

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
NAPLES, FLORIDA
JULY 22, 2021

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

HEARING EXAMINER ANDREW DICKMAN

ALSO PRESENT:

Andrew Youngblood, Operations Analyst Zoning Division
Raymond V. Bellows, Zoning Manager
James Sabo, Principal Planner
Mike Bosi, Zoning Director

PROCEEDINGS

THE HEARING EXAMINER: Good morning, everyone. Good morning and welcome to the July 22nd HEX hearing. My name is Andrew Dickman and I'm appointed hearing examiner to hear today's petitions. I'm a practicing attorney with over 20 years of attorney work here in Florida and in good standing with the Florida Bar and have been practicing law here in Florida for over 20 years, as I've said. I have been appointed by this position in accordance with the authority set forth in the Division 3 of the Collier County Code of Ordinance. It is my role to fairly and objectively review matters presented. I'm not an employee of the County. I was appointed by the Collier County Commissioners. I would like to advise you of certain matters related to today's hearing and proceedings.

Today's matters will be heard in the order they appear on the agenda unless the agenda is modified. Every effort will be made to hear all persons relevant, evidence, testimony, or comments to offer related to the specific petition heard. We will need to swear in all witnesses that are going to provide testimony. We'll do that momentarily.

I want to explain that my role here is to conduct the hearing for the particular petition. Each petition has a criteria listed in the codes of Collier County and I will look for relevant evidence and apply it to that criteria and make a decision not today, but within 30 days of today's date.

This is an informal hearing, so if you're going to speak, I want you to relax, take your time. I know a lot of people get nervous when they speak publicly. I don't want you to do that. Take your time, gather your thoughts.

We have two podiums here. The brown one is going to be used by the petitioner or the petitioner's representative. We have the one in the middle, the gray one set up for public comments and County staff will use that as well. We are having a hybrid meeting still where there are folks here obviously in person live, and then we have individuals that are calling in through electronic means.

We do have a court reporter as usual taking verbatim transcripts of the hearing -- verbatim transcripts of the hearing, so she at any time might scream out and say you are talking too fast, I don't understand what you're saying. She obviously can't understand head nodding and hand gestures and things like that so she has full authority to stop me at any time, stop us at any time because it's very important to get an accurate record of today's hearing.

By way of disclosure, I have not had any conversations with anyone about any of the petitions here today. I have not done any private investigation. My standard practice is to come here review all of prior -- review all the prior materials that the public has, the application, the materials submitted, any community comments that have submitted.

I do everything I can do to be an impartial decision maker, so I wanted to let you know that with regard to ex parte communications. I haven't communicated with anybody in general fashion. Any communications go through my paralegal at my office. I don't expose myself to any communications of that nature.

I think with that, why don't we go ahead and administer the oath for anyone who is going to testify today and I don't know if -- I'll go ahead and do it since we have our court reporter electronically. You swear to tell the truth and nothing but the truth under penalty of perjury. (All witnesses were sworn in as a whole by hearing examiner and answered affirmatively.)

THE HEARING EXAMINER: All right. Great. I appreciate it. Why don't we get started with today's agenda. We have four items on the agenda. Mr. Bellows, are there any items here that need to be changed, any agenda matters that need to be changed?

MR. BELLWS: No changes.

THE HEARING EXAMINER: Okay, rock-n-roll. We're going to do A, B, C, in the order in which they are in the agenda. So why don't we go ahead and jump right in with item -- first of all, I see a lot of people here. Is this -- raise your hand if you're on A. All right, B, C, and D? Okay. All right. Just wanted to know, just get an idea of who's here for who, but either way, welcome. I like the fact that everybody's here.

All right, so who's going to -- County, you want to introduce this item, please?

MR. BELLOWS: For the record, Ray Bellows, planning manager for the zoning services. The first item is PUDI -- or PDI PL 20200001294, the Hacienda Lakes MPD, senior housing. This subject PDI petition was first presented to the Hearing Examiner on April 22nd. This item was continued to May 13th to allow the applicant to hold a neighborhood information meeting. There was some opposition that showed up at that meeting. I know we decided that it was best to withdraw the previous waiver of the NIM so the applicant can hold a NIM. It was scheduled for May 17th, so the subsequent continuance to May 13th had to be deferred 'til this date and in your packet we have the NIMs summary and some conditions that came out of that meeting and it's in a letter in your packet dated June 16th and it was issued by the legal representation -- representative from Henry Johnson, who's representing some homeowners on the adjacent properties.

Basically, the intent of this application is to modify some of the deviations or requirements for operational characteristics for senior housing and they're outlined in your staff report and I believe the applicant has a Power Point presentation to go over those. This item was advertised and met all the legal requirements for advertising.

THE HEARING EXAMINER: Thank you very much. Okay.

MS. CRESPO: Okay. Thank you. Good morning. Alexis Crespo with Waldrop Engineering representing the applicant. I am a certified planner with the American Institute of Certified Planners.

I want to just start by thanking Staff. We took three months to kind of get through some consensus building with the surrounding community; chiefly, Esplanade at Hacienda Lakes. We're very pleased it to bring you back the project this morning. I think it's a better project for having worked through the issues and adding some additional commitments. I want to thank Mr. Johnson, Laura Lang, and Danielle Boothby who are here today as well who were working diligently with us on some updates that we'll be walking through.

THE COURT REPORTER: I can't hear anything.(Off-the-record discussion was had.)

MR. SHEER: All right. For the record, my name Chris Sheer. I'm the chief operating officer of McDowell Housing Partners. We're the applicant. We're ultimately the developer, operator, and long-term owner of this particular property. My company, our focus, McDowell Housing Partners focuses on developing senior affordable housing and family workforce housing throughout the state.

We have been working in Collier County on a few different projects in partnership with the County as well to bring some new affordable housing options particularly for seniors to the County. It's undeniable that there's a severe shortage of affordable housing options right now in Collier, and throughout the state, but particularly in Collier County, so our focus and mission is to really provide, you know, high-quality, amenity-rich developments where seniors can age in place and with dignity. These are not assisted living facilities, they are independent living facilities for really serving seniors who have contributed to the community that they have live in, have contributed to society in general, but are priced out of housing options. The housing market has just gone gangbusters, there's been a continued increase in the cost of housing, and there's just very few options for those living on fixed incomes, in particular through Social Security and their pensions and we are trying to help solve that problem. It's a long process. These developments are complex from a regulatory environment, from a financing perspective, and it takes a lot of support and it takes a lot of tenacity frankly to get the developments completed and ultimately put into service to serve the seniors who deserve to have a quality place to call home.

So, you know, our goal, when we had the insubstantial change, I just want to address briefly kind of what's transpired over the least three months because I think it's important to identify how far we've come and I want to thank the Hacienda Lakes neighborhood for providing a lot of good feedback.

We -- excuse me -- change is tough. This insubstantial change was notified -- a lot of the neighborhood was unaware of what we were doing, they were unaware of the project at large -- (Inaudible background conversation.)

THE HEARING EXAMINER: Mr. Youngblood, can you cut some people off?

MR. SHEER: The PUD amendment that we're here today on and the operational characteristics, you know, I think are outside of the concerns -- are largely outside of the concerns of the neighborhood who we worked with now because they were unaware of the project in general and what we're doing, who

we're providing the product that we're building, so I thank -- I thank everyone who came out provided information at the NIM. It was a good meeting. We started out with a lot of misunderstandings and misconceptions on what we were actually developing and I think we've come a long way to clarify those.

We've heard the concerns and we've provided in record and under the PUD now that will be revised propose to implement very specific criteria and facts and merits, design metrics, what have you, that will be required to be provided now and these came at the discussions with the neighborhood, so I wanted to thank everyone for their input and I think we're in a good spot. We're excited to move this development forward and we look forward to your opinion, so thank you.

MS. CRESPO: Again, Alexis Crespo with Waldrop. Next slide, please? I'll just walk you through the technical aspects of the request, again, an insubstantial change.

The subject property is highlighted in yellow on your screen. It's just under seven acres in size. It's on the south side of Rattlesnake Hammock Road and east of Collier Boulevard within the overall Hacienda Lakes mixed use planned unit development which was approved back in 2011 per Ordinance 1141. This tract is designated on that master plan associated with the overall PUD as a residential medical use tract or RMU.

Next slide? And this shows the subject property generally denoted with the blue star in relationship to the overall Hacienda Lakes MPUD, obviously a very large document, in this southern portion of that.

Next slide? And then a little closer look of that area south of Rattlesnake Hammock, you can see the subject property on the plan. Again, on an RMU tract.

Next slide? So the applicant, as Mr. Sheer indicated, is developing senior housing, affordable housing on the site. It's known as Allegro at Hacienda Lakes. Senior housing is an approved use on the RMU tract, so this insubstantial change is not intended to add a use that wasn't already permitted. We were not seeking any modifications to development standards that would allow for this use to be developed as requested by the applicant. What we are seeking to do simply is to modify some operational characteristics attached to senior housing dating back to the 2011 PUD approval.

As Chris noted, this will allow for highly demanded affordable housing, but also affordable senior housing, which is much needed in Collier County and that he evidenced by our approved expedited review issued by the County because it does meet the criteria and that criteria being that 80% of these units will be priced below the area median income or less, so very important to note the affordability aspect of this.

Next slide? So what we are requesting to change through the PDI was these operational characteristics. What's shown on your screen outlined in your staff report are the operational characteristics as they exist today; that limits that the facility has to be for residents at least 55 years or older. It requires onsite dining facilities. This is a key one that are we are seeking to eliminate as that really prevents the project from being affordable when you start having an amenity like dining in the facility.

C, under operational characteristics is group transportation services to get residents to grocery and other visits. As Chris said, this is independent living, so these residents are going to have vehicles, so this is not necessary for the operations of the facility and also creates significant cost barriers to delivering this as an affordable housing project.

D is onsite management and activities coordination. We are maintaining that characteristic in full. E, onsite wellness, also being proposed to be retained through the change. F is having each unit having a medical transponder or notification device should there be an emergency. This is fairly antiquated in the ILF market in general, and, again, because they're independent living, just not necessary. Cell phones and other devices are just much more commonly used. And then lastly, allowing for aging in place by having units be designed in a manner where folks, if they transition to a wheelchair, can still stay in their unit; not proposing any change to that.

Next slide? So what you'll see in the staff report and the document is some specific operational characteristics specific to this subject property, so it would only apply to

Tracts G and I there on the south side of Rattlesnake Hammock that are truly affordable housing units, so any other senior housing within Hacienda Lakes would be subject to the criteria you just saw.

This would just allow for some flexibility to deliver affordable senior housing within the project, again, on just Tracts G and I.

So we are willing to bump up the age to 62 years. You'll recollect that it was 55 years for other senior living, we're willing to increase that minimum age, and this was really working in concert with the neighbors. They wanted to make sure these were truly seniors in the units.

We retained, as I noted, the onsite management and activities coordination, onsite wellness, the units being designed to age in place, and then we added at the request of staff a limitation on trips and that would be associated with the senior living units to better reflect the trip generation because they do have vehicles.

Next slide. So community engagement, we did conduct our neighborhood information meeting on May 17th. It was very well attended. Certainly concerns expressed regarding the project, but we were able to clarify some of the misconceptions about what the project was.

As a result of that meeting, we made several additional commitments that were not in your staff report that you had received prior to the April 22nd hearing. These are entirely voluntary.

They really have nothing to do with our request related to the operational characteristics, but look to make the project more compatible with the Esplanade Hacienda Lakes community. We do believe with these commitments, we've achieved a level of consensus with the community and we can see that through the letter of support from Mr. Johnson representing the property owners along the shared property line.

Next slide? So I'll just run through the additional commitments. Certainly Mr. Johnson would like me to put these on the record for comfort and these are in your staff report.

So one thing we are willing to do was to make sure that this structure, which can be up to 75 feet in zone height, is set back a minimum of 80 feet from the parcel boundary, so substantial setback to move this taller building away from the shared property line with Esplanade Hacienda Lakes.

Another item was refuse, disposal noise associated with dumpsters, so we committed that the general household day-to-day waste will be delivered to an internally fully-enclosed dumpster within the principal structure; that would be delivered -- each floor will have a trash chute where residents with get their refuse down into an internal dumpster that would be picked up regularly.

The only exterior dumpster would be for larger household refuse and things of that nature, so it wouldn't be the daily type of trash that was concerning the neighbors and that would be fully enclosed with a concrete block structure and again for large items.

Another item we committed to was an enhanced ten-foot Type A buffer. They have a Type B buffer and wall along the shared property line, so our thought was our enhancement having a wall against a wall is not a good idea and doesn't really add any value in terms of additional screening, but we could add additional mid-story and upper-story trees to really screen views of the building above that existing wall height.

If you'll go to the next slide, I believe you've got a depiction of that and this is also submitted into the record. So we basically doubled the number of the trees along the property line with Esplanade at Hacienda Lakes. It's a total of 44 trees in this area, whereas the code would require about 20 and that would be a mixture of palm clusters as well as canopy trees to again provide some really nice vegetative screening for the residents along that shared boundary.

Next slide? We committed to temporary construction fencing with a minimum height of five feet along the shared property lines with some mesh screening throughout the duration of construction activities. This is your common silt fencing and something that the neighbors want to see represented in the application.

We also agreed to a six-foot tall earth tone brown or beige PVC fence along the southern portion of the eastern property line on Exhibit C1. Andrew, if you'll go to the next slide, I can show them where that is located. One more slide, sorry. The red line there shows where the six-foot tall PVC fence will go, and that is abutting a lake within the Esplanade community but still it will help screen views as folks are traveling along that main entry road. It will help block any view sheds of the property.

If you can go back two slides now? Thank you. Light fixtures and poles limited to a maximum of 25 feet in height. It will be Dark Skies compliant, which is consistent with the Hacienda Lakes DRI, but having that written into the conditions was something the neighborhood wanted.

Exterior wall lighting will not be located above the second story to avoid any point source light pollution. We agreed to an onsite security measure that would have a recorded license plate reader at the entry to the project and certainly that would be confidential, but should the Collier County Sheriff's Office need any of those records due to any issues, they could certainly request that from the operator.

And then lastly, H is a resident assurance check-in program. Residents of Esplanade wanted to make sure that this was being properly managed, so we are just proposing that program that's consistent with Florida Housing Finance Corps requirements for affordable senior housing and that's just checking in on the residents on a regular basis to make sure everything's functioning properly.

Next slide? Something new that's not housed in your staff report, but that we're willing to commit to, again, to increase compatibility with our neighborhood, they did not want a pool or pickle ball associated with the project due to potential noise issues, and Mr. Sheer was willing to eliminate those types of amenities. There will still be onsite wellness and other passive wellness, but those can be noisy and we're willing to eliminate that from this project.

Next slide? So I've shown you where that six-foot tall PVC fence is, also where the enhanced Type A buffer will be installed along that shared property line, and this exhibit is included in your package.

Next slide? We have taken a lot of your time, so I won't belabor the PDI review criteria, but we are in agreement with your staff that the application is fully consistent with the insubstantial change review criteria in Chapter 10 of your code. Again, these are just changes to operational characteristics, no changes to density, intensity, height or any of the things that would trigger additional review.

THE HEARING EXAMINER: Just let me mention, take whatever time you need because you're developing a record. If you feel like you need to point something out, even though it may be in the staff record, go ahead and do it. Don't be worried about taking up my time. I'm here for the duration.

MS. CRESPO: All right. Thank you. Next slide? There is request that hasn't gotten a lot of discussion. It's just an update to mobility plan. This graphic is pretty hard to read, but there is a -- this mobility plan exists within the PUD and there shows an interconnection to the -- oh, that's much better.

You can see an interconnection where the arrows connect and we're not proposing to interconnect to the south based upon the existing development patterns within the Esplanade Hacienda Lakes and to the south of the property, so that's really just a minor housekeeping item.

Next slide? Oh, to conclude, the use being requested, all the development standards proposed are currently permitted in the MPUD. The only modifications we are seeking are those changes to the operational characteristics which would be only applicable to affordable senior housing in Tracts G and I where the residents are 62 years or older and the units are priced for those making 80% or less than the area median income. This will deliver a highly-demanded type of housing for Collier County.

We are in full agreement with your staff that the application is consistent with the land development code as well as your growth management plan and that includes the minor housekeeping changes to the mobility plan.

We have added a number of significant concessions entirely voluntary, really unrelated to our request, in order to address compatibility with the neighborhood and we do feel like that that makes for a better project for everyone and certainly enhances the project's consistency with the GMP and LDC. We do have your staff recommendation of approval and we would respectfully request your approval of this application.

THE HEARING EXAMINER: Thank you very much. Before we continue, I just want to mention a couple of things. One, procedurally, there are two parties -- and this goes for all the applicants, all the petitions here. In my view, there are two parties, okay? There's the applicant and then there's the County, then you have the general public. I realize that there might be neighbors or other folks that are, under case law, considered affected parties or interested parties. It would be inappropriate for me to make any of that determination, I'm not going to.

I will recognize that the neighbors that you work with, and especially if they have experts and attorneys, I will afford, you know, some latitude in terms of time, but the reason I want to make this statement is that if I were to -- I'm not going to make a determination about whether somebody's interested or affected party as opposed to general public, the reason being primarily is then that would require me to take additional time and further exploration into whether somebody has quote, unquote, standing and I think that would taint a little bit of my ability to remain impartial.

However, I do very much appreciate cooperation and collaboration among parties that may be affected one way or the other. In fact, that's the purpose of the neighborhood information meeting is to gather information from folks that would be on notice and things like that.

Now, having said that, I'm not in any way trying to offend anybody that's here as a member of the public. Again, I just need you to understand that I cannot personally in good faith determine who is an affected party among the public and who isn't. However, I will listen and especially if you have professionals that have been hired to come here, I think it's important to let them get information on the record relevant to the criteria.

So, again, I really appreciate applicants working with neighbors and, you know, offering up concessions in order to relieve any potential conflicts, so I just wanted to make that clear because you put a lot of information on there that were voluntary concessions and that's exactly what I want. I want parties to come in here, you know, in agreement if they can on as much as they can, so I just wanted to state that.

The other thing I wanted to mention is I'm swiveling around looking at the different things, so if I'm not looking at you and paying attention to you, please don't read into that. I am listening to everything and reading everything. I don't want anybody to be read anything into my body language or if I turn my back on anybody. This is just the nature of this room and that's how it is, okay? All right. Thank you very much.

MS. CRESPO: In an abundance of caution, can I submit the letter of support into the record? I believe it's in your package, but --

THE HEARING EXAMINER: Yeah, I don't know if it's -- I have one old e-mail, but, I mean, you want to show it to the County first or anybody -- and if they're okay with having that in the record, I'm okay with it. After today, I won't have any other information, that's it. Okay.

MR. YOUNGBLOOD: We'll make sure the court reporter gets a copy of that.

THE HEARING EXAMINER: Okay. Appreciate that. Let's open up the public hearing. Does Hacienda Lakes have representatives here? Anybody? Come on up, sir. And, again, if you have representation here -- come on in, sir. Come on in. If you have representation here for you, I'm not saying you can't speak or shouldn't speak, but try not to be redundant in what you say, but again, I don't -- it's a public meeting and I don't want to dissuade anybody from, you know, speaking their -- taking their three minutes or whatever it is. Hi, sir, how are you?

MR. JOHNSON: Microphone is on?

THE HEARING EXAMINER: You see the red light, you are on.

MR. JOHNSON: I know you know I'm the chairman of the code enforcement board for the City of Naples and one of the challenges we have is many times is the microphone itself, so I appreciate it.

For the record, I'm Henry Johnson of Henry Johnson Law. My name was mentioned a couple of times already this morning by letter and by Ms. Crespo.

We, in our office, were retained by Daniel and David Boothby and Laura Lang who are owners residing at 8515 Palacio Terrace North and 8510 Palacio Terrace North in the Hacienda Lakes PUD.

The positions of our clients, we understand are shared by well over 100 other owners at Hacienda Lakes who have had direct contact with the Boothbys and Ms. Lang.

Within your packet, as has been referenced already today, you'll find a letter that our firm authored. Now, the letter that our firm authored I think consistent with what Ms. Crespo indicated earlier, was based upon a cooperative effort to address certain operational characteristics for this particular project.

For the record, we are indicated in the letter, quote, that this letter shall confirm that McDowell Housing Partners has worked cooperatively with our clients to address their concerns and in that regard, our clients support the PDI referenced above and as referenced above in the letter.

This support comes as a consequence of modifications to Exhibit B, which is within your packet, the developmental standards to the submission entitled operational characteristics for senior housing. And this was examined between our office and Waldrop, among other people, Waldrop Engineering on June 16th of 2021.

So to understand really the positions of our client -- our clients, I think it's worthwhile to take a look at the developmental standards which you have in your packet that I think Ms. Crespo addressed either specifically or generally, but I'll highlight them for you, Mr. Dickman, for the record, so that we know what we have accord relative to.

First of all, all the developmental standards in Exhibit B, the group of owners that we represent agree with, consent to, and the like. We endorse them. And in addition, there are a couple of clarifications that perhaps when I'm finished speaking, Ms. Crespo can take care of a couple of the small clarifications.

There is a reference in operational characteristics for senior housing, H, Section A, H(a), that the facility shall be for residents 62 years of age or older. We agree with that concept, we understand that, and I did have a conversation yesterday with Ms. Crespo, that that would require that anyone who lives and is going to reside in this development have to be 62 years of age and up, and that includes if it's a married couple, both of them have to be 62 years of age and older; that's what we understand.

Number two, while not listed in the operational characteristics, and I did speak to Ms. Crespo yesterday about this and she can speak to it one way or the other, that there will only be one and two-bedroom apartments. There will be no three-bedroom apartments. So that's under the general operational characteristics for senior housing as set forth in Exhibit B for developmental standards.

Now, let me sort of the for the record go through the checklist to make sure we are all on the same page, which I believe we are. The developmental standards, Exhibit B, recites that in addition to the above operational characteristics, the following design characteristics apply to Allegro at Hacienda Lakes projects -- to the project. And I'll confirm each of those items so we have them clear for the record.

First of all, A, that the principal structures on Tract I will be set back a minimum of 80 feet from the parcel boundary, agreed, consented to, appreciate the cooperation of the developer in that regard.

Number two, B, the one dumpster external to the building on Tract I will be located on the east side of the structure at a minimum of 350 feet from the southern boundary line. The dumpster will be concrete block enclosure with gates and that will be -- and this was negotiated -- shall be generally used for household items such as furniture. Household refuse, such as food products, will be housed in trash compactors internal to the principal structure.

We understand that within the structure there's going to be two compactors that will be at the rear end of the garage and there will be chutes that will allow the internal garbage to be put into the chutes, into the dumpsters in the building, and then moved out for outside pickup only on the days when that garbage is being picked up. The concern obviously is that you've got a, you know, development which is being developed adjacent to many other parcels, so we don't want any stench or stink that's going to affect the property owners who are essentially adjacent to this property.

Item number C, for confirmation and we endorse it, is going to be an enhanced 10-foot Type A buffer that will be located on Tract I along the portion of the southern property line adjacent to the Esplanade at Hacienda Lakes which are going to meet certain very clear specifications, Mr. Dickman, that are in your packet.

It's going to be a total of 44 trees comprised of 11 canopy trees and 33 sable palms and I think that Ms. Crespo generally addressed that. There's going to be canopy trees that shall be a minimum of 10 feet tall at the time of planting and the sabal palm trees shall be a minimum of 15 to 33 feet staggered height at the time of planting grouped in clusters with a minimum of 3 palms per cluster 10 feet on center; in your packet.

And I think Ms. Crespo accurately reported that there is an existing Type D buffer on the Esplanade side of the property line that was 80% opaque at the time of planting, so while that's not directly part of the operational characteristics, it's implicitly within those characteristics that that Type D buffer exists presently.

D we endorse; temporary construction fencing with an minimum height of five feet shall be installed along the southern and easterly -- oops, there we go -- throughout the duration of construction activities and shall include green mesh fabric.

We also endorse E, a six-foot tall earth tone brown or beige PVC fence which is going to be installed along the southern portion of the eastern property line as shown on Exhibit C1. And again, to address your points, Mr. Dickman, these came as a result of attendance by our firm and a group of owners at the NIM meeting and then was as a consequence of discussions with Waldrop Engineering and the developer in an effort to attempt to work cooperatively, so for anybody who's maybe listening on the meeting today, they can see that it is possible to have cooperation when you have a development that might be of impact to adjacent owners.

F, all light fixtures, poles will be limited to a maximum height of 25 feet and will be

Dark Skies compliant. Exterior wall lighting on the buildings shall not be located above the second story. We understand that there will still be exterior lighting on the building that will be allowed for entrances and walkways for security purposes; we understand that.

Ms. Crespo made mention and we endorse G, onsite security measures shall include a recording license plate reader to the entrance to the Allegro at Hacienda Lakes and all data recorded will be private and confidential and will be provided only to law enforcement upon request. We also endorse H, the developer, the operator agrees to provide a resident assurance check-in program materially consistent with Florida Housing Finance Corporation requirements. As referenced below specifically, the developer will provide and use an established system of checking in with each resident on a pre-determined basis not less than once per day at no cost to the resident. The residents may opt out of this program with a written certificate that they choose not to participate.

And finally, which is not in your packet, which was referenced by Ms. Crespo, is that we understand as part of the application today that the developer has agreed unconditionally that there shall be no swimming pool within this development, there shall be no pickle ball.

The concept overall being here is that we don't want smell, we don't want noise, we want limitations on impact of this particular project on an already existing PUD and already existing established housing.

All in all, we -- we're appreciative that we were able to work cooperatively with the development representatives for this project. We wish to make certain, however, that the conditions which I have recited today are a part of the record and will be as part of your consideration today part of -- if you should decide to approve, part of the approval process. Do you have any questions for me?

THE HEARING EXAMINER: After the public comment, I'm going to ask -- Ms. Crespo will have a chance or her client will have a chance to speak again. Are the items that you -- I mean, you went into a little bit more detail than Ms. Crespo did, and I'll talk to her about that, but I don't have your letter. I mean, does that outline specifically --

MR. JOHNSON: The letter respectfully -- I'm sorry to interrupt you. The letter does not. The letter is a general cooperative letter; that's why I took the opportunity today to go through each of the individual items which really mirror what is on the request with the couple of items that will I indicated needed clarification, like 62 and older means both residents 62 and older, like bedrooms, one bedroom, two bedrooms, no three bedrooms, like there's no pool and there's no pickle ball courts, which was up on the screen, not in your -- I don't know if it's in your packet or not, so that's -- maybe Ms. Crespo can address that.

THE HEARING EXAMINER: All right. I understand that. I don't have any questions for you at this point. I appreciate it. Just to be clear, you have how many client residents?

MR. JOHNSON: I have to be careful because I am -- now, let me be clear. You and I are both lawyers, so let's be clear about this, okay? My clients are three people --

THE HEARING EXAMINER: Yes.

MR. JOHNSON: -- but my clients also shared with our office at the time that we engaged a petition that had various concerns of various parties that were just shy of 200. So the representation, for the record, is three. The representation based upon communications that we have seen in our law office would reflect that it's well in excess of 100 and close to 200.

THE HEARING EXAMINER: Why don't we continue with the -- thank you very much.

MR. JOHNSON: May I sit down at this time?

THE HEARING EXAMINER: Yes. Absolutely.

MR. JOHNSON: Thanks. Thank you very much.

THE HEARING EXAMINER: Come on, we're all informal, let's keep going.

MR. JOHNSON: We say informal at code enforcement and then formality seems to take over, so

--

THE HEARING EXAMINER: Well, code enforcement is a little different.

MR. JOHNSON: But I did wear a tie today,

so -- thank you very much.

THE HEARING EXAMINER: All right, who else do we have signed up to speak here inside the room here?

MR. YOUNGBLOOD: Mr. Dickman, we don't have any other registered speakers present with us, however online we have Renee Szabo. Renee, unmute your microphone and you have the floor. Are you with us? Hello, Renee, are you with us? I see Renee is unmuted. Give me just one second here.

THE HEARING EXAMINER: Make sure the issue's on their end, not ours. I don't want to be muting them deliberately and they're trying to get in or --

MR. YOUNGBLOOD: That's correct. The issue is not ours.

THE HEARING EXAMINER: Okay. So if somebody is going to be calling in, it's their responsibility to know how to use the technology, but we can't hold up the hearing forever. If you can't operate your audio/visual or however you're getting in electronic, we'll give you a chance, but we've got to move on. One more try here. Going once, going twice? Let's close the public hearing. You said there's no one else here to speak, right?

MR. YOUNGBLOOD: That's correct.

THE HEARING EXAMINER: Okay, let's close the public hearing. Ms. Crespo? As Ms. Crespo's coming up, the representative for the applicant, I have a question for staff and I don't know if, Ray, you're the one to answer this or not. You heard a litany of I'll call them concessions that they want to add on to this. In any way, does any of this change the type of petition in front of me from insubstantial to, you know, substantial?

MR. BELLOWES: For the record, Ray Bellows. No, those changes and conditions are operational standards for the most part, or design standards, and those are designed to be done with -- as an insubstantial change.

THE HEARING EXAMINER: So in your opinion, I still have jurisdiction with those conditions?

MR. BELLOWES: Correct.

THE HEARING EXAMINER: Okay, great. Ms. Crespo, how are you? I have two things that I wanted to ask you and I'm sure you've got some other things you wanted to state.

Mr. Johnson, right, okay, Attorney Johnson mentioned the minimum age and frankly I know you wanted to go through that list and a lot of it was generalized, but he mentioned that the minimum age is -- in a unit would be absolutely 62 years old no matter what, so a resident living there has to be aged 62 years of age.

MS. CRESPO: That's reflected in the conditions. It states, HA -- is the facility -- shall be for residents 62 years of age and older and that would include if they had a spouse, if there's two people in the unit, anyone living there has to be 62 years or older.

THE HEARING EXAMINER: Perfect. The one and two-bedroom, the characteristics of three-bedroom they don't want, I mean, is that also your understanding?

MS. CRESPO: That's not in the conditions, but we can commit on the record if it's the pleasure of the Hearing Examiner, we can accept a condition that there will be nothing larger than a two-bedroom unit.

THE HEARING EXAMINER: And, you know, I'm trying to -- I'm trying to be encouraging of cooperation among neighbors, but ultimately the County and the applicant are the parties here, so I just

want to make sure you're okay with that. I'm happy to facilitate, you know, this type of cooperation which is very helpful, but if that's okay with you, then that's okay with me.

MS. CRESPO: Okay with the applicant, yes.

THE HEARING EXAMINER: Okay. Great. I think that's the only two questions -- I had a question of the County, but I think I've covered everything. What else would you like to state?

MS. CRESPO: I would just clarify that

Mr. Johnson went through verbatim the conditions and that is reflected in the document before you. I went through it a little bit more briefly, but all of those items that he went through are in the document as commitments.

THE HEARING EXAMINER: You mean the garbage compactors and how that's all going to work and et cetera, et cetera, right? Is that all in my packet? Do I have all that information because I'm not going to have the transcript in time to do this.

MR. BELLOWS: That is a part of your packet.

THE HEARING EXAMINER: And I'm not a shorthand writer here.

MR. BELLOWS: The only thing I don't see that was part of the packet was the commitment to limit the bedrooms to two.

THE HEARING EXAMINER: Okay, so we'll mark that off.

MS. CRESPO: And the pool and pickle ball.

THE HEARING EXAMINER: And the pool and pickle ball. Anybody want to demonstrate pickle ball because I've never played it.

MS. CRESPO: No, thank you.

THE HEARING EXAMINER: I've heard it's very fun, but never did it. I'm not sure about that. Okay, so we've got the one and two-bedroom, Ray, and we've got the pool and pickle ball in there. Okay, you're okay with that?

MR. BELLOWS: Yes, we are.

THE HEARING EXAMINER: I don't know what else to say. Nobody else is here to speak, nobody, we're all good?

MR. YOUNGBLOOD: Mr. Dickman --

THE HEARING EXAMINER: Yes?

MR. YOUNGBLOOD: -- would you like to give Renee Szabo another shot online here?

THE HEARING EXAMINER: Yes. Technically I've closed the public hearing, but let's hear -- since it's only one person let's go and let -- Ms. Crespo, you'll have an opportunity to speak again, so go ahead.

MR. YOUNGBLOOD: You can unmute your microphone for me.

MS. SZABO: Okay, I believe I'm unmuted. Can you hear me?

MR. YOUNGBLOOD: Loud and clear. Go right ahead.

MS. SZABO: I'm not sure what happened there, but I am new to this, so I prepared a statement here. The developers delivered a traffic study memorandum in support of their petition. It's intended to support their contention that the changes they want to make are insubstantial and are in compliance with LDC 10213, so that means that they do not result in an increase in the impact of the development which may include but not limited to increases in traffic generation, traffic circulation, and Item F, that no change will result in land use activities that generate a higher level of vehicular traffic based on the trip generation manual published by the Institute of Transportation Engineers.

The traffic study included as part of the hearing documents, included twice, was generated with the assumption that the Allegro development was going to be assisted living. The study used ITE trip generation numbers for Land Use Code 254, assisted living, as opposed to 252 which is senior house attached. This resulted in an under- estimation of the traffic that will would be generated by the development.

Assisted living residents are very different from independent seniors. Most assisted living residents are over age 80 and few drive cars; that's why they're in assisted living.

According to a 2015 study in the annals of long term care, only 4.7% of seniors in assisted living still drive. By contrast, according to the Department of Elder Affairs for the State of Florida, 93% of Floridians over the age of 60 drive. As such, one would expect the number of drivers in the south side of Rattlesnake Hammock to increase by roughly 32% if the housing changes from assisted living to independent living.

In broad terms, think of it this way, there were originally 862 dwellings planned on the south side of Hacienda Lakes with likely car owners and now there will be 1,182, a 32% increase in traffic does not seem insubstantial to me.

It looks like the Collier County transportation staff did finally realize that the traffic study used the wrong land use code. It's been the same traffic study in the package forever.

In spite of this, they have recommended approval, but are asking that the study be redone with the correct land use code. While use of the correct land use code will result in an increased in the predict amount of the traffic, it will still underestimate the volume. The ITE numbers are based on data that is quite old dating back to the '80s and '90s.

In general, it underestimates traffic generated by senior housing, but if they redo the study, they'll find that even with those numbers they'll have more traffic than they thought.

One of the changes the developer is petitioning for is additional access to Rattlesnake Hammock for which a right-hand turn lane is required.

According to the FDOT design manual, the minimum length required for this turn lane is

185 feet plus the anticipated cue length at build out. The manual recommends an extra 25 feet for every vehicle in the cue.

Because the study used the wrong land use code, they underestimated the length of the cue and as a result are proposing a turn lane that is too short. Use of the wrong land use code is like using a dentist as an expert witness in court when you really needed a medical doctor.

If the use of the wrong ITE numbers was done in error, the developer should ask for their money back. If this was done intentionally, it may be because the developers are going to run out of right-hand turn lane space. If not in this phase of the development, then certainly when they build the next building. But regardless of intention, it would be inexcusable for the County to accept this erroneous analysis as evidence of compliance with LDC 10213.

I think I have a couple more minutes, or a minute, so on a different topic regarding the affect of low-income housing on property values, people often cite a Redken study which claims that the introduction of low-income housing is unlikely to affect nearby home prices. Redken study looked at 220,000 housing transactions in 26 counties. A much more detailed study was done by Diamond and McQuade out of Stanford. They looked at 16 million transactions in 129 counties. The Diamond and McQuade study found that low-income neighborhoods benefited from the addition of new low-income housing. It served to rejuvenate those neighborhoods.

On the other hand, neighborhoods with income above the median saw a decrease in their property value with the introduction of low-income housing. So while it may be true that on average low-income housing doesn't depress property values, it does this by raising some while depressing others. Sadly, existing Hacienda Lakes residents are among those for whom property values are likely to decrease with the addition of low-income housing. Anyway, just a message to the County, why do you want to raise -- effectively you're raising our taxes by lowering our property values. Thank you.

THE HEARING EXAMINER: Again, give me your name and address, please.

MS. SZABO: Renee Szabo.

THE HEARING EXAMINER: And your address?

MS. SZABO: 8411 Palacio Terrace South.

THE HEARING EXAMINER: And are you speaking here on behalf of anybody or just on behalf of yourself?

MS. SZABO: On behalf of myself.

THE HEARING EXAMINER: Okay. And where do you live in proximity to this --

MS. SZABO: I guess, like, a half block. You mean to the edge of the development?

THE HEARING EXAMINER: Yeah. I wasn't sure whether you were representing somebody or

-- MS. SZABO: No, just myself and I guess other people with, you know, similar feelings about the --

THE HEARING EXAMINER: Well, no, no, I didn't know if you were a traffic engineer or some expert that was presenting testimony.

MS. SZABO: No, but all of this information is available to the public.

THE HEARING EXAMINER: Thank you. All right, we'll close the public hearing again. Ms. Crespo, you want to address any of that?

MS. CRESPO: Thank you. The subject property is within a master planned unit development that's also subject to a DRI DO ordinance. The overall project has a maximum P.M. peak hour trip cap that limits the trips generated by the project so that we cannot have an increase in trip traffic that would trigger this insubstantial change criteria that Ms. Szabo was discussing.

The DRI is approved for 450 senior housing units, we are proposing 160 units. We are subject to the trip cap so that we cannot increase the traffic unless we were modifying those conditions and commitments.

And I'll note that Condition H, which we worked on with staff and we're in agreement with, H(e), is the TIS shall reflect use ITE use code 252, senior living attached, due to the limited onsite services to better reflect projected trip generation. So we've addressed the appropriate ITE code in the PUD document. This will get further evaluated at SDP to make sure the trip cap is not being exceeded. It's being analyzed properly. And similarly, the turn lane requirement will be analyzed by both the traffic engineer for the applicant, as well as Collier County staff to ensure there's adequate stacking in the turn lane based on the volume of trips entering the project. So all of these things are addressed through the codes, through the DRI DO ordinance, as well as the MPUD ordinance and it's been verified by your staff as well as our application materials that we are not increasing trips.

THE HEARING EXAMINER: My staff?

MS. CRESPO: I apologize, the County staff.

THE HEARING EXAMINER: Okay. Quick question for you, I just want to get this on the record. You have the acronym AICP behind your name; what is that?

MS. CRESPO: A certified planner with the American Institute of Certified Planners.

THE HEARING EXAMINER: Your firm is Waldrop Engineering, correct?

MS. CRESPO: Correct.

THE HEARING EXAMINER: And you and your firm are familiar with traffic engineering and planning and things of that nature?

MS. CRESPO: We don't do direct engineering and consulting services, but proof as a daily part of my practice, I review traffic impact studies associated with my projects.

THE HEARING EXAMINER: So you're not unfamiliar with this issue about traffic and stacking and which codes to use, correct?

MS. CRESPO: Correct.

THE HEARING EXAMINER: Okay. Thank you.

MS. CRESPO: Thank you.

THE HEARING EXAMINER: Ray, any -- I just want to get on the record, you're representing here the County, there was some questions about traffic. You've listed in the staff report the particular codes that are going to be used based on this project, are you comfortable with it still?

MR. BELLOWS: For the record, Ray Bellows. The type of housing being proposed falls under Section 5.05.04 of the Land Development Code as a type of group housing and the traffic study was reviewed by our transportation staff and I believe Mike Sawyer is here if you have specific questions to that, but from my reading of this traffic study, it appears to be correct.

THE HEARING EXAMINER: Do you feel a need to have your traffic engineer come up, or traffic person, or do you feel comfortable at this point?

MR. BELLOWS: This seems to be consistent with all other ALFs that we do.

THE HEARING EXAMINER: All right. Perfect. Anything else we need to take care of before I close this item? All good? Okay. Once again, I appreciate the neighbors working together; that's exactly what the public notices are for, what the neighborhood information meetings are for. It really makes things go much smoother when those issues are worked out prior to having a public hearing like this, so with that I am going to close this item and I will have a decision out for you within 30 days. So thank you everyone for being here, and again, thank you for cooperating with one another. Thank you, Mr. Johnson, for your excellent representation of your clients.

Okay, let's go to item No. 3B on the agenda. Mr. Bellows, why don't you introduce this for the County?

MR. BELLOWES: Yes. For the record, Ray Bellows. I'm zoning manager for the County and I am presenting boat dock extension BDE-PL 20210000519. It's for a boat dock extension to exceed the 20-foot maximum by 20 feet for a total protrusion into the waterway of 40 feet for property located at 406 Cristobal, found in the Isles of Capri. The agent is Jeff Rogers and staff --

THE HEARING EXAMINER: Go ahead.

MR. BELLOWES: Yeah. Basically, this has been advertised and signs posted on site.

THE HEARING EXAMINER: Okay, signs posted on site, radius notice, all right, good. Great. So let's hear from the applicant's representative. Good morning, sir.

MR. ROGERS: For the record, Jeff Rogers with Turrell, Hall & Associates here representing the applicant, Bo Middlebrook, and his address is

406 Cristobal Street. The property is located down in Isle of Capri, Florida, a small island just across from Marco Island as well.

The petitioner is proposing a 20-foot boat dock extension from the allowed 20 feet. There is an existing dock on site that the applicant currently uses and is in good standing with the County.

The proposed plan is to modify the existing dock by -- if you look at the exhibit, I do have a Power Point, but, you know, looking at the exhibits, there's a T-dock that we're going to basically reduce the size of it to install a boat lift on the north side of the existing dock and the vessel is what is driving the boat dock extension request. It's not the actual dock itself, it's the vessel protrusion out into the waterway. The existing dock is not grandfathered, but it's an existing permitted structure with the County and the new boat lift will increase the existing protrusion driving the additional 20 feet into the waterway.

So the waterway width is accommodating, there is no threat of navigation here. There's no interference with other boats navigating this waterway. It's a short little residential canal that's just on the far east side, on the northeast side of Capri like I said.

There's other boat docks extensions as well. We are pretty consistent with their protrusion, however, our vessel, looking at the drawings, no Power Point, but looking at the drawings in front of you, you could see that the other docks adjacent to us to extend out past 20 feet as well and the vessel will extend out past those other two docks. However, the dock itself will be inside.

You know, the -- no --- the environmental, basically there's no seagrasses that will be impacted. It is in an ST overlay area, so an ST permit will be required.

Going through the criteria, again, basically the vessel is what's driving this, not water depths. There is no impact to navigation. Views of the waterway are within your recurring rights and this dock does fall within the required setbacks of Collier County of 15 feet on each side, one side being exactly 15 feet and the other side I believe is 24 feet. Yes, 24-foot setback. So realistically, we meet all of the -- most of the criteria. The water depth criteria we do not meet, which is not the driving factor here, it's the vessel as well as the manatee protection plan are the two criterias that we do not officially meet at this point, so happy to answer any questions you may have.

THE HEARING EXAMINER: All right, two quick questions, might end up being three. Your client has the vessel or is -- I mean, this application is driven by a vessel?

MR. ROGERS: We've been down this road, yes, sir, so the client does have the vessel already. He's renting a slip and storing it offsite at this time.

THE HEARING EXAMINER: How confident are --

MR. ROGERS: I'm confident.

THE HEARING EXAMINER: You seem very confident. I know you're very good at what you do. All right, so the second question -- so my understanding, there's an existing T-dock there right now and you're going to remove one side of the T and make this an L-dock in order to accommodate the -- what is this, a 38-foot vessel, correct? And I'm looking at -- so I'm looking at the aerial photograph that's in the packet and at the end of the T, what is that, is that just a parked boat?

MR. ROGERS: On the aerial exhibit there is a vessel parked at the end of the T, which is kept on the second slip which is on the, I guess, northeast side of the dock, which if you were standing on the shoreline looking out, it would be on the left-hand side of the dock is the slip for that boat.

THE HEARING EXAMINER: That particular -- what I'm seeing on the aerial photograph that you've used to overlay your diagram is really just temporarily moored right there?

MR. ROGERS: Yes.

THE HEARING EXAMINER: Okay. So they're going to have some trouble mooring obviously there --

MR. ROGERS: In the future, what they'll do is just tie off to the L section. With these lots, people do cram in, boats are getting bigger, so, you know, there's really not too many places to put them. As a single-family lot owner, you're allowed two slips, this has that and meets that criteria. You can moor a boat up on the end of the L-dock. It's not ideal at a low tide particularly when you can't get a boat on or off a lift usually is when you're most restrictive, but utilizing the boat lift, you could temporarily tie up to the end of that L.

THE HEARING EXAMINER: So the structure that I'm seeing that is actually angled according to the property line is really a covered boat lift?

MR. ROGERS: (Nodding of head).

THE HEARING EXAMINER: Like a canopy-covered boat lift?

MR. ROGERS: (Nodding of head).

THE HEARING EXAMINER: And that's where that particular vessel would be stored, correct?

MR. ROGERS: Yep.

THE HEARING EXAMINER: Okay.

MR. ROGERS: People come and go at their docks. I mean, you can just tie your boat up rather than putting it on a lift, you just quickly tie it up to the dock to get on and off.

THE HEARING EXAMINER: I understand. Yeah, it's very fuzzy, so I wasn't sure if that was just temporarily moored and you're using -- you're capturing someone else's aerial photograph like everyone else, that's fine, so that's good.

All right, so -- and as far as any of the adjacent neighbors, do you -- have you had any communication with them?

MR. ROGERS: I personally -- we had a phone call. I did not speak to them myself. We had a phone call to our office from one of the adjacent neighbors, not exactly sure which property it was, if it was east or west of us, but she was -- it was a female that called. I don't have her name offhand, but she was voicing some concerns that she didn't know this petition was coming up today and felt that the advertisement wasn't done on time or properly. I couldn't really speak to that. Again, I didn't speak to her, but she did voice those concerns.

THE HEARING EXAMINER: Yeah, so I'm not -- at this point in time -- and I do understand that single-family homes are afforded two lifts for two vessels, there's an existing -- I haven't seen -- I mean, it does seem like that would be difficult to get in and out with the other dock depending on wind and the other things, I certainly wouldn't try it, but that's not under my review at this point, so it is what it is. I do recognize that you're reducing the decking area simply because you've got to chop off one side of it; is this a full demolition and putting up a new dock?

MR. ROGERS: No. No.

THE HEARING EXAMINER: Okay.

MR. ROGERS: Just going to demo the section that has to be removed. This is really the only option. This dock was fully permitted, as well as the canopy slip, with the County through a building permit; that's the research that I found, so I'm here today obviously just presenting the modifications.

THE HEARING EXAMINER: Okay. So it's up to you whether or not you want to do your Power Point, it's up to you, but I'll give you a minute to respond to any public comment if there is any. Let's open it up to public comment.

MR. YOUNGBLOOD: Mr. Dickman, we have one public speaker with us today, Karen Wasserman.

THE HEARING EXAMINER: Ms. Wasserman, come on up. How are you?

MS. WASSERMAN: I just wanted to clarify --

THE HEARING EXAMINER: Just give us your name and address.

MS. WASSERMAN: Karen Wasserman, I have two homes on the same side of where this boat dock extension would be going.

THE HEARING EXAMINER: Same side, meaning you own both houses?

MS. WASSERMAN: I own 400 Cristobal and I own 410 Cristobal.

THE HEARING EXAMINER: You own the houses on both sides of this property?

MS. WASSERMAN: There's a neighbor between us, both homes on the street on the north -- on the southern side, I own the first one that abuts the county park. The county park is situated between --

THE HEARING EXAMINER: Hold on one second, let me get my larger aerial footer up here.

MS. WASSERMAN: So the home at the end there, that does not have a dock.

THE HEARING EXAMINER: Okay. That would be kind of hard to have a dock.

MS. WASSERMAN: Exactly. And then the tip home on the south -- on the west-southwest corner is also my home, 400 and 410 are the homes that I currently own.

THE HEARING EXAMINER: So you're not abutting this particular project?

MS. WASSERMAN: No, they're separated by two other homes.

THE HEARING EXAMINER: You so you don't have a shared property line?

MS. WASSERMAN: Not a shared property line, no sir.

THE HEARING EXAMINER: And I meant to ask that, so that's a county -- it looks like a beach; is that a county --

MS. WASSERMAN: It's a little --

THE HEARING EXAMINER: A little pocket park?

MS. WASSERMAN: There's a land bridge that turned into a county park that the County maintains, they cut the grass. It's actually a sitting area as well on the opposite side of Capri Boulevard. There's a bench there. There used to be a trash can, it might have blown away from one of the storms, so it's actually a park that actually right now the County is researching putting in, you know, with money that might be available to putting in an exercise park right there, so it's actually been a prominent park that people like to sit and look at the sunset.

THE HEARING EXAMINER: All right. Let's get more to the dock part. Okay, I appreciate it, I know I opened the questions up --

MS. WASSERMAN: Okay, so you know where I live --

THE HEARING EXAMINER: I do.

MS. WASSERMAN: -- and why I'm here to reject this project. Let me read what I have --

THE HEARING EXAMINER: Sure. Go ahead.

MS. WASSERMAN: -- available for you. Okay. So a boat extension should actually be the last resort for configuring a dock in my opinion. It should not be, I bought a big boat and now I need a boat dock extension. I'll give you some history of myself on Capri. My first home had 25 feet of water frontage. When I wanted a bigger vessel, or a vessel at all that could stay outside my property, I moved to a home on a canal with 65 feet and I did leapfrog until I found the home that I really love, which is the tip lot, and I'm most affected by any boat dock extension that would be done at 406 Cristobal.

As opposed to Mr. Rogers saying that this is the canal, it is not a canal, it is bay. It's bay water. Every single home from 400, 404, 406, 408, 410, we're all on bayfront property. We're part of Rookery Bay. We're part of a beautiful state aquatic preserve.

Anyway, so, again, the boat dock extension should not be the first resort to then bring in a boat that was already purchased. Unfortunately I have too many objections on this petition that I don't think that the County should approve or grant a 20-foot extension.

View and aesthetics of the island and the street, in addition to my two homes, again, this is a county park, there are -- we look at a commercial island across the view, across the bay, and unfortunately, Mr. Middlebrook, who did not live on Cristobal during Hurricane Wilma, which I did, or Hurricane Irma -- well, he did, he

had -- basically his home was renovated from Hurricane Irma, so he made out pretty well.

But since 2005, Hurricane Wilma, the Tarpon Club that Fiddler's Creek owns, which is prominent commercial land and a big marina project going on there that the State has been working on, the DEP and all of that, since 2005, it's still not completed. So basically this bay right now is somewhat in a dormant state and is not as active as it will be.

I lived there, I've owned the property since 2003 --

THE HEARING EXAMINER: What property do you live in? That's your homestead?

MS. WASSERMAN: Yes, since 2003.

THE HEARING EXAMINER: And the other one is a --

MS. WASSERMAN: The other home was actually bought with the intention for my adult son that has some --

THE HEARING EXAMINER: Okay, you don't have to get into private --

MS. WASSERMAN: Okay.

THE HEARING EXAMINER: I just wanted to know which one was your homestead.

MS. WASSERMAN: 410.

THE HEARING EXAMINER: Okay. Thanks.

MS. WASSERMAN: Okay? So right now Turrell and Associates go out there and there's not a whole lot of boat activity, they call it a canal. It's definitely a bay. Everything on that section is bayfront from La Peninsula to my house, we're all on the bay. The only canal is between Antigua and Cristobal, which this house does not sit on. So I do have some concerns for the aesthetics of the commercial businesses, the restaurants, the passive park that the County is looking into making it more user friendly for outdoor space exercises due to COVID-19. They are planning or discussing that and that's been on Rick LoCastro's Commissioner District 1 newsletters that I get every single month that this is in the talk.

Also, that land bridge is also an area where the County -- I don't know if you remember back around 2007 or 2008 a company was hired to put in the water culverts --

THE HEARING EXAMINER: You have about 30 seconds.

MS. WASSERMAN: Thirty seconds?

THE HEARING EXAMINER: You're on 4 minutes and 30 seconds.

MS. WASSERMAN: Can I go over since I'm the only person here on this street today?

THE HEARING EXAMINER: I'll give you up to six minutes.

MS. WASSERMAN: Okay. All right.

THE HEARING EXAMINER: Because you're talking about things that are really not part of the criteria respectfully, so --

MS. WASSERMAN: Well, I also -- I would state that the diagonal bolt slip that Mr. Rogers was talking about, it may be County approved, but I can assure you with my research that I had to do because I did not get a letter mailed to me at

410 Cristobal in a timely fashion, I heard it through the grapevine that there was a meeting today July 9th. There was not a sign in Mr. Middlebrook's yard until Monday, less than 72 hours ago, so I've had little time to prepare.

I spent the day with the DEP yesterday going over things trying to get as much information as possible. I actually called Turrell and Associates on Friday last week. I spoke to Amanda and she said she would try to have somebody call me back. No one has called me back, including Mr. Rogers, so I didn't get my answers that I was looking for.

But my suggestion on the configuration of this docks is very simple. It's what I would be doing as a homeowner, get rid T-dock totally. It's obsolete for what Mr. Middlebrook wants to do. he has a nice wide lot, it's 80 to 85 feet wide, he would have 30 feet of setback on the sides and run the dock parallel to his seawall so that he's not projecting into this commercial bay area.

When Fiddler's Creek gets operational, and I already see it today, at the Blue Heron, which is now called Osteria Capri, the owner there put in some slips. Blue Heron never had slips until the new owner -

THE HEARING EXAMINER: Six minutes and 30 seconds. Can you just get -- 30 seconds, let's get right to the point. You've repeated yourself a couple times.

MS. WASSERMAN: I am objecting to this boat dock petition.

THE HEARING EXAMINER: So you're in objection, so let me ask you a question --

MS. WASSERMAN: -- and if I had the time and proper signage was put in the yard, I would be a lot more --

THE HEARING EXAMINER: Are you the record owner of both of those homes?

MS. WASSERMAN: Yes.

THE HEARING EXAMINER: So that the --

MS. WASSERMAN: (Inaudible).

THE HEARING EXAMINER: What you do -- okay, so you realize that -- Mr. Bellows, mail notices go out? Am I correct on this one?

MR. BELLOWES: Correct. And I have a note here that says that the letters were sent July 2nd to the following addresses and --

MS. WASSERMAN: I get mail from --

THE HEARING EXAMINER: One at a time. Thank you --

MR. BELLOWES: And that includes 445 Stokes Road --

MS. WASSERMAN: That's where the bills go, that's not where I live.

THE HEARING EXAMINER: -- we have a court reporter.

MR. BELLOWES: -- and 410 Cristobal Street.

THE HEARING EXAMINER: So let's -- and those are two based on the property appraiser has a list of basically who the property owner is and where that would go to, correct?

MR. BELLOWES: Correct.

THE HEARING EXAMINER: Okay. So just so everyone understands, you know, there's some duplicity in the notices, there's signs on the property, there obviously are notices here in the newspaper and ads and things like that, but -- 300 feet or 500 feet?

MR. BELLOWES: Five hundred feet.

THE HEARING EXAMINER: Five hundred feet and it's braced on the property appraiser, wherever the owner has listed where they get their tax bill; am I correct on that?

MR. BELLOWES: Correct. Whatever's registered with the property appraiser.

THE HEARING EXAMINER: So if you're not there at that house and you're not picking up -- wherever that is, you're not picking up your mail, you're not going to get it, but the County has testified that proper notice has been put out. I recognize that some people for whatever reason don't see the sign, don't -- but at the same time, you are here, so --

MS. WASSERMAN: I'm here because I --

THE HEARING EXAMINER: -- so you got constructive notice.

MS. WASSERMAN: I --

THE HEARING EXAMINER: Ma'am, you've made a great presentation. I understand everything that you're saying, I'm just pointing out that putting aside all the notices that have happened, you are here.

MS. WASSERMAN: I'm just saying I knew about it through the grapevine on Capri and I shouldn't have to learn about it through that method.

THE HEARING EXAMINER: Okay. Well --

MS. WASSERMAN: I shouldn't have to see a sign out in the yard Monday afternoon two days before this meeting.

THE HEARING EXAMINER: That being said, you've been afforded more -- you know, seven minutes. You know, I wanted you to have an opportunity to say what you had to say. I appreciate it. I believe that has enough information, enough notice that has gone out and you are here, so --

MS. WASSERMAN: (Inaudible).

THE HEARING EXAMINER: No, no, nothing else. That's it. Sorry. Public hearing's closed. You can't go on. I was trying to really decipher what was relevant to the criteria and what is relevant. I mean, you're allowed to say what you want, but I encourage people to stick to the criteria because that's the only thing that I can look at is the criteria for this particular petition. I can't -- you know, while sympathetic about a lot of things, that's not my job to be sympathetic, so thank you for being here, I appreciate it, and nice presentation on your behalf. Thank you. Mr. Bellows, do you have anything else you want to add?

MR. BELLWS: Just also that we did a newspaper advertisement as well and the sign was posted on July 7th and we have a photo of the sign posting with that date.

THE HEARING EXAMINER: The reason I have started asking the County to put in the record notices, while it may seem mundane, I think it's important to have it in the record because lots of people feel as though they don't have proper notice, but there are duplicitous ways of putting notice out and I'm a big believer in due process and I think it's very important to make sure that everyone has notice. And if you're here, that's also indicative of the fact that you did get notice, whether it was adequate or not, frankly, you could also call in. Thankfully the County has been giving hybrid meetings at this point, so does the petitioner want to say anything else? You don't have to. Here, let me ask you a question, because one of the things about the criteria in these boat dock extensions -- and I didn't write the code, I don't make this up, I just follow the rules -- the vessel in large part, no pun intended, drives the petition; am I correct about that? Mr. Bellows, am I correct about that?

MR. BELLWS: That's correct.

THE HEARING EXAMINER: Okay, so I don't get to pick the boat. I don't go buy the boat. I don't tell people what to buy, where to buy it. It's the vessel that drives this application; that's just what it is, so I'm not -- you know, that's just -- I have to follow the code and that's what it says and then you have primary and secondary criteria and you have to meet a certain -- a certain number of those.

MR. ROGERS: On the record, when a client comes to us, we, you know, vet the vessel and the situation to the code to make sure that we feel as a firm there is, you know, approval; that what we're proposing is -- will meet the code and be accepted by Collier County. So we vetted this, it meets the code, it meets setbacks, it's the least impactful to the waterway that we could do. I've told clients before, sorry, you need to find a different lot or a different place to store a boat if it's not feasible, and in this case it is.

THE HEARING EXAMINER: I'm really glad you stated that. So how long have you been coming and presenting boat dock extensions to the Hearing Examiner; not just me, but prior Hearing Examiners?

MR. ROGERS: For 16 years.

THE HEARING EXAMINER: Sixteen years, so you're familiar with the criteria?

MR. ROGERS: Yes, sir.

THE HEARING EXAMINER: And I believe what you told me is that you make your clients aware of the criteria that you would have to present here and you also seem -- I think what you suggested is that some that are asking for something that you think in good faith can't present here, you might not take that or you might ask them to reconfigure it so that they don't have to be here?

MR. ROGERS: (Inaudible.)

THE HEARING EXAMINER: Wait, your microphone is not coming on.

MR. ROGERS: Presenting something to you that's not feasible is silly for our opinion -- in my opinion. We have to come in front of you guys and deal with staff all the time. We can't just put ourselves out for one individual client that's proposing something a little silly. And back to this one, it meets the criteria, it's acceptable, the waterway's wide enough, It's -- DEP is on board. Everything's in place.

THE HEARING EXAMINER: Thank you very much.

MR. ROGERS: Thank you.

THE HEARING EXAMINER: All right, any last words from the County? Anything you want to --

MR. BELLOWS: Just that we found it consistent with the applicable boat dock extension criteria and we are recommending approval.

THE HEARING EXAMINER: Any conditions?

MR. BELLOWS: No conditions.

THE HEARING EXAMINER: All right. Very good. Mr. Youngblood, anybody else here? No? He's shaking his head no for the court reporter to know.

MR. YOUNGBLOOD: Mr. Dickman, we do not have any registered speakers on this side.

THE HEARING EXAMINER: Too late. You need to put a dollar in the violation jar. You can't rehabilitate that.

All right, so we're going to move on to the next item which is item 3C, correct? Yeah, 3C, so why don't we go ahead and have County introduce -- are you going to have the County introduce or who do you have? You're going to need a microphone some way or another.

MR. SABO: James Sabo for the record. Hi. This is PUD insubstantial change. The request is to change Collier Tract 22, the PUD master plan, to add an ingress and egress access point that's south of the existing access point. There's already one there, but it's not shown on the master plan from 1991 which was 91-21. The plan just shifts the existing access just to the north. The applicant has some photo documents that they will use and show you.

The HEX did grant a NIM waiver on 1/5/21, January 5th, '21. I think it was the last one granted by you. And the staff recommendation in this case is to approve PL20200746 PDI for Fifth Third Bank. I'll entertain any questions and the petitioner is here as well.

THE HEARING EXAMINER: I do have a quick question. All right, so I'm going to need the County to make sure that this is -- to once again say I have jurisdiction as an insubstantial change because I noticed on page four of seven of the staff report, it's referencing Land Development Code 10.02.13.B.5, which seems to be redirecting this to planning commission hearing and recommendation and I don't know if that was a mistake or an error.

MR. SABO: It's a typo.

THE HEARING EXAMINER: That's a typo?

MR. SABO: Yeah, I don't write HEX reports very often.

THE HEARING EXAMINER: Yeah. So I want to make sure that we're -- this should be in my jurisdiction as an insubstantial change rather than I -- obviously I don't want to hear anything that I have no jurisdiction over that should go to the City Commission, so what do we change that to?

MR. BELLOWS: It should be referenced as -- and I have it here.

THE HEARING EXAMINER: There's references here to the planning committee recommendations, things like that, so I'm just -- I just want to take -- I think it's E if I'm not mistaken, 02.13(e).

MR. SABO: Mr. Hearing Examiner, that is within your jurisdiction and we will correct that.

THE HEARING EXAMINER: All right. Thank you very much. I appreciate that clarification. And, yes, there was a NIM waiver on this one. I think I need to know if there's any opposition here. Do we have anybody here to speak?

MR. YOUNGBLOOD: Mr. Dickman, I do not have any registered speakers for this item.

THE HEARING EXAMINER: Okay. So why don't we go ahead and have the applicant speak?

MR. SABO: Thank you.

THE HEARING EXAMINER: Thank you for that presentation.

MS. ORTIZ: Good morning. For the record, my name is Patricia Ortiz and I'm here on behalf of Fifth Third Bank. Could we move to the next slide, please?

This project is Collier -- is located within Collier Tract 22 MPUD, and the subject site, you can see highlighted in dark green on the bottom right-hand side of the second slide. This is just to orient you with the site.

Next slide, please? The master plan graphic approved with this PUD back in 1991 reflect only one access point for Tract A and I've kind of highlighted that existing access point in red on this graphic for you again in the bottom right-hand corner.

Next slide, please? This imagery from Google Earth demonstrates that as far back as 1995 Tract A has had two access points. Also, it's important to note that this dual-access system of driveways existed prior to most of the -- the construction of most of the homes in Collier's Reserve.

Next slide, please? So what we'd like to do is change the master plan graphic from what you see on the left to what you see on the right, which would indicate two access points. Our overall intent is to develop Tract A with a bank and relocate the southernmost driveway northward.

Next slide, please? So this graphic is intended to show you what exists currently. The southernmost access or driveway is X'd out here because we want to move that northward approximately to where that bubble with the number one is located. No changes will be made to the existing northernmost driveway that's just shown in the bubble number two for orientation.

THE HEARING EXAMINER: Can I ask you a question before we move on?

MS. ORTIZ: Sure.

THE HEARING EXAMINER: This is a nice graphic. So we're talking about this is north of Immokalee and on the left side is the subject property, correct?

MS. ORTIZ: Correct.

THE HEARING EXAMINER: And then currently everything is funneled through number one?

MS. ORTIZ: No. Currently everything is numbered through where you see the X, uh-huh, and then the number two. Number one doesn't yet exist and number one represents where we would like to move the existing driveway to.

THE HEARING EXAMINER: How far is the red X? That's an ingress and egress?

MS. ORTIZ: Yes, sir, it is.

THE HEARING EXAMINER: Okay.

MS. ORTIZ: And I think that it's about 40 feet from the intersection.

THE HEARING EXAMINER: At Immokalee, and that's a light -- a streetlight intersection?

MS. ORTIZ: Uh-huh.

THE HEARING EXAMINER: Okay. All right. Thank you.

MS. ORTIZ: So what we're proposing to do and I think there's one more slide if you could, okay, we're proposing to construct a 2,800 square foot drive-thru bank in that most southeastern corner. Moving the driveway northward is really going to be a betterment. We feel that it's going to reduce conflicts that exist within Tract A, also clear up some traffic issues along Collier Health Park Boulevard, and perhaps most importantly, eliminate any traffic stacking on Immokalee Boulevard.

As you can see, we're going to put some striping on the pavement to clearly indicate a left turn lane and direct people into that -- that new driveway. And I can answer any questions you might have.

THE HEARING EXAMINER: I want to make it clear that I'm -- I know you're referencing a bank, only for purposes of my knowledge for why you're here --

MS. ORTIZ: Correct.

THE HEARING EXAMINER: -- but I'm not approving a bank here.

MS. ORTIZ: Absolutely. And I do understand that. The bank construction is in the site development process, but we can't move forward with approval of that site development plan until we assess out this access issue.

THE HEARING EXAMINER: All right. I see what you're trying to do. Notices went out, I assume the hospital is to the north of you all, or wait, east -- northeast -- north is up, so they're to the east, right? Yeah, there you go. So everybody was noticed, no one's here, I don't know of any objections, it seems like an improvement honestly to -- I'm very concerned about that 40-foot stacking right from the -- and that is -- I know that that's an older area and a lot has happened on Immokalee Road in the past ten years, it's been widened and there's quite a bit more traffic, so I understand all that.

MS. ORTIZ: Yeah. And this was developed back or approved back in the 1990s, so, you know, a lot has definitely changed since then. Any further questions for me?

THE HEARING EXAMINER: No. Why don't we open it up for public hearing officially. Mr. Youngblood?

MR. YOUNGBLOOD: Mr. Dickman, I have no registered speakers for this item, sir.

THE HEARING EXAMINER: On the Internet or in person, correct?

MR. YOUNGBLOOD: Correct.

THE HEARING EXAMINER: Okay, so I'm going to officially close the public hearing. Anything else from the County? Mr. Sabo? Nothing? Recommending approval, correct? Okay. Anything else from the applicant? I'm giving everybody a chance here. All right, you made a very good presentation, I understand it completely what you're trying to do. I will render my decision within 30 days according to the code. Thank you. All right. Excellent.

We're moving right along. Okay, why don't we get started on -- this is the last item, item 3D on the agenda. Ray, are you going to be handling this?

MR. BELLOWS: Yes, I'll be handling this one as well.

THE HEARING EXAMINER: Okay. Why don't you introduce the item?

MR. BELLOWS: Okay. It's a PUD insubstantial change, PDI-PL202000002648, it's the Isles of Collier Preserve and the amendment is to Tract F of the Sabal Bay PUD and the intent is to establish residential development standards for courtyard two-family homes and that would be placed in Table 1 of Section 3.5 of the PUD and adopting Exhibit F that depicts the master plan for the courtyard and two-family homes that are accessed by courtyard streets limited to Tract F1. I also call it Preserve Phase 3.

THE HEARING EXAMINER: Okay. And notices went out correctly?

MR. BELLOWS: Yes, notices went out correctly. We have the documentation of the sign posting.

THE HEARING EXAMINER: And in your opinion, this is an insubstantial change, therefore I would have jurisdiction, correct?

MR. BELLOWS: That's correct.

THE COURT: Okay. Thank you very much. Why don't we go ahead and hear from the applicant?

MS. SAPEN: My name is Jennifer Sapen with Barraco & Associates. I'm a certified AICP land planner. We do have our development team with me today, but -- the presentation will be on my shoulders, but they will be available for questions if needed.

This presentation is filled with lots of graphics, pictures to make it more understandable. So this is a PDI to incorporate a new product type. It is called a courtyard two-family. It's very similar to a two-family attached, but it has a slightly more urban feel. It's similar to an alley-loaded product, but the alleys are much shorter.

This proposed design could be done as a condo. You'll see in the packet there's several deviations that were required with this request; that is because of the fee simple nature of the product. If it was a condominium, these deviations would not be needed and we would not be here today.

Multi-family, just keep in mind multi-family is an allowed use throughout the Isles of Collier Preserve, so while we are proposing this courtyard two-family, the PUD would allow multi-family and a higher density level for this parcel. With this request, as part of a PDI, there is no additional density proposed so, no change in traffic.

Next slide, please? Here is an aerial location, the black boundary around the outside is Isles of Collier Preserve. You'll see throughout this presentation we call it ICP just for the abbreviation of Isles of Collier Preserve.

You can see in the south and western portion, most of the Isles of Collier Preserve is preservation area. No changes are proposed to the preservation or access points as part of this PDI. The only area that is affected by this request is the courtyard two-family area shown hatched here.

Next slide, please? This tract is defined, it is already a platted tract, a future development tract F1. You'll see here it's recorded plat book 57, page 66. And this is a footnote, a development regulations table footnote 12 references this.

Next slide? Zooming in a little bit closer, you can see the subject parcel is a triangular shape F1 tract shown here in black. East of the project is US 41 and further on east beyond 41 is a commercial development. So to the south, it's abutted by Lely canal and an FPL substation. To the west, you'll see in green here is a preservation area, a reported preservation area, FPL easement with powerlines, large transmission lines, and then the next residential product you see within Isles of Collier Preserve, those are two-family attached structures similar to what we are proposing. And then further beyond to the west, you'll see preserve.

And next slide? This slide shows you a little built further even looking into Isles of Collier Preserve. So from this vantage point, we're hovering above the commercial area across 41. Commercial area is labeled with a one. The two on this diagram shows the Lely canal and the FPL substation. Number three you can see the preserve, the powerline easement, followed by the two-family attached. Then further beyond that, more preserve. And then beyond the preserve is the first multi-family that is within Isles of Collier Preserve. And then five is an entry and entry gate and sales center.

Next slide? So the proposed use is very similar to two of the products that already exist in Isles of Collier Preserve. The two-family attached, which is a fee simple unit, single story, they're shown in the ones. These are already developed or are currently under construction.

Number two is the existing courtyard access that is utilized in the multi-family design of Isles of Collier Preserve.

Next slide? This is an aerial of the multi-family courtyard design. It's kind of dark, but you can see in the middle between these two buildings there's a narrow court yard that accesses driveways and garage entries into the units. These buildings are two to three stories and you can also see on Dominica Drive here, there's parallel parking. Our proposed design is very similar to this layout where there is a courtyard unit with garage accesses and parallel parking along the street.

But this design was able to be permitted, developed without any deviations necessary solely because it is a multi-family unit. Our proposed design as fee simple, require deviations.

Next slide? Here's a street view of those courtyard designs. You can see in the upper left, you can see the garage faces that they access the courtyard, the parallel parking on the street, and sidewalk access to the front doors of the unit. And again, this is a multi-family on Dominica Drive within Isles of Collier Preserve. It's a few miles west of the proposed parcel.

Next slide? Here's a floor plan comparison of the currently constructed twin villa, two-family attached, in comparison to the courtyard. And what we have done here is we've flipped the garage is in the back, rather than the pool and lanai and the lanai is in the front so that your yard where you see the word courtyard, that's where the alley access is and to the bottom of the slide is where the main road is. You can see the square footages and the layouts are very similar to what already exists at Isles of Collier County Preserve.

Next, please? Exhibit F is part of your packet. The detail for this design became very complicated to see graphically, so we broke it into three different components and I'm going to walk through these now in a nice colored render. Next, please? First I'll start what the detail was in the bottom left of that page, the physical elements detail. So this is what you would see when you go out there without lot lines or right-of-ways with easements.

The darker gray are the main roadways with the on-street parallel parking. This has a wider right-of-way with sidewalks on both sides of the street. The lighter-colored paved area, those are the courtyard streets. You can see there are some on-the-street 90-degree parking provided for guests. Of course, the yellow units, those are the buildings, and you can see there's a line that runs through the middle of the building, that is the lot line where a zero-foot setback would apply creating the fee simple units.

You can also see that there are -- it's a pretty extensive sidewalk network throughout these courtyards connecting the on-street parking to the front doors of the units, keeping in mind that the front door is on the opposite end of the home from the garage.

Next, please? The next detail is the easement detail. I've shaded back some of the physical elements so you can see the easements and the right-of-ways a little more boldly. The right-of-way is shown black and you can see it includes the exterior roads as well as going around the courtyard. The 90-degree parking you can see, however, is not within the right-of-way. It's within an access easement as is an access easement for the longer inter-connected sidewalks. And then, of course, the utility easement you can see here in blue.

As a condition, and I'll go through this a little bit later, there is no parking allowed within the courtyards and all of the 90-degree parkings must be within access easement and the common sidewalks must be under HOA control.

Next, please? This detail is the development standards detail. Because of an unusual configuration of the lot, we wanted it to be very clear through permitting which lot lines were side, which were rear, and which of these setbacks those numbers are. We have worked pretty closely with staff and we are in agreement with how to measure and how this detail relates to the property development's table.

Next, please? So I want to start to get into some of the deviations. Sticking with this property development regulation detail, the first deviation is a request to allow a dead-end road, a dead-end road not to exceed 150 feet. You can see it's dimensioned here on this slide.

THE HEARING EXAMINER: Can I stop you for a minute?

MS. ORTIZ: Yes.

THE HEARING EXAMINER: In the staff report, there's deviation 20, is this later in your presentation?

MS. ORTIZ: Yes.

THE HEARING EXAMINER: That's what I thought.

MS. ORTIZ: I was trying to group the deviations together where they related to the graphic.

So Deviation 21, 150 feet dead-end road, it is allowed by Florida Fire Prevention Code and staff is supporting this deviation.

Deviation 22 is for a 24-foot right-of-way, a reduction from 60, but many of the components that go within a right-of-way do not exist for this right-of-way allowing it to be very much more narrow. I'll show the you the cross section of that and walk you into a little bit more detail in the next slide.

And Deviation 28, which is a three-foot setback from the right-of-way, this does coincide with Footnote 13 which also restricts the garage separation at a minimum of 32 feet between garage face to garage face. This matches what was done at Dominica Drive, so we know it's very functional.

Next slide, please? This shows the proposed cross section. This is also a new exhibit added to the master concept plan series. Again, Deviation 22, which is for the 24-foot right-of-way, you can see that here, followed by the 3-foot garage setback, which is Deviation 28.

And then Deviation 24, which is does not -- the Land Development Code prohibits inverted crowns. This is to allow an inverted crown with the caveat of designing that inverted crown to the 25-year three-day storm elevation. Staff is supporting these elevations. And if you have questions on that, we are -- our engineer is here who can discuss that in more detail.

I did want to point out with this that while the right-of-way is narrow at 24 feet, the actual driving areas and the drive aisles are 12 feet wide which meets or exceeds the land development code requirements.

Next slide, please? We have also added one cross section to the plan set. There's no deviation with this, but it is to allow that 50-foot right-of-way that surrounds these courtyard units. You can see on this graphic here there's parallel parking spaces on each side followed by a five-foot sidewalk and a utility easement.

Next slide? Getting into sidewalks, Deviation 25, right-of-ways of course require sidewalks. Our alternate design moves those sidewalks from within the courtyard to the other side of the unit. We have two different sizes of sidewalks proposed. The 5-foot sidewalk is around the 55-foot right-of-way and within the right-of-way and as shown in the previous cross section. There's another 5-foot sidewalk that any time it bisects the block or any time it accesses more than two units, a 5-foot sidewalk is used and that will be within an access easement dedicated to the HOA. And then there are little bit smaller 4-foot

sidewalks that access just the individual units. In this graphic here you can see here where the 4-foot sidewalks are in green and the 5-foot are in pink.

Next slide? There is a note, transportation note to this effect where courtyard units are developed within Tract F1 sidewalks that are for common use and not within rights-of-way shall be within easements dedicated to the HOA for common use by residents. Common sidewalks serving more than two units must be the standard 5-foot minimum width. Common sidewalks serving two or less units must be a minimum of four feet wide

Next slide? Deviations 26 and 27 are more features within the courtyard; 26 is to request no streetlighting and instead provide wall-mounted lighting. Those light structures would be on the back of the units near the garage and one unit per -- or one light per unit and it would be facing the courtyard.

These lights will be photocell lights, so they are controlled by the HOA and will turn on and off automatically as the sunlight and the sunset happens, so it won't be controlled by the individual homeowners and that will ensure that all the courtyards will be lit at the same time the same way normal streetlights would.

Deviation 27 is to allow backout parking into a right-of-way. Again, you can see it applies to these 90-degree parking spaces within the courtyards. The parking spaces themselves are located within access easements and as a condition of the zoning, no parking will be allowed within the right-of-way; that will be within the HOA documents.

Next slide, please? Now we get to Deviations 20 and 23. They go together. They are to address addressing and signage. I understand in the staff report that there was a note of recommending of denial, but we have been working through staff and I think we've come to an agreement.

MR. BELLOWS: For the record, that report we talked about, Deviation No. 20 denial, but within your packet there's an Exhibit F1 which is what staff and our transportation staff have agreed to and maybe that denial could be not applicable at this point.

THE HEARING EXAMINER: Where is that F1; where is that?

MS. ORTIZ: Next slide.

THE HEARING EXAMINER: On page seven, is that the one on page seven, that one?

MR. BELLOWS: Now it's on there.

THE HEARING EXAMINER: Okay.

MS. ORTIZ: This is a custom sign. It would be doublesided. The outside sign that would face the road, that would show the addressing for the various eight units within each courtyard and the opposite side would show the stop sign for the residents to see to stop. Each unit additionally will have on the unit an addressing number, so this sign will generally get where you need to go into the courtyard and then once in the courtyard, each unit will have its individual addressing.

THE HEARING EXAMINER: I want to make sure I have that exhibit. I'm looking for it.

MR. BELLOWS: It should be in your packet because it's in mine.

MS. ORTIZ: It's an eight and a half by eleven one, so it might --

THE COURT: Let me make sure I get that.

UNIDENTIFIED SPEAKER: (Inaudible).

THE HEARING EXAMINER: Okay, 473. I don't have a 473. It's done differently. I have the staff report, but we'll get it. It looks like a pretty simple graphic.

MR. BELLOWS: Yeah. And it's in our online version.

THE HEARING EXAMINER: Yeah, that was -- as Rich Yovanovich has pointed out, I don't get the whole agenda together, so you're looking at the one all paginated together, so I separate them out in different files, so that's why the numbers are off, but no problem, I'll get it.

MR. BELLOWS: And just for the record, it's also on our online agenda, so people can view it online as well.

THE HEARING EXAMINER: So let's -- right. On page 6 of 13 of your staff report, how would you want to change that? You say staff recommends denial of Deviation 20, are you changing your recommendation based on Exhibit F1?

MR. BELLOWS: Well, the reason we said denial in the first place was that we don't -- the original deviation as requested has been superseded by this agreement with staff about this type of signage, so we recommend denial since we don't feel the deviation is necessary, but we could also say it's not applicable anymore due to this agreement.

THE HEARING EXAMINER: Okay. So I'm going to put N/A slash soft recommend denial or no comment --

MR. BELLOWS: I would recommend it's not applicable anymore.

THE HEARING EXAMINER: And Exhibit F1 -- based on Exhibit F1 being modified to your satisfaction?

MR. BELLOWS: It has been modified to our satisfaction.

THE HEARING EXAMINER: And is Uber Eats going to be able to find all these units the way that you've addressed them?

MR. BELLOWS: That's one of our test requirements.

THE HEARING EXAMINER: Absolutely, yeah.

MS. ORTIZ: And, you know, I would want to point out there is a companion permitting process that is ongoing right now. We are very far along in our PPL and actually getting that far along in the design with something unique like that and feedback from staff is how we've been able to really get through these details and understand what deviations are needed. And if you need it for the record, that PPL is 20200002649.

THE HEARING EXAMINER: Thank you. Do you have a next one?

MS. ORTIZ: Yes, I do. Conclusions, we've gone through this a little bit in the presentation, but I wanted to ensure that it is in the PUD document, transportation note J, I is a limitation of only eight units and that the courtyard may only be 150 feet deep; II is about the custom signs that are consistent Exhibit F1; III is about the inverted crown. I have added the underlined portion here that is not within Footnote J, but that note is in our Exhibit F1 in the cross section.

THE HEARING EXAMINER: Let me quickly ask you about the inverted crown because I think we're now getting into the criteria part. And if you have an inverted crown it seems to me logical, gravity, storm water is gonna go somewhere else, so is that -- is that being handled properly; is the County satisfied? I know you put in your staff report that you're okay with that, so apparently stormwater is gonna go somewhere?

MR. BOSI: Yes, Mike Bosi, zoning director. And just to let you know, in 40239 of the Land Development Code, which is ulterior design for affordable housing, we do permit the utilization of the inverted crown within our LDC design, so we do have an instance where for affordable housing design that we do allow and support the inverted crown design and that will be accommodated and that was run by our stormwater engineering folks, so we're okay. We know how to handle the water management systems associated with that.

THE HEARING EXAMINER: Right. Great thank you for that. Thank you for putting that in the record.

MS. ORTIZ: And again, part of that is assisted by the detailed grading that has been already submitted to the County through the PPL. And then note four is that no vehicles may park within the courtyard right-of-ways and that would be within the homeowners documents.

Next slide, please? So in conclusion, the proposed design is a combination of two existing uses in Isles of Collier Preserve. It utilizes the courtyard design that multi-family has in Dominica Drive, no deviations were needed for that and no PDI was needed because it is multi-family and we are fee simple.

And then there are four two-family attached parcels that the structure is very similar to what we are proposing, just a different design.

And that the location of Tract F1 is unique, it's only allowed in F1. It's a parcel that is closer to 41 and further away from other areas of Isles of Collier Preserve and it abuts preserve powerline easement and followed by twin buildings of multi-family.

Next slide? And these deviations are necessary and this whole PDI process is necessary only because it's creating fee simple lots by creating a right-of-way.

The courtyard streets function as shared driveways, have very low traffic, very low speeds, with only the people maneuvering inside there that live there and that will be eight units per courtyard.

That concludes my presentation, but if you need anything from my team, we're available.

MR. YOVANOVICH: I know Mr. Bosi referenced affordable housing for purposes of the County knowing how to deal with inverted roadways, I just wanted for the record, so our residents don't get confused by the reference to affordable housing, but we're not proposing affordable housing project. This is -- as you can imagine, someone might hear that and not understand the context of what Mr. Bosi was saying.

THE HEARING EXAMINER: I get that. Mr. Yovanovich, you didn't put your name in the record, but everybody knows you.

THE COURT REPORTER: I'm sorry, I'm sorry, the court reporter doesn't. Could you state your name, please?

MR. YOVANOVICH: For the record, Rich Yovanovich, the attorney for the project.

THE COURT REPORTER: Thank you.

THE HEARING EXAMINER: Don't mess with the court reporter. All right, am I -- just big picture here, it seems like you want to put a different type of housing product on the ground than what was contemplated in the original PUD; is that essentially what's going on here?

MS. ORTIZ: That's correct.

THE HEARING EXAMINER: And that's what's driving the need for deviations and the insubstantial change; is that a correct statement?

MS. ORTIZ: That's correct.

THE HEARING EXAMINER: Okay. All right. There's no increase in density or intensity, things like that?

MS. ORTIZ: No increase in densities, intensity, access points, preservation, open space; only adding the new use.

THE HEARING EXAMINER: I just wanted to clarify that; that's part of the criteria for the changes. I wanted to make sure of that. So, yeah, that was my understanding, that you're putting a new type of product on the ground, things change from year to year, time to time, and those things have happened. I've seen applications like this before where 20 years ago things were approved and now we're in a whole different world, so --

MS. ORTIZ: I think we're seeing this more and more of the alley-loaded type of products, just a little bit more in urban design and alternate design.

THE HEARING EXAMINER: We do have smaller cars, we may have autonomous cars at some point, and may not have cars at some point, so we never know, so I get it. You know, I understand that. Mr. Bosi, you look like you want to say something?

MR. BOSI: I was just going to say, one of the things that -- the dynamics of this particular design is it brings -- promotes front porch and designs a focus of the house not towards the car, but to the individual living in it and traditionally within those that's where you have more eyes on the streets and promotes a little bit more of a pedestrian-friendly neighborhood so to speak, so we understand the dynamics of the changing marketplace and based upon the modifications to the deviations, we're in support.

THE HEARING EXAMINER: All right. Mr. Bellows, you look like you want to say something too?

MR. BELLOWS: Just a couple things. Staff is recommending approval subject to two conditions; that the Deviations 22, 24, 25, and 28 are approved subject to the three types of conditions that was already talked about. And Deviation 20 as we discussed it, we have recommended denial because we felt that it wasn't necessary anymore, but I think that it's really not applicable since we are attaching Exhibit F1.

THE HEARING EXAMINER: Okay. So Exhibit F1, the new signage, the addressing, the stop sign seems more palatable, so --

MR. BELLOWS: Definitely.

THE HEARING EXAMINER: All right, so got that. Do you want to say anything else?

MS. ORTIZ: No.

THE HEARING EXAMINER: You're going to have a good rest of the day, take the rest of the day off?

MS. ORTIZ: I think we have a couple callers on Zoom.

THE HEARING EXAMINER: Okay. All right, let's open it up for public hearing. Stick around, don't go anywhere, you may want to answer some questions.

MR. YOUNGBLOOD: Mr. Dickman, I do not have any registered speakers for this item.

THE HEARING EXAMINER: Unpopular, or the applicant has done such a great job of coordinating with the neighbors and everything else, so put it that way. I won't take offense to people not wanting to talk to me. Okay, so we have nobody else. Last chance for the applicant team here. That's it, nothing else? The County, nothing else? Okay, we're done.

We'll get a decision out as quickly as possible. Thanks for being here everybody. There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 11:09 a.m.

COLLIER COUNTY HEARING EXAMINER



ANDREW DICKMAN, HEARING EXAMINER

8/26/21

These minutes approved by the Hearing Examiner on _____, as presented  or as corrected _____

TRANSCRIPT PREPARED ON BEHALF OF U.S. LEGAL SUPPORT, INC., BY SHARON DUTTON,
COURT REPORTER AND NOTARY PUBLIC.