

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
April 23, 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 :

EXHIBITS	
DESCRIPTION	PAGE
ZVL (CUD)-PL20150000328	
A - Staff Report	8
B - Legal Advertisement	8

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PROCEEDINGS:

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, April 23rd 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: Okay. A couple of housekeeping matters. Individual speakers will be limited to five minutes unless otherwise waived.

All decisions are final unless appealed to the Board of County Commissioners, and a decision will be distributed within 30 days.

In review of the agenda, I believe most everybody is here over the first item on the agenda, which is Petition No. BD-PL20140002207, and it's the Real Estate Technology Corporation of Naples Dockside Residential Planned Unit Development.

That particular item was scheduled for last week and continued to this week. I don't know how many of you are -- I think everybody is here for that one. Many of you live in the area.

A couple of weeks ago you may have seen a fellow with a long, white beard out in the water in front of this property trying to check the depths and making sure it was consistent with some documentation we'd received. That was me.

As a result of that review and input at the last meeting from other residents in the area and letters that I have received, this particular issue is considered controversial, and it's raised to a higher level of public concern. I moved it to the Collier County Planning Commission's agenda.

So I am -- it will not be heard here today, but it will be heard at some future date at the Collier County Planning Commission. And that's a broader public review, and depending on the outcome of that particular meeting, it may be heard by the Board of County Commissioners.

Now, you-all will be notified, or there will be the required advertising. And I'll ask Ray -- Ray's our zoning director. He can explain the advertising that's going to reoccur so you'll be aware of the new dates.

And, Ray, would you mind.

MR. BELLOWS: For the record, Ray Bellows.

The required advertising for these types of land use petitions involve a newspaper notice, and that's typically in the Naples Daily News. We also send out property notification letters. Some of you may have received them, and my understanding is some of you may not.

There is a distance requirement from the property, that property owners who are listed in the property appraiser's list of owners will get notified if you're within 500 feet of the property. If you're greater than 500 feet away, you're not going to get a written letter.

There will also be a sign placed on the property notifying of the current -- or the proposed new hearing date once it's set.

I talked to Mr. Reischl, who's the head planner for this project. He has not told me he has a new date yet. So as soon as it's set, we will let you know. And if you want, you could -- after the meeting -- and it shouldn't be much longer -- I will be glad to take your name and phone number and call you back with that information.

HEARING EXAMINER STRAIN: Okay. At this meeting today, there is one other case scheduled, which we will move into. It would be more beneficial for you-all to show up at the Planning Commission

meeting when it does get scheduled and express your concerns to the Planning Commission. That would be very important.

Today's efforts to express any concerns here wouldn't be available to them. So you'd be better off just holding your comments to that particular meeting; however, it's important that if you want to have -- be separately contacted, you provide Ray -- we'll be finished with this meeting in five or 10 minutes with the one case that remains. It's a small case, and we should be over with it rather quickly.

Then, if you could just hang on for a minute, Ray can get your addresses and contact information, and we can make sure you're aware of when the next meeting will be held.

This is actually a better way to go. The other meeting will be televised. It will be in front of a board of six or seven people. You'll have ample opportunity to express yourselves, and it will be good for the neighborhood to be able to have that opportunity.

So with that, I'm going to move to the rest of the agenda before I get back to public comment.

MR. BELLOWS: Mr. Strain, just one question. There was one person who did request to speak. Should that be part of the public comment?

HEARING EXAMINER STRAIN: Yes. We'll move everything to public comment. Again, if you do speak on that particular issue, it's not -- we're not going to be hearing it today. You're more than welcome to speak. We have a public comment section for that, but it may not be as productive as if you wait for the Planning Commission meeting.

So with that, we'll move into the next agenda item, which is approval of the prior meeting minutes. I've reviewed those. They're okay to be recorded as submitted.

And then the advertised public hearings. 4A was the boat dock, Dockside Residential Planned Unit Development, which I just acknowledged will be moved to the Planning Commission and will not be discussed on this agenda for that agenda item.

***4B is Petition No. ZVL (CUD)-PL20150000328. It's the Livingston and Pine Ridge, LLC, the Baldrige PUD, for a comparable/compatible analysis.

All those wishing to testify on behalf of that 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. Exhibit A for this item will be the staff report. Exhibit B will be the legal description.

For disclosure, I have none. I've read the full Planning Commission -- I mean, staff report. There's nothing in the staff report that required additional research on my behalf.

So the only question I have at this point is if the applicant would mind coming to the mike, and could you state your name for the record.

MS. GARRETT: Good morning. My name is Callhan Garrett. I'm an attorney with Forsyth & Brugger.

HEARING EXAMINER STRAIN: Okay. I have read the entire staff report. I don't have any questions. I wanted to know if you had anything else you'd like to add to the record.

MS. GARRETT: No. I read it over, and I read in your findings that dental office was also approved, so that's the only thing I'd like to add that we didn't have in our correspondence with you.

MR. BRUGGER: Establish the course of CRS.

HEARING EXAMINER STRAIN: I'm sorry. The --

MS. GARRETT: Oh, and we were asked to read into the record, the applicant is Livingston and Pine Ridge, LLC; the manager of that is CRS Management, LLC; and John Brugger, Esquire, is the special officer of CRC (sic) Management.

HEARING EXAMINER STRAIN: Okay. And you were asking to have a comparable/compatible analysis verified for 8041, which is a chiropractic clinic and office.

MS. GARRETT: Yes, sir.

HEARING EXAMINER STRAIN: What was your point concerning the dental office?

MS. GARRETT: We read in your report that a dental office was also approved under that, and we didn't have that in our correspondence with you. So that's the only thing I wanted to highlight on my end.

HEARING EXAMINER STRAIN: Okay. It's in the staff report, so it will be part of the record.

MS. GARRETT: Right.

HEARING EXAMINER STRAIN: It was a prior zoning verification analysis, from my understanding.

MR. BELLOWS: That's correct.

HEARING EXAMINER STRAIN: Okay. You just wanted to acknowledge that you'd seen that as well?

MS. GARRETT: Yes.

HEARING EXAMINER STRAIN: That's fine. I have no other questions. If you have nothing else to add to the record, I don't need a formal presentation since I did read the entire report. And there's no public speakers, so I believe we're good to go at this point.

MS. GARRETT: Great. Thank you.

HEARING EXAMINER STRAIN: Thank you. With that, is there a staff report?

MR. BELLOWS: No staff report other than that we are recommending approval.

HEARING EXAMINER STRAIN: Okay. I have no other conditions or questions. With that, we will be notifying you within 30 days, probably within a week, the outcome of this meeting.

Thank you.

MR. BRUGGER: Thank you.

MS. GARRETT: Thank you.

HEARING EXAMINER STRAIN: Now, with that, we have other business, of which there is none, but there are -- there is an option for public comments. Again, if you wish to comment about the Dockside residential here at this meeting, that's fine, but I'm not the one that's going to be hearing it now. It's going to be the Planning Commission.

So I'll entertain any comments you want to make while you're here, because this is public comments. And if you want to wait until I adjourn the meeting, then Ray can start collecting your names and numbers, and we can make sure you're notified of the future meeting.

So does anybody wish to comment at this time? Yes, sir. Is there -- come on up and state your name for the record.

MR. HUFF: Good morning.

HEARING EXAMINER STRAIN: Good morning. Yeah, hopefully they'll pick your voice up. You have to be a little bit close to them. There you go.

MR. HUFF: There we go. My name is David Huff. I'm current president of Riverwood Estates HOA.

I sent a letter in on April 7th, which was received by the head planner, and I had an email confirmation of that. And a couple days later I got a confirmation -- or an email that said the meeting from the original date was changed to this date and a suggestion that I pass the word. And I thought, is it my responsibility to pass the word? I don't even know who got letters. So we did pass the word to as many people as we could.

But the legal requirement, evidently, is 500 feet; is that --

HEARING EXAMINER STRAIN: Ray, the legal requirement on this one is 500 feet?

MR. HUFF: That's how people got a notification? Five hundred feet from the site, that was supposedly the legal requirement for notification?

MR. BELLOWS: This hearing today?

HEARING EXAMINER STRAIN: For the Dockside residential.

MR. HUFF: For the Dockside project.

HEARING EXAMINER STRAIN: For the boat dock extension for Dockside, was it a 500-foot notification?

MR. BELLOWS: I'm not the planner for the file, but it should have been.

MR. HUFF: Okay. Well, I'm just -- I'm going to suggest one thing. When you're working on a waterway, everybody has an interest in that that's on the waterway and people that have access to that waterway with a private dock, so I don't think that was adequate amount of notification.

MR. BELLOWS: And I understand your concern, and that's why the county has three forms of advertising as well, and one is the newspaper ad. The other is the sign on the property that is on the waterway

side so people boating past can see it as well.

MR. HUFF: Okay. When the petitioner requested the zoning change, I think, about 2013 -- I'm not quite sure the exact date -- a number of these folks and myself were at one of the hearings. There were a lot of questions, but I don't -- I'm not aware of anybody that objected to that. I think the zoning to PUD is probably beneficial to the county. It's beneficial to our area. And that's fine, but I have not had one person in our development tell me they think this dock extension to 30 feet is a good idea, not one. They think it's going to be a navigation hazard.

Now, I've read some of the material from the case, and I don't agree with it. And I just want to state for the record a couple things. Number 1, they're talking about a 2.77-foot water depth at this dock location and the 2-foot draft boats that they're going to put in there. Anybody who's been down Henderson Creek into Rookery Bay knows at mean low water you cannot run a 2-foot draft boat. So I think there's a spoof there somewhere. If you did it once, you won't do it again, because you're going to be hung up on an oyster bar or rocks or sandbar.

So for the petitioner to say we want to put 2-foot draft boats in there and we need water deeper than 2.77 feet at mean depth is a spoof.

I've done it. My draft -- my boat's about 1.5 feet, and I got stuck, so I know it can't be done. You only do it once, because it's a difficulty coming out of there.

So I think for them to ask for a dock extension because the water's too shallow, No. 1, they should be looking at boat lifts if they're going to put their boats in the water, and they can't get out of there until you get mid to high tide anyway.

So for them to say we need this extension because the water's too low -- or at 20 feet is -- it's BS. So I want to make that point.

And another thing, I guess I would ask the question, what would prevent the next property owner from asking for the same consideration to go out an extra 10 feet? Pretty soon you've got a channel that goes like this, you know, if those get approved. I don't know what the criteria for approval or not approval is other than those five points on the criteria that you had in your -- that was in the documents that I saw.

And, lastly, I think if this is going to be rescheduled for the Planning Commission --

HEARING EXAMINER STRAIN: Yes, sir.

MR. HUFF: -- it should be scheduled when the homeowners are here, and that's probably now going to be late October, early November. Now, that delays things, I understand that, but delays, delays, delays. To do it now -- I think of the people that are here, there's more than 50 percent of them are seasonal, including myself. And to put this hearing in late May or June or whatever, it's going to limit a lot of people's opportunity to comment on this, so I would just ask for that consideration.

HEARING EXAMINER STRAIN: I appreciate your comments, and I -- you may remember when this Dockside came through for its PUD with the Planning Commission, I was chairman. I'm still chairman.

MR. HUFF: Okay.

HEARING EXAMINER STRAIN: So I'm familiar with the case.

MR. HUFF: Okay.

HEARING EXAMINER STRAIN: I will not be standing in on this one when it goes before the Planning Commission because of my position here. So this one the Planning Commission will hear on their own.

It's important that if you can't be there that you send the planner, Fred Reischl, an email or something, some indication or a phone call letting him know your position on this so that he can express that to the Planning Commission.

Those documents carry weight with the Planning Commission; they carry weight with me; they carry weight with everybody.

Now, if the Planning Commission -- when the Planning Commission hears it, no matter what way it goes, if it's for the applicant or against, it can be appealed to the Board of County Commissioners. If it's against the applicant, they can appeal it. If it's for the applicant and you disagree with it, you can appeal it.

So the Board of County Commissioners, then, gets to hear it. Under that scenario, it's hard to keep it in a time frame that's around when everybody may be here. It just happens to work out as the time frames

allow. If it were to be appealed before the Board of County Commissioners this late in the year, they probably couldn't hear it until September or October anyway because they're on vacation during the summer. But that's the process that this is going into.

Your letter was important in part of my decision making to move this to the Planning Commission. Because of your letter and the representation that you put forth for the broad number of people, it certainly elevated this to a higher level of concern.

Getting the people to attend this meeting and getting as many bits of information, whether it be email, phone calls or whatever, and attendance at the Planning Commission meeting would be equally important. So I certainly appreciate it, and I hope that you are able to convince the Planning Commission to make the right decision.

MR. HUFF: Oh, I'll put these comments in a letter again if I'm not able to make that meeting if it's -- because I won't be back till towards the end of October. So if it's earlier than that, then I'll be sending them in.

HEARING EXAMINER STRAIN: Well, and I'm sure staff will express to the Planning Commission that at this continuation meeting here a great number of people showed up. And if you'll stay and provide your email addresses, that will just confirm that all of you did show up here today, so that would carry some weight.

MR. HUFF: Everybody can do that before we leave.

HEARING EXAMINER STRAIN: We appreciate it, sir.

MR. HUFF: Thank you.

HEARING EXAMINER STRAIN: And sorry for the confusion in continuing it, but it was actually the better thing to do in regards to the amount of people concerned about this.

MR. HUFF: Okay. Thank you.

HEARING EXAMINER STRAIN: Thank you very much.

Does anybody else want to speak on this issue at this time?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, there are no other issues for today's agenda, so 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 9:18 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 .

April 23, 2015 HEX Meeting

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