

TRANSCRIPT OF THE SPECIAL MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
November 13, 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 SPECIAL SESSION at 2800 North Horseshoe Drive, Room 609/610, Naples, Florida, with the following people present:

HEARING EXAMINER MARK STRAIN

Also Present: Scott A. Stone, Assistant County Attorney
Ray Bellows, Zoning Manager

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PROCEEDINGS:

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the November 13th meeting of the Collier County Hearing Examiner's Office.

If everybody will please rise for pledge of allegiance.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you. For those of you who have been here before, you've probably noticed we've got a different layout of the room. We're trying to make that screen available for presentations. We're almost there. After today we'll know for sure how it works. And for those of you that come here regularly and do presentations, some of the planners and engineers, that will be hopefully available starting with the next meeting. And the way you'd have to come in is bring a flash drive or something like that, and that will take care of it.

As far as some housekeeping matters this morning, 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.

The approval of prior minutes, I've read both the September 25th and October 23rd minutes. With the exception of numerous grammatical questions there, the substance is fine, so we'll mark those as approved, and they're ready for recording.

***The first advertised public hearing -- there are four of them today. The first one up will be the boat dock extension, PL20130001397, Mr. and Mrs. Charles Deveney.

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: Thank you.

Disclosures on my part. I've had meetings, numerous meetings, with Mr. and Mrs. Deveney -- I hope I pronounced your name right. Sorry if I didn't -- and with staff. And I've reviewed all the files for this particular case and location.

There would be two exhibits currently acknowledged. The first one will be Exhibit A. It will be the staff report. And Exhibit B will be the legal advertisement.

Is there any members of the public wishing to speak on this item? Mr. Deveney?

MR. DEVENEY: Deveney, that's fine.

HEARING EXAMINER STRAIN: Yes, okay. Would you mind coming up to the microphone for just a moment. Thank you.

MR. DEVENEY: Sure.

HEARING EXAMINER STRAIN: Did you have anything you wanted to add to the staff report? Anything you wanted to add to the record?

MR. DEVENEY: I can't think of anything unless -- I have a picture of the boat sitting on a hard bottom. That's my only defense.

HEARING EXAMINER STRAIN: No, we're fine. And I wanted to ask staff while you're here, does the -- I notice it was allocated as one slip, yet there's a kayak location -- kayaks. Does that constitute a second slip for this address?

MS. GUNDLACH: A kayak or a jet ski does not.

HEARING EXAMINER STRAIN: Even though they're having a designated location with, apparently, an out-of-the-water lift.

MR. DEVENEY: We're going to try it.

HEARING EXAMINER STRAIN: You're going to try?

MR. DEVENEY: Yes. We did get the DEP approval for two.

HEARING EXAMINER STRAIN: That's what I was wondering, because --

MR. DEVENEY: Originally. But we don't ever plan on doing that unless --

HEARING EXAMINER STRAIN: Well, I'm suggesting, if you're going to need two sometime in

the future, it just becomes acknowledged today that that second slip is actually going to be utilized in some basis.

MR. DEVENEY: That's one I added on there, sir; yes, sir.

HEARING EXAMINER STRAIN: Nancy, he's going to have a mooring location for the kayak and/or the jet ski. Would that constitute the need to be designated as a second slip for that address?

MS. GUNDLACH: It's not required to be designated as a second slip, but I don't think it would hurt if you want to include it.

HEARING EXAMINER STRAIN: I just would -- in the decision, I think we'll acknowledge that that second location is going -- intended to be used for it.

MR. DEVENEY: Thank you, sir.

HEARING EXAMINER STRAIN: That way you don't take the possibility of having to come back here again or the expense. And I have to give you a lot of credit. You did all that work -- most of your work yourself, and you and your wife did an excellent job.

MR. DEVENEY: And your help and your staff's help, Nancy, I mean, she should be a teacher. We just retired; my wife and I just retired. Her patience and efforts to get this done right, we really appreciate it very much.

HEARING EXAMINER STRAIN: Well, your application was better than most I've seen from some of the engineering firms in town, so you did a really good job --

MR. DEVENEY: Thank you.

HEARING EXAMINER STRAIN: -- so thank you. And there will be a decision rendered within 30 days. And you'll receive that by email; probably a lot less than that. Usually they're out within seven to 10 days.

MR. DEVENEY: Thank you very much, sir. I appreciate all your help.

HEARING EXAMINER STRAIN: Okay. Thank you. Appreciate it. Thank you.

***The next item up is Petition No. SV-PL20140001151. It's the Two Lakes of Naples, LLC. They're looking for a second sign location on U.S. 41.

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: My disclosures, I have talked to the applicant, I've talked to the staff and have reviewed all the files in this matter. There will be two exhibits currently for the record. One is Exhibit A. It will be the staff report. The second will be Exhibit B. It will be the legal advertisement.

And with that, I know there's a member of the public here to speak, so I'll need the applicant to make a presentation.

Mr. Johns, I think, you're here representing the project. I know you don't normally make presentations, but I think this is pretty straightforward.

MR. JOHNS: Chris was going to, but his kids were sick this morning.

At Two Lakes we're asking for a sign variance there because we can't meet the thousand-foot separation. And the reason we can't meet that, one of the reasons is, the sign location that Kane's Furniture has put in has reduced our distance. And the other problem that we have is the preserve to the north is 300 feet or probably 1,300 feet. So it kind of -- there's no way for us to get the second sign there to meet that thousand-foot separation.

I don't think that there's any -- there's no conflicts there except that thousand feet. Everything else is fine. So we're just asking to get a reduction in that separation.

HEARING EXAMINER STRAIN: Okay. And I understood that to be the reason from reading the staff report. And so I'll -- and thank you. And what I'll do, if there's any public comments, you may have to -- I may ask you to follow up after that, okay.

MR. JOHNS: Okay. All right. Thank you.

HEARING EXAMINER STRAIN: Anybody from the public wish to speak on this matter? Sir, come on up. Please identify yourself for the record.

MR. SHUESTER: Yes. Good morning. My name is Larry Shuester. I'm a resident of Sterling Oaks. I also sit on the board of the directors for the Sterling Oaks Homeowners Association, and I live in the

community called Sanctuary Pointe, which is the neighborhood just at the far end of the property, far south end of the property, the residential homes. I have a couple of questions concerning this application.

HEARING EXAMINER STRAIN: Okay.

MR. SHUESTER: The first one, what is the total length of the property, the Two Lakes PUD?

HEARING EXAMINER STRAIN: I think the gentleman just mentioned it's 1,300 feet.

MR. SHUESTER: Is it 1,300 feet? Okay. I wasn't too sure because it wasn't stated on there.

HEARING EXAMINER STRAIN: And, Randy, after we get done with the questions, if you need to clarify some of my comments, then that's what I'll ask you back up for.

MR. SHUESTER: Now, if my interpretation of this application is correct, you put a sign on the Kane's property, Kane's Furniture property, right?

HEARING EXAMINER STRAIN: That's correct.

MR. SHUESTER: So this is the second pole sign. So the applicant is only asking for one pole sign on his property.

HEARING EXAMINER STRAIN: That's correct.

MR. SHUESTER: But because the property is joined as Two Lakes PUD, this is -- the law applies about the separation of 1,000 feet.

HEARING EXAMINER STRAIN: That's correct. And because it's one PUD with separate parcels.

MR. SHUESTER: So, essentially, when you put the sign on Kane's Furniture, you didn't realize that you need a variance for the second property then, right, for a second sign?

HEARING EXAMINER STRAIN: That's most likely part of what occurred.

MR. SHUESTER: So, I mean, if you would have put the sign for Kane's Furniture further down towards the south end of the property, you wouldn't probably be able to meet the 1,000-foot separation; is this correct?

HEARING EXAMINER STRAIN: I wouldn't without looking at it, but I'll find that answer; we'll try to find that answer out for you.

MR. SHUESTER: Okay. But you said you put it like this. I think it's more or less in the middle of the property of Kane's Furniture; therefore, you have a need for this variance; is that what you're saying?

HEARING EXAMINER STRAIN: I'll ask. The applicant can actually respond to you as soon as he comes back up.

MR. SHUESTER: And I notice on the drawing that I received, Two Lakes PUD was divided into two parcels. I also had received one drawing which had them at four parcels, Parcels A, B, C, D, Kane's Furniture being Parcel D, and the subject property being Parcels A, B, and C. And when it's all combined into a later one, it's got Parcel B being Kane's Furniture and the other parcel being Parcel A, which is the subject property, I believe.

Now, on this drawing here, it talks about the preserve area, which is indicated to the rear of the property, and there's an area that's wooded along the northern end. Now, is that part of the preserve or not?

HEARING EXAMINER STRAIN: That would be part of the preserve.

MR. SHUESTER: It's not shown on the drawing because the preserve line goes somewhat --

HEARING EXAMINER STRAIN: That's correct.

MR. SHUESTER: -- diagonal here.

HEARING EXAMINER STRAIN: And I believe when the applicant comes forward, they'll probably acknowledge that. When they went through with the other agencies, the Corp of Engineers and/or South Florida DEP, the preserve lines had to change to adapt to those agencies versus what Collier County wanted.

So in giving up more land for preserves that, more than likely, created the hardship that allows -- that provides for the need for this variance.

MR. SHUESTER: So, therefore, what you're saying is that they're going to be -- the preserve line is going to come straight down, if only about to Parcel A, where it had the four parcels, A, B, C and D?

HEARING EXAMINER STRAIN: That's correct.

MR. SHUESTER: Okay. So they're going to be putting one pole sign on their property?

HEARING EXAMINER STRAIN: On the remaining property they want one more additional sign,

yes.

MR. SHUESTER: Okay. Will this sign be illuminated, and what will be -- what's going to be on the sign?

HEARING EXAMINER STRAIN: The code does allow signs to be illuminated, but it's strictly -- there are strict guidelines to it within the code.

MR. SHUESTER: Okay. Whereabouts on the property will the sign be located? I mean, is this the minimum needed for the variance, or can they move it further to the north?

HEARING EXAMINER STRAIN: To the north? It depends on -- I think it -- from what I could tell in the reading, it was located within the entryway. Entryways are dictated by both, in this case, the DOT and the county for spacing. So, most likely, the entryway is where it's going to dictate the sign's going to go.

MR. SHUESTER: Okay.

HEARING EXAMINER STRAIN: And staff can reply. And, Ray and Nancy, if you have anything to clarify my comments, please jump in, okay.

MR. BELLOWES: For the record, Ray Bellows, zoning manager. It's my understanding that the location of the sign is -- depended upon the location of the entranceway, which is subject to FDOT permitting, as you indicated.

MR. SHUESTER: Okay. I -- so this is what you feel is the minimum necessary for granting the variance?

MS. GUNDLACH: It's the minimum that was requested.

MR. SHUESTER: Do you believe that it's a minimum that's necessary for a sign, though? I mean, that the applicant requests this, does that mean that the staff agrees that this is a minimum that's needed for the variance?

HEARING EXAMINER STRAIN: The sign falls within the allowable parameters of both the size and the texting that's allowed in such signs. And it will contain, if they want, the lighting that's allowed by code. So our codes are all minimum standards. They can't -- if they want to go beyond that, if they want to make a bigger sign than the code allows, or they want to add more verbiage to the sign, then that's another variance they'd have to come in for.

MR. SHUESTER: I understand that. They're just asking for a distance requirement separation here. That's the only variance requested.

HEARING EXAMINER STRAIN: Right.

MR. SHUESTER: Okay. Thank you very much.

HEARING EXAMINER STRAIN: Thank you, sir. And I'll try to get an answer to your distance there in just a moment.

Randy, do you know the full length of that PUD's frontage on U.S. 41?

MR. JOHNS: It's 1,346 feet total length.

HEARING EXAMINER STRAIN: Okay.

MR. JOHNS: We lost 297 feet to the preserve. And I'm not sure what we lost with Kane, but it was around 300.

HEARING EXAMINER STRAIN: Is your intention to split off into any more parcels than the two that you currently have?

MR. JOHNS: No, sir.

HEARING EXAMINER STRAIN: Okay. Then part of the stipulations that might come out of this meeting would be an indication this would be the only sign variance in regards to the quantity of signs that you'd be looking for along the U.S. 41 frontage?

MR. JOHNS: Perfect.

HEARING EXAMINER STRAIN: Okay. And I believe that clears all of the questions up that we hadn't answered. Oh, the preserve. It has changed from the original PUD. And I looked back at the original Two Lakes, and it had a smaller preserve in the north end. And I noticed you moved your development area down south, and you actually provided greater preserve. And the reasoning for that?

MR. JOHNS: Well, we did that because of the neighbors around us. We wanted to try to leave as much preserve as possible so that we wouldn't have any opposition to the project.

HEARING EXAMINER STRAIN: Okay. That preserve area, is it being put into or has it been put into a conservation easement?

MR. JOHNS: Yes, sir, it has.

HEARING EXAMINER STRAIN: Okay. Thank you. I think that's all we need, unless you had other comments you wanted to make.

MR. JOHNS: No, sir. That's it.

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

MS. GUNDLACH: Staff is recommending approval of the sign variance.

MR. JOHNS: Thank you.

HEARING EXAMINER STRAIN: Okay. And I've read the staff report. I have no other questions. And with that, we will close this public hearing and a motion -- I mean, a decision will be rendered within 30 days, so thank you.

***Next item up is Petition No. PDI-PL20140001440. It's for the Bretonne Park. It's for an additional entry onto Davis Boulevard.

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: Thank you.

Disclosures on my part, I've reviewed the staff -- I've reviewed the staff report on all the files. I spoke to the applicant. I believe we talked on the phone. I had an email or a phone call from Ms. Walters at Glen Eagle. I've talked to her on the phone about the application, and I received a letter from Mike Sawyer who had received it from Ms. Maureen Sherman, and that's all the disclosures I have.

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

With that said, I notice some members of the public are here to speak, so I'm going to require a presentation by the applicant. I have read the entire staff report, but for the benefit of the public, we need to have as thorough of an explanation as you can provide here today.

Thank you.

MR. CARR: Good morning. Jim Carr, professional engineering with Agnoli, Barber & Brundage representing Terracina II, LLC. I have with me Norm Trebilcock from Trebilcock Consulting Solutions, our traffic engineer.

This change is to the Bretonne Park PUD. It was approved around 1987. Later, in 1998, the commercial parcel that is the subject of this application was changed to an assisted living facility.

And around that same time the DRI, Development Order 99-1, was amended, and that -- that master plan shows the proposed access that's the subject of today.

And if you have any other questions for us, we're happy to answer them.

HEARING EXAMINER STRAIN: Yes. In fact, that access -- so in your DRI, which this is the state-approved document -- and the DRI goes through the South Florida Regional Planning Council and the various members of the cabinet up in Tallahassee to get approved, finally the Department of Community Affairs, which is now the DOE, Department of Equal -- no, what is that? Economic Opportunity. They changed the name. But when you entered -- when you did your PUD, you failed to show that additional entry on the PUD, which is our local ordinance.

MR. CARR: Correct.

HEARING EXAMINER STRAIN: Now, the DRI is accepted by development order as well in Collier County.

MR. CARR: Yes, so --

HEARING EXAMINER STRAIN: Okay. So you've got two plans. One doesn't match up with the other. And this action takes the second plan that did match up, the PUD, and makes it the same as the approved DRI.

MR. CARR: Correct. The original DOA in 1999 showed the access that we're looking to add. So basically the purpose of today is to make the master plans match.

HEARING EXAMINER STRAIN: I notice on August 4, 2014, you had requested a -- or you got a

letter from David Crawford, who was the principal planner and DRI coordinator for South Florida Regional Planning Council. They concurred with what we just discussed and also said that the council staff has reviewed the proposed access point shown on Map H and finds that the subject access does not substantially affect any state resources or facilities.

On March 10, 2014, the applicant had a preapplication meeting with the FDOT, and there was no objection from the FDOT. Did you attend that meeting?

MR. CARR: Yes, I did.

HEARING EXAMINER STRAIN: Okay. Did they have any -- did you have any discussions about sidewalks or future coordination of facilities on Davis Boulevard in regards to how this entry may or may not affect those?

MR. CARR: The DOT is still in the planning stages with that design. They will be putting a 6-foot sidewalk on both sides of Davis Boulevard.

HEARING EXAMINER STRAIN: Okay. And that will be planned around this entrance then?

MR. CARR: Yes.

HEARING EXAMINER STRAIN: Okay.

MR. CARR: And that's -- one of our requests today is to have a deviation from the bridge, Section 6.06.04 of the LDC, which normally requires sidewalks on two sides of a bridge, and we're requesting one side due to the limited use on this facility. It is not a commercial use. It's a very limited pedestrian use.

HEARING EXAMINER STRAIN: Okay. Thank you.

Norm, I don't know if you had anything you wanted to add. You're more than welcome to.

MR. TREBILCOCK: No. I'm good to go. Thank you.

HEARING EXAMINER STRAIN: Okay. And we will have public speakers, and then I'll ask you to respond to any of those. Thank you.

Is there a staff report?

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

Staff is recommending approval of the petition. You've got a staff report that is dated October 23rd, and we do have the letter from Ms. Sherman.

HEARING EXAMINER STRAIN: In the letter from Ms. Sherman, I don't -- I mean, you had given me a copy of it. Was there any issue -- did you respond to that letter?

MR. SAWYER: I had a discussion with Ms. Sherman previous to the letter that she wrote basically saying that if she had any additional questions other than the ones that we went over, I'd be happy to talk to her about those.

HEARING EXAMINER STRAIN: Okay.

MR. SAWYER: I did not see anything substantive in the letter itself that related directly to anything additional that I could offer her.

HEARING EXAMINER STRAIN: Okay. Thank you, Mike.

Are there any members of the public that wish to speak on this matter? Okay. Ma'am, would you come up and please identify yourself and use the microphone right over here.

MS. SHERMAN: Good morning. I'm Marlene Sherman, the person you're talking about.

HEARING EXAMINER STRAIN: Yep.

MS. SHERMAN: Okay. And I have interest in the property only -- this petition only because I have been working with the county and with the state for -- since the late 1990s to get this one little segment of Davis Boulevard, state road, three-quarters of a mile from Santa Barbara to County Barn improved. And that -- when I talk about improvement, I'm talking about streetlights, I'm talking about sidewalks, curbing, and landscaping.

In 2012, the County Commissioners, along with the state, did approve putting aside \$5 million to do this one little segment which is, I think, quite a bit of money, more than what I had been originally told that it would be.

I am not against Terracina Grands nursing facility building an access point onto Davis, except I think that the stated petition was -- it said it was insubstantial. I don't believe it was insubstantial. I think it's very substantial when you're making an entrance onto a main road. It doesn't state that way. The way the petition

reads, it reads the property is at County Barn and Davis. It says it's a bridge, but it doesn't say where it's going to be. It's sort of a -- you know, it doesn't say that it was going onto Davis. It should have said that it was planned to go onto Davis.

I had talked to the county or the state -- I guess the county about the DRI. I'm not familiar with all the different areas, but I talked about that access that was supposedly approved back in '97, '98. And I was told by the clerk that it wasn't really clear, that it was scratched and not clear, that she couldn't tell me that that was really meant to be, so I put that out. For clarification, I would like to see some plans about that.

I'm concerned that the plans for Davis, which are on the schedule now to be contracted in 2015, if they have to go back to the drawing board and reconfigure, the curbing and the sidewalks and everything else, this is going to delay the project, and I'm concerned about the delay. I would like to see it go forth.

So -- and I would like to see the plans.

HEARING EXAMINER STRAIN: Okay. Well, a couple comments. I did talk to our transportation department after I'd seen your letter, and I asked them if there was any issues involving the coordination with the DOT, and they assured me there weren't any, that that was all being coordinated and it would not delay or hinder the project in any way. I asked our transportation people -- John is here, so I'll ask him in a moment to comment.

But you said a couple other things. I want to tell you, it's a true life experience when you said that it ran more than what you thought, the 5 million. Everything that I've seen in government since I've been here is running more than what I thought, and the time frame -- you've been at this since the '90s. I have to empathize with you. Everything takes longer. It's amazing how long things take around --

MS. SHERMAN: Well, I'd like to really -- if this is on record, I'd like to say that I'm very -- that Davis Boulevard was -- went from two lanes to four lanes with a median from Airport to Santa Barbara back in the late 1990s. At the time the county and the state -- the state asked to have improvements done, and the county at that time decided that they were not going to do the whole area from Santa Barbara to Airport. They were going to stop at County Barn. Actually, it would stop a little bit short of it -- County Barn to Airport. And you would notice there was lighting and sidewalks and landscaping.

And then I found -- and then the county and state -- or the state and the county went forth and did the other part of Davis from 951 to Santa Barbara and left out this three-quarters of a mile right in between with no streetlights, no curbing, no landscaping. And just -- I was really surprised, since it's a main corridor into Naples, that they would do that and why they didn't -- the state and the county didn't include that when they did the one from 951 in.

And so I just would like to see that finally handled properly and have it all look the same. We have a church there. We have a school there. And --

HEARING EXAMINER STRAIN: Well, for an area that's definitely in the heart of the urban area, it should have been done a long time ago, and I applaud you for staying involved --

MS. SHERMAN: No. I mean, this is a -- from what I see, if we just go with the plan, current plan, we may get landscaping by 2020, so that's about 25 years. I mean, I think it's a long time to wait.

HEARING EXAMINER STRAIN: Well, there's other projects that are looking at that corridor. So as you see them advertised, your input, since you have such history with it, would be valuable.

MS. SHERMAN: I know that. I'm aware of the other one -- the other hearing that's coming up on the corner of County Barn and Davis, the Davis project.

HEARING EXAMINER STRAIN: That's right.

MS. SHERMAN: And, you know, I don't know what that -- I think at the hearing before they had -- that particular project, they had not requested an entrance on Davis or had said they would put an entrance on County Barn. I don't know what's going to happen now.

HEARING EXAMINER STRAIN: Well, your input's welcome, so thank you. And as you see the others come through, I'll look forward to seeing you again. Thank you.

MS. SHERMAN: Thank you very much for your time.

HEARING EXAMINER STRAIN: Appreciate it.

And, John, would you mind coming up and filling us in on the background you're aware of and regarding this particular location.

MR. PODCZERWINSKY: Absolutely. Good morning, sir.

In fact, I spoke with FDOT again this morning just to confirm their position on this.

Mark Clark was the gentleman that I spoke to at FDOT. He's their access management permit reviewer. And his statement was, essentially, this is still in review at this time, but they're aware of it. He did confirm that the location of the driveway and the proposed turn lanes, the length of the turn lanes, the location of the turn lanes, both the right turn lane and the left turn lane that would serve this driveway are both consistent with the -- with FDOT's access management policy.

HEARING EXAMINER STRAIN: And I notice that this particular entryway, because of its timing, is actually going to have a decel lane, whereas the main entry apparently doesn't have. Is that --

MR. PODCZERWINSKY: That's correct.

HEARING EXAMINER STRAIN: Okay. So this will actually be a little bit better for the flow of traffic, because of that, than the main entry is.

MR. PODCZERWINSKY: Yes. This will help relieve the current burden that's at the main access point.

HEARING EXAMINER STRAIN: Okay. Thank you, John. Appreciate it.

MR. PODCZERWINSKY: Yes.

HEARING EXAMINER STRAIN: And I saw somebody else here from the public. If you'd like to speak, please come on up to the microphone. Ma'am.

MS. GREGERSON: Hello. My name's Jacqueline Gregerson. I'm a resident of Falling Waters. Excuse me. I'm not used to this.

My question, first of all is, I don't know where this is going to be because I haven't seen the plans. So I don't know where this exit and entrance is going to be, and I don't know how it's going to affect the school and Falling Waters.

MR. BELLOWS: There's a copy of where the access point is going to go.

MS. GREGERSON: Thank you.

HEARING EXAMINER STRAIN: It's actually, I believe, west of -- on the opposite side of the road from Falling Waters.

MS. GREGERSON: It's on the opposite side, but when we're trying to turn left from Falling Waters onto Davis and we've got traffic coming from the church or the school, and they're coming one way and wanting to make a U-turn and then we're trying to get out there and people are trying to get in, it's very trafficky.

HEARING EXAMINER STRAIN: Well, actually, this particular --

MR. BELLOWS: There's the main entrance currently, the entrance in.

MS. GREGERSON: On County Barn?

MR. BELLOWS: Okay.

MS. GREGERSON: So what is this?

MR. BELLOWS: This is development to the south.

HEARING EXAMINER STRAIN: Ray, it might be better, since you can't do that on record -- And, Norm?

MR. TREBILCOCK: Yes, sir.

HEARING EXAMINER STRAIN: Unfortunately, we need to do this off record. I can't get both of your conversations on record. So, ma'am, we'll have to verbally try the best. And after the meeting, they can show you the detailed plans. That would be more appropriate.

MS. GREGERSON: But I just wanted you to know it's very traffic oriented. It's difficult. And then the next thing we know, they're going to be asking for a stoplight or something.

HEARING EXAMINER STRAIN: No.

MS. GREGERSON: We just feel like it will increase traffic on Davis and make it more difficult for those on the south side to get in and out of our places.

HEARING EXAMINER STRAIN: One thing you should consider -- I'm sure, after the meeting, if you could stay and talk with -- Norm, do you mind?

MR. TREBILCOCK: I'll be glad to.

HEARING EXAMINER STRAIN: By making this a right turn in before the light and having a deceleration lane, it's going to reduce the amount of traffic that goes to that intersection. So instead of the intersection being more crowded and backed up because they can't make a right turn because they have no right lane, they have to wait for the light to change, that should free the intersection up more for U-turns or other needs to get to your facility than less.

So I think this may end up being a help mostly because they're putting a decel lane in. That's an additional lane on Davis that's not there right now, at least in that area.

So thank you. Appreciate it.

MS. GREGERSON: Thank you.

HEARING EXAMINER STRAIN: Anybody else from the public wish to speak on this matter? (No response.)

HEARING EXAMINER STRAIN: Okay. Mike, is there anything else you need to add?

MR. SAWYER: Nothing that I can --

HEARING EXAMINER STRAIN: Okay. Jim, did you have anything you wanted to add, or are you okay?

MR. CARR: I'm fine. Thank you.

HEARING EXAMINER STRAIN: Okay. With that, we will close this public hearing, and a decision will be rendered within 30 days, hopefully about a third of that time if all goes well. Thank you.

***The next item up on our agenda, and the last one for today, is zoning verification letter, ZVLCUD-PL20140002295. It's for the Carolina Village PUD, a comparable use determination.

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: And I have spoken to the applicant about this matter, and I have had discussions with staff, and I reviewed all the files.

Exhibit A will be the staff report. Exhibit B will be the legal advertisement.

Are there any members of the public here wishing to speak?

(No response.)

HEARING EXAMINER STRAIN: So, Fred, I have read everything. A presentation is not necessary for my behalf. If you have anything you want to add to the record, feel free.

MR. HOOD: I think we're good.

HEARING EXAMINER STRAIN: There's no overwhelming objections, so I think silence sometimes is the best answer.

One thing I do have to ask of you.

MR. HOOD: Yes.

HEARING EXAMINER STRAIN: When you're -- in your application you talked about indoor air conditioned facility.

MR. HOOD: Yes.

HEARING EXAMINER STRAIN: I was going to consider that as a stipulation; do you have any objection?

MR. HOOD: No, we don't.

HEARING EXAMINER STRAIN: And let me see if I had any other -- on page -- well, there was a letter written by your firm, and it's listed as Exhibit A. And on Page 2, there's a paragraph that references --

MR. HOOD: That's not supposed to be there.

HEARING EXAMINER STRAIN: It's not, okay.

MR. HOOD: Yeah. We tried to fix that, and it got to you before we fixed it.

HEARING EXAMINER STRAIN: Okay.

MR. HOOD: But that's --

HEARING EXAMINER STRAIN: Because that is an error in the way it's written referencing service situations, and I didn't think you had intended to do that.

MR. HOOD: No.

HEARING EXAMINER STRAIN: But I wanted to make sure.

MR. HOOD: Or fitness centers, for that matter. Neither of those --

HEARING EXAMINER STRAIN: Well, actually, fitness centers, I believe -- 7191, I believe, is a use that's allowed there, but --

MR. HOOD: It's just the way that it was written in this paragraph wasn't how we wanted it to read.

HEARING EXAMINER STRAIN: Okay. Then the last thing, your facility will fall within the height limitations of what category, Ray? Would it be retail building, which is 35 feet and one story, or office building, which is 42 feet?

MR. BELLOWS: A mini-warehouse?

HEARING EXAMINER STRAIN: Yeah.

MR. BELLOWS: Yeah. It would be more closely with the retail.

HEARING EXAMINER STRAIN: That's what I would think. So I just want to make sure, because I'll have to indicate where you're going to fall for that, and that's 35 feet.

MR. HOOD: We wanted to do office at 42 feet, because we are looking at a three-story facility right now. It's less retailly than it is office retailly. That was a new word. Retail is going to be a higher impact than office would be. And we're way less than office is going to be, so we would try and go for the 42 feet and three stories.

MR. BELLOWS: Well, the mini-storage and warehousing is a C4 type of use, and a C4 type of use -- you know, office is generally C1 and up. So I think, from a compatibility standpoint, I was thinking more of a retail, but we could -- it's really not classified as either.

HEARING EXAMINER STRAIN: Well, from an intensity use, it's not as great as most of the retail uses that are allowed.

MR. BELLOWS: Correct.

HEARING EXAMINER STRAIN: But from a structural -- the way it's structurally used or the way it's used by the public, it's more of an office operation; is that what you're trying to allude to?

MR. BELLOWS: Yes.

HEARING EXAMINER STRAIN: Okay.

MR. BELLOWS: In that regard, the mini-warehouses that have been developed comply with the architectural standards. They look like office buildings from the outside.

HEARING EXAMINER STRAIN: And so looking at it that way, they would get the office building height; would you clarify your reasoning on that to me in a memo --

MR. BELLOWS: Definitely.

HEARING EXAMINER STRAIN: -- by email, and that way I'll have that as a consideration for the decision.

MR. BELLOWS: I'll be glad to.

HEARING EXAMINER STRAIN: Okay. With that, is there any further staff comments or anything to add to the staff report, Ray?

MR. BELLOWS: No staff report.

HEARING EXAMINER STRAIN: Okay. And there's no members of the public, so we'll close this meeting, and I will -- you'll be provided a decision within 30 days, hopefully a lot less.

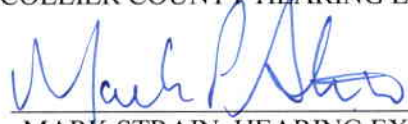
MR. HOOD: Sounds good.

HEARING EXAMINER STRAIN: Thank you all very much. We appreciate it.

That brings us to the end of our agenda, and this meeting is hereby adjourned. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:36 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST:
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 12-11-2014 as presented or
as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF
GREGORY COURT REPORTING SERVICE, INC.
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.