

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
October 8, 2020

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

HEARING EXAMINER ANDREW W.J. DICKMAN

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

PROCEEDINGS

HEARING EXAMINER DICKMAN: Morning everyone, it's 9:00. Let's get started. It is October 8th, 2020. This is the hearing examiner public hearing. Why don't we get started with the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER DICKMAN: All right. Thank you. Just some real quick housekeeping issues; as you can see we are in a hybrid form of the public hearing. Some folks are here live in person, it's obvious. Some folks will be virtual on the screen.

All of this is to accommodate the health and safety of the -- everyone involved due to the COVID pandemic. I appreciate you abiding by the social distancing and other guidelines we have in place.

This is a quasi-judicial hearing. You can see we have two podiums up here. We have a lovely court reporter over here, who is going to be transcribing everything. One thing she cannot transcribe is thumbs up, head shaking. It's all gotta be verbal. So let's all try not to talk over each other. It's important to take this down for posterity so we will all be known in the future 100 years from now. All right. So the way it's going to work, oh, thank you very much. Yes. All phones, take your ringers off, put it on vibrate. If you have to make a phone call, step outside, but maybe give yourself a break and don't take any phone calls. Turn your phones off and tell everybody you're busy.

What we're going to do today is, the process is going to be the applicant will, or applicant's representative, will come up and make a presentation. We're going to use the brown podium for that.

Then after that we'll have county staff use the gray podium over here, then we will take public comment. Applicant and applicant's representative will have time for rebuttal, if necessary. Then we will open for public hearing, and then close the public hearing, and then we will have discussion and wrap it up at that point.

Then my decisions will not be made here today. I will render a written decision after this hearing within a reasonable time frame and you will receive that in the mail via e-mail, if you don't mind, and with that, anything else? And we have Jeremy the Wizard of Oz back here, with the headband on. He is the master and controller of the universe today.

He is controlling our virtual sites and everything else. He is going to let me know if anybody is online. He can bring things up on the screen. He is of that generation that knows how to do everything, unlike me and maybe a few other people.

So with that, anything else we need to say? We have a gentleman here who is going to wipe down all the -- everything. Wear your mask at all times, except when you come to the microphone, take your mask off. Obviously, it's a little easier to speak at that time, and we'll go from there.

Everybody relax, let's get this done and get you in and out, or we can stay here all day and have fun, depends on what you want to do. All right? So the first item -- anything else? Ready to go? Anything else? Any other housekeeping? Jeremy? Anybody? All right. Good.

So we have 3A, first item on the agenda, unless there were any changes to the agenda?

MR. BELLOWS: No changes to the agenda.

HEARING EXAMINER DICKMAN: No changes to the agenda. So we have Item 3A, this is a petition, I don't want to read the whole thing, but an application for a variance. Who do we have here?

MS. ROBIN: Good morning.

HEARING EXAMINER DICKMAN: One second. I forgot. Thank you. Let's swear everybody in. Everybody who is going to testify, give evidence, let's swear everybody in. If anybody comes on afterwards and they haven't been sworn in, we will swear them in at that time.

(All parties were duly sworn and answered in the affirmative.)

HEARING EXAMINER DICKMAN: All right. One other thing, my name is Andrew Dickman, I am the hearing examiner. I've looked at everything on the agenda today. I have had no parte contact with anybody. I have nothing to disclose, haven't been to the sites, all I have done is read the staff reports, all the materials that have been submitted and have had a few conversations with staff, and that's it, that's my disclosure. Now we're ready to go. Sorry for the interruption. Good morning.

MS. ROBIN: Good morning. Just take me minute here. My name is Lindsay Robin, I'm an engineer with Waldrop Engineering. I'm here today representing the applicant, Troy and Quenby Broitzman. They are the property owners of 2375 Marete Drive. We are here today for a setback variance. Do I have control of this?

MR. FRANTZ: No, that's me. You can just let me know when you need the next slide.

MS. ROBIN: So this is the subject property. It's located at the eastern terminus of Marete Drive, about a quarter mile east of Greenway Road in South Collier County.

We are here today requesting approval of a setback variance from the Rural Agricultural Zoning District to reduce the minimum project setback requirements from 50 feet to 22 feet for the Majestic Lakes Subdivision.

The property is about 40 acres in size. It's undeveloped, except for the excavation lake that remains. It was formerly used as an excavation and mining operation, and received conditional use approval in 2003 to provide materials to develop the Habitat for Humanity Subdivision that's located just to the north that's known as Regal Acres. The site itself is surrounded on all sides by agricultural uses and scattered single-family uses. It's within the rural agricultural, rural fringe mixed use district -- zoning district, and within the rural fringe mixed use district receiving lands, future land use category.

The property owners also filed a concurrent TPL to develop the site with eight single-family residential dwellings.

So our request today is for a variance to allow the 22 foot front yard setback where 50 feet is normally required in rural agriculture zoning district. This setback will only apply to the eight single-family lots. The lots will meet all of the other development regulations for the rural ag zoning district, in terms of setbacks and lot requirements and heights, and then the proposed use to single-family use is consistent with your underlying land use map and growth management plan.

As well as with this setback the -- there is going to be at least 70 feet maintained between the lot line and the property line, so there's still a very significant setback. This is the variance site plan, so you can see that the excavation lake takes up a very significant portion of the property. The applicant purchased the property in 2018 with the intent to develop the use under the rule ag zoning district, with homes that are represented as a rural zoning district, in terms of scale and size and quality, but the remaining lake area created from that excavation operation encroaches significantly into the developable area of the single-family lots, and, again, all of the other code requirements will be met.

Your staff has done an excellent job outlining the variance criteria. If you'd like I can go through each one, or you can rely on the application materials and the staff report.

HEARING EXAMINER DICKMAN: Why don't we wait and we'll have staff come up and address that. Do you agree with the staff report?

MS. ROBIN: Yes.

HEARING EXAMINER DICKMAN: And everything in it?

MS. ROBIN: Yes, thank you.

HEARING EXAMINER DICKMAN: Yeah. No, we'll wait and see. So there is a -- for everyone listening, under the Land Development Code, Section 9.04.03 A through H is the criteria for this type of variance and the staff report has outlined that, and they will be coming up and addressing any questions.

My understanding here is that this is a unique piece of property because it was previously mined and has a pond in it. It looks as though there is one access point to the property; correct?

MS. ROBIN: That's correct.

HEARING EXAMINER DICKMAN: Then you take a left turn, a right turn and ends up in cul-de-sac, and because of the lake situation not being quite centered in the property, you need a front yard setback in order to accommodate that; is that a fair assessment?

MS. ROBIN: That's very fair; correct.

HEARING EXAMINER DICKMAN: You are an expert. I recognize you as an expert giving

expert testimony. Is your applicant here, or anybody else want to speak, or are you good to go?

MS. ROBIN: I have one more slide left.

HEARING EXAMINER DICKMAN: Okay. Put that in the record. Anything you want in the record, let me know.

MS. ROBIN: Okay. Next slide. Thank you. So staff is recommending approval of the variance request. It's consistent with your growth management plan and addresses some policies. Again, all of our development standards will comply with the rural ag zoning district.

The setback variance does not increase the density or intensity of the subject property; and then the proximity of the building and external lot lines, we're not changing the side or rear yard setbacks, so compatibility will be maintained as intended in the rural access zoning district, and then this request is consistent with your variance criteria, and that's all I have. Thank you.

HEARING EXAMINER DICKMAN: Thank you very much. You want to hang around up there while we go through this?

MS. ROBIN: Sure.

HEARING EXAMINER DICKMAN: Okay. Great. Ray, do we have everybody here? All right. Come up on, sir. This is our trusty county planner; one of them at least.

MR. FINN: For the record I'm Tim Finn Principal Planner. The project is compliant with the GMP and LDC; therefore, staff recommends approval.

HEARING EXAMINER DICKMAN: Okay. One question -- or maybe a couple of questions. I want to get the notice on the record. So has this been properly noticed under the requirements for everything?

MR. FINN: Yes, sir, it has.

HEARING EXAMINER DICKMAN: Can you describe that real quickly, signs, publication; things like that?

MR. FINN: Yeah, the sign was posted.

MR. BELLOWS: That was the sign you posted; correct?

MR. FINN: No, they posted it.

HEARING EXAMINER DICKMAN: You didn't take your posthole diggers out there?

MR. FINN: No, I did not.

HEARING EXAMINER DICKMAN: Ray, you need to let these guys have some fun. It's properly noticed?

MR. FINN: Yes.

HEARING EXAMINER DICKMAN: Okay. Great. The criteria that we mentioned, I see your -- in your professional opinion that it meets the criteria, A through H. I see that you have put that in there. The property is unique. I take it you did not dig the hole out there, just to get the variance?

MS. ROBIN: I didn't.

HEARING EXAMINER DICKMAN: I didn't think so, and everything else you feel in your professional opinion --

MR. FINN: Yes, sir.

HEARING EXAMINER DICKMAN: -- meets the criteria?

MR. FINN: Yes.

HEARING EXAMINER DICKMAN: Great. Why don't you have a seat, not disappear. Why don't we open it up for public comment? Anybody here to speak on this item? Anybody in the audience? I see no hands. Go back to the voice from afar. Jeremy, is there anybody online?

MR. FRANTZ: There's no one on the Zoom.

HEARING EXAMINER DICKMAN: Nobody is interested. Great. You're lucky. Anything else? You want to rebut anything?

MS. ROBIN: I'm great. Thank you.

HEARING EXAMINER DICKMAN: You want to divulge anything?

MS. ROBIN: No.

HEARING EXAMINER DICKMAN: Ray, anything?

MR. BELLOWS: Nothing from staff.

HEARING EXAMINER DICKMAN: Okay. Thank you for your presentation. I will get a decision rendered as quickly as possible.

MS. ROBIN: Thank you very much.

HEARING EXAMINER DICKMAN: Thank you for being here. Put your mask back on. Now everybody is leaving. Wow. There were some interested people here. Don't want to speak. All right. Let me pack this one up.

Ray, you gave me a variety of things today on the agenda, a little something --

MR. BELLOWS: A good mix.

HEARING EXAMINER DICKMAN: Yeah, good mix. All right. We're going to 3B. What do we got here? We have -- one second. This is a zoning verification letter, right, Item 3B. How are you, sir?

MR. MULHERE: I'm well.

HEARING EXAMINER DICKMAN: Did you get sworn in?

MR. MULHERE: I was.

HEARING EXAMINER DICKMAN: All right.

MR. MULHERE: For the record, Bob Mulhere for the applicant, Tom Taylor.

HEARING EXAMINER DICKMAN: Okay.

MR. MULHERE: That's the recently retired Tom Taylor.

HEARING EXAMINER DICKMAN: What? People retire?

MR. MULHERE: He put in his dues. The rest of us have to keep working. So as you indicated, Mr. Dickman, this is a comparable use determination related the Pine Air Lakes PUD DRI. Next slide, please. It's for an affirmation that self-storage or indoor air-conditioning self-storage is a comparable use of office uses within the PUD.

The subject site is shown on the visualizer, and there is also a zoning map on the left, which shows the surrounding uses. It has direct frontage to Naples Boulevard. Pine Air Lakes, you're probably very familiar with it.

The Home Depot is to the south, and you have Costco and several auto dealerships immediately adjacent to the property, both the Volvo and Infinity dealerships. Next slide.

This is an aerial depicting the subject property. On the right I highlighted in yellow, and you'll see the parcel which is approximately four acres, about an acre of it is already developed with a -- basically a car storage lot. It's affiliated, I think, with the both -- with the Infinity dealership.

The vacant parcel is what is the subject of this application. There is a minor subdivision plat that's been submitted to separate the two parcels. Next slide.

This is an excerpt from the PUD which identifies under the office section that any professional commercial use is just comparable in nature, and which the Board of Zoning Appeals determines to be compatible with the district, but that responsibility now falls with you.

Next slide. This is the master plan, just really nothing specific to speak to. It's a pretty simple master plan. Next slide. The comparable use determination is based on several factors, compatibility with other permitted uses, and particularly the surrounding uses, impacts on public facilities and trip generation.

This self-storage use is compatible with, and less intensive than the other permitted uses. As I said, immediately surrounding the property is two car dealerships and car storage facility -- surface storage car facility, and also an existing self-storage facility, and then, of course, the property is immediately adjacent to Naples Boulevard, and across Naples Boulevard is a fairly large storm water lake.

This use generates less solid waste, less potable water and waste water use, has little impact on emergency services, does not create noise or odors, which many of the other uses could, and generates fewer trips. Next slide, please.

This is the TIS prepared by Treppel, Cott & Associates. Granted, we did both regular warehousing and mini-warehousing. You can see that mini-warehousing is a very low traffic generator, generating 17 p.m. peak hours trips, compared to the general office generated 55 p.m. peak hour trips. Next slide, please.

The staff, John Kelly, was our reviewer. He's in the back of the room, and the staff does recommend approval with three conditions. Those conditions are not a problem for us. We agree to those. Next slide. Any questions?

HEARING EXAMINER DICKMAN: Not at this time. Why don't we have staff come on up, and this is going to be John or Ray? Okay. All right. So while he's coming up, just in general speaking, you know, whenever they have permitted uses in an area, they can't list everything contemplated in the world.

So they have evaluated this and have issued a letter that I'm reading or looking at. It's dated August 6th, 2020 addressed to you, Mr. Mulhere, regarding this item, and it is signed by Mr. Kelly and Mr. Bellows, to my right. Mr. Kelly is here. And in red it says this letter supersedes that dated August 5th, 2020, corrected section and range above, is that the letter that we're working with today?

MR. MULHERE: Yes.

HEARING EXAMINER DICKMAN: Is that correct? Okay. So let's address the due process first.

MR. KELLY: I haven't been sworn in.

HEARING EXAMINER DICKMAN: Oh, you're late.

JOHN KELLY,

the Witness herein, having been first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

MR. KELLY: For the record, John Kelly, Senior Planner. I reviewed the project. It's consistent with the Land Development Code; found the self-storage as an office use to be consistent with the comparable use determination process, subject to the three stipulations that are part of the staff report, and there was no sign posting requirement --

HEARING EXAMINER DICKMAN: Okay.

MR. KELLY: -- or the only mailing came from the county pertaining to this meeting.

HEARING EXAMINER DICKMAN: Okay.

MR. KELLY: So they have satisfied the guidelines for notification.

HEARING EXAMINER DICKMAN: Okay. And this meeting has been advertised, the agenda has been advertised, so I believe that we've met that standard of due process for notification, and the three conditions are, if you don't mind addressing those really quickly?

MR. KELLY: Okay. No. 1, any such indoor self-storage mini warehouse facility must be fully enclosed, and be designed to appear and operate in both use and function as an office building with no bay doors being exposed to Naples Boulevard.

No. 2, as per the LDC, Section 10.03.03, site development plan approval is required prior to development of the subject property to comply with the CPUD Section 3.09 maximum square footage uses. The applicant must produce evidence that sufficient office square footage remains to accommodate the proposed self-storage mini warehouse facility at the time of SDP review; and, No. 3, no outside storage is permitted. Additionally, there shall be no rental or leasing of trucks, automobiles or trailers from the subject facility.

HEARING EXAMINER DICKMAN: Okay. Very good. Mr. Mulhere, I suppose you're speaking on behalf of your client, the applicant, and they agree to all of this?

MR. MULHERE: Yes, those conditions are fine.

HEARING EXAMINER DICKMAN: All right. Great. So I assume this letter is just a precursor to wanting to purchase the property --

MR. MULHERE: Correct.

HEARING EXAMINER DICKMAN: -- or lease it or something like that?

MR. MULHERE: That's correct, there's a contract for purchase.

HEARING EXAMINER DICKMAN: They're wanting to know whether they can do what they want to do before they buy it; that makes a lot of sense. So everybody can go shopping at Home Depot, Lowe's, Costco and put all their stuff into the storage, right, and Dick's?

MR. MULHERE: I both nodded my head and gave you a thumb's up.

HEARING EXAMINER DICKMAN: Yeah, and go across the street and wash their car, and it's all good. All right. Thank you, Mr. Kelly. Anybody here from the public to speak on this item, for or against? Is see nobody here to speak. Jeremy?

MR. FRANTZ: No one is registered on Zoom.

MR. MULHERE: Thank you, Mr. Dickman, Mr. Bellows and Mr. Kelly.

HEARING EXAMINER DICKMAN: All right. Thank you. I will render an opinion as quickly as -- actually, do I need to render an opinion on this?

MR. BELLOWS: Yes.

HEARING EXAMINER DICKMAN: All right. Great. So I will do that, zoning verification letter. Thank you, everyone involved in this. You may go. All right. Item 3C on the agenda, this is a conditional use; right?

MR. BELLOWS: Correct.

HEARING EXAMINER DICKMAN: That's what it looks like. Okay. Why don't we start off with the applicant. Come on up. How are you, sir?

MR. ARNOLD: Very good, thank you.

HEARING EXAMINER DICKMAN: Good morning.

MR. ARNOLD: I'm Wayne Arnold, certified planner with Q Grady Minor & Associates representing the Destiny Church, and I have several professionals, and I think because of the room capacity, several of them were not sworn in. They were in the hallway, and so we might want to go ahead and swear them in.

HEARING EXAMINER DICKMAN: Okay. Go ahead and swear them in.

(All parties were duly sworn and answered in the affirmative.)

HEARING EXAMINER DICKMAN: And I don't really think you need to swear anybody in that has a Florida Gator shirt on. All right.

MR. ARNOLD: All right. Good morning. Jeremy, thanks for letting the presentation. With us today I have Pastor Greg Ball from the Destiny Church, Gina Wahlberg with the church, Rich Yovanovich is our land use counsel, Mike Delate from our office is the professional engineer, Marco Espinar is our biologist wearing his Gator shirt proudly, and Jim Banks is our traffic engineer.

HEARING EXAMINER DICKMAN: All right. Great.

MR. ARNOLD: So we're here requesting two conditional uses, Conditional Use 7 and 11 of the Agricultural Zoning District. We have property that's zoned agriculture. We're here for those two conditional uses, which would authorize a new church campus with an associated childcare center onsite.

This is in a rural fringe area. It's about 40 acres in size and your comprehensive plan allows all the underlying uses and conditional uses for that district. Jeremy, if you could advance that?

The subject property is located on the south side of Immokalee Road. On the aerial on the screen it shows you the assemblage of the 40 acres that are part of the conditional use, and the subject property is obviously outlined in yellow.

On the next slide -- Jeremy -- there is another parcel that the church acquired after we filed the conditional use that's outlined in orange. It's an adjoining single-family residential use that's on Krape Road. It's not part of our application, but just so that -- for orientation of people who are in the area, we can control the nearest residence to the property.

This was a former equestrian facility that, you know, many of us who have been in the area a long time have driven by and the saw the horse facility.

After the right-of-way expansion for Immokalee Road, the facility no longer was operating, and it's been on the market, and, of course, Destiny Church has now acquired the site.

Jeremy, if you could advance that. Just this aerial shows you there is several other churches in the immediate area to our east and further to the west. This property is about two miles east of Collier Boulevard, but there's an Orthodox Church, Seven Day Adventist Church and Cornerstone Baptist Church and Naples Church. So obviously this is a use that's permitted in the vicinity, and, obviously, Immokalee Road is six lanes in this area and plenty of capacity on that roadway. Next slide, please.

This is our conditional use conceptual site plan. It's oriented to Immokalee Road to your west. The church parcel itself, which to kind of explain and walk you through the conceptual plan here, access to -- primary access, I should say, will be off of Krape Road and Immokalee Road, try to point to that if you can point through the glass, make sure it's going to show on the screen, no, it's not.

Anyway, so our access point would be on Immokalee Road about midway on our property. The area where the church sanctuary and our multi-purposes offices and childcare facility would be are going to be located in an area that's previously been cleared and operated as part of the equestrian facility.

A large part of this site, the rural fringe area, requires additional open space than areas in the urban area, so we have identified some areas as open space and some areas as a preserve. The preserve represents the minimum preservation area that's required.

The other open space areas are areas that probably will be retained as vegetation, but it's a different designation and we don't have to encumber that with a conservation easement as we go through the process.

The -- internally there's a road, and I'll explain a little bit to that, and it leads to an area that we would call residence/classroom and open play field and Rivers Road, and we show an access point to Rivers Road as well, and there's a condition No. 8 that addresses improvements to Krape Road, and we're going to talk to you about a modification that we've been discussing with staff to that condition.

I don't have a copy of some of the latest staff language, but I do have a copy of the language we proposed to staff that's going to be slightly modified as part of the presentation. So, again, we have a restriction that goes with this for 125,000 square feet of building area, a maximum of 1,000 seats for the church and a maximum student count of 200 for the childcare facility. Next slide, please, Jeremy.

This is an aerial overlay that shows you the relationship to the surrounding area, and you can see that south of our play fields there is a residence nearby, and the nearest residence to our west has now been acquired by the church.

If you could advance that, Jeremy. The summary, again, we have a 70 percent open space standard, and that's about 28 acres, which we've accommodated on the conceptual plan. The church parking is standard. There's no deviations proposed as part of this, and there is a number of conditions that have been offered by us and modified by staff. Next slide, please.

I don't know if you want me to go through all these, but, Mr. Dickman, these are fairly standard type conditions that go with conditional uses, and there had been issues in the past for things related to noise, hours of operation, what uses of the church facility might occur that are non-worship related.

So we have standards put in place on these conditions. We're in agreement with staff on all of these, with the exception in their recommendation in the staff report, they indicated a modification to Condition No. 8. If you can advance that, Jeremy.

Condition No. 8 address it, said that at time of site development plan approval Krape Road shall be improved south from Immokalee Road to our project entrance, and that would include installation of a sidewalk on one side of Krape Road. What we offered -- next slide, Jeremy, sorry, one more slide -- was a modification to that where we added on to No. 8, and the underlying that's on your screen says, access on Rivers Road would be limited to the existing residential use, and at the time the church was established, classroom or athletic fields as depicted on the plan, Rivers Road would be improved at the county standards, or alternatively, access to Rivers Road would be removed and internal access would be utilized.

Staff has another version of that and I'll let them put that up on -- I don't think we have a visualizer here, but maybe read those language into the record. We've reviewed it and it's a slight modification of this language, so I will let them address that, but we are, otherwise, in agreement with all

the conditions and recommendation of approval. We're here to answer any questions from any of our professionals.

HEARING EXAMINER DICKMAN: Thank you, Mr. Arnold, and you are the expert for the applicant?

MR. ARNOLD: Yes.

HEARING EXAMINER DICKMAN: And you have now placed in the record evidence to this effect. I see that the -- let's address the conditions, because that has changed. In the staff report that I have it says Attachment A are the proposed conditions of approval, so why don't we bring county up here to talk to this?

MR. SABO: Good morning.

HEARING EXAMINER DICKMAN: Good morning. How are you, sir?

MR. SABO: I'm well. How about yourself?

HEARING EXAMINER DICKMAN: All right.

MR. SABO: James Sabo -- let's not have this dangle from my ear.

HEARING EXAMINER DICKMAN: Yeah, it's the day we're in.

MR. SABO: James Sabo, Principal Planner for the county. I won't read through all the conditions as well. I will tell you, Mr. Dickman, that we went through these conditions with the county attorney's office and the applicant on several different occasions, came to an agreement on all of these, except for eight, and then in the recommendation it states that we recommend approval subject to a slight change to Condition No. 8, modifying it about Rivers Road and Krape Road improvements to county standards at the time of SDP, and then Mr. Sawyer from transportation is here and he provided an update to that condition, and what may work best. I can share this with you.

HEARING EXAMINER DICKMAN: Is that different than what Mr. Arnold put on?

MR. ARNOLD: Slightly different, yes.

HEARING EXAMINER DICKMAN: Slightly different. All right. Let's work that out. I'll definitely need a copy of it if I'm going to render an opinion. Why don't we go through that and explain that so we have that on the record.

MR. SABO: All right. Let me first clarify the project was properly noticed --

HEARING EXAMINER DICKMAN: Thank you. I missed that.

MR. SABO: -- with the public hearing signs as well.

HEARING EXAMINER DICKMAN: Did you put them out or dig the hole?

MR. SABO: I did not, the applicant is required. I can dig Dick the hole myself.

HEARING EXAMINER DICKMAN: Right. Let's get this worked out so people get the day off.

MR. BELLOWS: Just for the record, when the property is an acre or less, staff will put the sign out.

MR. SABO: I'm going to defer to Mike Sawyer from transportation. He may be able to better explain that.

HEARING EXAMINER DICKMAN: Come on, Mike. Mr. Arnold, you have seen this language already?

MR. ARNOLD: We have.

HEARING EXAMINER DICKMAN: You have.

MR. SAWYER: For the record, Mike Sawyer, transportation planning. James, do you have a copy? You had my only copy.

HEARING EXAMINER DICKMAN: You want mine?

MR. SABO: Thanks, Mike.

MR. SAWYER: Basically what we're proposing is basically just to define a little better the LDC section that references county standards for local roads.

HEARING EXAMINER DICKMAN: Right.

MR. SAWYER: And I believe we've also got in there a first certificate of occupancy for

classrooms or the athletic fields. I believe that's primarily the changes that we're proposing.

HEARING EXAMINER DICKMAN: Okay. This is a timing issue.

MR. ARNOLD: Mr. Dickman, if I might, it really is a timing issue. The church purchased that residence as part of the acquisition of the entire parcel, and they currently lease that home out, and it will continue to be leased until a future phase of this campus.

When we first started to talk with staff about this, we didn't feel there was a compelling need to make upgrades for the existing use that's been occurring on the site, so the language is being addressed to tie this to the future use, to convert this into either classrooms and additional ball fields, so there would be activities that may warrant improvements to the road.

HEARING EXAMINER DICKMAN: Okay. Does this in any way affect Policy 5.1 of the transportation element in any way whatsoever? I just want to be clear, that's in the staff report. You have to address that. So no impact to that?

MR. SAWYER: Correct. Again, Mike Sawyer, transportation planning. It does not -- it isn't directly affecting 5.1. This is actually affected by 6.06 of the LDC, which goes to access points and that sort of thing. Our concern is if it gets used more than just for the residence, it would be accessing the substandard road.

HEARING EXAMINER DICKMAN: Okay. So it would be an intensification from residential to something else, and at that time the roadway would be improved by your client; right?

MR. ARNOLD: That is correct, and I would go on to say that both Rivers Road and Krape Road are private roads and they're not maintained by Collier County.

HEARING EXAMINER DICKMAN: Okay.

MR. SAWYER: Agreed.

HEARING EXAMINER DICKMAN: All right. Very good. Okay. Anybody here from the public? Do you have anybody on your team that you want --

MR. ARNOLD: If you have questions, we have our entire team of experts here. Otherwise, I'm not going to have folks come up and speak.

HEARING EXAMINER DICKMAN: Okay. Nobody is here from the -- anyone in the audience you want to give -- all right. Jeremy, anybody in the virtual world?

MR. FRANTZ: We do have one person registered for this item.

HEARING EXAMINER DICKMAN: Okay.

MR. FRANTZ: James Agoritsas.

HEARING EXAMINER DICKMAN: Okay.

MR. FRANTZ: James, can you hear us?

MR. AGORITSAS: Yes, I can.

MR. FRANTZ: Okay. Go ahead.

MR. AGORITSAS: Yes, my name is James Agoritsas. I'm a member of the parish council of St. Paul Orthodox Christian Church. Parish council, as you may assume, is the governing body of the church.

We've been located in our present site for almost 15 years now, and we're planning future expansion, as we speak, to include a social center, which we have none presently on the site.

So I'm here to, not necessarily oppose Destiny Church's application, not at all, what I'm here to do is raise some of the concerns that the church has, as they may, in fact, get future use of its own property.

First of all, I must say that I must disclose that I'm a former practicing attorney from Massachusetts, and I'm retired now, but I practiced over 35 years in the permitting field, permitting local various types of businesses and such, so I'm somewhat familiar with this particular type of exercise.

I searched the record for whatever evidence that I could obtain and such, there were none. For example, I was looking for helpful calculations, hydrology, topo maps exclusively to this particular site to enable us to make a further assessment of how this particular site thus designed by Destiny would affect our existing conditions.

So as I do not have that information in front of me, let me talk at least in some general terms.

First of all, the topo maps are not available to us and they would provide some additional information as to the extent of the channeling of ground or surface water from Destiny to a preserve area that abuts our church property to its east.

Not only does it abut our property, but it further encroaches into our property, so we're affected by this so-called preserve area as well. Now, the preserve area that will be the area of this surface water to be held in would affect any future development that the church may have to the -- to the east of this particular property.

And to the east of this boundary would be a location we are looking at presently for the site of our future social center. So we're concerned -- we're concerned about the particular impact that the surface water may have on our future plans, No. 1.

No. 2, we're concerned about traffic flow. Now, I've read the traffic report, and as most traffic reports are inclined to do is to point out to the reader what the proposed impact would be in off-peak and on-peak situations.

Now, an off-peak situation is defined as being something that is not in the early morning, or in the -- later in the day, but we're not talking about off-peak or on-peak. I would suggest that the on-peak situation that would be most affected would be on Sundays between 11:30 and 12:30 a.m.

Now to the south of our existing facility is a church that happens to conclude its Sunday services roughly about the same time that we conclude our church services on Sunday. We've had to adjust our schedule so that we don't come into a conflict with this other church, because what has happened in the past, is that the traffic has been backing up on Rivers Road to the point where it's taken literally a half hour to 45 minutes to exit our parking area to arrive on Immokalee Avenue. So I would suggest that any traffic that exits Destiny Church around noontime on a Sunday may further exasperate that problem as all that traffic would be entering on Immokalee Avenue and be requiring to take a right turn only.

Most people take a right turn only from their site onto Immokalee, and the reason being most of them need to access the turn around so that they can enter the westbound lane of traffic. At noontime on Sundays it's near to be impossible to enter this turn around basically because of the traffic.

So I think traffic flow is a problem, not only now, but I think it would be a problem in the future, and, again, I must warn you, we're not looking at off-peak and on-peak areas, we're looking at an on-peak area of concern would be Sundays at 12 noon, so we have a concern about that.

Lastly, as we have been there for 15 years, as is the case with most development that's been on private septic and private well water, there becomes a period of time where we must seek other avenues of disposing of our waste and consuming of our water, and that means to access county water and county septic system, the sewer systems. Now, I understand that Destiny is proposing that they're to use county septic and county water, which is very good for not only them, but it's good for the entire area.

Now, I would suggest that -- that this particular board or county ought to look at the feasibility of requiring Destiny to bring the sewer and bring the water to the property line that abuts St. Paul's property.

The reason being for this is I think that from a planning standpoint, it makes perfect sense that it be made available, if St. Paul were to wish to use county septic and county sewer and county water, that it be made available at this particular property line.

I know in Massachusetts, for example, for future developments this is used historically in project after project where somebody is going to bring municipal services to their lots, that they at least carry those municipal services to the abutting line so that the abutters can access it more easily in the future, if necessary.

One final comment that I would like to make is, and, please, I make this with -- perhaps with the knowledge that I have, not so much knowledge as to how this particular procedure works in Florida, but it seems to me that the proposed conditions have been discussed, and perhaps have been arrived at, as being conditions that are going to be attached to this particular permit.

It seems unfortunate because I had not had the opportunity to appear in a public situation, and the public has not had the input into these proposed conditions. So I'm just concerned about that fact, but other than that, I think these are the three concerns that any abutter would necessarily raise in any

situation.

We don't oppose the use of their property. We think it's good news to the community at-large, but, again, we have to look at our own future as well.

HEARING EXAMINER DICKMAN: Thank you.

MR. AGORITSAS: All right. Thank you, Mr. Hearing Officer, Your Honor.

HEARING EXAMINER DICKMAN: Yeah, just one second. If you could spell your name for me, please?

MR. AGORITSAS: The last name -- and Jeremy did a fine job in pronouncing it by the way, is A-G-O-R-I-T-S-A-S.

HEARING EXAMINER DICKMAN: Okay. I definitely won't do as good a job as Jeremy, so I'm not going to try. I appreciate your comments.

I believe the applicant or the applicant's attorney will address that, so thank you very much, but I do want to, before you get off the line, I want to mention that, and I'm sure the county will address this, that, you know, this situation we have an in-person and a hybrid public hearing.

You're welcome to come in person. We've accommodated you to speak here via zoom or virtually, and I believe that it's been properly noticed. So why don't we go through -- thank you for the call. I appreciate it.

So, I assume, do you want to have -- do you guys want to address those now before county comes up?

MR. ARNOLD: Yeah, I think we would like to, if we can.

HEARING EXAMINER DICKMAN: Go ahead.

MR. ARNOLD: With regard to the drainage, that's not really part of conditional use review, but we do have to go through the Water Management District ERP permitting process. Mr. Delate is here and is designing that system that we've already filed the ERP with the Water Management District. We're working on that application submittal.

HEARING EXAMINER DICKMAN: Right.

MR. ARNOLD: We have a berm system that's going to protect the church to the east. We have a large preserve and open space area between the two projects, and I'll let Mr. Delate just briefly describe what we're doing.

HEARING EXAMINER DICKMAN: Yeah, why don't we get all that in.

MR. ARNOLD: Jeremy, can we go back to maybe just the overall site plan so Mike can speak to that for a minute?

MR. DELATE: Good morning. For the record, Mike Delate, PE with Grady Minor & Associates, and just to address the neighbor's concerns -- and I won't try to pronounce the name out of respect. So it is a zoning level submittal right now, so typically for this process we don't go deep in the water management; however, the church has engaged us to apply for the Water Management District permit and the site development plan approval through Collier County. So we have delved into the water management system at a deeper level. So to address some of his concerns just to be on the record, generally this area the water flow is from the northeast to the southwest surface water flow, ground water flow.

The importance here, you can see the patterns if you look at aerials, generally the wetlands are on the south side of the site, and the rest of it has already been cleared through the area.

As depicted on this plan there is really no intent to impact any of the wetlands, certainly in the first phase, which is the north part of the site, and that's all we're applying for with the Water Management District, and in the future with Collier County site development plan approval.

So those areas abutting the church, the east will not be affected and the requirement by the Water Management District will be a perimeter berm around the site and development of this site at the 25-year storm elevation.

So the area that's labeled open space on this plan is proposed as part of the Phase I approval that will remain as a wetland. It's a wetland area now and will remain that way. The Water Management

District requirements are that you can't shut off hydration, which would be surface water flow to those wetland areas, otherwise, they dry out. So part of the permit application will utilize that water management area on north side of the site near Krape and Immokalee Road that would do all the treatment and attenuation of the storm, and then that discharges slowly into the open space, which is a wetland area right now, to help hydrate it.

The allowable discharge rate in this area is quite low, and that's by Collier County ordinance, so they can't exceed that, and generally speaking that's less than the pre -- or the existing condition of the surface water discharge.

HEARING EXAMINER DICKMAN: All right. Very good. Thank you. And he mentioned ground water; that has nothing to do with ground water, we're just talking about surface water at this time?

MR. DELATE: That is correct.

HEARING EXAMINER DICKMAN: Great.

MR. DELATE: The other issue to address is the water and sewer.

HEARING EXAMINER DICKMAN: Yeah.

MR. DELATE: So Collier County does have forced main along -- and water main along Immokalee Road. The forced main is located on the north side of Immokalee Road. They have provided a stub to the south side that abuts -- well, it adjoins the church, this church property, Destiny.

It's not that far away from the other church's property. It's in the right-of-way, so they could go over there and run a forced main to that connection, if they wanted to do that.

HEARING EXAMINER DICKMAN: Okay.

MR. DELATE: The water main is located farther to the west, and that would require quite an extension for Destiny Church to bring it over to the other church's site. Otherwise, they could do their own tap.

HEARING EXAMINER DICKMAN: Gotcha. Okay. So we have -- we need to address traffic flow, the Sunday situation, and I think that was the only substantive issue.

MR. ARNOLD: Correct. Mr. Dickman, we have two conditions that address traffic. Condition No. 9 addresses a trip cap for the project, so we will be showing that as part of our site development plan approval. And then there's also Condition 10 that talks about for services and events, we would provide traffic control through law enforcement when we have an event on site so they can safely exit to Immokalee Road.

HEARING EXAMINER DICKMAN: So it looks like there was four or five churches in the vicinity. If you're going to -- if churches are going to group together like that, and most of them are Sunday or whatever days they designate, they're not seven days a week, that's kind of the nature of the beast.

So I'm sure the county and the applicants all try to do the best they can, but when you put that many churches together in one place, you know, it's...

MR. ARNOLD: And Mr. Banks has been coordinating with staff, and we will have turn lanes into the site and there is turn lanes on Immokalee Road to make safe U-turn movement.

HEARING EXAMINER DICKMAN: All right.

MR. ARNOLD: If you need expert testimony from Mr. Banks, he's here to provide it.

HEARING EXAMINER DICKMAN: Okay. No, I think we're fine.

MR. BELLOWS: Yes.

MR. ARNOLD: Okay. Thank you.

HEARING EXAMINER DICKMAN: Thank you very much. Did we have county up here already? We did. And we did have a sign out front; correct?

MR. ARNOLD: That's correct. There was signage posted, and an affidavit to sign posting.

HEARING EXAMINER DICKMAN: Okay.

MR. ARNOLD: We didn't mention it, but we did hold a neighborhood informational meeting and a handful of people were in attendance.

HEARING EXAMINER DICKMAN: Okay. Great. Anybody else in the public? Anybody else, Jeremy, that's it?

MR. FRANTZ: That's the only registered speaker.

HEARING EXAMINER DICKMAN: The voice that's heard from behind the room and everywhere. All right. I'm going to close the public hearing. Thank you for all your information.

MR. ARNOLD: Thank you.

HEARING EXAMINER DICKMAN: I appreciate the public comment, that was very good. Thank you for outlining it like that for me. It helped very much to address that, and I will be rendering a decision as quickly as possible.

MR. ARNOLD: Thank you.

HEARING EXAMINER DICKMAN: Thank you very much. Good luck to you. Okay. This is Item 3D. This is an insubstantial change. We have one of everything today. This is exciting. The room is clearing out, and we have Mr. Arnold again.

MR. ARNOLD: I'm back. I'm Wayne Arnold, certified planner with Q Grady Minor & Associates representing the Naples Motor Coach Resort, and this is an insubstantial PUD amendment.

We are making some modifications. Again, there has been a few modifications over the years to this resort, and I don't know if you're familiar with it, but it's almost 100 percent developed with pads, and these people have continued to make winter homes here with their motor coaches, and they want improvements to make it feel more home-like, and so they've created enclosed utility buildings on many of the sites already.

We're trying to change that nomenclature to be a casita. It's just a more appropriate designation because people do use these as an extension of their living area, if you will. There are restrictions and a definition of what our casita is, as part of the amendment that we're making. Jeremy, if you could go ahead and advance that a couple -- another slide, that would be great. So here we're, again, reclassifying the personal utility storage buildings as casitas, with identifying standards for those.

We've created a new typical lot layout that shows essentially a floating area where these improvements could be within each of those lots. We've made one adjustment to a decrease in our rear yard setback for the casitas from five feet to four feet, and that has to do with just making sure that they have flexibility of the HOA.

They have a master association that reviews all of the improvements, so before they can even get through Collier County permitting, the HOA has to make a finding that these are appropriate to be submitted to Collier County. So there is internal coordination for those. If you can advance that, Jeremy.

This is an aerial photograph simply showing you that you can see the pads on the close-end aerial view that have been constructed. If you can zoom in on a closer aerial, which I don't have there, you can certainly see some of these utility buildings and chickee huts, and things like that that have been improved. So you can picture your motor coach pulls in, and then outside of that area you would have a place to sit under the chickee hut, or these casita buildings would be an air-conditioned area, which you could have a restroom, et cetera, to expand your living space.

We had two attendees at our neighborhood information meeting. We noticed everybody inside the park, as well as noticing around external to the park. The two attendees were residents of the park there to support the proposed amendments.

They have a very active HOA, and the ownership there has sent out extensive newsletters and things so the residents are well aware of what's occurring here. They're just now coming back into town and we did hold our NIMS off season for a motor coach resort; nonetheless, duly noticed, and we had several phone calls, people encouraging us to get through the process to build a casita.

If you could advance that, Jeremy. It's all strike through underlined versions throughout the few pages modified in the PUD document. I don't know if you'd like me to go through each of those. I think they are fairly self-explanatory, and they primarily, as I said relate to these casitas. They can, again, contain a small outdoor kitchen and bathroom, but they're not made for sleeping accommodations, I think

is the primary thing that needs to be said about those.

HEARING EXAMINER DICKMAN: So on -- just real quickly on the criteria.

MR. ARNOLD: Sure.

HEARING EXAMINER DICKMAN: I want to make sure whatever is in the staff report, do you agree with?

MR. ARNOLD: We do, yes.

HEARING EXAMINER DICKMAN: Okay.

MR. ARNOLD: The conditions and the modifications we've dealt with John throughout the process to make those changes, and we're in agreement with those.

HEARING EXAMINER DICKMAN: Okay. Do you know the difference between a chickee and a tiki?

MR. ARNOLD: No.

HEARING EXAMINER DICKMAN: Sadly I do. I won't tell you though. I'll leave it to everyone to go home and research it.

MR. ARNOLD: I'll Google it.

HEARING EXAMINER DICKMAN: All right. And tell me real quickly about this -- you know, I see this seems to be evolving with the insubstantial changes over time, since you've been here before, it seems pretty built-out. Does it seem like this is -- you never know but...

MR. ARNOLD: You never know, but I think this is one of those things where the evolution of this resort, if you will, and I call it a resort because they have a very nice clubhouse and resort pool. This is a place where people are spending hundreds of thousands of dollars to buy a motor coach lot to park their vehicle there for a few months a year.

It's a well-kept facility. It's first class, Class A motor coach resort, that's all you can park there. You can't pull in these travel trailers and things like that. The standard is very high. The casita and the changes we're trying to make are just -- it's a normal, just an evolution of how people live in the RV world.

HEARING EXAMINER DICKMAN: Right. Right. Right. So, in other words, not just the RV, but people are using the exterior space on their lot that they are leasing?

MR. ARNOLD: They own each of the lots.

HEARING EXAMINER DICKMAN: They own each of them, so more outdoor living; that's what Florida is all about.

MR. ARNOLD: It is, and they're here for the best part of the year. They're here in season, and they want to live outside when it's 75 degrees outside and not 95 degrees.

HEARING EXAMINER DICKMAN: I don't know, whatever save on, what, the motor coach electricity involved. Can't be easy to deal with. Do you have anybody else you want to come up at all?

MR. ARNOLD: No, the applicant is -- the ownership is not present and Laura DeJohn is the planner staff representative who is in the audience.

HEARING EXAMINER DICKMAN: County?

MR. BELLOWS: For the record, Ray Bellows. I'll be presenting this for Laura. The staff reviewed this. I've reviewed this with Laura, and the criteria for development of insubstantial change is listed there in your staff report, the criteria.

These proposed changes are consistent with that criteria. Staff is recommending approval, and there are no conditions of approval. It meets all the county requirements. We're recommending approval.

HEARING EXAMINER DICKMAN: Okay. One real quick thing. I do like to get these things on the record. It seems to be fairly dense, in terms of other residential areas in and around it. This was properly noticed and posted? Could you just quickly put that on the record?

MR. BELLOWS: Yes. For the record, Ray Bellows. The advertising was done pursuant to the county rules and regulations with mailed notices, sign posting on the property and Naples newspaper ad.

HEARING EXAMINER DICKMAN: Is that 500 feet radius or 375?

MR. BELLOWS: 500 feet.

HEARING EXAMINER DICKMAN: 500 feet, okay, is that from the property line?

MR. BELLOWS: The PUD boundary.

HEARING EXAMINER DICKMAN: The PUD boundary.

MR. ARNOLD: Just to clarify, all residents internal, plus the notice and the radius around it were provided notice for the neighborhood meeting, and through this county notice for this meeting.

MR. BELLOWS: Thank you.

HEARING EXAMINER DICKMAN: That must have been an interesting HOA meeting. We never know what happened there. All right. Thank you very much. Anybody in the public audience? I see very few people have stuck around to enjoy my jokes, and, Jeremy, go to the wide world of the internet.

MR. FRANTZ: Just want to let you know, we did have one person registered for this item in support, but they're not on Zoom. This person is Kim Campbell.

HEARING EXAMINER DICKMAN: Kim Campbell is in support.

MR. ARNOLD: Kim Campbell is with the owners, parent ownership of the resort.

HEARING EXAMINER DICKMAN: That would make sense if they're in support of this. Anything else? I'm going to close the public hearing. Any last comments, questions? I think it's pretty straightforward. I have everything in my packet. I'll review it and render a decision as expeditiously as possible.

MR. ARNOLD: Thank you, very much.

HEARING EXAMINER DICKMAN: All right. Great. I enjoyed it. Thank you, everyone. I appreciate all the help. This has been a rather -- set of variety, which was very interesting, instead of just getting all of the variances. A good mix-up here.

MR. BELLOWS: Yeah. I think we'll continue to have a variety of things. PDI's are definitely pop-up petition type.

HEARING EXAMINER DICKMAN: All right. Fantastic. Do we have any -- let's talk, internally, anything we need to talk about for future meetings? Anything coming up that I need to be aware of, future business? Jeremy, did they buy you a new computer?

MR. FRANTZ: I don't have a new computer. I don't have any items for today. I think at one of your upcoming meetings, we'll bring the 2021 meeting schedule, just so that you're aware of it and kind of put that out there for the public as well.

HEARING EXAMINER DICKMAN: Yeah, that would be fantastic, and I know that I had approved a few neighborhood information waivers. I don't know if you guys do that, but would you mind putting that in the staff report that the NIM was waived, so I'm aware of that, so I don't have to go through a lot of work?

MR. BELLOWS: Yeah, thank you for that comment. I think that's a great idea. We'll do that.

HEARING EXAMINER DICKMAN: Okay. I appreciate that. I get a great idea once in a while for the record. Some of them are okay, but, thank you, Ray. All right. Good. Good meeting. We'll adjourn if nobody else has anything left to say. All right. We are adjourned.


* * * * *

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 10:02 a.m.

COLLIER COUNTY HEARING EXAMINER



ANDREW W.J. DICKMAN,
HEARING EXAMINER

These minutes approved by the Hearing Examiner on 11/16/20, as presented  or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF U.S. LEGAL SUPPORT, INC.,
BY JANICE R. MALINE, COURT REPORTER AND NOTARY PUBLIC.