

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER  
Naples, Florida  
January 23, 2014

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: Heidi Ashton-Cicko, Managing Assistant County Attorney  
Ray Bellows, Zoning Manager  
Fred Reischl, Senior Planner  
Michael Sawyer, Project Manger

HEARING EXAMINER STRAIN: Okay, I think that's got it turned on.

Welcome everybody to the January 23rd meeting of the Collier County Hearing Examiner's Office.

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

(Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: I think the first decision we need to make today is to turn the heat on outdoors. It was 38 degrees at my house this morning, and that is -- that's too cold.

Some basic rules. Individual speakers will be limited to five minutes unless otherwise waived by the Hearing Examiner.

Decisions of the Hearing Examiner are final, unless appealed to the Board of County Commissioners. And the Hearing Examiner will render a decision within 30 days.

With that, is there any changes to the agenda from staff?

MR. BELLOWS: I have no changes.

HEARING EXAMINER STRAIN: Okay. Approval of the minutes of the prior meeting. I've reviewed them. They're fine to be -- they're approved as written.

And one thing I'd like to make a note of today. This is a special meeting, and every meeting we've had for a while now has been a first meeting of some kind. And today is the first one where we've had five hearings in one day. And so it was more complicated to accomplish and set up than normal. And we owe that ability to have done it so well today is to Gail Bonham who set the room up, set the meetings up, did the advertising, got everything together. So thank you, Gail, good job.

(Applause.)

HEARING EXAMINER STRAIN: We'll go right into our first advertised public hearings.

The first one up is Petition No. BD-PL20130002355. It's the Charles Bateman 20-foot boat dock extension.

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

(All speakers were duly sworn.)

HEARING EXAMINER STRAIN: Okay. And as far as disclosures, on my behalf I don't believe I spoke to anybody on this one, unless it was in a pre-app much earlier, Chris. Was this one of the ones we had a pre-app on?

MR. BATEMAN: No, we didn't do that.

HEARING EXAMINER STRAIN: Okay. And I know you haven't been to one of these hearings before. I tend to read everything, so formal presentations are not necessary. However, you're more than welcome to make one. And if you want to enter anything into the record -- for the record, we will be -- Exhibit A will be the Notice of Advertisement and Exhibit B will be the staff report. So if you have anything else you want to add, you're more than welcome to.

MR. BATEMAN: I don't have anything else to add. And there haven't been any changes since the documentation was prepared and since you've read it. I guess if you have some questions, I'll answer those. Otherwise, we'll stand on what we have submitted as what we plan to do.

HEARING EXAMINER STRAIN: Okay. And you have met five out of the five primary criteria, and you've met five out of the six secondary, with the exception of the Manatee Protection Plan issue which is not a requirement for a single dock, so I don't have any other questions.

I found nothing wrong with your application. And with that, you'll have a decision rendered within 30 days, Chris.

MR. BATEMAN: Okay, thank you.

HEARING EXAMINER STRAIN: Thank you for your time today.

Next item up is Petition No. VA-PL20130000745. It's the Banyan Woods Homeowners Association. Gary Godley is requesting a variance for a wall.

And Jeff, you --

MR. NUNNER: Good morning.

HEARING EXAMINER STRAIN: -- you represent the applicants.

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

(All speakers were duly sworn.)

THE COURT REPORTER: May I have your name, please.

MR. NUNNER: Jeff Nunner. N-U-N-N-E-R.

THE COURT REPORTER: Thank you.

HEARING EXAMINER STRAIN: Okay, and disclosures on my part. I think Jeff and I talked in the hall a while back about this a little bit. And other than that I've had no -- oh, and with staff of course, I talked to Mike Sawyer about it. And with that, I have no other disclosures.

The exhibits will be -- the Notice of Public Hearing will be Exhibit A and the staff report will be Exhibit B.

Jeff, you're more than welcome to enter anything else into the record you want and say anything you'd like to say at this point.

MR. NUNNER: I don't have anything else to enter into the record. I just want to thank Mike Sawyer and his staff for his assistance in this item.

And we are in total agreement with the staff report. And if there's any questions, I can answer any questions. Thank you.

HEARING EXAMINER STRAIN: Thank you. And Mike, I should have asked earlier on the other one, but did you have anything you wanted to add as a staff member?

MR. SAWYER: Staff doesn't have anything to add in either item.

HEARING EXAMINER STRAIN: Any members of public wishing to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay, Jeff, we're good. I'll have a decision written up within 30 days and sent to you.

MR. NUNNER: Thank you.

HEARING EXAMINER STRAIN: Thank you, sir.

Next item up is Petition BDE-PL20130001439. It's the Romeo and Adriana Terezi waiver of a -- for a boat dock extension of 30.9 feet.

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

(All speakers were duly sworn.)

HEARING EXAMINER STRAIN: Disclosers. On my part, I don't believe I've had discussions on this one with anyone except maybe the pre-app. That was the one we had the pre-app on? There's been so many so I'm not sure which ones apply to what, so --

MR. TURLEY: That's one of the ones we had a pre-app on. The next door neighbor, which kind of influences the determination on this dock as well.

THE COURT REPORTER: Are you Mr. Turley?

MR. TURLEY: Oh, yeah, I'm David Turley, for the record.

My neighbor also wants to build a dock in the same configuration, which is going to exceed the same --

HEARING EXAMINER STRAIN: Could you get closer to the mic, David? Thank you.

MR. TURLEY: My neighbor, Mr. Barbaroza, purchased the house to the north at 222, and he wants to reconfigure his dock to be perpendicular as well to the shoreline and extend it the same distance out. He has same size vessels.

HEARING EXAMINER STRAIN: Yeah, we're not here for that --

MR. TURLEY: No, no. That's the only item that has changed since we had the pre-app.

HEARING EXAMINER STRAIN: Okay. As long as nothing's changed on this application, and I don't believe anything has by what you've just said.

I have a couple of questions on this one. First of all, you've met four out of the five primary criteria. The one you didn't meet was the depth. But that's just one of the five and I believe you'd still qualify.

And the secondary criteria, you've met five out of the six on the secondary. And again, criteria number six isn't applicable because of the Manatee Protection Plan. I believe that's correct, right?

MR. TURLEY: That's correct.

HEARING EXAMINER STRAIN: The mangroves that you're going to be up against, the reason that you're pushed out into the water I assume is because the mangroves -- you are going to get a mangrove

trimming permit?

MR. TURLEY: Yes, we have -- I've secured that through the DEP through a letter.

HEARING EXAMINER STRAIN: Oh, you already have it?

MR. TURLEY: Yes, yes.

HEARING EXAMINER STRAIN: Good.

MR. TURLEY: They gave me their permission or their DEP permit.

HEARING EXAMINER STRAIN: Okay. You're asking for a 30.9 foot -- I think it's 30.9 foot --

MR. TURLEY: Yes.

HEARING EXAMINER STRAIN: -- extension. And it was -- our standard length is 20 feet. So you want 50.9 is what I believe the overall length --

MR. TURLEY: Overall, yes, sir.

HEARING EXAMINER STRAIN: -- of your boat.

Okay, on your cross-section of your dock, it shows the overall length from top of bank to be 53.3 feet.

MR. TURLEY: That is where the walkway extends over the bank.

HEARING EXAMINER STRAIN: But it measures -- the document is measured from top of bank. And I believe the most stringent of the measurement locations are what are supposed to be used. And for that reason I'm concerned that the application might have -- should have been for 53.3 feet instead of 50.9.

MR. TURLEY: My understanding of the protrusion is I was allowed 20 feet normal protrusion allowed and then another 30.9 beyond the 20 feet.

If the cross-section shows it from the mean high water, the second notation down, 50.9 total protrusion and 53 feet -- 53.3 overall, that's from the top of the bank.

That's where the walkway is actually going to start back in --

HEARING EXAMINER STRAIN: No, I understand. Yeah, I've seen the plot plan and all the rest of it. I understand exactly how you got to the 50.9. But I was trying -- and I caught this last night. I was reviewing the code and I thought we were supposed to measure from the most stringent point. And there were several criteria, whether it's a seawall, whether it's a mean high water. And I believe top of bank was another one. And I was just double checking with staff to see if that's true or not. And if it is, what dimension should he be here asking for today?

MR. REISCHL: That's true. Because the measurement is to mean high water, and the most restrictive would be top of bank.

HEARING EXAMINER STRAIN: Okay. So he should be asking for a 53.3 foot overall extension.

MR. REISCHL: Yes.

HEARING EXAMINER STRAIN: Then I have to ask the county attorney for clarification regarding the advertising.

MS. ASHTON-CICKO: I think he'll need to readvertise.

HEARING EXAMINER STRAIN: Okay. And I apologize for bringing this up so late, both to the staff member and to Mr. Turley. I didn't discover it 'til last night when I was going over as a final check on everything. Because I read this over the weekend and that part of it didn't -- I didn't even make a note on it 'til last night.

So with that, Mr. Turley, what do you -- can you reduce your length to 50.9 and still build your facility, or do we need to readvertise and hold another hearing to get this cleared up?

MR. TURLEY: No, sir, I think we're fine. The bank actually makes its turn there. I think we'll be more than -- 50.9 will be fine.

HEARING EXAMINER STRAIN: 50.9 will work?

MR. TURLEY: 50.9 will work.

HEARING EXAMINER STRAIN: Okay, is there any problems with staff on that?

MR. REISCHL: No.

HEARING EXAMINER STRAIN: Okay.

MS. ASHTON-CICKO: Will we get a revised map that's going to show it?

HEARING EXAMINER STRAIN: Yeah, I'm going to need some clarification --

MR. TURLEY: Okay.

HEARING EXAMINER STRAIN: -- for the record, because the official record will be the staff report.

MR. TURLEY: Right.

HEARING EXAMINER STRAIN: It's got to be corrected now to reflect the 50.9 as measured from the top of bank.

MR. TURLEY: Okay.

HEARING EXAMINER STRAIN: Now, that will be stipulated in the decision form, but I won't be sending that out until I get the corrected documents to accompany it.

MR. TURLEY: Okay. I don't have any problem with that.

HEARING EXAMINER STRAIN: Okay.

Anything else you wanted to add to the record?

MR. TURLEY: That's --

HEARING EXAMINER STRAIN: That's enough, huh?

MR. TURLEY: That's enough.

HEARING EXAMINER STRAIN: I don't blame you.

MR. TURLEY: I noticed that you wanted -- when I met with you before, you wanted the dock platted from the platted mean high water, which was actually 44 feet. That was a discussion we had. But I didn't know what the relevance was on that.

HEARING EXAMINER STRAIN: I don't remember either offhand. I mean, we had a lot of discussions, but I don't recall that.

But regardless, all I think you really need is to have a clarification on your documents that your overall extension from the top of bank is going to be 50.9.

MR. TURLEY: Okay.

HEARING EXAMINER STRAIN: And so you need to correct the pages in this document that don't reflect that. It will be stipulated. So you won't be able to have more than that on your approval.

MR. TURLEY: All right, fine.

HEARING EXAMINER STRAIN: But we would need to have the right documents entered. What I'll do is I'll attach them to the back of the decision.

MR. TURLEY: Yeah, my documents to the surveyor and the engineer showed 50.9. And then when he came back with a -- I didn't really take that into consideration myself, that extra few feet up the bank.

HEARING EXAMINER STRAIN: Okay. How soon do you think you'll be getting those in?

MR. TURLEY: Probably this afternoon.

HEARING EXAMINER STRAIN: Okay. Well, once you get them, you need to send them to Fred.

MR. TURLEY: Okay.

HEARING EXAMINER STRAIN: And once Fred reviews them, he's the planner, and he says they're okay, he'll forward them to me. And then as long as they meet the intentions of what we're -- the conditions we're talking about here, then they will be attached to the back of the decision, and then that will be finalized.

MR. TURLEY: Okay, no problem.

HEARING EXAMINER STRAIN: And you'll have a final decision within 30 days.

MR. TURLEY: Okay.

HEARING EXAMINER STRAIN: Okay? That's all there is to it.

MR. TURLEY: All right, thank you very much.

HEARING EXAMINER STRAIN: Thank you.

Is there anything else, Fred, that you wanted to contribute?

MR. REISCHL: No, that's everything.

HEARING EXAMINER STRAIN: Any members of the public here to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. We're done. Thank you.

MR. TURLEY: Have a good day.

HEARING EXAMINER STRAIN: You too. Thank you.

MS. ASHTON-CICKO: Did we mark the Exhibits A and B on that one?

HEARING EXAMINER STRAIN: Yes, the -- well, if we didn't, we'll do it right now. Exhibit A will be the Notice of --

THE COURT REPORTER: Do you wish me to mark each item separately?

HEARING EXAMINER STRAIN: Yes, we need separate notices of advertisement and staff reports for every item that -- every single case.

You didn't get a packet with all those in it?

THE COURT REPORTER: I might have. I haven't --

MS. ASHTON-CICKO: You have one copy of the entire agenda.

THE COURT REPORTER: Okay, thank you.

HEARING EXAMINER STRAIN: And the office is right across the hall so you can get them there.

Okay, now that takes us to the last item we have on today's agenda, which will take a little more time. It's Petition No. PE-2013000 -- oh, I'm sorry, no, we're now number four. Glad you came up, Alexis. I almost forgot.

MS. CRESPO: I was concerned with that intro.

HEARING EXAMINER STRAIN: Petition SV-PL20130000387, Lely Apartments, LLC. And this is for a sign variance.

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

(All speakers were duly sworn.)

HEARING EXAMINER STRAIN: I saw Mike Bosi rise; I'm going to see what he's got to say.

My disclosures are I did meet with Alexis and the landscape architect. We had a discussion over it. I've talked to staff at various times about this one, trying to understand what was happening out there, and I think we have a good handle on it.

So with that, Alexis, the -- I've read all the staff report. You know we've had our discussions. Is there anything you want to add to the record?

MS. CRESPO: We are in agreement with the staff report and want to thank Mr. Reischl for his assistance in preparing this.

The one thing that I would like to add to the record is that the existing offsite monument sign is double faced, as outlined in the 1998 approval. And we would request continuation of having a double-faced sign for this new variance request.

MR. REISCHL: And that's how staff reviewed --

HEARING EXAMINER STRAIN: Staff reviewed it as a double-faced sign?

MR. REISCHL: Yes.

HEARING EXAMINER STRAIN: Okay. I'll make a note of that.

I think I had one issue. The easement. The easement was never recorded, from what I understand.

MS. CRESPO: That is correct.

HEARING EXAMINER STRAIN: And as part of this approval, do you have any problem with the condition that the easement will be recorded?

MS. CRESPO: No, sir.

HEARING EXAMINER STRAIN: Within what kind of time frame are you comfortable with?

MS. CRESPO: The sign drawings are prepared to file the permits, so we would be doing that in short order, at the same time as filing the sign permit request with the county.

HEARING EXAMINER STRAIN: Within 30 days?

MS. CRESPO: Correct, yes.

HEARING EXAMINER STRAIN: Okay. Anything else then, Alexis? Is that it?

MS. CRESPO: No, sir, that's all.

HEARING EXAMINER STRAIN: I think that's everything. Let me make sure I -- Heidi?

MS. ASHTON-CICKO: Just Exhibits A and B again.

HEARING EXAMINER STRAIN: Yeah, I'm sorry, Exhibit A will -- and before we started I mentioned to her and I should do it for the record each time, though, that always Exhibit A will be the Notice of Advertisement and the staff report will be Exhibit B. And then we'll go into any other exhibits.

The next hearing we will have additional exhibits, but for this one we don't.

Okay, I just looked and all the issues that I had have been resolved. I think we're good.

Is there any staff comments to report?

MR. REISCHL: No additional issues, thank you.

HEARING EXAMINER STRAIN: You get them all today, huh?

Any members of the public wish to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: If not, Alexis, I'll have a decision to you within 30 days.

MS. CRESPO: Thank you very much.

HEARING EXAMINER STRAIN: Thank you.

Now the next one up will be taking a little more time. Petition No. PE-20130001408. It's the K&B Commercial Rentals #5, LLC. It's for a parking exemption in Immokalee.

We do have to make a note, there's a new owner, and we'll do that the first thing up.

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

(All speakers were duly sworn.)

THE COURT REPORTER: Could you identify yourself for the record, please.

MR. HOWELL: Brian Howell, with Phoenix Associates.

THE COURT REPORTER: Last name?

MR. HOWELL: H-O-W-E-L-L.

THE COURT REPORTER: Thank you.

HEARING EXAMINER STRAIN: Okay, Brian. There's some cleanup we need to make.

First of all, did you bring a -- or does staff have a new representation -- authorization of representation, since this is a new owner?

MR. REISCHL: Yes, I do.

HEARING EXAMINER STRAIN: You do? Okay. Do you have a copy for the record that we can enter into the record?

MR. HOWELL: We have a copy for the record.

MS. ASHTON-CICKO: So that will be Exhibit C?

HEARING EXAMINER STRAIN: It will be Exhibit C, yes.

You also -- I don't need a new application. I think it's --

MR. REISCHL: I have that in my file.

HEARING EXAMINER STRAIN: Okay. This is Exhibit C right here.

And before we go too far, let's get all the exhibits lined up. You brought a new site plan and dimension plan, I believe it is?

MR. HOWELL: That's the new one, Mark.

HEARING EXAMINER STRAIN: For the record, I'll read this in. The new owner is Shivshakti One LLC, Thakor Patel. And it's an authorization for Phoenix Associates to represent them.

The second exhibit will be the site that's labeled -- it's two pages. Cover page is labeled Site Development Plan for Patel Building. It's number C-1, and it has a date, 11/4 -- no, 1/23/2014 is the latest revision date on the cover page. It's followed by a second page, SDP-1, the same date, and it is a dimensional plan and site plan layout. And that will be Exhibit D.

Okay. Well, Brian, it's been a -- as far as disclosures go, I have talked at numerous times with Brian in the last 24 hours. Before that we had never talked too much. We talked to Chris on the phone. I think I've had a conversation with Randy. These are all members of Phoenix.

I've had numerous conversations with many different staff people to get here today. There's been some needed corrections on the site plan pertaining to buffers. And I'll let -- Chris, if you could walk us through those changes, that would be helpful.

MR. HOWELL: The parking lot exemption being requested, the changes that have been most recently made are on the north property line, that being a 10-foot buffer required, and on the south property line, that being a 15-foot landscape buffer required.

The reconfiguration of the parking and the trash area has allowed us to get both the 10 and the 15-foot

required for the parking.

HEARING EXAMINER STRAIN: Okay. In order to accomplish that you had to move two spaces onto the Main Street right-of-way.

MR. HOWELL: Two spaces, yes, that we're allowed to use on Main Street are now part of the parking calculation. So therefore there is a total of 22 required. The first parking spaces one and two are on Main Street and the next 20 are on this lot.

HEARING EXAMINER STRAIN: And the previous site plan showed the dumpster on the commercial lot. You now have it in the corner, closest to the commercial in the parking -- the new parking lot.

MR. HOWELL: Correct.

HEARING EXAMINER STRAIN: Behind that you've shown your recyclable containers and you put your loading area next to that.

MR. HOWELL: Yes, sir.

HEARING EXAMINER STRAIN: Okay. Those are generally the changes on this plan. You went to some parallel parking instead of straight in, and you reduced the width of the parking spaces down to nine feet for most of them. Is that --

MR. HOWELL: The nine foot is the standard dimension for the 90-degree parking.

HEARING EXAMINER STRAIN: Okay.

MR. REISCHL: That's the required.

HEARING EXAMINER STRAIN: That's the mini -- okay.

MR. HOWELL: The parallel parking shown is nine by 23.

HEARING EXAMINER STRAIN: Nine-and-a-half.

MR. HOWELL: That's a curb. We have a nine-foot space plus six inches of curbing.

HEARING EXAMINER STRAIN: Okay. I think the big question is going to be has staff reviewed this? Because it came in this morning. I know you haven't had a lot of time. But based on the intensity that we've looked at it over the past day or so, Fred, is staff now comfortable that these changes are more -- or at least as consistent as they need to be with our codes?

MR. REISCHL: Yes. The -- I got the plan about 8:15 this morning, so I spent that time until now reviewing it. And it looks like the parking fits. There's a small reduction in the size of the building that works.

The on-street parking, I spoke with John Podczerwinsky, and he said that that is allowable. So I believe all the changes help to make the new site plan work.

HEARING EXAMINER STRAIN: Okay. Staff had some recommendations. And one of those recommendations won't work with the current site plan. The two recommendations were the use of the subject lot for parking is permitted only in conjunction with the adjacent commercial lot, not as a freestanding parking facility.

And number two, the subject site is to be used for parking, water management, landscaping and directional and safety signage only. Other structures, including dumpsters, are not permitted. So I think you need to drop the reference to dumpsters in there.

MR. REISCHL: Right. I'm comfortable with doing that.

As you recall from the pre-app meeting, it was suggested that the dumpster would be better on the commercial site and not on the VR site. There's no prohibition to it. A dumpster is normally associated with a parking lot. So I have no problem removing the prohibition against dumpsters.

HEARING EXAMINER STRAIN: Okay. Some of the parking exemption criteria that have to be considered is the width of the buffer and the wall that would be in place. I notice the wall wasn't culled out. So one of the conditions, Brian, would be that a six-foot wall will be installed on the sides of that parking exemption lot that are adjacent to VR zoning. Do you have any problem with that?

MR. HOWELL: We don't have a problem with that.

For clarification, that would be just the 190 foot south property line? Or do we turn and go north along the 75 --

HEARING EXAMINER STRAIN: You have to go both of them.

MR. HOWELL: Okay.



HEARING EXAMINER STRAIN: Yeah, you'd have to do the short and the long one. That's because both of that's VR. You know, that's the problem. Somebody has a home behind it or to the south -- or to the --

MR. REISCHL: It's mobile home to the west. But that's also residential.

HEARING EXAMINER STRAIN: Well, it's residential, I'm sorry.

Okay, let me make sure I don't have any other notes on here.

Parking lot lighting. One of the things in the pre-app I noted to you is that generally if there are -- if there is problems in the neighborhood, it's due to lighting and dumpsters, dumpsters for noise.

What is your intention for the lighting in the parking lot?

MR. HOWELL: Right now it's slated for three sight lights, approximately 20 feet in height.

HEARING EXAMINER STRAIN: Three sight lights, 20 feet --

MR. HOWELL: Three sight lights in the parking field.

HEARING EXAMINER STRAIN: What are you --

MR. REISCHL: I'm sorry, I wasn't paying attention. Mike just pointed out that the western buffer of the parking lot shows it as 10. It should be 15 also, because it's adjacent to a mobile home. It looks like there's space to put it in there.

HEARING EXAMINER STRAIN: Well, let me take a look at that then. The western side is --

MR. REISCHL: Adjacent to a mobile home, which is also a residential district.

HEARING EXAMINER STRAIN: Oh, he's showing the 10-foot setback and landscape buffer, but he's got a clearance of it looks like a lot more space over toward the dumpsters.

MR. REISCHL: Closer to 20, yeah.

MR. HOWELL: There's 18 and a half feet available there.

HEARING EXAMINER STRAIN: Yeah. So you can make that correction to the plan also?

MR. HOWELL: Yes, sir.

HEARING EXAMINER STRAIN: I've got to make a couple of notes on this, because the decision's got to reflect these things.

So from the --

MR. REISCHL: I'm sorry, I didn't hear your --

HEARING EXAMINER STRAIN: Staff's perspective on lighting. He's looking at 20-foot high lights in that parking lot adjacent to the residential.

Do we -- I know we don't have any code that may restrict the height of that lighting less than that, but what is our typical heights for lighting in parking lots like this? Do we have any standards?

MR. REISCHL: Yeah, it's in our 505, the Architectural Code. But I don't know if there's -- yeah, I don't think 20 is an issue with height, but I'm just wondering now if there's a question on the Main Street -- oh, that's not in the Main Street overlay. Okay.

MS. ASHTON-CICKO: Do you want to look at the code?

MR. REISCHL: Well, the parking lot will not be in the Main Street overlay, so therefore any restrictions of the Main Street overlay won't apply.

HEARING EXAMINER STRAIN: Right. And I'm just concerned that we don't get lights that are too high and they glare into the neighborhood.

Brian, could you live with a shorter light?

MR. HOWELL: We can live with a shorter light. We typically install 25 to 30-foot poles. So in this case we did drop it to 20. Even going to 15 will be adequate.

HEARING EXAMINER STRAIN: I was going to ask you, because I know we've approved 15-foot in residential locations before. I think that would be a lot more comfortable. They'd also have to be shielded.

MR. HOWELL: Correct.

HEARING EXAMINER STRAIN: You probably intended to do that anyway?

MR. HOWELL: Correct.

HEARING EXAMINER STRAIN: Okay. There was a -- on the original plan there was an error in the setback on the side of the commercial. It was 4.75 plus five, which is nine and three-quarter, and it should have been 10 feet. I noticed that's corrected on this plan.

MR. HOWELL: Yes, sir.

HEARING EXAMINER STRAIN: I think that's the only issues I have.

John Pod., since you're here, just for the record I'd like you to acknowledge that the parking on the street doesn't pose a problem from transportation.

MR. PODCZERWINSKY: Correct, it does not. That is actually governed -- State Road 29, also known as Main Street, is governed by FDOT. And I've had discussions with Mark Clark at FDOT in the past. The on-street parking is allowed in that area in that business district.

HEARING EXAMINER STRAIN: Thank you.

I think that wraps everything up. Is there anything that you needed to add, Brian? It's been a long 24 hours, so --

MR. HOWELL: I think we're good.

HEARING EXAMINER STRAIN: I'm glad that we got to this point and was able to proceed today. Fred, did you have anything you wanted to add from a staff's perspective or staff report?

MR. REISCHL: No, just to thank Brian for his hard work in the last 24 hours. I didn't think it could be done, but it looks like he did it.

MR. HOWELL: I do -- I'm sorry, Mark, I have one more question. The changes adding the wall and the topographical on the landscape buffer. Make these changes and send them right back to you, Fred?

MR. REISCHL: I believe you would need that for your decision, correct?

HEARING EXAMINER STRAIN: What I'll do is I'd like to get a corrected graphic and I'll attach it to the decision as well. That way it's all buttoned up and there's no question in the future.

MR. REISCHL: And then I will -- because the current SDP is submitted, I will reject that today and then you can resubmit tomorrow with -- or as soon as you're ready with the corrected plan.

MR. HOWELL: Another 24 hours.

HEARING EXAMINER STRAIN: Mike, was there anything newly discovered?

MR. SAWYER: Yeah, we did check the architectural code and the limitation on a pole height is 25 feet, so 20 feet is no issue.

HEARING EXAMINER STRAIN: And he's agreed to go to 15 in that, so we're good. I just wanted to keep it down next to the neighbors, so that -- if the applicant doesn't mind, I'd prefer we go that route.

Okay, I think that's -- any members from the public wish to speak?

(No response.)

HEARING EXAMINER STRAIN: Mike Bosi, you've got nothing to say?

Okay, with that, Brian, within 30 days you'll have a decision. And if you could get those corrected layouts in as quickly as possible, it would help get the decision out as quickly as possible.

MR. HOWELL: Thank you, everybody.

HEARING EXAMINER STRAIN: Hey, appreciate your patience too. It was an interesting journey.

Okay, that takes us through the remain -- all five petitions.

Is there anything else anyone else wants to contribute? Discussions?

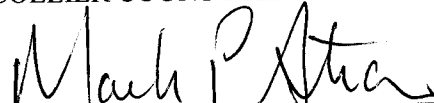
(No response.)

HEARING EXAMINER STRAIN: If not, this meeting is adjourned. Thank you all for attending.

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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 9:49 a.m.

COLLIER COUNTY HEARING EXAMINER

  
MARK STRAIN, HEARING EXAMINER

ATTEST:  
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 3-13-14 as presented  or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF  
GREGORY COURT REPORTING SERVICES, INC.  
BY CHERIE' R. NOTTINGHAM, CSR, COURT REPORTER AND NOTARY PUBLIC.