

July 23, 2015 HEX Meeting

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
July 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

TAKEN BY: Cherie' R. Nottingham, CSR
Gregory Court Reporting
2650 South Airport Road
Naples, FL 34112

EXHIBITS

Petition BD-PL20140001542 Demaret

A.....Staff Report.....Page 4

B.....Legal Advertisement,..... 4

C.....Amended Boundary Survey.....4

D.....Revised Affidavit of Authorization..... 4

E.....ST overlay permit.....4

Petition VA-PL20150000006, Strumillo

A....Staff Report.....12

B....Legal Advertisement.....12

Petition PDI-PL20150000736 - Naples RV Resort, LLC

A....Staff Report.....18

B....Legal Advertisement.....18

C....Ownership Responses.....42

HEARING EXAMINER STRAIN: Good morning, everybody. Welcome to the Thursday, July 23rd meeting of the Collier County Hearing Examiner's Office.

If everybody will please rise for Pledge of Allegiance. (Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you.

We have a few housekeeping matters today I'll read to you. First of all, individual speakers will be limited to five minutes unless otherwise waived. All decisions are final unless appealed to the Board of County Commissioners. And a decision will be rendered within 30 days.

And with that, I've reviewed the agenda. We have four public advertised hearings on today's agenda. That's it; no changes to that.

The approval of prior minutes. I've reviewed the June 11th and June 25th minutes and they're fine to be recorded as they are written.

That takes us to our first public hearing. It's Petition No. BD-PL20140001542, the Ken and Kathleen Demaret request for a 30-foot boat dock extension -- well, actually it's less than that -- on Isles of Capri, 192 Tahiti Circle.

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: Thank you.

As far as exhibits go, there's been a few changes to the documentation that was included in the staff report. We'll go through those changes today, but we'll list them all as new exhibits.

Exhibit A will be the staff report.

Exhibit B will be the legal ad.

Exhibit C will be the revised resource survey that I provided to the court reporter, and I think Fred has as well.

Exhibit D will be the revised Affidavit of Authorization.

And Exhibit E will be the issued ST, special treatment, overlay permit that was already issued on the

project.

Disclosures today. I've reviewed all the files and I've talked to staff in detail about some of the questions and changes that we've announced as new exhibits.

And with that, let's see where my first questions are.

First of all, the applicant, if you don't mind coming up to the microphone, identifying -- whoever wants to speak on behalf of the application.

MR. BELLOWS: You both can.

HEARING EXAMINER STRAIN: Everybody can talk, if you'd like. We're here to listen, so -- can you identify yourself for the record, sir?

MR. DEMARET: Ken Demaret.

HEARING EXAMINER STRAIN: Okay. And I know there's been a difference between what you're requesting and the dock extension and what the advertisement says. Can you state that correction?

MR. DEMARET: Yes. The normal dock is 20 feet. We asked for a 10-foot extension. And it's on all the permitting is 30 feet total. On the letter my neighbors received and ourselves it went to 50 feet, so that is not correct.

HEARING EXAMINER STRAIN: Okay. So that means that today's hearing will be based on the 10 foot in addition to the 20 -- the 30-foot total overall is the length that you have in your application.

MR. DEMARET: Yes.

HEARING EXAMINER STRAIN: I just want to make sure you're in conformance with that.

MR. DEMARET: Absolutely.

HEARING EXAMINER STRAIN: I did notice that on the -- one of the requirements of staff recommendation was to have the SD permit. As you heard it now is part of the record. You do have that permit?

MS. DEMARET: Yes.

MR. DEMARET: Yes.

MS. DEMARET: Sorry.

HEARING EXAMINER STRAIN: That's okay. I was wondering where that was coming from.

And the rest of it, I have read your entire staff report and all the documentation, so I don't have many questions of you, but I do have quite a few questions of staff.

MR. DEMARET: Okay.

HEARING EXAMINER STRAIN: So that's all I need from you at this time.

MR. DEMARET: Thank you.

HEARING EXAMINER STRAIN: Thank you, sir.

And with that, we'll turn to the staff report. Fred?

MR. REISCHL: Thank you, Mr. Strain.

Staff analysis indicates that the proposed dock meets four out of five of the primary criteria and four out of five of the applicable secondary criteria. Staff recommends approval with the request -- with the requirement to obtain an ST permit which as you stated has already been obtained as of May 7th.

HEARING EXAMINER STRAIN: Okay, so your recommendation has been met. We're fine with that.

Just above your staff recommendation you had a qualifier for County Attorney Office review. And the staff report simply says, this staff report was forwarded to the County Attorney's Office on July 1st, 2015.

I thought we had discussed this methodology in a prior meeting. My office is not to accept nor will it be accepting any longer any documents that are -- any staff report that has not been reviewed by the County Attorney's Office. So if you still have that language in there, it's going to be kicked back and won't be advertised until it's reviewed.

July 23, 2015 HEX Meeting

MR. REISCHL: Right, this language was applicable for about two weeks and then we revised the language. So on the next agenda's staff reports we should have the new language on there.

HEARING EXAMINER STRAIN: Okay. But the intent was to have the County Attorney's Office review it.

MR. REISCHL: It has been reviewed.

HEARING EXAMINER STRAIN: Right, but they didn't review it until this morning.

MR. REISCHL: No, this was reviewed shortly after July 1st.

HEARING EXAMINER STRAIN: Scott Stone, are you here? Scott, would you mind coming up to the microphone?

Could you state your name for the record.

MR. STONE: It's Scott Stone, Assistant County Attorney.

HEARING EXAMINER STRAIN: When did you review this document?

MR. STONE: This morning.

HEARING EXAMINER STRAIN: Okay.

MR. REISCHL: My error. I apologize.

HEARING EXAMINER STRAIN: That can't happen again, so let's catch it from now on in the future.

Also, on the affidavit of authorization, it was in the name of Ken Demaret and signed by Kathleen, who I'm assuming is his wife. We had -- we've got that corrected with a new exhibit. Again, those things may have been caught by the County Attorney's Office, but staff should as well catch those.

We've got into the resource survey. There are numerous errors in the one that's on the staff report. It says that this property is within a canal off Capris Pass. It is bound by West Pelican Street to the southwest and it repeats later on in another paragraph it's on a canal off Capris Pass.

We have a corrected document that was submitted for exhibit today, and the only part of it that was corrected was the reference to West Pelican Street. I still suggest for staff that in the future we first of all reference the locations to waterways that are listed on our zoning maps. I can't find Capris Pass. I found Big Marco Pass in another inland waterway. But I don't believe this is on a canal, it's on what's shown on the zoning map as Marlin Bay. The document would have been better reflected had all that information been more portrayed consistent with our zoning maps. Because when I first got this it appeared that the transects may have been done for the wrong property. That's been cleared up, it has been done for the right property, so that works. But I think in the future, Fred, this stuff needs to be better reviewed in regards to the details, whether it's you or one of the other departments that reviews it. I think this is done by environmental.

MR. REISCHL: Yes. And Summer said she's available if you have any questions on it. But she said it meets the requirements to show that there are no seagrasses.

HEARING EXAMINER STRAIN: Okay. But what I'd like to relate to staff in the future, the departments need to read these and if there's errors like this, they need to be corrected. Because these go on public document. And if a member of the public was reading it, you'd not be sure that the transects were done on the right house in the right location. And I think all that needs to be consistent in the future. So if you could make sure that environmental staff or whoever's reading these catches those kind of things, that would be helpful.

MR. REISCHL: Understood.

HEARING EXAMINER STRAIN: Okay. And that is all the information and questions I have. Is there any members of the public here to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: Okay, with that, we will close this public hearing and a decision will be rendered within 30 days, most likely within a week to 10 days. They come out pretty fast. So thank

you for your time this morning.

And there's no opposition, so that's a good thing.

MR. DEMARET: Thank you very much.

HEARING EXAMINER STRAIN: Thank you, sir.

***Next item up is Petition No. VA-PL2015000006, Don and Victoria Strumillo for the Lot 9, Point Verde at Pelican Bay.

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: Okay, on this one we have Exhibit A will be the staff report.

Exhibit B will be the legal ad.

For my disclosures, I've reviewed all the files and I have talked to staff, both new and old staff on this one. We have a new staff member. Rachel is here today for I think her first time with a staff report. So I think that's congratulations, Rachel, I'm not sure until we get done with it. But we're glad to have you aboard. We need -- we certainly could use more people.

And with that, the applicant, whoever is representing the applicant, could they come to the speaker, please.

MR. STRUMILLO: Good morning.

HEARING EXAMINER STRAIN: I've read the entire staff report, so I don't need a formal presentation. I didn't see any members of the public here, other than it looks like the team that's involved with this project. So I'm assuming you're all in favor of it, so that should be a positive thing.

MR. HORELL: My name is Neil Horrell. H-O-R-R-E-L-L.

HEARING EXAMINER STRAIN: I do have a couple questions for you.

In one of the responses that was provided by Infinite Renovations -- I'm assuming that's you?

MR. HORELL: Yes, sir.

HEARING EXAMINER STRAIN: Okay. Under your -- they asked for a detailed explanation of the request. And at the time you wrote this, the last line of the first question: The screen enclosure will require a reduction of the front setback from 30 feet to 24 feet and the side setback to be reduced from 10 feet to two feet. There is no encroachment on the rear setback.

This is all about a setback going up against the golf course. It wouldn't be in front of the building. Is there some -- first of all, is what's being requested today what you're seeking? Because you're looking for two setbacks. Staff's calling it a side yard. You and I would probably think it has a rear yard. At least when I was in the business I always thought the back of the building was the rear. But it has a technicality where they're looking at it as a side yard?

MR. HORELL: Correct.

HEARING EXAMINER STRAIN: But you're looking for a setback variance for the lanai and for the pool screen enclosure; is that correct?

MR. HORELL: That's correct.

HEARING EXAMINER STRAIN: Okay. Because that's how this document is written. It just was a little different than what you seemed to write.

MR. HORELL: The original request, yes, as you stated we did request a front setback and again, assuming what the side was.

Let me first state, as far as the front setback, some of the earlier documentation that we received from the surveyor, the survey company prior to his documentation preparation received some verification from a staff member; therefore he prepared his survey. With that survey and alongside with our site planner, OPI Design, they determined that there might have been an encroachment because of where the setback line showed.

Turned out that they were inaccurate of their reference to what the setback was based on on the front. We took it from the property line and not the gutter, which is stated in the Land Development Code that is represented from the gutter to 30 foot.

So at that point it became clear across the front that there was no necessary encroachment in a setback from the proposed footprint that we have that matches the existing footprint as well, the pool enclosure and pool structure.

Then the side yard, that again was deemed, through months of conversation here and through staff members at the county, that we couldn't verify that was actually the side yard that we then converted it to a representation of the tract boundary, that there's a change in tract boundary being the residential to the golf course. And that's where we came up with the 25 foot. And that's basically along the entire tract boundary, as you can see, and we represented the track boundary there on the exhibit that you see up on the screen.

So my understanding is the new titled document is worded correctly to what we formally named our final request. And it was changed again from our earlier request as we -- you know, as new development and new information came along throughout this process.

HEARING EXAMINER STRAIN: And I expected you to say that. But I wanted for the record to be clear, because the application initially culled out some other variances besides what you're asking for. And I certainly didn't want to go forward and find out we had missed something. So I appreciate your clarification, and we're back to what this plan then indicates.

And that's the only questions I had of you at this time, so thank you very much.

MR. HORELL: Thank you.

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

MS. BEASLEY: Rachel Beasley for the Zoning Department.

Yes, there is a staff report.

HEARING EXAMINER STRAIN: Can you tell me what that is? No, no, I mean a verbal staff report. I ask staff -- at the end of presentation by the applicant staff usually goes over any points that they want to clarify from the applicant's presentation or things that may need to be clarified from the staff report itself. Or you can keep it very simple and say you have nothing to add. It's strictly up to you. But you may have watched or heard Fred in the earlier comments he had, so --

MS. BEASLEY: Right. I don't have anything else to add to clarify. I feel like it's pretty straightforward.

MR. BELLOWS: Nice choice.

HEARING EXAMINER STRAIN: It is pretty straightforward and I want to thank you. You'll get used to it as we go along.

MS. BEASLEY: Thank you.

HEARING EXAMINER STRAIN: And I'll ask, is there any members of the public that wish to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: Okay, hearing none, we'll close this public hearing and a report will be issued within 30 days, most likely a week to 10 days. And you'll receive that by email. That will be it.

Thank you all for your help today and attendance, and we should be fine.

If Rachel's staff report catches on, we're going to have short meetings.

***Okay, the next petition up is Petition No. PDI-PL2015000736, the Naples RV Resort, LLC. It's for the Naples Motorcoach Resort Commercial Planned Unit Development on East Trail.

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: So far there are two exhibits. Exhibit A will be the staff report,

and Exhibit B will be the legal ad. I expect before today's over there may be more.

And with that, my disclosures are I've gone through the files, talked with staff and talked with two members of the applicant's team: Wayne Arnold and Richard Yovanovich.

And with that, are there any members of the public here against -- who are not in favor of this project or wishing to object?

(No response.)

HEARING EXAMINER STRAIN: Okay, any members of the public here at all that are going to wish to comment on this project?

(No response.)

HEARING EXAMINER STRAIN: Okay, Richard or Wayne, whoever's making the presentation. Let me get it up on the screen.

MR. ARNOLD: Good morning, Mr. Strain. I'm Wayne Arnold with Grady Minor and Associates. With me is Rich Yovanovich, land use attorney.

HEARING EXAMINER STRAIN: Wayne, what I'll do is I'm going to -- I put some slides on the -- I have some slides on the overhead to orientate everyone to the project and to clarify some of the corrections that I've reviewed that could possibly be made. I'll walk through those first so you can see what's here and in your discussions if you want to refer to any of them, just tell me which one you'd like to go to.

MR. ARNOLD: I too have a flash drive with some additional exhibits, if necessary.

HEARING EXAMINER STRAIN: You can tell me when we get done if you still want to put something in as an additional exhibit, we'll add it.

This is the project as taken from -- I believe that's Google Earth is where I got this from. It's probably about a year old.

The tables that are being included for changes, the existing PUD include the areas highlighted in yellow.

And Wayne, I've got a map that I'd like to talk off of that I'll show you in a second.

Basically the personal utility buildings, from what I'm reading, are going to go to 308 feet. They will vary in their dimensioning from the rear setbacks based on the width of the landscape buffer easements, the public utility easements and the landscape maintenance easements to the extent any of those easements are placed or any easement at all. And where there's no easement, it drops down to five feet. Is that correct?

MR. ARNOLD: Generally that is correct. And the exhibit that you have has been obviously modified. You and Mr. Yovanovich had a meeting earlier in the week and agreed to a revised footnote that makes simplified the reference to the --

HEARING EXAMINER STRAIN: We didn't agree to a revised footnote. I suggested he could simplify that footnote after I went through the plats and laid out the many easements that you have on that property and suggested why don't you look at it from an overall easement instead of limiting it to the two easements mentioned in the footnotes.

But what that table seems to indicate is the various changes to the setbacks that are located on this map. And I know, Wayne, that you have reviewed this; I talked to you about it yesterday. You concluded there is one correction needed. I made that in the lower right-hand corner. I would like to make sure that this is what your intentions were from that table for the rear setbacks. You wouldn't be encroaching into any rear setback with these buildings in regards to easements, any rear easements; is that correct?

MR. ARNOLD: That's correct.

HEARING EXAMINER STRAIN: Okay. Every lot on that property seems to have an easement in the rear except for those three that say reduce from 15 to five up on 41. Is that your understanding too?

MR. ARNOLD: Yes, sir.

HEARING EXAMINER STRAIN: Okay. So if that is the case, as it seems to be, then everything in

there has a setback equivalent to the easements with the only three lots on the north that are affected by this, these right here.

MR. ARNOLD: Yes. And I -- from a professional standpoint, I don't think there's any concern with the reduction. There is a mature landscape buffer and wall that's adjacent to U.S. 41 in that location.

HEARING EXAMINER STRAIN: I agree. I wasn't -- I was just pointing out that if you really took the language on this table on the rear setback of five feet, that five feet's only going to come to play on three lots in the end.

MR. ARNOLD: Understood.

HEARING EXAMINER STRAIN: The new table that was sent yesterday has the following information on it: The U.S. 41 setback was reduced to 20 feet, which is the width of the buffer. Henderson Creek -- or Henderson Drive was left at 15 feet, which is the one on the right-hand side in green, limited to 15 feet. And then the Henderson Creek where the drainage easement is over on the west side was either a 10-foot or a 15-foot, depending on the width of the landscape buffer easement that's there. And they are both widths.

And on the rear, for those that don't have easements, it's five feet. On the bottom the language was changed to reflect that these buildings will not encroach into any easement. And that reflects what was shown on this map; is that --

MR. ARNOLD: Correct.

HEARING EXAMINER STRAIN: Okay. There are two other things done primarily in this application. The change in language, the small utility buildings, that was number six under accessory of the PUD. This is language that was semi similar to what was previously approved by the Board of County Commissioners for the Pelican Lakes Motor Coach Resort, I believe, down on 951 and -- I forgot the other name, Championship Drive, that's it.

MR. ARNOLD: Yes, that's correct.

HEARING EXAMINER STRAIN: And you wanted an extension in stay time from six to nine months.

MR. ARNOLD: That's correct.

HEARING EXAMINER STRAIN: Number five, the one on the bottom, that one stayed the same. But number six was modified after we had a discussion to more match the conditions that was on the Pelican Lake Motor Coach Resort that was already previously approved through a public process. The items in green are the changed language. In case anybody has any questions or concerns, I wanted to make sure that was on the overhead so everybody could see it.

Also, one of the other changes, the graphics attached to the back of the PUD actually stated the setbacks, you can't -- they're blurred out on the left-hand side of the screen. It was suggested to remove the setbacks because they're written in the development standards table. So on the right-hand side that was cleaned up in the first two. And the one circled on the bottom still showed one of the setbacks. I had suggested to be consistent that that be removed from the final exhibit.

And that's the last item.

So let me -- now that those are up there, Wayne, I'll go through what questions I may have that remain, and if you need me to move to any of those for explanation -- did you have anything you wanted to add?

MR. ARNOLD: I do not. We're in concurrence with the exhibits you have.

HEARING EXAMINER STRAIN: Okay, one of the other things that happened in my review of this document, I notice that in the application for this modification to the PUD you had colored in a box that said -- the question was is there any -- has there been any development on the site. I'll read it: Has any portion of the PUD been sold or developed? And your indication was it's been developed, meaning nothing theoretically that has been sold. But there was a narrative on Page 26 of the staff report that said approximately 30 sites have been sold to date. And I think there's actually more than that now. I checked it

last night and I found over 35, I believe.

And the question came in then as how could we apply these standards to people who have not signed on to the application or at least been notified of it and concurred or didn't have an objection to it. And I believe you've gone to some length to obtain as many of those sign-offs as you can.

Did you have a set of those for the record?

MR. ARNOLD: Mr. Yovanovich has a record of those.

MR. YOVANOVICH: I do.

MR. ARNOLD: I think they're still in your file.

We have a count of approximately 30; is that correct, Rich?

MR. YOVANOVICH: Yes.

MR. ARNOLD: 30 names of those who are individual owners. And there are 184 lots recorded in the project. I think approximately 39 have been sold to individuals.

HEARING EXAMINER STRAIN: Okay, is that an exhibit that you could provide to the court reporter?

MR. YOVANOVICH: I will. And Mr. Strain, it's been emailed to you for your records. I only have one set with me.

But the question that went out to the residents before we even submit it was would you support up to 350 square foot utility buildings. Obviously we're at 308, so it's within the -- what we did was we sent out a petition.

HEARING EXAMINER STRAIN: I'd like to see that first before it goes to the court reporter.

MR. YOVANOVICH: Mr. Strain, that petition varies. There's going to be some emails and then there's going to be some petitions, but they all discuss either the 308-foot version that's being approved today or a 350 square foot version that we originally submitted as part of the process.

I'll also point out, and I think this is in one of the exhibits you referenced, there was a letter sent out to every property owner within the project, as well as people within I believe it's 500 feet.

HEARING EXAMINER STRAIN: Right.

MR. YOVANOVICH: And in it, it very explicitly said exactly what is being proposed today. And as far as I know there's obviously nobody here to speak to oppose this, but I'm not aware of any emails from current residents objecting to the request that's in front of you as well.

We view this as an enhancement to the existing lot owners. They would allow them to do larger utility buildings versus the 100 square feet that's here today.

So we're hopeful that this will move forward, allowing these increased standards to apply to all of the lots within the project and not just the lots that my client owned at the time that they made the application, as well as currently owns.

HEARING EXAMINER STRAIN: That is the intention. That's why I asked to have this additional information put on the record.

Your testimony is that every lot owner within the PUD has been individually notified through the process in the NIM -- neighborhood information meeting -- process or another similar process, they've all gotten letters?

MR. YOVANOVICH: They've been notified at least twice: Once through our own sending out of a petition before we submit it, as well as the neighborhood information meeting process.

Rarely do you ever get 100 percent of property owners to respond to you one way or the other, but we did reach out at least twice to let the existing property owners know what was going on, besides the advertisements that happen in the paper, et cetera.

HEARING EXAMINER STRAIN: Okay. And I have had no letters of objection. I've had one email in favor from one gentleman who apparently bought a unit within there. And you don't know of -- there

have been no objections received by your applicant that you know of?

MR. YOYANOVICH: I'm not aware of any objections or any opposition to what we're proposing.

HEARING EXAMINER STRAIN: Okay. What I'd like to do for the court reporter is this package as Exhibit C. It will be ownership responses. And I'll make sure you have that before you leave, Cherie'.

Okay, I'll move through the rest of my questions to the --

MR. YOYANOVICH: Could I make one other comment?

HEARING EXAMINER STRAIN: Go ahead.

MR. YOYANOVICH: If I can.

Although we may have not checked both boxes, which we were supposed to, I think in the application where it said sold or developed. The narrative that is part of the application was very clear that at that time 30 lots had been sold. So I just wanted to make sure that we may not have checked that box, but we did notify the county when we submitted that there were some lots sold at the time.

HEARING EXAMINER STRAIN: I wasn't trying to --

MR. YOYANOVICH: No, I wasn't -- I just wanted to make sure.

HEARING EXAMINER STRAIN: -- insinuate you were doing something.

MR. YOYANOVICH: No, I didn't take it that way. Just since there's a record. And when you said it was part of the staff report, it was actually part of our application that said that several lots had been sold. That's all I wanted to clarify.

HEARING EXAMINER STRAIN: Well, your application is part of the staff report.

MR. YOYANOVICH: Right, right.

HEARING EXAMINER STRAIN: That's why I referred to it.

MR. YOYANOVICH: I understand.

HEARING EXAMINER STRAIN: My speaker is not going on when it's supposed to, so if I'm missing something for the record, sorry about that.

Wayne, let me run through and make sure we've caught everything that I had questions of you on. Just take a second. I'm going through my notes right now.

Thank you, John.

Who got shorted out?

MR. BELLOWS: We're just down to Eric.

HEARING EXAMINER STRAIN: Okay.

And the last comments I have will be couple for staff. Wayne, thank you, nothing else you want to add to the record?

MR. ARNOLD: Nothing further. Thanks.

HEARING EXAMINER STRAIN: Okay. Did you bring exhibits for the changed documentation that's been shown? Now, the ones I'm seeking would be that language there, correction to that page, and this new page here.

MR. ARNOLD: I do. But I think I only have one copy.

HEARING EXAMINER STRAIN: You need to get closer to the mic.

MR. ARNOLD: I do have one copy.

HEARING EXAMINER STRAIN: When we finish with the meeting could you stay long enough to have either Gail or Kathy making a copy of what you have so we can incorporate it as an exhibit?

MR. ARNOLD: Yes.

HEARING EXAMINER STRAIN: Or as part of the record. It will be sent to you with a decision at the same time. Thank you.

MR. ARNOLD: Thank you.

HEARING EXAMINER STRAIN: Staff report. Eric? Welcome. Eric, today is his first day as

well.

MR. JOHNSON: Yes, thank you, Mr. Strain, I appreciate it.

For the record, Eric Johnson, Principal Planner with the Zoning Division.

Staff reviewed this application. I might want to point out that it was a collaborative effort and we reviewed it in accordance with Section 10.02.13.(E1) and (E2) of the Land Development Code, and is recommending approval of the application.

I would like to point out that staff received 10 letters that were returned to us. I believe eight of them were undeliverable and two were returned to sender.

I did receive a phone call from the previous lot owner of 152, her name is Kathy Glasser. So I just wanted to point that out. As well as receiving a letter of support from Mr. Mike Behari, who is the owner of lot 134. And I forwarded that email to you.

HEARING EXAMINER STRAIN: You said you received a letter from Kathy Glasser, but you didn't say if it was in favor or objecting.

MR. JOHNSON: It was a phone call.

HEARING EXAMINER STRAIN: It was a phone call.

MR. JOHNSON: It was a phone call. Yeah, she wasn't -- she was inquiring more of the fact that she had recently sold the lot and was wondering why she was receiving a letter or notification of this.

HEARING EXAMINER STRAIN: So you received no letters of objection?

MR. JOHNSON: No, I have not.

HEARING EXAMINER STRAIN: Okay. Based on what you've seen in this overhead and the clarifications discussed with the applicant, has staff got any concerns or objections based on the changes that are being suggested here today?

MR. JOHNSON: One thought is -- and this is the language that's proposed in number six. With respect to the screen enclosure, the door of a screen enclosure, I was wondering how that would be contemplated. The Pelican -- I think it's called Pelican Lake -- Pelican Lake PUD, that language had, as this one does, language about the screen enclosure and the door of the utility buildings facing the recreational vehicle. Staff was just concerned about the -- any door of the screen enclosure, if there is one, would face the recreational vehicle as well. I didn't see that language in here.

HEARING EXAMINER STRAIN: Well, I believe the -- see where it says -- let's see, the last set of green, IV, it says: The entrance to the enclosed utility storage structure shall face the recreational vehicle.

So your concern is that if they attach a screen enclosure to the utility storage structure, it doesn't apply to that 45-degree angle?

MS. ASHTON-CICKO: I think he's talking about the screen enclosure facing the direction of the zero lot line. The screen enclosure on the utility building facing the zero lot line part? I don't know that that's addressed on there. The door can't go there, but the screen enclosure could. I just want to make sure you've contemplated that.

HEARING EXAMINER STRAIN: Well, I'll tell you what, I was part of that Pelican Lakes review at the Planning Commission level and this came about as a result of the designs that they brought forth. And their screen enclosures were limited by this to the extent this would address them. If we've failed in catching it on that one, we probably have not done the same on this one.

I'm trying to figure out how to address it here today. But it needs to get resolved if there's a concern from staff.

It says: The utility storage area may be a continuous part of a screened-in porch where such a porch is attached to the vehicle or herein provided. However the combined square footage of the enclosed utility storage area and screen and porch shall not exceed 308 square feet.

If we simply suggest that at the bottom where it says the vehicle storage structure or -- and/or

screened-in porch shall be no greater than 45-degree angle, that would take care of it; would it not?

MR. BELLOWS: For the record, Ray Bellows.

I think that would solve that.

HEARING EXAMINER STRAIN: Wayne, if you don't mind, let me show you what we're suggesting.

Right here where it says permitted uses of the PUD in the doorway to the enclosed utility storage structure or screen enclosure, is what we're suggesting add, shall be no greater than 45-degree angle when corner-mounted doorway is utilized.

Either it's going to face the recreational vehicle or if you want to put it at an angle, which is the case in Pelican Lakes, and I think we assumed at the time this was done it was attributed to any of the structure that was involved.

Eric's got a good point and it's just a clarification. Do you see a problem with that from your perspective?

MR. ARNOLD: I don't see a problem. I haven't had that discussion with our client to know whether or not they have a design that that would be in conflict with.

HEARING EXAMINER STRAIN: To have the screen enclosure facing somewhere away from the RV doesn't make a lot of sense anyway. So I can't see why anybody would be objecting to it. It's just a clarification for staff when it comes in for review.

MR. YOVANOVICH: What I'm trying to understand is staff's concern that some people are going to go on -- we're going to go out of our utility building directly onto someone's lot? Is that the concern that was raised, or --

HEARING EXAMINER STRAIN: I can tell you the concerns from the Pelican Lakes Motor Coach which had -- by the way, that particular resort was sold out --

MR. YOVANOVICH: Correct.

HEARING EXAMINER STRAIN: -- and it was a conflicted issue there.

MR. YOVANOVICH: Right.

HEARING EXAMINER STRAIN: And the people who were objecting were concerned that the additional traffic, not pedestrian traffic, and people coming and going and kids playing and going in and out of these facilities, if it wasn't orientated towards the RV that they'd be more disruptive to them as a neighbor. That's the only issue that involved a lot of the standards you see here. And it's just for privacy matter.

So I can't see why anybody, if they were to have a screen enclosure, would not want it to open either towards their RV or even at a slight 45-degree angle at the most. It would make it harder for them to get in and out.

MR. YOVANOVICH: Does that mean a screen enclosure can't be a square or rectangle?

HEARING EXAMINER STRAIN: No.

MR. YOVANOVICH: Okay, I was trying --

HEARING EXAMINER STRAIN: You can have a circle if you --

MR. YOVANOVICH: I understand that. But there's a door. Does the door have to be on a 45-degree angle?

HEARING EXAMINER STRAIN: No. I'm saying if you -- in Pelican Lakes some of them wanted to use -- orientate the door a little off center. They came in with a design that had a 45-degree angle so we tried to accommodate that at the Planning Commission level and added that to the language. That's how it got in here. But it wasn't written as clear as Eric's pointing out. And there's -- I don't see why it couldn't be.

MR. YOVANOVICH: That's fine.

HEARING EXAMINER STRAIN: And Ray -- and what I'll need then, Wayne, is a correction to that verbiage added and resubmitted, if you could. You can email down the corrected language, we'll make sure

it's incorporated.

MR. ARNOLD: Just so I'm clear, it will say after the reference to utilities/storage structure --

HEARING EXAMINER STRAIN: Yeah, it would say "or screen enclosure." That way it's covered. Okay?

Okay, and Eric, I had one question of staff. I had told you earlier about it. I'd like to know what staff's resolution's going to be. The sign that went up on the property to advertise this meeting did not reference the Hearing Examiner's Office other than the word HEX. It doesn't -- if you're going to say something to the public, H-E-X, we ought to spell it out. To put an acronym there may not have helped a lot of people understand where today's meeting was or what office was holding it. So I would hope that that somehow could be corrected through staff in the future?

MR. JOHNSON: Absolutely.

I was wondering if it would so please you that in order to save space on an ad would it be acceptable to you if Hearing Examiner was spelled out and then after the word Hearing Examiner (HEX), and then anytime thereafter if the acronym HEX could be used. Would that --

HEARING EXAMINER STRAIN: I have no problem with that. But I think if you're going to use an acronym, not telling the public what it means is a real problem, because they wouldn't know what to be asking for. So I would just suggest we just make that change.

MR. JOHNSON: Consider it changed.

HEARING EXAMINER STRAIN: Thank you.

That's the only remaining question I have of staff.

So with that we'll go to any public speakers. Are there any members -- Eric?

MR. JOHNSON: I just wanted to point out that you had asked that if there were any letters of objection, and as far as I'm aware, there are none. But I can go back to my email and phone list and see if there are any. I don't think there are, but if there are I'll get back to you on that.

HEARING EXAMINER STRAIN: And if you do have any, just let me know.

MR. JOHNSON: Yes, sir.

HEARING EXAMINER STRAIN: Thank you.

Are there any members of the public who wish to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: Okay, hearing none, I have no other questions.

Exhibit C will be the proposed changes as presented -- as the applicant will provide them here today, with the acknowledgment that one of those will be slightly modified when it finally gets into final version.

And that's all we have. So that will close this public hearing.

And that takes us to the end of today's -- generally a design will be made within 30 days, most likely within a week to 10 days.

MR. YOVANOVICH: Thank you.

HEARING EXAMINER STRAIN: You're welcome.

Okay, I don't believe there's any other -- there's no other business. Is there any public comments?


(No response.)

HEARING EXAMINER STRAIN: Hearing none, this meeting's adjourned. Thank you all.

July 23, 2015 HEX Meeting

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:40 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST:
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 8-27-2015 as presented or as corrected _____.