

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER  
Naples, Florida  
August 28, 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

HEARING EXAMINER STRAIN: Good morning. Welcome everyone to the August 28 meeting of the Collier County Hearing Examiner.

Would everyone please rise for the pledge of allegiance.

(Pledge of allegiance recited by all.)

HEARING EXAMINER STRAIN: Thank you. We have a few housekeeping matters.

Individual speakers will be limited to five minutes, unless otherwise waived. All decisions are final unless appealed to the Board of County Commissioners, and a decision will be rendered within 30 days.

Review of the agenda. There are no changes.

We have one petition today. There are no prior minutes for approval, so we'll move right into our first and only advertised public hearing. It's Petition Number DRD PL20140000619, and it's for the Glenview at Pelican Bay Health Care Center Redevelopment Project.

All those wishing to testify on behalf of this item, please rise to be sworn.

(All witnesses sworn.)

HEARING EXAMINER STRAIN: Disclosures on my part. I have had several different discussions with Bob Mulhere and George Hermanson. I've also met and talked with staff on a couple of instances, and I have reviewed the historic files on Pelican Bay and this particular project.

To start out, the Exhibit A will be the staff report that's contained in our packet. I have thoroughly read the whole document.

(Exhibit A marked for identification.)

HEARING EXAMINER STRAIN: Exhibit B will be the legal advertisement.

(Exhibit B marked for identification.)

HEARING EXAMINER STRAIN: And, Bob, the fact that we have so many interested citizens here, you'll need to do a presentation. And I do have some clarifications I'll need on the record.

Over the weekend I usually redo my first read, and then I meet with the various parties involved prior to today's meeting to sort out any concerns. And then the night before I do another proof.

And last night I came up with some issues, Bob, that I had not talked about, so we'll just go over them on the record today after your presentation.

MR. MULHERE: Okay. That would be great.

HEARING EXAMINER STRAIN: So with that, I'll give it to you.

MR. MULHERE: Thank you.

For the record, Bob Mulhere here on behalf of the applicant. I work with Hole Montes.

With me also from Hole Montes is Wilson Garcia, who is the civil engineer working with George Hermanson, who is on vacation.

Also with me, who I may have to rely on to answer some questions, since I may not be able to answer all of the questions, is, Juan Esquivel, Jr, who is the Building Facilities Director, and also Randall Long, who is the executive director of the Glenview, and Jim Bloomquist, who is the consultant that's been working with me on the Glenview project.

The rest of the folks here I think are mostly residents of the Glenview. So if they speak, they will introduce themselves.

I think it's a pretty simple request here. I have a drawing, a detail -- and maybe -- Wilson, can you hand this out for me -- Heidi, Mark, Ray, staff. How impersonal. Give Mike one, too.

This request, the -- as you know, the project is located in Pelican Bay. The required setback is 50 percent of the building height for high-rise buildings, with the minimum being 50 feet. And the STP for this project was originally approved way back when I worked for the county in 1989.

The setback that's required, the building is 130 feet tall. So therefore the required setback would be 65 feet. The STP shows a 68-foot setback. I'm not sure why at the time. Probably that was the actual setback. So -- but the required setback is 65 feet, so this request would be for a -- there is actually a couple of additions. I'll hold up this exhibit, and I can turn around and show it to the public, too, but there actually are two additions.

You can follow along on the smaller exhibit I handed out, but this one here does not require any kind of deviation. Over here, this two-story exhibit here or addition here would meet the 50-foot required minimum setback, and would exceed the 50 percent of building height requirement. And there is an

allowance for a three-foot overhang, and it may overhang a little bit. It may even take advantage of the DLC allowance for an overhang. That is the genesis or the reason, the nexus for this request for deviation.

HEARING EXAMINER STRAIN: Just for the record, your handout is a 11 by 17 handout indicating some dimensional standards that are not in the packet. That will be admitted as Exhibit C for the record.

(Exhibit C marked for identification.)

MR. MULHERE: And, to my knowledge, there has been no written or oral opposition to this request. I really -- oh, I think that concludes the presentation. I know you have some questions. Probably better that I just try to respond to your questions.

HEARING EXAMINER STRAIN: Fair enough.

In your narrative that was supplied in the packet, it's Page 15 of the packet, but it occurs after the Exhibit A to the portion of the PUD, the warranty deed -- I'm sorry.

MR. MULHERE: I think I got it. Three-page narrative?

HEARING EXAMINER STRAIN: Yes. Your second paragraph.

MR. MULHERE: Okay.

HEARING EXAMINER STRAIN: About the fifth line down it says -- what caught my eye is the way it's written. "It is believed that the Glenview was permitted and constructed in accordance with all applicable standards of the Group 4 housing in Pelican Bay."

Do you know of why it's just "believed that", not actually constructed?

MR. MULHERE: No. I think that's a poor choice of words.

It would be constructed in compliance because it was reviewed, inspected and approved.

HEARING EXAMINER STRAIN: I reviewed it against those standards and it seemed to me, I couldn't quite understand why it was worded that way.

Also, if you get to the next paragraph --

MR. MULHERE: It sounds like a civil engineer that didn't do the actual inspections, didn't want to commit to it, but --

HEARING EXAMINER STRAIN: I was thinking that.

MR. MULHERE: But I'll stand here and take that.

HEARING EXAMINER STRAIN: We have had very capable staff go through it again because it came through as a request, so I'm sure it's okay.

The third paragraph down, Parenthetical 2?

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: Extension of the second floor common area and the expansion of their existing physical therapy facility over the existing south entrance and lobby.

And Parenthetical 3 says, It can be protected from a second floor extension.

But if you go to the site plan that was provided, and the one you just handed out is another example, it calls it out as an existing one story. So how did -- how do we get to two stories? I know the addition is going to be two stories but it looks like it says -- it keeps repeating. It says "existing". And I'm not sure if you are trying to tell me that there is the two-story structure there on the site plan that's calling for --

MR. MULHERE: Yes, I see that.

HEARING EXAMINER STRAIN: I don't care either way. It's not going to make a difference to the outcome. But I would like a clarification for the record.

MR. MULHERE: So the expansion is two-story.

HEARING EXAMINER STRAIN: Right.

MR. MULHERE: So your question is -- the reference here is to an existing one-story skilled nursing center.

HEARING EXAMINER STRAIN: Right.

MR. MULHERE: So I'm going to ask that question of Linda, or somebody. Randy.

HEARING EXAMINER STRAIN: Come on up and use the mic.

MR. MULHERE: Is it limited to -- is it the skilled nursing facility that has the one story?

MR. LONG: The skilled nursing is one story. Underneath the skilled nursing is a parking garage. So

technically --

THE COURT REPORTER: Would you identify yourself, please?

HEARING EXAMINER STRAIN: We'll need your --

MR. LONG: Okay. Randy Long, Glenview Pelican Bay, Executive Director.

So it is a two-story structure but underneath is a garage.

HEARING EXAMINER STRAIN: So when this narrative is referring to the two stories, it's really because of the garage?

MR. LONG: Correct.

HEARING EXAMINER STRAIN: Thank you.

MR. MULHERE: Thank you, Randy.

HEARING EXAMINER STRAIN: I did check, Bob. The tower on the north side of the project is -- well, you're calling that 130 feet, but it's almost 200 or 250 feet across the project until you get to the area that you are improving with the second story that you are requesting by this --

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: -- deviation. And then you are 300 feet to the property line.

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: Which I don't see any problems in that, being more than adequate.

MR. MULHERE: And also we did check, and we do meet the separation between structures as well. We actually exceed it, so there is no issue with that either.

HEARING EXAMINER STRAIN: Maybe let me check and make sure I've got all my -- oh. The last question I have was basically more of staff.

On their exhibit that's attached showing a landscape plan that's labeled L2 on the plan, there is a notation, Mike, in the lower left-hand corner, and it says Total Trees Required. I think it says 20 trees required, 24 trees reserved, 29 trees provided. Are those inclusive of the addition being added as a result of this deviation request?

Do you know, or, Bob, if you know?

MR. MULHERE: They are.

HEARING EXAMINER STRAIN: They are. Okay. Then, from staff's perspective, how do we monitor and verify that the trees actually get installed?

MR. SAWYER: Yes. For the record, Mike Sawyer, Project Manager for the petition.

It's done both at -- the next stage of approval is going to be approving the DR site plan, which is -- we've got that in-house already, on two, I believe. And that landscape plan is exactly the same landscape plan. So the landscape plan that we've got for this portion of the petition is the same one we've got as part of the SDP. Actually, in this case it's an SDP amendment.

Staff will review that and make sure it's consistent with what is set here today, and then, subsequent to that, there will be a building permit that also gets submitted and reviewed, principally just for the building components, and then the actual installation will be checked as part of the inspections through our engineering inspection group.

HEARING EXAMINER STRAIN: And the mitigation is a required part of the deviation process, which is a process developed in lieu of the variance process. And I wanted to make sure that, even though that's a mature hedge and a mature buffer at this point, that the trees did get counted by somebody and were actually installed according to the mitigation being requested. So I appreciate your verification about that.

And, Bob, that's the last question I have.

MR. MULHERE: Okay. I don't know if there are any members of the public --

HEARING EXAMINER STRAIN: I'll certainly ask.

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: Do any members of the public wish to speak on this item?

Okay. Hearing no other comments, is there a staff report?

MR. SAWYER: Again, for the record, Mike Sawyer, project manager.

We've got a staff report, last revised August 14th. Staff is recommending approval of the request.

And we've not had anything else to add, unless you have questions.

HEARING EXAMINER STRAIN: I'm fine.

I've asked all of mine. I appreciate the attendance by the public.

And, Bob, a decision will be rendered within 30 days. It probably won't take longer than a week.

We'll have a written decision on this case, and that will be done.

So with that, we'll close this particular case and there is no other business.

So this meeting is hereby 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 9:10 a.m.

COLLIER COUNTY HEARING EXAMINER

  
MARK STRAIN, HEARING EXAMINER

ATTEST:  
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 9-25-2014 as presented  or  
as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF  
GREGORY COURT REPORTING SERVICES, INC.  
BY ELIZABETH M. BROOKS, RPR, COURT REPORTER