

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
November 14, 2013

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

HEARING EXAMINER MARK STRAIN

Also Present:

Raymond V. Bellows, Planning Manager
Nancy Gundlach, Principal Planner
Heidi Ashton-Cicko, County Attorney's Office

EXHIBITS
DESCRIPTION

- 1 Notice of hearing
- 2 Agenda item 4.A and the full report and the backup
- 3 OR Book 4223, Page 0874, Paragraph B

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Are we on? I think they're just connecting the mikes.

Good morning. Welcome to the Thursday, November 14th meeting of the Collier County Hearing Examiner's Office.

If you'll all rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: We have some housekeeping matters to announce. Individual speakers will be limited to five minutes, unless otherwise waived by the Hearing Examiner. All materials used during presentation at the hearing will become a permanent part of the record.

Decisions of the Hearing Examiner are final, unless appealed to the Board of County Commissioners.

Hearing procedures will provide for presentation by the applicant, presentation by staff, public comment, and applicant rebuttal. The Hearing Examiner will render a decision within 30 days.

In today's agenda we have one advertised public hearing, Item 4.A.

There is no other changes to the agenda, Ray? Is there anything that you --

MR. BELLOWS: I have no additions or changes.

HEARING EXAMINER STRAIN: Approval of prior minutes. The prior minutes of this meeting, I have gone over them with the court reporter. There were some changes needed. I will try to be brief in announcing those for the record.

First of all, the minutes will have an attached exhibit list or an exhibit list added to the minutes for each case from here forward.

On the first page of the proceedings, Lines approximately 16, there are a series of grammatical errors and typos. It should read: In those forever remembered old days, you could enter into the Building Department's one temporary trailer with a roll of plans for a multistory building. And it goes on from there. That's the correct way it should be written.

And then in the signature page where it says the minutes -- the very last line, "The minutes were approved by." Instead of the "Board", it should be by the Hearing Examiner. That should clean up the minutes.

I don't think I need a vote on those. I'm the only one here. So that's the way it will go. I'm used to having seven Board members.

***Okay. The first advertised public hearing today is Petition No. ABW-PL20130001595. It's for the SLR Naples Corporation located in Mercato mixed use planned development -- planned unit development. ABW is an alcohol beverage waiver.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

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

HEARING EXAMINER STRAIN: Disclosures on my part. I have talked to Bruce Anderson, Wayne Arnold, Sharon Umpenhour with Grady Minors and Associates, various staff members here at the County. And I've gone through all the files on the previous ABWs to understand the processes that have applied to Mercato in the past.

I've also pulled some files, read some files that Bruce had sent me and Sharon regarding disclosures, as far as the condominium documents go.

There are two exhibits that I want to mention already that will be part of the record. Exhibit 1 will be the notice of hearing. And Exhibit 2 will be this Agenda Item 3.A and the full report and the backup that goes with it.

As we get into discussion, Exhibit 3 will be added. It will be the Mercato declaration of covenants, OR Book Page 4223 -- I mean, OR Book 4223, Page 0874, Paragraph B. It's a recorded document showing a notice -- the noise notification to the residents within Mercato. And that will be Exhibit 3.

With that, Bruce, I have read all the documentation, so your discussion can be as brief as you would like.

MS. ASHTON-CICKO: Just for clarification, on Exhibit 2 it is labeled Agenda Item 3.A, but it actually is Agenda Item 4.A. So just for the record and so forth, we'll make that correction.

HEARING EXAMINER STRAIN: Good. Thank you for catching that. I appreciate it.

Okay. Bruce.

MR. ANDERSON: Good morning. For the record, my name is Bruce Anderson from the Roetzel and Andress Law Firm representing the applicant, SLR Naples Corporation.

With me today is the president of the corporation, Steve Tallides. And we're pleased to be here. This is a request for waiver from the 500 foot distance separation requirement under LDC Section 5.05.01 for waiver of the distance requirements from another alcoholic beverage business.

The name of this business is projected to be Cavo. And it is located in Mercato.

Mr. Strain, I don't know, do you want to also include Exhibits A and B that were in the application? I don't know if these were -- the exhibits you referenced earlier were to attach to your order.

HEARING EXAMINER STRAIN: Exhibit A is the map. That's part of the staff report attachments.

MR. ANDERSON: Yes, sir.

HEARING EXAMINER STRAIN: That would be part of -- that would be part of Exhibit 2.

MR. ANDERSON: Okay, okay.

HEARING EXAMINER STRAIN: Anything that was in the staff report, which includes your application -- I'm looking at it now -- that was all part of Exhibit 2.

MR. ANDERSON: Okay. We concur with the staff report and thank Ms. Gundlach for her timely handling of this application. And I think she has something that she wants to clarify on the staff report.

And we're available for any questions you might have. Thank you.

HEARING EXAMINER STRAIN: Thank you.

Nancy.

MS. GUNDLACH: Good morning, Commission- -- Hearing Examiner. I don't know what --

HEARING EXAMINER STRAIN: Bruce asked that question. I said anything but profanity would be fine.

MS. GUNDLACH: For the record, I'm Nancy Gundlach. And I'm the principal planner with the Department of Planning and Zoning. And staff is recommending approval of this alcoholic beverage waiver.

And I do have one clarification I would like to make in our staff report. And I would like to correct the distance from Silver Spot. It should read 270 feet, not 426 feet.

HEARING EXAMINER STRAIN: Okay. Thank you.

And as I mentioned to you in the beginning of the meeting, I would like to suggest that if you have no objection, your recommendation delete the word "two" because it talks about a 500-foot separation requirement between two establishments. There are multiple establishments in which its got separations. So I'd just thought we'd drop the word "two" and that would cover all the circumstances.

Is that okay with staff?

MS. GUNDLACH: That's acceptable to staff.

HEARING EXAMINER STRAIN: Okay. Any member of the public -- anybody here wish to speak on this item?

Bruce, I can't imagine you've got a rebuttal.

Nothing else to say, then at this point that is all we need to hear on this matter.

Heidi, do you have anything you want to add?

MS. ASHTON-CICKO: No, I don't. Thank you.

HEARING EXAMINER STRAIN: Okay. What will happen, Bruce, is within 30 days you'll be sent a notice of the decision on the -- from the Hearing Examiner's Office. I'm sure it will be favorable. It's just a matter of getting the paperwork done. I expect that will be a lot less than the amount of time allocated.

Probably within a week.

So with that, we're done.

MR. ANDERSON: Thanks very much.

HEARING EXAMINER STRAIN: Thank you very much for your attendance today and I appreciate your time.

MR. ANDERSON: Thank you.

HEARING EXAMINER STRAIN: There is no other business. With that, we'll adjourn the meeting. Thank you all for coming.

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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 9:09 a.m.

COLLIER COUNTY HEARING EXAMINER


MARK STRAIN, HEARING EXAMINER

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 12-12-13, as presented or as corrected .

TRANSCRIPT PREPARED ON BEHALF OF
GREGORY COURT REPORTING SERVICE, INC.,
BY KELLEY MARIE NADOTTI, REGISTERED PROFESSIONAL REPORTER
AND NOTARY PUBLIC.