving them a minimum of 60 feet in width of 4-foot-wide -- or 4-foot-deep water during low tide.

I also find it ironic that if you look at this aerial and you look at the platted subdivisions around here, the canals that their water -- their property fronts are 60 feet in width.

Now, assuming you put a boat up against a seawall, I would say that they probably have an effective waterway width to maneuver and pass back and forth of 40 feet or less on their own individual canals but somehow our providing a clear waterway for people to maneuver of 60 feet and greater is unsafe and not navigable for boats to maneuver.

We have reduced the request, as I said, to 27 boat slips. We don't believe the number of boat slips is an issue because we have 64 multifamily units on the upland portion of the property, and the Land Development Code says we can have one boat slip per unit. We're only asking for 27 when we could be asking for 64.

Also under the Manatee Protection Plan we could ask for 97 boat slips. That would also be reduced to the 64 because we can't exceed that. But we're well within our legal rights and legal requests.

Because this is a quasi-judicial hearing, you're limited to the criteria in the boat dock extension section of your Land Development Code.

You're also limited to making your decision based upon competent, substantial evidence, not emotion and not whether we're popular or unpopular in our request. You're limited to looking at those criteria.

To be conservative and safe, I want to make sure that all of the documentation, including the petition and all supporting documentation, are part of your record. I believe you-all have that information as part of your record, but I want to make sure that that's introduced as evidence in your hearing today for purposes of the record so I don't have to have my experts come in here and restate verbatim the documents that you have in front of you. So I would request that that be made part of the record in case it's not already considered a part of the record.

I will have Tim Hall take you through in detail our request and how we meet each of the criteria. Your staff has already reviewed the petition, and they have concluded that we meet all of the criteria under the Land Development Code.

At the conclusion of our presentation, we'll answer any questions you may have. Of course you can interrupt us and ask questions at any time. But Tim has a pretty detailed presentation that will hopefully

answer any questions that you may have.

And then we would request that since you are the final decision body on this particular matter, that you approve our requested boat dock extension as submitted to you-all.

That's my brief introductory comments, and I'll have Tim Hall take you through the details, and then I'll have Jeff Rogers, who I don't know that you've ever heard him testify as a professional captain, talk about the navigability of the waterway after our boat docks are installed, and that would conclude our presentation unless you have any questions from a drainage issue standpoint; Mr. Rath can answer those. And I see Mr. Kurtz is in the room as well.

One of the things, as you will see in the backup information that was presented to you, both Mr. Kurtz and a gentleman from the FDOT have reviewed the petition to confirm that what we're proposing will not interfere with the drainage easement over the property. That was one of the issues raised by the Hearing Examiner. And you have evidence in your backup that we will not be negatively impacting the drainage easement and the functioning of the drainage easement with our boat docks in place.

So with that, I'll turn it over to Tim.

MR. HALL: Good morning.

COMMISSIONER EBERT: Good morning.

MR. HALL: As Rich said, my name is Tim Hall. I'm a wildlife ecologist with Turrell Hall & Associates, and I'm going to walk you through the actual boat dock extension criteria to show how the project meets all of those. Feel free to ask questions at any time. I'll try to use the exhibits that were included with the application as well.

The first criteria has to do with whether or not the number of docks being proposed is appropriate to the property. And in order to determine that, we look at several things, as Rich said. The Collier County code allows one slip per unit. The Manatee Protection Plan allows different configurations depending on whether or not the project is in a protected, a moderate, or a preferred location.

In this case, given that the water depths in the canal are less than 4 feet where the docking facility is going in, it qualified as a moderate facility, which allows 10 slips per 100 feet of shoreline. And this property has so much shoreline that if you're looking at just the -- just the shoreline along the creek itself, as Rich said, that would be 97 slips. The 64 units would allow 64 slips, and the proposal in front of you right now is for 27. So it's well under what would be allowed.

In looking at the type of facility, because this is a multifamily residential project, the community docks -- it's usually better for them to be all in one single place rather than spread out all over the property. It makes maintenance by the association, it makes the utilities and all of the infrastructure that goes with the docks easier, reduces the amount of impacts because you can do less boardwalks, and also it makes more sense to put them all in one location rather than spread them out across the entire property.

So given all of that in the proposal that we have, the determination was that we did meet the first criteria.

The second criteria is whether or not the property is so shallow that the types of vessels that are being described would be unable to launch or moor at mean low tide. In this case of this property, because of the mangrove shoreline and the mangrove fringe, the mean high-water line is within the mangrove. So the first 12 to 18 feet of that allowed 20 feet is vegetated. And then after that, there's still shallow water, which would make mooring difficult without the extension.

So from that standpoint, the low water depths and the vegetation do lead towards the applicant pursuing this boat dock extension. So we meet that second criteria as well.

And the other thing that I had put in the proposal is there's no boat dock that could be done. Because of the way that the mangrove shoreline is along that property, you couldn't do any boat dock, even a parallel moored boat dock without the extension, because most of that 20 feet is being taken up by the -- by the mangroves. So even if you did the parallel dockage, you'd still have to go through the process for the BDE.

The third criteria whether or not the dock facility will have an adverse impact on navigation. And it specifies within an adjacent marked or charted navigable channel.

Now, the channel this far up into the creek is not -- is not really marked, but there is a thread of navigation that most of the boats follow, and it's consistent with the deeper water depths within the channel.

So there were a couple of surveys done to find out where that deeper water depth was. The exhibit that you have in front of you right here, the shaded area was where the 4-foot or deeper water is located. And you can see it varies in width from 28 feet to a little over 70 feet, 75 feet on the -- 28 feet on the western end of the property and 75 on the eastern end. And you can also see that the docks laid out on that do not encroach into that navigable area at all. They're actually right up to the edge of it.

And the dredging that will be proposed with the project will actually extend that 4-foot contour up under the docks so the boats will be sitting in deeper water also.

So given the survey information, the way that the docks have been laid out, the review that the project went through when it was -- the previous iteration of this with the 42 slips actually went through the FDEP, South Florida Water Management District, and U.S. Army Corps of Engineers' reviews. All of those issued permits for the project, and none of them found that it would have any adverse impact on navigation. So given all of that information, we believe we meet the third criteria as well.

The fourth criteria, whether or not the proposed facility protrudes more -- or no more than 25 percent the width of the waterway. The waterway here is kind of riprapped or more natural shorelines on both sides. It's not seawalled, so the width of the waterway varies as you go from east to west.

You can see on this exhibit we showed where the 25, 50, and 75 percent width of waterway lines would be, and the facility as we've proposed it does not protrude more than 25 percent of the width of the waterway.

And the waterway width is not the open water area. It's from mean high-water line to mean high-water line, so you have to take into account the mangroves on both sides of there as well. So we meet the fourth criteria.

And then the last primary criteria is whether the proposed location and design of the dock facility is such that the facility will not interfere with the use of any neighboring docks, and there really are no immediately neighboring docks on either side, but there is a facility that has obtained a BDE. It was permitted through DEP and the Corps of Engineers, but it has not been constructed on the opposite side of the waterway. This exhibit that I have up in front of you now shows where that facility is located.

There's still 97 feet between the proposed docks and -- the proposed docks for this project and the proposed dock for the other project. So there's still an ample portion of the waterway that will be open; 50 percent. You know, more than 50 percent of the existing waterway will be open to navigation.

So as it's proposed, the facility does not impede the use of any neighboring docks, and we meet that last criteria as well for the primary criteria.

When you get into the secondary criteria, the first one, whether or not there are special conditions not involving water depth related to the property or waterway which justify the proposed dimensions and the location of the dock facility. And in this case, the special condition is really the mangroves.

When we went through permitting with the -- all of the regulatory agencies, minimization of impacts to the mangroves was a priority. The facility as it's proposed does involve trimming some lateral branches to put in the access walkway, but the docks themselves do not impact any of the mangroves, and the trimming that will be done along those will keep the mangroves from growing over the dock so that they can stay accessible.

Basically, the entire waterfront of this property from along the creek as well as down into the canal is a mangrove shoreline. A lot of that is a created mangrove shoreline. It was planted back in the mid '90s, but it was important to all of the regulatory agencies that impacts to any of that shoreline be minimized, and their recommendations were to put the docks out into the main creek where dredging had been done in the past where it could still be done periodically, and that met the minimization of impacts for those agencies.

But the mangroves themselves are what -- are what kind of dictate the extension, and so that's the special condition, and we do meet that for the secondary criteria.

Next would be whether the proposed dock facility would allow reasonable, safe access to the vessel for loading, unloading, and routine maintenance without the use of excessive decking not directly related to these functions.

The walkways originally were proposed to be 8 feet wide. After talking with staff and some of the agencies, the width of the access walkways were reduced down to 6 feet wide.

The finger piers that are the docks that actually run out that the boat sit against are 4 feet wide, which are the minimum dimensions for safe access. When you have people getting in and off the boats, it allows them room to stumble, if you will, without having to worry about going off the other side of the dock if it's too narrow.

So we believe we do meet that criteria, that they're the minimum dimension to allow for the safe use of the docks.

The third criteria isn't really applicable to this project because it relates to single-family docks.

The fourth one is whether the proposed facility would have a major impact on the waterfront view of the neighboring waterfront property owners. The facilities should not have a major impact on the view of either property owner.

And when you read that -- when I read that and it says "either property owner," to me that means the ones on either side of the project. In this case, the one side of the project is the Windstar golf course. There are no docks there. The other side of the project is the canal that goes down into the Lakeview area.

The biggest impact is going to be a change for the people that are across the waterway where right now they're looking at a mangrove shoreline. When the project's done, they'll be looking at boats in front of a mangrove shoreline. And whether or not that is a major impact on view, I guess, is kind of subjective.

But in relationship to the -- to the either-side component of this criteria, we are not impacting the views on people on either side of the project, so we believe that we meet that criteria.

The docks definitely do not block the view of the waterway itself from anybody. All of the property owners around the project still have the view of the waterway.

Fifth, whether or not there are any seagrass beds located within 200 feet of the proposed dock facility. We did multiple -- this project's been going on for so long we've done multiple submerged resource surveys in the waterway in front of and to each side of the dock facility out 2- or 300 feet, and in none of those have we ever encountered any seagrasses, so there are no seagrasses present. We meet that criteria.

And then lastly is whether or not the proposed facility is subject to the Manatee Protection Plan requirements. Because its proposal is for more than nine slips, it is subject to the Manatee Protection Plan. And as I kind of went over with Primary Criteria No. 1, we qualify as a moderate facility and are very well under the allowances that would be granted for a moderate ranking.

So based on the project, the review by staff, by the regulatory agencies, we do believe that we are compliant with all of the primary and secondary criteria necessary for the BDE, and we would, you know, appreciate your agreement with that, and I'm here to answer, you know, any questions that you might have.

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

Mr. Reischl, could you please put up the picture of the -- where the mangrove -- the big blue one where they had to put the mangroves.

And we had this last year, too, when this came in front of us. Where the rocks are rather than a seawall, is that the property owner's property behind there?

MR. HALL: Well, I mean, in this case the property owner's property goes all the way across the waterway.

COMMISSIONER EBERT: That's -- yeah, that's not for us to debate only because that was given away in 1953 as an easement, which is fine.

But I'm asking if that property out there is his property.

MR. HALL: Yes, ma'am.

COMMISSIONER EBERT: It is his property? So what you're telling me is the state forces you to put mangroves on your property?

MR. HALL: I wouldn't -- if you talk to the property owners, they would say yes; if you talk to the agencies, they would say that that was the option that the property owner took in order to meet the criteria necessary to get the permits.

COMMISSIONER EBERT: Ah. So there is -- okay. Little stuff going on here.

MR. HALL: I mean, when --

COMMISSIONER EBERT: Because most people -- I mean, I understand the mangroves. They're very nice. They -- you know, they do their thing for the fish and everything else. Great habitat. But are you

telling me, then, all the way down and on both sides of this drainage easement that it is pure mangroves?

MR. HALL: It's not pure mangroves. There was a lot of exotic infestation as well that is still there on the north side of the creek. The exotics on the south side of the creek have been removed as part of the development activities. But the berm that had been in place on this property back in the early '90s that was associated with past dredging activities of the canal and of the drainage easement were -- there was a berm there, and part of the permits that they got in the early '90s, back at that time, was to remove that berm and create this mangrove planter shelf, and that was -- that was to offset some filling of an inland lake and all that were associated with the development that was proposed at that time.

COMMISSIONER EBERT: Yes, I do know. I do know. There's a gentleman here today that has lived there, he said, forever, and he remembers the lakes on top.

But I was just wondering -- so you're saying that the state really forces you to put these mangroves in, and then they don't want you to touch them afterwards?

MR. HALL: Well, it --

COMMISSIONER EBERT: Okay. That's one thing. No, I'm going to be -- try and be very calm and very set back today, because to me this is information overload, because Rich was not here last year. But we had this, then we had the HEX.

But it was just a question I had. You know, do they force you to do this? It is your property. Absolutely.

MR. HALL: I would have to say, no, they don't force you, but it's one of the options that you can take.

COMMISSIONER EBERT: Okay.

MR. HALL: And in Collier County it's the most utilized option because Collier County does not have a mangrove mitigation bank. There's nowhere for people to go within the county to offset impacts to mangroves. The closest mangrove mitigation bank is actually in Little Pine Island.

So for you to meet all of the criteria in the regulatory guidelines, which want the mitigation for impacts to be done within the same watershed, a lot of times your only option is to find someplace on your property where you can do that.

COMMISSIONER EBERT: Okay. Well, I have also been down the Cocohatchee, and they have mangroves there, too. The other thing is you mentioned earlier dredging. How many times has this drainage easement been dredged? I know it was dredged in 2006. I have all that information how wide and everything. But you're saying it has been dredged several times before 2006.

MR. HALL: I don't know that. I know it's been dredged at least three times; when it was originally done, it was dredged in part a little bit when this property was done back in the '90s, and then more recently when the county did the dredging of the entire waterway.

I would assume that it could have been done more often than that, but those are the three times that I know of for sure.

COMMISSIONER EBERT: Okay. And being this is a 150-foot-wide drainage easement, I was lucky enough to have different residents take me down the drainage easement. Why does this 150 feet -- I know in this portion they straightened it out. That was part of the thing. And why does it not run 150 feet all the way down?

MR. HALL: I don't know the answer to that. I had nothing to do with --

COMMISSIONER EBERT: Well, it was just a question.

CHAIRWOMAN HOMIAK: That's not part of this. He doesn't really need to answer that.

COMMISSIONER EBERT: Well, I was just -- well, because there is a 150-foot drainage easement supposedly for the drainage of our stormwater, why is it not, you know, all the way? That's the only question I have.

MR. YOVANOVICH: First, I'm jumping in because I think those are legal questions. Those are not questions that are environmental questions.

The drainage easement is not for the drainage of your stormwater. The purpose of that drainage easement is for the drainage of a state road department's stormwater.

COMMISSIONER EBERT: I understand.

MR. YOVANOVICH: So I just want to make sure we're real clear.

COMMISSIONER EBERT: I do understand that, Richard.

MR. YOVANOVICH: I know, but I'm not sure that the record was clear. The record is, this is a state road department drainage easement for the drainage of roadway drainage not for the drainage of property owners who about this road -- this or any other roadway drainage. It's for a road drainage easement, and that's the purpose of the drainage easement. I just want the record to be really clear on that fact.

CHAIRWOMAN HOMIAK: Anybody else have any questions?

MS. ASHTON-CICKO: I do believe --

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

MS. ASHTON-CICKO: I do need to correct that, though, because I do believe that the county has asserted jurisdiction over this easement, so there might be some implied easement that the county had. So I just want to put that on the record.

COMMISSIONER EBERT: Thank you.

COMMISSIONER ROMAN: I have one thing.

Tim, this may not be a question for you, but at some point the previous questions by Diane raised some questions in my mind about the history of this area, because it seems to me that the mangrove plantings might have been an effort to restore that shoreline after previous actions years prior. And it just raises that question with me.

There's got to be some history here with this creek and the property owners along the creek that Diane's questioning really didn't quite flush out, and it's just raised some things in my mind.

MR. HALL: Well, I can tell you that the -- that where the docks and where the drainage easement is is not the original creek. This up here is the old original creek, and that's why -- that's why the property ownership for this can be to the applicant because it wasn't submerged lands at the time of statehood.

So while the state would claim jurisdictional over those portions of the old creek that are still there, this was dredged out of uplands, if you will, so it may not have been mangroves. And when they dug the drainage easement, as you said, it could have been in attempt to put some more appropriate habitat along that waterway to give the benefits to that waterway that -- you know, that weren't there in association with the canal, if you will.

COMMISSIONER ROMAN: That makes a little bit more sense with that piece of the puzzle. Thank you.

CHAIRWOMAN HOMIAK: Okay. Anyone else? Nothing?

(No response.)

CHAIRWOMAN HOMIAK: Okay. You have the staff report -- oh, Rich, do you have something else?

MR. YOVANOVICH: I didn't want to get lost on -- we focused so much on the boat dock extension. You also have the ST petition in the packet. You have all the backup information for that. Staff is recommending approval of that as well.

If you need a more detailed presentation from Tim other than what's in the backup, I can have Tim do that. But I didn't want to lose focus on there's both petitions, and there's evidence in the record to support both staff recommendations on the petition.

Thank you.

COMMISSIONER EBERT: She brought that up at the beginning.

MR. YOVANOVICH: I know, but I just want to make sure.

MR. HALL: Yeah, I'm sorry. I kind of forgot about the ST application.

The ST application involves the -- really, the impacts to the mangroves. Part of -- that went forward before. Originally there was some of the wetland impacts associated with the upland portion of the development, which were approved by the County Commissioners. And the impacts associated with the docks were eliminated from that at that time, so now the ST application going forward is for the impacts associated with those dock walkways through the mangroves, through the fringe.

MR. YOVANOVICH: And then the last person I would like to have testify is Jeff Rogers. Well, I mean, I'll have him give you his credentials regarding navigation and address the navigation concerns.

MR. ROGERS: Good morning. As Rich stated, I'm Jeff Rogers. I work for Turrell Hall & Associates. I'm a biologist, project manager for them. I've been there for 10 years.

I'm also a licensed captain by the U.S. Coast Guard. I've had my license for the past, I believe, 12 years. Born and raised here in Naples. I grew up playing in Royal Harbor canals. I've navigated up and down this channel numerous times on different size vessels ranging from 13 feet to 40 feet.

It is a tight waterway; however, in this area it's probably the most open portion of the creek itself. Like I said, I've driven boats up and down it, passed numerous boats taking them to the marinas up there. I personally have a 36-foot boat, 11-foot beam, drive up and down it numerous times taking it to Gulf Shore's Marina in these tight canals.

One thing for sure is the waterway along this creek is much wider than the canals in the Lakeview area. Once I make that turn going south, the waterway is extremely tight and, granted, the smaller boat size vessels in that area.

With the proposed dock and the one across the waterway, we have approximately 97 feet remaining. That, in my mind and my experience, should be more than enough for the vessels that are currently being kept on this waterway and the vessels that do come and go to the marinas on the waterway for service.

Most of the vessels are 13, like I said, to 40 feet, ranging beam size from 6 to probably 15, maybe 18 feet. So if two boats at 18 feet wide -- that's approximately 40 feet wide, there's well over 30 feet of area that they can navigate around each other within the 4-foot contour of water.

Vessels that don't -- that draft more than 4 feet of water really aren't allowed up and down this creek, not allowed, but for safe navigation purposes, the captain should not bring the boats up and down at low tide. At low tide we do have 4 feet of water.

So from my experience and from my expert side, this -- these proposed docks on both sides leave plenty of room for navigation for the current use of vessels on the waterway as it is being utilized today.

If you have any questions of navigation, I'd be happy to answer them.

COMMISSIONER ROMAN: Yes, I have a question.

Looking at the location of the property and the proposed boat docks with the requested extension, what is the distance roughly, going east, I guess, to the open gulf, or what is west to the open gulf?

MR. ROGERS: Past west of our property?

COMMISSIONER ROMAN: Correct.

MR. ROGERS: I don't have the exact dimensions, but I know the waterway gets extremely tighter as you go west.

COMMISSIONER ROMAN: Okay. And I'm asking about the distance, roughly.

COMMISSIONER CHRZANOWSKI: The Naples Bay or the open gulf?

COMMISSIONER ROMAN: To the open gulf.

MR. ROGERS: I would say, you know, it's anywhere between -- I'd say a quarter of a mile from our site to -- you come south of Royal Harbor, basically you end up coming south between Windstar Docks and Royal Harbor, Tarpon Road, I believe it is, and you come out to Naples Bay right there. I would say it's probably about a quarter mile of navigation.

COMMISSIONER ROMAN: Okay. And you also mentioned that it narrows as well.

MR. ROGERS: Yes, ma'am, extremely.

COMMISSIONER ROMAN: And what would be the width of that waterway as it starts to neck down?

MR. ROGERS: Well, the tightest place, off the top of my head, is right at the end of Sandpiper where there's a natural shoaling area, and the mangrove area comes out, and there's an existing boat dock right there. I would say, from my experience, I believe it's probably about -- let's say 40 feet wide right there, if not tighter. There is a channel marker right as well identifying that shoal so boaters go around it, but it is extremely tight there versus our current waterway where we're proposing these docks.

COMMISSIONER ROMAN: Okay. I have another question for you. What's the speed in the waterway?

MR. ROGERS: It's a minimum wake zone, so basically -- it depends on what size vessel, but smaller boats could go a little bit faster because their wakes are smaller. But it's -- for the most part, it's all

minimum speed, no wake zones.

COMMISSIONER ROMAN: Is it minimum speed or no wake?

MR. ROGERS: I believe it's a minimum speed zone. I don't think it's classified as an actual no wake zone.

COMMISSIONER ROMAN: Okay. Thank you.

COMMISSIONER EBERT: I have a question for you, you or Tim. In the one photograph it shows that it's 28 feet. Is that where sediment has already been put in there? I mean, that's where the sediment has kind of -- no, a little bit the other way. Yes. So sediment has kind of already been --

MR. HALL: I don't know if it was sediment or if that's an area where there was rock where they -- when they did the original dredging and they went through there and they just didn't dig that area down to minus 4 because there was rock there. It's just an area where the minus 4 water depths are narrower.

COMMISSIONER EBERT: Okay. Well --

MR. HALL: And it could be -- it could be sedimentation from material coming out of the creek in the canal, or it could just be rock that was never dredged.

COMMISSIONER EBERT: Okay. Thank you.

COMMISSIONER CHRZANOWSKI: I have a question. I was in a kayak for about an hour on Monday morning at 9 o'clock in this area. The only people I saw boating were three teenagers fishing coming out of that dead-end canal to your east with that lake on it. Nice area. Couple of nice tunnels in there.

How much traffic is there on this waterway? I mean, I didn't see a soul boating.

COMMISSIONER ROMAN: It's the middle of summer.

MR. HALL: I don't live on the waterway. The people that live --

COMMISSIONER CHRZANOWSKI: I know. I see everybody saying, oh, this is a crowded waterway, and here I am on a Monday morning, 9 o'clock for an hour, and there's nobody. And I know they're all going to talk now, but I'm just curious.

MR. HALL: I would not -- I mean, if you compared it to, like, the Wiggins Pass boat ramp or the canal at the 951 boat ramp, this is -- this is not a crowded or busy waterway in relationship to those areas which get, you know, 100 boats a day, you know, probably going through there. And in terms of this one, I don't live there. I don't see it every day, so I don't know.

When we've done our submerged resource surveys, you know, they generally last two to, you know, four hours; we may have one or two boats that go past us.

COMMISSIONER CHRZANOWSKI: Yeah. I know on roads you do traffic counts. It's easy to set up, but here I imagine you'd have to put somebody up on shore and have them count boats going by. Do they ever do such a thing?

MR. HALL: They do on some projects, not -- I mean, usually for little projects like this, no, but on -- you know, a lot of times on boat ramps or areas that are expected to generate a really high volume of boat traffic, dry storage facilities, boat ramps, those kinds of things, you can do boat traffic studies to see. Sometimes it's how many boats; sometimes it's what size of boats there are that are actually using them on a daily basis.

COMMISSIONER CHRZANOWSKI: From the water it looks like a wide waterway, but --

MR. HALL: I mean, it's the widest portion of this waterway, you know, especially if you take into account all of the -- you know, all of the narrow canals and all.

But the bridge is a constricting point on the east side of the project, and then the shoal in the area that Jeff talked about to the west of the project down by sand piper is kind of the constricting part on the west side.

COMMISSIONER CHRZANOWSKI: Okay, thanks.

MR. YOVANOVICH: I'd like to also just -- one of the criteria for a boat dock extension is not how many boats are on the waterway. We've had that issue raised on many boat dock extension applications. The neighbors come and they say, hey, this is a really busy waterway. Don't let any more boats on the waterway.

The county has never adopted a level-of-service standard for its canals and its waterways. There's been discussion about it. For whatever reason, the Board has never directed staff to come up with a

level-of-service standard. The criteria talks about safety, and there's no question that the width of the water body where we're proposing to put our docks is safe for navigation.

That's the standard, not that other people are using the waterway, but can they use it together with our boat docks in the location we're proposing the boat docks. Because there's always this, hey, we have a lot of boats in the area. That's not one of the review criteria, and that's been raised on many, many, many -- and I see Ms. Ebert -- I think you're agreeing with me.

COMMISSIONER EBERT: We could say the same about roads.

MR. YOVANOVICH: Right. But there is no -- there is an adopted level-of-service standard for roads, but there is not for canals. So let's not get caught up on the standard are there a lot of boats here, because that's not one of the review criteria.

COMMISSIONER ROMAN: I have another question for Tim.

Tim, in your comments you mentioned that if you would align the docks parallel to the shoreline, you would still need the extension, the boat dock extension.

MR. HALL: Yes, ma'am.

COMMISSIONER ROMAN: I'd like to ask you if you could clarify that a bit for me, particularly if you would still dredge along the shoreline.

MR. HALL: You would still have to dredge along the shoreline because the shoreline is shallow. And so to put boats there along the shoreline, you need to get it to the depth where the boats can safely moor.

So it would entail the dredging, and it would entail -- and I think what -- we would still have to go through the boat dock extension process. I'd think the extension would be for less, but it wouldn't be for 18 feet. It might be for less, but it would still be a requirement of the project.

COMMISSIONER ROMAN: But within the current code, in that area what I understand you to say is even with dredge along the shoreline, you couldn't put boat docks within that shoreline -- along that shoreline within code?

MR. HALL: Without a BDE, that's correct.

COMMISSIONER ROMAN: Okay.

MR. HALL: Because if the boat is 10 feet wide and the mangrove fringe at its narrowest here, I think, was 12 feet -- that's 22 feet, and then you have the dock itself in between there, so now you're at 27 feet -- you'd still need a 7-foot BDE to do that.

COMMISSIONER ROMAN: Okay. Let me ask you, in relationship to the design of the docks being angular versus along the shoreline, are there the same number of pilings required? Because I think when we talked, roughly, this configuration is around 200 pilings, 250 pilings.

MR. HALL: It's about 250.

COMMISSIONER ROMAN: Does the number of pilings get reduced with a parallel structure along the shoreline?

MR. HALL: Well, the number of docks gets reduced. The number of slips for the boats gets reduced, so then the pilings associated with those slips also gets reduced.

COMMISSIONER ROMAN: Okay. Thank you.

CHAIRWOMAN HOMIAK: Anything else?

(No response.)

CHAIRWOMAN HOMIAK: Okay. Staff report?

MR. REISCHL: Thank you, Madam Chairman. Fred Reischl with the Zoning Division.

Our analysis showed that the application meets all of the applicable criteria, and we're recommending approval subject to the four conditions in the staff report.

CHAIRWOMAN HOMIAK: Okay. And then the SD, is that -- is that Summer? Oh, sorry. I have to make you walk all the way up there.

COMMISSIONER EBERT: She's still got three months to go. You've got to learn to waddle. Three months ago.

MS. ARAQUE: Hi. Summer Araque for the record, and staff is recommending approval of the special treatment permit application in front of you. Do you have any questions?

COMMISSIONER EBERT: Yes, I do. I believe when I talked to you the other day, you said

originally this was all Australian pine on this property. Is that --

MS. ARAQUE: I don't know if I would use the word "all," but my understanding, if you look at an aerial, is it appeared as though that fringe -- the mangrove fringe was Australian pine, but Tim may be able to tell us because he knows the history of the site much better. But that's what it appeared to be to me from the aerial.

COMMISSIONER EBERT: Okay. Well, that -- when we talked it was not -- not good shoreline, okay. That's what I want to know, thanks.

MS. ARAQUE: Okay.

CHAIRWOMAN HOMIAK: Anybody else?

COMMISSIONER ROMAN: I have a question for Summer. Summer?

MS. ARAQUE: Yes.

COMMISSIONER ROMAN: You're recommending approval with the conditions, right, in your recommendation here?

MS. ARAQUE: Correct, yes.

COMMISSIONER ROMAN: Okay.

COMMISSIONER EBERT: And I'll ask another question then. The ST overlay is, you're saying, for the mangroves or -- Ray, this ST was from many years ago, is that correct, when they had -- when they had STs?

MR. REISCHL: ST was --

COMMISSIONER EBERT: Special treatment.

MR. REISCHL: Special treatment was initiated in 1974, and it's my -- I didn't work here then. And it's my understanding that they were done from aerials, which is why they're rectangular and don't follow wetland lines and things like that.

COMMISSIONER EBERT: Okay. And we'll just leave it at that, because I understand those rules are going to change, so -- okay, very good.

CHAIRWOMAN HOMIAK: Okay. Anything else? Okay. Both the -- yeah, I just want to make sure that everybody knows both the staff -- from the staff report recommendation for the boat dock and the ST, that all the conditions that they asked for are in the resolutions.

And we have public speakers now.

MR. REISCHL: Karen Beatty?

UNIDENTIFIED SPEAKER: She just stepped out.

CHAIRWOMAN HOMIAK: She's not here. She just went out for a minute, okay. Can we have the next one?

MR. REISCHL: Rick Maxfield?

CHAIRWOMAN HOMIAK: I guess they both went out.

MR. REISCHL: Oh, he says Enchanting Shores. He was here for C.

CHAIRWOMAN HOMIAK: Oh, okay.

MR. REISCHL: Sean Lux.

COMMISSIONER EBERT: I would just like to say something before Sean comes up and starts speaking.

Sean and Debbie are the ones who do the Honor Flights and take people to Washington. They just did another Honor Flight, and I would personally like to thank you, I believe along with all of us.

You do such great work. Thank you both so much.

(Applause.)

MR. LUX: Thank you.

Okay, good morning. My name is Sean Lux. I live at 2736 Riverview. And we're speaking opposed to this boat dock extension because -- well, we use the waterway very frequently, and I can assure you it is never at 9 a.m. on a Monday morning, okay. We do work for a living. Most of the traffic you do see in the waterway is probably on Friday, Saturday, Sunday.

Now, it is a very, very narrow waterway, as you saw in a previous picture. And I can't seem to find mine right now.

Now, the first gentleman that spoke, Mr. Turrell, he said he thought it was ironic that sitting on a 60-foot canal on Riverview that we could do -- we would do a boat -- a boat lift, okay.

Now, the difference is, we put a boat lift in according to code, okay. We did not ask for an extension, okay. We -- yes, we have a right to put a boat dock or boat lift in. Yes, that is the right by code; however, you do not have a right to do an extension, okay. An extension may be considered appropriate under certain circumstances, okay.

Now, primary criteria. Of course, it may be considered appropriate. I don't think it says that it's a right if you can -- if you can do it according to all the criteria.

Now, one of the criteria is whether the water depth is so shallow that a vessel -- a normal vessel cannot launch, okay. Yes, it is very shallow, and they stated they would need an extension to do so; however, they are dredging, okay.

Now, they said they're going to dredge so they have four feet underneath all of the slips. So why would they not minimize the impact by doing the parallel docking? Okay. If they really had the intent of minimizing the impact to other boaters, they would do it in a parallel fashion, but they're trying to maximize revenue.

Now, also, whether or not the proposed dock facility may have an adverse impact on navigation. Yes, the channel is barely wide enough for two decent-size boats to pass each other at a normal tide; however, at low tide it gets a lot tighter.

And even though there may be room for two boats to pass, they are -- they're not building a -- building static docks, okay. They're building docks that boats are going to navigate into and out of, okay. So a boat is going to basically pull out, stop in the middle of the channel, rotate, and then proceed out to the gulf. That's impacting the waterway. The static structure may not necessarily impact navigation. As soon as you put boats in there it does.

And also, I'm very concerned about the manatee protection. What I have access to, which is not a lot, I see that the project is actually -- would be a protected project where no more than one boat slip would be allowed for 100 feet. So we're talking, what, six, because they're actually looking at 600 feet of waterway, even -- or shoreline even though you may own a considerably greater amount. It is less than four feet. They're certainly impacting the mangroves. They say they aren't. There's no way they cannot. The shoreline is mangroves. So I would really think someone needs to take a closer look at that.

Thank you.

CHAIRWOMAN HOMIAK: Okay. Thank you.

MR. REISCHL: I saw somebody re-enter the room. Is that Karen Beatty?

CHAIRWOMAN HOMIAK: Yes.

MS. BEATTY: Thank you for this opportunity to speak. My name is Karen Beatty. I'm here as a citizen, however, I have served on the Bayshore/Gateway Triangle for eight years.

I also am -- have been an avid boater. I've lived on Haldeman Creek since 1984. I even owned a piece of commercial property with my former husband on Haldeman Creek.

We have had every kind of boat you can imagine, even jet skis and houseboats. I can tell you boating on Haldeman Creek can be quite treacherous at times, especially when you have currents and winds and tides. We were lucky to even get into our boat slips at times with the tides being so low.

Although I commend the developers for the changes they've made -- they seem to be wanting to work in the direction of minimizing things -- I don't think it's enough.

I'm not going to go into all the details as to why I think this project shouldn't happen at all on Haldeman Creek. We have plenty of speakers here today that are going to detail that for you. In fact, we have Maurice Gutierrez who is the chairman of the board of the MSTU for the Gateway/Bayshore Triangle, and we have Roy Wilson who is the chairman of the board for the Haldeman Creek MSTU.

So that's three of us that are board members that feel strongly against this project on Haldeman Creek. They will detail things for you that I'm not going to because it would be redundant.

My reasons for being against this is the safety issues. We've been lucky to date to not have a storm surge. I wrote all of you and asked you to please read the article that was recently written and on the front page of Naples Daily News by CoreLogic. I mean -- about CoreLogic's study regarding storm surges. It

doesn't take a hurricane to have a storm surge. A tropical storm can create one.

Storm surges go down creeks and rivers. We don't need anything additional to be added to Haldeman Creek. If there's a storm surge, we don't need extra pilings; we don't need extra boats. We don't need anything. We've been lucky to date.

I say put these boat docks out on the bay -- Windstar has plenty of room for it -- and give these residents a golf cart to go back and forth.

Not only that, I have seen a major increase of manatees this year. I sent some of my photos to Kate Riley and Roy Wilson. And I don't know if they're going to show them to you today, but I've never seen so many manatees in my life. I honestly feel that the ranking is too low for the amount of manatees in this area and should be raised.

Jeff Rogers mentioned that the current use -- for the current use as it is now everything's fine. When you add 24 more boat slips, that's not current use. That's going to add 24 more boaters. Getting in and out of those boat slips is not going to be easy with certain winds. A lot of those boaters are going to be coming in at the end of the day after drinking. It's going to be -- add a lot more treacherous activity on the creek.

I recognize the developer has property rights; however, the citizens have the right to safety. If we have a storm surge, it's not just going to affect the people in Haldeman Creek; it's going to affect people miles around.

Please listen carefully to the speakers today. I'm 100 percent against this project, and I agree with the citizens.

CHAIRWOMAN HOMIAK: Thank you.

MR. REISCHL: Next speaker is John Farquhar, followed by David Woodworth.

MR. FARQUHAR: Good morning. My name is John Farquhar. I'm an attorney. I represent Windstar Master Association.

My clients very strongly support this project. They're the ones who are actually most impacted by it. They're the ones that are closest to it. Many of them are boaters.

And this is the widest part of this channel, so it is certainly an appropriate place to put docks that are not going to go below the standards. The standards have all been met. Your staff has indicated they're all met, and I can't see anything that's been raised that's a rational reason to not approve these in accordance with the guidelines that have been set.

Thank you.

CHAIRWOMAN HOMIAK: Okay, thank you.

MR. REISCHL: The next speaker is David Woodworth, followed by Roy Wilson.

MR. WOODWORTH: Good morning. My name is David Woodworth. I live on Lakeview Drive. It goes into Haldeman Creek.

I have a 24-foot boat, sailboat, and I can turn my boat within the length of the boat, and I can't even turn my boat in the canal that I live on, okay. I have to go between some docks to be able to turn around.

My problem is that the developmental code is 20 feet. I had to live within -- I could only have a 5-foot extension for a 200-foot dock; 5 foot out, 20 foot long.

They can build 60 docks or more, but they have to put them parallel and follow the code. They're allowed to trim the mangroves, okay, to put the dock in, you know.

The other thing is when you put a dock in, what about the pilings that are associated with the dock? Are they going to put a piling 10 or 15 feet out beyond the dock? Are they going to put a 50-foot boat there?

I think that that's -- you have no control. Once you allow this to happen, they'll put 50- or 60-foot boats there. And who knows what they'll do, okay.

You know, I think my -- you know, like a 30-foot boat is probably a maximum, but there's no control. Once you let them put something in, you can't come back and say you can't do it.

Who's going to -- what about the extra pilings? They haven't talked about the pilings. They're only talking about the dock. If they go out 40 -- almost 40 feet into the canal from the property line, are they going to put another piling 10 feet or 15 feet out beyond the dock? And then when they pull out, you know, if somebody's -- when I'm going down the canal right now, I almost stop when somebody else is coming down.

So that's -- basically I'm against any kind of -- I think they need to live within the 20 foot that's in the

code. Thank you.

CHAIRWOMAN HOMIAK: Okay, thank you.

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

MR. WILSON: Roy Wilson, 336 Pier C. I'm also chairman of the Haldeman Creek MSTU.

I'll try to get to my prepared remarks, but before I start that I want to make some observations because of things that have been said already.

Statements made this morning are sort of like you're limited to just looking at the criteria, and that's not true. First of all, when I read the criteria -- and I'm not a lawyer so, you know, maybe we have differing views. When I read it, it says, here are the things that you have to consider in order to ask, ask for an extension. And on top of that, then there's one other criteria that says everything else, the Planning Commission seems appropriate.

So don't be buffaloeed by "this is plain and simple. We met the criteria."

I'd also point out that the planning department approved this application before, and the Hearing Examiner said a number of things didn't meet the criteria.

I think it puts you in a very difficult position, because sometimes this help you're getting is not agreed to 100 percent by people.

Some of this reminds me of the discussions that I've been following related to the gas stations and committees having to deal with code issues that were written 20, 30, 40, 50 years ago.

You go back and forth on this. The -- I've got a question not to be answered here, but it's an observation question. If you own property and you grant an easement, how do you then say I can do anything on that easement because I own the property that I gave away to become a waterway?

It seems to me that that impacts the easement that you gave away which, incidentally, everybody's having a hard time finding out who manages it.

As related to usage, I would -- I would comment that, yeah, usage is in the evening before sunset. It's primarily Friday, plus -- primarily Friday, Saturday, and Sunday, early morning and in the evening. That's your heavy volume.

You were out there on a kayak, Commissioner. We are seeing more and more kayaks on the waterway and paddle boards, and I've also seen these people pull to the side and hold up as boats come by because there are a lot of narrow things.

History of the creek. The creek was natural as explained and, yes, when they developed Route 41 and the government complex, they had to get drainage from north of 41 down.

Now, the legal stuff, was this a roadway this, a roadway that, blah, blah, blah. The drainage for the creek comes from several developments north of 41, under 41, and then down the creek. At that time it was deemed that the creek was not wide enough to take that water flow and, therefore, they came and negotiated with the property owner in order to have a wider space (sic).

They didn't deal with the rest of the creek because they must have agreed or thought that that was okay. But there was a real bottleneck there, and that's how it was created.

The reason -- the reason that the mangroves and the riprap are out there is because the property owner at the time wanted more land.

Now they're dealing with the fact that the high-water mark is behind it. But the reason to do that is they wanted more land. By putting the riprap out there -- and you could see from the picture that was shown earlier -- they created a lot of land that they're now putting buildings on. So now as time goes on, well, let's go back and let's do something else.

Parallel design. I would take -- I would take exception. Although it wasn't specifically answered by the engineer, parallel docks compared to the docks that are in the plan would take a substantially -- well, would take a lot less pilings than to build the docks that are planned. That's clear and simple, because you would -- essentially would be docking up against your walkway. So look at your picture, and everything that goes north of that basically is eliminated as far as impact on the creek.

I've not heard a statement real clear, but I'd like a real clear statement in the record that the new plan meets all, all the HEX recommendations should it move forward.

Two observations also from a practical standpoint of where we live. At one time -- I live at Naples

Land Yacht Harbor. We have cement seawalls. Since I have lived there, water on a storm surge has been above those seawalls.

Secondly, I would make a comment that at one time we went to the county -- now, again, I don't have an official record on this because a lot of things happen. You ask the county, they say you can't do it, and you drop it. But we wanted to put safety ladders on the ends of the piers on Haldeman Creek, and we were told you cannot put anything on the Haldeman Creek side. You can't put docks there, you can't even put your safety ladders there.

By observation, the -- the docks in the commercial area that are east of where this development is are, for all essential purposes, at the dead-end of a canal -- of the canal. Yes, there are docks on the east side of Bayshore, but those, very lightly used, have to be very small boats that can get under that bridge, so that commercial end up there -- and they've been used as an example of, oh, there's docks on Haldeman Creek. That's basically at a dead-end from a practical standpoint.

I'll go through real quickly the information I sent all of you via email and try to just -- it highlights from there -- so I don't take too much time.

I believe the dock extension should only be considered after it's determined that the developer could be allowed to place docks of any type on a waterway that was created through an easement, therefore, taking back the full easement.

I mentioned the -- I don't think it's wise to do it, encumber the creek with hundreds of pilings and decking. I think this would be further exasperated if the plan allows boat owners to add boat lifts, because all those boat lifts -- I shouldn't say "all those." Several of the boat lifts would probably require additional pilings of some type.

To me it's inconceivable to think that docking boats there is not going to have any effect on water flow. You know, when you start using "any effect," you know, it's impossible to think that you're going to put 27 boats there and all these docks and it's not going to have any effect.

The current application includes letters from county officials. But I looked at the wording of those, and they're of subjective opinions. "I don't believe," "I don't think."

In the HEX report, if I recall, he made a specific recommendation to get some types of studies done to take care of getting past subjective opinions, and that's not been done.

Let's see. Should any docks move forward? I think some of the things need to be memorialized, including specific language that formalizes that the docks are only to be used, rented, or owned by residents of Haldeman Landing. That would be covered if there was a statement on the record that all of the HEX recommendations would be abided by.

We don't have any testimony on the impact of sediment transport on the waterway based on this and the dredging. We've never heard any rationale as to why the original plan to create a basin instead of the docks was not followed.

Now, from a logical standpoint, you and I can agree, well, heck, do I want to put up two buildings, or do I want to cut a basin in? Keep in mind back at the time when the agreement was to put -- and I should say the time frame, because I can't specifically say what came before another. But people had looked at plans early on that had a boat basin being cut in.

Now, subsequent to that, then they're putting riprap, and tilled in land behind it.

CHAIRWOMAN HOMIAK: You're going to have to finish up.

MR. WILSON: Okay. As related to the mangroves, I did note that it was testimony that would only be lateral trimming.

And I think I'll finish up with that instead of going through the rest of the specifics that you've probably read about.

I'm opposed to this mainly because there's still a lot of unanswered questions, and I think I tried to raise those questions to you today.

Thank you.

CHAIRWOMAN HOMIAK: Okay. Thank you. Yeah, we'll just do one more speaker, and then we'll take a break, I guess.

MR. REISCHL: Okay. Bob Messmer.

MR. MESSMER: Good morning. My name is Bob Messmer, a property owner and boater on the canal just north of this development.

Thank you, Commissioners, for considering the concerns of the several hundred property owners and boaters that will be negatively impacted should this petition be granted.

You have in your packet my letter to Mr. Reischl, hence, I will not repeat those concerns; however, I would like to emphasize a couple very important ones. This development is now one of several associations within Windstar. Windstar has two existing piers and docks on the east side of Naples Bay several hundred feet east of the marked channel in Naples Bay.

The developer does not -- excuse me. The developer does, indeed, have a right to have boat docks associated with the condominiums under construction; however, Haldeman Creek is not the location for them. He can expand one or both of the two existing docks in order to accommodate even more than the 27 he is requesting. There is more than ample room available.

Six hundred thirteen feet of docks and boats strung along Haldeman Creek will destroy our beautiful creek.

Lastly and most importantly, docks directly protruding into a marked channel is patently not safe. Thank you.

CHAIRWOMAN HOMIAK: Okay. Thank you. We'll take a 15-minute break.

(A brief recess was had.)

CHAIRWOMAN HOMIAK: Okay. Would everybody please sit down. The next speaker?

MR. REISCHL: The next speaker is Mike Heiser, followed by Maurice Gutierrez.

MR. HEISER: Mike Heiser. I've lived on Haldeman Creek for 40 years, so that kind of makes me an expert on Haldeman Creek.

COMMISSIONER EBERT: Can you bring that down or speak a little louder. Thank you.

MR. HEISER: Anyhow, I've been on Haldeman Creek for 40 years, go up and down at least two to three times a week. I've gone up every creek, canal, little tributaries where all the Calusas used to make it. So this has been here for years and years. This wasn't just all manmade, just to make that very clear.

Now, my issue here today is nobody has talked about public safety, and the public safety issue comes from the thing we fear the most, which is hurricanes. We have a hurricane come off the Gulf of Mexico and sit out there for three days and dump 30 to 50 inches of water, we're going to literally have millions and millions of gallons of water coming from 951, down Rattlesnake Hammock, Airport Road. Windstar's going to be 13 feet under water, so you better hope that you don't put this blockade to keep this water going out of Haldeman Creek, and this is what it is, a stormwater creek.

So if you take and put all these docks out there, all these pilings and 27 boats -- the canal is fairly shallow; the creek is fairly shallow on the southeast part of it. And as all that water, those millions of gallons of water come down the creek, it accelerates the speed.

And during Donna it actually went over the bridge on Kelly Road, now called Bayshore. And when it -- when this all comes down there, all this trash, all these trees, all these logs, all these parts of houses from this hurricane being there for three days, it's all going to come down that creek, because all that water from all that area has to go down Haldeman Creek.

And when it gets down there, it's going to hit a 38-foot dam that you're going to let them make that's 600 feet long. And all these boats, there's no way any bilge could keep that water from not sinking those boats. So now you not only have 3- or 400 piling, you have all this wood down there, and you have all these boats in the water. Now, there's no place for the water to go.

And all of you people that live in the -- that work in the county, if you don't have a submarine and a boat, you're not going to be able to get to work because there's going to be 10 foot of water right there in that parking lot.

So it's very important for public safety that you turn this project down, because there's a lot of old people like me that live in the Glades, in Lakewood, and some of those old-folks homes, and if they can't get on top of those roofs because you put this blockade from the water flowing out of Haldeman -- out into the ocean, you're going to have a lot of dead bodies.

So if you vote yes for this today, then you're probably going to have a lot of bodies floating down the

canal. If you vote no against it, then you're going to save some lives.

So it's a real simple thing. Do you want to save lives or lose lives? It's just that simple. It's a public safety problem, and you cannot repute it. You cannot make it better. You can't say it's not going to be a problem because you're going to go 38 feet out in the middle of a canal -- a creek that was made for stormwater running -- and get this water out of here. That's why they opened it up; they opened this up to get this water flowing.

And if you keep it from flowing -- and all you people from Windstar, you're not going to have 8 or 9 feet of water; you're going to have 13 or 14 feet of water. So you better start thinking about if that creek gets jammed up, you're going to be under water. You probably won't even have a roof to get on top of.

So think about this just a little bit before you decide you want to do these things, because it's public safety, and you cannot repute it. It's a very dangerous situation.

So just remember the -- this lady that said this, and her name was Nancy Reagan, "Just say no."

COMMISSIONER CHRZANOWSKI: Can I ask a question?

MR. HEISER: Sure.

COMMISSIONER CHRZANOWSKI: All the boats that are upstream of Bayshore Drive --

MR. HEISER: Yeah.

COMMISSIONER CHRZANOWSKI: -- won't they get driven into the Bayshore Drive bridge and form a big damn there and flood everybody upstream?

MR. HEISER: Well, all the boats that come out of -- upstream from it?

COMMISSIONER CHRZANOWSKI: Yeah, and that will stop the water from going downstream, so this whole area will kind of stay down.

MR. HEISER: Well, if all those boats come through -- if the water flows over the top of the bridge that's there now, a lot of those boats will come out. And most of them will just get busted up or sunk. I mean, is that what you're asking?

COMMISSIONER CHRZANOWSKI: No. I'm asking, won't the Bayshore Drive bridge form a bigger damn than any of these docks will?

MR. HEISER: Oh, no. I don't think so.

COMMISSIONER CHRZANOWSKI: No? Okay.

MR. HEISER: Because -- the reason why I'm saying that is --

COMMISSIONER CHRZANOWSKI: I'm just curious.

MR. HEISER: -- because before when Donna went through, it just overflowed it and it went underneath it. So when all the parts that came down through there would end up catching on all this -- well, it's going to be about equal, probably.

Because if you put something 38 feet out into a 90-foot-wide strip, you're taking almost half the flow of the water, and especially if things start building up. And the more it builds up, the wider it gets and the higher it gets.

So as that builds up with all the trash and debris -- I don't know if you guys have ever seen what a hurricane does. I've been through five of them. I'm telling you, they're devastating. If they put lifts up there, what's going to happen is when you have wind blowing for three or four days and all this water, it's all going to start crushing. And once the aluminum starts going, it just goes down. And all those boats are going to be sunk on the bottom, or they're going to tell them you can't have the boats on the lift. Most of them say you can't have boats on a lift when the hurricane comes. You have to put them in the water.

So then you have 30 or 40, you know, inches of rain falling, and they fill up with water. They're going to go down. Because if a boat weighs 15,000 pounds that's on a lift, when you fill it full of water, it weighs 50,000 pounds. And those lifts won't hold 50,000 pounds. It's going to (indicating) right to the bottom, end of story.

But to answer your story -- answer your question, they're probably both pretty much equal. Because I think what will happen is with all that water rushing down there, it's going to undermine that bridge, probably break the bottom part of it out, and then the water's going to flow through, and then it's going to start catching on it, and it's probably going to bust all these docks up, and they're going to try to flow out. And then you're going to have the bottleneck where that water goes, you know, narrower on the S curve.

COMMISSIONER CHRZANOWSKI: On the concrete piers that that bridge sits on, you think they're going to get washed out by the storm?

MR. HEISER: I wouldn't doubt it. They've been there for a long time. Oh, by the way, in 40 years, this creek has never, ever once been dredged except for the last time it was. And I've lived on it for 40 years, and it hasn't happened. A little bit of Royal Harbor was dredged, and then they found that the S curve was full of rocks, and they couldn't get down far enough to make it any deeper anyhow. So -- any other questions, I'd be more than glad to answer.

COMMISSIONER CHRZANOWSKI: Thank you.

CHAIRWOMAN HOMIAK: No. That's okay. Thank you.

Next speaker.

MR. REISCHL: Next speaker Maurice Gutierrez, followed by Kate Riley.

MR. GUTIERREZ: Good morning, all. Good morning, Commissioners.

My name is, for the record, Maurice Gutierrez. I'm a property owner and have lived on the creek since 1978.

You know, the creek is a community. It has been built out in developers' terms, since the day I moved there, because you have the occasional home being built. In the '80s, Sandpiper Bay Club sprung up 13 buildings, about 155 units and, miraculously, they have a 600-foot parallel dock. They don't have any T docks. They don't have any extended angles. They have a parallel dock.

Now, you say, well, that's a really low percentage based on 155 units, but look at the good part of it. Right now in the MSL (sic) listing there's a unit for sale, and that unit lists the fact that it owns two slips. So you're not constrained to a 20-footer. You can have a 35-, 40-footer. So the parallel dock has given Sandpiper Bay Club owners the advantage of enlarging the docking by purchasing more square footage of dock.

That's something that won't ever occur if this variance is passed because then you're going to be limited to one slip, one size; one size fits all.

The only other nonresidential single-family home development is the mobile home park, Harmony Shores. And, coincidentally, Harmony Shores also shares a 600-foot seawall.

Now, let me show you a picture of that, if I may. And please note that the protruding docks come from a concrete seawall, not an extended walkway, so they're about 15 foot out.

You know, pretty shallow up there, obviously, and not a lot of boats. So the concern of a hurricane washing boats out through Bayshore is pretty minimal because the majority of the impact -- the majority of the boat owners live west of Bayshore Drive.

Let me throw you a number. Gulf Shores is a subdivision, PUD; it has 150 homes. But along with that we have Gulf Shore's Marina that is permitted for 150 dry dock boats.

Now, you include Demere Landing, which is a subdivision across from the commercial district, you include Land Yacht Harbor, and you include the number of boats on Sandpiper Bay Club, and that will be approximately 450 boats. So as a total usable boat navigable area -- that would be on any one day -- if everybody were to go out on Saturday, that's what we're looking at for what you would call concurrency on the creek.

This is Haldeman Landing, the last developable piece of property on the creek, and isn't it interesting, there isn't one dock on the main creek between the east side of their development and Naples Bay, not one. Not a ladder, not a piling.

I'm a homeowner, and I've been told no by zoning, so I'm sure people have tried but they've been discouraged or maybe don't have the finances to hire an attorney to ask for a variance because of the potential that you may lose, and that's the potential we're dealing with here.

But let's talk a little bit about the ramifications of this project if approved the way it is proposed. A parallel dock is minimal impact, allows for multiple size vessels. They're going to dredge it, so you're going to have depth. And I've got a picture here of Sandpiper Bay's 600-foot parallel dock.

You know, there's something nostalgic about a boat floating, sitting on a dock, tied off. It's not objectionable unless it's sunk. We have code issues that would resolve that issue. But that's not what you get when you put T docks in. Because the ramifications of allowing the dock to be built then opens up for the

property owner who buys that dock to say, you know, I have a right to put in a lift because, by God, there's other lifts on the creek. So we're going to go with lifts on these individual docks owned by individual owners.

And a boat that floats, again, is very nice to see, very appealing, but a boat that is on a lift doesn't share that characteristic. This is a picture of only 10 boats in front of Windstar which has over a thousand foot or more between the back of that boat and the neighbor called Royal Harbor.

If I were to live in Royal Harbor, I must have been asleep if this was passed, because I don't see how that got ever built.

But you go 27 docks with 27 owners that want 27 lifts, and you no longer have a nice, 600-foot (sic) nostalgic boat tied to a dock. You have an elevated, open boat parking garage.

Now, it was mentioned that -- there was some special conditions associated with that the criteria doesn't really deal with, and one of them is precisely visual impact. There are two visual impacts associated with the creek; those who live directly across from its development -- and those who use the creek.

Because, you see, as a waterfront property owner, you don't look at the waterway as a waterway. You look at it as a travelway, kind of like the road out in front of your house. You know, Kelly Road is not what Bayshore is today because it has been improved.

The creek, as it stands, you cannot improve on nature. That's why environmentalists try to preserve what you have.

But the minute you put 27 boats up in the air as an open boat parking garage, it's going to impact my road as I go out that creek.

Look at it this way: In your own subdivision there's a lot, somebody buys it, and they want to put in an elevated parking garage that's not covered for their six cars in the front yard. How far is that going to go?

So the relative comparison as far as visual impact is obvious. A 600-foot dock with side dock boats is not offensive, B, should be allowed by any waterfront property owner without any restriction, and it would ensure that this parking garage would not eventually exist and take away from the beauty of the creek.

When you're dealing with boats, and as Mr. Heiser said, hurricanes, the boats will be removed from those docks. Now, every dock will have a lift with cables, four sets of cables per slip. That's 108 cables swinging in the air. Obviously the engineers will attest during stormwater issues those docks are going to be submerged. What are those cables going to do swinging in the air but catch debris? All of those issues are ramifications of allowing this type of dock system to be built.

We don't object to the docks. I've got a dock in my backyard. The point here is the unintended consequences that will manifest themselves by the owners having the right to improve their dock, and the benefit that will be received is not in the residences that are currently there but obviously the owners that don't have to worry about bottom growth as we do that don't have lifts, but that is part of living on the water.

Windstar has Southpointe Yacht Club -- the word "yacht club" does not depict little docks like this -- as well as, earlier mentioned, two other docking facilities.

It was stated that Windstar's the most impacted with this project. Yeah, positively impacted. Because the negativity of this project stems from the traffic on Lakeview Drive and Gulf Shore Subdivision, which is a PUD. It was never meant or plotted to be this way, but here we are today.

So I'm asking to reduce the design of the docks to make it more environmentally friendly. Parallel docks will give the property owner proper rights to what they claim they want to build more than likely without any requests for variances other than potentially allowing for an extension from the shoreline to allow the boats to float.

Docks parallel to the shore will not impact flow regardless of the number of pilings because the flow is in the center. Your edges today accumulate debris. That's obvious by the cleanups that are done on Haldeman Creek annually, everything from tree limbs to you know what floats down the creek. The residences, combined with the Sheriff's Office and the MSTU, sponsor a cleanup for that reason.

We care about the street called Haldeman Creek. Haldeman Creek is the Bayshore of Naples waterways. There are no other areas like our home-owned working family neighborhood.

Just take a look on the bay. How many single-story homes do you see left in Aqualane Shores and Port Royal or even Royal Harbor? So our little community, as its shown by the people that have come out,

taken the time to discuss this issue without legal expertise or knowledge that was way above our heads, are concerned that the impact is going to be far more negative than the benefit that anybody's going to receive on this project other than this particular development.

The side docks, as I mentioned, low impact, visual as well as environmental. And the whole issue of catching debris on outflow during hurricanes is pretty much a moot point.

The dredging that is going to occur in these docks, if allowed, is interesting because when the county dredged our whole subdivision and the creek, they were very specific about dredging the center to not allow any existing riprap or seawall structures to be impacted by falling in because it's dredged too close to the edge.

So the fact they're going to dredge this to allow boats in there is going to be constrained by how close they get to the riprap -- because that is what they have is riprap rock there right now, not a seawall, as in the Harmony Shores picture -- or the reality of the commercial district that the docks protrude directly into the creek from an existing concrete seawall, not from an extended pier as is being proposed.

So the protrusion into the creek is further than what we'll be seeing in the commercial district. Solely by math, it will be sticking out a bit further.

CHAIRWOMAN HOMIAK: Are you going to finish up --

MR. GUTIERREZ: Thank you.

CHAIRWOMAN HOMIAK: -- in a moment, please?

MR. GUTIERREZ: Please consider the fact that we don't want an elevated, unenclosed boat parking garage on the creek. Thank you.

CHAIRWOMAN HOMIAK: Thank you.

MR. REISCHL: The next speaker is Kate Riley followed by Jeanie VanArsdale.

MS. RILEY: My name is Kate Riley, and I live directly across the proposed docks.

One of the things that I did want to point out is that when the attorney spoke and Tim spoke, they said that they implemented all of the recommendations that the Hearing Examiner had put in place, and that's not true. They -- the Hearing Examiner, first of all, recommended 24 boats and that they not start for 107 feet from the east side of the property from the east, and they have their boats butted right up to the east side. So that's not true.

Okay. Secondly, I have some pictures. Picture No. 1 is -- Haldeman Creek is -- of course, we -- I'm going to whiz through because a lot of people have spoke about what I was going to speak about.

But it was originally built as a drainage ditch for a strawberry farm. And also a year ago in this very room I asked the question where in Collier County is there a thousand-foot boat dock, and I gave you a visual of the Naples Pier. Today the petitioner is requesting a 613-foot-long boat dock. So it takes you right there (indicating). So they now have two-thirds of the pier.

This is my boat dock. Again, I have a boat lift on a finger canal across -- right across from the proposed docks. I am a boater. I -- and this -- Haldeman Creek was dredged in 2006. I also had my boat dock dredged at that time, but the silt comes back.

So I, for years, have had to be a planned boater. And, fortunately, I have a small wooden dock that I can -- if it's low tide or even mid to low tide, I put my boat at the dock on the mooring whips, and I wait until I'm going to go boating, or if I come in after sunset and I can't get into my lift, then I have the opportunity of putting my boat at my dock until the tide comes back up. Sometimes it's the next day.

I don't know what they're going to do across the way because when the buyers of those boat docks, you know, put their bow into the front of their boats and they are in the muck, what are they going to do? They don't have an extra dock to park their boat until the tide comes up.

Now, this is after dredging. Silt comes back in. It just does. It has even in the middle of the creek. It just comes back in.

So the fear is is that now their boats are going to be hanging out -- because the only place they have to park them is at the tail end of their dock or at the -- more out into the canal.

So I don't know if you can see that right there. It's very dark in this picture, but that's all mud. I wasn't just showing you my boat dock just to show you my boat. It's all mud underneath. There's no water. That boat's not going anywhere.

So the other thing is we have been told that if they are hanging out from their boat docks, that, you know, it will be a code enforcement issue and that -- but who's going to police that? I mean, the developer is already not following the Collier County rules.

I've personally been on the phone with Mr. Charles Cook twice on a weekend about, you know, working on Sundays, working 6:30 in the morning. So he and I kind of have this personal relationship now, but it's always in a way that I'm having to call him, because I live right across the way, to -- with a complaint.

So who -- why would we think -- and I said this to him, why would we think that the boat docks are going to be any different?

So something I want to bring up -- because I do live right on the creek and right where the proposed docks are planned to be, I want to talk about wildlife. There's a lot of wildlife on Haldeman Creek.

This dolphin is a very familiar friend of Haldeman Creek. They're around often. Sometimes I think they're lost because they're back so far, but they are -- they just -- they're -- sometimes there's two or three of them.

This is right along the shore, right -- actually right where the boat docks are going to -- are proposed to be, this great blue heron just strutting along, and that's how low it gets when it's low tide.

The manatee -- like Karen Beatty said in her presentation, there's been an abundance of manatees, especially this summer. Yesterday I was talking to Bob Messmer on the phone, we were talking about this meeting, and I said, let me call you right back. There's four manatees out -- right out in the canal right now. I thought I could get a picture of all four of them, but I couldn't, so...

This particular manatee last year -- a year ago when we were in this very same room, the petitioner put buoys out for the residents so that they would be able to see how far boat docks are going to be coming out. That particular buoy has really moved in, but anyway, the moral of the story is look where the manatee is now. He happened to stroll by just as they put those white buoys out.

COMMISSIONER CHRZANOWSKI: Yeah. That sign says "idle speed, no wake." Is that whole area in there idle speed, no wake?

MS. RILEY: It is.

UNIDENTIFIED SPEAKER: No.

COMMISSIONER CHRZANOWSKI: Okay.

MS. RILEY: It's not? They just changed those signs since that -- that sign. So what is it now, Roy?

MR. WILSON: It's minimum wake.

MS. RILEY: Oh, okay.

MR. WILSON: Slow speed. Slow speed, minimum wake.

CHAIRWOMAN HOMIAK: Okay. You can't speak --

COMMISSIONER CHRZANOWSKI: So where's the sign from?

MS. RILEY: They just changed the sign probably about three months ago.

COMMISSIONER CHRZANOWSKI: Oh, okay.

MR. WILSON: Roy Wilson. Florida Fish and Wildlife came up and changed all the signs.

MS. RILEY: And I just wanted to show this picture, because it is -- whoops, it's upside down -- because it really is -- a lot of photos that we see are always at high tide. This is a typical low tide. This isn't real low tide. This is a typical low tide, what that property looks like at low tide. So butting boats up on that -- anyway...

The other thing I wanted to point out is that while looking over material, the material presented by the petitioner in preparing for this morning, I read an email from the Florida Department of Transportation where the district drainage engineer stated in regard to Haldeman Creek, we cannot find any documentation that suggests current responsibility for this easement. So who is responsible for the impact of the dredging?

I believe that Mr. Strain attempted to get these answers in a conversation that I had with him, but a governing responsibility has not been determined. There is a problem here with this creek and other creeks and waterways in Collier County.

In the last 60 days there's been two storm-surge articles in the Naples Daily News -- I know that this has been brought up -- regarding concerns of Naples Bay and Haldeman Creek in particular. How much more can the creeks and waterways in Collier County be impacted before it's too late?

Currently there are no boat dock extensions on Haldeman Creek that have been built. And to keep the natural flow of water, that is how it should stay.

In conclusion, the developer continues to point out their application meets that requirement -- meets the required criteria in the Land Development Code. That may be true. They may have met the criteria to apply, but it doesn't mean that it must be granted.

Today I make an appeal to this board to not grant this proposed dock extension. Thank you for listening.

CHAIRWOMAN HOMIAK: Thank you.

MR. REISCHL: Next speaker is Jeanie VanArsdale, followed by the last speaker, Mitch Johnson.

MS. VanARSDALE: Hi. Jeanie VanArsdale. I live in East Naples. Thank you for letting me speak with you today.

I want to begin with a quote from my 93-year-old mother. When I talked to her about this project she said, where else would this project be proposed but in East Naples? Why is it okay to visually and environmentally alter a beautiful creek just because it's in East Naples? Why not let East Naples grow responsibly? Let us recover from this bad economy. Don't destroy our -- don't destroy our beauty with big ideas.

The petitioner has requested an 18-foot extension beyond the 20 feet allowed. If you do the math, 20 plus 18 is 38. That's almost a 200 percent increase, something not granted to any of the individuals, and it's on a narrow creek. It's quite a bold move of the developers to request that.

I was curious to know if I -- in taking my figures, I reduced everything by a third from their original proposal. So instead of 810 cubic yards needed to be dredged, I did the math and said it's 530, but I don't know what a cubic yard is, so I looked it up on the Internet. I understand what a gallon is. And if you take 530 cubic yards, what you're talking about is 106,000 gallons of silt and sand and material taken out of the creek.

And then, afterwards, 250 pilings driven hydraulically without even having a 3D model, which was suggested, created to see the impact of this.

If you have a dock that's 613 feet long, what you're talking about is two football fields. The overwater structure will be 5,000 feet. That's 70 feet by 70 feet of sunlit area that's now shade, and that doesn't even count what the boat shading will do.

Why should the developer be able to do this? Is it because they have engineers? Is it because they have lawyers that they can consult and write this in a way that's appealing to a panel? It's time to say no. What we as citizens have is our experience on the creek, an imagination of what can happen, and a copy machine. That's what we have.

I question the scale of the drawings that were presented because many of them look so pretty. There's gray water, gray boats. And as Maurice pointed out, this is not the way it's going to look.

If we were to blow up this picture and really show it visually, we would show where the lifts are going to be. We would show people washing their boats with a soapy runoff. We would see people cleaning fish at a fish bait station. We would imagine the vibrations going into the water every time a boat lift goes up or down. We would illuminate the water on 613 feet for the docks at night, not having a strong upright but still illuminating all the docks.

We would show oil being added to outboards, possible spills, gasoline being poured into small outboards, possible spillage. We would see people coming and scraping barnacles off the bottom their boats, and one of my biggest concerns is we would have to see riprap repair. Because Kate showed that picture at low tide. That's the bottom of the riprap. And if they're going to be dredging at that corner, what is going to hold this from not just crumbling into Haldeman Creek?

If you have 613 feet of dock and you have approximately 20 feet of mangrove as a buffer between housing, what it ends up looking -- what it's going to end up looking like is a lot the way the construction looks like right now, while its unintended, because they've been asked to shut down.

It's going to look like a giant bird perch. This -- the project has been described as a man-altered canal. No kidding. It is a man-altered canal. It is a man-dredged canal which continually wants to fill in with silt. It is a shallow canal, we admit that. Ask any boater. But let's not alter it anymore by adding 613 feet of docks.

They say no boat will extend beyond the outer piling. Look at Google Earth. Approximately 30 percent of all boats in Naples extend beyond the pilings. There is a math problem here when there's 30 percent of boats go beyond the piling, and we say none are going to go beyond the piling here.

They talk about the mangrove fringe. It's no fringe. It's 18 to 40 feet of thick mangrove. What is the preservation plan? Because it already appears that it's very thin near the new construction.

A boat is not a car. It doesn't have brakes, it drifts, and it blows around. Pulling into an angled parking space at Winn's Market is often tricky. Pulling into an angled dock on Haldeman Creek will be much more difficult, and you don't even need a license to operate a boat.

It is July 2nd. Tomorrow begins a big holiday weekend. It is difficult to draw an opposition public together on a workday, before a holiday, with short notice, in July. Haldeman Landing knows this, and now they're going to be coming back in two weeks. The community gets tired. We don't have the lawyers. We don't have the engineers.

Here is the latest news headline -- and I'm wrapping up -- from the Washington Post. A flesh-eating bacterial infection thrives in the Gulf of Mexico, headline. ABC News says the same. AccuWeather, go read it. They're saying the same. USA Today. I was in Boston. It's in the Boston papers.

So the word is, stop. Put an end to adding pollution and disruption to our shorelines and waters. Allow science and scientists to catch up and find out what's going on with our waters. We are at a critical tipping point. The criteria have not been met. This proposal is not appropriate. The water's too shallow, it will have an adverse affect on navigation, it is visually objectionable, it is unsafe, and the wildlife will be affected.

Thank you very much.

MR. REISCHL: Your last speaker is Mitch Johnson.

MR. JOHNSON: Hello. I'm Mitch Johnson. I'm a property manager with Windstar on Naples Bay but also a resident of Collier County. Thanks for listening to all this. I know you've been through this a couple times already.

But just real briefly I wanted to mention that, as you know, the Hearing Examiner did review all this, come back to the owner of the property with specific recommendations, which we do feel have been met, and reduced the total docks, went from the T docks to the angled docks, which probably weren't preferred, but the owner has adhered to these further restrictions.

The county has these restrictions based on environmental impacts on safety. The owner has returned with what we feel is a reasonable request in accordance with those criteria. Additional compromise by the owner will likely not satisfy all owners of Lakeview anyhow -- versus parallel docks or lifts or no lifts. Some of these are view-related items that can be subjective, and not all parties would probably ever agree on in the first place.

Windstar is also affected by possible impacts and have voted in favor of the Regatta Landing project and the respects to the boat dock extension concessions that the county has asked for and that the owner has met.

Like those that also own along the creek, Windstar on Naples Bay owners are also responsible, charitable, civic-minded residents. It's in their nature at Windstar to keep their property in first-class conditions and keep their property values high.

Maintenance dredging would undoubtedly be done should water levels be shown to drop or that boats cannot fit into these angled slips.

But I do appreciate your time today in listening to everyone's comments, and we ask for an approval based on the recommendation of your professional staff and the engineering facts you have before you. And I thank you.

CHAIRWOMAN HOMIAK: Thank you. Is that it, or was there another --

MR. REISCHL: That was your final registered speaker.

COMMISSIONER EBERT: Is there anybody --

COMMISSIONER ROMAN: Nonregistered?

COMMISSIONER EBERT: Yeah, is there any nonregistered --

CHAIRWOMAN HOMIAK: Well, they all were sworn in. Is there anybody else that wanted to

speak, or no, they all --

MR. YOVANOVICH: Mr. Chairman (sic), can I -- before I get started on my rebuttal, can I ask for a five-minute break to discuss a couple of comments with my client?

CHAIRWOMAN HOMIAK: Sure.

MR. YOVANOVICH: Thank you.

COMMISSIONER EBERT: Good. Thank you.

(A brief recess was had.)

CHAIRWOMAN HOMIAK: Can you please sit down and start the meeting, please.

I just have one thing. For anybody that -- if anybody's still here that spoke and put anything on the visualizer, the pictures, they need to be given to -- copies to the court reporter to be part of the public record. Thank you.

MR. YOVANOVICH: Thank you. I don't think my rebuttal will be very long because I'm going to really focus my comments on what the common theme was, in my opinion; if we have a hurricane, this particular dock structure is going to result in extensive damage to all the properties around it and somehow is going to be the cause of severe property destruction by the approval of these boat docks, and that's the public health, safety, and welfare issue I heard from the residents.

I started the meeting with my comments regarding if we meet the criteria we are entitled to the boat dock extension. I don't retreat from that position.

There's a boat dock extension process in the code. There are specific criteria, and if we meet them we have the property right to get the approval.

With that being said, there have been -- there has been no competent substantial evidence contrary to our petition. There have been people with opinions, and they're entitled to have opinions, but they're not competent to give those opinions. They're not engineers. Who are the competent people to review this petition for drainage and will the easement continue to flow and drain properly as designed?

I can't make that statement. I'm a lawyer. I don't have a PE. A PE can make that statement who's specifically trained in water management.

Who's reviewed this on behalf of Collier County? Jerry Kurtz. Jerry Kurtz is a water management expert, and he has those magic initials after his name. He is a professional engineer and has been doing this for more than 20 years. I think it's around 27 years. I've dealt with Jerry for a long time at the county. He hasn't always --

COMMISSIONER ROMAN: Could you zoom out? It's cutting off some of it.

MR. YOVANOVICH: Okay. This is all in your packet. It's part of our --

COMMISSIONER ROMAN: Yeah. I've already read it, but I might want to refresh my memory.

Thank you.

MR. YOVANOVICH: Okay. I just -- I just want you to know that one of the concerns the Hearing Examiner had was has the county looked at this and determined if this will negatively impact the purpose of that drainage easement that was conveyed to the state department, State Road Department of Florida in 1953.

And also in your packet is a copy of the easement. The purpose of that easement was to create a drainage easement for what is now Bayshore Drive. So you have to look at what was the intent of that drainage easement.

Now, I'm going to bring -- I'm going to bring Andrew Rath up, who's our professional engineer on this project. He has gone back and researched the plans for the dredge that was associated with this 1953 easement, and those plans were prepared in 1950. So these plans were prepared, and the state went out and acquired an easement to implement the drainage improvements that the state wanted to make.

And Andrew will come up, and he will testify that everything we're proposing to do is outside of the area where the dredge was going to occur for this drainage easement.

So we have a professional engineer and Jerry Kurtz who has testified that the easement will function fine as proposed to be constructed. You also have a gentleman named Carlton Spirio from the state DOT who Mr. Strain testified -- talked to prior to the fact finding, and he had -- based upon the questions asked to him, had given Mr. Strain some direction on what needed to occur to analyze it.

Mr. Spirio, also in your backup information, issued his opinion, and it was based upon his review of

the construction plans that we're proposing to do. He also has those magic initials at the end of his name, professional engineer. He has said that the easement will function properly after we build the improvements.

Now, either the county or the state has the easement rights. They've both opined it will function properly after the docks are constructed.

I can testify to legal matters. There's a drainage easement on the property. It's a nonexclusive drainage easement. What does that mean? Mr. Eastman knows. It means that I've retained all of the rights to use that same piece of property burdened by that easement provided I don't do anything that is inconsistent with the use of that property. That means I can't interfere with the drainage.

Two professional engineers, one from the state and one from the county, have confirmed I will not do anything to interfere with the functioning of that easement.

I emphasize those two individuals because I'm going to ask Mr. Rath to come up here. Now, I know people think that since he works for the applicant he's somehow not going to give his true professional opinion. That is not the case. He's a professional engineer. And he's going to give you his analysis as to that in his review of the plans, and then I'll move on to a few other closing comments.

MR. RATH: Hello. Andrew Rath with Davidson Engineering, professional engineer licensed in the State of Florida.

I would just like to bring a couple exhibits forth here through some research that we conducted with the state. These are the original plans for the construction of State Road 858 at the time with the associated drainage canal that went with it. You can see the date down in the corner, around 1950.

And then next I'd like to show this. You see the highlighted area here?

COMMISSIONER ROMAN: Could we zoom out, please, so we get the whole piece there. No, not that far. So we can read it, Fred.

MR. RATH: This shows a typical section for the drainage channel. You'll notice that the drainage easement's 150 feet wide. You'll see the 75s on either side of the center above. You'll also see that the bottom of the channel has two 40-foot dimensions on it depicting that we've got an 80-foot channel bottom.

All this is occurring centered within a 150-foot easement. A similar analogy is if you had 100-foot right-of-way, you know, you may have a roadway in the center that's only 50 feet wide, and you've got shoulders and swales along the side with utilities in them to support the road and to convey stormwater, things like that.

But as you work your way --

COMMISSIONER ROMAN: Could I ask a question?

MR. RATH: Sure.

COMMISSIONER ROMAN: On the right and left sides of that, this is the cutaway of what --

MR. RATH: Correct.

COMMISSIONER ROMAN: -- what was done. I can't read here. And I see you've written over the sides where we've got the slope into the waterway, what we're actually doing there. And I see mangroves, then I see some writing. Can you explain that?

MR. RATH: The original text on the plans there, those were the spoils from digging the actual ditch. They set them up there to kind of drain them out, and so then they could move them or spread out the spoils afterwards so it wasn't a slurry mess type thing, and they tried to show to leave 10 feet of access on either side at the time.

So as you can see, there's basically 70 feet left over. When you take the 150 feet minus the 80 feet, you've got 70 feet left over. If you split it on either side, you have 35 feet on either side until you hit the bottom of the channel.

Today we are requesting -- one more point.

The edge of the drainage easement that you'll see all the way to the extreme right lines up with mean high water, which we can see on our survey. I can show that to you in a moment. But they basically line up with each other.

And today we're asking for a boat dock extension of 38 feet from mean high water. So you can see that as you extend from the edge of the drainage easement all the way out 38 feet, we barely touch into the bottom of the drainage channel. And there are many places where the actual drainage easement -- the mean

high water is behind the drainage easement, so we're not even -- we don't even get out to touch the bottom of the channel.

MS. ASHTON-CICKO: Well, what he's showing you is the 1950s plan, correct?

MR. RATH: Correct.

MS. ASHTON-CICKO: You're the applicant's representative, correct?

MR. RATH: Correct.

MS. ASHTON-CICKO: So they're showing what was initially done. Now, this is not attached or referenced in the deed to the state, so it's not the only configuration that can be there. This is just how it was initially done, you know, almost 70 years ago.

COMMISSIONER ROMAN: As a plan.

MS. ASHTON-CICKO: As a plan. This is not binding.

COMMISSIONER ROMAN: Thank you.

MR. RATH: This was the plan that was provided by the state, the design for the drainage channel.

MS. ASHTON-CICKO: And from what you're saying, from the 1950s.

MR. RATH: Correct.

MS. ASHTON-CICKO: Correct. It's not binding on the state. It can -- the canal can be changed, and the county's probably changed it in their drawings as well, but this is not binding.

COMMISSIONER EBERT: Andrew, I have a question for you. Was this dredged in the '50s?

MR. RATH: How was it constructed? I'm sure it was --

COMMISSIONER EBERT: No. I asked you if it was dredged in the '50s. Because you're showing 80, and the 2006 dredge shows only 40.

MR. RATH: This is showing what the design bottom was at the time we applied.

COMMISSIONER EBERT: Okay. But they -- you weren't even born in the '50s, so you don't know whether it was dredged or not?

MR. RATH: I can tell you that when you look at the design side slopes of the channel --

COMMISSIONER EBERT: I under -- that I understand.

CHAIRWOMAN HOMIAK: Stop, please. Let him finish.

MR. RATH: The side slopes of the channel were at one-and-a-half to one slope, which is very unstable, especially in a waterway. And you could imagine that they slough off into the channel if it's not stable. So you would see a different condition out there today than what the design was. And, obviously, as dredging occurred in 2006, it would change to a further degree.

COMMISSIONER CHRZANOWSKI: Is there any reason to believe that this wasn't dredged to that cross-section?

MR. RATH: I don't think there's any reason to believe that. It was constructed in a different --

COMMISSIONER CHRZANOWSKI: So it was an approved drawing, and it was --

MR. RATH: Correct. This was the approved drawing. It was implemented.

COMMISSIONER CHRZANOWSKI: -- finalized out, and you can assume that this is how it was built when it was built.

MR. RATH: Correct.

COMMISSIONER CHRZANOWSKI: Is there a plan view in here anywhere?

MR. RATH: Yes, I've got a plan view I can show you here. Let me just show you this quickly for reference of the plan view. I'm just trying to show you a spot on the survey.

As you work your way down the creek, it delineates the various different drainage easements that make up the drainage channel there, and you can see that there's a crook almost where -- an angle in the drainage easement where it changes.

COMMISSIONER ROMAN: Could you point, please, so --

MR. RATH: Right there. So that straight line kind of curved -- angles a little bit there. I mean, you can use that as a point of reference when we look at the plan view from the 1950s.

COMMISSIONER ROMAN: Before you go on, I -- can you go back to the last drawing? What are we looking at, and what did you point out? What was its significance, please?

MR. RATH: Just pointing out a point of reference. So when we look at a plan view from the 1950s,

it's --

COMMISSIONER ROMAN: Okay. It's the point.

MR. RATH: -- a little bit difficult to tell where you are, so I'm using a point of reference. It's right here, and it's almost an elbow.

COMMISSIONER ROMAN: Okay. Thank you.

MR. REISCHL: And this is oriented differently. North is to the right side on this one.

COMMISSIONER ROMAN: And we could just turn the drawing and orient them the same, but go ahead. All right.

COMMISSIONER EBERT: Makes a difference.

COMMISSIONER ROMAN: Thank you.

COMMISSIONER CHRZANOWSKI: Now you can't read the writing. Okay.

COMMISSIONER ROMAN: They could zoom in.

COMMISSIONER CHRZANOWSKI: I'm joking.

COMMISSIONER ROMAN: But that's what the zoom is for.

MR. RATH: But we're just simply showing you a point of reference there. When we look at the plan view here, they have the drainage easements laid out in the plan view, and you can see the elbow, the crook here.

And from today's survey, I can measure back; 400 feet is where our west property line lies, and so I use that as a reference to tie us to the property. This is a plan view and a profile of the drainage ditch here.

COMMISSIONER CHRZANOWSKI: On the left side, what is that snaky -- looks like an old ditch, an old creek.

MR. RATH: That is the original creek that's shown on the plan view there.

COMMISSIONER CHRZANOWSKI: That's how small it was?

MR. RATH: Yes.

COMMISSIONER CHRZANOWSKI: And then it kind of widens up? But they didn't show the rest of it.

MR. RATH: As it continues on? No, I don't see much more than that.

COMMISSIONER CHRZANOWSKI: Okay.

MR. RATH: But the area was surveyed at the time, so I think the creek was, you know, taken by a surveyor.

COMMISSIONER EBERT: Andrew, can I say something? From what I'm gathering from the history of this -- and I have looked at a lot of the history -- you are correct that the little portion is where the original creek came from, that there wasn't all this other in there. And that's why they have the property underneath; is that correct? The original was from the --

MR. YOVANOVICH: The reason we own the land --

COMMISSIONER EBERT: I understand why you own the land, because you had some of the property across. Richard, that's not what I'm arguing.

This little portion down here was the original creek. There really wasn't much up the other way, up to Bayshore?

MR. YOVANOVICH: Well, I can't tell you on Bayshore. I thought you went the other direction.

MR. HALL: Yeah. I think the creek did continue on but to the north of where the easement is. So if you -- if you look at the old -- the property line that you see --

MR. RATH: Follows the creek.

MR. HALL: It faded out. But it follows where that old creek boundary was.

COMMISSIONER EBERT: Sure.

MR. HALL: So this easement went across it, which is why the applicant still owns, you know, both sides of that as well as the underlying area.

COMMISSIONER EBERT: Okay. Which really makes sense. But that's what -- when that little bitty thing came down in there, that's where I was looking at this.

Okay. But who dredged the creek in the '50s if you said it was an 80-foot bottom? Do we have the

--

MR. RATH: I can't tell you who the contractor was.

COMMISSIONER EBERT: Is there any way we can find out who --

MR. RATH: I could tell you that it was a state project so -- I mean, it was funded by the state and, you know, the state calculated what the drainage needs were to drain out the areas that it was intended to drain, and they designed the drainage channel, an open channel flow, and that included an 80-foot-wide bottom with one-and-a-half to one side slopes.

COMMISSIONER EBERT: Okay. Because what I'm hearing is this was never dredged until 2006, and I will go into my explanation later.

MR. RATH: It was excavated.

MR. YOVANOVICH: It was originally constructed. So if you want to call that a dredge, then that was the first dredge, and then the second -- as I understand it from the gentleman who's been living there for 40-something years, the other dredge occurred in '06. But there was the original construction of the waterway, the drainage easement, and then a dredge in about 2006.

COMMISSIONER EBERT: Thank you.

MR. YOVANOVICH: All right. So from a -- from what was the purpose of the easement when it was originally constructed, it was a drainage easement to drain some roads. It wasn't to drain acres and acres and acres of property that went along or may have been near the roadway. But be that as it may, there's been a review by environmental agencies that we have to get permits from, state and federal, that have reviewed and approved this from a public, health, safety, welfare perspective.

It's been reviewed by the county, including the county stormwater engineer, it's been reviewed by the state, including a PE from the state, and all have said that that drainage easement will function properly with these docks.

So there -- the gentleman who says this has not been analyzed from a health, safety, and welfare perspective is not correct. It has been analyzed from a public health, safety, and welfare analysis.

And the pilings will operate fine, and the drainage will operate fine with the -- the drainage easement will operate fine with all of those improvements in their place.

I have no response to the flesh-eating bacteria comment. I don't know how these docks in any way impact that issue. I really don't have a comment to what happens if Hurricane Donna comes again and sits over the top of Naples for three days. I don't think we design and permit construction in Collier County for those types of events.

I venture to say that if that happens, we're going to have bigger problems than what this dock may or may not do.

But I also want to just quickly show you some live pictures of what's out there today without us. That's how people operate their docks out in that area right now. They're not respecting the required distance that they're supposed to do.

I venture to say that things are a little bit more sophisticated today, and I am fairly certain that if our docks or our boats were to go beyond the permitted amount, there'll be calls to code enforcement, and code enforcement will be out there, and they will deal with it like they will do with anything else. There are more eyes watching this project, I'm sure, than many other projects in Collier County.

I think Mr. Chrzanowski was bringing up the point about a bridge, and I think that that bridge is your real chokepoint for flow. If Hurricane Donna does come or hurricane whoever -- we'll call it Hurricane Diane.

CHAIRWOMAN HOMIAK: Diane, yeah.

MR. YOVANOVICH: So in case she gets to me first -- I think that that's where the real chokepoint's going to be. I think everything's going to flow past just fine.

We have met the criteria. The competent substantial evidence shows that we've met the criteria, and we are requesting approval of the boat docks as we have modified them in response to both neighbor comments as well as the Hearing Examiner comments. We think we are entitled to more but we have compromised and reduced our request, and hopefully the Planning Commission will agree and vote to approve our boat dock extension.

CHAIRWOMAN HOMIAK: And this was redone according to -- the boat docks are at a 45-degree

angle because of the Hearing Examiner's recommendation; is that right?

MR. YOVANOVICH: Correct. We originally requested perpendicular, and he believed it would be better to have them at a 45-degree angle, which we have implemented.

CHAIRWOMAN HOMIAK: Okay. And one of -- and part of that condition that he had in there also said that the docks would not exceed a limit of a 20-foot extension over the maximum 20-foot allowed, total protrusion not to exceed 40 feet. I'm just -- I mean, because you're well below -- you're below that. I'm just trying to make that point.

MR. YOVANOVICH: Right. And it turns out with the angle --

CHAIRWOMAN HOMIAK: You're doing what --

MR. YOVANOVICH: -- we don't even need --

CHAIRWOMAN HOMIAK: -- he's asked you to do --

MR. YOVANOVICH: -- as much as --

CHAIRWOMAN HOMIAK: -- what was asked here?

MR. YOVANOVICH: Correct. With the turning of the angle, we're even less than what we had suggested. I don't remember him saying a specific number. He just said angle it.

COMMISSIONER EBERT: He also had a 30-degree in there, I believe, kind of showing.

MR. YOVANOVICH: Thirty feet, I believe he had.

COMMISSIONER EBERT: He did have a 30-degree angle.

MR. YOVANOVICH: I think he had a 30-foot boat, and we've reduced the size of the vessels as well.

COMMISSIONER EBERT: No. He had a 30-degree angle in there in one of them.

CHAIRWOMAN HOMIAK: Forty-five.

COMMISSIONER EBERT: I understand the 45, but he showed different angles. I think there was even a steeper one at 30.

MR. YOVANOVICH: Okay.

COMMISSIONER EBERT: Okay.

COMMISSIONER ROMAN: I have some questions if you're through.

CHAIRWOMAN HOMIAK: Go ahead.

COMMISSIONER ROMAN: I want a clarification, please, Rich, on this particular property in its relationship to Windstar.

MR. YOVANOVICH: Okay. Happy to do that.

COMMISSIONER ROMAN: Understood. Regatta Landing was mentioned; other boat docks at Windstar were mentioned. If you could clarify that, I'd appreciate it.

MR. YOVANOVICH: A couple of things. This property is not within the Windstar PUD, okay. It is separate and distinct from the Windstar PUD, which means, if you noticed the conditions, we can only sell to people who are owners of this project. This project is not within the Windstar PUD; therefore, Windstar residents can't buy docks.

We are not -- we are, however -- they have the ability as an association to annex land in for purposes of being members of the master association and the like.

They've annexed us in for that purpose because we now have an access point in through the Windstar development. You know, we believe that's beneficial for the value of our land, and they believed it was beneficial from their perspective as well. So we're members of the master association, but we're not within the Windstar PUD.

So that's why you've heard it referred to as they are separate. From a zoning standpoint, they are separate.

COMMISSIONER ROMAN: As part of the association umbrella that this development comes under, would they have access to those additional docks within Windstar?

COMMISSIONER EBERT: Yes.

MR. YOVANOVICH: I don't know the answer to that because I was not involved in that. John, do you know the answer? You're their lawyer. Why don't you -- I'd prefer for John to answer that, if that's okay.

MR. FARQUHAR: They would be under the rules and restrictions of the master association as well,

but the other owners in Windstar, except for the 64 homeowners in the new project, would not have the right to use these docks as it's presently --

COMMISSIONER ROMAN: So say that again. I'm not sure I followed you.

MR. FARQUHAR: The master association for Windstar would have some governance rights over the entire project because this project is within the master association, but the residents of Windstar would not have the right to use these 64 docks. Only the 64 homeowners will have the right to use -- I'm sorry. The 27 docks could only be used by the 64 homeowners in the Regatta Landing project.

COMMISSIONER ROMAN: My question was just the opposite, the reverse, the reverse of that.

MR. FARQUHAR: I don't 100 percent know whether they could use the other existing docks in Windstar at all.

MR. YOVANOVICH: We've got the right guy.

COMMISSIONER ROMAN: Okay. We've got somebody else. Thank you. I appreciate it.

MR. JOHNSON: Again, as the association manager for five years, there are -- there's one pier dock onto Naples Bay. That has only the right for one boat to moor there, which is a master association maintained boat. No other owner within Windstar can put a boat there even temporarily.

The other -- a photo, actually, we saw at one point of some boats on lifts are exclusive to the owners of a neighborhood called Admiral's Watch, and so those also cannot be used by any other Windstar owner or the owners of Regatta Landing.

COMMISSIONER ROMAN: Okay. Thank you.

MR. JOHNSON: And also there's the Southpointe Marina, but that is a recreational association, and that can be used by outside owners. It's 72 slips there. And so, theoretically, a Regatta Landing owner could purchase a slip there.

COMMISSIONER ROMAN: Okay. And there's 72 there?

MR. JOHNSON: Correct.

COMMISSIONER ROMAN: Okay, thank you.

CHAIRWOMAN HOMIAK: Heidi, would this be --

MR. JOHNSON: Yeah. They're not all available, by the way. Most of those are sold. Actually, they're all owned.

COMMISSIONER ROMAN: But the marina is 72 slips large?

MR. JOHNSON: Correct.

COMMISSIONER ROMAN: Thank you.

CHAIRWOMAN HOMIAK: Would this be where you would want to bring up that change that you

--

MS. ASHTON-CICKO: Yeah. I just wanted to read into the record the resolution, some changes for clarification. It does need to reflect that the total protrusion is of 24 to 38 feet in accordance with the site plan and cross-sections that are attached, because the protrusion is 38 at its greatest. In the other areas it's, I believe, 24 and 33. So that just needs to be corrected on the proposed resolution.

And then I guess I would want from Fred clarification on his recommendation, and especially in light of what they just said, on Condition No. 4, that the boat slips shall be owned and used by residents of Haldeman's Landings multifamily development and then it says or "its property owners association."

The master association is the only existing association at this time. So do you want to keep that language which could allow the residents of Windstar, through the association, to use these docks, or is it just going to be Haldeman Landing? That's my question.

MR. REISCHL: And my -- Heidi and I had spoke about this, and Tim gave us the information that there was no HOA currently for Haldeman's Landing. But my intent when I wrote this condition was to have it limited to the 64 units of Haldeman's Landing. So I -- if there's more clear wording, I'd be happy to change it.

COMMISSIONER ROMAN: Well, I don't know. I'm ready to discuss that.

CHAIRWOMAN HOMIAK: So would we remove the -- would we remove the property owners association, or is that a different --

MR. YOVANOVICH: Okay. What's going to happen is the condominium, okay. And you don't

record the condominium documents until the units are built and ready to close, okay.

So there will be a condominium association for this community. The intent is only owners of condominium units can own the docks, or the condominium association itself can own it on behalf of the unit owners.

So however you want to clarify that, that Windstar, because it's a master association, could somehow get its nose under the tent, that is not the intent and not what we believe Fred's intent, that we had to be the 64 unit owners associated with that property.

MS. ASHTON-CICKO: So then how about if we just put "or the property owners association for the 64 upland units"; is that acceptable?

MR. YOVANOVICH: If we put property or condominium association.

COMMISSIONER EBERT: HOA.

MR. YOVANOVICH: Well, a condo association's different than an HOA.

MS. ASHTON-CICKO: Well, do you want to put both so you have flexibility --

MR. YOVANOVICH: That's fine; that's fine.

MS. ASHTON-CICKO: -- or do you want condominium? Okay. So we'll put "property owners association or condominium association for the 64 upland units."

MR. YOVANOVICH: That's fine.

MS. ASHTON-CICKO: Is that okay?

MR. YOVANOVICH: That's fine.

MS. ASHTON-CICKO: All right. Thank you.

MR. REISCHL: And that's agreeable to us, too.

COMMISSIONER EBERT: Okay. To be honest with you, we've kind of closed the public hearing, but I've held back, so your Hurricane Diana's going to hit you now. I don't want to disappoint.

We dealt with this last year. I'm a very passionate person, and I wish somebody'd tell my husband that. But --

CHAIRWOMAN HOMIAK: We haven't closed the public hearing because --

COMMISSIONER CHRZANOWSKI: He's watching.

CHAIRWOMAN HOMIAK: Charlette wasn't done, so...

COMMISSIONER EBERT: Wasn't done.

COMMISSIONER ROMAN: Heidi jumped in first.

COMMISSIONER EBERT: Anyway, there are other options to this. And to be honest with you, because it was last year, I went to see Andrew. I have done so many different things. It's not that I don't want boat docks there.

But in 2006 when this was dredged, Mr. Antaranian, I believe, was the owner of this. He took the -- it was agreed -- I have stuff from the county that shows that he took the sludge put up on there, and he actually bought some of it to fill in the lakes at the top and many other things there.

He also knew at the time that this was a drainage easement. And when he was going to put his 137 units up there, which was completely a different site plan, he had the basin.

So this person can change their site plan and put in a basin if they would like. It is not in the drainage easement. And that's where the 51 came from. And that was done in 2006. And at the time Mr. Brooker was the one leading the neighborhood association where they had it, and that's where they came up with the Windstar people, and there was going to be 34 to 51 in there. And he -- things have changed, like you say.

Access will continue to be provided through Windstar Marina entrance, although it will be resident entrance only from Lakeshore Drive. The applicant envisions approximately 34 to 51 wet boat slips provided along Haldeman Creek.

Windstar residents will have the first option to buy a lesser of 20 percent. That's why I'm saying things have changed. The reason it changed at the last one is when we were here a year ago, I obtained the agreement between Windstar and this developer. And it isn't even this developer. It was Centerline who paid to belong to the master association.

I also have another plan that was by Lakeview, and this was before, and it was when 21 lots were going to be there. I'll give this to you.

It says, when you consider waterfront lot, don't forget the importance of a protected harbor and dockage that will not be affected by the wake of boat traffic. So when it was 21, they were planning on putting their boat docks along the side here. For the people who didn't have that, they were going to put them in their little circle of the lake, and out on the Haldeman Creek there was only six property owners, so that's where they were going to put their six boats or, as you say, if it were single-family, they could have two, but it would be out on the creek. So there are -- there are other things that they can do.

As far as Windstar Marina, that came up last year, too, Rich. I'm sorry you weren't involved last year in this. It was just --

MR. YOVANOVICH: I read it.

COMMISSIONER EBERT: I know. I know you would.

MR. YOVANOVICH: I know what happened.

COMMISSIONER EBERT: And as far as Windstar is concerned, the marina, Southpointe Marina, it says you don't need to be a resident of Windstar to own a slip. I had several that I was going to give to the commissioners last year before you pulled it. They knew about this. You don't have to be a resident there.

As far as Admiral's Watch, that was done through the city because that is the City of Naples. That was -- there are eight, supposedly, boat docks there for their 16 units, so that was also held just for those residents there.

As far as this person doing advertising, it's completely different. There's two that I have. If you want, you can put it on there. They show preconstruction. He's showing the docks at Admiral's Watch. That's not -- so to me, that's a little different. It's almost like false advertising and yet he does belong to the Windstar Master Association.

Here's another thing I'd like to read to you. For the grand opening, introducing Regatta Landings in Windstar on Naples Bay.

And, Richard, I do understand the difference of "in" and "next to", because we've dealt with this before where it's -- they don't cover the doughnut hole. If it is -- if they want to be completely in Windstar, Windstar has to do a PUD amendment.

But here's what it says on this. Community amenities. A private gated enclave of only 64 upscale coach homes, 18-hole Tom Fazio golf course, private beach and marina, state-of-the-art fitness center, and waterfront dining overlooking Naples Bay. They really are in Windstar.

And I understand how it goes, because I do know the difference between -- it's just legalese.

So they really are. The difference is, last year when I got this agreement or saw this agreement, I'm sorry, Mr. Hall didn't even know anything about it. When you sell to the outside, you're supposed to have like a C3 -- you have to have a commercial. And if you're going to sell to outside people, that's commercial. That's why this was put in there that it can be only for the people of -- well, it was Haldeman's Landing, then -- anyway, Regatta now.

And Admiral's Watch is the same way. It is supposedly only for their people. I went and got the information from the city. Collier County did not permit that one. The city permitted that one, and they were very worried because of that, and they almost didn't even do it for that because they said you have a marina over there.

And I believe on that marina -- and you're right, you have 72 deepwater slips. There are no lifts allowed there. I believe there is also 10, correct me if I'm wrong, for the residents that actually live on Admiral's -- I mean, on the island there. Haldeman originally asked for 42.

You know when you take the hole, the hole-filled doughnut, that would have been 132 boat slips for the people. It doesn't even need to be the people that live there. Two would be restricted, but the Southpointe is not, and that would be 132. You have now brought it down to 27, although we haven't really done the 107 feet that Mr. Strain -- Commissioner Strain had said. You didn't go quite that far. But that's 117 that would end up there now.

MR. YOVANOVICH: One hundred seventeen?

COMMISSIONER EBERT: One hundred seventeen boat slips if this were approved for the 27 beyond there.

CHAIRWOMAN HOMIAK: Well, could you get -- is there a point to --

COMMISSIONER EBERT: Yeah, there -- Karen?

CHAIRWOMAN HOMIAK: Could you get to it so --

COMMISSIONER EBERT: Karen? Karen? This is my time. I am speaking also. I'm speaking because there are other things here that do come into play.

And, Richard, when you said that these people are not witnesses, so in other words, they can't -- they can say what they want but they can't testify because they're not witnesses?

MR. YOVANOVICH: I didn't say that.

COMMISSIONER EBERT: Well, it was in that light.

The other thing is, I'm going to ask -- or I'm going to read to you and then ask Mr. Kurtz to also come up. There's -- this is where the rising sea levels came. Part of it was where east -- and this was from Mr. Kurtz, that East Naples might not be the place most people think -- that they think of rising sea levels, but that's what Jerry Kurtz sees.

On the north side of U.S. 41, not far from Walmart, a weir that controls flows into Haldeman Creek and eventually Naples Bay is one of four aging weirs that sit on the county's front line.

He attended a day-long seminar at Florida Gulf Coast. I'm just taking parts of this. I will give this to the recorder (sic).

Mr. Kurtz, the county stormwater planner, listened to speakers at Thursday's summit and thought about those weirs. Besides one on Haldeman Creek, there's also Henderson Creek in East Naples, the Gordon River, and the Cocohatchee. Each weir is at the tail end of the county's drainage system, the last point where the county controls how water flows to and from a rising sea. We realize we have got to pay attention, Kurtz says. We're interested. We are concerned.

CoreLogic did this, and they said storm surges are measured walls of water that are formed from tropical storms -- doesn't need to be a hurricane -- and they go up creeks, rivers, and stream subtracting the normal high tide from observation tide.

Other one I'm going to read for you, if you want to just show this.

MS. ASHTON-CICKO: Are we missing somebody?

MR. YOVANOVICH: Charlette just, I think, went that way.

CHAIRWOMAN HOMIAK: The bathroom. They can hear in there.

MS. ASHTON-CICKO: Because we don't have a quorum at the moment.

COMMISSIONER CHRZANOWSKI: She can hear in the bathroom.

MS. ASHTON-CICKO: Oh, you can hear in the bathroom?

COMMISSIONER CHRZANOWSKI: There's a speaker in there; I can vouch for that. I heard everything loud and clear.

MS. ASHTON-CICKO: Okay.

CHAIRWOMAN HOMIAK: Scary.

COMMISSIONER EBERT: It is.

In Collier County -- this is from the surge, the one -- I'm just going to read from the paper here, and not all of it.

MR. REISCHL: Did you want me to zero in on the graphic or --

COMMISSIONER EBERT: No. I think people can kind of see it.

In Collier County, surges topped 11 feet during Hurricane Donna in 1960 and damaged and destroyed more than 1,500 homes. Charley had a six-and-a-half-foot surge at North Captiva Island and smashed about half of the homes.

Jeffrey said Southwest Florida is particularly susceptible to storm surges, even from relatively mild Hurricane 1 forces because it is flat.

He also said it's important that residents -- Jeffrey said it is important residents understand that the biggest risk from storm surge flooding isn't just property damage. Storm surges are life threatening, he said. So know your evacuation routes and protect yourselves, your lives.

I had a conversation with -- Mr. Kurtz was one of the people that I had talked to this week, and I asked how many drainage easements we have. Mr. Kurtz, if you could come up.

MR. KURTZ: Good afternoon.

COMMISSIONER EBERT: Yes. Good afternoon, Jerry.

Are we replacing the weirs? When are they going to be replaced? Because I noticed that you said they needed to be replaced.

MR. KURTZ: We're looking at replacing -- planning to replace two, possibly three or four over the next four or five years.

COMMISSIONER EBERT: Okay. Which is the oldest?

MR. KURTZ: I'm not sure, Commissioner, which is the oldest weir, but we've got these three or four targeted based on age as well as functional obsolescence.

COMMISSIONER EBERT: Okay. And I -- and are the weirs only on drainage easements? Is that -- is that the only place the weirs are?

MR. KURTZ: Weirs are typically placed in drainage easements, yes.

COMMISSIONER EBERT: Okay. Not even thinking about it, I live on a drainage easement because I live on the Cocohatchee. I cannot put a boat in there because I would have to go through several weirs, which I can't get through.

The last one for Cocohatchee is down by North Naples Hospital, NCH, and then from there it flows out and under 41, I believe, and goes down to Wiggins Pass, correct?

MR. KURTZ: Yes. I'm familiar, yep.

COMMISSIONER EBERT: Okay. And this one -- your last weir, I believe you said, was at the Walmart store over here on 41. That's your last one?

MR. KURTZ: Yes.

COMMISSIONER EBERT: Okay. So as far as the county is -- on stormwater. We're talking stormwater. So that's the last the county can do for stormwater. And you said there's nothing we can do, so we really don't care about anything after stormwater, which is true to a certain extent.

Haldeman at least has an MSTU, so -- and it was forced on them in 2006 from Commissioner Coyle because he said this was a stormwater project. I have information from him.

COMMISSIONER CHRZANOWSKI: Jerry, why do you put in weirs? To let water go or to hold water back?

MR. KURTZ: Is that a trick question, Stan?

COMMISSIONER CHRZANOWSKI: Why do you put in a the weir, to let water go or to hold water back?

MR. KURTZ: Weirs are put in to hold water back and to control the rate of --

COMMISSIONER CHRZANOWSKI: Why do we hold water back?

MR. KURTZ: We hold water back to preserve the resource, the freshwater resource; a number of reasons.

COMMISSIONER CHRZANOWSKI: Okay. So you don't want the water to go out too fast?

MR. KURTZ: Right.

COMMISSIONER CHRZANOWSKI: And you're going to replace these weirs because? Functional obsolescence. There's better ways to do it.

MR. KURTZ: Yes.

COMMISSIONER CHRZANOWSKI: Okay.

COMMISSIONER EBERT: Thank you, Stan, because I know you're a water man.

I'm just going to read a little bit from the dredging from where Commissioner Coyle had this, Jerry. And being it's an easement, I always -- you know, it is different from regular water.

He had a little -- there was tension, it says, between the city and the county. But I'll just read, the county's -- the Council's divided vote came after a heated discussion in which council members debated whether it was a dredging project --

CHAIRWOMAN HOMIAK: Hang on a second here.

MR. YOVANOVICH: Mr. Chair (sic), I just -- I think you guys need to take a five-minute break. I just -- I had a conversation with the county attorney. I've got some concerns about what's happening right now in the process, so I request a five-minute break.

CHAIRWOMAN HOMIAK: We're way off track here, I think.

COMMISSIONER EBERT: Well, when was I supposed to bring this up? I was going to let everybody else speak.

CHAIRWOMAN HOMIAK: About the docks? This is about docks?

COMMISSIONER EBERT: Yes. This is about the docks. This has to do with the drainage easement in the docks.

CHAIRWOMAN HOMIAK: Well, is there a question?

MR. YOVANOVICH: The way you're supposed to bring that up is through testimony from experts, not from testimony from the --

MS. ASHTON-CICKO: Madam Chair, are we taking a five-minute break?

CHAIRWOMAN HOMIAK: Sure. Let's take a five-minute break.

(A brief recess was had.)

CHAIRWOMAN HOMIAK: Okay. Yeah, Heidi's going to be just a second. Okay. Can we get -- I know that --

COMMISSIONER ROMAN: We're just waiting for Heidi to come back in.

CHAIRWOMAN HOMIAK: Yeah.

COMMISSIONER EBERT: We have to wait for her to come back.

CHAIRWOMAN HOMIAK: Yeah. Okay. I know that before all this, Charlette got cut off from her questions, and I have one, so --

COMMISSIONER EBERT: Yeah, I will finish up.

CHAIRWOMAN HOMIAK: So you need to stick to the criteria here that we have in front of us.

COMMISSIONER ROMAN: We'll just continue our break then until Heidi comes in.

COMMISSIONER EBERT: If Fred could show those.

CHAIRWOMAN HOMIAK: Okay.

COMMISSIONER EBERT: Okay. Richard said that they meet the criteria, and on the primary criteria on this, which is a requirement even to ask for a boat dock extension. I have their appeal here from which Mr. Hall had, and I just want to let you know from last time, which was my opinion -- and Richard wasn't here. Primary Condition No. 1 I disagreed with last time. You have fixed that. But I wasn't the only one to disagree. Mr. Strain also did where it was --

MR. YOVANOVICH: Mr. Strain wasn't here.

CHAIRWOMAN HOMIAK: Mr. Strain wasn't here, though.

COMMISSIONER EBERT: Okay. In his HEX hearing he disagreed with that also, and that was the location in the upland zoning.

And I'm only going to read the ones that I disagreed with or -- Mr. Doyle did at the time, too.

Primary Condition No. 2 I disagreed with and it was --

CHAIRWOMAN HOMIAK: We're not talking -- you're talking about the last time?

MR. YOVANOVICH: Yes.

COMMISSIONER EBERT: It appealed.

MR. YOVANOVICH: I'm trying to be patient here.

CHAIRWOMAN HOMIAK: We need to talk -- we need to focus on what we have in front of us today and the criteria from today, not the last meeting.

COMMISSIONER EBERT: This was the -- this was the appeal.

CHAIRWOMAN HOMIAK: It's not the same.

MR. YOVANOVICH: This project is dramatically different than the project you heard before that we did appeal. You need to look at the criteria today and apply the project today. And I object at this point to anything that's coming in that is unrelated to the project before you today.

MS. ASHTON-CICKO: Yeah. It might be helpful if you look at the staff report and use the criteria in the staff report.

COMMISSIONER EBERT: It's the same -- it's the same criteria in the staff report.

MR. YOVANOVICH: It's a different project.

MS. ASHTON-CICKO: And are you -- are you desiring at this time then to put on the record what you -- what criteria you agree with and disagree with based on the record before you today?

COMMISSIONER EBERT: Well, I can do it for today, too. It's the same criteria.

CHAIRWOMAN HOMIAK: We're only talking about today. If that's from the last meeting, we're not talking about that.

COMMISSIONER EBERT: Okay. That's fine. It's just the same wording, different place.

CHAIRWOMAN HOMIAK: Different --

MR. YOVANOVICH: Different project.

CHAIRWOMAN HOMIAK: Different project, different petition. Everything's different.

COMMISSIONER EBERT: Okay. Go ahead and ask your questions.

CHAIRWOMAN HOMIAK: Did you have -- Charlette needed --

COMMISSIONER ROMAN: Did you have something to show?

COMMISSIONER EBERT: No, I'll wait.

CHAIRWOMAN HOMIAK: She's not on the right thing here.

COMMISSIONER ROMAN: Okay. All right.

This is the first time I'm hearing a boat dock extension request for Haldeman's Creek. I wasn't here the last time.

I have a couple questions. One, do you know, Rich, if Haldeman Creek is part of the Naples Bay restoration project, you know, to clean up the water? Maybe Tim knows that.

MR. HALL: I don't know the answer to that. I would assume that as a tributary that it's part of the considerations, but whether it's actually included in that footprint for the grant money and so forth, I don't know.

COMMISSIONER ROMAN: Do you know if any water-quality testing is being conducted in Haldeman's creek?

MR. HALL: I know that the city is conducting some down at the mouth. I don't know if the county's conducting any at the weir or not.

COMMISSIONER ROMAN: Does anybody know the answer to that question from the county staff?

(No response.)

COMMISSIONER ROMAN: Okay. All right. I had a discussion reference Exhibit 5 with Tim on the phone, and one of my concerns -- if we could put Exhibit 5 up.

MR. YOVANOVICH: Is that the right exhibit?

COMMISSIONER ROMAN: Yes, it is. Yes, it is. Thank you.

We talked about the mangroves. Will any of the mangroves be removed in order to construct these boat docks?

MR. HALL: The only removal is going to be in association with the four access walkways. And these three, there are currently kind of holes through the fringe and all where we think we can get those through without any removal. This dock right here is the one that would entail the removal of a couple of mangroves to actually get out.

And when I say "removal," we're not planning on going in and ripping any mangroves out, but they will be cut to a point where they may not survive. So we count those as impacted just as if we had removed them.

COMMISSIONER ROMAN: Yeah. One of the things that I was concerned about was that walkway that is at the furthest east point because of the impact with the special treatment area and, of course, to those mangroves. Also, it looked like we had a long space between the docks from the west. There were 11 boats between the two entrances, and then, you know, we put three entrances, you know, closely together.

So that one on the east, I was concerned about that, and I was concerned about those boats as well. And I had asked about what the impact would be to maybe putting parallel docks; impact to the project meaning how many docks -- how many boat slips or boats could be impacted. And I think your estimate, Tim, was it would result probably in 20 docks if it was parallel versus 27 that's being requested in this application, roughly.

MR. HALL: Less than 20. It would be about probably closer to 18, depending on, again, the -- what the final lengths of every boat is. If somebody has a 16-foot boat, they may be able to fit a couple of those in

versus if every one is the 25 feet, then you'd be at 18.

COMMISSIONER ROMAN: I understand. Thank you.

MR. REISCHL: Commissioner, we -- through the magic of television, we got an answer to your previous question from Bill Lorenz. We take one water quality sample upstream and two downstream monthly.

COMMISSIONER ROMAN: And did he say what the quality results are?

COMMISSIONER EBERT: No.

MR. BELLOWS: You just asked him.

COMMISSIONER ROMAN: Okay. Thank you.

COMMISSIONER CHRZANOWSKI: He's watching.

COMMISSIONER ROMAN: So we discussed that eastern edge of these -- this boat dock configuration that was one of my concerns.

The other thing is the number of pilings concerns me. If we're going to do this configuration, there's about 250 pilings that would result. To me, more likely than not, those 250 pilings would have some affect on the flow and the sediment transport in the creek versus fewer pilings. Would that be a reasonable expectation?

MR. HALL: Well, I mean --

MR. YOVANOVICH: Hold on. He's not an engineer. So I think that's more of an engineering-related question. And I really -- what I want to do at this point is focus on Mr. Kurtz, as much as he doesn't want me to. He's the county's engineer, and he's opined that the project that we're proposing with the piers will be okay for the flow of the drainage. If we're going to have to do maintenance dredging, which we probably will around our docks, you know, we'll do that. That will be our responsibility to do that.

So this has been reviewed by other engineers. And if you want to bring Mr. Kurtz up on that, I think it's better than asking Tim who's --

COMMISSIONER ROMAN: Well, it's just -- Rich, you know, the engineer can come up and answer it. But if you have 250 pilings having an impact on the waterway and you have fewer than 250 pilings in the waterway, it's most likely that fewer pilings will have less of an impact.

MR. YOVANOVICH: Well, I mean, I would think that that -- even me as a dumb lawyer understands that.

COMMISSIONER ROMAN: Okay. That's all I was saying.

MR. YOVANOVICH: So, I mean -- but I'm not sure that that goes -- and I don't know where you're going, so I'm not trying to interrupt you.

COMMISSIONER ROMAN: Well, I'm trying to -- you know, when I had a discussion with Tim, I was more in favor of a parallel type of structure. And when I looked at the eastern edge where I focused in, even if this other proposed dock layout --

MR. YOVANOVICH: How far east? That's what I'm not sure.

COMMISSIONER ROMAN: East. I'm talking about -- if you could point to that third walkway and probably those first six boats. That's what I'm looking at. That was my biggest concern with the impact to the special treatment area and those mangroves.

Now, my further question to Tim was, if you use the whole length that you're proposing today but did parallel docks instead of 45-degree docks, what would be the number of boats that you think that you could fit in there and what would be the impact to the project? Because I understand that you'd still need a boat dock extension from what he said, but it would be --

MR. YOVANOVICH: Financially not feasible.

COMMISSIONER ROMAN: It would be less feet that you'd be impacting the waterway.

MR. HALL: But in terms of the mangrove impacts and the shoreline impacts, it would be exactly the same --

COMMISSIONER ROMAN: Correct.

MR. HALL: -- as what we're proposing now.

COMMISSIONER ROMAN: It would be, in my view, less impact on the waterway and less impact in the intensity of the number of boats that are being introduced to the Haldeman's Creek area, and there's

other things, but to the mangroves I would agree with you.

MR. HALL: Yeah. The mangroves would be there and, you know, I mean, the county already has the Manatee Protection Plan which outlines, you know, where boats should go. And according to the plan, the number that's being proposed on this site is consistent with the county's plan.

COMMISSIONER ROMAN: And that's just one aspect, the Manatee Protection Plan, and that was discussed.

MR. HALL: In terms of boat numbers, in terms of the flow, it's already been, you know, testified that the flow is not being adversely affected. I mean, the boats are going in. The dredging that's being done in association with that increases the depths so you have more space for the water to flow through.

Yes, the pilings are going in, but the space taken up by those pilings is much, much less than what's being dug out as part of the dredging.

So with the project, there's more room for water to flow through there than there is right now in its existing condition.

COMMISSIONER ROMAN: But with the sediment transport, when you dredge it's -- you know, it's going to move around, and it's going to re-silt.

MR. HALL: I would go back to, the people that have been living on the canal said it hasn't been dredged since 2006, and before that they don't know when it was dredged. If sediment transport was that big of an issue in there, you know, you've got 56 years worth of open waterway before a dredging is done. That's a lot better than a lot of the other waterways in the county, a lot better.

COMMISSIONER ROMAN: What -- how do you plan to address the lighting on those docks? Are there any special provisions that you've considered for lighting on those docks?

MR. HALL: One of the Hearing Examiner's recommendations was to go with a dark-sky lighting program, which is shielded lights downward facing so you don't get any reflection up into it, and the applicants have agreed to abide by those standards.

COMMISSIONER ROMAN: For now I'll pass to someone else.

CHAIRWOMAN HOMIAK: Oh. I was just going to ask about the lighting, so --

COMMISSIONER EBERT: Okay. Tim?

CHAIRWOMAN HOMIAK: Just as long as it was -- so it's just -- the dock is going to be lit?

MR. HALL: There will be, like, safety lights on the dock itself --

CHAIRWOMAN HOMIAK: Foot path safety.

MR. HALL: Yeah, right. So it's a, you know --

CHAIRWOMAN HOMIAK: Twelve foot-candle lighting the walkway?

MR. HALL: Right. And it would be up to the -- you know, to the management of the docks, but I would anticipate that the majority of them that may be on during dusk and dawn when people are leaving or coming wouldn't be run all night. That would be just, you know, an operations issue where at a certain time frame, the majority of them go off and you just have the safety -- enough out there for security and safety.

COMMISSIONER ROMAN: And we'd have to probably add a condition if we considered that.

COMMISSIONER EBERT: I believe that was from the HEX, so we'd have to pull that in. I don't know. Would we, because --

COMMISSIONER ROMAN: But some of this -- we're looking at what's in front of us, I think --

COMMISSIONER EBERT: Well, yeah.

COMMISSIONER ROMAN: -- and what's in front of us is what we're looking at, not all these other hearings before us, and I think that's confusing this issue.

COMMISSIONER EBERT: Tim, could you answer a question for me. If you do put a parallel dock in, how far beyond the 20-foot boat dock extension would you have to come out?

MR. HALL: In estimating that where I was looking at, it would be about 10 feet probably. So you'd be looking at somewhere between an 8- and 10-foot extension for, you know, 30 feet instead of the 38 that's being requested.

COMMISSIONER EBERT: Okay. Thank you. That was the question that I had called you about before to ask you also.

MR. HALL: Right.

COMMISSIONER EBERT: And I believe I also had called and asked you about the finger canal. I call them finger canals. They're just the 50-foot-wide ones. Because there's a lake area in the back there, too, and there's a wall.

Can you tell me approximately how many boats they could get back there? It's just another option, but it was a question.

MR. HALL: The way it sits right now we can't put any in there because the conservation easements that were put on the property for the uplands --

COMMISSIONER EBERT: Would have to be modified?

MR. HALL: Well, if it could be, because there was -- there were impacts to some of that shoreline to some of the edge of that lake for the -- for the road going through it. And the reason -- if you notice that conservation easement includes the open water portion of that as well, which is not usual even though it's conservation easements, because the agencies did not want docks put in there. So they wanted to make sure that they had that covered, and they couldn't come in later and propose to put docks on the outside of an easement or put walkways out through there and all. That's why that whole area's done.

So, you know, it's neither here or there. The way the property exists right now, we can't put -- we can't put any in there because of the existing permits that are in place.

COMMISSIONER EBERT: Okay.

MR. HALL: And that -- those permits are what are guiding the construction that's ongoing right now. It's not like this is a completely blank slate right now. There is a development project under construction.

COMMISSIONER EBERT: I know.

MR. HALL: So making changes to it, you know, is much more difficult.

COMMISSIONER EBERT: You are correct. There has been so many owners on this property, it's unbelievable. You are right. Thank you.

Fred, I have a question for you. I asked you if you would please check. Could you please tell me how many boat dock extensions have been built in this drainage easement.

MR. REISCHL: I found zero on the zoning map.

COMMISSIONER EBERT: That's correct, there are no boat dock extensions in the drainage easement.

MR. HALL: That's not true. There's none built. Okay, yeah, there's none built, but there have been some issued. There has been one issued.

COMMISSIONER EBERT: There has been one issued, but that one, I believe, is going to take care of itself, and we won't even go into that.

It's issued. It's not built. There are no boat dock extensions in this drainage easement creek. As far as the commercial, they come out right from their property. No boat dock extensions. That's why I asked staff if they would please check that. So there are none.

MR. HALL: If you --

MR. REISCHL: Just that one that was permitted but not built. That's the only one I found.

COMMISSIONER EBERT: Correct. And the one who -- where that was permitted, that owner has gone bankrupt, so...

MR. HALL: The authorization -- if somebody takes over the property, though, the authorization is still valid.

COMMISSIONER EBERT: Yeah.

MR. HALL: It doesn't go away.

COMMISSIONER EBERT: We won't even go there.

MR. HALL: But if you look at that waterway in terms of what's available for people to build on the creek, you know, there are -- there are very few landowners or lots actually on the creek to the -- to the west of this project. The entire southern shoreline is under the Windstar conservation easement.

COMMISSIONER EBERT: Yes, I know.

MR. HALL: So there's not going to be anything that happens there. There's six of the mobile homes that have --

COMMISSIONER ROMAN: Could you please point. Could you please point, Tim, when you were talking about those various areas? Thank you.

MR. HALL: Okay. So the proposed project is here. If you look at the rest of the way down the waterway, okay, there's a single property owner, which is Windstar. There will be no boats there. You have six of these residences that are on the creek. You have a single owner of this property here, which is -- it's tied to but separate from these right now, and then you have the residences down off of Sandpiper and all. There are docks along the creek on these residences. I understand that's the City of Naples and not Collier County, but there are docks on the creek there.

The City of Naples doesn't have a BDE process, so there are no docks there. If you go north of the property, I believe there's 14 properties to the -- I'm sorry, up is north to me in a lot of the cases.

But to the east, I believe there's 14 properties. Ten of those properties have docks on the creek. The only four that don't are four of these residences here. Two of the residences do have structures on the creek. There is one dock that's -- that has a boat there, and then there's another smaller dock that sticks out from one of those.

So everybody keeps saying, well, there's no docks on these -- on the creek. That's not entirely the case.

COMMISSIONER EBERT: That's not what I said. I said there are no dock extensions.

MR. HALL: Well -- and then it's whether the docks are there with or without an extension, they're still sticking out that distance into the creek. So, you know, it's not -- it's not on me to say whether they should or they should not have them, but the extension of those docks into the creeks is the same or more than what's being proposed on this project.

You know, in different locations and the amount of the creek left for navigation is more constricted in those areas where those docks are than where these docks are.

So in terms of navigation and, you know, movement through the creek and the size of the docks in conjunction with what else is out there, they are consistent with other projects and other things that are there.

CHAIRWOMAN HOMIAK: Okay. You are agreeing to the dark-sky standards for lighting, so we could add that to a condition of approval?

MR. HALL: Yes, ma'am.

CHAIRWOMAN HOMIAK: Thank you.

Okay. Anybody else?

COMMISSIONER EBERT: I do have a question, Rich. Did you want to go over the -- you wanted us to go on the primary conditions and not from last time, from this time?

CHAIRWOMAN HOMIAK: That would be when you vote.

COMMISSIONER EBERT: Okay.

MR. YOVANOVICH: That is the law, and I would like -- and I would like you to apply the standards to the project in front of you today and based upon the evidence in the record today that we presented or the public presented and what staff presented, not what any individual Planning Commissioner may have presented, because the only evidence that can be in the record is what I put in the record and what my opponents put in the record and what staff puts in the record. That's the evidence you're to consider and apply the criteria to.

COMMISSIONER EBERT: Okay, when it comes to that vote.

CHAIRWOMAN HOMIAK: Okay. I guess we're -- are you -- I guess we're ready to vote on this. I'm going to just -- this is for the boat dock extension for Haldeman Creek. There's -- Heidi had to -- wanted to change on Page 1 the 24 to 33 feet --

COMMISSIONER ROMAN: Let me get to that.

CHAIRWOMAN HOMIAK: -- of the ordinance -- or resolution.

COMMISSIONER ROMAN: What are you reading from?

MS. ASHTON-CICKO: Yeah. Actually, it's going to replace the "38" to "24 to 38."

COMMISSIONER ROMAN: Where are we?

MS. ASHTON-CICKO: It was the change that I read into the resolution earlier.

COMMISSIONER ROMAN: Correct, Heidi, but I wanted to follow along where -- I'm seeing 38 on

my resolution, if I've got the right copy. That's where I'm concerned.

MS. ASHTON-CICKO: Okay. So on the resolution, six lines down on the caption, it says "for a total protrusion of 38 feet," that will be "for a total protrusion of 24 to 38 feet," and then that same change would be approximately four lines down to your last paragraph where, again, it says "to allow for a total protrusion of 38 feet." Instead that will read "of 24 to 38 feet into the waterway as shown on the proposed site plan attached as Exhibit B," and that site plan will include the plan that's attached as well as the three cross-sections that are in your package. The three cross-sections were omitted from the Exhibit B. Those show the cross-sections of A, B, and C, which will be attached.

CHAIRWOMAN HOMIAK: Okay. And then also on the conditions of approval, the --

COMMISSIONER ROMAN: You've got to be on the mike.

CHAIRWOMAN HOMIAK: Oh, I'm sorry. I'm in the wrong place here.

And No. 4 under the conditions of approval there will be the language for condo association, 64 units.

MS. ASHTON-CICKO: So it will say where -- in Condition 4 it said "or its property owners association." It will say "or the property owners association/condominium association for the 64 upland units."

CHAIRWOMAN HOMIAK: Okay. And then we'll add in No. 5 to apply dark-sky standards for lighting the dock facilities.

MR. YOVANOVICH: We agree to that, yes.

CHAIRWOMAN HOMIAK: Okay. And that's the only things I had to change. So we're looking for a motion to approve as recommended by the staff.

COMMISSIONER EBERT: I have one other quick question.

Tim, maybe you can answer this. Where you have the boats at the very end, that was the narrowest part, supposedly only like 134 feet across. Is that 107 feet before the perpendicular boats start? Because that was a recommendation, but, you're right, we're not going in front of that.

MR. HALL: It was a recommendation when the boat lengths were proposed to be 30 feet long. The -- you know, with the original -- this was part of back -- going to the original proposal where all of the boats were 25 and 30 feet long.

The longer boats on the perpendicular finger piers extended past the 25 percent width of waterway area. So Mark wanted to make sure we did not constrain -- I'm sorry. Mr. Strain, the Hearing Examiner, wanted to make sure that we didn't constrain that waterway, you know, more than necessary, but by going to or agreeing to go to the smaller vessels, we're still able to stay within that 25 percent width of waterway.

And we left the -- to answer your question, no, it's not 107 feet.

COMMISSIONER EBERT: Okay.

MR. HALL: Bottom line, it's not, but it's not because his concern there had to do with the width of the waterway and the corner coming out of the canal. Because we've gone to smaller vessels right there and all, the conditions that he wanted to have in place are still there with this plan.

COMMISSIONER EBERT: Okay. The other things, is that not a conservation easement on that corner also?

MR. HALL: The conservation easement goes -- is behind the docks, and the conservation easement that's in place all around that corner allows for the access walkways and the dock use as part of that easement.

COMMISSIONER EBERT: Okay. Because I thought that was conservation easement there also.

MR. HALL: It's a passive-use easement which allows for uses such as this.

COMMISSIONER EBERT: Okay.

COMMISSIONER ROMAN: And that was my concern with that corner and also that walkway and its impact on the mangroves.

And this is a question for Heidi. Do we need a condition on the limitation of size of the vessels that would be parked in these docks since that was something that was raised?

MS. ASHTON-CICKO: That's up to your determination.

MR. YOVANOVICH: It's on the site plan.

MR. REISCHL: It's self-limiting in that it's -- any part of the vessel cannot protrude farther than the

farthest piling.

COMMISSIONER ROMAN: However, in reality, I've seen a lot of vessels protruding past their docks.

MR. BELLOWS: But then they would be in violation of the --

COMMISSIONER ROMAN: Yes, gotcha. I gotcha.

COMMISSIONER EBERT: So what is -- what do you anticipate? Were you figuring 25-foot boats?

MR. HALL: We're figuring 25-foot length overall, which includes anything that sticks out in front and anything that sticks out the back, so --

COMMISSIONER EBERT: Okay.

MR. HALL: So if you have a --

COMMISSIONER EBERT: Yeah.

MR. HALL: -- motor out the back, you know, like --

COMMISSIONER EBERT: So it'd really be like a 21-foot?

MR. HALL: In the 21- to 22-foot for most vessels, yes, and then with the motor on the back.

COMMISSIONER EBERT: Okay. Thank you, Tim.

CHAIRWOMAN HOMIAK: Okay. With all the things I just said before --

COMMISSIONER CHRZANOWSKI: I make a motion we approve boat dock extension Petition BDE-PL2015000487 with the stipulations as enumerated by the acting chairman and staff recommendations.

CHAIRWOMAN HOMIAK: Okay. Is there a second? Well, I'll second it.

All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRWOMAN HOMIAK: Aye.

Opposed, like sign?

COMMISSIONER EBERT: Aye.

COMMISSIONER ROMAN: Aye.

COMMISSIONER EBERT: And the reason for it -- I will state my reasons, Richard. I believe --

MR. YOVANOVICH: Let me ask a question, though. Ms. Roman, you had asked a question about the eastern portion.

COMMISSIONER ROMAN: Yes.

MR. YOVANOVICH: Is that still the issue?

COMMISSIONER ROMAN: That's the issue with that last crossover, especially with its impact on its special treatment.

MR. YOVANOVICH: If we were to -- I'll point. If we were to remove that pier and made it parallel to the access point, in other words, it would be parallel, we'd remove that one finger pier, would that address your concern?

COMMISSIONER ROMAN: That would address one of them. The other concern is that walkway through those mangroves that has the highest level of impact on that special treatment area.

MR. YOVANOVICH: And that's a fire department related issue, so I don't --

COMMISSIONER ROMAN: Explain. Can you explain? Because it seems like we had such a wide gap between the first set of boats by the kayak. Okay.

We've got to get oriented. Okay. Can you turn it the other way, if you don't mind, so I can orient it. Thank you.

MR. RATH: I can -- this kind of shows you the presently proposed docks with the upland development. And I guess in first speaking, you'll see that there's the --

COMMISSIONER ROMAN: Can you zoom in a little bit for him, Fred. Thank you.

MR. RATH: I guess we were talking about the gap here between where you see the clubhouse and -- sorry. There's the first access point here and then another one over here.

COMMISSIONER ROMAN: Right.

MR. RATH: We used to have another access there, but we took it out as a concession so there was

less impact to the mangroves. So that's where that gap kind of came from.

And as you work your way down, you'll see that the access points kind of line up in between the buildings.

As you make your way down the road, you'll see that there's a -- what looks like a hammerhead here, is what we call it, but it's a fire truck turnaround. So there's a stabilized grass paver area so that the fire department can turn around when they get to the end of the road.

East Naples Fire Department has reviewed this plan and approved the layout of the land as well as with the access to the docks. So it gives the fire department access to the east end of the docks.

So if there were a fire out here, they're not trying to access a boat all the way at the end from the center of the docks. It gives them a lot better access to that arm out there.

The docks will be fire protected so there will be dry standpipes that come out to the roadways here. And so they'll have one here and one here. The further design of that sprinkler system still needs to happen with the building permit of the dock. But that -- this provides access to the east end of the dock for the fire department.

And I believe, Tim, this has all been reviewed and approved by the state as far as impact.

MS. ASHTON-CICKO: We already have a vote, so at this point the only thing left is to put on the record everything that occurred. After the vote is really --

MR. YOVANOVICH: Or there can be an alternative motion.

COMMISSIONER ROMAN: Yeah.

MR. YOVANOVICH: There could be --

MS. ASHTON-CICKO: We already had a vote.

MR. YOVANOVICH: But there could be an alternative motion.

MS. ASHTON-CICKO: It was 2-2, so --

COMMISSIONER EBERT: We already had a vote.

MS. ASHTON-CICKO: -- at this point they have to put on the record their reason for denial.

MR. YOVANOVICH: I disagree. There could be an alternative motion that would be for approval.

MS. ASHTON-CICKO: But they already voted, so they'd have to reconsider.

COMMISSIONER EBERT: We already voted.

MR. YOVANOVICH: No, there will be another motion. She can bring another motion that says I would approve with the following conditions.

CHAIRWOMAN HOMIAK: We voted, but it didn't pass.

COMMISSIONER CHRZANOWSKI: I've seen multiple motions.

COMMISSIONER EBERT: You're right; it didn't pass.

MS. ASHTON-CICKO: Well, it failed for lack of --

CHAIRWOMAN HOMIAK: So there could be another --

MR. YOVANOVICH: There could be another motion that says we would approve it --

COMMISSIONER CHRZANOWSKI: I've seen multiple motions on many hearings.

MS. ASHTON-CICKO: Are you going to reconsider --

COMMISSIONER CHRZANOWSKI: If one motion doesn't pass, you just make another motion.

COMMISSIONER ROMAN: Well, he met some -- he asked me a question. I answered it. The applicant has known that that east end has always been a concern, and he was just, I thought, trying to make a proposal to --

MR. YOVANOVICH: I was. I was trying to address that concern because, you know, until we --

MS. ASHTON-CICKO: Well, you closed the -- you closed the discussion; you've closed the hearing. You're on the vote.

COMMISSIONER EBERT: We did. We are on the vote.

MS. ASHTON-CICKO: Do you want to reopen -- are you going to reopen it, and she's going to retract her vote?

MR. YOVANOVICH: She can propose an alternative motion.

CHAIRWOMAN HOMIAK: The vote was 2-2.

COMMISSIONER EBERT: The vote was 2-2 like last time.

MR. YOVANOVICH: I understand that.

COMMISSIONER EBERT: This can be appealed --

CHAIRWOMAN HOMIAK: There can be another motion.

COMMISSIONER EBERT: -- by either you or by the residents; is that correct?

MR. YOVANOVICH: Ms. Ebert, I can also have another planning commissioner say I would -- I bring a motion to approve with the following conditions. Just because a motion fails doesn't mean another planning commissioner can't say I move to approve if you address the following conditions. And that's what Ms. Roman and I are in the process of doing.

She had a concern about the east. The only way I know how to respond to that is when she votes. I didn't know whether I had satisfied that answer. Apparently I had not in our explanation, so she's now saying, what I understand, is take away that one pier that's at an angle, and she also had a concern about the access, which my engineer is now addressing why we still would need that access point regardless. And we would probably need that access point even if every dock was parallel, let alone just that portion of the dock.

Hopefully that is a good enough explanation for why we need that access.

COMMISSIONER ROMAN: Well, that's at least new information that I didn't have before.

MR. YOVANOVICH: Right. And I appreciate that.

COMMISSIONER ROMAN: And I'd like a clarification, if the engineer can come back up.

MR. RATH: Sure.

COMMISSIONER ROMAN: Because you kind of touched on it briefly, and I want to focus on the east end.

MR. RATH: Okay.

COMMISSIONER ROMAN: Now, what I'm seeing there is an area that looks like pavers. Is that what you're referring to when you say that's where the fire engine -- its turnaround?

MR. RATH: Yeah. This is a combination of -- we've got a regular asphalt road here, and the fire departments have certain approved geometry, if you will, for --

COMMISSIONER ROMAN: Right. I just want you to focus on that area and explain it to me.

MR. RATH: Yeah. This little area we had planned on being a grass paver type system where it's stabilized base; it can support a fire truck. But it's something you would think of as -- instead of seeing a sea of asphalt, we've shown it as grass pavers. So you've got a combination of, you know, concrete and --

COMMISSIONER ROMAN: But that's required by the fire department?

MR. RATH: Correct.

COMMISSIONER ROMAN: Okay. Now, that's for the fire truck. And what I'm hearing you say, and please correct me if I'm wrong, is that the fire department then requires access down that walkway for the boats.

MR. RATH: We've reviewed this site plan as well as the access points to the dock with East Naples Fire Department, and they were in agreement that the site plan works in conjunction with the access to the docks.

COMMISSIONER ROMAN: Right.

MR. RATH: So they felt comfortable with having access to fight fires on the docks with the access points that we had shown them.

COMMISSIONER ROMAN: Okay. But my question was specifically that one on the east end, and I thought that you said that that was needed to get down to that right corner.

MR. RATH: Yes. This gives them the closest access. They can bring a truck all the way down here, basically park in that hammerhead, and they can -- it's the closest access they have to that east end of the dock, instead of coming from all the way at this point and trying to, you know, drag a hose and fight a fire that's all the way down here on the dock.

COMMISSIONER ROMAN: Okay.

COMMISSIONER CHRZANOWSKI: Well, they have distance criteria that they have to be within for the length of the hoses.

MS. ASHTON-CICKO: I need a five-minute recess, please.

CHAIRWOMAN HOMIAK: Okay.

(A brief recess was had.)

CHAIRWOMAN HOMIAK: Okay. Heidi, would you please inform us of how we can proceed?

MS. ASHTON-CICKO: Sure. Before another motion would be taken, we need a motion for reconsideration from the dissenting group, but whichever way you want to proceed. Charlette can ask a few more questions if she needs to before that motion would be made.

CHAIRWOMAN HOMIAK: To reconsider?

MS. ASHTON-CICKO: Correct.

COMMISSIONER ROMAN: I think that this new information with the fire truck and the fire plan is important information that I know I didn't have before.

That walkway was my biggest concern. I understand that there is a diagram that Tim has that shows the mangrove impact.

MR. YOVANOVICH: Can I make a suggestion? I think I would feel more comfortable if we did the motion to reconsider and that this become part of the record, and then, you know, you could still always vote the same way you did before. We can do the motion to reconsider while -- so we can get this -- and re-open the public hearing.

And, frankly, if you want the public to respond to that, I'd be fine with that, too, but whatever -- I think that would be better to get this all in so --

COMMISSIONER ROMAN: Yeah. I was just going by what Heidi recommended, and so I started my questions. But I can make a motion. Heidi, your guidance here.

MS. ASHTON-CICKO: That's fine with me.

COMMISSIONER ROMAN: Okay. I make a motion to reconsider.

CHAIRWOMAN HOMIAK: I'll second.

All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRWOMAN HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRWOMAN HOMIAK: Opposed?

COMMISSIONER EBERT: Aye.

CHAIRWOMAN HOMIAK: Okay.

COMMISSIONER ROMAN: Okay.

MS. ASHTON-CICKO: It's 3-1.

COMMISSIONER ROMAN: So now we're okay.

Okay. All right, Tim.

MR. HALL: Okay. This is the exhibit from the ST package. And in looking at the walkway in question here to the east, what's in blue and shaded in blue right here has already been approved by the BCC. The ST line runs right along where my thumb is and right along that blue line. That's the ST boundary. So these mangroves that are over here and all are not within the ST boundary.

The impacts that I had talked about in terms of potentially killing mangroves are in that little square right there between what's already been approved to be impacted and then out to the face of the dock.

So there's two or three mangroves in there. That would be within this little square area. That's where the impacts are. The face of the dock runs on the outside edge of the mangrove, so it's not running through them.

And then the other thing that I think Charlette was unaware of was all of this land on the north side, which currently has Australian pines and Brazilian pepper and all, is all being restored and enhanced as part of this, and that was part of the mitigation to offset those impacts that were associated with these walkways and with the upland development.

I didn't realize you weren't aware that that was what was happening over there, but that's an enhancement and restoration program.

Part of the berm associated with the old dredging and all is still in place, and that's going to be scraped down and replanted with mangroves. The exotic vegetation that's out there is going to be removed, and any areas that are bigger than about a -- probably a hundred square feet or so will be planted with

appropriate vegetation for the area.

COMMISSIONER ROMAN: And that remains in a conservation easement, that side of the property?

MR. HALL: Yes.

COMMISSIONER ROMAN: Yeah. When we talked and I had my concern about that walkway, that didn't come up, so that's good information for me. Thank you.

MR. HALL: Thank you.

COMMISSIONER ROMAN: All right. I don't have any further questions.

CHAIRWOMAN HOMIAK: So the boat docks -- the boat docks at the end are --

COMMISSIONER ROMAN: Are going to be -- if we can move that photo, Rich, if you want to get that on the record.

MR. YOVANOVICH: So the answer is that one to the far --

MR. REISCHL: East.

MR. YOVANOVICH: Are you sure?

COMMISSIONER ROMAN: The pier.

MR. YOVANOVICH: That one right there.

MR. HALL: That one on my finger?

MR. YOVANOVICH: That goes away, right?

COMMISSIONER ROMAN: That goes away.

MR. YOVANOVICH: That goes away. And then the remainder would be as-is, as I understand it.

MS. ASHTON-CICKO: Okay. So the finger pier between A and B on the chart will be --

MR. YOVANOVICH: It would become parallel.

MS. ASHTON-CICKO: -- removed, so it will be a parallel.

MR. YOVANOVICH: It would be a parallel.

MR. HALL: It would be a parallel slip.

MS. ASHTON-CICKO: So there will be two boats parallel, correct?

MR. HALL: Yes, ma'am.

MR. YOVANOVICH: Well, yeah. We'd still be --

CHAIRWOMAN HOMIAK: Will it be two or three?

MR. YOVANOVICH: We'd still be capped at the 27, but it may ultimately result at 26 or whatever in that area.

MS. ASHTON-CICKO: Yeah. I just meant the A and B that are shown on the picture would then become parallel in addition --

MR. YOVANOVICH: Correct.

MS. ASHTON-CICKO: -- to the other B if you can fit it.

MR. HALL: Correct.

MR. YOVANOVICH: Right.

CHAIRWOMAN HOMIAK: Okay. So the finger pier is removed, that last one --

MR. YOVANOVICH: Yeah, that one finger pier would go away.

CHAIRWOMAN HOMIAK: -- or the end one, okay.

MR. YOVANOVICH: Are we good?

COMMISSIONER CHRZANOWSKI: So I would like to amend my motion to include the concession made to Charlette's analysis. Is that good enough, or do I have to repeat everything?

CHAIRWOMAN HOMIAK: Is that all right?

MS. ASHTON-CICKO: I think that's clear.

COMMISSIONER CHRZANOWSKI: Okay.

COMMISSIONER ROMAN: I'll second.

COMMISSIONER CHRZANOWSKI: Thank you.

CHAIRWOMAN HOMIAK: All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRWOMAN HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRWOMAN HOMIAK: Opposed?

COMMISSIONER EBERT: Aye.

CHAIRWOMAN HOMIAK: Okay.

MR. YOVANOVICH: Thank you.

COMMISSIONER EBERT: And we -- wait.

COMMISSIONER CHRZANOWSKI: Yeah, the ST.

CHAIRWOMAN HOMIAK: We have the ST.

COMMISSIONER EBERT: You have to ask me why I opposed it. Isn't -- aren't you going to ask me why?

MR. YOVANOVICH: It doesn't matter because we won 3-1.

COMMISSIONER EBERT: Okay. Then let me tell you, audience, neighbors, you can appeal this vote to the B -- so that it goes --

CHAIRWOMAN HOMIAK: Okay. We're going to go on to vote on the ST.

COMMISSIONER EBERT: -- in front of the BCC.

COMMISSIONER CHRZANOWSKI: Okay. I'll make a motion to approve the special treatment area, ST-PL20150000500; motion to approve.

COMMISSIONER ROMAN: We can put the motion out, then I can ask.

COMMISSIONER CHRZANOWSKI: With all the stipulations as previously outlined and with anything that may have --

COMMISSIONER ROMAN: I had one thing.

COMMISSIONER CHRZANOWSKI: -- occurred per Charlette's stipulations.

CHAIRWOMAN HOMIAK: Okay. And is there a second? I'll second it.

Discussion?

COMMISSIONER ROMAN: Discussion. There was one thing that I was wondering if we could look at including as a requirement here if it wasn't included, and I didn't see it, but, Tim, correct me if I'm wrong. I'd like to see some manatee educational signs put on the walkways as they're going down to the boat docks. Are those required?

MR. HALL: Those are required in the state permits for the docks.

COMMISSIONER ROMAN: Okay, great. Then I'm okay. I'm ready.

CHAIRWOMAN HOMIAK: Okay. All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRWOMAN HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRWOMAN HOMIAK: Opposed, like sign?

COMMISSIONER EBERT: Aye.

CHAIRWOMAN HOMIAK: Okay.

MR. YOVANOVICH: Now thank you.

CHAIRWOMAN HOMIAK: Okay. So there's no old business, no new business. So motion to adjourn?

COMMISSIONER ROMAN: I'll move to adjourn.

CHAIRWOMAN HOMIAK: Second by?

COMMISSIONER CHRZANOWSKI: Second.

COMMISSIONER EBERT: I second.

CHAIRWOMAN HOMIAK: Stan.

COMMISSIONER CHRZANOWSKI: All in favor?

CHAIRWOMAN HOMIAK: All in favor? Yeah.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRWOMAN HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

July 2, 2015

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 1:26 p.m.

COLLIER COUNTY PLANNING COMMISSION


KAREN HOMIAK, ACTING CHAIRWOMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 8-6-2015, as presented _____ or as corrected .

TRANSCRIPT PREPARED ON BEHALF OF
GREGORY COURT REPORTING SERVICE, INC.,
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.