

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
September 25, 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: Morning, everyone. Welcome to the September 25th meeting of the Collier County Hearing Examiner's Office.

Will everybody please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you.

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

With that, review of the agenda. We have four cases this morning. I don't know of any changes. Does staff or County Attorney have any changes?

MS. DESELEM: No.

MS. ASHTON-CICKO: No.

MR. BELLOWS: No changes.

HEARING EXAMINER STRAIN: Approval of prior minutes from August 14th and August 28th, they're approved as submitted. I've reviewed them, they're fine.

We'll move right into the advertised public hearings. The first petition is No. PDI-PL20140001187. The petitioner is Wilton Land Company, LLC and it's for the Hammock Park Commerce Center Commercial Planned Unit Development.

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 spoke to Mr. Mulhere, I spoke to the applicant, Mr. Torres. I've also had numerous conversations with staff, I've reviewed the staff report and any other files related to the project that I found in my records.

With that, Bob, I have read the entire staff report. If you have other things you want to add to the record, that's fine.

Are there any members of the public here that are going to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay, so it's -- your presentation at this point is optional.

MR. MULHERE: In that case, I defer.

I do have a couple pictures if you -- I don't know if you want them. You've been out to the site probably fairly recent.

HEARING EXAMINER STRAIN: I've been to the site many times.

There are two exhibits that will be entered into the record. The first, Exhibit A, will be the staff report. The second is Exhibit B, it will be the legal advertisement.

(Exhibits A and B were marked for identification.)

I do have a couple questions, or comments, Bob.

MR. MULHERE: Sure.

HEARING EXAMINER STRAIN: I spoke to you in the beginning of the meeting that an easement will be needed between the parties of the two different lands, even though this is an off-site sign. Because they're two separate land ownerships or two separate pieces of plan, you'll need to --

MR. MULHERE: Well, that makes sense. If the current owner were sells either piece, then he would want that protection anyway.

We haven't gotten -- speaking to David Torres, we haven't gotten an approved building permit. If you'd like to condition the building permit approval with, you know, an accompanying copy of the recorded easement, we can do that.

HEARING EXAMINER STRAIN: I don't see a reason why that -- because the building permit wouldn't be issued until the easement is obtained then, so that --

MR. MULHERE: Yes. So we'll just submit the easement at the time of the public permit.

HEARING EXAMINER STRAIN: I see no reason that wouldn't work.

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: Also, on -- I have a couple comments. In your list of exhibits

you listed a new Exhibit A-1, which is the off-premise directional sign location. But actually in your deviations you've referenced Exhibit A-1 as well. But there are a couple of pages of elevations; two pages to be exact.

Do you have any concerns over those being submitted as well as part of the exhibits referenced in the deviations?

MR. MULHERE: No.

HEARING EXAMINER STRAIN: Okay. Now, for the record, that will be -- first one is an elevation that's labeled one, elevation of entry wall sign. The second one is number three, elevation of emblem of wall water feature. Those two reference the changes -- the signage you want to place up there. So we'll include this as exhibits to referencing both deviations.

Okay, I don't believe I have anything else. We're done.

Anybody from the public wishing to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: Is there a staff report?

MS. DESELEM: Yes. Good morning. For the record, Kay Deselem, Zoning.

The staff report has been submitted. As you said, you've read it. It is last revised September 2nd. And staff is recommending approval of the petition.

MR. MULHERE: Nice job, Kay.

HEARING EXAMINER STRAIN: I don't believe there's any stipulations in your recommendations.

MS. DESELEM: No, sir, there are not.

HEARING EXAMINER STRAIN: No, there are not. Okay. Thank you.

And Bob, with that, a decision will be rendered within 30 days. Usually a lot less.

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: Thank you.

***Next item up is Petition No. PDI-PL20140001292. The petitioner is WCI Communities, LLC, and it's for the Livingston Lakes Planned Unit Development, PUD.

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: Disclosures. On my part, I talked to the applicant, Wayne Arnold. And I did get a call yesterday from the adjoining property owner who fronts on Livingston Road. He's concerned that this change might affect any of the road right-of-ways or access points, and I assured him it would not, it was strictly for a separation between buildings.

I've also talked to staff and reviewed the staff report and the files associated with.

And so with that, there's two exhibits. Exhibit A will be the staff report, Exhibit B will be the legal advertisement.

(Exhibits A and B were marked for identification.)

HEARING EXAMINER STRAIN: And before you start, Wayne, are there any members of the public interested in speaking on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Well, Wayne, it's going to be difficult. You can make a presentation if you want to. I have read the entire staff report, so --

MR. ARNOLD: For the record, I'm Wayne Arnold with Grady Minor. With us today is Clark Leaming from WCI Communities and Mike Delate from Grady Minor, Professional Engineer, if you have any questions.

Again, this is to change an internal building separation requirement for one and two-story structures. And I believe we agree with staff's recommended revised language which it was reviewed in the County Attorney's Office and we're comfortable with that language and I hope you'll support it.

HEARING EXAMINER STRAIN: Okay. Is there a staff report?

MR. REISCHL: Thank you. Fred Reischl, Planning and Zoning.

I too did receive a couple of phone calls asking for clarification about what the petition was for. I explained it was an internal setback and the people had no issues. We recommend approval.

HEARING EXAMINER STRAIN: Okay. The only comment I found, Fred, was under the -- let's see, sixth page of the staff report under neighborhood information meeting. It says the LDC does not require a NIM for PDI petitions. You know now that we -- that's got to be obtained by a written bid waiver if there's not a --

MR. REISCHL: By waiver, correct.

HEARING EXAMINER STRAIN: And this particular project found a time frame between that LDC change and when it was submitted, so that's apparently why it was worded that way.

MR. REISCHL: Same wording on the next petition too.

HEARING EXAMINER STRAIN: I know, I was going to point that out. But I'll clarify that for the record. Because right now we do have the waiver req -- the written requirement to waive those neighborhood information meetings.

And with that, Wayne, I don't have anything else to add, so within 30 days you'll have a written decision, and hopefully it will be a lot less.

MR. ARNOLD: Appreciate it, thank you.

HEARING EXAMINER STRAIN: Thank you.

***Next item up is Petition No. PDI-PL20140000966. The petitioner is Cameron Partners, LLC. It's for Heritage Bay Planned Unit Development.

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: Disclosures on my part.

I believe, Fred, you and I have touched base on this, and I've talked with staff, reviewed all the files related to the staff report and other information that was provided that way. I have nothing else to add to that.

And exhibits: Exhibit A will be the staff report. Exhibit B will be the legal advertisement.

(Exhibits A and B were marked for identification.)

HEARING EXAMINER STRAIN: With that, Fred, I have read the entire staff -- are there any members of the public that are going to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay, so your presentation is up to you.

MR. HOOD: I'll forego it.

HEARING EXAMINER STRAIN: The couple things I notice in your documentation. In response to some of the staff's concerns, you did note that you're going to provide an entry gate?

MR. HOOD: Yes.

HEARING EXAMINER STRAIN: And you provided specific entry signage that this is an emergency vehicle entry only.

MR. HOOD: That's correct.

HEARING EXAMINER STRAIN: I'm going to add those to the stipulations. Do you have any problem with that?

MR. HOOD: No. They're going to do them anyway.

HEARING EXAMINER STRAIN: Right, I figured, but it wasn't stipulated, I wanted to make sure it was.

I do have a question. John Podczerwinsky, who I asked to attend the meeting, if you could give him a minute at the mic.

MR. HOOD: Sure.

MR. PODCZERWINSKY: Mr. Strain, good morning. John Podczerwinsky, Transportation Planning, for the record.

HEARING EXAMINER STRAIN: Thank you, John. Thanks for attending.

The access that this is going to create on 951 is going to be subject to a future extension. Is this in any way going to incur additional costs to the transportation department when they have to deal with this access in the future?

MR. PODCZERWINSKY: I don't believe it will. We did check with our consultants CH2MHill to evaluate where the location of the proposed access is in relation to the improvements at the intersection of 951

and Immokalee, and he said it shouldn't be an issue.

HEARING EXAMINER STRAIN: The other thing is this is a 20-foot wide entry. Is a 20-foot wide entry needed? That's usually a double lane. And I'm concerned, especially with the traffic routing on the interior of the project. If I'm not mistaken, on the site plan they have a two directional roadway going interior right up to this point. And unless someone takes a left, they would tend to proceed or try to proceed right through, which is why I think the gate is important.

MR. PODCZERWINSKY: Absolutely.

HEARING EXAMINER STRAIN: Okay. I didn't know if the 20-foot was more than they needed. But if it's completely gated across the whole 20 feet, then I think we'll be fine.

And Fred, I'm assuming that's what's going to occur?

MR. HOOD: Twenty feet is actually a fire code requirement. They asked for it to be 20 feet wide up to that point.

HEARING EXAMINER STRAIN: Okay. And your gate arm will cover the full 20 feet?

MR. HOOD: That's correct, yes, sir.

HEARING EXAMINER STRAIN: Okay, see if I had anything else for John.

MR. PODCZERWINSKY: And just to interject very quickly, the 20 feet NFPA requirement, transportation has been in discussion with the other staff members in engineering. We're trying to get in contact with the fire district reviewers, the individual fire district reviewers, to clarify whether or not a full 20 feet is needed for the drive aisle or whether or not it's just needed for the width of it, so that driveway width may adjust. But we do understand the need for a 20-foot wide surface there. So just to be clear about that, we're supporting both the fire district and the NFPA requirements for the roadway width.

HEARING EXAMINER STRAIN: When you get the results of that, would you let me know? Because if they're going to insist on a 20-foot wide lane in all cases like this, it's going to have a greater impact than just this project --

MR. PODCZERWINSKY: Absolutely.

HEARING EXAMINER STRAIN: -- and I can't believe that's reasonable.

MR. PODCZERWINSKY: We do agree that 20 feet does seem like a two-way roadway. And that's exactly why we're requiring a gate in this case.

HEARING EXAMINER STRAIN: Thank you.

Fred, if -- and maybe this might be a question for staff. So both of you are Fred, that makes it easy.

If this entry or this particular tenant were to abandon the property, say they lease the building to somebody else, what happens to this entry? From the perspective of staff, let's say.

MR. REISCHL: Fred Reischl, Planning and Zoning.

It would still exist on the PUD. It's a change to the PUD so it would still have to be labeled emergency access only.

HEARING EXAMINER STRAIN: Okay. So if somebody else were to want to try to use it, they'd have to come back for a PDI change --

MR. REISCHL: For another PDI --

HEARING EXAMINER STRAIN: -- in order to get it accomplished.

MR. REISCHL: Correct.

HEARING EXAMINER STRAIN: And that's all I have, Fred. I appreciate your time. Thank you.

MR. HOOD: Thank you.

HEARING EXAMINER STRAIN: Fred Reischl, do you have a staff report?

MR. REISCHL: Thank you, Mr. Strain.

For this, we sent out over 2,500 mail notices and I got numerous phone calls as a result of that. Basically people just wanted clarification about what the petition was about. I heard no objections. And our recommendation remains as approval.

HEARING EXAMINER STRAIN: Okay. Now 2,500, you've got nobody here, that's a feat in itself.

The only clarification I want to make is the same one I previously made concerning the information meeting, that one would have -- now that the code has changed, it needs to be waived by a written request.

And with that, I have no other issues to discuss on this item and a decision will be rendered within 30 days.

***Next and final item up on today's agenda is Petition SV-PL20140000256, UP Development Naples Dicks, LLC for Dicks Sporting Goods.

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: Disclosures on my part. I've talked to Heather Himes with Akerman, LLP who's the representative for the applicant. I've talked with staff and reviewed the files that are attached with the staff report.

I also had requested from Ms. Himes a typical signage they use on Dicks that would be relevant to today's request from other locations. I've received those today. They'll be entered in as composite Exhibit C, labeled additional sign photos of other locations.

The Exhibit A will be the staff report and Exhibit B will be a legal advertisement.
(Exhibits A, B and C were marked for identification.)

HEARING EXAMINER STRAIN: Are there any members of the public here wishing to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: And you cannot be the gentleman who is authorized to speak on behalf of the applicant.

MS. HIMES: Correct, Mr. Gianni is here.

HEARING EXAMINER STRAIN: Okay.

MS. HIMES: Just for the record, this is Heather Himes with Akerman, LLP, and I have with me Mr. Gianni from Image One Industries, and he's here -- we are both here to answer any questions that you might have on the application.

HEARING EXAMINER STRAIN: Thank you. It's a pleasure meeting you. We've talked several times on the phone.

I do have a question that you've all responded to by email, but I'll need it for the record. The staff has requested a couple of stipulations in their recommendation, and I'll read them to you: The sign in the front facade east elevation shall be limited to 281.2 square feet of area. The other two signs on the other facades north and south shall be limited to 70.2 square feet.

Do you have any objections to the staff recommenda--

MR. GIANNI: Absolutely none. We concur with staff.

HEARING EXAMINER STRAIN: Okay. Is there anything else besides the composite exhibit and the staff report you need admitted into the record?

MR. GIANNI: Not at this time. We're excited to be in Naples.

HEARING EXAMINER STRAIN: We're excited to have you. You've picked a good location too. So that will be -- I'm sure it will be well rewarded for you.

With that I'll ask for any staff report.

MR. REISCHL: Fred Reischl, Planning and Zoning.

If there's agreement on those two conditions, then we continue to recommend approval. On this petition I've received no calls or emails.

HEARING EXAMINER STRAIN: Okay. If there's nothing else, we thank you and you'll have a decision within 30 days, probably within 10 by the rate we've been getting them out. Thank you for your time.

MS. HIMES: Thank you.

MR. GIANNI: Thank you very much.

HEARING EXAMINER STRAIN: And with that, that brings us to the end of today's business and this meeting is adjourned. Thank you.

September 25, 2014 HEX Meeting

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:18 a.m.

COLLIER COUNTY HEARING EXAMINER


MARK STRAIN, HEARING EXAMINER

ATTEST:
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 11-13-2014 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

EXHIBITS

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PETITION PDI-PL20140001292

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PETITION PDI-PL20140000966

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PETITION SV-PL20140000256

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