

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
October 8, 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: Raymond V. Bellows, Zoning Manager
Nancy Gundlach, Principal Planner
Eric Johnson, Principal Planner
Scott Stone, Assistant County Attorney
Heidi Ashton-Cicko, Managing Assistant County Attorney

EXHIBITS

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PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, October 5th (sic) 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: Thank you.

Review of the agenda. We have four items up for discussion today. Nothing else has changed. There's no additions or deletions to those four.

Approval of the prior meeting minutes. I've reviewed the August 27th, 2015, and the September 10th, 2015, minutes, and they're both approved as written for recordation.

***That gets us to our first advertised public hearing. First petition up is Petition No. PDI-PL20150000742. It's the Longshore Lakes Foundation and Parklands Associates, LLP.

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. For the benefit of those here -- first of all, is there any members of the public here attending for this particular item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Then I will not need a formal presentation by the applicant.

I've reviewed the package. I've reviewed all the information supplied, and we'll move into some questions from the overhead in just a second.

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

For my disclosures, I've reviewed all the files, I've talked to members of staff, and I did talk to the applicant this morning at the meeting.

Other than that, I'll walk through the overhead, because there are a couple changes that have been made. I want to make sure the applicant is in agreement with them.

The location is at Olde Cypress' entrance on Immokalee Road. That's the sign that currently exists. The effort that's here today is simply to change the wording on the sign from River Stone to Stone Creek.

In reviewing this, we've found some development regulations that were written in. What was in the original packet needed some changes. It went through the County Attorney's Office.

Is Scott Stone here? There he is. Scott, would you introduce the changes that you've suggested to the record.

This is not the latest one that you showed me yesterday. I don't -- I think there were some changes on one or two of these, unless this is the latest.

MR. STONE: I believe that is the latest version.

HEARING EXAMINER STRAIN: It is the latest, okay.

MR. STONE: Yes.

HEARING EXAMINER STRAIN: On this page, I know I asked the applicant this morning if they've reviewed it. Could you tell us for the record if you have any problem, then we'll go to the second page in a minute.

MR. RATTERY: Good morning. For the record, Kevin Rattery (phonetic) with Parkland Associates 1, LLP. We are in agreement with the revised language.

HEARING EXAMINER STRAIN: Okay. The second page is right here. And, Scott, the only question or -- and Kevin, both, is that that last line, it says, the PUD is -- Parklands PUD is located approximately two miles from, then it goes to the word "location." I would suggest that the words "the proposed location" remain in, of the sign, and that is the only suggested change I have.

Is there any -- Scott, when you reviewed this, did you have anything else you wanted to add to it?

MR. STONE: No. That may have just been an oversight. That sounds fine to me.

HEARING EXAMINER STRAIN: Okay. Thank you, sir.

Kevin, are you okay with that?

MR. RATTERY: Yes, sir, I'm okay with that change.

HEARING EXAMINER STRAIN: Okay. And I don't have any other questions. This will be -- I'll need a recordable copy with the correction just noted to remove that piece of the strikethrough. So, Kevin or Bob, if your office could get us that as quickly as possible, it will help expedite the final issuance of the decision on this matter.

Those pages I've got, and I have a clean copy here. They'll be -- Exhibit C, will be the corrected development regulations pages that were just shown up here. And I'll provide those to the court reporter at the end of the meeting.

Is there anybody that would have any other comment on this?

(No response.)

HEARING EXAMINER STRAIN: And is there a staff report to follow up?

MS. GUNDLACH: Yes, there is a staff report. We are recommending approval.

HEARING EXAMINER STRAIN: Short and sweet, Nancy. Thank you.

Okay. Hearing no other comments or requests from the audience, then this item is over with, and a decision will be rendered within 30 days.

Thank you all.

MR. RATTERY: Thank you.

HEARING EXAMINER STRAIN: There are a couple housekeeping items I meant to announce in the beginning. I'll do that right now for those that are interested.

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 issued within 30 days.

***The second case is Petition No. BD-PL20140000506. It's the Richard McCord boat dock extension at 110 Egret Way.

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

And my disclosures, I've talked with staff, reviewed the files, I've attended the preapp., and I've had copies of five different emails, a couple of them were from the same party. One of the emails had a conditional either for or against. It wasn't absolutely clear; two of the emails didn't have a problem after they received clarification from staff; and one email that was received by me late yesterday from staff was against the request.

Now, is the applicant here?

(No response.)

HEARING EXAMINER STRAIN: I'm sorry?

MR. NELSON: We're his agents.

HEARING EXAMINER STRAIN: Okay. That's fine. That's what I meant.

If there are members of the public here interested in this one, if there are, please raise your hand.

(No response.)

HEARING EXAMINER STRAIN: Okay. Eric, that's interesting nobody showed up that had written any of these letters.

I'll walk through the location of this. This is in Vanderbilt Beach at the end of Egret Ave. That's the general location of the property. This is an aerial of the site from the Tax Assessor's Office -- Tax Appraiser's Office, I'm sorry, showing the existing dock and the house.

That's the existing dock layout. It's a lift over on the north end. The boat, in this particular case, goes straight in and straight out perpendicular to the seawall, so when it has to exit or come in, it's backing out into the navigable waterway at least one to two lengths of the boat. It has also a large dock section for moor -- side mooring.

This dock is approximately 72 feet, including a lift in length along the shoreline. This is a revised dock. It's approximately 62 feet, a little bit shorter. It is requesting a 7.1-foot extension over what is already there on the site. I believe the site is 39 something and change.

This particular dock would be 51 feet from the riparian line, which is in alignment with the north property line.

Based on the cross-sections the applicant supplied, they're showing that the depth to get this boat in from the angle that they're asking is needed in the location they're at.

One interesting thing is that this particular boat angle and access location would actually enhance the navigability of this waterway because the boat would not need to back out across the waterway as far. It would be able to go parallel to the seawall instead of perpendicular, so that will actually improve the navigability of the area.

The home that this is going on is heavily encased or enshrouded with landscaping, as you can see here, some of which are mangroves. I went to -- trying to figure out topography, how high the mangroves are. Google Earth has a somewhat weird-looking way of looking at it, but this shows you what might be the relationship. The mangroves and the trees on the north side border the neighbor to the north, who is one of the people complaining, the only person that seemed to end up complaining. There's a sizable amount of vegetation there. That looks to be on the applicant's property. So I don't imagine that the applicant's going to be removing that vegetation. There would be no need to.

And with that, I'll ask -- I won't need a presentation from the applicant's representatives. I've read the report. I don't have any questions from that aspect of it. There may be some from the staff report in follow-up.

Eric, do you want to provide a staff report?

MR. JOHNSON: Sure. Thank you, Mr. Hearing Examiner. Eric Johnson, principal planner.

As you had appropriately stated, the current boat dock is 39.1 feet from the -- I think the property line or however, where it's measured, and the proposed boat dock would be 46.2 feet, which represents a request of 26.2 feet. It's for one boat slip and one personal watercraft.

Staff reviewed the proposed petition. It meets all five primary criteria of Section 5.03.06 and meets all six secondary criteria of Section 5.0. -- 5.03.06. Staff is recommending approval. There are two conditions of approval. That was provided to us by the County Attorney's Office. If you want, I can read them into the record.

HEARING EXAMINER STRAIN: They're on the record. I'll ask the applicant. If one of you would come to the microphone, one of the representatives of the applicant.

Could you state your name for the record, please.

MR. NELSON: My name is William Nelson.

HEARING EXAMINER STRAIN: Thank you.

Are you Ben Nelson's -- any relation to Ben?

MR. NELSON: No, no.

HEARING EXAMINER STRAIN: Okay. Ben's in here a lot. I just thought that might be interesting.

Are you aware of the staff report's recommendations?

MR. NELSON: No, I'm not.

HEARING EXAMINER STRAIN: Okay. Then we will need to read them for the record, please.

MR. JOHNSON: I'll read them. This is going to be our standard language -- this will be standard language for most of these types of --

HEARING EXAMINER STRAIN: Eric, just a moment. Heidi wanted to comment on that.

HEIDI ASHTON-CICKO: I'm going to -- I'll just talk really loud.

HEARING EXAMINER STRAIN: No. You turned it off now.

MS. ASHTON-CICKO: They're conditions -- I'll just talk loud.

HEARING EXAMINER STRAIN: Well, the problem is the tape's not going to pick you up.

HEIDI ASHTON-CICKO: Oh, sorry.

They're conditions that are required by Section 125.022, Florida Statutes.

HEARING EXAMINER STRAIN: Okay. And if Eric will read those for the record. You just said those will be standard from now on for dock extensions.

MR. JOHNSON: That's correct.

HEARING EXAMINER STRAIN: Okay.

MR. JOHNSON: Unless the County Attorney's Office --

HEIDI ASHTON-CICKO: It will actually be for everything you approved.

MR. JOHNSON: Here we go. Number 1, issuance of the development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

Number 2, all other applicable state or federal permits be obtained before commencement of the development.

HEARING EXAMINER STRAIN: Thank you.

Do you have any objection to those recommendation?

MR. NELSON: No, I don't.

HEARING EXAMINER STRAIN: Okay. Thank you.

And I believe that's the only questions I have of you.

Eric, is that the end of your staff report?

MR. JOHNSON: No, not quite.

HEARING EXAMINER STRAIN: Well, you can sit down if you'd like.

MR. NELSON: I would like to add, though, I was in contact with the neighbor to the north yesterday, and he just didn't have enough information. And once I provided him some extra aerials, he had no objection.

HEARING EXAMINER STRAIN: Thank you. That's good for the record to know. Appreciate it.

MR. JOHNSON: Yes. In conclusion, I just wanted to say that I did receive phone calls from interested members of the public, Michael Korchmar (phonetic) and then Mark Scudillo. I did receive, and I believe I forwarded them to you already -- if not, I apologize -- letters or a letter from Kay and Ed Cunningham --

HEARING EXAMINER STRAIN: Yes.

MR. JOHNSON: -- and Mark Scudillo, Michael Korchmar, and Robert Cantor. These were emails. And the Cunninghams had a letter. That concludes my presentation.

Staff is recommending approval of the request. For the record, it was advertised in the Naples Daily News on September 18th.

HEARING EXAMINER STRAIN: Okay. Did you get a subsequent follow-up call from Mr. Scudillo concerning his objections to this?

MR. JOHNSON: No.

HEARING EXAMINER STRAIN: Okay. Because yesterday you gave me, late in the afternoon, an email sent by him outlining his concern. And you've not received a -- I understand the gentleman now has subsequently talked to him. I think the email came in to you around 10:32 in the morning, so he may have talked to Mr. Scudillo after that email, which he's nodding his head, so that's apparently the case.

So you've got no corrective call countering his objective -- his objections?

MR. JOHNSON: As far as I'm aware, Mr. Scudillo is still opposed to the project.

HEARING EXAMINER STRAIN: Okay. I'm going to put a couple things on record, then, concerning his opposition. But before I do, you had said that that they met all of the five primary and all of the six secondary. Actually, they met five of the six secondary, because the sixth one is not applicable. Are you in agreement with that?

MR. JOHNSON: Which one is that?

HEARING EXAMINER STRAIN: Secondary --

MR. JOHNSON: Number 6.

HEARING EXAMINER STRAIN: Yeah. The one in your report that says not applicable.

MR. JOHNSON: I agree, yes, sir; yes.

HEARING EXAMINER STRAIN: Okay. Thank you.

What I wanted to point out, Mr. Scudillo had some concerns. I want to make sure that -- I understand the testimony from the applicant's representatives, but since he did not call back in, I want to make sure the record's clear on how his concerns are addressed.

First of all, he suggested that the applicant can move the dock further south on his property and that he could -- the applicant could get permits to remove the mangroves and dredge as he apparently is doing. So he doesn't -- so that this applicant doesn't block his views.

I took a look at his property and what he -- and he did include in his email an application that he has supplied and got a permit for from -- or is tentatively getting a permit for from DEP. That's his boat dock.

And if you notice towards the bottom of the green circle, his first use of the property is 15 feet off his riparian line. And the applicant here today is 51 feet off the riparian line. So I think that the condition that he move the docks further on their own property, they certainly have done that.

Also, the property that you note here, see the small circle in green, it's the 58, and then the other circle, proposed fix dock and boathouse? Mr. Scudillo is putting a boathouse in. And by scale, that's about 16 feet high, 20 feet wide, and somewhere less than 50 feet long. If there was a view blockage on his property, it would seem like his own boathouse with that 16-foot high is causing him more of a blockage than anything that Mr. McCord could possibly.

And in addition, when I looked at the aerials here, that vegetation, unless Mr. McCord wants to tear down all those trees, it's not going to change his view with this dock out there because the trees are already blocking it. And unless those are coming down, I can't see the necessity of a view issue here.

And I kind of wanted to make sure staff understands it as I do, or is your view orientation -- Ray, you've done docks in this county for longer than I've probably been here.

MR. BELLOWS: Twenty-eight years.

HEARING EXAMINER STRAIN: Twenty-eight years. Is the view orientation more from the riparian line alignment, or is it panoramic?

MR. BELLOWS: It's the riparian line.

HEARING EXAMINER STRAIN: Okay. I wanted to get those clarifications on the record in case there is any concerns after this is all over with.

So with that, I do appreciate it.

Is there any members of the public that would like to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: With that, we'll close this public hearing, and a decision will be

rendered within 30 days.

Thank you very much for your time this morning.

***The next item up is Bent Creek Preserve. That is petition No. PDI-PL20150000871, Standard Pacific of Florida, for the project off Immokalee Road.

All those wishing to testify on behalf of this item, rise to be sworn in by the court reporter.

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

HEARING EXAMINER STRAIN: Thank you. Exhibit A will be the staff report. Exhibit B will be the legal ad.

Disclosures on my part, I spoke with staff, I reviewed the files. We've had numerous meetings with the applicant and staff to get to where we are today with some of the refinements of this particular project.

And with that, I want to -- how many members of the -- are there any members of the public here for this particular item?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, we won't need a formal report. I will walk through on the overhead some of the changes and conditions that we have as a result of what's occurred, then we'll have a few questions, and that should wrap it up.

And I do believe Mr. Scott Stone, our assistant county attorney, had some last-minute changes, I think it was yesterday, that we need to walk through with the applicant.

This is the general location. It's just to the east of 951 on the south side of Immokalee Road. It's a project that was started by another developer, platted at that time, and bought by a subsequent developer.

This is a color rendering of the project and its ultimate layout with the lot styles that were started with the platting and as they moved forward through the project.

The changes in the project occurred to the single-family detached. They had a series of different uses that could be applied to the property. The applicant has chosen, for the most part, and maybe, through testimony today, is telling us it is all single-family, but that is the category in which they had asked for some changes in setbacks.

The changes in setbacks, for the most part, were consistent with the changes we have allowed on projects throughout the county today. The only one that was a little different is the minimum front yard at 11 feet, and the correction there we'll talk about here in just a minute. It was modified slightly to accommodate for overhangs because along the front of the property there's a public utility easement, and we can't have anything protruding into that easement.

Then the accessory structure had one change, which is the distance between structures. That's the minimum that the county's gone to through most of all the applications that come in.

The language that is in the lighter red, or I should say the darker red in the middle, it said -- it was a strikethrough, and it said, roof overhang shall not exceed 12 inches.

The applicant and I had talked. Roof overhangs, at least from my experience in the industry, not always -- 12 inches is pretty tight. And sometimes they go to 18 inches, sometimes 24, depending on the soffit and how much ventilation you want through your attic space.

The way this was written, it was intended to apply to the front setback because the rest of the overhangs are within areas that can take a larger overhang by code.

So I suggested they change the language so that it only is effective to where they're up against easements. And this is one that Scott Stone had some refinement to the language on.

Scott, could you address -- tell us what that refinement was.

MR. STONE: Scott Stone, assistant county attorney.

The proposed new language is acceptable. I would suggest one minor change where it says "shall not protrude into "public utility easement," I would cross out "public" and just leave it "utility easements" to cover any potential county utility easements. It may not be limited to public utility easements.

HEARING EXAMINER STRAIN: Okay. And then you'd want to cross out -- well, let's ask Ray or Eric. This was one of yours, too, right?

MR. JOHNSON: That's correct.

HEARING EXAMINER STRAIN: You get them all today, huh?

MR. JOHNSON: That's correct.

HEARING EXAMINER STRAIN: We have allowances in the code for protrusions into setbacks. Now, here we're trying to be specific because this is really more attributed to the front setback change that they're making. But in thinking about it, there are other locations, maybe not on this project, but there could be on this project depending on how they futurally (sic) lay out the lots where they're up against a landscape buffer easement or a lake maintenance easement.

Would they be allowed by code, if there's zero setback to those other easements -- and I'm not sure they are in that case. But say they're up close against the other easements, would those protrusions be allowed in any easement at all? I don't believe they would. Do you have a reading on that?

MR. BELLOWS: For the record, Ray Bellows. No, we would not allow for an encroachment into an easement, even an overhang, unless the easement holder granted permission.

HEARING EXAMINER STRAIN: Okay. And I don't believe that the applicant is intending to do that. And I'll ask the applicant to come up before this is over and acknowledge that. But I think in looking at this language -- and the machine doesn't move as fast as my fingers do. Okay. Now it moved too fast.

"Roof overhang shall not protrude into easements" may be the best way to say that, Scott. Instead of referencing just the front yard in cases where it occurs somewhere else, and instead of referencing public utilities, since they couldn't protrude into any easement, maybe we could just -- that would be more effective. What do you think?

MR. STONE: Perhaps adding the word "required" so that you're not catching unintended easements that may be private.

HEARING EXAMINER STRAIN: Okay. And I'll -- Patrick, are you representing -- would you mind coming up to the microphone.

MR. VANASSE: For the record, Patrick Vanasse, certified planner with RWA.

HEARING EXAMINER STRAIN: Okay. If we were to change this language, roof overhang shall not protrude into easements, period, do you have any concerns with that from your layout perspective?

MR. VANASSE: I like Scott's suggestion about required easements.

HEARING EXAMINER STRAIN: Okay. That's what -- I should have thrown that word in. Heidi had a suggestion as well.

HEIDI ASHTON-CICKO: No. My change -- my change would be that it does not protrude into any easements or other tracts or property line, because there shouldn't be, you know, overhangs over the tract line.

HEARING EXAMINER STRAIN: Unless it's a zero-lot-line product, then it's allowed, because that's required to have a 3-foot -- I mean, a 3-foot access easement for maintenance and repair.

MR. BELLOWS: For the record, Ray Bellows. In a cluster development you'll have overhangs onto the other property, but there's a maintenance easement.

HEARING EXAMINER STRAIN: Right. This is considered a cluster development by the mere -- do you have zero lot line on these; do you remember?

MR. VANASSE: Yes, we do.

HEARING EXAMINER STRAIN: Okay. Well, then you're clustered.

So I'm not sure we had to address that in this manner you're suggesting before, because we've not allowed people to extend over a tract unless they are a cluster development and they got the maintenance easement.

MR. BELLOWS: Correct.

HEARING EXAMINER STRAIN: Heidi, I mean, to fit your language in, we would probably have to then write it around the cluster development provision.

HEIDI ASHTON-CICKO: Well, the curious thing is that if you're a cluster development and you're zero lot and then you need a maintenance easement on the other side and then you're saying you can't protrude into any easement, then --

HEARING EXAMINER STRAIN: Any required easement, so I guess that would be a required easement.

HEIDI ASHTON-CICKO: Okay.

MR. VANASSE: If I may, this came about because of the front setback production and the public utility easement, and we clearly -- and we have a plat that's under review right now, and it clearly shows a PUE, public utility easement. That's the way it's identified. That's the way it's labeled on our plans. I think that was the intent to make sure that we don't encroach that.

I'm just concerned about any unintended problems if we just say easements. You know, perfect example is, again, zero-lot-line maintenance easement. We'd rather not have to come back here to change this again because of an unintended consequence.

HEARING EXAMINER STRAIN: And I wouldn't want to see you come back here to change it again after -- I don't know -- oh, there we go.

I wouldn't want to see you have to come back after all the effort it went to get this far. So that's not our objective. I just want to make sure that in the review that staff would have to do somehow -- because the reduction to your setbacks are so close to the easements, we don't inadvertently have future staff read this as an opportunity to provide the overhangs and other things that the exceptions of the code allows in a setback to apply in an easement.

And maybe, Ray, that's simply said, that exceptions to the setbacks don't apply where there's an easement.

MR. BELLOWS: If I understand correctly, we're really talking about the public utility easements versus other kinds of easements such as maintenance easements where that kind of overhang was intended to address. So maybe just refer to that specific utility easement in this case.

HEARING EXAMINER STRAIN: That's fine. I mean, I was -- if you guys, from staff's review perspective, wouldn't allow it in an LBE or an LME anyway, we're in probably good shape.

MR. BELLOWS: Yeah.

HEARING EXAMINER STRAIN: Okay. So -- now going back to the way this language needs to be redrafted and sent back, so we can use this as a backup to a decision, roof overhang shall not be provided into the utility easements, period. Is that sufficient, or do you want to reference the front yard?

MR. VANASSE: No, that's fine.

HEARING EXAMINER STRAIN: Okay. Scott?

MR. STONE: If you're not limiting it to front yards, then that will require changes to the location of the asterisk within the Development Standards Table. Right now it's specifically attached to the front yard setback.

HEARING EXAMINER STRAIN: But that's the only place this occurs, so I think we can leave it, then, to the front yard.

MR. STONE: Okay.

HEARING EXAMINER STRAIN: Ray, do you see a problem with that?

MR. BELLOWS: I don't see a problem.

There was one other issue that we don't want to change was if there's a tree overhang in the rear crossing over, that there would be a maintenance easement for branches and trees; is that correct on this one?

HEARING EXAMINER STRAIN: We have a second -- that's coming up. We're just on the roof over -- like a roof overhang for --

MR. BELLOWS: Then I'm fine.

HEARING EXAMINER STRAIN: Okay. Patrick, are you clear enough on what we've now gotten to that you can refine this and get it back?

MR. VANASSE: Yes.

HEARING EXAMINER STRAIN: Okay. Let's move to the next page, because there's a change there as well.

On No. 4, the firewall protrusions are into required yards or permitted up to three feet, and again, it's except where there are easements.

Scott, did you have some changes to that, if I recall? I'm afraid to ask.

MR. STONE: Yes, I do. It may be subjective, but my proposal would be to change it to "but shall

not encroach into any easements."

HEARING EXAMINER STRAIN: Well, that just says the same thing.

MR. STONE: Right. That's why I said it may be subjective.

HEARING EXAMINER STRAIN: By the way, Scott's an individual that really likes grammar, so -- he's corrected grammar many times.

So I have no problem with the correction. I think it means the same thing. Patrick, are you okay with it?

MR. VANASSE: I guess my only question would be, again, what about a maintenance easement? How does that apply? And I'm not sure of any kind of models that my client has with firewalls.

No concern on your part? Okay.

HEARING EXAMINER STRAIN: I don't know why I'm -- I don't even know why this is in there. I've never seen it in a PUD before, but I just wanted to make sure it wouldn't provide latitude that came across with something unbeknownst to what you intended, so...

MR. VANASSE: My client just gave me the nod, and he's fine with it.

HEARING EXAMINER STRAIN: Okay. So based on Scott's change in grammar, we'll go ahead and make that change.

And then the last item addresses, Ray, I think the issue that you were addressing --

MR. BELLOWS: Yeah.

HEARING EXAMINER STRAIN: -- involving the canopy of the trees. This was crafted by staff. Because of the reduction in easements, we do have canopy tree requirements for the lot, and we wanted to make sure that the lot can still afford those canopy trees.

And staff was -- this was through staff's coordination, correct?

MR. JOHNSON: That's correct.

HEARING EXAMINER STRAIN: Okay. I believe that's the last issue we have. I hit the button for it to change, but electronics between this machine and that machine, there's always a delay.

Let me check my -- I'm making sure I don't have anything else, Patrick. Nope, that's it. Okay. I don't have anything else. Patrick, is there anything you want to add for the record?

MR. VANASSE: I'd just like to thank staff and the Hearing Examiner. I know you guys have spent a lot of time on this trying to help us out and trying to resolve some of these issues. We understand the concerns that you've articulated about open space and meeting tree requirements. And we're happy with the condition that we came up with, and I think we addressed those concerns.

And, just for the record, through the exhibits we've provided -- sorry -- I think we've demonstrated that we meet our open-space requirements and that we'll be consistent with code with regards to landscaping.

HEARING EXAMINER STRAIN: I think we came to the same concurrence after the efforts we all went through to get there, so thank you.

MR. VANASSE: Thank you.

HEARING EXAMINER STRAIN: Eric, do you have a report?

MR. JOHNSON: Yes, I do. For the record, Eric Johnson, principal planner.

This item was advertised in the Naples Daily News on September 18th. Basically you have the staff report. We went through some of the issues.

For the record, the petition -- you have outlined in your staff report how the petition addresses Section 10.02.13.E.1, Letters A through K, as well as Section 10.02.13.E.2.

There are two conditions of approval and, like the last time if you would like, I can read them into the record.

HEARING EXAMINER STRAIN: No. I would believe that Patrick's very familiar with them at this point.

MR. VANASSE: Yes.

HEARING EXAMINER STRAIN: So we won't need to do that in this particular case, so -- the same as they were read before anyway, if I'm not mistaken.

MR. VANASSE: Very well. Yes, that's correct.

With respect to Note No. 8, as we have just discussed, that was -- the genesis of that was to ensure that each lot would have that requisite tree. And so it's staff's understanding that the tree, as in the working drawings, would be in the rear yard and that a portion of the canopy, should it overhang, could overhang into those affected areas as indicated No. 8.

Let's see. We already went through the recommendations of the County Attorney's Office from the Table 1.

I'd like to just point out that we'll need a clean version of the updated information. There's two types of documents in here. There's a struck through, or the stricken through version as well as the clean version. So the clean version will have to be updated as well. Also --

HEARING EXAMINER STRAIN: We use the strikethrough for the decision exhibit, just so you know.

MR. JOHNSON: Okay. Then it's really a nonissue then.

HEARING EXAMINER STRAIN: Right. Because we want staff to clearly see what this case was requesting and doesn't intention -- doesn't unintentionally go into another factor. And that way, when you compare it to the original PUD, you know specifically the changes that were made, so...

MR. JOHNSON: And if it matters, the narrative that the applicant submitted, there are notes -- or there's three points, one, two, and three, and they would have to strike out the reference to single-family attached and multifamily in Notes 1 and 2, as this --

HEARING EXAMINER STRAIN: I'm sorry. Is it referencing notes on this page?

MR. JOHNSON: No, it's not.

HEARING EXAMINER STRAIN: Okay. Because the narrative isn't going to be part of the decision. The record for the narrative is already established by the issuance of the staff report, so --

MR. JOHNSON: Okay. I just wanted to --

HEARING EXAMINER STRAIN: -- just to clarify that for the record.

MR. JOHNSON: -- for the record, state corrections.

So with that, I have no other comments other than staff's recommending approval subject to those two conditions of approval.

HEARING EXAMINER STRAIN: So you don't even want to tell Dan Smith what a great job he did in helping with the landscaping, huh?

MR. JOHNSON: Well, I did indicate in here, so --

MR. SMITH: I appreciate that.

HEARING EXAMINER STRAIN: Dan, thank you. Your efforts and your landscaping experience was certainly a help in resolving the issues that had to be discussed on this, so we appreciate your assistance on that.

MR. JOHNSON: Oh, Mr. Hearing Examiner, for the record, I did receive a phone call from a woman named Rola, R-o-l-a, and her last name is spelled M-u-a-k-k-a-s-s-a, and she was just inquiring about the property, and I believe I forwarded her the information.

HEARING EXAMINER STRAIN: Okay.

MR. JOHNSON: I forwarded my staff report to her.

HEARING EXAMINER STRAIN: Okay. With that, is there anybody else that would like to comment on this particular application?

(No response.)

HEARING EXAMINER STRAIN: Okay. Hearing none, we will close the hearing, and a decision will be rendered within 30 days. Thank you all for your time and effort to resolve these issues today.

***We have one other item on today's agenda. It's under other business. It's a scrivener's error cleanup. Petition No. PDI-PL20150000736. It's the Naples RV Resort, LLC.

This particular issue occurred several months ago on Decision 2015-30. What happened is when we went back and forth to get corrective copies for the decision to be issued, the last line on one of the pages had a change in the numbers for a setback of other accessory structures. That was caught by review staff as a change that was not acknowledged in the public process.

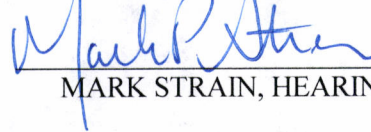
The applicant's been notified, and that has been subsequently changed through this re-recording of a new decision that will have the right documents attached to it and be so noted on the zoning map.

And with that, there are no other items of business today, and this meeting is adjourned.

Thank you all for your attendance today.

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 11-13-15, as presented ✓
or as corrected _____.

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