

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
June 25, 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

PAGE	DESCRIPTION
	Item 4A - Petition No. BDE-PL20140002838
5	A - Staff Report
5	B - Legal Advertisement
5	Letter Dated June 15, 2015 by Richard and Kendra Maxwell
	Item 4B - Petition No. SV-PL20140002329
14	A - Staff Report
14	B - Legal Advertisement

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone.
 Welcome to the Thursday, June 25th meeting of the Collier County Hearing Examiner.
 Would everybody please rise for the Pledge of Allegiance?
 (The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: For some housekeeping matters, individual speakers will be limited to five minutes unless otherwise waived. Decisions are final unless appealed to the Board of County Commissioners and a decision will be rendered within 30 days.

The review of the agenda for today is, we have two petitions. 4A is a petition for a boat dock extension on Isle of Capri, and 4B is for a sign addition variance at the Gregg Appliances. There are no changes to the agenda.

Item 3 is the approval of prior meeting minutes. I have reviewed those. They are fine, to be recorded as -- as they stand and read, and that will bring us to our first advertised public hearing.

And what I'll asking for first is there any members of the public here to discuss the Randy Sears boat dock extension on Isle of -- Isle of Capri. It's 164 Pago Pago.

Okay. Kris, if you don't mind coming up to the podium?

I have read the staff report in detail. I will not need a formal presentation unless you have things you want to add to the record.

MR. THOEMKE: Not at this time, no.

HEARING EXAMINER STRAIN: Okay. A couple of items.

***Exhibit A to this action, it is BDE-PL20140002838.

Will all those wishing to testify on behalf of the subject, please rise and be sworn in by the court reporter.

And that would be you, too, Kris.

(The speakers were duly sworn and indicated in the affirmative.)

HEARING EXAMINER STRAIN: Thank you.

THE COURT REPORTER: Can I have your full name, please?

MR. THOEMKE: 239 --

THE COURT REPORTER: No, no. Your full -- your name, your full name.

MR. THOEMKE: Oh, Kris, K-r-i-s, T-h-o-e-m-k-e.

HEARING EXAMINER STRAIN: Okay. Disclosures on my part. I've talked with staff, I've reviewed the files. I have one letter of objection from Richard and Kendra Maxwell, which I have given to the court reporter to add to the record.

There are two exhibits that will be entered into the record. One is Exhibit A. It's the staff report. The second will be Exhibit B, the legal ad.

And, Kris, what I've done is put some of the slides above, are from -- excerpts from the staff --

MR. THOEMKE: Right.

HEARING EXAMINER STRAIN: -- report. And I -- there's one I want to particularly note out. I did have several questions for you since you -- you don't have anything to add, and I have read the staff report. And I won't need to get into things that the staff report generally talks about.

There was a staff recommendation. Did you have any objection to that?

It is concerning the fact you won't get a boat dock, that the permit has to coincide with a building permit.

MR. THOEMKE: The building -- they have -- I believe they have the building permit number. I'm not sure if they actually have the permit issued --

HEARING EXAMINER STRAIN: Yeah.

MR. THOEMKE: -- but he understands that, yes.

HEARING EXAMINER STRAIN: Okay. I also noticed that you were taking out the rip rap that is currently there?

MR. THOEMKE: Yeah. That has been done and the seawall has been put in place already.

HEARING EXAMINER STRAIN: The only question I have on the remainder of your packet is -- has to do with this particular detail.

Do you see where you have your 15-foot sign setback --

MR. THOEMKE: Yeah.

HEARING EXAMINER STRAIN: -- and the line comes down and splits the piling?

I believe the 15 feet has to go to the outside of the piling.

And I'll ask staff to confirm or tell me differently.

Mike?

MR. SAWYER: Yes.

For the record, Mike Sawyer, Project Manager for the petition.

It's our understanding that the pilings themselves will be part of the boat dock facility itself; so, therefore, it would have to be on the inside of that.

And, I apologize. Staff did not catch that as part of our review.

MR. THOEMKE: We can -- we can revise that drawing.

HEARING EXAMINER STRAIN: As such, I'm going to ask you. Do you have any objection to that?

MR. THOEMKE: No.

HEARING EXAMINER STRAIN: Okay.

MR. THOEMKE: That's easy enough to do.

HEARING EXAMINER STRAIN: What I will need from you is a revised exhibit that you have here just with that correction made to it.

MR. THOEMKE: Yep. I'll get that to you.

HEARING EXAMINER STRAIN: Okay. Just checking to see if I had anything else.

The one letter of objection, I'll read the three points that they made and ask for staff comment.

The first point was that they were concerned that this would set a precedent that would allow others around the bay to do so, appreciably changing the bay for the worst. Obviously the last few line -- few words are their opinion.

But from your research, Mike, and then the crafter line, Kris, did you find other similar configurations in this bay area already existing?

MR. SAWYER: Yeah. We -- we actually measured out with the Property Appraiser's website. The dock that's just immediately -- or basically north and east of this, actually comes out -- we measured it at about 41 feet, which is pretty comparable to this.

I believe there are also a couple of other docks that have a similar projection out into this particular waterline.

HEARING EXAMINER STRAIN: Okay. And, Kris, I think this was done by your office?

MR. THOEMKE: Yeah, I did that. And once again, this is off the Property Appraiser's website.

And I concur with what Mike said. I measured it at 40. And also the one to the southwest there on the angle, that one also measured out to right around 40 feet, plus or minus, with the accuracy of the aerial there.

HEARING EXAMINER STRAIN: Okay. Thank you.

One of the other points that the objection letter noted was that it would negatively affect their property values as their views of the waterways would be affected.

Heidi, excuse me.

MS. ASHTON-CICKO: I'm sorry.

HEARING EXAMINER STRAIN: Mike, did you have any information concerning property values submitted to your office?

MR. SAWYER: No. Nothing as far as property values and, quite honestly, it does come up periodically that, you know, people perceive that there is a property value change. That usually occurs with any kind of selling petition that might even come through our offices. But, no, we did not receive anything like that.

HEARING EXAMINER STRAIN: Kris, the value of this dock facility and, potentially, the boat that's going to be docked there, do you have any estimate of that?

MR. THOEMKE: No, I don't. The boat could be, you know, very -- variable depending upon, you know, what amenities are on that boat and everything. It may be anything from \$60,000 to a couple hundred thousand dollars, I would think.

HEARING EXAMINER STRAIN: Well, that impact is it's going to increase the value of the property through these additional facilities that you're going to be building on there, so you --

MR. THOEMKE: It will increase the value of that particular parcel, sure.

HEARING EXAMINER STRAIN: Okay. The third comment was that added usage, parenthetical, two boats, could negatively affect the dolphins and manatees.

And I'll ask staff, is there any restriction on the number of boats that can be asked for on a single family lot such as this?

MR. SAWYER: The normal number of vessels that are allowed are two for a single family residence such as this.

HEARING EXAMINER STRAIN: And, Kris, you're not expecting any more than two boats based on the submittal then.

MR. THOEMKE: No.

HEARING EXAMINER STRAIN: You wouldn't be able to do so. I just wanted to --

MR. THOEMKE: There wouldn't be room for anything else, I don't think.

HEARING EXAMINER STRAIN: No. I just wanted your confirmation, so...

MR. THOEMKE: Yeah.

HEARING EXAMINER STRAIN: Okay. I think that is all the questions I have.

That's it.

MR. THOEMKE: Okay.

HEARING EXAMINER STRAIN: Thank you very much, Kris. I appreciate it.

MR. THOEMKE: Thank you.

HEARING EXAMINER STRAIN: Is there a staff report, Mike?

MR. SAWYER: Yes. We've got a staff report, last revised 6-10-15. We're here to answer any questions you might have. We are recommending approval of the petition.

HEARING EXAMINER STRAIN: The only -- the only item for staff that I saw was you have on the applicants, and it's not just for this case, but apparently it's for quite a few, signed and a testament that the -- and I'll read it.

It says -- and it's on Page 14 of the staff report, and it's a testament on the secondary criteria page, Page 6 of the application.

I understand that the -- if this dock extension petition is approved by the Collier County Planning Petition, in effect the property owner may file an appeal within 14 days of the hearing. If I proceed with construction during this time, I do so at my own risk.

I would suggest that we modify that language to coincide with what this office has and does in regards

to that if that is a necessary part of the application. So, maybe that could be taken a look at by staff and be corrected. It appears twice in your staff report.

MR. SAWYER: Yeah. That's -- that's part of our -- our standard application. And you're right. We probably need to take a second look at that, make sure that it is consistent.

I'm sure that came from the process that we used to have for the Planning Commission. Now that it's going through your office, we need to review that.

HEARING EXAMINER STRAIN: The appeal period is 30 days, just so you know that needs to be fixed.

Thank you.

Kris, appreciate your time.

MR. THOEMKE: All right.

HEARING EXAMINER STRAIN: Thank you. A decision will be rendered probably within ten days. We got 30, but we usually get it quick.

MR. THOEMKE: All right. Thanks.

HEARING EXAMINER STRAIN: Thank you very much.

***The next item up is Agenda Item 4B. It's Petition Number SV-PL20140002329. It's the HHGregg sign variance.

All those wishing to testify in behalf of this subject, please rise and be sworn in by the court reporter. (The speakers were duly sworn and indicated in the affirmative.)

HEARING EXAMINER STRAIN: Thank you.

The disclosures on my part, I have met with staff, gone through the files and attended the pre-app. I also have thoroughly read the staff report. Exhibit A will be the staff report, Exhibit B will be the legal ad.

Is there a representative of HHGregg here?

MR. BOYD: Good morning. My name is Michael Boyd, Petitioner.

HEARING EXAMINER STRAIN: Thank you.

I don't have any questions for you. I've read the staff report. I didn't know if you had anything you wanted to add to the record.

MR. BOYD: The only thing I could add is upon mailing the -- a letter to the adjoining property owners, I did receive three phone calls from residents at Banyan Woods, which abuts it on the back.

Their only question is where they were concerned that HHGregg was trying to add a sign on the rear of the building facing their properties.

When I explained to them that, no, the property that was going to be added on the front facing Airport Road, they had no objections.

HEARING EXAMINER STRAIN: Okay. Mike, have you received any objections from anybody; phonecalls, e-mails, letters, anything at all from staff?

Or, I'm sorry. Nancy.

MS. GUNDLACH: Good morning. We have not received any letters of objection.

HEARING EXAMINER STRAIN: Okay. And I don't have any other questions.

Do you have any objections to staff's recommendation, sir?

MR. BOYD: No, I do not.

HEARING EXAMINER STRAIN: Okay. Thank you for your time.

Is there a staff report, Nancy?

MS. GUNDLACH: Yes. Staff has recommended an approval of the additional sign subject to a maximum of 23 square feet.

HEARING EXAMINER STRAIN: Okay. Are there any members of the public wishing to testify on this item?

Not here.


With that, we will close that hearing and a decision will be rendered within 30 days, probably within ten days if we can keep up to our normal process here. So, hopefully, we'll get it much shorter than 30.

With that, that takes us to the end of today's agenda.

There's no other business. I have no public comment, 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 9:14 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST:
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 7-23-15, as presented
or as corrected .

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