

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2021-00026

IN RE: HOMES AT 81 WEST RPD

PROCEEDINGS: PUBLIC HEARING (REMAND)

BEFORE: Amanda Rivera
Hearing Examiner

DATE: April 26, 2023

TIME: 9:00 a.m. to 9:48 a.m.

LOCATION: Hearing Examiner's
Hearing Room
1500 Monroe Street
Second Floor
Fort Myers, FL 33901

REPORTER: Deborah M. Bruns
Florida Professional Reporter

ORIGINAL

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9 ALSO PRESENT:

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Andreas Miller, TEG Developers

12 Rob Price, Lee County DOT
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P R O C E E D I N G S

HEARING EXAMINER RIVERA: Good morning. My name is Amanda Rivera. I am the Hearing Examiner presiding over today's case. Today is April 26, 2023, and this is case DCI2021-00026. This is a remand of the request to rezone the Homes at 81 West RPD.

The Board did remand this case on the sole issue of access. So all testimony and evidence today will be limited to that sole issue.

If you intend to speak today, if you could please raise your hand. Do you swear or affirm the testimony you will provide is the truth?

(Participants respond en masse.)

HEARING EXAMINER RIVERA: Okay, thank you.

In terms of how we'll proceed today, first we're going to hear from the Applicant. They will present their request again solely limited to the issue of access.

Following that, we will hear from the County Staff and their review of that request, again, limited just to the access issue on whether it will be Penzance or Blasingim.

After we hear from the Staff, then we will open the public comment portion. I will call the cards that I have here, and that would be your opportunity to come

1 forward and place any comments that you might have on
2 the record. If you have any questions, please know we
3 will make note of those, but we will probably not
4 answer them at the time that you ask them. We will
5 come back to the Applicant and the Staff following the
6 public comment period and address them then.

7 There is no time limitation on how long you can
8 speak, but there is only one opportunity to speak; so
9 if you could please take notes as we go through things
10 this morning to make the most of your time at the
11 podium, that would be very helpful.

12 With that we will go back to the Applicant, and we
13 can begin.

14 MS. MONTGOMERY: Thank you.

15 HEARING EXAMINER RIVERA: Good morning.

16 MS. MONTGOMERY: Good morning. For the record,
17 Neale Montgomery.

18 I wanted to reiterate what the Hearing Examiner
19 has just said. When a case is remanded, it's for the
20 sole issue of what the Board remanded it for. I will
21 object to any testimony that goes outside the scope of
22 the remand because it's inappropriate.

23 The Board remanded it and indicated that we should
24 seek a deviation, if needed, and move the primary
25 access to Penzance. As you recall from prior

1 testimony, after the application was filed, the road
2 was reclassified to a major collector, which then
3 changed the ability to get access.

4 I know you've been out there, but to kind of -- we
5 don't necessarily agree with those designations. The
6 private dirt part, not owned by the County, was
7 designated a minor collector when people shouldn't be
8 on it at all. So it's questionable as to how those
9 happened, but the Applicant was seeking to comply with
10 the County's regulations, which we pointed out to the
11 Board which remanded it anyway.

12 So we have been working with the LDOT Staff to
13 determine an appropriate condition, and where the
14 access should be, and we are actually in agreement, but
15 I'm going to turn it over to Mr. Arnold for further
16 testimony.

17 MR. ARNOLD: Thank you, Neale.

18 HEARING EXAMINER RIVERA: Good morning.

19 MR. ARNOLD: Good morning. I'm Wayne Arnold. I'm
20 a certified planner with Grady Minor & Associates, and
21 I wanted to take you through a brief presentation.

22 As Neale mentioned, we are in agreement with the
23 memorandum that was issued by the Zoning Staff, the
24 supplemental Staff Report, but just thought we would
25 just go -- go through a couple things for reminders for

1 your benefit and maybe some of the public that wasn't
2 here previously.

3 And just to set the stage, when we originally
4 filed this application, we had access on Penzance
5 Boulevard with an emergency access on Blasingim, and
6 then as the course of review occurred, County Staff
7 reclassified Penzance, and then we were required to
8 change the access to Blasingim. So we had a full
9 access and secondary emergency access on Blasingim with
10 no access to Penzance. And then, of course, I think
11 you may have been in attendance at the BoCC meeting in
12 which there was some conversation about wouldn't it be
13 better if we had access on Penzance.

14 So in our 48-hour letter -- unfortunately, Jim
15 Banks, our traffic engineer, is out of state this week
16 and couldn't attend this, but he wrote a memorandum
17 just simply stating that shifting the access to
18 Penzance has -- has no public safety problems. It
19 still meets access spacing criteria. However, because
20 it's classified as a major collector, your LDC
21 technically says we shouldn't have our primary access
22 on that road, so we've had to seek a deviation as a
23 part of that.

24 And then also we worked with Lee DOT and your
25 Zoning Staff and our Applicant team to come up with a

1 new revised condition that's in the Staff Report, and
2 we are in concurrence with that, that talks about
3 perfecting the Blasingim access to a full regular
4 access point if and when Crystal Drive gets extended
5 back to Plantation Road.

6 So I'm going to -- that just kind of sets the
7 stage for where we are to do a brief presentation here.

8 So the subject property, it's just under ten
9 acres, a vacant piece of agriculturally-zoned property.
10 I'm not going to relay all the zoning history because
11 we're here to talk really about the access point.

12 So this was the original plan that was brought to
13 you and was recommended approval by you. It had two
14 access points: A primary access point on Blasingim,
15 and it had a secondary emergency access point down here
16 on Blasingim. So that was what was presented at the
17 BoCC.

18 This is a result of that change working with
19 Staff. We have a new full access point on Penzance,
20 and that meets your access-spacing criteria here. And
21 then we're still reflecting an emergency access point,
22 where we had it previously on Blasingim, and there is a
23 new condition relating to that that I talked about. I
24 unfortunately have the prior iteration, that was not
25 amended last week, for the -- so I'll defer to

1 Anthony's presentation for the actual condition
2 language. But this reflects the new master plan so it
3 reflects a new deviation notation here, Deviation 6,
4 which is regarding the access to Penzance because of
5 the major collector status. It reflects here -- the
6 language is pretty straightforward. It just simply
7 says that we can have the access point as a deviation
8 because it is a major collector roadway.

9 So this highlights the deviations that were
10 previously approved, but the primary point of this was
11 to show, again, we have an emergency access with a
12 condition on Blasingim, and we have the full access
13 point on Penzance.

14 That's our proposed access condition. What was
15 left out of this is it reflects that we have to build
16 it as a standard access point as an emergency access
17 point. We can use it as an emergency access only until
18 such time as Blasingim is connected to the Crystal
19 Drive extension, when Crystal Drive is extended from
20 Plantation Road. And just for your benefit, if you're
21 not familiar with that location, so this is Crystal
22 Drive extension through here. So when this section of
23 Crystal Drive is extended over to Blasingim, that's at
24 the point that our access would be converted to a
25 standard access point, and we would have full access.

1 Because as it stands now, there's really no need to
2 have a full access point to get back to Six Mile
3 Cypress when that's our only point of access from
4 Penzance today. So it makes sense and we all agreed
5 that when and if Crystal is extended through, that's
6 the point at which the connection could be made.

7 HEARING EXAMINER RIVERA: Do you have any
8 information on the programming or the timing of that
9 extension?

10 MR. ARNOLD: Basically, the information that was
11 in Anthony's package, and I'll defer to LDOT or Anthony
12 to tell you the status, but it is on the long-range
13 transportation plan as programmed --

14 MS. MONTGOMERY: My understanding is it's a tier
15 two --

16 HEARING EXAMINER RIVERA: Okay.

17 MS. MONTGOMERY: -- on the CIP.

18 HEARING EXAMINER RIVERA: But it's coming from the
19 west, because we had a case recently where Crystal
20 Drive was already being extended off of Six Mile so --

21 MS. MONTGOMERY: There was --

22 HEARING EXAMINER RIVERA: -- that's not the --

23 MS. MONTGOMERY: -- a hearing last week --

24 HEARING EXAMINER RIVERA: -- extension that we're
25 talking about.

1 MS. MONTGOMERY: -- on the preserve, and it's
2 already under construction to their entrance --

3 MR. ARNOLD: It would be this --

4 MS. MONTGOMERY: -- on Crystal. And it is a road
5 (unintelligible), and so if you were to look at the
6 Camden Square approval over on Plantation and
7 Crystal, they made them put in an access point to where
8 the future Crystal is going to come through.

9 HEARING EXAMINER RIVERA: So that improvement is
10 not going to be -- because that's happening now. So my
11 question --

12 MS. MONTGOMERY: But the one to the entrance on
13 the Lennar project, yeah, you can see how it's platted
14 so that's --

15 MR. ARNOLD: It's been platted with an access
16 point right here.

17 MS. MONTGOMERY: And they just squared it off.

18 HEARING EXAMINER RIVERA: But that extension is
19 not extending further west to affect this property.

20 MR. ARNOLD: That's correct.

21 MS. MONTGOMERY: Not at this --

22 HEARING EXAMINER RIVERA: Not at this point --

23 MS. MONTGOMERY: -- at that point in time.

24 HEARING EXAMINER RIVERA: Right, okay.

25 MR. ARNOLD: So with that, I think that is

1 principally what we were here for, and I think it's
2 fairly straightforward. And I think we and Staff are
3 in concurrence with the revised master plan, the
4 revised deviation, and the proposed condition so --

5 HEARING EXAMINER RIVERA: Is the condition
6 language -- when it talks about a standard access, I
7 assume you mean a full access. So it would be fully
8 directional just --

9 MR. ARNOLD: Well, we -- we -- sorry to cut you
10 off. We were asked to create it so that it could be
11 easily converted. So we would do everything it takes;
12 we could gate it, do it however we need to do it for
13 Fire and EMS services. So we would design it for LDC
14 standards as a regular access point but utilize it only
15 as an emergency access point initially.

16 HEARING EXAMINER RIVERA: Okay, thank you.

17 Do you have a copy of your PowerPoint slide?

18 MR. ARNOLD: I do, yes.

19 HEARING EXAMINER RIVERA: Okay. I'll take that as
20 Applicant Exhibit 1. And I do have a copy of the
21 48-hour letter, which was the memorandum from
22 Mr. Banks, as Applicant's Exhibit A.

23 (Applicant Exhibit 1 submitted.)

24 HEARING EXAMINER RIVERA: Thank you.

25 MR. ARNOLD: Do you want one?

1 MR. RODRIGUEZ: Thank you.

2 HEARING EXAMINER RIVERA: Did Applicant have any
3 further testimony?

4 MS. MONTGOMERY: Not at this time.

5 HEARING EXAMINER RIVERA: Okay, thank you.

6 I'm ready for Staff whenever you're ready.

7 MR. RODRIGUEZ: Good morning.

8 HEARING EXAMINER RIVERA: Good morning.

9 MR. RODRIGUEZ: For the record, my name is Anthony
10 Rodriguez. I am a -- the Section Manager for the
11 Zoning Section with the Department of Community
12 Development. I prepared the Staff Report and presented
13 this case at the initial hearing, and so I'm here for
14 the remand, as well.

15 I have copies of the PowerPoint presentation
16 that's before you this morning. I submit those as a
17 Staff exhibit.

18 HEARING EXAMINER RIVERA: Thank you. That will be
19 Staff Exhibit 2. Staff Exhibit 1 is the Staff Report.

20 (Staff Exhibits 1 and 2 submitted.)

21 MR. RODRIGUEZ: Okay. So Mr. Arnold did a great
22 job summarizing why we're here today, and I think
23 Ms. Montgomery and you, as well, we've all kind of
24 touched on the issue that we're here for today, and
25 that's related to the relocation of the access point

1 from Blasingim Road to Penzance Boulevard.

2 As you can see here, this is a blowup of the
3 master concept plan. Circled in orange is the
4 relocated access point. This is the master concept
5 plan that was attached to the supplemental Staff
6 Report. The relocation of the access requires a
7 deviation from Land Development Code Section 10-285,
8 which in part prohibits lots in urban areas with access
9 alternatives from direct motor vehicle access onto an
10 arterial or major collector road.

11 Staff is recommending approval of the required
12 deviation to facilitate the relocation of the access
13 point subject to the following condition -- Mr. Arnold
14 had it in his PowerPoint. Essentially what the
15 condition says is the access onto Blasingim Road can
16 function as emergency-only, but must be constructed as
17 a standard access when the property is actually
18 developed. If and when -- at such time Crystal Drive
19 is extended to Plantation Road, which is a planned
20 improvement, then at that point that emergency-only
21 access must be converted to a standard access. That is
22 consistent with our Code provisions that require two
23 means of ingress or egress for residential developments
24 that exceed five acres in size. So effectively what
25 that will do is that will eliminate the need for one

1 deviation -- I think it's Deviation 1, which is the
2 deviation for the two means of ingress and egress.

3 This is an excerpt from the Lee County MPO's 2045
4 Transportation Plan. Circled in red here -- I don't
5 know if you can see it right here -- is the depiction
6 of the extension of Crystal Drive from Six Mile Cypress
7 Parkway to Plantation Road. There is a further planned
8 improvement, which is kind of irrelevant to this case,
9 but I'll provide it for additional context. From
10 Plantation Road to Route 41 is planned to be converted
11 to a three-lane, one lane in either direction and a
12 center turn lane.

13 The plan is to -- you can't see it because it's
14 cut off by the camera, but there's money allocated from
15 2031 to 2035. In that table -- there's the excerpt of
16 the table at the bottom of the screen here. That's the
17 plan -- the plan time frame for that improvement to
18 occur at this point in time.

19 And then I just wanted to kind of provide just a
20 depiction of the deviations. No other deviations are
21 changing by this request. It's worth noting though,
22 however, there was a deviation up here, it was
23 Deviation 3 which is located where now -- where now the
24 full access is going to be located, which was the
25 turnaround deviation to eliminate the need for a

1 cul-de-sac. That deviation obviously goes away by
2 virtue of the redesign. Everything else remains
3 unchanged.

4 Attached to the Staff Report was a recodified set
5 of conditions, some reorganization that I felt like --
6 for ease of administration at the time of development
7 order, I think is probably worthwhile considering. But
8 essentially all it does is it takes all the
9 access-related conditions and deviations and puts them
10 into one access condition. So that was the intent of
11 that. Everything else remains unchanged.

12 I'm here to answer any questions. I also have
13 representatives from Lee County DOT, if you needed to
14 hear from them, to answer any questions, as well.

15 HEARING EXAMINER RIVERA: Is there any information
16 on when the directional access would be warranted? And
17 I ask the question because the schedule of
18 justifications -- let me put my hands on it right
19 now -- for Deviation Number 6 talked about that 90 --
20 the 90 units that are proposed didn't warrant two full
21 access points. So I'm just wondering, is there some
22 number that -- once that's tripped that it does warrant
23 the two access points, or is that -- is that second
24 access fully needed, I guess is my question. Once the
25 Crystal Drive extension is done, how is that

1 determination made to no longer justify the need for
2 the deviation?

3 MR. RODRIGUEZ: The Code doesn't speak to volume
4 of traffic or threshold of development when it comes to
5 the two access points. It's a requirement based on
6 acreage. I'm not sure how that was developed in terms
7 of the legislative intent of that provision, but there
8 is a provision or a code that allows DOT to modify or
9 restrict access to County roadways if there is a public
10 health-safety-welfare concern. So I'm assuming at that
11 point, when that -- when those improvements take place,
12 there may be some modifications to the project's access
13 point.

14 HEARING EXAMINER RIVERA: Okay. And do you know
15 how many properties are on Blasingim north of where
16 this entrance would be or south, once the Crystal Drive
17 goes through, to know -- because my expectation is the
18 directional flow, once that Crystal Drive extension is
19 there, the expectation for this project is folks will
20 go north and south only to Crystal -- or Plantation,
21 rather, and then cut across. So how many -- the
22 traffic would not continue on Blasingim south of that
23 extension. I'm wondering how many folks are south of
24 that area that would be affected.

25 MR. RODRIGUEZ: I can tell you if you can just

1 give me a second.

2 HEARING EXAMINER RIVERA: Yes, thank you.

3 MR. RODRIGUEZ: I have the aerial up. I can count
4 the number of properties.

5 HEARING EXAMINER RIVERA: Okay.

6 MR. RODRIGUEZ: So just to -- I do want to make
7 sure I understand your question. From the project
8 access point that will potentially be a full access
9 point on Blasingim south to Crystal Drive?

10 HEARING EXAMINER RIVERA: Yes.

11 MR. RODRIGUEZ: Okay.

12 HEARING EXAMINER RIVERA: Thank you.

13 Did Applicant have any questions of Staff?

14 MS. MONTGOMERY: No. I guess the only question
15 is -- maybe as an adjunct to your question. It's my
16 understanding that the primary reason why the Staff
17 wanted to make that access a full access is for better
18 distribution of traffic, to be able to go west without
19 having to go all the way around or to trespass.

20 MR. RODRIGUEZ: That's correct.

21 HEARING EXAMINER RIVERA: Thank you.

22 MR. RODRIGUEZ: Uh-huh.

23 HEARING EXAMINER RIVERA: Just to get on the
24 record, too, Applicant is in agreement then with the
25 revised conditions that are in here, as well --

1 MS. MONTGOMERY: Yes.

2 MR. ARNOLD: Yes.

3 HEARING EXAMINER RIVERA: -- that we talked about?

4 MR. ARNOLD: Anthony, do you want to pull back up
5 our aerial? It was my slide number four that's kind of
6 a vicinity map that maybe can identify the other
7 properties...

8 MR. RODRIGUEZ: (Complies.)

9 MS. MONTGOMERY: When you look at that, the
10 Windsong project doesn't have an access on Blasingim
11 except for an emergency access so --

12 HEARING EXAMINER RIVERA: Okay. Okay.

13 MR. RODRIGUEZ: I'd say it's about six --

14 HEARING EXAMINER RIVERA: Okay.

15 MR. RODRIGUEZ: -- six properties.

16 HEARING EXAMINER RIVERA: Thank you.

17 MR. RODRIGUEZ: Uh-huh.

18 HEARING EXAMINER RIVERA: Okay. So with that, we
19 will start with the public comment portion. Again,
20 I'll call the cards in the order that I have them.

21 The first card that I have is for Leslie O'Malley.

22 MS. O'MALLEY: Oh, I don't want to say anything.

23 HEARING EXAMINER RIVERA: Okay. The next card I
24 have is for Pat Zborowski.

25 MS. ZBOROWSKI: No.

1 HEARING EXAMINER RIVERA: All right. I apologize
2 if I mispronounced that name, as well. I hope I got
3 that correct.

4 Kevin O'Malley?

5 MR. O'MALLEY: No.

6 HEARING EXAMINER RIVERA: All right. Kathryn
7 Baker?

8 MS. BAKER: No, thanks.

9 HEARING EXAMINER RIVERA: Roxanne Riley?

10 MS. RILEY: No, thank you.

11 HEARING EXAMINER RIVERA: Thank you.

12 Victor Gulley?

13 MR. GULLEY: I'll say something.

14 HEARING EXAMINER RIVERA: Okay. Would you come
15 forward to the podium, please, sir, so we can get your
16 comments on the record.

17 Good morning, sir.

18 MR. GULLEY: Good morning. I'm Victor Gulley. I
19 live in Windsong. And my biggest concern is any extra
20 traffic that gets on Penzance right now because part of
21 it floods when it rains, and it gets pretty crowded
22 sometimes on it right now. And that's my biggest
23 concern.

24 HEARING EXAMINER RIVERA: Thank you.

25 MR. GULLEY: And plus our price of our properties

1 is going to go down.

2 HEARING EXAMINER RIVERA: Thank you. Thank you,
3 sir, for coming today.

4 The next card I have is for David Beach.

5 MR. D. BEACH: No.

6 HEARING EXAMINER RIVERA: Thank you, sir.

7 Richard Beach?

8 MR. R. BEACH: Yeah, I have a question.

9 HEARING EXAMINER RIVERA: Certainly. Good
10 morning, sir.

11 MR. R. BEACH: Good morning. My name is Richard
12 Beach.

13 Are there going to be required sidewalks on
14 Penzance in front of this development?

15 HEARING EXAMINER RIVERA: Thank you.

16 MR. R. BEACH: Thank you.

17 HEARING EXAMINER RIVERA: The next card I have is
18 for Samantha -- I think it's -- oh, gosh --

19 MS. SEINE duPONT: Seine duPont.

20 HEARING EXAMINER RIVERA: Yes, I apologize. Thank
21 you, good morning.

22 MS. SEINE duPONT: Good morning.

23 Okay. So, well, traffic-wise, which was my big
24 thing in front of the commissioners, is to bring in a
25 traffic study and having some fresh eyes because every

1 time there's a new government seems like it's okay,
2 it's okay, it's okay, but we don't bring up the
3 expected new project that's going to happen. Because
4 like now you have Penzance, you have here, you have
5 here, we're here. You know, what if at one point we
6 get somebody to have four cars, six cars, ten cars? So
7 the expectation of how many cars are going to be back,
8 it's the safety, and we have to look at the bikers --
9 do you know how many bikers we have down there?
10 There's no bike lane. The people just go crazy.

11 I have a lady -- I keep telling her -- I kept
12 telling her you're trespassing on my property to go and
13 be safe. And I'm like, you know what, I don't want her
14 to get killed. So I'm like, okay, you know, go ahead
15 so you can walk your dog safely.

16 But there's no -- we'd like to see traffic
17 studies. And us, as taxpayers, we're asking you
18 guys -- because I know Anthony, you agree with the
19 developer and you see the recommendation, but we're
20 asking for somebody to put some weight that, you know
21 what, this area is being overdeveloped, backing up the
22 cars. And then cars on top of that have nothing to do
23 with taking shortcuts (sic). Even I think at one point
24 we mentioned a few years ago buses were clicking at 50
25 miles an hour, and it's a 35-mile-an-hour zone.

1 So this is what we're at. For us, my husband and
2 I, we bought our house nine years ago. We've seen
3 plenty of traffic growing. We can't stop it. I mean,
4 that's their land. They can do whatever they want with
5 it, but we have to be -- have a social and environment
6 responsibility on it of how much we're going to pack
7 metal cars and -- you know, I know that we don't go
8 back to the rental, but you have not own --
9 ownership -- how many cars are they going to pack up in
10 there? Are they going to --

11 MS. MONTGOMERY: I'm going to object to this point
12 in time. The level of service traffic impact
13 statement, which was Attachment M to the original Staff
14 Report, was found acceptable by the Staff, the Hearing
15 Examiner, and was not something objected to by the
16 Board. So this testimony is outside the scope of the
17 remand.

18 MS. SEINE duPONT: Okay. So then we're asking for
19 updated traffic study for the safety of -- of the
20 people that don't have -- actually enjoying their cars,
21 walking, walking their dogs. And that's it.

22 HEARING EXAMINER RIVERA: Thank you.

23 MS. SEINE duPONT: Thank you.

24 HEARING EXAMINER RIVERA: Thank you for coming
25 today.

1 Victor duPont? Good morning.

2 MR. duPONT: Good morning. How are you this
3 morning?

4 I have a couple of questions. Like Samantha said,
5 we live right across the street from Windsong, and they
6 did a turn lane in front of our driveway. I'm assuming
7 that the access point that they're now putting with
8 this new project, is that turn lane going to also
9 affect the Heritage Palms across the street? Because
10 that's been quite a confusing mess early in the morning
11 or in the later part of the afternoon just for us to
12 get in and out of our place when traffic is backing up,
13 people trying to get in and out of Windsong, is my main
14 concern.

15 The other concern is I didn't even realize the
16 extension was even on the ten-year plan. So out of
17 curiosity, how is that even a point of this whole
18 development?

19 HEARING EXAMINER RIVERA: The condition -- and I
20 can answer that now just to clarify. The condition
21 that they're require -- that they're proposing would
22 say that the directional access on Blasingim is
23 reserved only as a secondary access for emergency use
24 only. So --

25 MR. duPONT: Okay.

1 HEARING EXAMINER RIVERA: -- residents wouldn't be
2 able to use Blasingim until the Crystal extension comes
3 in, and then it would become a fully directional access
4 to allow that to be another access point for the
5 development.

6 MR. duPONT: But it -- but it's being used as a
7 secondary access on the point of Crystal being
8 extended; and my point is, the last I read, that
9 Crystal is not even on the ten-year plan, and
10 there's -- there's major problems with getting access
11 to available land to properly build Crystal Drive. So
12 I'm not sure why Crystal is even being considered in
13 any of this.

14 HEARING EXAMINER RIVERA: And it may be a
15 confusion. The testimony and the evidence that they
16 provided this morning showed -- I think it was
17 2021 (sic) to 2035.

18 Am I correct on that, Anthony?

19 MR. RODRIGUEZ: (Nods head.)

20 HEARING EXAMINER RIVERA: So it has been funded
21 for that improvement, that Crystal Drive extension, so
22 that's why it's being discussed as part of the -- and
23 the information is available in this building, if you
24 wanted to get a copy of those public documents that are
25 available before you left today. Just so that you kind

1 of know what the status of that extension is, that
2 would be something you could do today before you leave.

3 MR. duPONT: Okay. So that must have just
4 happened since the last hearing.

5 HEARING EXAMINER RIVERA: I'm not sure of the
6 timing. They didn't talk about that this morning.

7 MR. duPONT: Can you answer that, Anthony?

8 MR. RODRIGUEZ: Yes, just a minute.

9 MR. duPONT: Because I don't think as of the last
10 hearing that was the case.

11 HEARING EXAMINER RIVERA: It wasn't discussed at
12 the last hearing because the access point was only on
13 Blasingim. There's a lot of moving parts on this.
14 That's why it's confusing --

15 MR. duPONT: Right.

16 HEARING EXAMINER RIVERA: -- with the --

17 MR. duPONT: No, you're right. There's been a lot
18 of moving parts --

19 HEARING EXAMINER RIVERA: There are.

20 MR. duPONT: -- on the extension.

21 MR. RODRIGUEZ: This is -- what I presented in the
22 Staff presentation is from the Lee County Metropolitan
23 Planning Organization's long-range transportation plan
24 last amended January 20th, 2023.

25 MR. PRICE: It was in there before that.

1 MR. RODRIGUEZ: Per Mr. Price, Deputy Director of
2 DOT, it was in there before that.

3 HEARING EXAMINER RIVERA: So you can --

4 MR. duPONT: Okay, thank you.

5 HEARING EXAMINER RIVERA: -- get that information
6 today if you'd like, sir, before you leave.

7 MR. duPONT: Okay, thank you.

8 HEARING EXAMINER RIVERA: The next --

9 MS. MONTGOMERY: Just for the record, as you know,
10 at the time of local development order, the development
11 will have to submit a development order TIS which will
12 address whether or not, under the turn lane policies,
13 turn lanes are required.

14 HEARING EXAMINER RIVERA: Thank you.

15 The next card I have is for David Richards. Good
16 morning, sir.

17 MR. RICHARDS: Good morning.

18 So I'm here to talk about the emergency-only
19 entrance to Blasingim and the fact that, since this is
20 a private road, you're mandating that when Crystal gets
21 finished, that that entrance becomes a regular
22 entrance, and then the traffic would flow that way over
23 a private road that the Applicant cannot maintain
24 because they don't own it. It seems to be a hardship
25 on the rest of the community because of the fact that,

1 if they can't maintain it, why are you allowing them to
2 have an entrance on it that is going to be used solely
3 for the idea of connecting to Crystal, when they can go
4 out their main entrance and drive around if they want?
5 But it's un -- it's unfortunate that they would put the
6 entrance there so that it affects everybody down the
7 road. It affects, you know, the people that are riding
8 their bikes and their four-wheelers and walking their
9 dogs and all the hunting buggies and all that stuff.

10 One of the engineers from the other project -- by
11 the way, there are three emergency exits on Blasingim
12 because none of them warranted (sic) the fact that
13 because Crystal is coming up that we have to have
14 traffic on it. And one of the engineers from DeLisi
15 said Blasingim Road does not meet the standard width,
16 minimum width requirements. The easements granting
17 legal access to the subject property do also not give
18 legal authority to the Applicant to make additional
19 improvements to the roads that would be needed.

20 So your turning the traffic loose on the road,
21 literally the end of their driveway where this is
22 projected, they're really only going to have about 15
23 feet of the property or less that they own. The rest
24 of it everybody else owns, and we're going to have to
25 pay for the wear and tear on the road. It just seems

1 like an unfair hardship.

2 HEARING EXAMINER RIVERA: Thank you.

3 MR. RICHARDS: So that's it.

4 HEARING EXAMINER RIVERA: Thank you for coming
5 today.

6 The next card I have is for Steve Franta.

7 MR. FRANTA: My name is Steve Franta. I live in
8 Windsong.

9 I'm concerned about that emergency access point.
10 Same questions he had, I also would ditto that.

11 Also, along Penzance we definitely need a walkway
12 to get access onto Six Mile. A lot of our people bike
13 or walk out that way, and it's very dangerous to be on
14 that road. So we need to have a bikeway or a sidewalk
15 along the Penzance.

16 Thank you.

17 HEARING EXAMINER RIVERA: Thank you, sir.

18 The next card I have is for Mark Aller --
19 Allsmann?

20 MR. HULSMANN: Hulsmann.

21 HEARING EXAMINER RIVERA: I apologize, sir.

22 MR. HULSMANN: No problem.

23 HEARING EXAMINER RIVERA: Good morning.

24 MR. HULSMANN: Good morning, and thank you.

25 I think I'm sharing the same kind of concerns with

1 the amount -- volume of traffic that is going on, but I
2 know that you have a development that's up on Idlewild
3 that's going on right now, and there's, I think, over
4 150 homes that are going in there. That's going to
5 have direct access onto Ranchette, which is going to
6 have direct access onto Penzance. All of that is
7 going to be flowing right back -- I live in Windsong so
8 my concern would be the same thing. There's so much
9 traffic going on. How are we really going to
10 understand how this flow is going? And then if you
11 start talking about, well, we're going to extend
12 Crystal Drive in the next ten years, that's also going
13 to have direct access into Six Mile Cypress, and you're
14 going to have a lot of congestion. And that would be
15 my major concern --

16 HEARING EXAMINER RIVERA: Thank you.

17 MR. HULSMANN: -- all right? Thank you.

18 HEARING EXAMINER RIVERA: Thank you, sir.

19 The next one I have is for Susan Fansler. Good
20 morning.

21 MS. FANSLER: Hello. I hadn't planned on
22 speaking, but since I'm here and I'm listening to some
23 of the conversation, I would like to add my two cents
24 worth.

25 I have lived in Lee County for 30 years; and when

1 I first arrived here, Six Mile Cypress was a dirt road.
2 It was a two-tracker, and it was intended that it was
3 never supposed to be built upon because it was the
4 beginning of the sawgrass to the Everglades. And as
5 time has gone on, the City has -- or the County has
6 approved building and filling in of the swamps and --

7 MS. MONTGOMERY: I'm going to object to this
8 testimony. It goes well beyond the --

9 MS. FANSLER: Okay. Well --

10 MS. MONTGOMERY: -- purpose of the remand.

11 MS. FANSLER: -- so all I will --

12 MS. MONTGOMERY: This is not about --

13 MS. FANSLER: -- say, Penzance -- may I say
14 something else?

15 MS. MONTGOMERY: I'd like to finish my objection.

16 MS. FANSLER: I'm sorry.

17 MS. MONTGOMERY: What you're saying is
18 inappropriate, ma'am.

19 For the record, her testimony goes well beyond the
20 purpose and extent of the remand and shouldn't be
21 considered.

22 HEARING EXAMINER RIVERA: If you could limit the
23 comments simply to the access points.

24 MS. FANSLER: Okay. To the access points,
25 Penzance -- Penzance is a flood area, and during the

1 former Hurricane Irma, that entire corridor that goes
2 from Penzance around to Ranchette was all water; and if
3 you allow more homes to get in here, it's going to be
4 very difficult for ingress and egress.

5 HEARING EXAMINER RIVERA: Thank you.

6 MS. FANSLER: A major concern, sorry.

7 HEARING EXAMINER RIVERA: No, thank you. Thank
8 you for coming.

9 I have Victor Revoredo. I apologize, sir, I know
10 I butchered that. Were there any comments --

11 MR. REVOREDO: Revoredo --

12 HEARING EXAMINER RIVERA: -- you'd like to make?

13 MR. REVOREDO: -- no.

14 HEARING EXAMINER RIVERA: Thank you.

15 MR. REVOREDO: My concern is only the traffic, the
16 traffic on Penzance, because right now --

17 HEARING EXAMINER RIVERA: If you're -- I'm sorry?
18 If you are going to speak, I would need you to come to
19 the podium so we can capture it on the record.

20 MR. REVOREDO: No, I want to stay.

21 HEARING EXAMINER RIVERA: Okay, thank you, sir.

22 The next card I have is for Thomas Everaert.

23 Good morning, sir.

24 MR. EVERAERT: Good morning.

25 I have a couple of concerns that Mark touched on

1 earlier. I live in Windsong, like most of us do that
2 are in here. My concern is the traffic, the increased
3 traffic, and how to facilitate, you know, the future
4 needs or -- or the congestion that it's going to
5 create. The important thing is there's 125 plus units
6 going in on -- by Pulte on Plantation and Idlewild, and
7 Idlewild changes into Ranchette, that turns into
8 Penzance. So that's a concern that I have.

9 Plus, there's also -- you know, you have a lot of
10 the drivers that are -- that are using that area as a
11 cut-through access, and they're cutting through from
12 Metro Parkway or from Six Mile Cypress to avoid other
13 traffic jams, mainly at Six Mile Cypress and Daniels.
14 So, I mean, those are some big concerns on that because
15 the amount of traffic has already increased, plus with
16 the addition of 230 plus homes which will exit onto Six
17 Mile Cypress. It's all kind of bottlenecking and
18 backing up. So that's my concern.

19 The other concern I have is that there's no
20 sidewalks on Blasingim or in that section of Penzance;
21 and if somebody wants to walk or ride a bike, you can't
22 do it.

23 So that's all I have.

24 HEARING EXAMINER RIVERA: Thank you. Thank you,
25 sir.

1 MR. EVERAERT: Okay.

2 HEARING EXAMINER RIVERA: The last card I have is
3 for Alex Alexandro.

4 MR. ALEXANDRO: Good morning.

5 HEARING EXAMINER RIVERA: Good morning, sir.

6 MR. ALEXANDRO: Again, my name is Alex Alexandro.
7 I live in Windsong. I have a couple of concerns.

8 Right now my residence is about there, okay? On
9 Penzance in the evening, later evening, you can hear
10 drag racers coming down there sometimes late at night.
11 That's number one. I'm glad they're going to move the
12 entrance to Penzance, okay?

13 The one on Blasingim I really would like to see
14 killed, that secondary, and not change down the road if
15 it need be. I'm asking that it be killed, okay? In
16 this development -- let's see here -- right over here,
17 right, this is Penzance. There's a lot of children.
18 School buses are stopping all the time. More traffic
19 is now going to be coming out. Now, I know we can't
20 change -- it's already been preapproved to put that
21 entrance on Penzance. I'm concerned of the safety of
22 the children with the buses; and as you know, people
23 sometimes run the bus stops -- when the bus stops,
24 okay?

25 Other than that, it's the -- it's the safety

1 issue. And, again, there's no other place to put -- to
2 put an exit.

3 I'm happy -- I wasn't at the last meeting, I was
4 out of town -- that it's going to be moved to Penzance.
5 My concern is safety, speed, all those children getting
6 off school buses, okay?

7 The other concern -- and this young lady here
8 might object to my next statement, but at Windsong --
9 Windsong, we have the side street called Mistral. If
10 they go through with this, and I -- these homes will
11 become worthless. Because that road that they talked
12 about is going to be a two-lane plus something in the
13 center? I've been back there. I don't know -- I mean,
14 it would be a nightmare for anybody here that lives on
15 Mistral and lives on this -- this side here because --
16 where's the cul-de-sac here?

17 UNIDENTIFIED SPEAKER: To your left.

18 MR. ALEXANDRO: To my left -- oh, I'm sorry, here
19 we are.

20 Yeah, these homes will become worthless because
21 the noise, the traffic, the property values will go
22 right in the sewer.

23 Thank you for listening.

24 HEARING EXAMINER RIVERA: Thank you.

25 That was the last card that I had. Is there

1 anyone else from the public that wishes to speak today?

2 Okay, thank you, then we will close public comment.

3 Did the Applicant or Staff need more time before
4 we do rebuttal?

5 MS. MONTGOMERY: A couple comments.

6 HEARING EXAMINER RIVERA: Did you need to take any
7 time, or are you prepared to begin?

8 MS. MONTGOMERY: No, I'll recall Mr. Arnold and
9 ask a couple questions.

10 HEARING EXAMINER RIVERA: Thank you.

11 MS. MONTGOMERY: Just for the record, can you tell
12 me what future land use category this property is in?

13 MR. ARNOLD: It's in the central urban future land
14 use category.

15 MS. MONTGOMERY: And what does the Lee Plan
16 indicate one would expect in the central urban land use
17 category on a major arterial?

18 MR. ARNOLD: Urban levels of development,
19 densities up to ten units per acre, plus bonus density
20 opportunities.

21 MS. MONTGOMERY: And was a level of service
22 analysis done on Penzance?

23 MR. ARNOLD: Yes. The traffic impact study that
24 was prepared for the initial zoning case was prepared
25 by Mr. Banks. The supplemental memorandum he prepared

1 reaffirmed that the level of service with the project
2 will maintain a level of service C on Penzance
3 Boulevard. The adopted level of service is E. So we
4 would be well within the -- the range of acceptable
5 level of service.

6 MS. MONTGOMERY: Thank you.

7 That's all.

8 HEARING EXAMINER RIVERA: And did Staff have any
9 final comments?

10 MR. RODRIGUEZ: I just have one answer to a
11 question regarding sidewalks on Penzance. Penzance is
12 a major collector road in a future urban area. It will
13 require an eight-foot-wide sidewalk along the
14 property's frontage, as well as a shared bike lane as
15 part of site-related improvements that will be required
16 at the time of development.

17 HEARING EXAMINER RIVERA: All right, thank you.

18 MR. RODRIGUEZ: And that's it.

19 HEARING EXAMINER RIVERA: Is there -- Anthony,
20 could you talk -- or anybody from Staff just to talk
21 briefly again -- because there's some confusion about
22 the Crystal Drive extension and why -- I guess the
23 reclassification of Penzance from the beginning of when
24 this application first came in, since it has moved now
25 a couple of times.

1 Thank you, good morning, Mr. Price. Sorry --

2 MR. PRICE: Good morning. Rob Price, I'm a
3 licensed professional engineer in the state of Florida.
4 I'm deputy director for Lee County DOT.

5 The Crystal Drive extension is on the MPO's
6 long-range plan; and as these developments that have
7 been coming in along the Crystal Drive extension
8 right-of-way have been developing, they've been
9 building portions and portions of the Crystal Drive
10 extension; they're meeting the County standards;
11 building it to our standards. At some point in the not
12 too distant future, it's going to become cost effective
13 for the County to complete the Crystal Drive extension.
14 We've been contemplating this roadway for quite some
15 time. As Ms. Montgomery mentioned earlier, the Camden
16 development at Plantation and Crystal Drive has
17 accommodated a future access point there, as well.

18 And the whole point -- it's really simple -- this
19 is going to relieve traffic on Penzance. The point of
20 the Crystal Drive extension is to provide alternative
21 means of traffic east/west that -- that will help
22 relieve Daniels Parkway and relieve Penzance. So
23 having this development have access to the future
24 Crystal Drive extension, instead of having to go up to
25 Penzance, turn left, and then go south to Blasingim

1 Road, or turn right on Penzance to go south on Six Mile
2 to Crystal Drive, is good transportation planning, and
3 it is going to actually reduce the travel and the
4 traffic on Penzance.

5 So that's the point, that's the whole reason that
6 we want to keep the access there. We would prefer the
7 previous plan at DOT, just so we're clear, that had all
8 of the access to Blasingim Road, but we're comfortable
9 with the -- with the proposed condition, with the
10 access point on Blasingim Road staying as an emergency
11 for now, and then when the roadway is connected to
12 Plantation, it being opened as a viable alternative for
13 the residents of this development to then get out onto
14 Crystal Drive and Plantation, and even further to Metro
15 and 41.

16 HEARING EXAMINER RIVERA: Can you just state
17 briefly the policy issues behind keeping traffic off of
18 a major collector, or why that changed from the
19 original application when it first came in?

20 MR. PRICE: Yeah, it's a safety issue. You want
21 to limit the amount of driveway connections you have to
22 major collector and arterial roadways. When you put
23 a -- a road in that has no access, you have the most
24 amount of capacity on that road that you could possibly
25 carry. Every connection point you add to a roadway

1 starts to degrade the capacity of that roadway. You
2 have more conflict points. More conflict points mean
3 less traffic can travel through there without, you
4 know, unimpeded access. So we want to limit access
5 points to our major arterials and our collector
6 roadways and provide them on side streets, which are
7 there to funnel the traffic to the collectors that then
8 funnel it to the arterials. So you concentrate your
9 access on local streets where you can, and you provide
10 a minimal amount of access to your collector and
11 arterial roadways.

12 One other comment or response to a question, this
13 project now, because we are moving the driveway to
14 Penzance, will be required to build a turn lane if they
15 meet the turn-lane requirements. And our -- our review
16 of their traffic analysis is that they will meet the
17 turn-lane requirements. So having the driveway to
18 Blasingim would have had no turn lane improvements.
19 Having the driveway to Penzance will now require a
20 left-hand turn lane into the development when they come
21 in for their development order.

22 So there's one gentleman who indicated that the
23 turn lane that was installed further west of this
24 project is problematic. There's going to be a turn
25 lane on Penzance at this point now at their driveway.

1 HEARING EXAMINER RIVERA: And the condition, as
2 it's written then, reserving the Blasingim access as a
3 fully directional access at the time that the extension
4 comes in, that's a -- that's coming from a public
5 health, safety, welfare perspective?

6 MR. PRICE: 100 percent
7 health-safety-welfare-related. It's really about
8 having good transportation alternatives and flow of
9 traffic and -- and having more direct routes to other
10 parts of the county. So when that Crystal Drive
11 extension comes through, I mean, we're going to be
12 counting on that to be a reliever to Daniels Parkway.

13 And I'm sure that all the residents that are here
14 face the issue that we get complaints about all the
15 time on Six Mile Cypress at Daniels. You have a major
16 principal arterial on Daniels Parkway. It gets the
17 bulk of the signal time. There's not as much time
18 given to Six Mile Cypress to the south. Providing
19 alternative ways for people to get east and west is --
20 is good transportation planning.

21 HEARING EXAMINER RIVERA: Thank you.

22 MR. PRICE: You're welcome.

23 HEARING EXAMINER RIVERA: Did Applicant or Staff
24 have any questions?

25 UNIDENTIFIED SPEAKER: (Indicating.)

1 HEARING EXAMINER RIVERA: I'm sorry, sir, there's
2 only one opportunity to speak, but you're welcome to
3 speak to Staff after we conclude the hearing.

4 Were there any final concluding comments?

5 MS. MONTGOMERY: I just have one comment. If you
6 go on Blasingim and click on it on the Property
7 Appraiser's website, you'll see that a significant
8 portion of it actually is owned by the Neal Communities
9 entity, and Neal Communities is the one that built
10 Windsong, and this property does have a legal right to
11 use Blasingim. So there's been some suggestion that
12 they don't, but they do.

13 HEARING EXAMINER RIVERA: I believe that was in
14 prior testimony, as well --

15 MS. MONTGOMERY: Yes, it was.

16 HEARING EXAMINER RIVERA: -- when --

17 MS. MONTGOMERY: I wanted to reiterate that.

18 HEARING EXAMINER RIVERA: Thank you.

19 Did Staff have any final comment?

20 MR. RODRIGUEZ: No, ma'am.

21 HEARING EXAMINER RIVERA: Okay, thank you.

22 Okay, thank you. With that then, we will conclude
23 the hearing for today. If you spoke today, you are
24 free to speak at the Board hearing, as well, on the
25 comments that you made today. And you will receive a

1 copy of my recommendation once that's released, as well
2 as the date that the scheduled item is before the
3 Board.

4 Thank you, everyone, for coming today, and please
5 stay well.

6 (Proceedings concluded at 9:48 a.m.)
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1
2 CERTIFICATE OF REPORTER
3

4 STATE OF FLORIDA)

5 COUNTY OF LEE)
6

7 I, Deborah M. Bruns, Florida Professional
8 Reporter, do hereby certify that I was
9 authorized to and did report the foregoing
10 proceedings, and that the transcript, pages 1
11 through 43, is a true and correct record of my
12 stenographic notes.

13
14 Dated this 5th day of May, 2023.

15
16 

17 Deborah M. Bruns, FPR
18

19
20 (This transcript was electronically signed.)
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