

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
August 22, 2019

LET IT BE REMEMBERED, that the Collier County Hearing Examiner, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m., in REGULAR SESSION at 2800 North Horseshoe Drive, Room 609/610, Naples, Florida, with the following people present:

HEARING EXAMINER MARK STRAIN

ALSO PRESENT: Raymond V. Bellows, Zoning Manager
Tim Finn, Principal Planner
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Ladies and gentlemen, good morning. Could I have your attention, please. Everyone, if you'll please refrain from discussion at this point.

We have two clocks in the room. One is at 9:00, and the other's a few minutes before, a couple minutes before. But my watch says it's 9:00, so we'll go by 9:00. The meeting's going to start.

If you all have cell phones with you, if you please don't mind putting them on silent or turning them off for no interruptions.

And with that, would everybody rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you.

And welcome to the Thursday, August 22nd meeting of the Collier County Hearing Examiner's Office.

My name is Mark Strain. I am the Hearing Examiner for Collier County.

Some housekeeping items as we move forward with this meeting: Speakers will be limited to five minutes unless otherwise waived, decisions are final unless appealed to the Board of County Commissioners, and a decision will be rendered within 30 days.

In review of the agenda, we have two items, or we had two items on today's agenda. The first one was Petition No. VA-PL201900003336. It was Norbert Hajduk requesting a variance in the Lely Country Club PUD.

Mr. Hajduk has requested that that item be withdrawn. He's no longer pursuing that variance, so that is not going to be heard today.

Is there anybody here for that particular item?

Sir, just for your information, we're not going to be discussing it. The gentleman withdrew this request.

MR. DOUGLASS: Which is fine.

HEARING EXAMINER STRAIN: With that, we'll move right into -- we have our advertised public hearings that are remaining. It's Item 3B. I imagine it's the one you all are here for. Petition No. PE-PL20180003220. It's the Bayshore Redevelopment Group, LLC. It's for a parking exemption on six lots in the RFMUD-6 BMUD-R1 district.

Now, if you're planning to testify and speak on this, we have speaker slips outside. Those people will be called first, but I'm here to listen to what you all have got to say. So even if you don't fill out a speaker slip, at the end I'll say, "Does anybody else want to speak?"

I do ask that you try to limit your speak -- your speaking to items that are not redundant. And if you agree with the previous speaker, it's great just to say I agree or disagree. And with that in mind, would everybody wishing to speak on this item please rise to be sworn in by the court reporter.

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

HEARING EXAMINER STRAIN: Okay. With that, my disclosures: I have talked with staff. Certainly, I went down to the site a few days ago to see what it looked like. I've talked with the applicant several times. We met at one point, the applicant's representative, that is; talked with several of the county commissioners; and I've done extensive research on this particular area of Bayshore both now and, of course, in the past.

So with that in mind, we'll move right into the presentation by the applicant.

Mr. Mulhere, it's all yours.

MR. MULHERE: Thank you, Mr. Strain. For the record, my name is Bob Mulhere. I'm

with the firm of Hole Montes and working on behalf of the applicant.

Also with me this morning, Frank Feeney, who's the civil engineer with Grady Minor who has designed the off-site parking lot. I'm just going to -- I don't have a really lengthy presentation, but I do want to go over a few issues before -- I know you have a fairly busy agenda, so...

HEARING EXAMINER STRAIN: Well, I'd like you to be as detailed as to some of the issues you may be aware of. I had received seven or eight emails. I forwarded all those to the staff.

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: Some were in the report. I believe you may have seen copies of them. Staff should have sent them to you, and I know staff will be putting the ones that came after the report was issued on record today.

I also received, by the way, a couple phone calls from people in the area.

So -- but, Bob, I would like you to address as many of the issues that you are aware of --

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: -- because I'll be asking you questions on others.

Okay.

MR. MULHERE: Yeah. So just to start out with, this is a copy of the Collier County zoning map, and it shows Bayshore. And Becca is right here. Celebration Park is right here. The off-site parking lot is right here, and it's the six contiguous lots starting on the frontage lot on Bayshore. And I have a blowup of that.

So this shows a little more detail. And I've labeled the six parking lots. The zoning on those, as you indicated, is RMF-6 with the Bayshore Mixed Use District R1 Overlay, Residential 1 Overlay.

Again, Celebration Park is right here. I pointed out this group of lots right here highlighted in yellow. The striping on those lots on the zoning map indicate that that falls within an accessory parking zone called APZ, and that allows residentially zoned lots that are permitted for off-street parking or water retention in management areas.

I point that out because, as you can see from the location, these lots would require traffic to come down further on Becca and potentially even access it off Cypress, as opposed to these lots, which allows the access closer to Bayshore.

HEARING EXAMINER STRAIN: While you're on that page, just a quick question for Ray Bellows. Ray is our zoning manager.

Ray, would an APZ need a process like we're going through today?

MR. BELLOWS: For the record, Ray Bellows. The APZ is zoned currently as part of the Bayshore overlay, so it would not need a public hearing.

HEARING EXAMINER STRAIN: Okay, thank you.

MR. MULHERE: This I know is going to be a little bit hard to see. I'll point out -- so this is the LDC table for residential development under the Bayshore Mixed Use District R1 overlay, and it provides the development standards.

I guess in particular, I'd point out that single-family homes are allowed, row houses are allowed, which would be attached dwelling units, a multifamily product, as well as apartments. The density that is allowed in RMF-6 is six units per acre. There are six platted lots that make up the off-site parking lots. So, obviously, six units without any type of density bonus, there are a couple of opportunities for density bonus, most notably an affordable housing density bonus. But the base density is six units per acre on those lots.

And within that RMF-6 Bayshore Mixed Use District, the development standards would allow for a height -- a zoned height of 35 feet, which you can see runs across the bottom here. So

all those types of uses that are allowed would allow a zoned height of 35 feet. The structure could be likely maybe 40 feet. But that would allow for three stories at 10-foot floor-to-ceiling heights.

You can see under, for example, row house, a side-yard setback of five feet. And, collectively, these lots would constitute a corner lot if they were developed collectively.

So you have frontage on Becca and Bayshore. The west and north property lines adjacent to residential zoning would be side yards. So a side-yard setback, for example, attached dwelling units under the row house, could be as little as five feet; for single-family it's seven-and-a-half; and for apartments it's seven-and-a-half, but there are some exceptions to that.

So this is the exceptions to the dimensional requirements. And this allows for a zero side yard setback for row houses and apartments. It also provides for the minimum dimensional standards for area for duplexes and two-family.

So the LDC has several opportunities to allow for off-site parking. One is noncontiguous lots under the same ownership, and that's what we're looking at here, which requires the exemption to locational requirements.

So No. 3 is the parking exemption which allows the Hearing Examiner to review and approve off-site parking under the same ownership but which falls under one of those criteria listed below -- one or more of those criteria listed below.

And this parking lot -- this aggregation of lots is not zoned commercial. It's zoned RMF-6, which is why we're here today.

So this is a copy of the off-site parking site plan. I'll make that a little bit bigger.

HEARING EXAMINER STRAIN: Bob, one clarification on that last slide.

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: I recall a conversation I had with one resident in the neighborhood. He was under the impression we were rezoning this to commercial. And a parking exemption, ladies and gentlemen, is not a zoning. It's just an allowance to allow parking. It doesn't change the zoning of the property. It does not zone the property commercial. That is not part of the action today. If it was that kind of action, it would be going to a different board. I wouldn't be hearing it.

MR. MULHERE: Yeah. There are specific criteria, and -- by which you would review this and make your recommendation. I have those, and I'll talk a little bit about those, but it doesn't change the zoning. And this public hearing process provides an opportunity to put conditions -- other conditions, additional conditions onto this request.

So this is the site plan, and, of course, Bayshore is here. Becca is there. Here's the entrance to the parking area. It's a one-way drive. The setback to the adjacent residential lots is 15 feet. We depict a 6-foot wall adjacent to those lots. The dry retention is in the center. And there is also a decorative wall along the front. In addition to the aesthetics of that decorative wall, the purpose of that is to direct people who use this parking lot to a safe crossing opportunity as opposed to just crossing anywhere along Becca.

And so -- of course, that wall is not installed yet, and none of these improvements, basically, are installed, so...

HEARING EXAMINER STRAIN: Bob, would you point out the sidewalk and the locational wall specifically on that plan. It's hard to read the way it's written. And, also, the direction that you're going to provide signage, I would assume, would be that people would be directed towards Bayshore, so they would cross at the Becca entrance to Bayshore.

MR. MULHERE: Correct, yes. Right here there will be signage. This sidewalk is right here.

HEARING EXAMINER STRAIN: And the crossing will be where?

MR. MULHERE: The crossing is --

HEARING EXAMINER STRAIN: Not there. No, no. Bayshore and Becca, I believe --

MR. MULHERE: Oh, right here.

HEARING EXAMINER STRAIN: -- is where you have indicated. The problem's been, from some of the reports --

MR. MULHERE: It's not labeled on the site plan.

HEARING EXAMINER STRAIN: -- that people are wandering across Becca, and it's a dangerous situation.

MR. MULHERE: Yeah. Because there's no barrier and no direction, really, at the present moment. There will be when this is improved.

We have an enhanced landscape buffer also. And this is the site plan with an overview, a plan view of the landscape buffer showing the wall location. The wall is set off, I believe, 10 foot from the adjacent residential property line, and the landscape -- the majority of the landscaping will be placed on the residential side of that wall.

Certainly, the -- you know, there could be some landscaping also placed within the five feet on the other side of the wall but, obviously, our objective was to buffer the neighbors from the parking lot with the wall and the landscaping. So the majority of the landscaping is in that 10 foot that is on the residential side of the wall.

This also depicts the landscaping along the street rights-of-way. I have a little more specific exhibit right here. I just want to make sure I've got the right one here. Yeah, that is. Yep, that's the enhanced. So I'm going to make that a little bit bigger.

This top photo that you're looking at now is the landscaping -- depicting the landscaping primarily on the residential side of the wall, and that is at the time of planting. There are a little bit -- going to be very hard to read, but there's a plant schedule here. These are larger than code required so that -- because these are required to achieve an opacity of 80 percent within one year of time of planting. So you have to put in larger plants to achieve that opacity.

This exhibit depicts the landscaping approximating the growth after one year.

HEARING EXAMINER STRAIN: That list of plant material, Bob, would you read off the primary plants. I'm not -- not so much the ground cover, but the larger plants, if you can.

MR. MULHERE: If I can read it.

HEARING EXAMINER STRAIN: I have -- Mark Templeton is here somewhere. Mark -- okay. At some point during the meeting I'm going to ask him his opinions on the plant materials to make sure that if this were to go forward, the plant material's the best that could be placed there in regards to opacity, growth, other issues.

MR. MULHERE: You know, I have to apologize. It looks like, gumbo limbo is the first one under the botanical common name title.

HEARING EXAMINER STRAIN: Yep.

MR. MULHERE: And then buttonwood, silver buttonwood, orange geiger tree.

HEARING EXAMINER STRAIN: Looks like it.

MR. MULHERE: I'm glad I don't have to do the Latin. Jamaica dogwood and pond cypress. Those are the larger plant species.

HEARING EXAMINER STRAIN: That will be enough to get Mark Templeton's thoughts on it when we get to the staff report.

MR. MULHERE: Yeah. I believe Mark has seen this. If not, I certainly will share it with him.

HEARING EXAMINER STRAIN: Has this been submitted to the county yet for review?

MR. MULHERE: This particular exhibit, no. We prepared this -- they have a landscape

plan, but this particular exhibit was prepared for the hearing.

So, as I mentioned, there is criteria in the code which the Hearing Examiner should consider, shall consider, and that's 1 through 12, and the application that we submitted addresses those criteria that we believe are applicable. Not all of them are applicable; for example, whether the parking is in excess of what's required. This parking is required.

And things such as the distance from the farthest parking space to the facility. Of course, this is directly across a local road. Pedestrian safety, which we talked a little bit about with respect to the wall and the sidewalk.

Character and quality of the neighborhood; future development of surrounding properties, which I did discuss a little bit; the alternative development with residential; potential parking problems for the neighbors. We know there have been problems with the parking lot as it exists today. We are looking to remedy those problems.

Internal traffic flow, vehicular access, and whether the buffers adjacent to the property zoned residential are 15-foot in width and include a wall in addition to the landscaping.

So we -- there's no intent to use this for valet parking, certainly not at this point in time.

And the -- whether there are more viable alternatives available -- I did discuss one viable alternative but, again, that would bring more traffic into that residential street to a further depth.

So with that, I know you have a lot of questions, and I would like to -- obviously you're going to go to public hearing. I'll take notes and respond to those.

HEARING EXAMINER STRAIN: Okay. But first between -- we normally hear the applicant. I'll ask questions, then we go to staff, get the staff report, staff members will come up and explain their take on what they've heard, and by that time you'll get a good reading on what's being proposed versus what you may not have heard or seen previously, and then we'll go to public speakers.

So with that, Bob, based -- can you put that site plan back on. Not the one with the landscaping but the one with the --

MR. MULHERE: Sure.

HEARING EXAMINER STRAIN: -- traffic -- or the spaces.

MR. MULHERE: You're talking about the black-and-white two dimensional?

HEARING EXAMINER STRAIN: Yes. Now, by count, you've got 59 spaces of regular spaces and three handicapped. Is that --

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: -- correct? And is that consistent with the proposed SDP that you have in process --

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: -- or you're going to have in process?

MR. MULHERE: It is, yes.

HEARING EXAMINER STRAIN: Okay. Now, according to the table, you're required to have 68. You're providing 75. Now, that's got to be including what's across the street on the south side then.

MR. MULHERE: Correct.

HEARING EXAMINER STRAIN: Okay. And there I know you've got one parking space and then probably 12 regulars.

MR. MULHERE: Correct.

HEARING EXAMINER STRAIN: Okay. The dry detention that you have in the center, I noticed on each corner on the ends it looks like you're curbing that, but it doesn't show what's -- any curving leading up to the other flumes that are coming off the parking area. And the

reason I'm asking is because people have a tendency to park anywhere if it gets crowded.

And I would hate to see that parking -- that dry detention have people just driving off because there's no way to -- nothing stopping them from doing so.

MR. MULHERE: Obviously, there's bumper stops here. You're talking about somebody pulling in here or here.

HEARING EXAMINER STRAIN: Right.

So I'm suggesting maybe an F curb or something substantial enough people -- it's going to discourage people from driving into what -- what will probably be a landscape area if it gets built.

MR. FEENEY: For the record, Frank Feeny. I'm the civil engineer for the project.

HEARING EXAMINER STRAIN: Could you spell your last name for the court reporter.

MR. FEENEY: F-e-e-n-e-y.

At this point in time we do not have a curb shown on that, but we are not -- we're not against actually putting a D curb to prevent any vehicles from actually trying to park half in and half off of that.

HEARING EXAMINER STRAIN: A D curb is a raised curb as well.

MR. FEENEY: Yes, sir; six inches raised.

HEARING EXAMINER STRAIN: When Matt McLean comes up and talks about the site plan, we'll confirm with him that that doesn't have a problem with his department, so thank you.

I'm looking at some of the questions I had. I think some of them have been answered by what you've just provided. The wall that's proposed and the landscaping on the outside of the wall, if you were to move forward with that on a most rapid pace possible, when would that possibly be completed if that were allowed to go forward?

MR. MULHERE: If we were approved and able to go forward, the SDP, depending on any changes that might be made as a condition of approval of this if that were to happen, the SDP is pretty close to being approved. So staff's already reviewed it a couple of times. There have to be some minor changes. That would be pretty quick.

As soon as the SDP is approved, we would move forward and make that -- a first priority of improvement would be the wall and the landscaping. I would say no later than the end of the year.

HEARING EXAMINER STRAIN: Okay.

MR. MULHERE: You know, January 1st maybe.

HEARING EXAMINER STRAIN: The reason I'm asking is I did get a letter from one gentleman who lives behind, and it looks like there was vegetation possibly behind his house on your side of the property line -- your former owner probably left it there -- and it got cleared when this fill was placed out there, and now he's got a view that isn't pleasant. And I -- I am concerned about things like that.

MR. MULHERE: Yeah. I mean, I think that we should make that a first priority of business to install the landscaping, give it the longest chance to grow to become opaque, and the masonry wall as well, which will reduce sound.

I didn't mention that, obviously, we will reduce or limit the height of lighting in the parking lot as well, so there won't be any light intrusion either, so...

HEARING EXAMINER STRAIN: You're anticipating a question I'm going to have, and that's on that subject. But let me clear up a couple other items in order so I don't get confused and take something out of order.

You're only asking -- and this would only be for paved surface parking only. No parking structures.

MR. MULHERE: Correct. That's correct, surface parking only.

HEARING EXAMINER STRAIN: That would be a condition for sure. The others that -- it's only for patrons and employees of the Celebration Park. It wouldn't be for the general public. Is that --

MR. MULHERE: That's correct.

HEARING EXAMINER STRAIN: -- consistent with your understanding?

MR. MULHERE: Yep.

HEARING EXAMINER STRAIN: Your hours of operation, I saw in the staff report, I think we're looking at somewhere about 9:30 to 10:30 with the -- the park's open 10:00 to 10:00.

MR. MULHERE: Yeah. I think a half an hour in advance is sufficient. You know, employees may arrive a half an hour in advance, and folks may leave a few minutes after that. We want to ensure that people are, you know, leaving very quickly after the close of the park, so yes.

HEARING EXAMINER STRAIN: Lighting. We have in other -- there's been a dozen or more parking exemptions; the most recent ones I took a look at to see what standards we -- were accepted in some of them, and we have gone to bollard style lighting, which is about 42 or 48 inches high at the most in the parking areas, and then if there is any pole lighting, it's within a certain range of the right-of-way, within five or 10 feet of the right-of-way so that if the right-of-way requires the pole lighting, it's there. And I would -- and also Dark Skies compliant. Is any of that inconsistent with what you're considering?

MR. MULHERE: No, no. We're completely comfortable with accepting a condition like that. The lighting, bollard lighting, low-level lighting probably means there will have to be a few more bollards put in to meet the safety designs of the lighting standards, but that can be accomplished, and no problem with that.

HEARING EXAMINER STRAIN: You're looking at holding the wall back 10 feet from the property line. The --

MR. MULHERE: That's correct.

HEARING EXAMINER STRAIN: -- wall between you and the residential.

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: The code requires six at minimum, so the 10 is so that you can have more plantings on the other side?

MR. MULHERE: Yep.

HEARING EXAMINER STRAIN: Okay. And those plantings will be the ones in that schematic you previously showed?

MR. MULHERE: Yes, that's correct.

HEARING EXAMINER STRAIN: Dumpsters. Parking provisions wouldn't allow a dumpster enclosure or trash containers other than possibly trash receptacles for people who would have a drinking cup or something they'd want to throw in before they got in their car. Are you understanding that as well?

MR. MULHERE: Yeah. Something small, yeah. No large dumpsters, no dumpster pickup; nothing like that would be in there.

HEARING EXAMINER STRAIN: There will be no allowed loading or unloading from this parking lot.

MR. MULHERE: Yeah, that's fine.

HEARING EXAMINER STRAIN: Okay. And, actually, I have -- Matt McLean will be speaking soon. The loading and unloading is supposed to occur on the site to the south. So there wouldn't be a need for one in this parking lot, and by code it wouldn't be allowed.

Are you restricting access during off hours?

MR. MULHERE: Yeah. The intent is to chain -- put a chain up that would prevent folks

from entering and leaving either before 9:30 or after 10:30.

HEARING EXAMINER STRAIN: So if they're after -- if they don't get their car out by 10:30, they're locked in --

MR. MULHERE: They're out of luck. Maybe the manager will be there or somebody will be there to help them out. But, yeah.

HEARING EXAMINER STRAIN: Which brings up another question. I had one person call me talking about some rather distasteful loitering going on in the parking lot as it currently exists today. And how are you attempting to prevent that?

MR. MULHERE: I saw a couple of letters that made reference to that, which is unfortunate. And, of course, obviously, the landscape buffer and the wall will have some effective remedy, but I think the intention here is to monitor the parking lot at least once an hour to have a walk-through, more often if necessary.

But the other thing I felt that might be helpful would be to install some video cameras. They both work as a dissuader of inappropriate behavior -- sign, you know, video cameras -- and they also allow, you know, some ability to capture whatever might happen and take whatever necessary action would be necessary.

We don't really anticipate anything like that continuing with monitoring of the parking lot and with the improvements that we're making.

HEARING EXAMINER STRAIN: None of the vendor operations will be going on in this parking lot.

MR. MULHERE: That's correct.

HEARING EXAMINER STRAIN: And there will be no special events going on in this parking lot.

MR. MULHERE: Yep. No, special events. We obviously really need this for parking.

HEARING EXAMINER STRAIN: We're going to go into the staff report, look at what questions are there. The -- one of the questions raised earlier on I saw, it either was in an email or a phone call, was sediment control. There's some problems out front. I also have someone from transportation -- one of our engineers to talk to from the county's perspective, but can you tell me how you resolved that finish, if you resolved it, and what the status is going to be if this facility goes forward.

MR. FEENEY: The sedimentation issues that you bring up, Mark, were addressed earlier the past couple months. We have gone in and actually applied and put in a silt fence coming from about this location all along to prevent any water from coming from the actual site as it is right now and discharging out.

What we were seeing is there's an existing gravel driveway that is in this general vicinity that was improved upon by adding in a new layer for maintenance purposes, another layer of gravel over the top of it, and it was providing some siltation that was coming down and getting down into the swale as well as down Becca as well.

Since the pollution issues have come up, we have gone back in and re-topped this with a washed 57 stone so that you won't have the sedimentation issues. We've also grassed and made sure that this entire area is sodded to prevent some -- to provide some filtration as well as added in some sedimentation barriers in this general area to help again to prevent siltation from going off site.

HEARING EXAMINER STRAIN: I notice there's some mangroves in this oval area you have where it says "property boundary" on the right side, and I understand you're not removing those, neither is the county, because they're on the county side at this point, from what I hear as well. But that's where your outfall is, is it not?

MR. FEENEY: Our outfall is actually going to be located right here in front of an existing concrete overflow. So, yes, our outfall's going to be going into that existing swale.

HEARING EXAMINER STRAIN: Now, when you -- if this site's developed, you'll be sloping all the perimeter towards the dry detention in the center with a catch basin that's going to trigger at a certain point and outfall into this other outfall over to the mangrove area; is that correct?

MR. FEENEY: Yes. Everything's going to be graded so it flows directly into the dry detention area. It will be treated and held in this area generally until we reach a certain elevation, as you mentioned, and discharge out into this general area of the swale. The mangroves that you're referring to are actually to the west in this general area. We're looking to try to pop through as -- not impacting the mangroves. We don't want to have to mess with them or deal with them, honestly.

HEARING EXAMINER STRAIN: Now, how does the process that you're putting together for drainage compare to the drainage situation that's being created by these six lots today?

MR. FEENEY: Right now there is no drainage being provided for dry pretreatment for the existing six lots. What we're providing is above and beyond what's currently there.

HEARING EXAMINER STRAIN: So by no pretreatment, the runoff from those six lots goes -- disperses anywhere that it's sloped to, whether it's Becca, Bayshore north or west.

MR. FEENEY: Generally, the existing lots right now are kind of graded away from Bayshore and would be grading back towards Becca and discharging either into this area or actually discharging out that way towards the west.

HEARING EXAMINER STRAIN: Okay. When you -- if you develop this site, or anybody were to develop it for any reason going forward, whether it's this or housing or whatever, the site would be sloped to a point where it's all caught on property, taken to that outfall at the mangrove area, and then it would no longer go onto Becca.

MR. FEENEY: That's correct.

Just so you know, the mention of the -- there's actually a weir structure. It's located right before where we would be tying into. So our outfall is downstream of that, so we would not be impacting any of the area in this -- further downstream to the west.

HEARING EXAMINER STRAIN: I'm checking some quick questions I may have on the balance of the staff report. Just give me just a minute. There's 77 pages. Actually, it was a smaller staff report than many of them we receive.

I don't have any other questions there.

And that takes me to the end of my questions of you at this point. We're going to go to staff comments. And --

MR. FEENEY: Before I jump off, Mark, I want to point out one other thing. I know that Bob mentioned this already, but I wanted to again point out that we are looking to direct all of our patrons to come on this existing -- or on this sidewalk through signage as well as with the screen wall that we are putting in -- or would be putting in along Becca to, again, help steer pedestrians to come up to the existing crosswalk at Becca and actually access the Celebration Park in that particular manner. We want to make sure that this is a safe pedestrian-friendly area, and part of it is making sure that we have the correct flow coming back to this point and crossing where it is currently.

HEARING EXAMINER STRAIN: Besides the sidewalk and the signage, there's that dark -- that solid offset line is a four-foot wall, is it not?

MR. FEENEY: Yes, it is.

HEARING EXAMINER STRAIN: And you'll have vegetation between there?

MR. FEENEY: Yes, sir, it is.

HEARING EXAMINER STRAIN: And your lighting that you're scheduled to put in would only operate in off -- evening hours up the end of time of operation of the facility --

MR. FEENEY: Correct.

MR. MULHERE: Correct.

HEARING EXAMINER STRAIN: -- so it wouldn't be lighting -- the interior of this facility would not be lit all night long? Even though it will be bollard lighting, it would still be two or more feet below the wall, but it will still not continue during the night all night.

MR. MULHERE: Correct.

MR. FEENEY: That is the intent, yes.

HEARING EXAMINER STRAIN: Well, the intent will be consolidated into a potential stipulation if this were to go forward. These are items that I wanted to make sure we're --

MR. MULHERE: I mean, that's easy to handle through a timer, so, yeah.

HEARING EXAMINER STRAIN: That is all the questions I have at this point. Does anyone have anything to add before questioning to staff?

MR. MULHERE: No, thank you. I'm good.

HEARING EXAMINER STRAIN: Ray, I think with James on vacation this week, it's yours.

MR. BELLOWS: Correct. For the record, Ray Bellows. I'm filling in for James Sabo who was the project manager for this parking exemption.

You have received with your application package the staff report that contains staff's analysis of this parking exemption, staff's finding that it meets all the criteria for the parking exemption. It is consistent with the Comprehensive Plan and with the Bayshore overlay.

Staff is recommending approval of this parking exemption subject to the conditions contained in the --

(Applause.)

HEARING EXAMINER STRAIN: Ladies and gentlemen, I appreciate your response, but if you could refrain. We need to keep moving quickly with this meeting, or all of us will be here for a couple days. So thank you, though, for your comments.

MR. BELLOWS: I was just also going to add that the modifications presented by Mr. Mulhere are acceptable to staff in regards to landscaping and lighting.

HEARING EXAMINER STRAIN: Now, I'm going to be asking questions of some of the other staff members. If you hear anything -- Ray, by the way, has been here for how many decades?

MR. BELLOWS: Thirty-one years.

HEARING EXAMINER STRAIN: So there's nobody with a corporate history like Ray has. So, Ray, if you hear something that's inconsistent, please feel free to jump in.

MR. BELLOWS: Will do.

HEARING EXAMINER STRAIN: Okay. With that, I'd like to ask Matt McLean to start out, if Matt's here.

MR. McLEAN: Good morning. Matt McLean, Director of Development Review, for the record.

HEARING EXAMINER STRAIN: Thank you, Matt.

In the plan that you saw, the description of the drainage, do you see anything there that's inconsistent with how you would review it if it were applied for that way, and particularly the curb, sloping, discharge, items like that?

MR. McLEAN: No. The addition of curb along the northern section of the dry detention

area would help alleviate the potential for parking to go in that area, so that's something that could easily be attainable by design. And the stormwater plan certainly will be an improvement from what's out there today.

HEARING EXAMINER STRAIN: There would be a limitation on loading, but that has become a problem from what some of the correspondence I've seen has. There's been loading in the right-of-way and along Becca. None of that's acceptable. I don't believe any of it's consistent with our code.

What provisions is there or will there be in review for a loading opportunity on the site to the south?

MR. McLEAN: In the current Site Development Plan amendment application that's under review by staff today there will be some form of stipulation that requires the loading to be handled on site on the southern parcel.

HEARING EXAMINER STRAIN: Okay. If for some reason that didn't occur, that would be something Code Enforcement would then be able to enforce?

MR. McLEAN: Yes, that's correct. As you indicated, there is no loading ability or off-loading ability on Becca in the public right-of-way or on this particular parking lot.

HEARING EXAMINER STRAIN: In the discussions that I had just now with the applicant, did you see anything there that is inconsistent with the way you would expect it to come in, Matt?

They talked about a time frame, for example, being able to have this wall, if -- like I said, if it's approved, to be completed by the end of December. How does that sit with your understanding of the process?

MR. McLEAN: Well, currently right now the application has been submitted to our teams. We've reviewed it a couple of times already. So, really, the onus is going to be on the developer's consultants that continue to finalize whatever items may be left that we've identified or anything that would come out of this particular hearing.

That being said, I don't expect that process to take an extremely long period of time at this stage, so I think that it could certainly be attainable to construct the wall and the landscaping that's been referenced today first prior to the end of the year.

HEARING EXAMINER STRAIN: Okay. But that's all subject to a quick turnaround response by the applicant.

MR. McLEAN: Yes, that's correct.

HEARING EXAMINER STRAIN: Okay. Thank you. I don't have anything else, Matt. Thank you for your time.

I do have Mark Templeton. I've got some questions that I'd like to ask Mark. And I think I kind of geared him up for it by the way we talked about the landscaping previously.

MR. TEMPLETON: For the record, Mark Templeton. I look at the landscape plans for the Development Review team.

HEARING EXAMINER STRAIN: Mark, you heard the comments and the type of vegetation. My concern is for the neighbors surrounding this property. And I want to make sure that if this were to be built or go forward that the absolute best form of vegetation that could be put there to the benefit of the neighbors is there, and we're talking about to the west and the north side.

MR. TEMPLETON: Yeah. So in this zoning district, there's two different options for landscape buffers. They could either do -- when you've got a nonresidential development next to a residential development, you could either do a 10-foot-wide buffer with trees 30 feet on center and a wall, or you could do a 15-foot-wide Type B buffer without a wall.

HEARING EXAMINER STRAIN: You said Type B again?

MR. TEMPLETON: Type B as in boy, yeah.

HEARING EXAMINER STRAIN: Without a wall?

MR. TEMPLETON: Without a wall.

HEARING EXAMINER STRAIN: Now, that's something in the overlay?

MR. TEMPLETON: In the overlay district, yeah.

HEARING EXAMINER STRAIN: So that means the Bayshore overlay has changed to a regular code to allow a buffer that's not quite as intense as the code might require or the one that we're -- being seen here today?

MR. TEMPLETON: Yes, that's correct, yeah.

So the plans submitted show a 15-foot-wide Type B buffer with a wall; trees are spaced 25 feet on center consistent with the code; 5-foot-high hedge.

And I apologize; the first time I'm looking at this today. It looks like they're showing, you know, a 5-foot-high hedge and then two rows of some other kind of shrub that I'm not sure what it is.

HEARING EXAMINER STRAIN: Bob -- or you and Frank need to help clarify it.

MR. TEMPLETON: I don't see what that is --

MR. MULHERE: Pampas grass maybe.

MR. TEMPLETON: -- but it looks like a -- maybe the 5-foot hedge is here.

HEARING EXAMINER STRAIN: The trees that are shown -- I mean, what goes above the wall's probably more important than what goes below because we're going to be -- they're going to be code minimum or better for the smaller -- and, by the way, it's the responsibility of the property owner who is installing this to maintain it, irrigate it, and take care of it from there forward. So what kind of -- what about the large trees, as far as the larger trees go, and the time of frame -- frame time in which they'd be above the wall as far as planting and growth.

MR. TEMPLETON: Right. So where this site's located, everything has to be native. What they're showing on the plant list is all native.

Code minimum size is 10-foot high with a 4-foot spread. I believe Mr. Mulhere indicated they were going to be larger -- specced larger than code minimum. What this shows is 10-, 12-foot high, 5- to 6-foot wide. Code min is 4-foot wide. They're saying 5 to 6-foot wide, so it is slightly wider than what code requires.

The height, it says 10 to 12, so it may just be 10 foot, which would be code min. One and three-quarter inch caliper, that's code min. So what I'm seeing is not necessarily much above code minimum size-wise.

HEARING EXAMINER STRAIN: What about spacing?

MR. TEMPLETON: Spacing is per code.

HEARING EXAMINER STRAIN: Is there any advantage to tighten the spacing up on that type of vegetation?

MR. TEMPLETON: Certainly a little bit if we're trying to block the views into the parking lot.

HEARING EXAMINER STRAIN: So instead of 30 feet, 20, feet, 25 feet or --
(Simultaneous crosstalk.)

MR. TEMPLETON: Well, 25 feet is what's required and what they're going to be providing. So, yeah, maybe either throw in an understory tree in between these 25-foot trees on center or --

HEARING EXAMINER STRAIN: I'm more concerned about the canopies. The canopies are what's going to protect the height above the wall and that's -- if anything, that's what the neighbors are going to be left to view is what's above the wall. So as fast as that can mature

and be solidified, that's probably more important than lower stuff.

MR. FEENEY: I can address exactly what's going to be going in there right now. These plans and these exhibits that we created for this meeting are actually from the landscape plan that has been submitted into the staff.

For the record, my name is Frank Feeney. I'm the civil engineer for the project.

What we're calling out along the north and west sides are a mixture of green buttonwoods, which -- Mark, you'll have to correct me on my heights. I believe they can get up to somewhere about 25 and 30 foot tall?

MR. TEMPLETON: Yes, they could get pretty big.

MR. FEENEY: Once they get mature.

HEARING EXAMINER STRAIN: Okay.

MR. FEENEY: So right off the bat they're going to be above the 6-foot-tall wall, but they will eventually grow beyond that.

HEARING EXAMINER STRAIN: Okay. Now, that's the -- that's the main primary high tree that would be above the wall?

MR. FEENEY: That's correct.

HEARING EXAMINER STRAIN: Now, does that one flush out with a decent canopy that's opaque to the opacity required?

MR. FEENEY: It does flush out and get a larger head. I believe it gets up somewhere in the realm of about 20 feet wide --

MR. TEMPLETON: Twenty to 30-foot spread is --

HEARING EXAMINER STRAIN: Twenty feet wide. That's 10 feet each side of 20 feet. So at 25 feet you've got gaps in the hedge then?

MR. MULHERE: We're perfectly fine with reducing the 25 feet. I want to defer to Mark as to sometimes if you get these canopy trees too close, it's detrimental to the canopy trees. So if you're comfortable -- which, by the way, by reducing the on-center number, you have more trees. So I'm okay with 20 feet. I just -- I would have to defer to staff as to what's appropriate. And we don't have a problem putting in some more trees.

HEARING EXAMINER STRAIN: Okay. The key here is if this is going to happen, the neighborhood needs to have the best buffers and protection they can. And if these trees -- a few more trees to tighten them all up so that if you have a 20-foot spread on a mature tree and you're 25 feet apart, that's still going to leave some gaps.

So it would make a lot more sense then to put them at 20 feet apart so they fill out completely in between them faster.

Does that seem reasonable, Mark?

MR. TEMPLETON: Yes.

HEARING EXAMINER STRAIN: Okay. Mark, is there anything -- I think that's most of the issues I have on landscaping. Is there anything else you have you'd like to make a comment on?

MR. TEMPLETON: Nothing I can think of right now.

HEARING EXAMINER STRAIN: Okay. Thank you. I appreciate your time. I saw you brought two books. I hope I asked you enough questions to use them both.

Is county transportation here? Ah, Mike Sawyer.

MR. SAWYER: Good morning. For the record, Mike Sawyer, Transportation Planning.

HEARING EXAMINER STRAIN: Good morning, Mike.

Issues about transportation. Let's -- there's two or three questions I have of you. The first one is, there was a push to have this -- in fact, I was one of the people suggesting, why don't we

come in off Bayshore and save the access through Becca. Your department has a very strong position on why that doesn't work. And I don't necessarily disagree with you. I just need you to explain it, if you don't mind.

MR. SAWYER: We are mostly concerned on an access on Bayshore because of the more dangerous weave movement to the intersection of Bayshore and Becca. In other words, you would have people exiting out of the parking lot and making a weave through the two travel lanes to get to the intersection to make a U-turn to go north, basically, on Bayshore.

We would also be concerned -- the lack of being able to get a turn lane, again, on Bayshore in order to get people into the parking lot as well. So you'd have more of a conflict having traffic backing up onto the travel lane on Bayshore as well going into the parking lot.

HEARING EXAMINER STRAIN: Would you need a decel lane on the entry to the parking lot as well --

MR. SAWYER: Yes.

HEARING EXAMINER STRAIN: -- if one was ever to consider there?

MR. SAWYER: Yes.

HEARING EXAMINER STRAIN: So you've got a decel lane there. You'd look at another decel lane approaching Becca.

MR. SAWYER: Yes.

HEARING EXAMINER STRAIN: And then people coming out, right-in, right-out only, I would assume. So the right-out would mean they'd have -- if they want to go back north, they'd have to go across the two lanes, potentially three with the decel lane, to get back over into the left lane on Bayshore to make a U-turn and go north; is that --

MR. SAWYER: Correct.

HEARING EXAMINER STRAIN: At the same time, does that have any impact on the potential to leave Bayshore and Becca open as a full median cut versus a reduced cut?

MR. SAWYER: Potentially, we would be looking at limiting the access on that intersection. It would -- we would look at it very closely. We would probably wind up having some sort of reduced -- instead of having a full intersection, we would possibly just have a right-in, right-out and a left-in.

HEARING EXAMINER STRAIN: On Becca?

MR. SAWYER: Yes.

HEARING EXAMINER STRAIN: Okay. So for all those reasons -- and that is what you explained to me before -- that's why I'm trying to get it back on record that -- that's why the Transportation Department didn't want to see a connection made directly to Bayshore.

MR. SAWYER: Correct.

HEARING EXAMINER STRAIN: As far as this connection they're showing now, it's further back from the corner, which I know transportation likes to see that spacing. That produces a safer situation, and the walkway on Bayshore going on Becca, crossing from north to south. Everything fine with you guys on that, or is there something that could be done to improve that walkway?

MR. SAWYER: As far as the walkway at Becca, probably getting a high-visibility striping for that crossing would probably be a very good idea, and we would probably require that at any rate at SDP because the parking lot is primarily serving, again, the Food Truck Park.

HEARING EXAMINER STRAIN: I understand this is in SDP. Obviously, it can't proceed until other things are completed. Have you looked at that SDP?

MR. SAWYER: I have not. We do meet quite regularly with the Site Development Plan people, and we will definitely work with them to make sure that we see it, and if we see anything,

we'll make sure it happens.

HEARING EXAMINER STRAIN: If another type of development was put there, like the residential housing or six units with or without bonuses, even less or more, would they be entitled to a curb cut at every single lot location?

MR. SAWYER: If they were single-family, yes.

HEARING EXAMINER STRAIN: Okay. If they're one of the row houses or any other houses described in the Bayshore overlay -- which, generally, we're not that familiar with, because I can't remember if any have even been done yet -- will that still apply? I mean, basically, every lot gets an access to Becca?

MR. SAWYER: Certainly -- depending on the layout of the buildings. You know, if you've got a row house, you're theoretically looking at alternatively possibly one single building or potentially two separate buildings. We would certainly encourage fewer access points, but they would be entitled to one per lot, you are correct.

HEARING EXAMINER STRAIN: Okay. I think that's all I've got, Mike.

MR. SABO: Okay. Thank you.

HEARING EXAMINER STRAIN: Thank you. Matt, I see you came back up. Good news or bad news or --

MR. McLEAN: All good news, I think. Matt McLean, Director of Development Review.

Just to further enhance the record there as it relates to the high-visibility striping across Becca, that will be part of the Site Development Plan review and approval. That is a requirement.

HEARING EXAMINER STRAIN: And that plan is not processed completely. It's still on hold, obviously. It can't be approved without the results of this meeting.

MR. McLEAN: That's correct. Without the results of this meeting, that application will continue to be in review status, that's correct.

HEARING EXAMINER STRAIN: That was known early on, right?

MR. McLEAN: Absolutely.

(Simultaneous crosstalk.)

HEARING EXAMINER STRAIN: So the applicant's at risk for whatever expenditures they have date to process a plan regardless of the outcome of this meeting?

MR. McLEAN: That is correct.

HEARING EXAMINER STRAIN: Okay. Thank you. I don't have any more in that regard.

I don't believe I have any more questions right now of staff. I would like staff members, if they could, stay around because, depending on the input from the community, there may be other issues to address.

And with that, we're going to go to public speakers. Now, just so everybody knows, we'll take a break at about 10:30 for the court reporter. Her fingers are moving as fast as we're all talking. So she needs a little bit of time at that point, and then we'll resume after that.

So with that, the speakers will be called out by Ray Bellows. Please come to the microphone. And you'll need to identify yourself for the record. If your name isn't something simple, please spell it so we get it correctly on the record.

And then after all the registered public speakers have had their opportunity, I'll ask for those who have not spoken if they'd still like to say anything.

So, Ray.

MR. BELLOWES: The first speaker is Wil Rudman to be followed by William Douglass.

MR. RUDMAN: Good morning. Mr. Chairman, members of the hearing committee,

thank you for this opportunity to voice my opinion in opposition to the proposed variance for No. 183 Palmetto Dunes Circle. I live at 147 Palmetto Dunes Circle.

HEARING EXAMINER STRAIN: Sir, excuse me. I'm sorry. That one was withdrawn.

MR. RUDMAN: I'm sorry, sir.

HEARING EXAMINER STRAIN: Somebody must have listened to you because that one was withdrawn. They're no longer pursuing that.

MR. RUDMAN: I'm hard of hearing.

HEARING EXAMINER STRAIN: No, that's okay. That one's gone. That hearing was canceled. The applicant does not want to pursue it, so you've won your argument.

MR. RUDMAN: Oh, they didn't tell me.

(Applause.)

HEARING EXAMINER STRAIN: Next speaker, Ray.

Thank you, sir.

MR. BELLOWS: William Douglass.

HEARING EXAMINER STRAIN: Mr. Douglass, are you here?

MR. DOUGLASS: We talked earlier about the first one, so...

HEARING EXAMINER STRAIN: He withdraws. Okay.

MR. BELLOWS: Dennis Samblanet.

MR. SAMBLANET: Dennis Samblanet, S-a-m-b-l-a-n-e-t.

Good morning, Mr. Strain and --

HEARING EXAMINER STRAIN: Good morning.

MR. SAMBLANET: -- county staff.

I am a retired state certified general contractor owning my own business here in Collier County for 30 years.

I believe -- I believe that Celebration Park is a novel idea and an asset to Bayshore area. I love business, and I give Ms. Maddox credit for this idea along with the willingness and financial backing to get this up and running. But it doesn't matter how much of an asset it is to the community if the negative affects neighbors with illegal actions.

It is obvious that the county accepted plans, drawings, construction documents, approved permit and provided a certificate of completion in order for the Celebration Park to open and operate with 13 parking places. It is my understanding that the 13 parking spaces were added on the seating -- were based on the seating area proposed at the time of permitting. Now, many more seats have been added and possibly more coming, so additional parking is required.

It appears that the park may already be violating with -- be in violation with not enough parking based on the seating that's been added.

I found it incomprehensible to spend as much time, effort, and money constructing Celebration Park with only 13 parking places and not having immediate plans for additional parking. I believe there was always plans for this residential lot to be used for additional parking.

It appears to me that Ms. Maddox and the county were in communication about using this residential lot as additional parking as early as September 19th, 2018, which is the date of the Collier County pre-application meeting notes. Project name: Bayshore Food Truck Parking Lot.

Is it possible that Ms. Maddox and her associates realized at this point it would take quite some time to legally go through the correct permitting process and decided it was easier and quicker to move forward illegally and still be able to use the parking lot while the parking exemption process was underway? Which is exactly what has happened.

I would hate to think that the county was involved in this decision, but the fact that the county continues to allow her to use the illegal parking lot certainly raises some questions.

If this residential lot is allowed to become a commercial parking lot, the neighbors, and especially the six adjoining lot owners, will be paying a very high price for Ms. Maddox and the county's oversight or hidden agenda. I wonder how much of these six adjoining lots will depreciate if this parking lot is approved.

I am all for Ms. Maddox's business succeeding, like I said, and I believe Celebration Park is definitely an asset to our community. It's only the parking -- I want to make sure that it's only the parking that I have an issue with and its being created underhandedly, illegally, and at the expense of others. It's just not right for the county to show favoritism allowing one person to succeed illegally, and everyone else plays by the rules.

Ms. Maddox has arranged for additional parking in the large lot off of Weeks Avenue. There are a total of 166 parking spots one block from Celebration Park. She also arranged for additional parking in the lot off Bayview Drive directly south of 360. In this lot there are 53 parking places available one block from Celebration Park.

Patrons on Fifth Avenue and south -- and Third Street South walk at least one block, and much further, all the time and think nothing of it, so the location is not too far. Celebration Park has 13 parking spaces on site.

With 166 spaces on Weeks Avenue, 53 spaces on Bayview Drive, and 13 spaces on site for a total of 232 parking spaces, it's obvious that this illegal parking lot is not needed. Keep in mind that the parking calculations on the most recent parking exceptions conceptual plan, which we're talking about here, only required 68 spaces. She currently has almost three-and-a-half times that many parking available to her right now.

There are currently five lots on the east side of Cypress Street directly across the water west of Celebration Park that are already zoned accessory parking zone, which does not require a parking exemption, which is what we've already talked about too. I would expect these lots to be used for what they were intended before creating a parking exemption for other areas.

Ms. Maddox has also purchased two lots east of Bayshore Drive directly across from the illegal parking lot which she has some phenomenal plans for, and I really hope they go forward, but there she can have additional parking as well.

It should be obvious that there are plenty of options for current and future parking without having to take a residential property and create a commercial property -- a commercial parking lot.

Growth Management has stated there are no immediate health or safety concerns on the illegal parking lot. People are constantly jaywalking, which is illegal, across the Bayshore Avenue in numerous locations with dogs on leashes, children in strollers, children walking, phones, food, drinks in their hands not watching for cars.

Keep in mind that these safety issues increase dramatically during the season, which is the time Growth Management should have been monitoring this site. I don't understand how Growth Management can honestly state there are no immediate health or safety concerns with this illegal parking lot.

I have seen the latest parking exemption conceptual plan for the proposed parking lot, and the vehicle entry and exit is even further west than the current illegal one, making it further away from Celebration Park entrance. This proposed plan is for patrons to exit the parking lot by sidewalk all the way to the southeast corner of the lot out onto Bayshore Drive -- out onto Bayshore sidewalk and across Becca at the existing sidewalk.

Be assured that those in the western half of the parking lot will be walking out the vehicle entrance/exit, still jaywalking across Becca Avenue, just as they do now, because it's closer and that's what they're used to.

And where that's -- what I'm talking about is this entrance right here. This entry/exit here.

The existing illegal one is over here closer to where they enter Celebration Park. Now it's further down the street, so these people in this western half of the parking lot are going to be walking right out here and right down Becca Avenue, which now they're going to be on Becca Avenue for a longer distance and a longer period of time than they are right now, so this creates even more of a conflict.

HEARING EXAMINER STRAIN: The site plan that you refer to that you looked at, it was how long ago when you first looked at it?

MR. SAMBLANET: Well, I've seen it probably three weeks ago.

HEARING EXAMINER STRAIN: Okay. The plan you may have seen had the sidewalk on the outside of the wall, and the sidewalk was purposely moved inside the wall so that people would -- it would be more directive to head towards Bayshore to cross at Becca.

MR. SAMBLANET: No, I totally understand that, and that's a great idea in keeping it inside, but what I'm talking about is right here. This is where the --

HEARING EXAMINER STRAIN: Oh, yeah. I understand what you're saying. I'm just saying it was -- the attempt to minimize it was partly why it was now moved inside the property.

MR. SAMBLANET: Which was a good move, yes.

HEARING EXAMINER STRAIN: It wouldn't encourage -- because like you're saying, the practical application, if you're walking along a sidewalk and you've got to just trip across two lanes of -- small lanes of residential, you'd just walk across the street. I mean, I did that yesterday, or three days ago when I was down there, so I'm guilty of it, too. But that inside sidewalk, I think their thought was it would tend to keep people more inside the property and funnel them towards Bayshore.

MR. SAMBLANET: And I would agree with that, and that is the thought. But what I'm saying is that people have walked out of that, because it's the only way to get there now. They're so used to that.

HEARING EXAMINER STRAIN: I understand.

MR. SAMBLANET: And they're -- and the west half of this parking lot, it's going to be much closer for them to walk out that vehicle entry/exit and still cross the street or walk the street, and now they're on the street for a longer period of time and further distance than what they are even now.

HEARING EXAMINER STRAIN: I understand, sir.

MR. SAMBLANET: So that complicates it, in my opinion.

I can -- I question how the county can justifiably approve additional parking when 232 parking spaces are currently available within one block, and property already zoned accessory permitting -- accessory parking is available one block to the west of Celebration Park. There's no ethical reason to allow this illegal parking lot to exist.

Thank you for allowing me to --

HEARING EXAMINER STRAIN: I'll be asking questions of staff before we finish, so thank you.

Next speaker, Ray.

MR. BELLOWS: Robert Messmer.

MR. MESSMER: Good morning.

HEARING EXAMINER STRAIN: Good morning.

MR. MESSMER: Mr. Strain, staff, and my neighbors, my name is Bob Messmer, M-e-s-s-m-e-r, owner and full-time resident on Orange Street two blocks directly west of the food park.

I have had a continued and active interest in Collier County, especially my Bayshore

neighborhood, since I moved here 25 years ago. I was a charter member of the Bayshore Advisory Committee when it was first organized by Bill Neale and before it became an official county advisory committee.

Later I served on the county Contractor Licensing Board for several years. When a vacancy opened on the Bayshore MSTU, I applied and continue as one of its longest serving members.

I'm an architect licensed in California, New York, District of Columbia, and the United Kingdom prior to retiring. The above I hope gives some professional credence to my following comments regarding the petition.

I commend, salute, and applaud, Rebecca Maddox for her successful efforts in improving the Bayshore area. 360 has been a goldmine for her since the day it opened; however, insufficient parking was permitted by the county. That was the county's first mistake. Her second goldmine is the Food Truck Park, one of the most attractive, interesting, and popular drinking and eating establishments in Southwest Florida; however, once again, the county issued a building permit and occupancy permit requiring only 13 parking spaces. That is not even enough for the employees, more or less any patrons. That was the county's second mistake, and each mistake becomes exponentially greater.

Apparently last fall the existing parking lot south of the 360 was not available for her to rent nor was the existing parking lot on the north side of Weeks, so she bought Ken and Ursula Thompson's property, obtained a permit to demolish the house, and then immediately, without a permit or any county approvals, that very night covered the lot with gravel and, voila, she has her parking lot operating illegally since last November. The county's third mistake.

Now my comments regarding the staff report. Criterion 5 states, quote, the character and quality of the neighborhood and the future development of surrounding properties, unquote.

The staff response is quote, the Zoning Division does not believe that the proposed parking exemption would negatively affect the character and quality of the neighborhood, unquote.

Now, really, a commercial parking lot operating until 10:30 p.m. with existing homes bordering its west and north sides does not negatively affect the quality of life for those homeowners?

Criterion No. 11 states quote, whether the off-site parking will be used for employee parking. The staff's response is, quote, the applicant has not indicated that the off-street parking will be used for employees to increase the amount of available space for customers. There should be -- there should be a condition that no employee parking is allowed, unquote.

So, Rebecca, where will your employees park? Along Becca? Cypress? Orange? Poplar? Question mark.

Criterion 12 states, quote, whether there are more viable alternatives available, and Mr. Belenet (sic) addressed this in detail. A summation is, staff's response is the Zoning Division finds that the proposed parking site is the best alternative, quote.

Come now, zoning. Better than utilizing the 232 spaces she already has access to? Better than using all or part of the commercially zoned one-and-a-half acres she recently purchased on the east side of Bayshore?

In summation, Ms. Maddox does not need the additional 62 spaces at this residential location. She has rental agreements for 219 spaces and 13 spaces at the park already.

According to the applicant's petition, 68 spaces are required. Only the county can verify if that quantity is correct or not. If correct, she exceeds the county's requirements by 164 spaces.

Mr. Strain, please do not approve this exemption. It is not needed nor required by the county. If it is granted, it will devalue the adjacent homes' values by at least 40 and my own home

by at least 20 percent.

Rebecca repeatedly claims she wishes to be a good neighbor, a claim which is false. She, if this petition is granted, will cause hundreds of thousands of dollars of devaluation to her neighbors' properties.

That concludes my comments, Mr. Strain. If you have any questions or clarifications of my comments I will respond, otherwise I'll return to my seat.

HEARING EXAMINER STRAIN: Thank you very much. And I will have questions of staff as a result of your comments. And when we're all finished with public speakers, staff's going to come back up and answer some questions. Thank you, sir.

MR. MESSMER: I understand.

HEARING EXAMINER STRAIN: Next speaker, Ray.

MR. BELLOWS: Barbara Hunt.

MS. HUNT: I'm passing.

MR. BELLOWS: Greg Economos.

MR. ECONOMOS: That was a good one.

Thank you. My name is Greg Economos. For the record, it's E-c-o-n-o-m-o-s.

I'm a local realtor here in Naples and have been for the past three years. I have a strong connection to Bayshore. I actually got married at the Botanical Gardens several years ago. And when I did that first drive down Bayshore several years ago, I would not have wanted my guests to drive down Bayshore.

It was not -- it did not seem safe. It wasn't something that I wanted people to see. Now with what's been happening with the redevelopment and with the Food Truck Park and 360 and Ankrolab down the street, it is a proud place for Neapolitans to go and visit, and out-of-town guests.

People looked forward to Celebration Park coming, and I agree that it is a challenge for the parking, but it also is a unique gathering place for all of Naples. It's not just things that happen on Third Street or Fifth Avenue. It's a gathering place for everyone.

So when it first opened, you know, Celebration Park was a huge success, and we all saw that. Unfortunately, that was almost its downfall. People were parking everywhere. And I understand the concerns, because they were parking on Becca, parking down the street, parking maybe on Orange and the other streets. It was dangerous. And so while I agree that the parking lot, as it is now, may still be a little bit unsafe, what happened is that what Ms. Maddox did was create a parking lot where people were off the street. They were not parking on the side streets. I think that is a huge benefit to what this parking lot will offer.

It is a dilemma, and I think the success has actually created that dilemma. But I think with the options that have been discussed with the wall around the property at the six feet or eight feet, with the plantings that will create that canopy with the lower level lighting, and with some sort of security with video cameras as has been discussed, or with the hourly, you know, walk-arounds, that will really alleviate a lot of those problems.

And I was just there the other day, and I totally understand the neighbor on the north side, you know, because it looks like lights shine directly into his property, or their property. I don't know who it is. And I agree that this wall should help alleviate that.

In addition, I drive down Bayshore a lot. There are currently at least four other corner properties that are on Bayshore that have adjacent residential houses. So, you know, I do understand the house to the -- directly to the west and the ones on the northern lot. It's an issue for them. But the values in Bayshore for the home -- and I have to disagree with you, I'm sorry, but they're increasing. The lot directly to the west --

(Applause.)

MR. ECONOMOS: Thank you -- directly to the west, he bought it for 182-; \$182,000. Do you know what he's asking for that house right now? \$425,000. Do you know why? It's because of what's happening on Bayshore and Celebration Park. It's not ridiculous. He -- the man even has --

HEARING EXAMINER STRAIN: Sir, you'll have to direct your comments to me.

MR. ECONOMOS: Okay. The listing for the property directly to the west actually has several photos of 360 Market and Celebration Park. Clearly that property thinks being that close is an asset, otherwise they wouldn't have included it in the listing agreement.

In addition, Mattamy Homes is creating a very large development on the corner of Bayshore and Thomasson. I'm sure you know about it; Arboretum. There is no way that they would -- a huge company of that nature would have invested that much in that property without having businesses to support the residents who are purchasing those properties.

So I think with all of Bayshore and the redevelopment that's happening, parking is a necessity. I agree that there's -- as the gentleman said, there are other lots available, but this is one that is directly across, will reduce the impact on people walking along Bayshore. If there were parking along the other side of Bayshore, how dangerous would that be, people walking across Bayshore to get to Celebration Park? It has to be on that side of Bayshore. And I think what's been proposed with the wall and the sidewalk going down is a great solution to the issue.

So those are my comments, and I appreciate your time.

HEARING EXAMINER STRAIN: Thank you.

Next speaker, Ray.

(Applause.)

HEARING EXAMINER STRAIN: Ladies and gentlemen, that's okay. You can refrain from the applause. I appreciate it.

MR. BELLOWS: Camille Kielty.

MS. KIELTY: Yes. Good morning, sir. My name is Camille Kielty, and I am a resident of Naples. I'm actually four blocks from Celebration Park.

I moved here two-and-a-half years ago, and I built a home on Shoreview, and part of the strategy/rationale behind my taking a move here was what I saw as a great environment for retirement.

And, certainly, looking at Bayshore and East Naples, I met Rebecca Maddox early, and she told me it was absolutely a place to settle.

I can also tell you that I am an advisory board member of the CRA, and I think that Celebration Park certainly has been an excellent example of what it is that we have been looking for as part of the CRA, an opportunity to provide for culturally diverse connections amongst family, friends, neighbors, and visitors.

It's been wildly successful, and it's that success that needs to continue, and the parking lot is absolutely critical to the continued success of Celebration Park and 360.

I would like to note that I think both management and the owners of Celebration Park have been very responsive and responsible. By responsive, when there are concerns that are brought to their attention, they are addressed as rapidly as possible, and I think -- I know, as a matter of fact, because I was present when Mr. Messmer and Mr. Samblanet had concerns about noise at the park.

And so we sat down. We had a conversation. We then took matters into our own hands by bringing on the necessary equipment at the park to more centralize the noise.

In following up, there's been one complaint from them since that time relative to noise. I'm four blocks away. I do not hear noise from any type of music. Some people consider it noise.

I consider it very beneficial, but I do not hear the music at Celebration Park.

From my perspective we are changing Bayshore. We are changing it for the better. We do need these continued successful businesses that are drawing upon many and many new owners to Bayshore. And, as was mentioned previously, the home sales in East Naples is up by over 20 percent year over year. The prices of those homes are also up significantly year over year, and I think this is due to the likes of Rebecca Maddox bringing ingenuity, bringing personal investments, personal dollars and, at the same time, generating hundreds and thousands of dollars to the Naples community.

Thank you.

HEARING EXAMINER STRAIN: I have a question about your position and on the CRA. You're a board member; is that correct?

MS. KIELTY: I'm an advisory board member, yes.

HEARING EXAMINER STRAIN: Were you present when the -- this particular parking exemption was -- or the Food Truck Park as a whole, including this parking exemption, was presented to the CRA Board? It was --

MS. KIELTY: I was not present.

HEARING EXAMINER STRAIN: -- January 15th.

MS. KIELTY: No, I was not present.

HEARING EXAMINER STRAIN: Okay. Because I had asked the CRA if they had weighed in on that, on this matter, and they said that the CRA Board supports this and her investment in the area and the parking lot. And so there was a consensus on the CRA Board, but I haven't seen a formal vote. So just I was curious, if you were there, what the outcome of that was, but --

MS. KIELTY: No. I know that there was not a formal vote. I know that, in speaking to other board members, you know, in the forums, that there was support for the park --

HEARING EXAMINER STRAIN: Thank you very much.

MS. KIELTY: -- for the parking lot. You're welcome.

HEARING EXAMINER STRAIN: Next speaker, Ray.

MR. BELLOWS: Gary Rudd.

MR. RUDD: Good morning, Mr. Strain. My name is Gary Rudd, R-u-d-d. And I am the -- well, first of all, I'm the dad of this little one walking around, and that's my wife, Heather.

HEARING EXAMINER STRAIN: Is she going to speak?

MR. RUDMAN: She is not going to speak. She spoke enough. I cannot deny her.

So what I do represent is one of the owners of the Dilly Seafood at Celebration Park. So we own the -- we own the seafood truck, and from that -- you know, when we first came here we didn't quite have a home. And so I am for the parking lot, I should state that, because the continued growth, as in anything else -- the growth of our business alone has expanded into about -- over 50 employees because we now are able to catch fish locally. We have multiple boats, and we come to Celebration Park and offload.

We are a registered dock where FWC can come in and check our fish that come in. We're one of the only people in the state that do that.

And so my point is that between our 50 employees and then the truck members that are here present, a lot of them in the back there, owner/operators, we represent over 200 employees that have grown and expanded, and our families have been able to benefit.

We are for the parking lot so that we are able to expand and continue to grow in this community. And when I say there's 200 members, you take that, and then you take the families like mine, and you expand that on into the growth and what has happened. I see Gigi right back

there as well.

And so like I had said, we didn't quite have a home, and when we -- Food Truck Park was started, it turned into such a success and such growth that there's so many different others that have grown from that; my business, and then others have actually even opened, restaurants downtown and expanded off. And so the revenue generated expands on from what it -- what the growth is.

And just like anything else -- I'll make one more point that, you know, in order to succeed and grow, there might be two, three people.

I myself was also sitting in on the meeting when we were approached about the noise, and Patrick was as well, and we all listened. We sat there for over an hour, and we made changes and made some changes towards what would happen towards the music, just to address something specifically.

So that's it unless there's any questions.

HEARING EXAMINER STRAIN: Thank you.

Next speaker, Ray.

MR. BELLOWS: Robin Forbes.

MS. FORBES: Hello, Mr. Strain. My name is Robin Forbes.

HEARING EXAMINER STRAIN: Good morning.

MS. FORBES: I also live in Bayshore. I live off of Shoreview, and I'm a huge supporter of the parking lot. It is such a wonderful community that the parking lot would help support Celebration Park. It would help with the pedestrian issue.

As far as the other parking available for Rebecca Maddox, I just do want to point out, because I asked, on Weeks Avenue there are only 52 spots available for parking, and on Bayview Drive, across from 360 Market, there are those spots. I'm sorry. There are only 36 available spots for parking, so it's not 200-and-some spots that are available for the parking, and that's why this is so important that we get that.

HEARING EXAMINER STRAIN: Thank you. And during the staff discussion when we follow public speakers, the availability of parking is controlled, in order for it to account, by our code, and those are the questions I'll find out, because it's -- just the fact that there's leasable space may not meet the availability requirements in our code. We'll talk about that, so thank you.

Next speaker, Ray.

MR. BELLOWS: Eileen McNeil.

MS. McNEIL: Oh, I didn't check the box that I wanted to be a speaker. I just put that I was in favor of it.

MR. BELLOWS: Okay. Thank you.

HEARING EXAMINER STRAIN: Next speaker, Ray.

MR. BELLOWS: Jac Adams.

HEARING EXAMINER STRAIN: A little bit louder.

MR. BELLOWS: Jac, J-a-c, Adams?

MR. ADAMS: Good morning, Mr. Strain.

HEARING EXAMINER STRAIN: Good morning.

MR. ADAMS: Good morning. My neighbors -- my name's Joe Adams, for the record. I live on Arbutus, which is at the end of Becca.

Since the Food Truck Park was -- came online, there has been a change in the neighborhood. There's no question about that.

I believe that this parking lot structure with the sidewalk inside the wall directing traffic to the corner, which is a legal crossing, is a great idea. I really don't know how you would keep people, beside hiring an armed guard at the entrance there, from crossing Becca at the entrance of

the parking lot. That's probably going to happen regardless of anybody's best intentions.

Rebecca Maddox I first met a few years back, and, you know, I saw -- I heard her vision. And she's one of the few people in this county that actually has a vision. And she's -- and I liked her vision. And I believe that the people on Bayshore in general agree with where she's going in her dreams, and her dreams, for the most part, coincide with my own.

She found out that I was a bit of an artist a few years ago and also offered to support me in any way she could. Not monetarily, but giving me an opportunity, and she continues to do so. I am painting some things in the Food Truck Park currently.

One of the main issues I have with the parking lot is I wonder whether or not pervious concrete has been considered for use in the parking lot. Runoff and flooding on Becca is a regular occurrence. At the end of this month we'll see it. I can -- although I don't have a crystal ball, I can guarantee you it's going to happen. The 28th through the 31st we have very high tides. And when we have high tides, new moon, Becca floods, and the creek rises above the street level. That's not something that anybody's been able to come up with a solution to.

But I am a little bit concerned that with all this nonabsorbable surface being installed here whether the runoff there at Bayshore and Becca might not add to that problem. The water simply doesn't have any place to go, you know. And at the end of Becca there at the stop sign, it crosses the street underneath the street into a lot which is unoccupied currently. And I asked people about maybe putting a culvert through there to access the creek to drain Becca, but that's private property, so I guess that's not possible either.

But as a whole, this sounds like a very attractive addition. I do know that the neighbors there were concerned about looking in a parking lot. Who would want to do that regardless of how nice they look? But I believe that what I've seen in the plans that are -- we're looking at here would alleviate that issue.

And so I'm in favor of the parking lot with the caveat that I would like -- and anybody who doesn't know about pervious concrete, it's been around a long time. There's been a lot of studies done in the state of Florida, Georgia, and North Carolina, I believe. And I have some information on it here. It drains -- it drains at 27 inches per hour. So if it's raining that much, we'll have other issues besides just draining. But it would be, perhaps, a good material to consider for the surfacing of the parking lot.

That's all I have. Thank you.

HEARING EXAMINER STRAIN: Thank you very much, sir.

Now, Terri, would 10 minutes work for you?

COURT REPORTER: (Nods head.)

HEARING EXAMINER STRAIN: We're going to take a 10-minute break for the court reporter. Please, I'm here to listen to your issues, so if you could come back after the break, we'll resume the public speakers at that point. So we'll take a break till 10:40 and resume.

(A brief recess was had.)

HEARING EXAMINER STRAIN: Okay. Ladies and gentlemen, if you'll please refrain -- come back to your seats and refrain from conversation. Everyone, we'd like to resume the meeting.

Hello, everybody -- if you all will come in and take your seats. We're ready to start, ladies and gentlemen. We're going to start the meeting.

Okay. We left off on public speakers. We'll continue with the public speakers that are first registered and then go to anyone else that wants to speak.

Ray, next speaker, please.

MR. BELLOWS: Amanda Jaron.

UNIDENTIFIED SPEAKER: She had to leave.

MR. BELLOWS: Lane Wilkinson?

UNIDENTIFIED SPEAKER: Also gone.

MR. BELLOWS: Meredith Garvin.

MS. GAVIN: Gavin.

MR. BELLOWS: Gavin.

MS. GAVIN: Hello. For the record, my name is Meredith Gavin, however I'm reading a statement prepared by Michael and Janet Gavin.

HEARING EXAMINER STRAIN: Okay. You need to slow down a little bit because she's got to type as fast as you talk, and you're like me. I talk pretty fast. I've learned -- she's controlling me better now.

MS. GAVIN: No problem. As I said, I'm representing Michael and Janet Gavin --

HEARING EXAMINER STRAIN: Thank you.

MS. GAVIN: -- who own two of the six affected lots adjacent to the petitioned parking lot.

My husband and I have a direct vested interest concerning the exemption to permit a zoned residential property to be used as a commercial parking lot. Whether you agree (sic) the premise or not, there's no arguing that unguarded, unsecure surface parking lots create an atmosphere that is inherently hostile to the pedestrian.

They are aesthetically dull, unbearably hot in the summer, windswept in all seasons, and potentially menacing to women returning to their cars alone after dark. If there is overhead lighting, it is a nuisance to the adjacent surrounding properties. Parking lots are notorious settings for a multitude of illegal activities.

Our property is designated at Lots 3 and 4 on Weeks Avenue on the zoning map. Our home is directly behind the illegal parking lot on Becca Avenue. When we purchased the property in October 2011 to be our forever home, we never dreamt that the residential property behind our home would ever be considered a commercial parking lot.

Since the lot has been put into illegal operation, cars have been parking directly up to the old chain-link fence that currently borders the properties. The owners have not been willing to comply with providing a 15-foot buffer that is required by the exemption that they are seeking. In fact, they have removed shrubs that would have helped maintain somewhat of a buffer.

We have headlights shining into our bedroom and living room every day Celebration Food Truck and the bar -- to be referenced from here on out as "the park" -- is on the operation and sometimes even when not in operation because the lot is left unsecured by a gate.

The park closes at 10 p.m. but the vendors and other employees do not leave the parking lot until well after the park's designated closing time.

We also have experienced cars' alarms blaring for several hours while owners of the cars are elsewhere. We've had strangers peering into our backyard, lanai-enclosed pool, and the glass doors to exit into the lanai from the master bedroom, living room, dining room, and kitchen areas.

We have witnessed men urinating on now removed shrubs bordering our property line. The removal of the shrubs has also increased the dust from the shells that are being used as paving. This raises health concerns for me because I'm an asthmatic, and the dust potentially can be lethal.

Since the lot has been illegally put into use, we have lost all privacy and have had our health compromised. These threats have been heightened since the removal of the shrub barrier.

God forbid a customer who has been at the park erroneously places their vehicle in the incorrect gear and plow through the old chain-link fence into our property causing physical harm to the private property, us, or one of our family members.

I do have a photo of how the property is affected and where the cars are. As you can see, cars park directly next to the fence, and you can see that -- where our pool is, and there is our property line as well.

We are concerned how the presence of the parking lot will impact the character of our residential community but are extremely concerned how it will impact the privacy, security, and value of our home. If or when we decide to sell our property, we feel the presence of the lot will negatively impact purchaser interests in our property. Many professional buyers will be put off by having a parking lot butting to their backyards of their property, even if it has a 15-foot buffer and landscaping of some sort of the wall that's characteristics is not defined, which it has been.

The owners of the park have entered into a lease agreement with the established parking lot at 2740 Bayshore Drive to ensure the vendors within the park will remain in operation no matter the results of the hearing for the exemption of the Becca lot.

The established parking lot is already zoned for commercial. It is well lit, paved, has direct public sidewalks that lead to the existing crosswalks to provide safe pedestrian traffic.

The parking lot at 2740 Bayshore Drive offers safe entrance and exiting onto Weeks Avenue that's not interrupting the Bayshore Drive traffic flow. By the park's owners' own actions of leasing this park facility, they conceded that there is already adequate parking in the community for them to fully operate their business. This directly addresses that there is more viable alternative parking than the residentially zoned property as a commercial parking lot.

We also have a photo, and this is from Celebration Park's social media in February -- on February 16th that shows different parking that's available in the area designated by Celebration Park.

As you can see, they said that there's plenty of parking in all of the green spaces. It's a little bit blurry. And then they show the Becca Avenue lot in blue and where Celebration Park is and the 360 Market. This also does not include the extended parking on the opposite side of the 360 Market.

Please examine the cost and benefits of the proposed exemption.

The costs: Loss of six residential lots that could be used for family homes, loss of residential property taxes for a proven unnecessary parking lot provided with little or no direct revenue.

Depreciation of the surrounding residential homes in the community. Increased need for police patrolling for pedestrian and community protection. Indirect harm to the environment. As encouraged driving over public transit, walking or bicycling will result in more traffic congestion. Private vehicle travel involves more energy use, more air pollution, higher greenhouse gas emissions, and more vehicle-related accidents.

Direct harm to the environment. Increased amounts of hardscape areas, the creation of an urban heat island effect, increased rainwater runoff, reduced groundwater recharge.

Parking lot surfaces collect polluted runoff because of the leaking oil and other fluids parked -- from the parked cars.

Site hardscapes reduce opportunity for groundwater retention, open space, and tree planting.

Private vehicle transportation have a larger noise footprint. Pollution and greenhouse gas emissions associated with physical construction activity, and increased public-health issues such as asthma and other pulmonary diseases because of air pollution.

The benefits: Rewarding poor private developer planning. Demonstration of total disrespect and disregard for the Collier County ordinances that have been created by our public officials to protect the citizens of the communities in which they live.

Let's be perfectly clear, the owners of the park are not asking permission at this point. The parking lot has been illegally created and used for the benefit with no regard on how it would impact the residents of the community. They are seeking forgiveness. Ignorance is not an excuse of the blatant disdain of our communities' laws and ordinances.

The actual situation that is occurring in the park knowingly (sic) entered operation with insufficient on-site parking, and they're pressuring Collier County to do something about it at the public's cost.

Hopefully, county Collier (sic) planners and elected officials will determine that good of their many constituents in the community outweigh the need for the unnecessary parking lot in a residential community.

Thank you. Janet and Michael Gavin.

HEARING EXAMINER STRAIN: Thank you.

MS. GAVIN: That's all.

HEARING EXAMINER STRAIN: I dare to ask the court reporter how fast you spoke.

MS. GAVIN: I can give it to her if that's easier.

HEARING EXAMINER STRAIN: Yes, please. I was going to ask you that, too.

Thank you, miss.

Next speaker, Ray.

MR. BELLOWS: Carey Wennerlyn.

UNIDENTIFIED SPEAKER: Carey had to leave.

MR. BELLOWS: Maurice Gutierrez.

MR. GUTIERREZ: Good morning. For the record, Maurice Gutierrez. I am a property owner at 2736 Shoreview Drive.

HEARING EXAMINER STRAIN: Can you spell the last name, too, Maurice, please.

MR. GUTIERREZ: G-u-t-i-e-r-r-e-z.

HEARING EXAMINER STRAIN: Thank you.

MR. GUTIERREZ: And currently the chairman of the CRA.

We're all looking at this really closely because it's difficult to get redevelopment without growth, and with growth comes some pains. And the uniqueness of Bayshore is both on east and west side directly on Bayshore there are residential homes because of the zoning from years ago. And today we have developers looking at us through a microscope. There's nothing left, and we're trying to manage what goes in in reference to does it fit the neighborhood.

So, for instance, commercially, you could have put a building there. You could put row housing there. So the impact of this parking area, the way it's proposed for safety, has a lot less negative impact than other uses that would be allowed or that could be petitioned to be allowed.

But more so on the board we look at what has happened in the neighborhood, and is it part of the neighborhood? The answer is yes, it has already occurred.

Years ago Gulf Shores Marina petitioned the county to take two multifamily lots on Riverview and on Lakeview and convert them into parking only for their marina. They sold the property. Sara Bay Marina now has plans to redevelop it.

When they came to the CRA Board with their plans, I was very specifically looking at, have they altered that agreement? The answer's no. So not only has the county managed their position of allowing that to occur, but then maintained that use so it doesn't get diminished and then something else put there.

Similarly, this is a similar situation. Again, parking only, which could even be stipulated as never to be but parking. But more so I've heard a lot about a lot of parking. Yeah, we have parking lots on Riverview, parking lots on Bayview, all privately owned without a structure or a

business, which means tomorrow, a developer can walk up, take the parking lot out and put a building legally within their zoning rights.

So the concept of saying there's plenty there, we don't need this as a solution, is not a permanent solution.

The CRA recognizes this and is currently in the process of a Site Development Plan on the east side of Bayshore within a couple blocks of this location to have a public parking used for businesses that cannot open due to the parking requirements.

So we're trying to be proactive and work with the neighborhood. But I always go back to that concept, how much impact will it have, and in the future where is it going to be, because we're not going to not grow. And with the redevelopment emphasis for the area, there's certain properties that were allowed to be residential when they're actually, today, on a four-lane. Used to be a dirt road.

So those changes impact us all as neighbors. But I will end by saying the majority of us don't live in a gated community, so all of these decisions impact us directly, because we're mostly on small dead-end streets and/or single connecting egresses. And, in retrospect of what could be there, personally, I feel it is a good solution the way they've designed the safety issues, but it could definitely be worse.

From a standpoint of the CRA, I feel we are behind the redevelopment effort of this area, and this is one of those efforts that we would side on with the property owner versus those that feel that this is too intrusive.

Thank you.

HEARING EXAMINER STRAIN: Maurice, you're the chairman of the CRA still?

MR. GUTIERREZ: Yes, sir.

HEARING EXAMINER STRAIN: Okay. I know in January there was a meeting in which you were presenting this project. And I saw by the minutes you were at the meeting, but I couldn't decipher in the minutes any position taken whether by consensus or formal vote. Do you recall how you handled it at that meeting?

MR. GUTIERREZ: There was no formal vote or motion to accept. The way it was proposed, it was more of an informative meeting and to see the feedback of the board, which was predominantly positive.

HEARING EXAMINER STRAIN: I appreciate your comments. Thank you, as always.

MR. GUTIERREZ: Thank you.

HEARING EXAMINER STRAIN: Next speaker, Ray.

MR. BELLOWS: Cheryl Risk. And the last speaker would be Diane Sullivan.

HEARING EXAMINER STRAIN: Ms. Risk, are you here?

UNIDENTIFIED SPEAKER: They both left.

HEARING EXAMINER STRAIN: Okay. Ms. Sullivan has left.

That takes us to the end of our registered public speakers, so now we'll open it up to any of those people who would like to speak who are not registered. And, sir, you just had your hand up. Do you want to speak?

MR. TRUITT: My name is --

HEARING EXAMINER STRAIN: Well, before you -- were you sworn in with the rest of the group?

MR. TRUITT: I was not.

HEARING EXAMINER STRAIN: Okay. First we have to swear you in.

(The speaker was duly sworn and indicated in the affirmative.)

MR. TRUITT: I swear.

HEARING EXAMINER STRAIN: Then we'll need your name and --

MR. TRUITT: Certainly. John Truitt, T-r-u-i-t-t.

I own the property on Cypress Street, Demere Landing, Lots 8, 9, and 10. I'm also a licensed attorney here in the state of Florida. My bar number is 92579, and I'm also licensed to practice law in the state of Massachusetts.

I -- there is a benefit to going last, I guess. A lot of people that came up brought up some excellent points, but certainly the first issue I'd like to address is, again, how did this initial project get approved with only 13 allotted parking spots? And we'll take that one step further. I borrowed the overlay here of the area. The property that I own --

HEARING EXAMINER STRAIN: You'll have to use -- make sure you use either the hand-held or the other fixed mic.

MR. TRUITT: The property that I own is here. It is now a vacant lot. It's the three lots. So the building that was on it has been torn down.

It is approximately, I believe, 100-plus feet of seawall. It is adjacent to the Celebration Park. And when the establishment opened with 13 allowed parking spots, the property in question that we're seeking a variance on -- or they're seeking a variance on on Becca Ave, there was a -- to my understanding, an allowance for construction vehicles only for use during construction. And since that time, obviously, since construction's been completed, it's been being used illegally for parking of customers for Celebration Park.

And I know that there's an active code enforcement presence in that area because I've received no less than three notices for my grass on my property being over six inches high and that I needed to cut it. So if you're as diligent about the height of my grass, I would hope you're as diligent about somebody using a piece of property illegally to park her customers on.

HEARING EXAMINER STRAIN: As an attorney, you probably understand that this meeting is about the property that's owned -- that encompasses the six lots to the north of Becca. So the code enforcement actions are a separate item that are being handled by a different department in Collier County that I'm not involved in.

MR. TRUITT: I take your point, but the point I'm trying to raise is the county, in its entirety, is certainly aware and of and diligent enough to get on me for illegal use or some type of an issue on my piece of property when I -- to my knowledge, has there been any type of similar addressing of the use of that piece of property for parking of customers for the past year illegally without -- why are we here to have this variance? And that also --

HEARING EXAMINER STRAIN: It's not a variance, sir.

MR. TRUITT: Or getting approval to use it for parking, correct?

HEARING EXAMINER STRAIN: It's a parking exemption.

MR. TRUITT: Okay, thank you. I appreciate the correction.

But the point is is if -- it is not approved for that use at this point, correct?

HEARING EXAMINER STRAIN: That's correct.

MR. TRUITT: Okay, thank you.

So up until this point, I think it also proves the point that I was trying to make as to why it was even authorized in the first place because it certainly underscores the fact that there was not adequate parking initially when it was approved for 13.

She's -- they're trying to get the variance for piece of property, and there's been testimony from other people that there have been purchases and potential use of other surrounding areas upward of 200-plus parking spots. So, again, that all underscores how did it get approved initially with only 13?

Because it's very clear, based on what's going on now, that that is woefully inadequate and

potentially what is -- even with the variance on this piece of property, it's still going to be woefully inadequate. And because my property is so very close to her property, when it first opened -- I've gone down there numerous times, and I've had individuals send me photographs, what have you, people park on my property. There's dog excrement on my property. There's litter on my property. People tie up on my seawall and walk over to patronize without my permission.

It's been nothing but a tremendous nuisance to me. And I echo some of the concerns that some of the other people have on the property. I don't -- there's not a home on there, and I don't live there, but certainly the location of my property in conjunction to hers, as well as it being a vacant lot, is extremely convenient for any overflow. She's supposed to be such a good neighbor, what is being done to address the concerns of the people on my property?

It's also, as an attorney, raised concerns for me, what if somebody gets hurt on my property?

HEARING EXAMINER STRAIN: I understand.

MR. TRUITT: So it's been nothing but a tremendous headache for me, and I don't even live down there. So I can only imagine what it's like for some of the people that do live near there.

And it's not a situation where I'm against growth in that area. It's just that it needs to be done in a way that's respectful and mindful of the concerns of that particular area.

So if you're going to be a good neighbor, be a good neighbor, you know. There should be no -- her goal, understandably, is to have a successful business, and by all accounts it is. But, certainly, there wasn't appropriate planning done with respect to parking, and now we're going back after the fact.

This is almost a foregone conclusion in my book. It seems to me like your -- the fact that we're having this meeting and giving me the opportunity to speak to you, it's almost patronizing and condescending because it's going to be rubber stamped. Why else you would you allow -- "you" meaning the county -- the initial allowance for her to build that property with 13 spots knowing that we're going to be, a year later, addressing an inadequacy of parking?

HEARING EXAMINER STRAIN: The review of that original piece of property is not a review we're doing today, and I was not involved in it, because was that done administratively. It's already zoned C4. So it didn't get to a level of a public meeting in that regard. So I can't answer your questions nor can I move into that action because I honestly don't know enough about it to talk to you about it today.

MR. TRUITT: But it's a situation where we can't put the toothpaste back in the tube.

HEARING EXAMINER STRAIN: Exactly. That's a good point, yes. That's what we're trying to deal with.

MR. TRUITT: Okay. So I disagree with that.

HEARING EXAMINER STRAIN: That's fine, and I understand your position.

MR. TRUITT: So I think that -- I mean, to make a final statement as to -- I disagree with allowing the variance for that piece of property at the end of Becca Ave to be used for parking. There's adequate areas around there, as many of these other people brought up. I wasn't even aware of that, but there's other avenues that need to be explored that may be more appropriate, certainly given the fact that even with all this extensive planning, you know, here we are almost 12 months after the fact, and I can personally attest to the issues it's caused me at my piece of property, and they've been all negative, negative, negative. Thank you.

HEARING EXAMINER STRAIN: You're noted for the record. Thank you very much.

Next speaker who -- anybody else like to speak? Yes, sir, come on up. Please identify yourself for the record. And I'll have to ask if you've been sworn in.

MR. BROWN: Yes.

HEARING EXAMINER STRAIN: Thank you.

MR. BROWN: Hello. My name's Antonio Brown. I'm a realtor in Naples and also developer.

I know Rebecca since 2013 when she was planning to buy that property. So we became partners. I'm a partner of Celebration Park and this new parking lot.

I just want to give you some perspective of what happened in these years. We purchased, not with Rebecca, with my partners, a Linda Ripe (phonetic), in 2013. Bayshore was basically starting to develop a little bit. Nobody wanted to live there that wasn't in that area.

This changed a lot in these years. My son has a house that he built on Van Buren. Across the street there's always -- all those houses are commercial, and there's a lot of people, young professionals coming to buy properties there because of Celebration Park, because of 360, because of the brewery, because of the Botanical Garden.

So many businesses are coming and so many people are attracted to Bayshore; that that doesn't happen in one day or two.

So I think these businesses that are coming, not just Celebration that we did with Rebecca, that are coming in the future to Bayshore are going to benefit everybody: The county, the businesses, the families.

So I just want to thank everybody and thank the county on the process. But this is a long and very painful process for us also. It's been five years that we've been developing this project, and I think this is the last piece that we need to make it successful, more successful than what it is right now, and it's a piece to have more safety, have the neighbors -- we are very pleased to help anybody that needs help or needs any suggestions that they have to the plans.

So I'm just saying that -- thank you to everybody, and I think it's a good thing for the community and for the businesses that are coming there, too.

Thank you very much.

HEARING EXAMINER STRAIN: Thank you, sir.

Next speaker, Ray -- or, sorry. Anybody else? Yes, sir. You want to come up. Please identify yourself for the record and let me know if you were sworn.

MR. GANN: I was sworn in.

HEARING EXAMINER STRAIN: Thank you.

MR. GANN: My name is John Gann, and I live on Shoreview Drive.

My history is all at the same time. I had a bed and breakfast, I had a restaurant, I had motels, I was a developer, a contractor, and I had a real estate, so I'm pretty familiar with the whole gamut of the conversation that's going on here.

My wife, when I met her, was in Naples, and I wasn't in Naples. So she brought me down here, and she introduced me to the area. Happened to come onto Shoreview Drive in 2013, saw some things going on.

Based on my past background, I thought it would be a good area. We purchased the property. I put a couple hundred thousand dollars in it because I ripped it right down to the bare walls. And, of course, the tax rate is considerably higher.

After that I saw the block I live on, the homes were selling at one point for less than \$300,000, and now they're up -- I see changes constantly. They're constantly changing. Two houses away from me just went from 425-. I think the guy is wanting 595- now.

So as far as deteriorating because of Celebration Park, it's not. It's like Fifth Avenue and South Street; everyone wants to be in an area that's developing.

For Maddox to have bought the property over across the street from her is probably the smartest thing as a businessperson to do, because she might have leases right now, but the more

successful she's going to be, those leases can change the next time the contract comes around.

It doesn't take long before you're out of business. Fifth Avenue and South, same thing. The more successful, the tenant pays more money. It's out.

The parking lot -- and I understand the people around it might have some concerns, and I truly understand that. But from what I've seen with the map, the planning, the fencing, the sidewalk, all the things, I think it's trying to be addressed, as much as possible, can be done.

I think this is a good idea for it. The CRA is behind it. I know my community, maybe not necessarily the people right on that street, but the community in general is very much behind it, and I think the county should do everything it can to help get this temporary problem solved and help business grow on Bayshore.

Thank you.

HEARING EXAMINER STRAIN: Thank you, sir.

Any other speakers who have not already spoken?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, I'd like to talk with some staff members before we go to applicant's rebuttal.

And, Matt, if you have -- Matt McLean, if you're still here.

MR. McLEAN: Matt McLean, for the record.

HEARING EXAMINER STRAIN: Thank you, Matt, for staying.

The parking calculations, do they include employee parking as well? The numbers were 68 required, 75 provided. Does that 68 required include any consideration of employee parking, or is that an additional calculation that has to be added to the 68?

MR. McLEAN: I would have to go back and review that particular one. Can I come back to that question after I look at the plan?

HEARING EXAMINER STRAIN: Yes. Let me make sure I don't have anything else of you first.

Pervious pavers, the issue came up. In regards to whether or not a pervious paver would change anything in the off-site discharges, would they or would they not?

MR. McLEAN: The off-site discharge ultimately wouldn't change, but we have had some very successful projects that have utilized pervious pavement and pervious pavers.

What effectively happens on that is, obviously, there's a lot more pervious surface within a development, which then can, quite frankly, potentially allow someone to -- in the case of this particular project there may be an opportunity to get some additional parking spaces beyond what they're currently showing because there would be less dry detention area typically needed, because you could utilize that storage underneath that particular type of construction.

HEARING EXAMINER STRAIN: But from a perspective of off-site drainage, which is what the gentleman was concerned about or expressing frustration with, I believe, Becca or somewhere where they've had some additional waters, would that change anything from the discharges that would come off this site?

MR. McLEAN: From an off-site drainage perspective, it would not. They're still allowed to have a certain amount of off-site discharge availability, and that difference between pervious versus non-pervious surface would not impact their allowable discharge.

HEARING EXAMINER STRAIN: What I understood it to be mostly used for is to create more impervious where they have more hard surface than they can accommodate with the dry detention area like they've got here.

So, in essence, they could have more asphalt and less dry detention if they have more pervious through pavers.

MR. McLEAN: That's correct, if they chose to design it that way.
I'll come back.

HEARING EXAMINER STRAIN: That's all I've got. I have a couple other questions of somebody else right now.

Ray, I've got a couple of different questions. The additional parking, if the parking's related to the principal use and they want to use it on a leased facility, what do they have to do for us to be able to count that as a principal-use parking?

MR. BELLOWS: You mean the parking to the south of --

HEARING EXAMINER STRAIN: It doesn't matter where it is. Right now if we -- if someone wanted to come in and they needed more parking spaces than they could fit on site and they had a parking exemption where they didn't own property, what would they end up having to do in order for us to convince -- convince the county that they could have additional parking counted on that off-site?

MR. BELLOWS: Well, there are three types of parking exemptions. Two of them require at least 67 percent of the required parking to be placed on the site of the commercial use seeking off-site parking. That off-site parking requires a 10-year lease.

HEARING EXAMINER STRAIN: That's what I was getting at. I thought we had a lease arrangement.

MR. BELLOWS: Yeah.

HEARING EXAMINER STRAIN: So unless those other sites that were referenced could be leased in a signed lease for 10 years, we could not count them as her off-site permanent parking facilities to qualify her operations; is that fair to say?

MR. BELLOWS: If I understand your question, the Site Development Plan is required to depict this off-site parking to meet their parking requirements.

HEARING EXAMINER STRAIN: Correct. And we would require a 10-year lease in order for that to be effective?

MR. BELLOWS: Correct.

HEARING EXAMINER STRAIN: Okay. Another -- and I have a question of Mr. Mulhere. Do you have any days in which the parking lot doesn't operate, the parking or Celebration Park doesn't operate?

MR. MULHERE: Mondays.

HEARING EXAMINER STRAIN: Then you wouldn't need to operate that parking lot on Mondays, would you?

MR. MULHERE: If we're not open, we don't need to operate it.

HEARING EXAMINER STRAIN: Okay. That's what I needed to hear. And with that, unless Matt has a clarification on the question he was going to check on, I'll go -- let you go into your rebuttal.

MR. McLEAN: With respect to the employees, that actually is all filtered and then counted with respect to the restaurant square footage and the outdoor footage or, I'm sorry, the outdoor seating area. There's not a specific line item for employees when it comes to the required parking. It's assumed that it's calculated within those particular components.

HEARING EXAMINER STRAIN: That's what I needed to confirm --

MR. McLEAN: Thank you.

HEARING EXAMINER STRAIN: -- that we did take it into consideration. Thank you. Okay. Bob.

MR. MULHERE: I was looking for that exhibit that the young lady put on the visualizer that had the parking.

That's it. Thank you.

I just wanted to briefly address, because it was raised by several people, the, you know, amount of additional parking. As a community or urban planner who's worked in Collier County for almost 30 years, maybe more than 30 years, and also someone who's worked on both the public side of the CRA development as well as the private side representing clients who may have an interest in the CRA -- and I think it was mentioned, you know, what happens is that you can become a victim of your own success. It's been 20 years to get to this point where there is this kind of interest, where property values are actually increasing where there is interest in the CRA, broader CRA, but including Bayshore.

And, you know, the same thing happened on Fifth Avenue and, ultimately, they built -- I think there's three parking garages and a fourth one planned in downtown Naples, built by the city and maintained by the city for free public parking.

We don't have that situation here, but I heard mention that the CRA -- and I know that they are looking for opportunities to create some additional public parking, because there will be deficiencies of parking if people increasingly come to Bayshore to recreate, to dine, to perhaps -- you know, maybe to go to an art gallery or go to the Botanical Gardens, which certainly has enough parking on its own.

So these -- these parking spaces that were shown on this exhibit -- and you mentioned it. There is a requirement for a long-term lease minimum of 10 years, but if you're a businessman or woman -- sorry. In this case, businesswoman -- you know, it wouldn't make any sense to have a successful business and have a 10-year lease that might expire, so you'd probably want a longer-term lease or a more permanent situation.

This is a more permanent situation. The parking that is available -- I don't know the name of the commercial, but it's a block north of Becca. Mr. Ingram owns the property, Larry Ingram. That property's for sale, and that is, I believe, at best, a month-to-month lease. It was done because when the park became successful there was a need for more parking. When I went there three or four times, I parked in his parking lot. That may or may not be available.

The leased parking on the other side of 360 Market that was referenced, I think 53 spaces, not all of those spaces are available to Ms. Maddox. And, also, that is a short-term lease. I think it expires -- she may have a year on that. I don't know the details, but it is not a long-term lease.

So these are temporary fixes. There may be an opportunity to provide some additional public parking or parking for businesses that Ms. Maddox is associated with as she develops the parcels that she purchased on the east side of Bayshore. But that's still in the planning stages. We don't know.

And so none of those are -- you know, are the kind of solution that this provides an opportunity to.

I guess I would say that I think we appreciate the problems and the concerns that this has generated in the neighborhood particularly for people who live close to this parking lot. It's not improved to the standards that the county would require. It needs to be improved to those standards or greater, and in this case we are providing greater standards, and we recognize that.

That probably doesn't alleviate the problems that people have already experienced, but at least we can take care of it moving forward.

This is -- there is actually a code enforcement case that was opened on this off-site parking lot, and this is one opportunity to remedy the illegal use of that parking lot. The other remedy would be to eliminate everything and restore it to its previous condition. So there are opportunities. There is a code enforcement case.

I think that really -- that really concludes my rebuttal. Thank you.

HEARING EXAMINER STRAIN: Just one point of clarification, because it's been brought up a couple times. The current facility to the south that is not part of today's review, which is the Celebration Park site --

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: -- you're in for some processing there, too, right, an SDP review, on anything there?

MR. MULHERE: No, not my knowledge. I think what has happened is there is a Site Development Plan amendment which will incorporate the off-site parking lot.

HEARING EXAMINER STRAIN: Right. But the parking of the 13, whatever number, 12 -- I don't know how many spaces you have.

MR. MULHERE: I think it was 13.

HEARING EXAMINER STRAIN: Those number of spaces as being corrected through the current submittal that's being reviewed that Matt had come up and provided the numbers for --

MR. MULHERE: To ensure that the appropriate number of parking spaces are provided knowing what we know today, and that will limit the number of seats that can be provided for on the site. The only way that you could put more seats in than whatever that Site Development Plan typically would limit you to -- and I don't know the details. I'm not working on it -- what that number is. But there will be a limit. It's based on the parking.

HEARING EXAMINER STRAIN: Right. So if you need -- if you put more --

MR. MULHERE: You've got to find more parking, exactly.

HEARING EXAMINER STRAIN: I just wanted to make sure, because that is a correction, then, to the original submittal.

MR. MULHERE: Yes, that's correct.

HEARING EXAMINER STRAIN: I don't have any other questions, Bob. I think everything that I had written or thought about has been asked, and we've had public testimony and staff follow-up.

So with that, we will close the public hearing, and a decision will be rendered within 30 days.

And I thank all of you for your attendance today. I greatly appreciate your input, and we'll have something out to you soon.

That takes us to other business. There is none. And this meeting's adjourned. Thank you.

August 22, 2019 HEX Meeting

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 11:21 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 9-12-19, as presented or as corrected _____.

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