

March 26, 2015 HEX Meeting

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
March 26, 2015

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

EXHIBITS :

Petition VA-PL20140002843 Turnbury Preserve
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Petition ZVL-PL20150000116, Creekside East, Inc.
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PROCEEDINGS:

HEARING EXAMINER STRAIN: Thank you. Welcome, everybody, to the Thursday, March 26th meeting of the Collier County Hearing Examiner's Office.

And now that our court reporter has shown up, it's 9:05 and we're good to go.

If everybody will please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: We have some housekeeping announcements.

Speakers will be limited to five minutes unless otherwise waived, all decisions are final unless appealed to the Board of County Commissioners, and all decisions are rendered within 30 days.

Review of the agenda. There are five items on the agenda, starting with a D.R. Horton project on Turnbury. Creekside Commerce Park is second. The convenience store called the Green Store on U.S. 41 East is third. Fourth will be the Legal Aid Services of Broward County for a building on the East Trail. And last will be RaceTrac Petroleum for the Sierra Meadows project.

Approval of the minutes. The February 26th minutes have been received. They're good for recording.

And with that, we'll move directly into our advertised public hearings.

The first one is Petition VA-PL20140002843. It's the D.R. Horton lot on Turnbury Preserve, Lot 1, 305 Turnbury Way.

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: Are there any members of the public here for this particular case?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, Exhibit A will be the staff report,

Exhibit B will be the legal ad, and Exhibit C will be a new plan that was received -- well, legal description is Lot 1, Turnbury Preserve. It references a change in the variance that's being asked for. Hold on just a second.

(Exhibits A through C were marked for identification.)

HEARING EXAMINER STRAIN: Okay, my disclosers. I've talked with staff; I've gone through the files and the records on the project; I have talked with the applicant a couple of times on the phone; and I talked with the representative of the applicant, Jill Meeks, who works at another site for D.R. Horton.

And with that, Patrick, since there are no members of the public here and I have reviewed the project, there's no formal presentation needed, but I do want to go over a couple of things I'll have on the overhead.

That house was in the original packet. This appears to be the house that we're discussing, right?

MR. VANASSE: Right, yeah.

HEARING EXAMINER STRAIN: Okay. And the original packet had contained this information. Had a 25-foot side yard setback required, 11.48 was provided, and you needed a variance of 13.52, which is throughout the staff report.

MR. VANASSE: Right, yeah.

HEARING EXAMINER STRAIN: When I had asked for backup information that was not in the staff report and received it, this is the plan that I got. It produced a different variance needed, because the provided setback was greater than what was originally thought. So I need confirmation from you as to what variance you're seeking today.

MR. VANASSE: For the record, Patrick Vanasse --

HEARING EXAMINER STRAIN: You have to pull the mic a little closer. Sorry.

MR. VANASSE: Patrick Vanasse with RWA, representing D.R. Horton on this after-the-fact variance. Thanks for the opportunity to clarify this.

The initial survey that we had received and included in your packet was inaccurate. This one is the correct one. And the 8.05 variance is what's needed to remedy this problem. So this is the correct one.

HEARING EXAMINER STRAIN: Okay. So the staff -- I'm going to confirm with staff in just a minute that they'll have no problem going to actually a lesser variance than what was originally requested and what was originally advertised.

Who submitted the survey and the building permit on behalf of your company? Was it the contractor?

MR. VANASSE: It was the contractor. And we weren't the engineers on this. It was a different firm.

HEARING EXAMINER STRAIN: Okay. In the application that you've supplied today for this meeting, you filled out a variance petition application. I'm sure you're familiar with it.

MR. VANASSE: Yes.

HEARING EXAMINER STRAIN: On the second page of the variance petition application it said: Minimum yard requirements for subject property, and it listed the side yard at 7.5.

Isn't that what got us into this problem in the first place? The side yard should have been listed at 25 for the principal and I believe 10 for accessory.

MR. VANASSE: The side yard is correct at 7.5. However, the setback from preserve is 25. In this case it just happens to be on the side rather than the typical backyard preserve.

HEARING EXAMINER STRAIN: This house is 80 percent built, according to the staff report. It's probably further along now?

MR. VANASSE: Yep.

HEARING EXAMINER STRAIN: Okay. I don't have any other questions, Pat. And I appreciate the reduction and the request for the variance down to 8.05. That does help.

Is there a staff report?

MS. GUNDLACH: Good morning, Mr. Hearing Examiner.

Staff supports the reduced setback of 8.05 feet.

HEARING EXAMINER STRAIN: Okay. Nancy, what is the setback required by accessory structures from preserves?

MS. GUNDLACH: 10 feet.

HEARING EXAMINER STRAIN: So the fact this is a principal structure is the only reason why the 25 was needed. If it was an accessory structure like a pool cage or a pool or any kind of structure that wasn't considered a principal structure, it could go back to 10 feet. So in essence with that we haven't really caused any damage to preserve if we could have gone to 10 feet for an accessory.

MS. GUNDLACH: I can certainly answer that question, but we also have our environmental experts here who might like to answer the question.

HEARING EXAMINER STRAIN: Or they might not like to answer the question. I don't see anybody jumping up, Nancy, so it could be yours.

Well, Summer is reluctantly moving forward.

Summer, basically the closer we get to a preserve with any kind of development, we have the same impact, whether it's the wall of a principal structure or an active accessory structure like a pool deck or a pool cage. Why do we have the differences of concerns over 10 to 25 feet; do you know?

I don't mean to put you on the spot, but in looking at this this morning it made the request for the variance even that less concerning in regards to why we're doing this in the first place. If the intention is to keep development a certain distance back from preserves, the only distance we've got as a red line, let's say, is the 10 feet.

MS. ARAQUE: Well, in this case, this --

HEARING EXAMINER STRAIN: You've got to pull the mic down.

MS. ARAQUE: One, the situation is unique. But two, because it's the side of the house you're generally not going to have a screen enclosure that's along the entire side of the house. Where in the rear you would have a screen enclosure along the entire rear. So reducing that setback even further beyond the 10 feet becomes problematic because those are when we get complaints from the homeowner that settles into the home because the screen which most people have in the communities that are being built creates an issue with the trees that are in the preserve.

HEARING EXAMINER STRAIN: Well, if they wanted to extend the screen enclosure closer on the side lot line to the then 25 feet, they could do that, they could go down to 10; is that correct?

MS. ARAQUE: Correct. Right. If they wanted to put a screen enclosure on the side of this home, they could go up to 10 feet.

HEARING EXAMINER STRAIN: And just so you know, as a result of the additional information received, the variance they're requesting is 8.05 off the 25 feet. So they're going to be retained at a 16.95 variance distance from that preserve.

Okay, thank you, Summer. Appreciate it.

MS. ARAQUE: Okay, thank you.

HEARING EXAMINER STRAIN: Is there any member of the public like to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay, hearing none, we will close the hearing, and a decision, Patrick, will be rendered within 30 days. Thank you.

***Next item up is Petition No. ZVL-PL20150000116. It's the Creekside East, Incorporated for the Creekside Commerce Park Commercial Planned Unit Development. This is a comparable compatible analysis.

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 is the -- will be I talked to staff, there's been a series of files reviewed, I've talked to the applicant's rep.

Exhibit A will be the staff report, Exhibit B will be the legal ad.

(Exhibits A and B were marked for identification.)

HEARING EXAMINER STRAIN: By the way, I'll pass this on to you now. That's Exhibit C from the prior. Remember I said I had it? Well, that's it.

I have read the entire staff report and there is nobody here from the public for this item, so I'm not inclined to need a formal presentation.

Wayne, let me put on that overhead a couple of -- if I'm not mistaken, according to the information you supplied, Creekside has two sections: A business section and an industrial commercial section. IC, I think it's on the master plan. And B is on the master plan as well.

The dots in blue are your business areas as are found here. Is that in agreement with you? Is that how you read it too?

MR. ANDERSON: Mr. Strain, for the record, I'm Wayne Arnold.

And yes, I agree with you, those are business district areas.

HEARING EXAMINER STRAIN: You know, for you guys that are a little bit taller, I've tried to get a longer neck on that thing. These are brand new and they're not the easiest to use.

MR. ARNOLD: I'll try to lean into it.

HEARING EXAMINER STRAIN: Sorry about that, Wayne.

The only thing I wanted to point out, I know you're asking for a comparable compatible for group 54. The PUD also currently allows 5411. It also allows eating places which are similar to your donut shop.

The analysis was that it is comparable and compatible. At the same time the writeup had originally asked for a donut shop with a pickup window. The pickup window is excluded from today's discussion and determination in regards to how the decision will be written because this is only for a comparable compatible analysis.

MR. ARNOLD: Yes, sir, Mr. Strain. We're looking only for the determination that the donut shop would be comparable to the other existing uses on the business district.

HEARING EXAMINER STRAIN: And I did send you some other information. I had found the Dunkin' Donuts is owned by a much larger corporation who has an SEC filing for all their, they call them, convenient stores. But they all qualify through the SEC, Security and Exchange Commission, as a group 5411 which coincides with the requested comparable compatible.

I don't have anything else. Wayne, is there anything else you wanted to add to the record?

MR. ARNOLD: No, sir.

HEARING EXAMINER STRAIN: Are there any comments from -- is there a staff report?

MR. REISCHL: Fred Reischl, Zoning Division.

We support the recommendation of approval.

HEARING EXAMINER STRAIN: I like it. Nice and short, Fred, thank you.

Is there any members of the public wish to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay, with that, we'll close the public hearing and I'll have a decision to you within 30 days. Hopefully it will be a lot less. Thank you all for attending.

***Next item up is Petition No. DRD-PL20130002395. It's for the Green Store #108. This is on the East Trail. It's east of 951.

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'll have those in just a minute -- I have talked with staff and I did attend the pre-app. I talked with a gentleman who's in the audience, who just stood up and was sworn in, just before the meeting started. And I've gone through the files and history on this project.

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, because the members of the public are here, I'll walk through a short presentation and then ask the applicant if they have anything to add.

And is the applicant represented today by themselves or they have an engineer, lawyer here? Is the applicant here today?

MR. KHAN: Yes.

HEARING EXAMINER STRAIN: Could you mind rising and coming to the microphone? Could you state your name for the record, please?

MR. KHAN: Sekandar Khan.

HEARING EXAMINER STRAIN: You'll need to spell that for the court reporter.

MR. KHAN: S-E-K-A-N-D-A-R. K-H-A-N.

HEARING EXAMINER STRAIN: Fred, this was your case?

MR. REISCHL: Yes.

HEARING EXAMINER STRAIN: Does this gentleman represent the applicant? Yeah, I remember him from the pre-app.

MR. REISCHL: I believe you're the GC?

MR. KHAN: Yes.

HEARING EXAMINER STRAIN: Has he filed a request -- has he filed an authorization?

MR. REISCHL: Authorization, no.

HEARING EXAMINER STRAIN: Is the owner of the project here?

Sir, we're going to need to have whoever represents you speak on your behalf. This gentleman hasn't filed any paperwork with us that signifies he represents you. I'll ask the County Attorney if a verbal would be okay on the record.

MS. ASHTON-CICKO: Yes, that's acceptable.

HEARING EXAMINER STRAIN: Would you mind coming to the microphone, stating your name and then acknowledging that this gentleman can speak on your behalf, if that's what you so desire?

MR. LEFES: Steve Lefes.

HEARING EXAMINER STRAIN: You'll need to spell that one too, if you don't mind.

MR. LEFES: I can't hear you.

HEARING EXAMINER STRAIN: You can't spell it?

MS. ASHTON-CICKO: He can't hear you.

MR. KHAN: He wants you to spell your name.

MS. ASHTON-CICKO: Last name.

MR. LEFES: Spell my first name?

HEARING EXAMINER STRAIN: Well, spell your whole name so she can get it correctly on --

MR. LEFES: S-T-E-V-E. L-E-F-E-S.

HEARING EXAMINER STRAIN: And you are the owner of the property?

MR. LEFES: Yeah.

HEARING EXAMINER STRAIN: Do you have any objection, and do you consent for this gentleman to speak on your behalf at today's meeting?

MR. LEFES: No, I don't have an objection.

HEARING EXAMINER STRAIN: Thank you very much, sir.

Okay, I'm going to walk through what's going on on the property that you're involved with, and then I have some questions to ask you afterwards. And there may be some questions from the public as well. So let me walk through this to show the public what we're involved with.

The area in question is the area in that yellow triangle. It's on the East Trail, about a mile and a half or two miles east of 951. The project all the way to the bottom is Fiddler's Creek and there's a couple of small projects in between before you get to 41.

The area in question is the setback for the front canopy. This is a project that's been here a long time, from the record that's supplied. The canopy blew down in a hurricane quite a few years ago. They're trying to replace the canopy with the same setback that was originally approved when the project was originally permitted.

These are the two differences in the setback. The original setback was at 30 feet. Today's code requires 50. But because of the redevelopment of the property it is allowed to request to remain at 30 feet, which is why we're here today.

So with that, before we go to public speakers I'll see if I have anything else for the applicant.

I'll try to keep it short. Most of these I -- most of my questions will be of staff, not of the applicant, so I think you're safe. Thank you very much, sir, appreciate your coming by.

Fred, is there a staff report?

MR. REISCHL: Thank you, Mr. Strain. Fred Reischl, Zoning Division.

Staff recommends approval because of the change in the code over time. When the canopy was originally permitted the -- simply stated, it's a little more complicated, but simply stated, the canopy could have had a 20-foot setback. Today requires a 50. They are requesting the original 30. So staff's recommending approval.

HEARING EXAMINER STRAIN: Okay. The offset for the canopy will be an enhanced landscaping. The landscaping was included -- there was a landscaping plan included in your staff report. That is the landscaping plan that will be utilized on this site?

MR. REISCHL: Yes, that was taken from the SIP.

HEARING EXAMINER STRAIN: And that will be -- the reason I'm asking is any part of any decision will include that as a reference. And I want to make sure we got -- that the staff report plan was the one that we're talking about.

MR. REISCHL: Yes.

HEARING EXAMINER STRAIN: Okay. With that, we'll move to public speakers.

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

Sir, come on up and please identify yourself.

MR. SCHOLZ: Good morning. My name is Richard Scholz. S-C-H-O-L-Z. I live in West Wind Estates, which lies north of the service station that we're talking about today.

If you have that screen -- do you need my address or anything?

HEARING EXAMINER STRAIN: No, that's fine.

MR. SCHOLZ: Okay. You had a picture up there before of the whole area. I don't know if you have it again where -- West Wind lies north. But we have a pond that we own -- that West Wind owns behind the service station.

I'm not speaking for the entire West Wind association, but I was asked by the president of the association to appear.

The concerns were not so much with whether it's 30 or 50 feet, the concern was with lighting, additional traffic and additional clientele.

Our biggest problem with the service station is his clientele. We have -- the pond is a dumping place for the beer cans and the beer bottles that come from that place. We have trespassers that we've called -- in fact we've had some people fishing for the alligators. We have a couple of small alligators in the pond and they're fishing with hooks trying to catch the alligators.

We've called the Sheriff's Department a number of times. But that is the most concern of West Wind Estates is the trespassing and the lighting.

If the lighting changes immensely -- I know that I talked to you before and you said that the lighting has to be shielded and so on and so forth. So I just wanted to go on record that that's a more concern is this clientele that's having a problem. We've had kinds (sic) of problems with people defecating on our property and so on and so forth. So I just wanted to bring that to your attention.

HEARING EXAMINER STRAIN: I'm glad you have. And I hope that -- and I know we did talk before the meeting. Those -- the kinds of issues you're having with the trespass and the clientele are something that the Sheriff's Department and Code Enforcement ought to be made aware of. The more you put that information on record, the more frequent it happens, the more bearing it will have when other items are needed by this project.

So I'd suggest if the project owner doesn't want to address those issues, then I think your resource would be to the Code Enforcement Department to begin with. And trespass, probably the Collier County Sheriff's Office.

As far as the lighting, I'll get confirmation from staff on what kind of lighting is required by code to be there and that way we'll know how it's going to affect or not affect your property.

MR. SCHOLZ: Just for the record also, we do have a signed agreement with the Sheriff's Department about trespassing, so --

HEARING EXAMINER STRAIN: Thank you very much.

MR. SCHOLZ: Thank you for your time.

HEARING EXAMINER STRAIN: Fred, would you respond to the concerns and questions about lighting?

MR. REISCHL: Thank you. Yes, lighting, this is also being reviewed by the development review department through the Site Improvement Plan. And development review will make sure that any new lighting meets current code which would be -- to be shielded from adjacent residential property.

HEARING EXAMINER STRAIN: And as far as the canopy lights that are going to be going in this canopy, would they be required to be recessed?

MR. REISCHL: Recessed, yes.

HEARING EXAMINER STRAIN: The gentleman who's the contractor speaking on behalf of the owner, could you come up for just a moment?

Sir, could you verify the lighting that you're putting in the canopy will be shielded lighting and recessed lighting?

MR. KHAN: Yes, there will be LED lights that's recessed into the deck of the canopy.

HEARING EXAMINER STRAIN: Okay, thank you very much.

MR. KHAN: Okay.

HEARING EXAMINER STRAIN: I don't have anything else.
Any other members of the public wish to speak?

(No response.)

HEARING EXAMINER STRAIN: Okay, with that, we'll close this public hearing and a decision will be rendered within 30 days. Thank you all for coming.

***The next item up is the Legal Aid Services of Broward County, Inc., who's proposing changes to the building on the East Trail, formerly known as the Rex building, for those of us who have been in the county for a long time.

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: Are there any members of the public that intend to speak on this item?

(Speaker was duly sworn.)

HEARING EXAMINER STRAIN: Okay, the exhibits today will be: The staff report will be Exhibit A. Exhibit B will be the legal ad. Exhibit C will be a new exhibit that was supplied after the staff report was written. It's an enhancement list received from the applicant.

(Exhibits A, B and C were marked for identification.)

HEARING EXAMINER STRAIN: My disclosures: I have talked with staff, gone through the files, I attended the pre-app on this. I have not had any direct communication with the applicant or their representations that I can recall other than the pre-app.

And with that I'm going to walk through a review of the issues that are in the packet that were supplied to us, so -- and I'll be asking some questions from those.

And sir, you are?

MR. CORBIN: I'm David Corbin, the architect for the project.

HEARING EXAMINER STRAIN: Okay. And Mike, this is yours?

MR. SAWYER: Yes. For the record, Mike Sawyer; I'm the project manager for the petitioner.

HEARING EXAMINER STRAIN: Do you recall Mr. Corbin respond -- can he represent the owner of the property?

MR. SAWYER: Yes, we've got him as the representing agent.

HEARING EXAMINER STRAIN: Thank you.

This is the artist's conceptual rendering of the building that is being proposed. There are members of the public here concerned on this, at least one, so we'll walk through some of these preliminaries and then I'll ask the applicant to enhance anymore of the discussion, if they'd like.

That's the location of the Rex building as, like I said, as those of us who have been here for a long time know it to be. It's been vacant for quite a few years.

This is the existing site plan. We did receive one email with concerns over landscaping, visual aspects from the rear of the building and the sidewalk along Outer Drive.

This particular plan shows where the parking lot and buildings are. The slashed area towards the middle bottom is for the dumpster enclosure and that dumpster, and I'll have staff verify, it will be enclosed.

The circles you see, the dotted circles of different sizes, those are existing vegetation on the site, some of which meet parts of the buffer requirements. And then it's going to be enhanced as part of what's being requested today.

This is the enhanced landscape plan that was submitted with the Site Improvement Plan on 3/20/2015. All these -- the darker circles you see on there are added vegetation. A lot of it's up

against the building, some of it on the east side, different locations on the property. They will be added to supplement the trees that are already there that are legally there. There is some exotics I understand that are being removed.

This is a rendering received that was in the staff packet concerning elevations of the project from the existing building, so not a lot can be done, especially this particular building is on the zero lot line, that's sitting right on the north lot line, so there's not a lot they can do to that because it faces somebody else's property. And that northwest wall is the one that's on that lot line.

The enhancement to the project. There's some enhancements to the neighborhood, just by the mere fact this project's being picked up, cleaned up and refurbished. This is language supplied by the applicant.

Of most note is the enhancements on this page. A sidewalk will be added along Outer Drive. Now, that will be subject to the access management plan that we have at the county. There may be some issues on how or when that sidewalk will go in, but that will be something that will be worked out through the SIP process. But one way or the other they will address the sidewalk on Outer Drive either as a need now or a need in the future.

The landscape buffers will be enhanced. Some of the trees that are there do allow the buffers to qualify for buffer material.

There's going to be hedges provided.

The existing mature oak trees will be shaped and trimmed. The notation towards the bottom by the dumpsters shows it will be screened. There's a few other things in between. Just general cleanup of the project.

The visual character of the building: It's going to have wall and stucco details added to the facades. Covered entry in the front. Going to be some benches and a covered entry and seating area in the rear.

If you were to take all the 14 deviations that they're asking for, this is how they lay out on the site. This is the sections of the site that they are applicable to.

This is a listing of them all. I have some in green that I need some clarification on that I'd like to ask the applicant to explain.

Deviation number two: You're seeking relief from vehicular area use minimum terminal islands. The way the green area reads, existing landscape islands interfere with fire emergency access and turning radii. Proposed landscaping satisfies tree requirement in adjacent locations as feasible.

So if the existing islands interfere, what is it you're trying to seek relief from here? You're not going to correct that interference then, or what was your intention with your justification?

MR. CORBIN: Well, if you go to the deviation site plan, I can show you.

So right at the main entry where there's a number two at the lower right-hand side, the fire department has asked us to place a drive-over area there. So we're going to put in kind of the armored ground there so they can drive their trucks over that curb into the landscaping, so they wouldn't allow us to put a tree there. So that's --

HEARING EXAMINER STRAIN: That's what you meant by your justification.

MR. CORBIN: That's correct.

HEARING EXAMINER STRAIN: And by the way, for the record, I did make a site visit with Mike Sawyer. We walked this and we saw the issues at hand.

Mike, when this is all done and you hear the verbal explanations of some of the questions I have, the justifications, if there's any changes from your perspective, make sure to let me know.

MR. SAWYER: I'll do that.

HEARING EXAMINER STRAIN: These two, the existing impervious area

curves/required to maintain fire emergency access and turning radii. Proposed landscaping required is relocated adjacent to the building as feasible.

This is the width of the building foundation planting area. That's generally up against the building. Is that what you were trying to explain in your justification?

MR. CORBIN: Obviously this is a landscape one, and Jeff Carl wasn't able to join us today.

And Mike Delate, if you can chime in on this, please feel welcomed. Mike Delate is the civil engineer on the project and he'd be closer to the site --

HEARING EXAMINER STRAIN: And you're the architect, so --

MR. CORBIN: -- issues.

Yes, sir.

HEARING EXAMINER STRAIN: -- that separates the two out.

MR. CORBIN: As you see, most of the deviations are architecturally related on this one, so --

HEARING EXAMINER STRAIN: And unfortunately I don't have a lot of questions with those, so --

MR. DELATE: For the record, Mike Delate with Grady Minor Engineers.

I believe that deviation is for the building foundation planting area along the, I guess it would be the east side where the pavement runs against the building. So in lieu of having that, which the fire department requires and we're to have access, they've relocated the planting areas and other areas around the building.

HEARING EXAMINER STRAIN: Okay. And then while you're there, then let's get to the last one. And that one, I read it a couple times and couldn't figure out what the -- whoever wrote it was trying to say. Letting location site to accommodate existing mature trees and not conflict with anticipated growth. Proposed required landscape island tree located adjacent to the location, maintaining required 12.5 separation.

What is that trying to say?

MR. DeLONY: I believe it's trying to say that the light was not going to be exactly in the island location, because there's a mature tree there. And it's going to be relocated elsewhere, but try to maintain the minimum 12-and-a-half-foot separation, given that it's a mature tree.

HEARING EXAMINER STRAIN: I don't have a problem being flexible with the conditions needed to get this building back on line because I think it's a good thing that you're doing it. I do want to make sure that these deviations are written as accurately as possible. And I think the general tone on some of these leaves too much to discretion.

And as was pointed out to me by the County Attorney's Office in another discussion concerning the width of the buffers, and I'm not sure which one it was now, but you want a -- I think it's deviation three you want a general landscape building foundation planting area from the minimum five foot wide, but it doesn't say to what.

And I know you have a plan that was submitted. And I was utilizing that plan as what the "to what" was. Basically you want to keep it to what that plan allows or provides for currently.

So I'm going to tie all these deviations to that plan. And I'll ask staff when they speak to confirm that's the way they had approached it as well. And if the County Attorney's Office feels more clarification's needed, then we'll be seeking that before we go too far in writing the decision.

MR. DELATE: Are those that highlighted on that landscape plan Jeff had highlighted?

HEARING EXAMINER STRAIN: Well, this is what -- this is the plan that was supplied to show what deviations applied where. So I was able, when I walked the site, to understand what you were trying to do.

Mostly what I'm concerned about is you have areas that you're asking for a general release

from the width of buffers. But I don't know exactly what buffers where, just that it's the general buffers on the site. So I think we need to be more specific about some of that.

The plan that --

MR. CORBIN: Which -- I'm sorry, which deviation is that on the general buffers?

HEARING EXAMINER STRAIN: We'll move right back -- this number one.

MR. CORBIN: Okay.

HEARING EXAMINER STRAIN: And I know that you're producing the buffers in an as-built situation.

MR. CORBIN: I think those -- again, back to the site plan, I can explain where those buffers -- I think this happens in -- again, when the building's on a 45-degree angle to north-south, it's always confusion over what's north and what -- but if we call the zero lot line side of the building the north side, then obviously we can't get a building buffer there, so that's one area.

HEARING EXAMINER STRAIN: I understand.

MR. CORBIN: On the south side where we have the existing two-way drive that goes along the building, there's obviously not enough room for separation of the asphalt from the building itself, and then there's not enough room from the edge of the drive to the property line to get the required buffer under today's rules in there also.

HEARING EXAMINER STRAIN: That's the -- you're just now getting to the point of clarification needed.

So on the north side where the building exists you need a zero -- you need to go from the required 15 feet to basically zero. And on the south side you need to go to whatever's left there. We don't know what's left there, so that would leave an opportunity in the future for someone to come in and claim zero throughout the site. You understand what I'm saying? I need something to tighten it up.

And what exists is acceptable. I'm not saying it's not. I just need to make sure it's documented properly. And maybe staff has better drawings that they can provide to me or that -- if they haven't, they certainly can probably get them from you.

MR. CORBIN: Yes, obviously we do have that information. With surveys, we know exactly what the dimension is from the edge of that paving to the --

HEARING EXAMINER STRAIN: Property line?

MR. CORBIN: -- to the property line.

And there is a dimensional deviation that's mentioned in there that handles that, the zero lot line on the north side. I think -- I want to say that's the seventh or -- the sixth or seventh deviation.

HEARING EXAMINER STRAIN: That's your facades.

MR. CORBIN: I think it's maybe six.

There you go.

HEARING EXAMINER STRAIN: There we go. Okay.

The only thing I'd like to do at some point, Mike, if you have a better plan that actually shows some dimensioning on it for these buffers that are going to need some changes from the required 15? Just so there's no concern or question in the future. I'd hate to see the applicant have a problem with code enforcement or anybody a year or two from now because we didn't articulate it as best we could in the plan.

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

I believe we do have the actual landscape plan that's being proposed as part of the SIP.

HEARING EXAMINER STRAIN: Good.

MR. SAWYER: So we could probably rely on that. I know the staff people reviewing that have been -- we've been communicating quite a bit on this particular project.

I'd also like to point out that the code does allow specifically four buffer areas. Where you've got existing developments that don't meet minimum standards the language is to the greatest extent possible. And so staff certainly did take that at least partially into consideration when we reviewed this particular petition. We didn't mention that. That's, you know, the -- I should have provided that clarification with the staff report, and I apologize I didn't do that.

But in a lot of cases where we've got older sites like this, we do -- we basically have the ideal situation where if it is a green open space it gets planted. If there's a building or a pavement and that sort of thing, generally certainly with the building, we wouldn't expect the building to be removed, and in most cases asphalt, if it's adequately serving the site needs itself, we don't require that pavement to be removed.

HEARING EXAMINER STRAIN: And I'm not suggesting we do, so I don't disagree with you.

I think to help clarify this for the benefit of your client, if you have a -- do you have an as-built survey of the building?

MR. CORBIN: Of course, yeah. We have an as-built and then, like Mike said, there's obviously much more information required in the SIP application than in the deviations, and all that information is there. And we would be very happy to transfer that information over for this and enhance that in any way we need to to clarify those questions.

HEARING EXAMINER STRAIN: Well, I think as an exhibit to the decision, it would be helpful to have an as-built survey and the landscape plan. And we'll just tie those to the deviations. That will lock it up tight, and that way you guys don't get into problems when someone challenges you down the road.

MR. CORBIN: Correct.

HEARING EXAMINER STRAIN: And it will basically tie it back to that, so --

MR. CORBIN: Yeah, we'll be happy to do that.

HEARING EXAMINER STRAIN: Okay, thank you. And I don't have any other questions. Most everything I had has been addressed.

Did you have anything else you wanted to add?

MR. CORBIN: I know you did bring up one issue about the sidewalk. And that's one thing we kind of went back and forth on. At first we thought that it would be less expensive to have our contractor build the sidewalk along Outer Drive, we thought we could save money rather than doing the payment in lieu of.

But during the process we were requested by county, since I think in the neighborhood back there they really want that sidewalk continuously along the east side of Outer Drive. And so we've agreed, since the county already has plans to put that sidewalk in, is to do the payment in lieu of. So that will put it -- so it will happen with the rest of the properties along there.

HEARING EXAMINER STRAIN: Well, I'm glad you clarified that, because when I write this up I'll make sure that option is noted. It is an option allowed by code and it does provide then that the county when they have the funds collected they can do the whole thing at one time and it will be consistent, so that's understandable.

Thank you very much, sir.

MR. CORBIN: You're welcome.

HEARING EXAMINER STRAIN: Is there a staff report?

MR. SAWYER: Yes. Again, Mike Sawyer with the Zoning Division.

You've got the staff report last updated 3/9/15. Staff is recommending approval of the petition.

HEARING EXAMINER STRAIN: Okay. Thank you, Mike. That's it, Mr. Corbin.

Thank you very much.

MR. CORBIN: Thank you.

HEARING EXAMINER STRAIN: Appreciate it.

Now, would the member of the public like to speak? Would you want to come up and state your name for the record. I believe you were the lady that sent us the email; is that correct?

MS. NELL: Yes. My name is Kay Nell, and I live in the neighborhood directly behind.

And yes, we're concerned about the buffer in the back, primarily making sure there's sufficient vegetation to cover the back side.

Also, the concern was also with the sidewalk. We are trying to get a sidewalk installed along that back side of Outer Drive and would like assurances somehow that that will be taken care of. If they are going to pay for the county to install the sidewalk, is that an automatic grant of an easement that the county has automatically and installs? I just want confirmation that it will be part of the plan for down the road if they're just going to pave for now.

HEARING EXAMINER STRAIN: John Podczerwinsky is here from transportation, so he can address that particular issue.

As far as the landscaping goes, the landscaping that's on this particular plan is quite an enhancement over what's there right now. I hope that gives you a better level of comfort for what's going to happen, at least on the --

MS. NELL: Very happy to hear that, and very looking forward to getting that building in use.

HEARING EXAMINER STRAIN: It's been vacant a long time. Thank you.

John, would you mind addressing the concerns over how the sidewalk operates and how it goes together?

MR. PODCZERWINSKY: I'll be glad to.

Can you rephrase the question? I didn't catch it.

HEARING EXAMINER STRAIN: Yes. There's a sidewalk required in the back which is on the left side of Outer Drive.

MR. PODCZERWINSKY: Okay.

HEARING EXAMINER STRAIN: Outer Drive has had a lot of pieces of sidewalk put along that area.

MR. PODCZERWINSKY: Right.

HEARING EXAMINER STRAIN: But the applicant was going to put the sidewalk in, but because of the county's ability or need to put the whole thing in at one time, they're going to provide possibly the payment in lieu of instead of the actual sidewalk.

The question is, how does that materialize from there? And is there enough right-of-way in the back or is there needed easements from this property owner to make sure the sidewalk can go in?

MR. PODCZERWINSKY: That's a good question. I haven't looked at the property specifically to see if there's enough room for a sidewalk to go in within the Outer Drive right-of-way.

I do know that our pathways reviewer, when she was still here, was working on this to have a cohesive plan. I think that's in our design department right now. I can check on that and find out.

HEARING EXAMINER STRAIN: I would like you to and get back to me on it so I can get back to the lady.

MR. PODCZERWINSKY: Right. Typically when we collect payment in lieu, what that is meant to do is to cover right-of-way costs, drainage costs and the installation and design of the sidewalk. Also permitting. So it would cover all of those items altogether. That's why it's a set price.

HEARING EXAMINER STRAIN: Is there a time frame in which anybody knows in the

county from a planning perspective, since they've been apparently -- they may have been collecting money in this area for a while now. Does anybody know when they intend to put that sidewalk in?

MR. PODCZERWINSKY: From my understanding is it's supposed to go in pretty soon. I know this was under Stacy Revay, when she was here, it was under her planning efforts at that time. And like I said, it's in our design department now, to my knowledge.

HEARING EXAMINER STRAIN: Okay. Well, if you could get back to me on that information, I could forward it on to Kay and we can figure out what the status of it is that way.

MR. PODCZERWINSKY: Absolutely.

HEARING EXAMINER STRAIN: As far as needing additional property from this applicant, it's something that definitely should have been reviewed or thought of before today. So you tell me -- you don't know who reviewed it or looked at it or --

MR. PODCZERWINSKY: Not personally, no. My assumption would be that it would have been the pathways reviewer at the time, and she's not currently with the county, so --

HEARING EXAMINER STRAIN: Okay. And even if they haven't provided it today, the payment in lieu of covers the cost of acquiring it.

MR. PODCZERWINSKY: That's exactly what I mentioned, yes. If there's not sufficient right-of-way, we would be purchasing sufficient right-of-way to install that.

HEARING EXAMINER STRAIN: Okay. And I don't need you to follow up for the decision as much as I need you to follow up to me so I can get accurate information back to Ms. Nell.

MR. PODCZERWINSKY: Absolutely.

HEARING EXAMINER STRAIN: Okay?

MR. PODCZERWINSKY: Okay, thank you.

HEARING EXAMINER STRAIN: Thank you, John.

Anything else?

MS. NELL: (Shakes head negatively.)

HEARING EXAMINER STRAIN: Anybody else like to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay, with that, we'll close the public hearing and a decision will be rendered within 30 days. Thank you all for attending today.

***Okay, the next and final petition up is Petition No. PDI-PL20140000859. It's the RaceTrac Petroleum, Inc. And it's insubstantial changes to the Sierra Meadows 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: Are there any members of the public here for this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Well, that's a surprise.

Okay, I'm going to walk through a general background, because from that I'll ask some questions, Tom.

And first of all, Exhibit A will be the staff report, the staff report that was originally sent out. Exhibit B will be the legal ad. And Exhibit C will be the revised staff report that Mike is supposed to have available copies for the court reporter today and a copy for the applicant as well.

(Exhibits A, B and C were marked for identification.)

HEARING EXAMINER STRAIN: What that does is just clean up some of the document confusion that was in the first one. There were some documents there that shouldn't have been in and this makes it a little bit neater.

The disclosures on my part, I have met with the applicant, I've talked with staff, gone through

all the files, and I've talked with Commissioner Fiala.

And with that, I'll roll through this discussion and probably ask some questions from it.

Is there anything -- you don't need to make a formal presentation, I have reviewed everything. But if you want to address anything -- you might as well stay right there, because I'm going to have questions for you, Tom. You don't get away without anything.

MR. HARDY: I never expected to, sir.

HEARING EXAMINER STRAIN: Let me walk through this and I'll show you -- I'll hit my questions up as we go forward.

Yes, sir.

HEARING EXAMINER STRAIN: That's the site. It's on Rattlesnake Hammock and 951. Between 951 and the site is a 75-foot easement to Collier County that apparently will be used for possibly drainage for right-of-way or something or other.

This is the way the RaceTracs look. I had done a lot of this on the premise that some of the public who showed up for the neighborhood information meeting might have showed up here today.

This is an example without the landscaping in place.

This is a frontal view of the project. The project is going to have a nice amount of landscaping, similar to the Manatee Road project, which has turned out -- and I've gotten several compliments on that particular RaceTrac.

This is a layout of the lot they're primarily putting the building on. That's in addition to the access road behind. Apparently the applicant has purchased that lot as well and is moving with an access road onto that.

These are the deviations. There are eight deviations being requested. Two are being contested by staff. One is the first one, which involves the sign out front, the monument sign. And then number five, which is the number of parking spaces before we need to have landscape islands.

On the site plan, those two sections are indicated as such. The yellow/gold section is where the 14 spaces occur. And the lighter blue/green outline is on the front. And on the right-hand side is where the monument sign is proposed to go.

And Tom, I'm going to walk through my concerns over some of these and then we'll ask you to address them after I'm done.

Again, this is a sign location. Signs that are going on the canopy are similar to those that are on Manatee. In fact, in the NIM the applicant noted they are the same as Manatee, which was 51 square feet for the sign; that would be L-1 in this particular -- facing 951. And the two insides would be 37-and-a-half square feet. The other signs are a window sign and some entrance signs that are typical to the RaceTrac projects.

This is the larger monument sign out front. It was shown in the package at 118 feet. And that doesn't -- and that includes the sign box. It doesn't include the stand that it sits on or the canopy that's above it, from my understanding.

Is that correct, Tom?

MR. HARDY: Yeah, it does not include the roof of the building and it doesn't include the monument base.

HEARING EXAMINER STRAIN: Sorry, I think if you pull it down. No, no, not that, just take the whole box and pull it down.

MR. HARDY: How about that?

HEARING EXAMINER STRAIN: There, now it works. For some reason, setting it higher on the box, it won't pick up.

MR. HARDY: The 118 square feet does not include that almost three-foot base nor the architectural cap we have on it. That cap is required from the Sierra Meadows, the ARC?

MS. JOHNSON: ARB.

MR. HARDY: ARB. They have an architectural review board that matches the roofs on the two Sierra Meadows signs that are out there.

HEARING EXAMINER STRAIN: And because they're a PUD, they're expected to have basically a common architectural theme throughout the project.

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: That isn't unusual. In any discussion today we'll look at that as a separate add-on that will be architectural in nature, not so much relevant to the zoning aspects of the height.

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: This is the box that is 118 feet. In looking at this box and taking measurements from it, I went to the other RaceTrac sites, as well as numerous other sites in the county, both on 951 corridor and elsewhere, trying to understand just what this would look like.

First of all, they're about -- from the travel lane they're about 80 feet, maybe 83 feet to where their silt fence is up on the site. I went out to the site and I walked that site with a walk wheel to do a takeoff on the distance.

Down on Manatee Road they have a sign that's 50 square feet. This is the same -- this is the sign, it's just a smaller version of what we saw.

Now, Manatee Road was the one that has actually gotten some compliments and it exists and under construction today.

MR. HARDY: It's open.

HEARING EXAMINER STRAIN: Oh, you finally got it open. Good.

MR. HARDY: It opened Tuesday.

HEARING EXAMINER STRAIN: Excellent.

Well, this is a cut section from the Manatee Road site. That sign of 50 feet is 53 feet off the site. Now, if you think of the proportion between the 118 feet requested for 75 feet off the site, which is really about 80 from the travel lane, that is excessive. That's getting to a rather large size sign that I question whether the real justification there is to say you need it. Driving up and down the corridor, I did not find it unique that you have a setback from the travel lanes.

On the other side of the street, for example, a full distance you have a canal that sets you back, Immokalee Road the same way. On the north side of Immokalee Road, especially as you get closer to the coast, there's a long portion of it that has the same conditions where you have even greater setbacks, they're over 100 to 120 feet, and the signs don't have the variances needed and requested by you here today.

This is the sign that RaceTrac has out front of our offices here. It's 13 feet high, six feet wide. It's 37 feet off the travel lane. That is digital, and that is something I wanted to make a note of. Any conclusions here today in regards to that monument sign, if it's -- if any variance is considered, it wouldn't be considered for an LED sign, it would be considered for a static sign like you're using. LED would have a whole different perspective to it.

The RaceTrac sign up on Pine Ridge Road is 53 feet back, pursuant to the Google site, from the travel lane. And it's 10 feet high and seven feet wide. And that includes a two-foot base.

I requested information as to why this was unique, and the response was to show me how much wider 951 was in that area than in other areas. It wasn't the width I was concerned about, it was the distance from the travel lane. And because of canals on one side and when you go north on I-75 you even have a Shell Station up there that is 80 feet back from the travel lane with a much smaller sign than what you're asking for. And I have all those measurements, but I don't need to go too far today.

These are the canopy signs. And here you'll see elevations. These are the signs going on the building, and all these are being re-- some of these are being requested for deviation.

That's most of what I had to talk about in regards to the signs.

I did notice that there were two different standards in our sign code: Signs on nonresidential district, non on-premise signs, pole and ground signs. If it's long arterial roads it has different exceptions than if it's along non-arterial roads, collector roads.

And you go up to 15 feet along arterial roads, but you've got to retain the 80-foot -- 80 feet is the maximum. On a collector road it's down to 12 feet and 60 square feet. The exception is automobile service stations. They're limited to eight feet high and 60 square feet in size.

Now, that was -- I tracked that back this morning to the old code that went back to 91-102. I didn't find it in 82-2 which is an Ordinance No., but I did find it in Ordinance No. 91-102, this same language. That was at a time we didn't have convenience stores known to be gas stations like they are today.

I know that if you were to build just a convenience store there you'd probably fall under the previous higher standards that allowed you more.

So I'm suggesting, based on the distance and requirements of the Manatee station, that you could work with a much smaller sign than what you're asking for and still be in a ratio to what the distance supplies like it does on Manatee.

And I don't know, I had asked you to take a look at it and suggest to me something you would come back with. So I'll ask you, Tom, have you looked at that at all?

MR. HARDY: Yeah, I went back and looked at some our different arrangements that we could do with some of the scroll numbers. Unfortunately my art department internally is not as nimble as I would like them.

But I think, looking at other signs, I can adjust the height of the word regular and plus and diesel there and get down to an 80 square foot sign. If we could work with an 80 square foot, you know, that would comply with other -- the PUD and what's allowed in other retail uses. If we could live with -- if you could consider an 80 square foot sign, I could go down to that. I'd respectfully request that, if we could do that.

HEARING EXAMINER STRAIN: What kind of height would you need?

MR. HARDY: I would like to do a similar size height on the base, almost a three-foot. So when I go to do that, that's about nine feet to the height of the cabinet. That does not include the roof, the architectural roof.

HEARING EXAMINER STRAIN: So where the 11-foot-two is on the left side --

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: -- that would change to nine feet?

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: And the 118 up on top would change to 80?

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: And then the cap will be whatever is required for architectural criteria to get it done.

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: Is that something that you can get corrected and sent to me fairly quickly?

MR. HARDY: I'll do my best. If --

HEARING EXAMINER STRAIN: I mean, if -- I'd certainly like to -- I like what you're suggesting, but it would have to be included in a decision that would require this to be an exhibit to a decision.

MR. HARDY: Yes, sir.

The larger price, if I remember the conversation I had with the sign vendor last night, I believe that goes down to a 32-inch. Because I believe that's a 36-inch or even larger sign. And then I can take the other two down to 14 or 16 inches, the diesel and the plus sign, and make it work.

So I'll get that drawn up as fast as I can and get it emailed to you.

HEARING EXAMINER STRAIN: Okay. And that would be helpful in getting this resolved. I'll get staff's opinion on it in just a minute. I want to make sure I don't have any other issues.

I know there's no public here to hear your comments, but did you have any formal discussion you wanted to have, presentation of any kind?

MR. HARDY: No, sir. I believe our application speaks for itself.

As far as the other contested item being the number of spaces, you know, our business model is all about convenience. We hope customers are doing business with us at gas pumps and walking inside. So it's a high traffic area, high vehicular traffic area in front of the store. And we do have our -- our employees do a very good job, and team members do a very good job keeping our grounds clean. But when we found that we put parking islands in that high traffic area, that becomes cigarettes and trash and all that, so -- and they become very -- people step through shrubs and stuff like that while getting through.

So when we can, when situations like this come up, we like to ask for variances, just to avoid that type of issue.

HEARING EXAMINER STRAIN: Okay. Thank you.

Is there a -- well, before I go too far, in the -- in one of the documents I found a reference to half foot candle power would be the maximum at the property line?

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: Okay. I was going to include that as a requirement. Did you have any problem with that?

MR. HARDY: That's county code and I have no problem with that.

HEARING EXAMINER STRAIN: Okay. Well, the fact you restated, I think it was in the NIM -- I usually pull everything that's said in the NIM that's relevant to conditions and I restate them to make sure the public knows what they were told --

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: -- they're affected by, so --

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: Okay, do we have a staff report?

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

You've got the staff report dated 3/9/15. Staff is recommending approval of the petition, except for the deviations, the two deviations that we're recommending denial of.

We're here to answer any questions.

I do have a revised application that I can hand out, if need be.

HEARING EXAMINER STRAIN: Well, I think the only people that will need it is after the meeting make sure the court reporter has a copy and the applicant has one, as a courtesy, Mike. I'm fine with it because I had it electronically, so we're good.

Mike, I want to make sure, I don't know if I have anything else to ask of you.

Oh, how do you feel about the new sign? Do you have as much concern over the new sign suggestions?

MR. SAWYER: Staff's main goal with the proposed sign was to get something that was more in proportion. And we tried to point that out with the staff report. What is being proposed

now, an 80-foot sign, it would be our opinion that that would be much more in proportion, and we'd recommend approval of that.

HEARING EXAMINER STRAIN: Okay.

MR. SAWYER: I guess my question is also, given the provisions of the service station portion of the code, how are we to determine the height of that sign? Because basically I believe that portion of the code reads that it is from grade. And being that the code requires a three-foot berm, some clarification as far as proposed height of that sign, including the roof portion of it as well. I'm just saying just for clarification would be helpful to have that with the decision so that when the sign does come in for permitting that staff would have good clear direction on that.

HEARING EXAMINER STRAIN: Okay. Just for a suggestion, this would dictate the structure parts of it. So I think what we would see on this is where the 11-2 is, it would be nine feet. And that architectural piece on top would be established at whatever distance it comes out to show like it is right now.

They also provided a plan with a -- a contour plan that shows the positioning of this monument sign on the site. So if I had -- what I can do is take a copy of that contour plan and include it as part of an exhibit to show that the sign height is going to be established based on where they're placing it on that contour plan, and then this would sit on that. Would that work for staff's understanding of it?

MR. SAWYER: That would be most helpful.

HEARING EXAMINER STRAIN: Tom, is that any problem for you?

MR. HARDY: I just asked Kristina, we -- I think we'll the finished floor elevation gets us up to the three-foot berm. And so if the sign is set up on-site, up on top of the plateau over on the Rac side within the -- the nine feet would be measured from that distance, not from the edge of pavement. Which I believe we ran into. That was why the discussion came up is that was the issue at Manatee.

HEARING EXAMINER STRAIN: Okay. Well, let's make sure we understand it.

So he's suggesting they're going to actually measure from some point, which is finished floor?

MR. HARDY: No, it will be measured from the finished grade at the bottom of the sign right there. But that may be up on --

HEARING EXAMINER STRAIN: The berm.

MR. HARDY: -- the berm.

HEARING EXAMINER STRAIN: Okay. But the berm's not going to exceed three feet.

MR. HARDY: No, sir.

HEARING EXAMINER STRAIN: Okay. Well, I think that would work.

MR. SAWYER: That sounds fine to staff.

HEARING EXAMINER STRAIN: Is there anything else? I saw Ray, you were edging toward the microphone. Did you have something you want to add?

MR. BELLOWS: That was the question I was going to ask.

HEARING EXAMINER STRAIN: Okay, good.

Well, and that's the last question I had, statement -- issue I had with this. Other than the fact, by the way, in my disclosers I want to make note, I did go down to the site and walk through it. It's got a lot of wet vegetation hanging around there. Not wet limbs, but -- because I was there early in the morning, so it was pretty soggy out there.

Does anybody else have anything they'd like to ask? If not --

THE COURT REPORTER: I do.

HEARING EXAMINER STRAIN: You do?

THE COURT REPORTER: May I have your names, please?

MR. HARDY: Tom Hardy. H-A-R-D-Y. RacTrack Petroleum.

MS. JOHNSON: Kristina Johnson with Delisi Fitzgerald.

THE COURT REPORTER: Thank you.

HEARING EXAMINER STRAIN: I thought Cherie' was going to offer testimony today. I was looking for someone to swear her in. I didn't know what to do.

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

(No response.)

HEARING EXAMINER STRAIN: Okay, with that we'll close the public hearing and a decision will be rendered within 30 days. The faster I can get the documents from you that I need to finish this, the quicker the decision can be issued.

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: Appreciate your time and thank you very much on your help today.

MR. HARDY: Thank you.

HEARING EXAMINER STRAIN: That takes us to the last item, last couple of items.

Other business, there is none.

Public comments, there's no public left.

So with that, this meeting is adjourned. Thank you all.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 10:10 a.m.

COLLIER COUNTY HEARING EXAMINER

MARK STRAIN, HEARING EXAMINER

ATTEST:
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 4-23-2015, as presented ✓
or as corrected _____.

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