

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
April 9, 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:

DESCRIPTION	PAGE
4A - Petition VA-PL201500085	
A - Staff Report	8
B - Legal Advertisement	8
C - Packet of Letters	8
4B - Petition BD-PL20130002460	
A - Staff Report	23
B - Legal Advertisement	23
4D - Petition PDI-PL20140002611	
A - Staff Report	30
B - Legal Advertisement	30

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning. Welcome to the Thursday, April 9th 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: Good morning. We've got some housekeeping matters I'll start with.

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 in writing within 30 days.

Our schedule this morning. The first item up is a review of the agenda. We had four items on the agenda today.

***The third item is titled Petition No. BD-PL201400002207, and it's for the Real Estate Technology Corporation of Naples on a project called the Dockside Residential Planned Unit Development.

That particular item is being continued until the April 23rd meeting in this office. Between now and then, there may be a necessity to move it into the Planning Commission's hearings. That decision has not yet been made. But if it does, we will not be hearing it here on the 23rd. You will get a new notice. For now, though, we're going to leave it at the April 23rd in here. We'll try to notify everybody if it changes.

If anybody is here for that item today -- sir, if you could make sure that -- would you mind coming to the microphone for the record.

MR. ADDISON: All right.

HEARING EXAMINER STRAIN: Because this one is being continued and you are here today, I'd certainly like to hear what your thoughts are, and then if you could leave the gentleman on the end some contact information. When this gets routed in whatever direction it's going to go in, we'll reconfirm to you where and how it's going to be heard.

MR. ADDISON: All right.

HEARING EXAMINER STRAIN: Could you state your name for the record.

MR. ADDISON: Bruce Addison.

HEARING EXAMINER STRAIN: Mr. Addison, are you here to speak in favor or against the project?

MR. ADDISON: Well, the project isn't the problem. It's the depth of the -- where they want to put the docks out into the river is the only concern I have.

HEARING EXAMINER STRAIN: So they're asking for a boat dock extension. Normally they could go 20 feet out without any request other than a building permit. They want to go 30 feet out. That will include the width of the boat as well. So the docks will go to the 20 foot where previously the docks would have gone to about 10 and the boat would have been the additional 10. So they stayed within the 20. Now they

want to go 20 with the docks and 10 for the boats.

And so then, you're against the dock extension, is what you're --

MR. ADDISON: Yes, sir. It's not necessary. They have plenty of depth of water there. The banks drop off very steeply. There's plenty of depth within the 10 feet they're requesting. I live directly across from them, and my dock runs no more than 8 to 10 feet out. I have plenty of water for the boats.

Any of them that they want to put -- of course, you can't have a yacht in there to begin with because the depth of the water going in and out would not allow anything but shallow draft boats.

HEARING EXAMINER STRAIN: And you said you're directly across the canal?

MR. ADDISON: Right.

HEARING EXAMINER STRAIN: Did you see a guy in a beard there a couple Saturdays ago?

MR. ADDISON: Yes, sir.

HEARING EXAMINER STRAIN: Did you see him out in the water --

MR. ADDISON: You can attest to the fact, because you had a pole that you checked it.

HEARING EXAMINER STRAIN: There's a lot of silt in the bottom of that canal, too.

Well, thank you for your comments, and we will keep you informed through Mr. Reischl as to the progress and how this one goes. There's been some other people in your neighborhood concerned about this, and because of that, I've got to meet with the commissioner, and it may end up going before the Planning Commission at a more formal hearing because it may rise to a higher level than more of an administrative level. If that happens, though, we'll keep you in the loop.

MR. ADDISON: Okay, good. Like I say, the only concern I have is the docks. The development, you know, that's whatever. But the concern is in the river because of the manatees and the boats that could go past. And it's only 85, 90-foot wide at that point. You know this.

HEARING EXAMINER STRAIN: Yes, sir.

MR. ADDISON: And that's the problem, when the boats are -- you know, everything we have now, nothing goes more than 10 foot out into the -- from the mean high water, and it's not a necessity that anyone have it for their boats to be there.

HEARING EXAMINER STRAIN: Thank you very much for your input, sir. Appreciate it.

MR. ADDISON: Thank you.

HEARING EXAMINER STRAIN: We'll be in contact with you.

MR. ADDISON: Thank you very much.

HEARING EXAMINER STRAIN: Is there anybody else here that came to talk about this particular petition and this boat dock extension?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, that particular item will be continued to April 23rd unless further notified.

And the next item on the agenda is approval of the prior meeting minutes of March 12, 2015. I have reviewed those, and those are okay to be submitted for the recording as presented.

***So we'll move to our first advertised public hearing. The first advertised public hearing is Petition VA-PL20150000385.

The petitioner is Capri Christian Church, Inc., Isles of Capri, and it's for Lots 429 and 430 for some variances involving a parking exemption.

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: Okay. And disclosures on my part, I've talked numerous times to the applicant's representative, Mr. Foley; I've also talked to Annie and Eddie Hall, Commissioner Fiala; I've reviewed all the finals and met with staff numerous times on the various issues that we have to discuss today.

We have three exhibits that I want to add to the record. Exhibit A will be the staff report, Exhibit B will be the legal ad, and Exhibit C will be the various letters from the neighbors that I believe Fred has provided to the court reporter in the beginning of the meeting.

And with that, are there any members of the public here interested in this petition?

MR. REISCHL: We have a speaker slip.

HEARING EXAMINER STRAIN: Okay. Fred, I'll need to -- Blair, I'll need you to make a presentation so that the members of the public can understand what you're here for. I have three slides that you're more than welcome to reference, if you'd like. I'll show you what those are.

This is the area that is requesting the variances, and then that's a little more detail of the layout of the area.

So with that, Blair, I do have some questions, but I'd like -- if you could just briefly let everybody know what you're doing, that would be helpful.

MR. FOLEY: Certainly. Thank you very much. For the record, Blair Foley representing the petitioner. Good morning.

We're here on behalf of the church to represent the variance request to utilize these two parcels for an overflow parking area.

We recently, within the last month or so, had a public hearing approval for the parking -- the parking itself. We're here this morning for variances on particular components and code sections that are listed in the staff report. We're in full support of that. Some of them are width requirements on landscape buffers; travel width requirements, a slight reduction in that; the removal of the requirement to actually paint the gravel driveway for the directional arrows is also listed. And, again, we're in full compliance with that.

I don't really have any objections from the neighborhood. The gentleman that wishes to speak today is the pastor. He's here to speak in support of it.

One particular item that we also are asking a request for a variance is for the landscaping wall requirement. We're asking that that be removed as part of this petition and variance this morning.

You know, at this time, I really would like to turn it over to the public to speak, unless you have some other specific items you'd like me to cover that are outside of the staff report.

HEARING EXAMINER STRAIN: No, we're going to walk through some questions I have of the staff report. So I understand you are in agreement with staff recommendations?

MR. FOLEY: Absolutely.

HEARING EXAMINER STRAIN: Okay. A couple of the -- I want to walk through your variances. I mentioned this before the meeting.

The first variance you're asking for is LDC Section 4.06.02.C.4 to allow a 7-foot-wide Type D landscape buffer instead of the 10-foot-wide buffer. Now, that is probably more clearly shown on this plan here.

Do you want to tell us what sides of the project, based on that scale, this applies to so everybody in the audience knows, Blair?

MR. FOLEY: Yes.

MR. REISCHL: If I may, Mr. Strain, that would be the right-of-way, along the right-of-way.

HEARING EXAMINER STRAIN: Okay.

MR. FOLEY: Thank you, Fred.

HEARING EXAMINER STRAIN: On LDC Section 4.06.02.C, you want to allow a 7.5-foot-wide rear -- rear yard, and an 8-foot-wide side yard. So that would be -- the one to the bottom would be the rear yard at 7.5, and the two on each side will be 8 feet; is that --

MR. FOLEY: That's correct. If I may add just real quick to that, that we're proposing larger landscape material in those same buffers.

HEARING EXAMINER STRAIN: Thank you for making that clarification.

LDC Section 5.03.02 -- these speakers still are not picking up as they should -- H, to remove the requirement for a wall, and I've asked them to put on record the letters from the various neighbors who have approved the project. Have all the neighbors surrounding the area that the wall is being removed by accepted that variance, or is there any opposition that you have seen?

MR. FOLEY: Could you please go back to the overall map. I could speak to that more clearly, the neighborhood map.

HEARING EXAMINER STRAIN: The first one?

MR. FOLEY: Yeah, the first map.

HEARING EXAMINER STRAIN: Everybody, Blair -- I spelled "church" wrong. Spell check

doesn't pick up on capital letters, and Blair was good enough to point that out, so I'm hiding it.

MR. FOLEY: Thank you. The yellow is the proposed area. You could see that there are actually seven surrounding lots. We have received letters of support for six of those. The property that's located just to the right on the corner, on the bend in the drive, that's noted here as 431 and White, that particular lot has recently closed to new owners. Those two new owners were present at our neighborhood information meeting, both husband and wife, Mr. and Mrs. Pantay (phonetic), and they're in full support of this project. They are now back in Minnesota. They're not here, and they did not provide a letter in writing, but we did specifically note that in the minutes of the neighborhood meeting that they're in full support.

So to answer your question -- it's a long way around the question -- we don't have any opposition. Everybody immediately surrounding it is in support.

HEARING EXAMINER STRAIN: Excellent. Thank you.

MR. REISCHL: And Mr. Strain, on that point, if I may add -- Fred Reischl with zoning division.

When I was out posting the sign, several of the neighbors came out and spoke to me, and one of the points they made immediately was that we don't want the wall. They said that would make it appear more commercial. They want it to look more residential.

HEARING EXAMINER STRAIN: And I absolutely agree with them, and I'm glad they all came together.

And we'll have public speakers in just a moment, sir.

From LDC Section 4.05.02.L, to allow one-way isle in parking lots with 90-degree parking and a minimum of 20-foot aisle width instead of a 22. That's obvious. And I know that will be aisles -- between the ends of the parking spaces and the nearest either parking space or end of shelled area will be 20 feet instead 22 feet.

LDC Section 4.05.02.B.1, to allow grass parking access aisles to be made of shell instead of paved. I understand what that is.

LDC Section 4.05.02.G, to remove the requirement that off-street parking spaces must be striped or marked. It would be kind of difficult in shell, so we understand that one.

And from the LDC Section 4.05.02.I, to remove the requirement that one-way off-street parking aisles must have painted arrows. And I wanted to ask you about that. Those two arrows, I would -- as part of the decision process, I'll need a clean exhibit for the landscape plan and the site plan. The arrows need to come off of this plan for that exhibit. And on this plan right here, the words "one way" need to come off.

I do notice that you've got a signage in the front. I'm trying to see where it is on -- there's a "do not enter" sign, and I think it shows up right here. Now, is that going to be facing Pago -- East Pago Pago Drive so people -- or is it going to be -- how did you orient it?

It wouldn't work, because your "one way," you should be coming in that drive.

MR. FOLEY: We have "one way only." On the opposite side, we have a sign that says "do not enter." So we'll clarify that. It's a little bit of a busy plan. I'll make that revision. When we revise the arrows, I'll make that very clear for you.

HEARING EXAMINER STRAIN: What I'm suggesting is that you -- make sure this "do not enter" sign -- because obviously it would -- that would be facing inside, and you would need another one over here facing the outside --

MR. FOLEY: Correct.

HEARING EXAMINER STRAIN: -- would you not?

MR. FOLEY: Correct, that's correct.

HEARING EXAMINER STRAIN: Then I'd like to suggest you put an arrow -- a "one way" sign up front. And then this is a landscape area back here?

MR. FOLEY: Yes.

HEARING EXAMINER STRAIN: Could you put a one-way arrow pointing to the right --

MR. FOLEY: Oh, sure.

HEARING EXAMINER STRAIN: -- in that location? That way it will assure everybody driving in they can continue driving to get out of the property and not running into any cross traffic. If you could make those corrections, that would be helpful on the site plan, and make sure my office has it fairly soon. That

would be most beneficial.

MR. FOLEY: Thank you. Will do.

HEARING EXAMINER STRAIN: Let me make sure I've got all my questions answered before we go to the staff report and then the members of the public.

MR. FOLEY: May I add one thing, please?

HEARING EXAMINER STRAIN: Yes, go right ahead.

MR. FOLEY: When we were asking for the reduction or the removal of the requirement for striping the spaces, for lack of a better term, the code actually reads to designate them. We still are going to have the bumper stops, so it will be clear where the vehicles will park, so...

HEARING EXAMINER STRAIN: My understanding was you just -- the striping is the only thing you can't do.

MR. FOLEY: Correct.

HEARING EXAMINER STRAIN: That's all the issues I have. And so with that, unless you've got something else to add, Blair, we'll ask for the staff report.

MR. FOLEY: I have nothing further. Thank you.

HEARING EXAMINER STRAIN: Okay. Thank you.

Mr. Reischl?

MR. REISCHL: Thank you, Mr. Strain. Fred Reischl, zoning division.

As I stated, we have 27 letters of support, and I have heard no -- I've gotten no written objections and no verbal when I was on site.

HEARING EXAMINER STRAIN: Okay. Thank you.

MR. REISCHL: And we are recommending approval with conditions.

HEARING EXAMINER STRAIN: And the conditions have been accepted by the applicant.

MR. REISCHL: Yes.

HEARING EXAMINER STRAIN: With that we'll move to the members of the public. The first members of the public we'll ask to speak are those registered, then I'll go to unregistered speakers.

So when your name's called, if you could come up and use the mike, we'll be good.

MR. REISCHL: Curt Ayers.

MR. AYERS: My name is Curt Ayers, and I'm the Senior Pastor at the Capri Christian Church, and I want to thank you for your attention to this today and your work on this. I know this takes a long time to get all this stuff done. A lot of issues have to be taken care of, and we thank you for doing that. We appreciate that so much, your attention to that.

I just wanted to speak to what you've already spoken to, and that is that we had talked to the neighbors about what we were going to do at the neighborhood meeting.

Blair gave a presentation, also showed them all the plans and the proposals, and the only thing we ran up against was the wall. Basically, people said they didn't want the wall there. And we talked with them about what it might look like and all that, and they said it didn't fit the neighborhood, and so that was the major concern.

Everything else, we've not found anybody that has said to us, hey, we don't want you to do the parking lot. We don't want that there. They realize we need the parking, and they all appreciate our issues and our problems and want us to do it. So we've got complete support there.

And the other thing with the wall, again, was a security issue with me. We've got a parking lot across the street that we've had for several years. I've been here 23 years, and it was there before I came. It has the hedge around it and foliage and also the crushed shell, and it has served us well for several years. But the difference is that you can see through those hedges and talk to people. We're concerned about our ladies at night especially being near a wall where they can't see into the property, and that was a security issue with us.

Besides that, everything else we see is good, and we appreciate your help with this.

HEARING EXAMINER STRAIN: Well, thank you for your patience. I know you've had to come back twice, and that isn't always the most pleasant thing to do in public meetings, but thank you.

MR. AYERS: Well, with you guys it's just a pleasure, so...

HEARING EXAMINER STRAIN: And I do agree with your argument about the wall. And for the

neighborhood's benefit, this is probably a better use for that property than what is typically going on small waterfront lots or small lots in areas like this. Now they're putting in these larger mega-homes, and that probably would have been an option for this lot, or these two lots, had not the parking lot going in. So, in reality, the open space created by this parking lot's probably more in tune to the neighborhood than what could have gone there. So I think it's a good thing.

MR. AYERS: Yes, sir. Yes, sir.

HEARING EXAMINER STRAIN: Thank you very much.

MR. AYERS: Thank you.

HEARING EXAMINER STRAIN: Are there any other members of the public who would like to speak on this item? Yes, sir. Come on up. Please identify yourself.

MR. RHOADS: My name is Paul Rhoads, and I own the property that is between the church and these proposed lots.

If you would put that other map back on, that first map.

HEARING EXAMINER STRAIN: Lot 428?

MR. RHOADS: Yes, yes. That's my property. And the only thing that I wanted to say was we do not want a wall, which we've already addressed. And I just wanted to let you know that I am completely in adherence and support of these parking lots as opposed to having house after house on these lots, so...

HEARING EXAMINER STRAIN: Thank you.

MR. RHOADS: If you have any questions for me, I'd be glad to answer them.

HEARING EXAMINER STRAIN: I appreciate your input. You are definitely an affected party, so that carries relevance.

MR. RHOADS: Yes.

HEARING EXAMINER STRAIN: Thank you very much.

MR. RHOADS: Thank you.

HEARING EXAMINER STRAIN: Okay. Would anybody else like to speak?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, we will close the public hearing on this matter, and a decision will be rendered within 30 days, so you'll all be emailed a copy of the decision.

So thank you all for attending today.

MR. FOLEY: Thank you.

MR. AYERS: Thank you.

MR. RHOADS: Thank you.

HEARING EXAMINER STRAIN: ***The next item up is Petition No. BD-PL20130002460. It's Robert Barbarossa for a boat dock extension on Lely Barefoot Gardens Subdivision located within the Lely Barefoot Beach PUD.

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: Okay. As far as disclosures on my part, I have talked with the applicant's rep, Mr. Turley. I've discussed the issues many times with staff. I've received three or four different emails.

Fred, have you provided those as part of the record?

MR. REISCHL: Yes. I supplied those to Terri.

HEARING EXAMINER STRAIN: Okay. And I've reviewed the files for the Lely area and this particular location.

As far as exhibits go, Exhibit A will be the staff report, and Exhibit B will be the legal ad.

Are there any members of the public here to discuss/interested in this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Mr. Turley, I've read the entire staff report. Are there any items that you -- anything you'd like to add to the record?

MR. TURLEY: It's pretty cut and dry what we want to do, to tell you the truth.

HEARING EXAMINER STRAIN: Okay. And the boat dock extension that you previously had

was arranged in this layout so the boat had to come in from the side. What you've actually done is provided a method for the boat to come in straight on from the waterway.

MR. TURLEY: That's correct.

HEARING EXAMINER STRAIN: And the reason the extension -- the dock is out further from the shoreline in this case, in both cases, has been the mangrove fringe; is that correct?

MR. TURLEY: That's correct. The mangrove fringe extends out as far as 23 to 25 feet in certain areas.

HEARING EXAMINER STRAIN: Okay. I've checked your boat draft. The maximum draft your boat -- the boat that's being utilized there or for the boat that is allowed to be there if three feet. You're in conformity with that, so at this point I don't have any other questions.

There were some conditions on the original dock extension for the previous location of the dock, which is that location there. I'll review those with you real quick.

The first one was a condition of permitting with the U.S. Army Corps of Engineers and the DEP. That is something that is outside the purview of the county at this point, so that condition really isn't applicable in this particular case. You've got to do what you've got to do with those agencies, and the county's got to do its permitting.

MR. TURLEY: It should be issued within a week.

HEARING EXAMINER STRAIN: Well, the other conditions were that you had to have the reflectors and house numbers.

MR. TURLEY: Yes.

HEARING EXAMINER STRAIN: That condition will remain; at least one manatee area sign. That condition will remain; and that all the prohibited exotic species will be removed on that.

MR. TURLEY: Exactly.

HEARING EXAMINER STRAIN: So I will add those three conditions back into whatever decision comes out of this office.

MR. TURLEY: Sounds good to me.

HEARING EXAMINER STRAIN: Okay. With that, I don't have any other questions, Mr. Turley. I'm going to ask staff for their report and check again to see if there's any members of the public that want to discuss anything.

Fred?

MR. REISCHL: Fred Reischl. Besides the letters that I submitted to you, I had a neighbor walk in yesterday afternoon, and he had heard that there was going to be a 52-foot boat moored here. I told him that there wouldn't. And I showed him the graphics that Mr. Turley supplied, and he had no issues when he left.

HEARING EXAMINER STRAIN: Okay. Thank you, Mr. Reischl.

By the way, on this overhead map, the letters of objection, I believe, came from mostly this area here, if I'm not mistaken.

MR. TURLEY: Yeah, that's correct.

HEARING EXAMINER STRAIN: And I did check the distance that's approximately to the nearest one, which would be the No. 4. That's about 396 feet or something to that regard. So I just wanted to make that noted.

And with that, I don't have any other questions.

Mr. Turley, thank you. A member of the public is going to speak, and if there's a need for rebuttal, I'll call you back up.

MR. TURLEY: Thank you very much.

HEARING EXAMINER STRAIN: Thank you.

Any members of the public wish to speak? Sir, come on up and please state your name for the record. (The speaker was duly sworn and indicated in the affirmative.)

MR. BARBAROSSA: My name is Bob Barbarossa.

HEARING EXAMINER STRAIN: Oh, sir. You've got to walk up. I'm sorry these mikes -- thank you.

MR. BARBAROSSA: My name is Bob Barbarossa, and I'm the one that's requesting the dock

extension.

The only thing I wanted to just offer, I think what started a couple letters that you-all maybe received -- I read a couple. I think there was a misinterpretation of the sign that was out in our front. And the reason I say that is about the middle of last week, the gentleman, Mr. Gilchrist, who wrote one of the letters, came over to my house and introduced himself, and the very first thing that he said was his wife was concerned that she could walk across the way on our dock.

And I said, well, why would you think that?

And he says, well, you're moving your dock, your existing dock, out 36 feet farther into the bay.

And I said no, that's not what we're proposing to do. But that's the way he interpreted it, the sign.

So I took him out to our dock, and we spent about a half an hour and paced off our docks and the neighbor's dock just to the south of us, which is very much like the one we're proposing to build.

And the one thing that he did notice is that the way the land and the mangroves go to the north from our neighbor's southerly dock, it actually comes in maybe four or five feet.

And I thought he was pretty much satisfied -- but he understood what we were proposing to do, but then he mentioned when he was leaving -- I said, are you -- whether you approve of this or not, do you understand what it is that we're actually going to be doing?

And he said he did, but he said his wife was still concerned about it.

And then when he was leaving, he mentioned, you're going to get some more objections. And I just simply asked why he thought that. And we'd had a neighborhood bocce ball tournament a week ago Sunday, and he said he'd talked to some of the neighbors about his concerns with what we were doing.

So I just wanted to throw that out, that I did spend some time with the gentleman that you mentioned across the way. And I think if nothing else, at least he did understand what we were proposing doing when he left, so...

HEARING EXAMINER STRAIN: Thank you very much. And I find that communications sometimes with people who are objecting help clarify a lot of issues.

And Mr. Reischl had a similar conversation with a neighbor, and after he finished explaining it, the neighbor was not so concerned. The mere fact that nobody is here in objection to it may lend some support that they just need some clarification.

Their distance from your dock certainly is much greater than what most people are concerned about from that distance away.

So I appreciate your clarification in trying to explain to Mr. Gilchrist what's going on with your extension. Thank you.

MR. BARBAROSSA: I appreciate your efforts. Thank you.

HEARING EXAMINER STRAIN: Thank you, sir.

Anybody else, members of the public, like to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: Okay. Hearing none, we'll close the public hearing on that matter, and a decision will be rendered within 30 days. Thank you.

Before we continue, I'm going to bend those mikes down because they're not getting picked up.

I just noticed everybody was just about a couple inches too far back from those microphones. We're having trouble. They're brand new, and they're just not picking up like they're supposed to. We'll get through it, though.

***The next item up on the agenda is Item 9D (sic). It's Petition No. PDI-PL20140002611. It's for My Other Place, LLC, which is at the North Naples Research and Technology Park Planned Unit Development.

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.

Okay. As far as my disclosures, I have talked with staff, I have reviewed all the files, and I spoke with a lady this morning who is one of the neighbors to the project.

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

With that, are there any members of the public here who would -- to address this issue? I know the one lady is, so I'll ask that the applicant make a brief presentation. You'll need to come to the microphone, identify yourself for the record, if you could.

MR. DARBY: Good morning.

HEARING EXAMINER STRAIN: Good morning.

MR. DARBY: Are we getting it now?

HEARING EXAMINER STRAIN: All that work to lower those.

MR. DARBY: I'll move them back down when I leave.

My name is Steve Darby, for the record. I'm with Darby Engineering, here for the petitioner.

What we're proposing in this PDI is -- the workforce housing was assigned back in 2004 from Lots, what is now, 13 and 14, to Lot 1. We are proposing to move that workforce housing element from Lot 1 to the same ownership of Lot 7.

The workforce housing current allowable in the code at the time of the PUD was 12. It is increased in the current code to 15, my understanding, so that was the increase that we're doing for the allowable.

HEARING EXAMINER STRAIN: Well, actually it's increasing -- the code allows you to request up to 16.

MR. DARBY: Or 16; excuse me.

HEARING EXAMINER STRAIN: And your PUD is allowing you only to go to 12.

MR. DARBY: Correct. And so we're accepting the increase and the allowable.

HEARING EXAMINER STRAIN: Right. It's just a -- it's more of a text clarification to a change in the code, which will bring us into the PUD corrections that have been filed and are in error. We're going to go over those errors in a few minutes. They won't affect you negatively at all. I just want to make sure they're accurate.

MR. DARBY: Sure, okay.

HEARING EXAMINER STRAIN: Anything else?

MR. DARBY: That's all I've got. That's pretty much the gist of what we're trying to do.

HEARING EXAMINER STRAIN: And the lake that's in the back, there is a lady here who was concerned about that in the preserve area. And from my records, you're not touching any of that area; that's not changing at all.

MR. ADDISON: No, sir. No Water Management District, any easements or anything is changing.

HEARING EXAMINER STRAIN: Okay. Thank you very much. With that -- that's all there is too it for now. I'll have some questions. My questions are more of staff. If I have any of you, I'll ask you to come back and address them.

MR. DARBY: Thank you.

HEARING EXAMINER STRAIN: And, Fred, I know you may have a staff report. So you want to tell me that, and then I've got to go over some corrections that I think are needed in the document.

MR. REISCHL: Thank you. Fred Reischl, zoning division. I received three phone calls, and all of them were concerned -- they were from residents of Sterling Oaks, and they were all concerned with the lake and the preserve being altered. I told the people that this was a change to Lot 7 and the stormwater pond, and the preserve would not change. And, as we said, one person showed up. The other two seemed to be satisfied.

HEARING EXAMINER STRAIN: Excellent.

And, Fred, last night I was going over an email that David Weeks had sent to you, and I got copied on it. And after I read it, I went back and checked some of the PUD changes, and they're not consistent with David's email. And I'll walk you through those, but I want to read his email for the record.

It's from David Weeks dated March 24th. He's telling you that the eligible density increases due to a 2013 change in the Future Land Use Elements' Density Rating System Statement of Compliance No. 4 and 5. Now, that's in the beginning part of the PUD.

But the requested density does not change. It remains at 12 DUs.

MR. REISCHL: Correct.

HEARING EXAMINER STRAIN: That's Section 3.2 and 7.8(A). Well, both of those are struck through -- the 12 is struck through and 16 is written in. Those two shouldn't have changed. They should be the

same. They should be 12.

MR. REISCHL: They should be 12.

HEARING EXAMINER STRAIN: Right. So I'll show you those, and I'll talk about those, and we'll address those in a minute, but I want to make sure that we don't change those as was in -- that's in the documents that were published.

MR. REISCHL: No, that's correct. This change -- the change in eligible density was because of the removal of the traffic congestion area, and so that changed the eligible density, but it didn't change the request.

HEARING EXAMINER STRAIN: Right. They're still limited to exactly what they had originally.

MR. REISCHL: Correct.

HEARING EXAMINER STRAIN: That has not changed.

MR. REISCHL: Correct.

HEARING EXAMINER STRAIN: So we need to go back and change 3.2 back to the position where it was before the strikethrough.

In the workforce housing section that is in the staff report, it says 7.4, workforce housing, then it changes from 12 to 16. It really should read 7.8, workforce housing. And the 12 should remain and the 16 strikethrough -- 16 should not be there.

The section in the PUD that is workforce housing is 7.8, not 7.4. I don't have it on the overhead. If you look in your staff report -- and it's on Page -- well, it's the strikethrough section of the staff report where you've got your changes to the PUD.

MR. REISCHL: Do you know which PUD section?

HEARING EXAMINER STRAIN: Well, if you -- after Page 10 of 10 in the staff report, so it would be Page 11. You stated the sections of the PUD that we're changing. You started out with Section 1, statement of compliance. That went on for three pages, and that's fine. Then you got into the fourth page, which is Section 3.2, project description.

MR. REISCHL: Okay.

HEARING EXAMINER STRAIN: And there it says 12 changes to 16. That's one that we cannot change. And then the next page is titled Section 7.4, workforce housing. But in the ordinance, PUD ordinance, workforce housing is in Section 7.8. So I think the 7.4 needs to change to 7.8.

And then the first paragraph says, the developer shall provide up to, then it strikes 12 and replaces it with 16. That should go back to 12; is that --

MR. REISCHL: I appreciate that. Both David and I read this through, so I appreciate you catching that.

HEARING EXAMINER STRAIN: Well, I just wanted to make sure that my catch was right. And if you're in agreement, that's fine. We'll get this cleaned up for the final draft and the decision.

MR. REISCHL: Right, because that says "shall provide," and that's not eligible. That's hard and fast, yes.

HEARING EXAMINER STRAIN: And David's email specifically spoke to 7.8 and 3.2. So with that, I have no other questions of staff. I don't have any other questions of the applicant.

Is there any members of the public that would like to speak on this particular project? Ma'am?

MS. PEJKO: While I'm here.

HEARING EXAMINER STRAIN: Come on up to the microphone, and please state your name for the record.

(The speaker was duly sworn and indicated in the affirmative.)

MS. PEJKO: I just want to thank everybody that's listened to me so far. I live in this area, and I bought the land about 20 years ago. And I look out at this little section of pond, and I enjoy it very much. I have the nature, and I have everything that Naples has to offer.

What I didn't want to see happen was anything happen to the water, the pond that I look at, because it would change just the way I feel about Naples. Naples is kind of a community where it's small enough to be enjoyed and not too large to be a large development or a large city or an industrial area. And what I don't want is to see an industrial-like look.

I don't mind if they do things that are environmental friendly, have grass and trees and everything so

that the natural flora and fauna can dwell there. I like looking out and seeing the deer and the birds and everything like that.

And, of course, I'm an old lady, so I would like to see that stay around for as long as I live at least. So I appreciate the opportunity to speak to you and tell you what I would like to see happen in that area. And I thank you for listening to me:

HEARING EXAMINER STRAIN: Thank you for your time, ma'am. And I think a lot of us might share your concerns.

And this young lady needs you to spell your name.

THE COURT REPORTER: Your name?

MS. PEJKO: Irene A. Pejko, P-e-j-k-o.

THE COURT REPORTER: Thank you.

HEARING EXAMINER STRAIN: Thank you very much.

Is there anybody else that would like to speak on this matter?

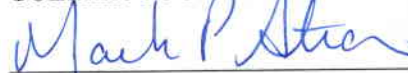
(No response.)

HEARING EXAMINER STRAIN: If not, we will close the public hearing, and a decision will be rendered within 30 days.

So thank you all for your attendance. We have no other business. There are no other members of the public here to speak. And 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 9:39 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST:

DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 5-14-15, as presented ✓
or as corrected _____.

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