

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
November 12, 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 W.J. DICKMAN

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

PROCEEDINGS

HEARING EXAMINER DICKMAN: All right. Good morning, everyone. Good morning. Today is November 12th, 2021. It's a little after 9:00. This is the Hearing Examiner Meeting, and why don't we get started right away with the Pledge of Allegiance, please.

(Pledge of Allegiance recited in unison.)

HEARING EXAMINER DICKMAN: Thank you very much. Let me just say that anyone in this room who has served this country, or have friends and family who has served this country, yesterday we honored everyone, and today we personally want to honor everyone. Thank you for your service.

Okay. With that I'm going to ask everyone that has a phone, including myself, to silence it. If you do want to have a one-on-one conversation, speak with anybody, you can step right outside the door there and do that. Because I can hear the echo, and the microphones pick up everyone talking in the room, please step outside.

Besides the honoring of the veterans and clapping, I ask no speaking out in the audience, please. Allow the sanctity of this hearing to go forward, and no screaming out, clapping, that kind of thing. I know there is some emotions frequently. Let's try to keep that under control. I would appreciate it.

My name is Andrew Dickman as I stated. I'm a Florida Bar attorney, been in good standing with the Florida for over 20 years. My practice is local, county government, land use and zoning.

I'm not an employee of the county. I'm hired. I'm contracted. So, again, I'm not an employee of the county. I'm here exclusively under the ordinances that the county has passed in order to hear certain things under the jurisdiction of the Hearing Examiner.

My job is to -- each item on the agenda has a criteria and a procedure, and my job is to look at the criteria, evaluate the evidence that is presented to me here today, and render a decision within 30 days.

To that end I ask that any public speaking here will be obviously, you know, I don't want everyone -- I want everyone to relax. Some people are better at public speaking than others. If you try -- if you have -- try to get to the salient information related to the topic; that really helps me a lot. I do listen. I take notes. I want to understand where you are in proximity to the subject item, and it helps me understand, and particularly because after we end this meeting, there is no more information I'm going to collect. This is where the record is built. I need to make sure I get as much information as possible.

As far as the procedure goes there are two parties to these petitions. There is the applicant, and then there's the county, and then there is the public at-large.

Now I'm not going to make a determination as to who may or may not be affected more than others. If you feel you are more affected than others, that's your job to state that and put that on the record. If you're a neighbor or something to that effect.

I mean, we have people that sometimes come in, and, you know, they live all the way across the county, and that's okay. Under Florida law this is a public hearing. The public is allowed to speak here, but it's important for me and I think for the record, and even the applicant and the county, to understand who you are.

So when you -- as far as public speaking, we're going to use this middle podium, the gray one right in front of me, and you'll state your name and address for the record. We do have a sign-up sheet that hopefully everyone has used and submitted over here to Mr. Youngblood, I believe, and his group over there, and they will be announced. Come up and speak, take your time. I want to get all information.

Now, the county has set up a procedure for having an in-person meeting as well as internet access to this meeting for social distancing, or folks who don't feel comfortable being here for whatever reason. So that's going to happen as well.

The applicant will -- the county will go first and present its staff report and give me the basic

information and give me their staff recommendation.

By and large the bigger presentation will be from the applicant to explain their request and explain how they meet the criteria. Then they'll reserve time for rebuttal. I'll open it up for public hearing for those type of comments.

I see we have a number of people here, so I'm going to time everybody with my iPhone, try to limit it to five minutes. If you are here on behalf of an organization or group and you can speak for them, state you are here for that organization. You can speak for them, that way they all don't have to get up if they don't want to.

The other part of that, I need everyone to speak very clearly, because we do have a court reporter here. All the meetings are transcribed verbatim. The court reporter will not be able to pick up people talking over each other, really fast talking.

I'm from Florida, born and raised here. I tend to speak slower than most people. I happened to have lost my southern accent. It's still there sometimes.

She's going to stop the meeting, I guarantee you that, if she can't pick up what people are saying and we're all going to be in trouble. I've been stopped frequently and told not to do that.

MR. YOUNGBLOOD: Mr. Hearing Examiner, can we take a brief pause? We are having a small issue.

HEARING EXAMINER DICKMAN: We're taking a timeout here for IT issues. Let me know when we work that out. We'll recess for a minute until we're ready to go.

(A recess was had from 9:12 a.m. until 9:19 a.m., and the proceedings continued as follows:)

HEARING EXAMINER DICKMAN: All right, ladies and gentlemen. We're going to reopen the meeting. Apparently, we're having some IT issues for the folks that are watching and participating on the internet. The county is going to continue to work on that to try to get that fixed up, but I don't want to belabor this anymore.

We're going to work with the people that are here in person. I'm hearing some background noise. Can you turn that off, please.

MR. YOUNGBLOOD: Yep.

HEARING EXAMINER DICKMAN: Thank you. First of all, if you need to take a comfort break the facilities are in the hall to the right, men's and women's room down there. Anybody that's online, they obviously know wherever they need to go.

If you are going to speak here today and provide testimony to me, then you need to be sworn in by the court reporter. We need to do that as group.

Anyone that is a going to speak to me, provide testimony you need to stand up, raise your right hand, and Janice will administer the oath.

(All participants were sworn in.)

HEARING EXAMINER DICKMAN: Okay. Ray, guys, do you think I covered everything?

MR. BELLOWS: Yes.

HEARING EXAMINER DICKMAN: All right. We covered all the necessities. So any changes to the agenda whatsoever? I see we have five items on the agenda.

MR. BELLOWS: Correct. We have five items on the agenda and most of the speakers appear to be for the Connors Vanderbilt boat dock.

HEARING EXAMINER DICKMAN: That's the last one. Bear with us, get through the other ones, give you an opportunity to see how the process works, and we'll go from there.

So why don't we call Item No. A. This is a request for insubstantial change. So, Ray, go ahead and get us started with that.

MR. BELLOWS: Yeah. For the record, Ray Bellows, Zoning Manager for Clerk Management Division and Zoning Section. I am filling for in John Kelly today who was the assigned planner, and he prepared the staff report, but I have been working with him on this.

It's Petition No. PDI-PL20210001887, and this is request of the Hearing Examiner to approve an insubstantial change to the Sonoma Oaks Planning Development as adopted in Ordinance 10-48.

The Sonoma Oaks is a mixed-use project. They are proposing to Amend Exhibit B-1, which is the residential development standards for single-family attached and detached as follows: No. 1, delete the reference to "per unit" in the table, and that basically should have been -- it's the square footage of the lot not per unit.

No. 2, to reduce the minimum lot width from 35 feet to 24 feet for the single-family attached dwellings, and, three, reduce the minimum yard requirement from 15 to 10 feet for the single-family attached homes.

Lastly, to add Footnote No. 6 specifying that said changes apply to only such single-family attached dwellings.

This project is located on the west side of Collier Boulevard between Wolfe Road and Loop Road. This was advertised pursuant to the Collier County Land Development Code. A neighborhood information meeting was held October 26th, and there were no comments made at that time. It's been properly advertised with notification letters going out and newspaper ads, and signs placed on the property. The staff is recommending approval to this subject to the conditions in the staff report.

HEARING EXAMINER DICKMAN: All right. Thank you very much for that, and who do we have here for the applicant? I see a green light over there.

MR. GALLANDER: Is it working?

HEARING EXAMINER DICKMAN: Yeah. You really have to project into the microphone.

MR. GALLANDER: All right. Very good. Is that better?

HEARING EXAMINER DICKMAN: It is.

MR. GALLANDER: Great. Mr. Hearing Examiner, I'm Ken Gallander, certified planner, Director of Planning with RWA Engineering, here on behalf of our applicant. So I do have a short presentation to move forward with.

HEARING EXAMINER DICKMAN: Okay.

MR. GALLANDER: Again, for the record, I'm Ken Gallander, here on the applicant Pulte Homes Company, LLC, for this insubstantial change to the Sonoma Oaks mixed-unit planned development. Next slide, please. So just real quick, again, Pulte Home Company, again, I'm Ken Gallander, we also have our project engineer, Mr. Mike Pappas, with us as well, and we have representatives from Pulte Home.

Next slide, please. Just to give a little back overview, Sonoma Oaks, the subject property, is 37 and a half acres. As Mr. Bellows referenced, it's west of Collier Boulevard between Wolfe Road and Mission Drive -- Mission Hills, formerly Loop Road, which is referenced in the ordinance.

Speaking to that ordinance, the Sonoma Oaks mixed-use development was approved just about 11 years ago. Within that we have commercial tracts allowing for 120,000 square feet of commercial and senior houses. Then we have residential tract that allows for 114 residential dwelling units, also some senior housing units as well.

Within the residential component, we have, as referenced in the staff report, and our information, single-family detached and attached multifamily, also independent and assisted and skilled living.

Next slide is an aerial giving a visual representation of what we're looking at. Residential to the north, Collier Boulevard to the east, with residential to the south, we have commercial, and to the west additional residential single-family.

So specific to our request -- next slide, please -- we've met in working with staff the insubstantial change criteria and that's why we're before you, Mr. Hearing Examiner.

Within the Sonoma Oaks ordinance there are, obviously, development standards adopted in 2010, and from that over the last 11 years now the opportunity is moving forward with development, and with that the construction process, the PPL plans with life and everything, change happens, and sometimes a plan can't be followed exactly as conceptually laid out, and with that one of the major

components is a floodplain compensation area.

HEARING EXAMINER DICKMAN: Mr. Gallander -- Andrew, I'm getting messages that participants who want to be a part of this hearing cannot hear.

MR. YOUNGBLOOD: I've sent for some expert help from IT.

HEARING EXAMINER DICKMAN: Yeah. So we're going to bump you and go to the next item, because of due process. People have a right to participate. We've advertised this as a hybrid meeting. Sorry. Hopefully, we can get it worked out. We're going to go ahead and we're going to continue this item. We'll pick it up after the next item, or do you want to wait and see if you can figure this out?

MR. YOUNGBLOOD: I'm confident I can get it figured out shortly. We've ran down the hall to get some expert IT help.

HEARING EXAMINER DICKMAN: All right. I'm going to take a ten-minute recess.

(A recess was had from 9:28 a.m. until 9:32 a.m., and the proceedings continued as follows:)

HEARING EXAMINER DICKMAN: We're going to get started. Mr. Gallander, I apologize for the delay. I do want to read something into the record, that this is the notice of hybrid remote public meeting.

There is a specific notice here that says remote participation is provided as a courtesy and is at the user's risk. The county is not responsible for technical issues.

All right. So we're going to go forward on that. I'm sorry. Ladies and gentlemen, if we can listen here. We're going to get started again. Please, if you want to talk, go ahead and go outside.

If you're here for the Conner dock issue, you're welcome to go outside. We're going to get through these other items. You're last. If you want to take a break, if you want to sit, please, don't talk while we're trying to conduct these other hearings. Okay? Sorry for the interruption.

MR. GALLANDER: Quite all right. You want me to begin at the top?

HEARING EXAMINER DICKMAN: No. No. Go ahead. Keep going.

MR. GALLANDER: Okay. If we can get the presentation up. So once again with the request, we have an approved conceptual master site plan, and the project is moving through the construction component, and from that it was identified that some changes are needed to be addressed.

One of those main factors was a floodplain compensation area, that is identified and needing to be integrated into the development plan. I'll show you in the next slide, but it impacts the residential tract area that was originally conceptually laid out. Also, with the -- there's some limits to the present day attached single-family dwelling product. The development standard for an attached dwelling is 35 feet. The typical product today is less than that.

It just seems like there's a -- an inconsistency between those, and we found also comparing the development standards for the surrounding residential properties and throughout the county, that the attached single-family townhouse lot width is a lot narrower than the 35 feet.

HEARING EXAMINER DICKMAN: And is it also longer?

MR. GALLANDER: That I actually don't know.

HEARING EXAMINER DICKMAN: You're asking for, I think, there's part of this is to reduce the rear yard setback; right?

MR. GALLANDER: Right. Right. Correct, and that is a component of what we're also seeing with these higher-end townhomes we are proposing for this Sonoma Oaks, is the extended lanais, the upgraded sun rooms; those components that are upgrade options, can't fit within the constraints that we're finding.

HEARING EXAMINER DICKMAN: Okay.

MR. GALLANDER: So those items were identified, and that sought us to work through this substantial change application again for attached, single-family 35 feet to 24 feet, the rear setback from 15 feet to 10 feet.

As we're going through the review with staff, identifying this per unit with the minimum lot area, we felt that it was appropriate. We didn't find that in any other development standards as well.

So moving to the next slide, this kind of gives us -- this is the master site and master plan, but I kind of wanted to give a little bit better reference, visual reference, to this. So the next slide added colors to better identify.

So you have your commercial tracts to the east, Pine Road, the west is the commercial, the residential and the preserve, the buffer, and the other buffers surrounding the property gives you a better representation of what we're seeing out there.

HEARING EXAMINER DICKMAN: So in the residential area, where were you contemplating the need for the townhome change, approximately? Do you have a slide for that?

MR. GALLANDER: The townhome change would apply to the full development site.

HEARING EXAMINER DICKMAN: Everything is townhomes?

MR. GALLANDER: Yes, sir.

HEARING EXAMINER DICKMAN: So no single-family --

MR. GALLANDER: Completely attached townhome product. There is a future slide that I will be able to identify that. So moving to the next slide, this one then helps us see where we've added the hatched area is the floodplain compensation area.

You can see the impact into the residential tract, that's reduced it, confined it, so that this initiated, "How can we make some adjustments to allow for those type of product to go within this residential tract?"

Within the preserve we're maintaining the buffer, but the floodplain compensation area has to reach a outfall structure, a storm water structure at the southwest portion of the property.

HEARING EXAMINER DICKMAN: There is going to be an impact on storm water management, you think. You've made some compensations for that on the west side of this property; is that the hatched?

MR. GALLANDER: The hatched area is for the floodplain compensation area, specific area, and there's also the internal drainage for storm water that would go into the lake, and then it all flows out and releases out into the floodplain compensation area and into the final outfall.

HEARING EXAMINER DICKMAN: Okay.

MR. GALLANDER: The next slide helps you visually see everything has been rotated north to the left.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. GALLANDER: The prior one north was up.

HEARING EXAMINER DICKMAN: Got it.

MR. GALLANDER: So this identifies the preserve area. The hatched area is the floodplain compensation area. To the bottom of the slide in between Black Bear Ridge, as has been identified as our closest neighboring residential development, and the floodplain compensation area along the southwest portion of the site.

HEARING EXAMINER DICKMAN: So among -- I get the change.

MR. GALLANDER: Uh-huh.

HEARING EXAMINER DICKMAN: Since this was done, the types of townhomes people were looking for, as you explained, is different. The market is different.

Are you telling me that reducing the lot width is not going to change the number of dwelling units that are there?

MR. GALLANDER: That's correct.

HEARING EXAMINER DICKMAN: Nothing is going to change?

MR. GALLANDER: I'll confirm that it's allowed for 114 dwelling units. What is proposed is 114 dwelling units. The number of the density is all remaining the same. Yes, sir.

With the next slide this helps us provide a quantifiable visualization of where the townhouses' footprint are, so those are the yellow four-unit-plexes, in relation to our closest neighbors, the residential, which is approximately 175 feet; that's been extended because of the additional floodplain compensation area.

We feel our proposed changes are reasonable, in terms of ensuring compatibility has been maintained, as was approved back in 2010. The distance separation remains very significant.

HEARING EXAMINER DICKMAN: So the lanai areas that you spoke of, which is necessitated by the reduction of the rear yard setback, so the rear yard setback that you're requesting there's nothing going to be in that, is that -- I just want to know, the lanai is within the buildable --

MR. GALLANDER: Within the buildable footprint, right, so the setback, there is no structure in the setback.

HEARING EXAMINER DICKMAN: No structures. Okay.

MR. GALLANDER: Next slide, please. So we obviously had public involvement, as Mr. Bellows referenced. We had a neighborhood information meeting, it was actually a very good turnout. We had a lot of good engagement with our neighbors, mainly from Black Bear Ridge to the west.

I've had some additional conversations with the neighbors individually, helping them explain our insubstantial change, the simplistic aspects of it, understanding their concerns, and trying to clear up any information that may be out there, but the request, we feel, is reasonable, based on the facts presented here.

We've satisfied the insubstantial change criteria, in our professional opinion, we're consistent, maintaining consistency with the Growth Management Plan and Land Development Code, and we absolutely concur with the staff report analysis and recommendation.

Just to reiterate we aren't changing the density of the amount of units. Just for clarification again, multifamily could be an aspect of the development if a different applicant was moving forward. This applicant is choosing the attached townhouse type units.

So from that I'd be happy to answer any further questions that you may have. I know that -- I've been in contact with the president of the HOA.

HEARING EXAMINER DICKMAN: Whose HOA?

MR. GALLANDER: Black Bear Ridge. I'm sorry. Regarding a concern of the fact of the floodplain compensation area, a portion of that going along the western portion is changing, versus it being originally plantings, so it's going to be a swale. So there was concern with potential for individuals traversing through that, and we are willing to look into securing that area from individuals.

HEARING EXAMINER DICKMAN: So it's a dry area, a dry retention area?

MR. GALLANDER: Right, but it could be wet during significant events in time.

HEARING EXAMINER DICKMAN: That's the idea.

MR. GALLANDER: Yes. So we are evaluating the opportunity to help secure this.

HEARING EXAMINER DICKMAN: I did notice that the original has some type of buffer area, which makes sense. I think what you're telling me is that it's possible that you are going to create -- I would -- I don't know how you're going to do it, maybe along the eastern side of that retention area, create another buffer, something to that effect? I can understand --

MR. GALLANDER: We are looking at a fencing type element for that to secure it.

HEARING EXAMINER DICKMAN: Okay. All right. So just to sum up, I understand you're going through some administrative process, platting or site plan development that are happening. Some issues came up that require insubstantial changes to the PUD. Here you are.

The criteria that I have to go through, you've answered some of the questions. I've already had a total number of dwelling units which -- or intensity of the land or height of the building, none of that is changing?

MR. GALLANDER: None of that is changing.

HEARING EXAMINER DICKMAN: Even though there is a new plat; correct? You've got a new plat coming?

MR. GALLANDER: Well, not necessarily -- it's newly platted.

HEARING EXAMINER DICKMAN: Newly platted. Traffic is not changing because there is no intensification or no --

MR. GALLANDER: Correct.

HEARING EXAMINER DICKMAN: -- no density changes. The ISR, impervious surface ratio, is that changing at all?

MR. GALLANDER: Our open space reserve requirements are all staying consistent with what was approved in the master plan and the ordinance.

HEARING EXAMINER DICKMAN: All right. So I guess the one item is H, will a proposed change bring about a relationship to abutting land use that would be incompatible with the adjacent land use. Now, I'm taking that to mean the existing adjacent land use, and I see that you had some comments from the folks that live in the existing Bear Claw --

MR. GALLANDER: Black Bear Ridge.

HEARING EXAMINER DICKMAN: -- Black Bear Ridge. There was folks at the neighborhood information meeting. Are you doing everything you can to ameliorate any type of potential perceived incompatible land use? Because the county is saying, no, there will be no incompatible relationship with the abutting land uses.

You spoke to that, in part, because you're putting in the floodplain area and that control for storm water, things of that nature, but you're saying you're having a continued dialogue with Black Ridge, and you hope to further protect them from possible incompatible existing use?

MR. GALLANDER: If we can maybe go to a slide, I can help to emphasize --

HEARING EXAMINER DICKMAN: Yeah. Perfect. Love it. Go ahead.

MR. GALLANDER: Let's go to this one, I think. So under the current approvals, it's found that the proposed Sonoma Oaks and the residential component and the overall plan development was found compatible, based on providing preserves and providing -- you can see along the western or southern portion, there's a 15-foot Type B buffer, that is typical for and approved under the ordinance to address the potential for the more intense single -- multifamily residential to the adjacent, which we're maintaining.

HEARING EXAMINER DICKMAN: More intense?

MR. GALLANDER: So you could say multifamily, in terms of buffer requirement.

HEARING EXAMINER DICKMAN: Okay.

MR. GALLANDER: With that, we are maintaining that 15 foot Type B buffer and then the preserve in the southwest corner is also being retained. Then you add in the multi -- the floodplain compensation area, which further separates, again, from the existing residential to the proposed attached townhouses.

So in my professional opinion we have certainly and reasonably met and remain consistent with the compatibility aspect between the two residential developments, what is proposed in Sonoma Oaks and what is existing at Black Bear Ridge.

HEARING EXAMINER DICKMAN: Okay. I notice I'm looking at aerial photograph Page 4 of 8 of the staff report, it does show that whenever Black Bear Ridge was developed, their lots go directly up against the property line so --

MR. GALLANDER: Correct.

HEARING EXAMINER DICKMAN: -- that was a choice made there. You have preservation on your side of it. I see that; however, they are existing, so I would encourage you to try to do what you can --

MR. GALLANDER: Yes.

HEARING EXAMINER DICKMAN: -- to deal with that.

MR. GALLANDER: Understood.

HEARING EXAMINER DICKMAN: Do you have other information you want to show me at this time?

MR. GALLANDER: Not at this time.

HEARING EXAMINER DICKMAN: You want to answer questions?

MR. GALLANDER: Yes.

HEARING EXAMINER DICKMAN: So what I'm reading on Page 7 of 8 of the staff report current land use applications, there are two land use petitions presently under review by Collier County, a site development plan is being reviewed for a rehabilitation hospital located within the component PUD and plan, and plat review is being reviewed to develop the residential component. Those are your clients?

MR. GALLANDER: The commercial is not. We are the residential component within the residential tract.

MR. GALLANDER: Okay. It's within the overall Sonoma Oaks?

MR. GALLANDER: Mixed-use planned development, yes.

HEARING EXAMINER DICKMAN: Okay. Okay. Why don't you reserve a little time for rebuttal. Open it up for public comment. Anybody here to speak on that item?

MR. YOUNGBLOOD: Yes, sir, Mr. Hearing Examiner, the first speaker I have, the first speaker with us is David Winner or Winner. Forgive me, sir.

MR. WINNER: Winner.

MR. YOUNGBLOOD: Okay. Approach the center podium. You'll have five minutes.

MR. WINNER: Can you put Slide 9 back up, please?

MR. YOUNGBLOOD: With the permission of the county?

HEARING EXAMINER DICKMAN: Yeah, of course.

MR. WINNER: Am I coming through okay?

HEARING EXAMINER DICKMAN: I can hear you.

MR. WINNER: Good. So I want to thank Mr. Gallander. He has been very easy to work with, communicates very well. We've been very happy with that piece of it. He has obviously worked with us a lot.

My name is David Winner. I'm the HOA President for Black Bear Ridge. Black Bear Ridge is single-family homes, 100 homes. You'll see it up here. If you look at this slide, the bottom of the slide is west. Those yellow lots are the 16 homes in Black Bear Ridge that actually abut up against the Sonoma Oaks Project.

So a lot of concerns, one of the -- you know, and let me talk good and bad. So if you look at the preserve in the bottom left, that appears to be untouched. So those homes still back up to preserve. Those homes still have the same view they have today.

The good news about this project for us is 173 feet from our property line to the first building, and that's good news. We were concerned they were going to be a lot closer. As you move to the right, which theoretically is south, there's that open area where there is no preserve today.

My understanding is there's going to a 15-foot barrier B, as in bravo, vegetation area, added which is trees and bushes, so that will actually be added. So there's going to be more vegetation than we have today.

So I think those homeowners, I can't speak for them, don't have an official opinion, but I think that will be better for them, again, there's 175 feet to the first building. To the very right, the first one, two, three, four, four and a half lots, they currently have preserve today.

So the 20-foot wide -- I gotta get this right -- the floodplain compensation area, that will take the place of a lot of trees and a lot of brush today. That will be backfilled with grass, so that's going to be a change in what their view is.

The concern being, as you look at where the buildings are, one of the concerns is, that would actually be a very easy passthrough, because the bottom right-hand, that road is Buckstone Drive, and that goes out to all the new little shops, the pizza joint, Five Guys, et cetera, so that's very easy to walk through.

In my conversation with Mr. Gallander yesterday, he stated Pulte, and here again, sometimes I hear what I want to hear. I don't always hear what is said. But my understanding was they will put up a barrier fence that will connect Black Bear Ridge's fence going east up Mission Hills Drive, so that cannot be a passthrough, that's a good thing.

As I kind of mulled it over last night, maybe a little bit this morning, I'm trying to figure out is there a way, here again, bottom right-hand corner, which is southwest, I'm trying to figure out a way is there a way to add 15-foot barrier B there? Again, I'm not an expert in this field.

My understanding from Mr. Gallander is that then eats into the floodplain compensation area which eat into the preserve, but I think that's the biggest thing is those houses, those four and a half houses that today have strictly trees, bushes, wildlife, et cetera, that's all going to be gone and it's going to be grass.

I think those are the actual concerns, you know, obviously this is good development. This is going to be good, I think, for everybody. The price point is good. I think the way it's laid out is good. It could have been a lot worse, quite frankly, and that's probably not a fair statement.

There could have been a lot of other options put in that property that would've been more detrimental to our area; that's probably a more accurate statement.

Those are the concerns. What I've heard over and over again from homeowners is if I can't see it, and I can't hear it, it's not probably a problem. So I think anything we can do to make sure they can't see it, and they can't hear it, is very helpful.

I think the primary concern is in that current area where the barrier B is going to be added, which is on the right half of the screen where there currently is no preserve, that is a very robust, very thick barrier, the 15 feet.

The other thing is the adding, possibly, a barrier B behind the first four or five homes on the right, and then, of course, we definitely want the fence along Mission Hills Drive to prevent people from cutting through the floodplain compensation area.

HEARING EXAMINER DICKMAN: Okay. You're right at five minutes. Perfect. Quick question: Has your -- you are in the capacity of president of the HOA there?

MR. WINNER: That's correct.

HEARING EXAMINER DICKMAN: Has the HOA taken a position, opponent, proponent, or just offering suggestions?

MR. WINNER: The latter. We haven't had a community meeting. We have involved members because of the location. I mean the reality is --

HEARING EXAMINER DICKMAN: You are on the board of the HOA?

MR. WINNER: Yes.

HEARING EXAMINER DICKMAN: Have you all officially voted in any way, or are you here to speak for that board?

MR. WINNER: We have not voted.

HEARING EXAMINER DICKMAN: All right. The folks -- you said you can't speak for the people that are abutting this property; right?

MR. WINNER: Right. I've been communicating back and forth a lot trying to consolidate all the concerns. I saw there is an awful lot of them online, so I'm assuming you're going to get a lot of questions.

HEARING EXAMINER DICKMAN: Okay.

MR. WINNER: Kind of consolidating the concerns, consolidating what we feel is important.

HEARING EXAMINER DICKMAN: Thank you for that information. Appreciate you being here. Thank you.

MR. WINNER: All right. Thank you.

HEARING EXAMINER DICKMAN: Who do we have next?

MR. YOUNGBLOOD: Mr. Hearing Examiner, our next speaker is Rhonda Calcagno. These are -- our next speakers are all online. Bear with me one second. Rhonda, would you like to speak on this item? You have been prompted to unmute your microphone. All right. I guess we'll pass on Rhonda for right now.

Our next registered speaker is Deborah Pope. Deborah is online. I will give her permission to speak to us. Deborah, are you with us?

MS. POPE: Good morning. Thank you. Can you hear me?

MR. YOUNGBLOOD: Loud and clear, ma'am. You have five minutes.

MS. POPE: Thank you. I just have a quick, single question, wanted to know if anybody wanted to address the street lighting that will be installed and where it's going to be installed, and what impact that it may have to the neighboring residents, and that's all I have to add. Thank you.

HEARING EXAMINER DICKMAN: Okay. Thank you. I just want to point out that this is not a Q&A. This is your opportunity to put information on the record. If the applicant wants to answer that question, it's fine. I am not going to take questions; that's not my job, and my job is to collect as much competent, substantial evidence as it applies to the criteria. I took note of that. Maybe the applicant can answer it later on. Thank you for your comments. Who do we have?

MR. YOUNGBLOOD: We have one more speaker, Dr. Faye Sutton. Dr. Sutton, are you with us? You've been prompted to unmute your microphone. Dr. Sutton, are you there?

HEARING EXAMINER DICKMAN: Okay. So once again, I'm going to announce that this is a courtesy set up by the county to do this, and if anybody out there cannot unmute their microphone, I cannot hold up this meeting because of that. I'm going to give this individual one more opportunity. Okay. That's it. We're going to close public comment and move on. Will the applicant please come up?

So I have a question for you, and if you can just bring up that site plan. That site plan was very helpful for me, the colorized one. Thank you.

So as far as along the rear property lines of Black Bear Ridge, the properties that abut your client's property, is there a fence or anything separating those?

MR. GALLANDER: Yes. I can take you to another slide, but from the southwest corner --

HEARING EXAMINER DICKMAN: Yes.

MR. GALLANDER: -- of Black Bear Ridge --

HEARING EXAMINER DICKMAN: Okay.

MR. GALLANDER: -- approximately four to five lots north there is a fence, a wood-type fence.

HEARING EXAMINER DICKMAN: Okay. So it's not running the length behind all of the properties?

MR. GALLANDER: It is not, my understanding, along the entire property. I believe it changes to a chain-link fence and remains vegetation.

HEARING EXAMINER DICKMAN: So the comment that I heard from the HOA president, the folks along the preserve over here up to now enjoy a beautiful preserve as a courtesy of your client. Obviously, that -- is that going to stay the same, or are you-all putting up fences there --

MR. GALLANDER: Right.

HEARING EXAMINER DICKMAN: -- or what can you --

MR. GALLANDER: If we can go to another slide, take me -- it's going to be farther down. Keep going. It's an aerial view from Google Earth. I can give you a better representation of -- keep going. Keep going. There you go.

HEARING EXAMINER DICKMAN: Okay.

MR. GALLANDER: So what we're looking at here is the southwest corner. The home there is the first home on Black Bear Ridge.

You can see their existing fence, and a portion of the preserve on Sonoma Oaks historically is -- and we can go back to some of those historical photos, but that area has always been very few trees, if any. It's always been lower scrub exotics in that area. It's along that fence within Sonoma Oaks property is where a 20-foot wide compensation swale will be constructed in order to get to the outfall structure. I believe you can see it --

HEARING EXAMINER DICKMAN: I see it.

MR. GALLANDER: -- just along the roadway there.

HEARING EXAMINER DICKMAN: Okay. So some of the areas that you're indicating are

now going to be floodplain compensation area, are you saying there is some exotics in there that would be removed?

MR. GALLANDER: From my understanding, yes.

HEARING EXAMINER DICKMAN: Okay.

MR. GALLANDER: It would have to be properly managed preserve area.

HEARING EXAMINER DICKMAN: So, of course, that is a policy, we want exotic, invasive, non-Florida species to be removed. I hope you heard the -- hopefully you'll take it under advisement. They are concerned about the grassing of the floodplain compensation area.

I have a question for you, Ray. Is there anything preventing the individuals that are in Black Bear Ridge from requesting and building their own fence, privacy fence?

MR. BELLOWS: For the record, Ray Bellows. No, those property owners can construct their own fence. There is nothing in the code or any PUD document that would prohibit an additional fence.

HEARING EXAMINER DICKMAN: I'm sorry. President of the homeowner's association, can you come up?

MR. WINNER: Sure.

HEARING EXAMINER DICKMAN: Same question. Anything preventing those folks from putting up a privacy fence?

MR. WINNER: We have in our docs and covenants, we've banned any new privacy fencing. I'm assuming in a situation like this we can have a homeowner vote and make an exception. I don't know that to be true, but I think that would be an easy work-around.

HEARING EXAMINER DICKMAN: Okay. Good. Good. You can work with your homeowners there and if they feel they need some privacy, additional privacy, they have a right to work with your board to come up with some solution for additional privacy fence, if they feel like it.

MR. WINNER: We would definitely work with them. Can I just touch on one other topic?

HEARING EXAMINER DICKMAN: Really quickly.

MR. WINNER: Okay. So you can see where the preserve is behind the houses and woods. If I understand it correctly, all of that, 20-foot wide, Ken, I believe, all that is going to be removed to be replaced with grass. I think you can understand why the concern there.

HEARING EXAMINER DICKMAN: Yeah, but you can understand that's private property.

MR. WINNER: Yes, I do.

HEARING EXAMINER DICKMAN: Okay. Great. Thank you. All right, anything else, sir?

MR. GALLANDER: I do not have anymore.

HEARING EXAMINER DICKMAN: Thank you for your presentation. You answered the questions that I have. I will get a decision rendered as quickly as I can.

MR. GALLANDER: Very good. Thank you very much.

MR. YOUNGBLOOD: Mr. Hearing Examiner, would you like to give Dr. Sutton one more opportunity?

HEARING EXAMINER DICKMAN: No. No. I'm not going to do that anymore. Actually we -- I read that in the record. It's a courtesy. It's infringing on my ability to have a hearing. You know, folks can't operate their computers and get on with it, then I can't help them. So we've paused this meeting a couple times. We asked twice. This is -- I can't do that. I'm sorry.

MR. YOUNGBLOOD: Okay.

HEARING EXAMINER DICKMAN: Thank you. And in the meantime anybody that -- I mean, we have this notice by the way, it definitely says the county is doing this as a courtesy. Anyone who wants to participate remotely, I would suggest in the event they have an IT issue, they should write in or e-mail in their objections or support or anything as a backup. Okay?

We're doing our best. We're working hard, but it's also -- we have business to conduct here. Thank you. All right. Let's go on to Item B, please.

MR. BELLOWS: For the record, Ray Bellows, Zoning Manager. I'm filling in for our staff planner John Kelly who prepared the staff report and did the review. I worked with John, and the petition is PCUD-PL20210001555.

This is a comparable use determination within the Westview Plaza Planned Unit Development as adopted in Ordinance 83-45. It's located on 3600 Westview Drive, and it's further identified as the Westview Plaza Replat Lot 9 of Section 1, Township 50.

This item has been duly noticed. There are no NIM requirements for comparable use determination, but the newspaper ad was done, the required newspaper ad was done. Staff is recommending approval of this change, which is basically to allow for -- let me make sure I get this right.

The petitioner is proposing the use of an indoor automobile repair facility as a comparable list of uses within the PUD. It's -- the building is currently 18,645 square feet, and it allows for office warehousing and retail showrooms.

HEARING EXAMINER DICKMAN: Okay. So currently under the list of permitted uses, it doesn't identify indoor automobile repair facilities, so I'm being asked to evaluate that use, because indoor automobile repair facility isn't a listed use currently under the zoning code, but it's a normal practice, because when you put zoning out there, you list your permitted and prohibited uses and conditional uses.

How anyone can possibly think of every single thing that might show up in the future, it's impossible. So this is what we do. We try to find something that matches it, correct, and then we go through a public hearing process to try to ferret out whether or not this particular use is something that would fit within that category.

MR. BELLOWS: That is correct.

HEARING EXAMINER DICKMAN: Good summary; right?

MR. BELLOWS: We are recommending approval subject to the three conditions in the staff report.

HEARING EXAMINER DICKMAN: This is where you say excellent summary.

MR. BELLOWS: Excellent summary.

HEARING EXAMINER DICKMAN: Okay. Great. Who is the applicant? How are you, Mr. Arnold?

MR. ARNOLD: Good morning. Thank you. I'm Wayne Arnold, certified planner. I'm representing Tom Rosenthal, who is the property owner, and I'm here with Rich Yovanovich, our land use counsel on the case.

HEARING EXAMINER DICKMAN: Where is Rich? Way back there.

MR. ARNOLD: Way in the back today.

HEARING EXAMINER DICKMAN: I don't blame him, being a lawyer.

MR. ARNOLD: Given an opportunity he'll grab the microphone if you allow him. Excellent summary. Thank you. On comparable use, we're here, obviously, Mr. Rosenthal owns an exotic and luxury automobile dealership.

The case we're make for the comparable use is even though automobile repair is not a listed specific use, there is other uses in the Westview Plaza PUD that are comparable.

There are precision instrument manufacturing facilities that are permitted, mostly indoor service-type uses. This would be as most of your new modern car dealerships would have, all indoor service. No outdoor servicing of the cars. The garage doors won't be open during services.

I thought Mr. Kelly did a very good job describing how we're consistent. I did want to point out one thing, although it's not one of staff's conditions, we did, I did in my application, indicated that our general operating hours were 7 a.m. to 6 p.m. If you are inclined to impose an hourly restriction, we would ask that you fix the hours at 7 a.m. to 7 p.m.

HEARING EXAMINER DICKMAN: Seven to seven.

MR. ARNOLD: Yes, sir. I can go through my presentation.

HEARING EXAMINER DICKMAN: Let me clear that up. Mr. Bellows, what do you have to say for yourself on the seven to seven?

MR. BELLOWS: I did review this issue with Mr. Arnold, and I recall discussing this with Mr. Kelly, and there is no staff imposed reason why it was seven to 6 p.m., so we don't object to seven to seven.

HEARING EXAMINER DICKMAN: Okay. That's totally shutting down, you know, no more work. All work stops. Staff is wrapping things up and heading out to go home and eat dinner; right?

MR. ARNOLD: Yes, sir. Yes, sir. I don't know if you had an opportunity to make a site visit, or if you will, I think on Westview this is not an inconsistent or incompatible use.

HEARING EXAMINER DICKMAN: Okay. You bring up a very good comment that I forgot to tell everybody, that I do not meet with staff. I'm not an employee. I come here as a neutral decisionmaker. I do not meet with staff ahead of time. I do not meet with the applicant ahead of time. I see that as a benefit for me because I don't want anyone to say I've favored one or the other. I do my own research on my own. I don't take ex parte communications. I try to be here just as I am today.

As you know I'm a land use zoning attorney. I'm very adept at understanding what the issues are here.

Sorry to interrupt but I forgot to mention that, so hopefully it's clear. I have a question for you, maybe it's for -- are you done?

MR. ARNOLD: I've got presentation I can go through.

HEARING EXAMINER DICKMAN: No. No. Let's forget it. I understand. Here is what -- here is what I'm focusing on. I know what I have to do here, and I know what you're talking about. The most high-end vehicle repair facilities, they don't want to be in a greasy, dirty, you know, put your \$300,000 Lamborghini out there. You'd rather be in an air-conditioned, clean shop.

I gotta ask you, and I don't know if Rich is the best person to answer this. You're listing here, or staff is listing, limited to Lamborghini, Ferrari, Maserati, Lotus, BMW, Alpha Romeo, Jaguar --

MR. ARNOLD: I think it's including, but not limited to.

HEARING EXAMINER DICKMAN: Okay. That's what I wanted to know, because new, cool cars and expensive cars happen, and I don't want that to be the limitation. So, I mean, I think that list is put in as an example of high-end cars?

MR. ARNOLD: It is. We've used that for the Ferrari dealership that's recently been built, as an example. Mr. Rosenthal has another dealership in which that definition was used.

HEARING EXAMINER DICKMAN: Okay.

MR. ARNOLD: He also sells McLaren, which is an ultra high-end car, and the need for the service departments for cars that are built with carbon fiber materials are serviced differently than common cars that I might drive.

HEARING EXAMINER DICKMAN: Okay. That's what I wanted to know. I don't want to have to come back and add a new car.

MR. ARNOLD: That was not meant to be an exclusive list, but just examples of the types of vehicles.

HEARING EXAMINER DICKMAN: Okay. Pretty straightforward. Do we have any public speakers here for this?

MR. YOUNGBLOOD: I don't have any registered public speakers for this item.

HEARING EXAMINER DICKMAN: Okay. One other question, a recommendation of one, any outside parking of vehicles to be serviced shall be temporary and will not use or obstruct required -- temporary being what?

MR. ARNOLD: The cars will arrive probably on a flatbed vehicle carrier, offloaded, and they will be brought inside as soon as they can. It's not meant to be an outdoor storage situation.

HEARING EXAMINER DICKMAN: All right. I'm sure the owners of those cars would

appreciate that.

MR. ARNOLD: I think so, too. Yes.

HEARING EXAMINER DICKMAN: I don't have anything else. Ray, do you have anything else?

MR. BELLOWS: No.

HEARING EXAMINER DICKMAN: Okay. Nobody in the public? Nobody in the audience ready to speak? Are we clear about that? Okay. We've closed the public hearing. You've answered all my questions. Thank you very much. I'll render a decision as quickly as possible. Thank you.

MR. ARNOLD: Thank you very much.

HEARING EXAMINER DICKMAN: Thanks for being brief. All right. We're going to move to Item 3C and this is regarding two wall signs. Go ahead.

MR. BELLOWS: Yes. For the record, Ray Bellows. Again, I'm filling in for John Kelly on this. It's Petition No. PDI-PL 20200001682, and the applicant is requesting the Hearing Examiner approve an insubstantial change to the Lely Resort Planned Unit Development, as adopted in Ordinance 92-15.

They're requesting two sign deviations. One is to allow a second wall sign on the south or front facade not to exceed 16 square feet, and an additional wall sign on the east side or east facade not to exceed 200 square feet. It's for the Burlington retail store.

HEARING EXAMINER DICKMAN: Okay.

MR. BELLOWS: The location is basically on 12725 Tamiami Trail East, and staff is recommending approval.

HEARING EXAMINER DICKMAN: Okay. I think John would be proud of the way you're handling this.

MR. BELLOWS: I'm reading from his notes.

HEARING EXAMINER DICKMAN: Okay. Gotcha. We have the applicant here; correct?

MR. KATIMS: Yes. Good morning, Mr. Hearing Examiner. My name is Jeff Katims, AICP Senior Planning Manager with Sepi Engineering and Construction, and I am the representative.

I do have a presentation, but in the interest and respect for your time and all the folks here, I can forego that if you're clear on everything and you --

HEARING EXAMINER DICKMAN: I kind of like to see a little bit of your presentation so I can understand a little bit better, I guess. This is sort of an unusual piece of property, large building. I just want to be absolutely clear.

MR. KATIMS: Sure.

HEARING EXAMINER DICKMAN: I think I understand, but for the purpose of the presentation and the public and the record, I would like to see a little bit of that.

MR. KATIMS: I would be pleased to do so. Okay. This is just a view looking sort of northwest at the front of the Burlington. You can see to the right there's another retail bay, that's actually going to be a restaurant, just so you have that image in your mind.

Next slide, please. Just the location, you know, at the corner of Tamiami Trail and Collier. Next slide. More specifically you'll see here that Collier is not the corner street here. It's actually Celeste Drive.

Celeste Drive, the Burlington is highlighted in red. You can see that that restaurant is at the corner, and Celeste Drive is the street that connects Tamiami Trail to the residential community to the north.

Next slide, please. Okay. We're just rotating this on its side so we don't have a funky angle, and here you're looking at a closer view where you can see the restaurant below the Burlington.

You'll also notice behind the Burlington, there is another carve out, which is a retail store. It's kind of unusual. It acts as an end unit. It's not technically an end unit, the way that staff interprets the code.

We have Brixmor, who owns this center, redeveloped the southeast side of the shopping center, or maybe it's the northeast side. In any event, there's a retail store and a restaurant book-ending the Burlington facade on this Celeste Drive frontage.

Next slide, please. So we're asking for an additional 16 square foot of signage on the front facade, which would be a second sign. Next slide, please. That's the heart you're looking at on the lower right.

This is a non-illuminated sign. It's really a pedestrian level sign, and we believe it's consistent with the intent of the sign code to limit one sign per facade, because it's not in the same field of view as the main identification sign, which is intended to be seen from the street, from the parking lot as people are driving around.

The heart is really only visible when you are up in front of the store. It's supposed to give you warm and fuzzies when you walk into the store. It's a unique thing that Burlington does. I haven't seen other stores do. It would be accommodated as a window sign and most signs and possibly the county's if there were windows there. There just aren't.

The next slide, please. The second request is an additional sign on the facade that faces Celeste Drive, not to exceed 200 square feet, and both primary identification signs. The one on the main facade and the one of the east, Celeste Drive facade, are within the 200 foot maximum for a big box of this size. Next slide, please. Okay, that's a close up. Next slide, please.

HEARING EXAMINER DICKMAN: Is that a heart or a B?

MR. KATIMS: Both.

HEARING EXAMINER DICKMAN: That's so cute. I feel warm and fuzzy.

MR. KATIMS: Yes. At one point it was associated with a charitable campaign that they were doing and they just retained it. This is the site before the redevelopment. This is the way it looked before we filed the application.

If it tells you anything about how long it took to get to this point, it's now been fully developed. The restaurant is about to move in and the retail store is about to move in. This was the site of a garden center for a big box previously.

Next slide, please. This is what it looks like today, less the Burlington sign that we're asking for. You'll see the restaurant on the left. You'll see the retail store on the right, and essentially the outdoor nursery area, the whole thing is converted into parking, and we call this in planning, I'm sure you're heard this as a land use attorney, an active building frontage, where we want pedestrian activity.

So in this case we function as more than an end unit. It's really another facade, an active front onto itself, just as much as the main frontage is, and while Burlington doesn't have an entrance here, it occupies a third of this facade, and that sign not only serves the purpose of telling folks what that big blank wall is, but it acts as a visual bridge between two other establishments, which are going to have their own signage.

Next slide, please. This is just showing that Celeste Drive is a street that goes all way out to the residential community down to Tamiami Trail. Next slide, please. And you have all this in the backup, but we had a neighborhood information meeting duly noticed, and the two attendees were Mr. Bellows and Mr. Kelly. We did not have anybody virtually or in-person attend. We haven't received any comments.

HEARING EXAMINER DICKMAN: Okay. So I can see this is a challenging piece of property. Really glad that it's being improved. It does seem like not your typical shopping center, retail center with outparcels, things like that.

I assume the idea is to not only make it look better, but also to be able to give you identification from folks that are on the roadway to be able to somehow navigate their way into this thing with the different roadways.

I almost say this jokingly, but hopefully that will increase traffic to get into the area, which is one of the criterias that I have to look at. It's a PDI, correct, as well as two deviations?

MR. BELLOWS: That is correct.

HEARING EXAMINER DICKMAN: And so I can see the hardships here for sure, in terms of the property location, how it's designed here, and Celeste Drive and things of that nature.

You have done a good job presenting this. Do we have anyone here to speak at all from the public?

MR. YOUNGBLOOD: I do not have any registered speakers for this.

HEARING EXAMINER DICKMAN: Okay. All right. Great. I have enough information from you. Thank you. Very good presentation.

MR. KATIMS: Thank you.

HEARING EXAMINER DICKMAN: You showed me what I wanted to see, and I will get a decision out quickly as possible.

MR. KATIMS: Thank you. Thank you, Mr. Bellows.

HEARING EXAMINER DICKMAN: This is Item 3, and this is a request for boat dock extension.

MR. BELLOWS: For the record, Ray Bellows. The Petition No. is BDE PL20200001868. The petitioner is requesting the Hearing Examiner approve a 15-foot boat dock extension from the maximum permitted protrusion of 20 feet for waterways greater than 100 feet in width to allow for construction of a boat docking facility protruding a total of 35 feet into the waterway.

The subject location is 153 Venus Cay, further described as Lot 65 at Port of the Islands. This petition has met all the county's advertising requirements, and we are recommending approval, as subject to the conditions of the staff report.

HEARING EXAMINER DICKMAN: Okay. Thank you very much for that. I'll get back to you, John -- I mean Ray.

How are you, sir?

MR. WALSH: I'm well, thank you. Thank you, Mr. Bellows. Mr. Hearing Examiner, my name is Dan Walsh. I'm the President of Naples Marine Construction. I'm here representing the petitioner and homeowner, and I think the petition pretty much speaks for itself, so I won't delve in on that, and I thank the county for the support.

My primary reason for being here today is the fact of the matter we've received six or seven, I think, comments from neighbors that have some objection and/or concern, and I felt an obligation to come here and kind of address those.

We've written through -- read through the letters. I've even taken the time to go out there by car, and also by boat, to take a look at the properties. And can we put the pictures up maybe Exhibit A.

HEARING EXAMINER DICKMAN: Yeah, I would take your time and make sure you put as much information in the record explaining the justification for this as you can.

MR. WALSH: Happy to.

HEARING EXAMINER DICKMAN: Thank you.

MR. WALSH: Okay. There should be four PDF's marked Exhibit A, B, C and D.

HEARING EXAMINER DICKMAN: Let me ask you about this slide, to try to help move along a little bit. First of all, you are the owner of the company?

MR. WALSH: I am, sir, yes.

HEARING EXAMINER DICKMAN: How long have you been the owner of this company?

MR. WALSH: Five years.

HEARING EXAMINER DICKMAN: How long have you been involved with marine construction?

MR. WALSH: Five years.

HEARING EXAMINER DICKMAN: Five years. As a boater yourself you understand the need for docks, the need for the size of the docks, et cetera?

MR. WALSH: I do. My family actually owned a marina for many years. Just to point out, not to interrupt you, I'm sorry, to point out, we've probably built as many as 20 docks in Port of the

Islands specifically.

HEARING EXAMINER DICKMAN: Okay.

MR. WALSH: We've never needed a boat dock extension in the past.

HEARING EXAMINER DICKMAN: Okay.

MR. WALSH: In fact, when we propose a design to a client, we take the time to do overhead shots to ensure that. In addition to meeting the criteria of the code, we're also meeting the criteria of being a good neighbor.

HEARING EXAMINER DICKMAN: Okay.

MR. WALSH: And we think we've fulfilled that here, and if we can get those exhibit slides?

HEARING EXAMINER DICKMAN: Yes. On this one I just want to ask you, because one of the criteria has to do with, number one, interestingly, these applications have to do with need of the petitioner's boats or boat.

MR. WALSH: Correct.

HEARING EXAMINER DICKMAN: You're allowed to have two per parcel, but this particular -- if you can go back to that slide.

MR. YOUNGBLOOD: Sorry.

HEARING EXAMINER DICKMAN: Yeah, right there. Does your client own these boats or have some type of contract on them and need this dock in order to facilitate these boats?

MR. WALSH: Yes, sir. They do own the boats. In fact, one of them actually serves as a fishing guide and will be using one of these boats for that purpose as well.

HEARING EXAMINER DICKMAN: Okay.

MR. WALSH: I hate to be keep harping on this, we will specifically answer your questions visually, as part of the exhibits.

HEARING EXAMINER DICKMAN: The other part of this I want to mention to you is the decking on this. I see it goes out five feet. You've got a five-foot part and then it extends to ten feet. What is the purpose of having that ten-foot width decking? Can you explain that? You want to go forward?

MR. WALSH: Well, no, the answers to your questions are in those pictures.

HEARING EXAMINER DICKMAN: No sweat. I'm sorry to hang you up there. As part of the criteria I want you to answer that. I'll leave you alone.

MR. WALSH: Just to help, I don't think they are part of the packet. These were PDFs sent to Mr. Kelly yesterday.

MR. YOUNGBLOOD: I'm sorry. You're right.

MR. WALSH: There we go. Okay. So we can start here. The property in question, Mr. Examiner, is No. 153, and we put these slides together, and there's four here, and the purpose of putting these slides together, were, frankly, to address the concerns that I was hearing in reading the letters that Mr. Kelly provided me.

Specifically what I heard or what seemed to be the theme in a few of these letters was that we may be blocking views, that we may be reducing the navigable width of the canal, the boat dock lifts should be built parallel to the shore, as opposed to perpendicular, that a 35-foot protrusion is excessive, not needed and it might change the actual view and aesthetics.

So clearly we can see -- clearly, we can see the canal is a rather wide canal. There's no real navigable issues. The two boats that you see in the waterway are actually moored over at the marina, and serve as tour boats for those wanting to find and take a look at manatees.

You can see that those boats are 25 to 30 feet boats, can move at quite ease within there. Okay. If we can go to the next slide, please. So I took the boat, one of ours, and I went out there to where the homeowner lives, which is in picture one to the top left, and you see there, there's two piling that were put there some time ago that will serve as the entrance for that five-foot walkway that you referenced walking out.

The reason -- we preferred ten, but the reason we went with five going out was to not disrupt

any of the mangroves. This canal, as you can see, is loaded with mangroves, and it's really difficult to get in there, and get beyond them.

I was curious to make sure that we were not impeding in any way the homeowner's view from Lot 161, or actually it's 161 Venus Cay.

So I tried something, I took our, one of our work boats that's 24 foot long, put it up against the piling, which is themselves five or six feet away from the riprap, and went to the back of the boat, took a picture, Picture 3, looking back towards Lot 161.

Clearly, you can't see the house. The vegetation is there, so in no way would it impede any view there, but continuing, the next slide, please, I went down to the end of the lot to the far right of the top picture, to 195 Cay, which is an individual that also expressed some concern about the ability to -- or concern that we might be blocking their view.

I moored the boat there, and turned and took a picture back out of the canal, so it gives you a little bit of a perspective of the width of the canal, some of mangroves along the side, that as a contractor we fight with, with having to find a way to allow us to build a dock that is functional while still recognizing and adhering to the issues that we have with the mangroves.

So, lastly, the justification of the site, if you go to the last slide, so here is a picture, Mr. Examiner, that shows the same picture that you were looking at earlier, only in the bottom right, which is showing really where the mangroves are, where the five-foot walkway is so we can get out to the ten foot, without having to cut back any of the mangroves.

The top left picture shows where the red line -- where we begin the protrusion measurement from. So the primary reason we are pushing this out 35 feet is to get beyond the mangroves so we can have a boat dock that's actually functional. We couldn't go out to that distance and have boats on both sides without needing a protrusion that would be much larger. So if I turned the dock, or the boat lifts parallel to the land, I would have needed to be out somewhere in the vicinity of about 45 feet, 42, 43.

So we were trying to be as respectful as we could, build a boat dock that would accommodate the needs of the homeowner, respect mangrove issues that are there, and build it in the least intrusive way as we possibly could.

HEARING EXAMINER DICKMAN: Okay, that's it? All right.

MR. WALSH: If you have any questions?

HEARING EXAMINER DICKMAN: Yeah, I shouldn't have interrupted you before; that was a good presentation. I apologize.

MR. WALSH: That's quite all right.

HEARING EXAMINER DICKMAN: So am I to understand that in order for you -- the actual 20 feet you're permitted is --

MR. WALSH: From that bottom red line.

HEARING EXAMINER DICKMAN: No, I understand. So it's basically already filled up with riprap and mangroves; is that correct?

MR. WALSH: Correct.

HEARING EXAMINER DICKMAN: So your other choice is to go parallel to the 20 foot line, but you would still have to protrude out? You would still have to be in front of me, in order to put in the boat lifts; right?

So if instead of doing that, you went parallel, did a T basically, and put one boat on the other side and one on the other, that's the only other option, I guess; correct?

MR. WALSH: It would; however, in doing that if we were to put in a typical boat lift with four pilings, those two outward pilings would've had to have been somewhere in the 40 foot mark to be able to get the lift in.

Now, I should also point out respectfully to neighbors that if you take an overhead look and see what's really going on, there are a number of docks that we have built, and others have built, where they are perpendicular. They're not parallel.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WALSH: And what drives whether it's parallel or perpendicular is really the lot and how the individual wants to use it, and the size of the boat they're putting in.

HEARING EXAMINER DICKMAN: So that's another question I have. Are the other properties dealing with the same challenges? I'm going to call them challenges, because the mangroves might not be happy. As the homeowner, they deserve to be there, too. They're part of the riprap, I think is great, the mangroves are great.

Are the other property owners, specifically the docks that you mentioned that you built before, did you have the same challenges with riprap and mangroves?

MR. WALSH: In some cases we did.

HEARING EXAMINER DICKMAN: Okay.

MR. WALSH: In fact, we have a permit application in now for the end of the canal where the homeowner will be putting a dock in, and we're coming out 20 feet. They have mangroves and they have the riprap as well, but they don't want a boat lift.

In that particular case, we can turn it parallel, which is fine. I should point out that on Sunset Cay in Venus Cay alone, these two peninsulas, there are nine docks beyond the 20-foot protrusions.

HEARING EXAMINER DICKMAN: Okay.

MR. WALSH: So what we're asking for is actually fairly common.

HEARING EXAMINER DICKMAN: Yeah. So couple other questions. I'm looking at Page 3 of 7 of the staff report. Okay. So it's the lot here labeled 153; am I correct at that?

MR. WALSH: Correct.

HEARING EXAMINER DICKMAN: So the property on either side of your client's property is vacant; is that correct?

MR. WALSH: Correct.

HEARING EXAMINER DICKMAN: It's currently vacant, and do both of those properties have mangrove and riprap issues?

MR. WALSH: They do.

HEARING EXAMINER DICKMAN: Same issues, okay. Another question, does your client's property have a home on it or is it vacant?

MR. WALSH: It's under construction, and I think they're probably about two months away from completion.

HEARING EXAMINER DICKMAN: Okay. All right.

MR. WALSH: And to that question, part of the design was also how does the homeowner access the walkway going to the dock? So we try to pay attention. In fact, when a homeowner gives us a vacant lot to work with, we ask them for the design of the house so we can overlay it and ensure that we're finding a way that makes it very functional for them while still respecting the neighbors.

HEARING EXAMINER DICKMAN: Right. For Lot 157 there is really no way, because it's vacant, to know whether their views are going to be blocked one way or the other. So you did your analysis based on I think Lot 161, which was two lots over; is that correct?

MR. WALSH: Correct. Can you go back to Exhibit B, please, two back? You can see there in the top right picture how the vegetation, most of which is mangroves, just continues all the way down.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. WALSH: Truthfully, the homeowner at 153, our homeowner, got lucky, because in the top left picture, there was actually a break which was 19 foot back as a setback, which is beyond what we needed, but a break in the mangroves that allowed us to come out, in that top left picture, without having to deal with the mangroves at all and was actually going to fit pretty well. If you're on Lot 157 just down from them, I'm not sure that I recall there being a real opening for the homeowner to deal with.

HEARING EXAMINER DICKMAN: They have very tall mangroves. I can see that.

MR. WALSH: Some of those are trees also.

HEARING EXAMINER DICKMAN: What?

MR. WALSH: Some of the tall ones are trees, not just pure mangroves.

HEARING EXAMINER DICKMAN: Okay.

MR. WALSH: But the point is 161, which you see below, you can barely see on down, even the end of the dock, let alone the home.

HEARING EXAMINER DICKMAN: I understand that. Now, do we know maybe staff or yourself, at 161 was that a boat dock extension or not?

MR. WALSH: I have no idea.

HEARING EXAMINER DICKMAN: No idea? It's the one at the end of where the yellow line is. I don't know. Those look like Australian Pines to me, a combination of pines and mangroves. All right.

So the other question I have kind of goes back to my original question, because I do have to -- part of this is the, you know, at a minimum the dock has to provide for safe access to the boats, and not have excessive decking, meaning, that is if -- so if you're within the allotted area for as-of-right, pretty much you can do what you want. It's not in my purview.

If you want to go above and beyond and ask for something that's not permitted absent a boat dock extension, I'm supposed to be looking at whether you're putting too much decking that isn't necessary; so that's why I was asking about that.

That area once you get through the five feet, you go out, it looks like -- I don't see it measured here, but whatever it goes out.

MR. WALSH: It's 10 foot.

HEARING EXAMINER DICKMAN: How far?

MR. WALSH: The dock becomes a ten-foot width beyond once it gets out and you see the --

HEARING EXAMINER DICKMAN: Once you get to 20 feet; is that right?

MR. WALSH: Mr. Examiner, you can see the picture with the dimensions on it.

HEARING EXAMINER DICKMAN: I'm talking about the five-foot part.

MR. WALSH: How far out does the --

HEARING EXAMINER DICKMAN: Yeah, what's the length of that five-foot walkway?

MR. WALSH: Approximately -- well, it's actually a total of 15 feet from shore all the way out, over the water it's less than ten.

HEARING EXAMINER DICKMAN: Okay. So why do you need ten feet -- ten feet by 20 feet of decking?

MR. WALSH: Well, actually that's a pretty small dock. Typically what we do down there is 20x30, sometimes 20x40.

HEARING EXAMINER DICKMAN: But on a protrusion, a dock -- that would be within the area, but are you talking about typically doing that when you ask for a boat dock extension?

MR. WALSH: Sure.

HEARING EXAMINER DICKMAN: Okay.

MR. WALSH: I mean, it's well within the size limits of what the code allows us to have, so, and I understand your point, I think, is that it may be within the limits, but if you're extending out beyond the normal, does that limit still apply, or does it change, and I've not found that to be the case in any application we've made in the past.

HEARING EXAMINER DICKMAN: But hypothetically if you were just to extend out that five foot all the way out to where you want to go, why wouldn't that be acceptable?

MR. WALSH: Well, at times, Mr. Examiner, it has everything to do with the individuals using it, their age, their ability to move around freely and easily, their interest in being able to put other things on the dock, like a dock box where they'll store perhaps their fishing gear or other equipment.

So really it speaks individually to the homeowner, and how they're going to use the dock and ensure it's safe and functional for them to do so.

HEARING EXAMINER DICKMAN: Okay. So you indicated your client is a charter

fisherman? This is part of a charter business?

MR. WALSH: No, private guide.

HEARING EXAMINER DICKMAN: Private guide. Okay. Now, is this going to be an area where customers are going to show up?

MR. WALSH: No, absolutely not. No. All of the guides in the Port of the Islands will pick their clients up at the marina. It's pretty heavy with guides down there.

HEARING EXAMINER DICKMAN: Okay. I see that I have a lot of written objections here, so I'm going to open it up to the public, reserve a little time for you to respond to that.

MR. WALSH: Thank you.

HEARING EXAMINER DICKMAN: And, so, do we have anyone here to speak personally or anyone --

MR. YOUNGBLOOD: Mr. Examiner, I have two registered speakers here with us. Our first is going to be John Sager.

HEARING EXAMINER DICKMAN: Okay.

MR. YOUNGBLOOD: Followed by Tim Reed. Mr. Sager, if you want to go to the center podium.

MR. SAGER: If I can get out of here.

MR. YOUNGBLOOD: I want to make sure you're comfortable.

MR. SAGER: You got a chair?

HEARING EXAMINER DICKMAN: Take your time. Take your time. Good morning.

MR. SAGER: Good morning. My name is John Sager, and I own the property directly across from this proposed --

HEARING EXAMINER DICKMAN: I want to know where that is. So if we can bring up one of the colorized site plans, so I can understand? The one with the numbered lots. Bear with me. Okay. So you are No. 166?

MR. SAGER: Yes, specifically my address is 166, and I have a home under construction on that site right now.

HEARING EXAMINER DICKMAN: All right.

MR. SAGER: I am vehemently, I repeat, vehemently opposed to the construction of this dock, and for two reasons. Number one, from a safety concern.

If we approve this 35-foot section, I, some of my neighbors, might be back in front of this commission asking for a 35-foot extension ourselves; that means we've got 35 feet coming, jutting out from the south end of the bay, and 35 feet jutting out from the north end.

Now, I don't know specifically how wide this bay is, but at times during the Manatee season we've got two, three or four manatee pontoon boats out there, and I question is there a safety factor involved here with a large amount of traffic going through a narrow, relatively narrow stretch of water? I think there is, and that's one of the reasons I oppose this.

My other concern is you've got somebody that's been out on the Gulf all day long fishing, maybe drinking a couple brewskis. He's coming back late at night, and we've got these extensions sitting way out into the bay. This guy could hit one of those docks and injure himself and/or possibly create liabilities that I'm not privy enough to know anything about.

My second concern is from an aesthetic viewpoint. I bought my lot on Sunset Cay mostly because of the view. I've got a wonderful view, but, suddenly, I'm going to be looking at an eyesore directly across from my property.

Gentlemen, I'm repeating myself, but I vehemently oppose the construction of this dock, this eyesore.

HEARING EXAMINER DICKMAN: Real quick question. Do you also have a dock?

MR. SAGER: No, I do not.

HEARING EXAMINER DICKMAN: You do not. Thank you for your time. Appreciate you being here.

MR. YOUNGBLOOD: Our next speaker is Tim Reed. He will be our final speaker for this item.

HEARING EXAMINER DICKMAN: Mr. Reed? Good morning, sir.

MR. REED: Good morning to you, sir. My name is Tim Reed, and I live in Port of the Islands and rent a condo on the other side at 162 Newport Drive, but I do own 199 Cays Drive there at the end and we're building a home now. We do have a dock there.

HEARING EXAMINER DICKMAN: Okay. Wait. Wait. Where is Cays Drive?

MR. REED: Cays Drive is on the right-hand side.

HEARING EXAMINER DICKMAN: You're at 199, then, the lot?

MR. REED: Correct. Okay. I'm objecting to the aesthetics. I did a little tour with my wife and on both sides of the river here, there's single-family homes, and there is boat docks. One side has a seawall, and our side it's all riprap; but, nonetheless, there is 17 double docks in that three combined canals.

Of the 17, all are built parallel to the shore, each and every one of them. Now, I think there's three that are parallel and one straight in, and 153, they're both straight in; that is the only one that's built straight in, and on docks that are built straight in, they're single, like at 186, you see one right there. It is a single boat dock that's built straight in, and that has a 31-foot extension that was granted to it, and the problem with that, it was explained to me, he can't come from the right, because it will block 190, and he had a problem coming from 182, apparently, because of the room; that's what -- I have no idea if that's true or not, but that's how it was explained to me, and that's why he got the extension. But to me it's butt ugly, if you go by it. Now there's -- and if you look at 174, I think is the correct address --

HEARING EXAMINER DICKMAN: Okay. Got it.

MR. REED: -- on Sunset Cay or maybe it's 186 -- where are you?

HEARING EXAMINER DICKMAN: Right next to --

MR. REED: I'm not sure of the exact address, but I think at 174 is a new construction that's already been done, and did an extension of 25 feet. It is parallel, but one of them is straight in; of the two, one is straight in and one is built parallel, but I just want to again repeat, just aesthetically there all 17 docks are built parallel.

There's got to be a way to do. I've been told that there is a way to do it, but that was another dock builder. Who knows, they could be lying. It's just an eyesore and that's what it will continue to be, and that's why we're objecting to it.

HEARING EXAMINER DICKMAN: Thank you for your time. Okay. We're going to close the public -- anybody else here to speak? No? We'll close the public hearing. Ray/John, what would you like to say?

MR. BELLOWS: For the record, Ray Bellows. I would like to pull up, I did pull up the zoning map to determine if there are other boat dock extensions, and there are four boat dock extensions on Venus Cay, three of them on the south side, and one on the north side, which was the, if you recall, that was the larger dock at the very end of the canal.

HEARING EXAMINER DICKMAN: Got it. Got it. Thank you for that. Yeah, I noticed that the aerial that I'm looking at is a bit older, unless there's some really recent construction, a lot of these lots are vacant, but thanks for the explanation from everyone.

Probably have the applicant up here who wants to maybe rebut any of that, talk to any of that? I'm going to ask you some questions as well, but I'll let you address any of those issues if you'd like.

MR. WALSH: I'm happy to address anything, Mr. Examiner. I take a little bit of umbrage with the aesthetic view. I think we build a rather handsome dock, and I'd be happy to show you pictures to substantiate that. I guess speaking directly to you gentlemen, as opposed to the examiner --

HEARING EXAMINER DICKMAN: Well, speak to me.

MR. WALSH: I'll speak to you and they can listen. We really do take, as a company, our obligation to building things that are in concert with what works with the community and what works

with the neighbors, to heart.

There's not a dock that we've built out there we haven't done that with, and what you will end up seeing, a lot of these people, when we begin construction of a dock out there, every neighbor within sight of where we're building, or from the street, because of the trucks, et cetera, gets a handwritten letter from us explaining that we're coming in. Here is the design of the dock. Here is how long we'll be here. You're likely to see trucks and stuff, but we understand at times it can be a nuisance, and as a consequence, here is my cell phone. If you have a problem, give me a call, and we'll do everything we can to be a good neighbor. We've done that on every build we've built out there and will continue to do that.

So I understand you would like to see the -- some might like to see the boats go parallel as opposed to perpendicular, but that, unfortunately, is really the discretion of the homeowner. It's well within code, so it's really accommodating what the homeowner wants, while staying within the guidelines.

HEARING EXAMINER DICKMAN: I understand that. Couple quick questions. I notice that the lots on either side, 157, 149, I believe, did we receive any letters of objection or support from either one of those property owners?

MR. BELLOWS: For the record, Ray Bellows. I'm looking through the list of correspondence we received and --

HEARING EXAMINER DICKMAN: Sir, do you know of any? Did you get letters of support at all from the neighboring property owners; do you know?

MR. WALSH: No, sir. To the best of my knowledge, and I think I have copies of everything that Mr. Kelly sent me, they were not included.

HEARING EXAMINER DICKMAN: Okay. Well, I will look through the -- I have all of the objections, written objections. I'll look through that. They're not here to speak, they haven't spoken. Okay. A couple quick questions, is this area a slow speed zone; do you know?

MR. WALSH: Yes.

HEARING EXAMINER DICKMAN: It is. Okay. Is it also a Manatee slow speed zone?

MR. WALSH: Yes.

HEARING EXAMINER DICKMAN: They all said that people go in and look at manatees. All right. Do you believe that aesthetics is a part of the criteria for me to evaluate?

MR. WALSH: By the letter of the law, no.

HEARING EXAMINER DICKMAN: I don't know what aesthetics means personally.

MR. WALSH: By the letter of the law, no. As a neighbor, I wouldn't be happy if somebody built a dock beside me that looked like it was going to fall down or a monstrosity but...

HEARING EXAMINER DICKMAN: I'll tell you as far as the criteria goes, a new dock, I don't -- I mean, aesthetically, I think what the majority of the primary, secondary stuff has to do more with in terms of neighboring stuff, waterfront view of the neighboring property owners, has to do with the length of the vessel or vessels, in combination with what's described. So that's what I was saying, is that it's really the applicant's boats, not hypothetical boats, you know.

So, in other words, we don't hear, or at least I don't hear, when folks come in and say, oh, well, or they're builder and say, I have this vacant lot and I plan on building this house. No one has bought it yet. I want to put this dock in to help market this property; that's not the case.

The case has to be it's driven by the fact that a property owner is living there or about to live there, I give a little latitude to people who are actually building their house, and they actually have the boats, they have a purpose for the boats, and that's why they're asking for an exception to what you have as a right.

And what I'm being told here is your client has two boats, needs to get out past the riprap and mangroves, and in your expert opinion, this is the minimum-sized dock that is necessary for those two boats that are, what, approximately 25 feet, 30 feet, what are they?

MR. WALSH: The boats are 23 to 24 foot, typical bay boats.

HEARING EXAMINER DICKMAN: Bay boats. Okay. So that's really all I have for you, and these are not covered lifts, right, or are they?

MR. WALSH: They are not.

HEARING EXAMINER DICKMAN: What's the capacity of the lift?

MR. WALSH: 10,000.

HEARING EXAMINER DICKMAN: 10,000. What's the maximum-sized boat you can put on a 10,000 lift?

MR. WALSH: Well, it's not so much the length as the weight of the boat. As a general rule you wouldn't want your boat to be much more than 80 percent of the capacity of the lift.

HEARING EXAMINER DICKMAN: Okay. All right.

MR. WALSH: But I will tell you, a 24 boat, 24-foot boat, probably in the range of 4,000 pounds.

HEARING EXAMINER DICKMAN: Okay. I have no more questions. Ray, do you have any last-minute statements?

MR. BELLOWS: No, just that it meets the criteria outlined in the staff report.

HEARING EXAMINER DICKMAN: All right. I appreciate your presentation. Thanks for being here.

MR. WALSH: Thank you.

HEARING EXAMINER DICKMAN: Thanks for the folks that have mailed in their comments, and the two folks that were here today. I appreciate it. Thanks for your patience.

MR. WALSH: Thank you.

HEARING EXAMINER DICKMAN: I will have a decision out within 30 days.

MR. WALSH: Thank you.

HEARING EXAMINER DICKMAN: All right. Moving right along, last but not least, I see people have not left, so I guess I know what I'm in for here. One second, let me get organized here.

(A court reporter interruption was had.)

HEARING EXAMINER DICKMAN: Yes, let's take a break. The court reporter has requested a break. Her little hands are working very hard. Why don't we all stretch. Take five minutes.

(A recess was had from 10:58 a.m. until 11:02 a.m., and the proceedings continued as follows:)

HEARING EXAMINER DICKMAN: All right. We're going to reconvene the Hearing Examiner Meeting. Please come on in and have a seat. Let's pipe down and get started. Get everybody in and out. We're ready to go? One Mississippi, two Mississippi, three Mississippi.

It is a Friday. We are on the last item. This is Item E, and this is also a boat dock extension. So take it away, Ray.

MR. BELLOWS: Yes. Petitioner is requesting a 14-foot boat dock extension, and it's Petition No. BDE-PL20210001835, and there is a 20-foot limit. They're proposing a dock that goes out 34 feet, and that's a 14-foot extension to that.

The location is 260 Connors Avenue, and there was due public notice given, and property owners were mailed on 10/23/2021, a newspaper ad was placed in the newspaper, and signs were posted by Mr. John Kelly on 10/26/21, and we have photos and documents for that as backup.

HEARING EXAMINER DICKMAN: All right.

MR. BELLOWS: There is numerous public comments provided and correspondence that are attached as G in the staff report. Most of those letters of opposition seem to be the orientation of the dock; that it's not a parallel dock.

HEARING EXAMINER DICKMAN: I'm sure we'll hear from them.

MR. BELLOWS: And staff has found that it meets four out of the five primary criteria, and four out of the six secondary, so we're recommending approval.

HEARING EXAMINER DICKMAN: Okay. Thanks. I wanted to, as the applicant comes

on up, come on up, you know, the criteria, as Mr. Bellows indicated in the Land Development Code Section, for me to review, and I have to stick to the law, I don't just kind of figure out this, I mean, I stick to the law.

There is a primary criteria which has five different things that I review, and then there is a secondary criteria which has five -- six different elements to it that I have to review.

So I take in what I deem to be competent, substantial evidence, meaning, that it's evidence relevant, and testimony relevant to the criteria, and that can be -- you don't have to be necessarily an expert.

I can consider layperson testimony, to the extent that person giving testimony has factual knowledge of the particular situation. I just want to make that clear to everyone. This is just -- I'm here as an attorney, as an examiner to listen to the applicant, to listen to the county, take into consideration what the public -- this is a public hearing, and that's why I asked the county to stipulate to the fact that they've followed the rules of due process and put signs out and did all the postings so that, clearly, we have people here, so it wasn't a mystery here. So we've got folks here. So I wanted to put that out there. So how are you sir, today?

MR. PEARSON: Good. How are you?

HEARING EXAMINER DICKMAN: Let's go. You got your work cut out for you.

MR. PEARSON: My name is Nick Pearson. I'm a biologist and project manager with Turrell Hall & Associates. There was another project manager working on this, Jeff Rogers. He was not able to make it. I'm sort of filling in for him.

HEARING EXAMINER DICKMAN: Okay. Can you just -- let's just be safe here. Give me a little bit of background of your expertise.

MR. PEARSON: Sure. I have a Bachelor's of Science in Marine Biology. I've worked with animals and wildlife for probably four years and then I've worked with Turrell Hall for an additional five years.

HEARING EXAMINER DICKMAN: Okay.

MR. PEARSON: I'm very familiar with all the permitting requirements at the state, federal and local levels for docks like this.

HEARING EXAMINER DICKMAN: Okay. You've been working for this particular marine contractor for how long?

MR. PEARSON: Well, we're not exactly a contractor, we're a marine engineering and environmental consulting firm. So we basically design the plans. We'll do permitting for a variety of different types of construction that usually involves some kind of work over water.

HEARING EXAMINER DICKMAN: Okay. And for how long have you been in that type -- how long have you been doing this for Turrell Hall & Associates?

MR. PEARSON: Personally for five years since I started, but Turrell Hall has been in existence for over 30 years.

HEARING EXAMINER DICKMAN: Okay. I'm going to be getting testimony from you, so what is your -- has your experience gone, like, beyond Turrell Hall before that?

MR. PEARSON: In terms of permitting and marine engineering, no.

HEARING EXAMINER DICKMAN: But working with government applications and other things?

MR. PEARSON: To an extent I -- yes.

HEARING EXAMINER DICKMAN: Okay. I'm -- I think you are an expert, and I'm going to take your testimony and evidence as expert testimony and evidence, so thank you.

MR. PEARSON: Thank you.

HEARING EXAMINER DICKMAN: All right. Let's get started.

MR. PEARSON: Okay. Before I start I guess I would just urge everyone to keep an open mind here. Obviously, there is a lot of opposition to this. So I just want to try to explain my point of view, so, hopefully, you can maybe come to an agreement with me on the material facts.

HEARING EXAMINER DICKMAN: Let me mention that. So why don't you just make your presentation to me, and then, you know, not necessarily speaking to the public. You're talking to me because I need to have that information.

MR. PEARSON: Okay.

HEARING EXAMINER DICKMAN: Obviously, they're going to hear it and make comment, and then I'm going to have you to be able to come back up and make any rebuttal or comments to that.

It's perfectly fine. Relax. There is not going to be any tomato throwing or anything like that. I'm sure you're prepared to do what you have to do, so take it away.

MR. PEARSON: Thank you. If we can go to the next slide, please. So this the subject property that the project would be taking place at. This is essentially what's there now.

So you can see the existing dock meets all the setbacks. It does fit within the typical 20-foot protrusion limit. There is a dock to the west that has basically a shore perpendicular ingress/egress path, and then the dock to the east. The dock is positioned so that the boat moors from the east side.

If we can go to the next slide. So this is the boat dock that is being proposed. As you can see the ingress/egress path is from the east side. It is a 45-foot vessel. It's a fairly large vessel so...

HEARING EXAMINER DICKMAN: I'm going to -- timeout here. All right, folks. The applicant has spent a lot of money. He's a party. They're a party, the county is a party, then we have the public.

Please respect my process here, because I need to know as much as I can as much as you, because I'm not going to have anyone who speaks here be interrupted, but for some reason this room picks up the slightest amount of comments.

So if you're laughing or talking to each other, I can hear it, and it's probably because the microphones are everywhere. It's kind of distracting me and I'm sure it's distracting the presentation.

So let's make this -- relax. We're going to get all the information out there, so, please, bear with me and be courteous. Thank you. Continue.

MR. PEARSON: Okay. So as I was saying, the boat we are proposing, or rather that the owner owns already, is a 45-foot vessel. Typically on a normal dock that fits within the 20-foot protrusion limit, this sort of boat simply wouldn't have enough room to back out in the standard configuration of many of the docks that are present in the area. So really in order to fit this type of vessel here, there's a requirement that the ingress/egress angle become a little bit greater than would typically be allowed by the 20-foot protrusion limit.

We are staying within the side setbacks. So every attempt has been made to fit this boat here without, you know, obstructing any of the neighbors.

If you can go to the next slide. So this is a cross-section. It's a little bit difficult to clearly depict from this angle, just because the boat is actually on an angle, but you can see the protrusion here.

It's 34 feet from the property line, and that would be the most restrictive point to measure from in this case, since it is slightly landward of the mean high water line, which would be the face of the seawall.

Next slide, please. So I just wanted to provide some perspective on really some of the other docks in the area. These numbers were taken from a GIS measurement, so bear in mind there's a slight degree of error here. You know, there may be a few of these that are actually 20 feet, rather than, for example, 22 feet. Without actually surveying all of these properties, it's difficult to tell.

HEARING EXAMINER DICKMAN: I understand that this is -- I get that. I understand. So I'm not going to take this as actual measurements, but approximate measurements.

MR. PEARSON: Yes. Thank you. Also we're noting the width of the canal at this location. This is one of the larger canals in the Vanderbilt Lagoon area. Most of the canals are platted at approximately 110 to 115 feet.

This particular canal isn't exactly a straight line, so there is some amount of fluctuation. At

the very east side, which is the tightest point, it's slightly over 200 feet wide. Exactly across from the subject property it's closer to 270 feet. Go to the next slide. There it is.

HEARING EXAMINER DICKMAN: I was wondering. I thought that was wrong.

MR. PEARSON: Okay. 268, forgive me. And as you can see to the west, there's basically an open body of water there. The nearest residence on that side is 638, going, of course, approximately, following riparian lines in this case, the riparian lines for this exact property essentially extends exactly perpendicular from the seawall. It's worth noting as well that that's not always the case.

Riparian lines are supposed to extend towards the center line of thread of navigation. So many times you do essentially have an extension of the property line as the riparian line, but in certain cases, especially when there's pie-shaped lots, these riparian lines actually deviate from that straight line angle. Next slide, please. Oh, that's it.

HEARING EXAMINER DICKMAN: All right. Okay. So quick question on the -- so the owner does have the boat already. The house is already there --

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: -- correct? The boat dock is -- is there a boat dock currently there?

MR. PEARSON: Yes, I believe so.

HEARING EXAMINER DICKMAN: Okay. So he has a bigger boat, needs a bigger dock.

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: And then how wide is the property; is that an 80-foot lot?

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: It is. So it's an 80-foot lot and side setbacks. In terms of where a dock is going to be located, Ray, I'm going to need your help. The box in which the dock has to be --

MR. BELLOWS: Depending on the size of the lot, this one seems to be exceeding 60 feet, so that requires a 15 foot riparian setback. If it's less than that, it's a seven and a half foot setback.

HEARING EXAMINER DICKMAN: Okay. All right. So if this boat were to be placed parallel to the property line would that -- that protrude into the side yards? Either one of you can answer that.

MR. PEARSON: It wouldn't. There would be, as you can see, there is a measurement on top of the south property line there, 50 feet, that would be the distance between the side setbacks.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. PEARSON: However, there is only 30 feet between the docking facilities on the east side. You might have noticed, as well, on the west side, the boathouse there, essentially abuts the property line. So it actually does not meet the setback.

HEARING EXAMINER DICKMAN: The west side. Okay. I don't know why that is, but I've gotta review your application.

MR. PEARSON: I did not see any kind of setback variance there, so my perception it's probably grandfathered.

HEARING EXAMINER DICKMAN: Yeah.

MR. PEARSON: That wasn't part of the project, so I didn't really pursue it.

HEARING EXAMINER DICKMAN: I mean, just so you know, I do look. It's interesting to see the context of everything around it. Legally, I have to take the applications as they come to me --

MR. PEARSON: I understand.

HEARING EXAMINER DICKMAN: -- and evaluate that. There is the element of abutting neighbors and how they are affected, et cetera. I guess what I was getting at as an engineer if there were a dock parallel to the seawall, whether it's five feet, or ten feet, let's say, hypothetically, it goes out 20 feet, and then you're -- whatever -- would you be able to put a boat lift?

Is it possible to have a dock that's strictly parallel to the seawall, and then add the boat lift so that the boat can be accessed and then placed on a boat lift?

MR. PEARSON: The only way that I can see doing that is by using some kind of unconventional lift, for example, and there's pros and cons to different types of lifts.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. PEARSON: You know, an elevator lift you do only need two posts, but for something of a boat this heavy, I'm not certain that we would recommend using that.

HEARING EXAMINER DICKMAN: In other words, you couldn't put pilings out and put your boat lift together like that, but, obviously, you wouldn't have access to the other side of the lift?

MR. PEARSON: Correct.

HEARING EXAMINER DICKMAN: Unless you went through the boat; correct?

MR. PEARSON: Correct, and to be honest if you were going to do that that way, you would probably want some kind of access to the outside of the boat anyways, just for standard maintenance procedures.

HEARING EXAMINER DICKMAN: And safety.

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: Which is just one of the criteria I have to look at, so you know.

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: Do you want to wait for public comment and see what's said? Oh, I do have one other question I wanted to ask you.

So this type of boat, I don't know, I mean there's lots of canals and boats in that area, you know, I think the most expedient way to get to the Gulf of Mexico is through Wiggins Pass; is that correct?

MR. PEARSON: Correct.

HEARING EXAMINER DICKMAN: Do you have any -- it's been a long time since I've been out there. I know there were some dredging projects way back. What is the condition of Wiggins Pass at this point? Do you know at all? I mean, if you don't know, that's fine. I'm just curious. Maybe some of the public speakers can tell me.

MR. PEARSON: I know it's continuously maintained and worked on. At the present, though, I don't think I can answer that question.

HEARING EXAMINER DICKMAN: Okay. What would be the draft of this particular vessel?

MR. PEARSON: I would expect it to draft probably three or four feet.

HEARING EXAMINER DICKMAN: Three or four feet, that's at the bottom of the engine?

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: All right. They have tilts. Okay. Great. Why don't you sit tight, let's hear from the public.

MR. PEARSON: Okay.

HEARING EXAMINER DICKMAN: I'll probably have some questions. You may want to address some of the questions they have, and let's all keep our five minutes each. If there's a chief here, the speaker of everyone, they're welcome to do that, and, otherwise, I'm willing to hear from everybody. Five minutes for each. Who do we have signed up?

MR. YOUNGBLOOD: Mr. Examiner, I have eight speakers online for us and my help just disconnected us. Bear with me one second here. Our first speaker is Robert Kisch, followed by Evie Kisch.

HEARING EXAMINER DICKMAN: Are we doing online or in person?

MR. YOUNGBLOOD: In-person first, and then we have one online.

HEARING EXAMINER DICKMAN: All right. Excellent. Come on up. How are you today, sir?

MR. KISCH: I'm fine. Thank you.

HEARING EXAMINER DICKMAN: All right. I'm going to start the clock right now.

MR. KISCH: Okay. Robert Kisch. I live at 274 Conners. I'd like to see the photo up there that we just had up there. I live right next door to 260 Conners. The one that wants to put the big boat in.

HEARING EXAMINER DICKMAN: You're on the east side or west side?

MR. KISCH: I am on the east side.

HEARING EXAMINER DICKMAN: On the east side. Okay. So you're right next door on the east side. Okay. I have the graphics here. Sure. Okay. So you're where they've got a slide titled here whatever, that's you.

MR. KISCH: Right.

HEARING EXAMINER DICKMAN: Where it says 24 feet. Okay. Got it.

MR. KISCH: Exactly. If he puts that boat there, if I ever wanted to get out -- right now we have where we can get out of the east side or west side of our dock in and out. He puts that boat there, it would be impossible for me to get out on the west side of my dock.

I think it's in the laws right now, the codes, that we have that choice to get out, either the east or west side. So if he gets that variance to do that, then the neighbor on the other side decides that he wants to put that in, then I would be landlocked. I could not get out of my slip. There's no way I could get out of that slip.

HEARING EXAMINER DICKMAN: Okay. Thank you. So your slip -- actually, I'm looking at your dock, that's an actual -- is that an accurate depiction of your dock there?

MR. KISCH: Right.

HEARING EXAMINER DICKMAN: So you pull out -- or back out -- or you have a lift; right?

MR. KISCH: Yeah. We're tight now, let's face it. Let's face it. These were meant to be parallel to the seawall.

HEARING EXAMINER DICKMAN: Yep, these neighborhoods have certainly changed over the years.

MR. KISCH: How they could possibly allow that to possibly land-lock me, if somebody did that on the other side?

HEARING EXAMINER DICKMAN: Okay. All right.

MR. KISCH: That boat was meant to be somewhere else. It's taking up view. It can be a big hazard if you're going down the canal boating, coming back from your little boating trip, coming back, and you got everything parallel to the floor -- to the --- and you got that one sticking out, it's very big safety hazard. So I can't see how they can possibly allow that to happen.

HEARING EXAMINER DICKMAN: Okay. Is that it?

MR. KISCH: (No response.)

HEARING EXAMINER DICKMAN: Thank you. Appreciate your comments. Thanks for being here.

MR. YOUNGBLOOD: Our next speaker is going to be Evie Kisch, followed by John Owler. John, is Sandra going to speak also?

MR. OWLER: No.

HEARING EXAMINER DICKMAN: Good morning. Still good morning.

MS. KISCH: I live at the same residence, and I'm happen to enjoy my dock, sit and watch the sunset, and if this dock should be extended out, I would be looking at the back of his boat if I'm sitting on my dock. My main concern is that if he gets a 14-foot extension, which I understand has not been granted before, and everybody else wants that extension, we'd be 28 feet out into the -- further out, and it would be a hassle.

We'd be almost touching Seabee by the time we got situated, because it would go out so far out, which would involve all the different -- the dolphin and manatee, and I think it would be a very

bad mistake that would cause a lot of safety issues with drivers with -- and it would look absolutely crazy. That's it.

HEARING EXAMINER DICKMAN: That's it? Thank you.

MR. YOUNGBLOOD: John Owler is our next speaker, followed by Bill Gonnering.

MR. OWLER: Thank you. I'm John Owler. I live at two doors to the east -- to the west of that subject property there.

HEARING EXAMINER DICKMAN: So that would be where it says 23?

MR. OWLER: Uh-huh, that's my home.

HEARING EXAMINER DICKMAN: Gotcha.

MR. OWLER: And for the record the house next to the subject property is owned by the same person that wants to do this dock. He owns both those houses there, and that house, you can see that dock is not in code there, and that was grandfathered in a long time ago before he bought it.

My objection is that if my neighbor to the west of me did that same dock, I would have a problem getting out, and I would have to change my dock also, and I'm not really prepared to do that, that's why I want to make sure whatever we decide today, this could have ramifications down the road for this whole neighborhood.

Vanderbilt Beach is really an upcoming place right here where we live. The houses they're building there are beautiful and people have money and they want bigger boats, but the problem is once you start putting all these big docks in, once you grandfather one of these in, this is going to set the table for other people to do it as well.

When I bought my home back in 2000, I was going to put a new dock in. It was only a little piece of dock there. I was clearly told you can go 20 feet out and that's it, because the Corps of Engineers, they have all these restrictions and everything else. It's very difficult. Maybe the rules have changed from 2000 to now. I adhered to whatever the codes were at that time.

The other concern I have, we do live in a very wide canal. One of the reasons I bought on this canal was the beauty of it. I mean, I have one of the nicest lots in the neighborhood, and I kind of enjoy that, but now at the end of this, if you go straight out down, they're building a new development at the end of Vanderbilt Beach Road and going to permit 75 more docks down there. It's called Naples One, and that means there is going to be lot more traffic going through here.

And, you know, if people build these big docks on both sides of the canals here, even though we are on a wide canal here, there will be ramifications for this.

So once you make your decision you're going to open Pandora's Box here, and other people are going to be doing -- asking for the same thing. So I'd like you to take that into consideration, and that's basically my case.

HEARING EXAMINER DICKMAN: Just out of curiosity since you live there, do you have any information about Wiggins Pass, like, what condition is it in?

MR. OWLER: Well, some other speakers that will be speaking, they might know a little bit more, but they have to periodically always have to dredge that area to get the boats through because of the currents and everything, the sand comes in there. It's very costly, but it's paid for by the county, I guess.

HEARING EXAMINER DICKMAN: Uh-huh.

MR. OWLER: They do take pretty good care of it. Right now it's navigable, so boats can go in and out. For a boat that size, I mean, there are areas when you can only go out certain times, because of the low water in there.

So I don't know if this area was made for these big monster boats to go in and out of. There is a few that come in on the high tides, I notice. We get to watch all these beautiful boats go in and out.

Also for the record I have to tell you this person that lives there is a good man. I know him because he owns the house next to me, too, and he's only part-time there. He lives only maybe three months there, and I don't think he even realizes, you know, that people are really upset about it. He's not there right now.

HEARING EXAMINER DICKMAN: That's Mr. and Mrs. McKibben?

MR. OWLER: McKibben, yes.

HEARING EXAMINER DICKMAN: Which house do they live in?

MR. OWLER: They live in where the boat is going to be put in, the new boat dock.

HEARING EXAMINER DICKMAN: Okay. And the other one --

MR. KISCH: The other one is their overflow house for family and friends; that's true.

HEARING EXAMINER DICKMAN: It's a big family.

MR. OWLER: He has a big family and children and grandchildren and all that.

HEARING EXAMINER DICKMAN: That's a blessing and a curse.

MR. OWLER: That's true. I have both my neighbors are like that. The other one on the other side of my house, he's only there part-time; that's his fun house. He lives in Pelican Bay. It's like we have no neighbors for nine months of the year on both sides of it.

HEARING EXAMINER DICKMAN: Well, you do know the county just passed an ordinance about short-term rentals. I hope everybody heard that.

MR. OWLER: Yeah, I just heard about that. Like I said, he may not even realize the ramifications of this, you know, and what I'm worried about, like I said, this could open up the door to these bigger docks being built.

I know that the gentleman that's not here today, John Kelly, I talked to him a couple times, and he said there was already 20 granted extensions from Germane over to 111th, but he didn't know the size of them, but I did go up and look and to see, and there is nothing that's 14 feet out.

There might be six inches, a foot, something maybe they built a dock wrong and they granted it through or what, but, I mean, I think I made my point.

HEARING EXAMINER DICKMAN: Yeah, you did. Thank you.

MR. OWLER: Starting to lose it here. I'm done.

HEARING EXAMINER DICKMAN: Is your wife going to speak?

MR. OWLER: No, she speaks in the house. I speak outside of house; that's how it works in our house.

HEARING EXAMINER DICKMAN: She just donated 35 seconds. You went over 35 seconds, that's fine. I appreciate your time and thanks for your patience. Let me get through the next speaker.

MR. YOUNGBLOOD: Our next speaker is Bill Gonnering. My apologies for the mispronunciation. Followed by Pat Rozmonowski.

MR. GONNERING: My name is Bill Gonnering. I live at 375 Seabee, which is actually the third house on the bottom.

HEARING EXAMINER DICKMAN: Okay. Right there.

MR. GONNERING: Right there. Yeah.

HEARING EXAMINER DICKMAN: Thank you.

MR. GONNERING: Personally I've been in Naples for 41 years and I appreciate what you guys do for Naples. You've really done a great job keeping it in control. Thank you so much.

I have the same problem that everybody else has. If you allow him to put in a 14-foot extension, someone puts in a 14-foot extension next to my dock, I cannot get my boat out. I cannot get it in. The only thing I can do is extend my dock 14 feet. If everybody did that, it's kind of ridiculous.

More important than that is the safety issues of that dock extending out 14 feet. I see a lot of boats that come next to my dock and they might be a foot away. I'm talking I see people come -- I do a lot of light fishing, Snook fishing, and I see people coming through that canal 45 miles an hour, and if that dock is not lit, you can run right into it, not only the boats, but the kayaks and everybody else, just a matter of being there.

It's also pretty interesting to me the owner that wants to put in this 45-foot boat, has the house next door. Why can't he get a provision to put his dock in between both properties? It would be

relatively easy and they can park it parallel.

HEARING EXAMINER DICKMAN: Then he would want a much bigger boat.

MR. GONNERING: If he got a bigger boat, at least he can park it parallel. Thank you.

HEARING EXAMINER DICKMAN: Thank you for being here. I appreciate your comments.

MR. YOUNGBLOOD: Next speaker is Pat Rozmonowski, followed by Steve Hoberg.

HEARING EXAMINER DICKMAN: Good morning, sir.

MR. ROZMONOWSKI: Hey, Good morning. My name is Pat Rozmonowski. I live at 324 Seabee, which if you look at the corner where the little red lines are, I'm with the -- with the boat dock, keep going further left, keep going further left, further left, right on this cul-de-sac right there.

So my major concern my neighbors have all done several things with their homes for improvements, some are seawalls. Our seawalls are 55 years old plus. They're being redone. For example, Mr. Gonnering, who just spoke redid his seawall.

A new dock probably would cost a mere \$100,000. Now, if he were forced by a neighbor to redo his dock within the next five years, he's got an additional 40, \$50,000 for a new dock. I don't think that's fair to all the neighbors that may be put in this position down the line. Once you open Pandora's Box, it's going to take off.

You asked the question about a draft of that boat. It will definitely be four to five feet. To pass through Wiggins Pass, you must first go through Turkey Bay, which was dredged last year. Right now with my boat at low tide was three feet. Tide operates, what a foot and a half in a day approximately. Wiggins Pass with a pontoon boat where I draw maybe 16, 18 inches of water, as we call it back there in the backwater polishing the prop, I did it all the way out of Wiggins Pass; that needs to be redredged and it was just dredged.

You had a question on the size of the boat. A 45-foot boat in our neighborhood is by far the biggest boat that's ever been back there. I may have seen 38, maybe 42, but not very often, not very often. It's humongous.

Our neighbor, great man, I like him, too, I think he purchased this boat in advance last Fall, and I don't know that for a fact, but I know from discussions with him last Fall that it was --

HEARING EXAMINER DICKMAN: When you say your neighbor, you're talking about the applicant?

MR. ROZMONOWSKI: Yeah, the applicant.

THE HEARING EXAMINER: You guys know each other?

MR. ROZMONOWSKI: I like him a lot. He's a very nice man. No question about it.

HEARING EXAMINER DICKMAN: Can't you meet in the middle and have a little boat fun?

MR. ROZMONOWSKI: Well, I would love to tear down that house next to me, and it's nice area; that's another story. Mr. Gonnering, when he said, I don't understand why we couldn't maneuver and get more creative and give some kind of variation that he can move his dock all the way up on his property in front to touch his current boat dock which is, I know it's by code, but if you look at it, the engine sticks out three feet beyond the 20 feet, which is not really in code, by code status.

Somebody goes by there in a kayak and they hit it -- and as Mr. Gonnering said, we are the template for all the weekend boaters. They come down, go to Buzz's Lighthouse, they go to eventually to Naples One, when that gets built.

Everybody that rents a pontoon boat travels through our area, and they are not boaters. We know that. We are yelling at them for going over the speed. Yelling at them for almost sitting on your piers.

HEARING EXAMINER DICKMAN: Do they have a phone number on the side of the boat?

MR. ROZMONOWSKI: They do, but it doesn't pay. I have that little blow horn to yell at them. Regardless, I think it's a big safety issue, and I think the designer of this, and maybe along with the county, could be more creative and come up with a way to put that in there, and I'm sure with that

draft, he's going to complain about the shallowness of his area. Well, he can dredge it. So those are my comments.

HEARING EXAMINER DICKMAN: I appreciate that. Thank you. And, frankly, you guys are being very nice to your neighbors. I like that.

MR. YOUNGBLOOD: Mr. Examiner, our next speaker is Steve Hoberg, followed by Ken Frey.

HEARING EXAMINER DICKMAN: Good morning.

MR. HOBERG: My name is Steve Hoberg and thank you for letting me talk today. I'm kind of different because I live on the other side of the street.

HEARING EXAMINER DICKMAN: Oh, on the same street but to the north?

MR. HOBERG: Same street. Actually, right across the street from the Kisch's, which is the 24, 281 Conners.

HEARING EXAMINER DICKMAN: So you're on the other canal?

MR. HOBERG: I'm on the other side. My objection is that we should follow codes and ordinances. On my canal there's been a lot of covered docks been put up. I think those are a variance item that you have to go through here, and it's pretty much ruined all the view and everything else.

It also adds to the square footage which causes debris to empty out into the canal, and as well as this one is adding to the square footage, which people spray their decks off and all kind of stuff, and into the water.

HEARING EXAMINER DICKMAN: Do you live directly across -- you share Conners; right?

MR. HOBERG: Yes, directly across from Bob's place, which is 24, right across from there. The one with lots of grass on it.

HEARING EXAMINER DICKMAN: Lots of grass. I hope you have a lawn -- you do it yourself; right? Thank you for your comments. I appreciate it.

MR. YOUNGBLOOD: Our last speaker in person is Ken Frey, and then we will switch to our online speakers in Zoom land.

HEARING EXAMINER DICKMAN: All right. Good morning, sir.

MR. FREY: Good morning. Well, much of what's been said was what I was going to bring out. We live in a boating community, and obviously everybody wants a boat, but Wiggins Pass is not a boat area for large boats.

I was out at Wiggins Pass yesterday and there was four and half foot of water, at mean tide 1.5 feet. So in a 25-foot boat, which I have, I was maybe a foot and a half of water underneath. The individual that's putting up this request couldn't get his boat out yesterday.

So while you may want to have a large boat, the fact that you want it, isn't necessarily a good reason to buy it for the area, nor is it a good reason to have to adapt your dock to accommodate it.

It poses a big concern for people getting in and out. Bob and Evie next door wish to get in and out from either side, it's their right to do that, this prevents that. I live down the street at 404. You can't see me in the picture. I'm down some.

HEARING EXAMINER DICKMAN: Okay.

MR. FREY: My neighbor just bought a new boat. He was able to get it in, but if he was to put his dock out, it would land-lock mine. I move mine out and it would land-lock the one next door, and that would proceed down seven houses all the way past to the house that's asking for this change.

So it puts a real big undue pressure on people to accommodate the changes that are occurring because of that. If this is going to continue and somebody puts in a dock like that, they should be responsible for paying for every single dock that's involved going down the row, and that could be significant.

Secondarily, we've got a neighbor across the canal that's already talking about doing the same thing, couple doors down from Bill Gonnering. If he does that, we're going to have the same domino effect occurring. So at what point do you say no, this infringes upon your neighbor?

HEARING EXAMINER DICKMAN: So let me ask, is that an application that's already been filed; do you know?

MR. BELLOWS: I don't know.

MR. FREY: He has not filed yet, because this has gone in, and he has a new boat coming, he's like, oh, I can do that, too. It's just opening up a big can of worms. If you look at the canal system, all the docks fit within the 20x50 foot package. They're all parallel parking, they have a nice, aesthetic look down the canal. Even with having a 45-foot boat, he still has a 20x50 foot package. He can deal with it.

Granted that's not convenient, but that shouldn't be the problem of the neighborhood. It's his choice to buy that boat. I just think it's really doing the neighborhood an injustice to do this, not to mention it blocks views for people. I know that's not something that you can really control, it's the riparian lines on the property that you can control.

HEARING EXAMINER DICKMAN: To be honest with you, that's one of the criteria.

MR. FREY: Well, it would significantly inhibit the houses next door. In that he owns both houses, if he wants to have a boat that size while he's there, he can infringe on his own property if he wants to.

So I think all these things really need to have a hard look. Our water system is not intended for boats that size. It just doesn't accommodate it.

HEARING EXAMINER DICKMAN: Is this a slow speed, no-wake zone?

MR. FREY: It is.

HEARING EXAMINER DICKMAN: It is. So you're not supposed to have people speeding.

MR. FREY: You can't get up onto plane until you travel into past Wiggins Pass.

HEARING EXAMINER DICKMAN: I understand. Thank you.

MR. FREY: That's all I have. I just really think it needs consideration to see the ramifications that it will domino effect everything in the neighborhood.

HEARING EXAMINER DICKMAN: Okay. Thank you for your time.

MR. FREY: Thank you for your time.

HEARING EXAMINER DICKMAN: All right. Who else do we have?

MR. YOUNGBLOOD: Our final speaker who is online is Adalio Sanchez. Adalio, are you with us? Last call, Mr. Sanchez.

HEARING EXAMINER DICKMAN: So we're not getting that. We're going to move on. I almost never do this, but I'm going to make an exception. Can you do what you want to do in 30 seconds?

MS. KISCH: Yes.

HEARING EXAMINER DICKMAN: I'm going to time you. It's gotta be 30 seconds, and I'm going to cut you off.

MS. KISCH: Okay. Just so you would know, because we would have to give up boating, unless you would allow us to have a variance that would exceed 260.

HEARING EXAMINER DICKMAN: Okay. That was six seconds. Perfect. Thank you. We're going to close the public hearing at this time. You're looking at me, Ray, like you want to say something?

MR. BELLOWS: Yes. I did get a chance to follow up on the one question when was Wiggins Pass last dredged, and it was dredged about two years ago, and typically the county does it on a four-year cycle.

HEARING EXAMINER DICKMAN: Okay.

MR. BELLOWS: I would also like to point out in regards to some of the comments in regards to setting a precedent, the dock extension process is site specific, and one of the criteria is No. 5 under the primary, and it talks about whether the location and design of the dock facility is such that the facility would not interfere with the use of the neighboring docks. So if other docks started doing that, we would say, as staff, we would appear to be blocking in those existing docks, so we can

recommend denial of those.

Unfortunately, when Mr. Kelly reviewed it, looking at these conditions now, it meets that criteria, so he is recommending approval.

HEARING EXAMINER DICKMAN: Whoa, wait. No speaking from the audience. What else do you have?

MR. BELLOWS: That was it.

HEARING EXAMINER DICKMAN: I wanted to speak to that point. The reason I wanted to ask about Wiggins Pass, you know, I realize that's kind of a choke point and there are boats coming from the marina and the area in there, I guess it's Wiggins Pass boat ramp, and other areas, and I am aware of the fact that there is dredging and didn't know the frequency.

I only ask because I know that that is tricky -- a tricky way to get in and out, and I was curious about the size of this boat getting in and out of that area at low tide. The current when it turns, it turns and it returns pretty quickly in there. I'm not sure -- I out of curiosity wanted to know that.

The other point about that, and I know there's been a lot of comments about precedent, and with these applications, and it's not lost on me, but I have the criteria in front of me, and, you know, a lot of people make that comment about this is going to open Pandora's Box. This is going to create a precedent, et cetera, et cetera.

The way that the county has to review these is as on their face as they come to the county, and not evaluating the whole neighborhood in trying to anticipate what may or may not happen, and my job is to look at, while the neighboring properties and navigation are issues that I do look at and have the authority to look at, the neighboring properties' view and so forth, I also don't have a time machine and look in the future and see what happens, and that would be sort of an arbitrary and capricious methodology for me, but that doesn't mean the comments made aren't -- aren't lost on me.

I understand that, and I understand the concerns for boating in this area, so with that, can I have the applicant back? Is the applicant here? Did he leave?

MR. PEARSON: Yes.

HEARING EXAMINER DICKMAN: Couple questions. I don't know. First of all, did you hear anything you want to speak to, or you just want me to ask you questions?

MR. PEARSON: There are a few things. I made a few notes. If you want I can just go down the list.

HEARING EXAMINER DICKMAN: Yeah, do that, and maybe you'll answer some of my questions.

MR. PEARSON: The first thing somebody made a comment about a code for being entitled to east/west ingress/egress. I'm not aware of that code. I would just ask that maybe we can provide that.

Second thing was about land-locking. You kind of went over it already. There are hurdles to overcome at all levels of permitting where you cannot block somebody's access, so, local, state and federal, you just cannot do it.

HEARING EXAMINER DICKMAN: To that point let me ask you, and I think it's important for everyone to know. What are the -- I'm the beginning of all this process, okay, and so subsequent to this, what other agencies are involved as far as permitting?

MR. PEARSON: In this case it's the DEP. They represent the state, and there is an expedited approval process where the Corps would issue a federal approval through the DEP.

HEARING EXAMINER DICKMAN: So the Department of Environmental Protection and the Army Corps of Engineers. So they will be look at this in terms of their criteria.

MR. PEARSON: It meets -- let me clarify. It meets the criteria to -- it's not exactly the Corps who is reviewing it in this case. It meets a certain level of criteria so that the Corps doesn't need to individually review it, but it was reviewed by the DEP.

HEARING EXAMINER DICKMAN: Okay. Anything else?

MR. PEARSON: You kind of touched on the precedence thing. I did want to point out, I

went through and actually counted the number of BDEs and variances that have been granted in the area. On Conners Avenue alone I counted -- I lost track of the paper now. It was eight BDEs or variance, so that's approximately 13 percent of the lots on the street.

HEARING EXAMINER DICKMAN: Okay.

MR. PEARSON: So I understand the concern there, but I would tend to disagree that there hasn't been a precedence set already. Again, it is locationally specific, but these have been going on for quite some time.

HEARING EXAMINER DICKMAN: Okay. Is your client here by chance today?

MR. PEARSON: I actually have not met them since I took this over from Jeff. He was really the point of contact.

HEARING EXAMINER DICKMAN: Got it.

MR. PEARSON: So I'm not sure.

HEARING EXAMINER DICKMAN: You agree with the statement that this is a slow speed, no-wake zone, manatee?

MR. PEARSON: To my knowledge, yes. I did look that up before speaking whether the Manatee Protection Plan pointed that out, but -- and I think as someone mentioned, the manatee protection zone, which is idle speed, does extend all the way to Wiggins Pass. So nobody should be going fast in there.

HEARING EXAMINER DICKMAN: What is that bridge, is there a Bluebell Road, 111th, and you have to go under there. That's kind of another choke point, but, again, I don't know that I should be considering that. I know there's going to be a lot of boat traffic.

You have to go under the bridge and to go out you have to go through Wiggins Pass. How -- so this is going to be on a lift, and once it goes on the lift all the way up on the lift, how high would the top of the boat be when it's up and stored?

MR. PEARSON: I don't know that I can truthfully answer that. If you want I can get an answer to you on that later.

HEARING EXAMINER DICKMAN: Okay. So let me ask you this question: There seems to be a lot of people here who very much like your neighbor, or your client. They all seem to like him and -- him and her. So I'm going to ask you this, and maybe or maybe not you have authority, maybe you want to call your client or whatever.

At this point in time if your client wanted to reconsider and possibly take a continuance and come back and rethink some of the comments that were heard and maybe sort of reengineer the dock a little bit in order to respond to some of that, I'm going to give you that opportunity to do that if you would like, or you can say no, we'll go ahead and go forward and let you make your decision, because when can they reapply if they wanted to?

MR. BELLOWS: We can continue it to a date specific, which is the next hearing examiner meeting, or the second meeting after that.

HEARING EXAMINER DICKMAN: But if they didn't, they would -- if I, hypothetically, if I ruled in a way that they can obviously appeal, but if they wanted to reapply for, is it a six-month waiting time or...

MR. BELLOWS: I believe it is six months, but I'll verify that.

HEARING EXAMINER DICKMAN: There is a way to reapply if you wanted to. Do you feel like it's necessary to just go forward with this and reapply -- or I mean to continue it, after you take into consideration some of the comments? I'm guessing you don't have the authority to say that without your client being here.

MR. PEARSON: Probably not, at the same time I don't necessarily -- probably not.

HEARING EXAMINER DICKMAN: Okay. All right. So that's probably a good answer. If your client didn't want to come here today, I wouldn't, if I were in your shoes, I wouldn't do anything other than what you were charged to do, because I think your client needs to make the decision about whether they want to continue or not.

Your client didn't show up, isn't here. So I can't ask that question of them. So I have heard a lot of good information from you. I'm sorry. What was your name? I know Jeff is not here so...

MR. PEARSON: Nick Pearson.

HEARING EXAMINER DICKMAN: Okay. Nick Pearson. So I've heard a lot of information from you -- Ray -- sitting in the shoes of Jeff. I've gotten a lot of information. I have all the objection letters. I've heard from the community, especially the immediate neighbor to the east, and a neighbor that is two houses down as well, also some folks that live across the canal, and once again they all speak very highly of your client but have concerns. So I'm going to leave it at that, and I will make a decision. I have 30 days, so I'll work on that as much as possible.

MR. PEARSON: Okay.

HEARING EXAMINER DICKMAN: All right. Very nice job. I appreciate it.

UNIDENTIFIED SPEAKER: Can we ask one question?

HEARING EXAMINER DICKMAN: No. No. No. No. We don't do that. I apologize. Procedures are procedures. I don't take questions and I don't take anyone shouting out in the audience; that's not the way we do it. I apologize. I have to treat everyone equally.

With that I'm going to close this item and we'll move on. Thank you, ladies and gentlemen, for being here. So do we have any -- do we have any additional business to take care of?

MR. BELLOWS: No.

HEARING EXAMINER DICKMAN: One thing I do want to do and say on the record here, if we can for this -- ladies and gentlemen, if you can, please, quietly exit. I would appreciate it.

On this notice for release for the notice for hybrid remote meetings, I mean, I would like that sentence where it says it's a courtesy, not responsible for technical issues, put in bold capital letters, because I just -- while I feel -- feel for the folks that want to participate hybridly, it's difficult to do. A lot of governments are trying to do it, but it's difficult to do, and it disrupts the pattern of the meeting if they can't -- if it's on their side, or our side, whatever the issue is, and I would also put in there, if it's not already in there in the notice, highly encourage people to send in written comments in the event that they cannot -- they cannot, you know, be heard, and I just, I don't think it's fair to hold up the process of the meeting for IT issues, whether it's on our side or somebody just can't unmute themselves.

So I'd really ask the county to make that change, highlight and in bold capital letters that this is a courtesy and they participate remotely at their own risk. Okay. Is that okay?

MR. BELLOWS: Yes, I understand and we'll work to revise that release.

HEARING EXAMINER DICKMAN: And I really respect the county for doing this. I think it's safe, it's good, but, you know, to some extent people are using it as a convenience.

MR. BELLOWS: Yeah.

HEARING EXAMINER DICKMAN: And, you know, the notices go out, and, you know, people really need to be here, but I understand if you have a concern about being here. I just want to make that clear from a due process point of view that we put hybrid folks on notice that these technical issues may happen. Okay?

MR. BELLOWS: Yeah, and I think that makes a lot of good sense. We had a really good response on the last two boat dock petitions. So what we typically tell folks when we're dealing with them on the phone, is that they have several options, but we always recommend that they submit a written correspondence to make it in the packet, but it does make sense on the release, too, because sometimes people don't call. They just send in stuff.

HEARING EXAMINER DICKMAN: Okay. Thank you. All right. Anything else? Going once. Going twice. All right. The meeting is closed right at noon. Thank you.

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There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 12:00 p.m.

COLLIER COUNTY HEARING EXAMINER



ANDREW W.J. DICKMAN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 12/20/21, as presented or as corrected .

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