

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
December 10, 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 Services Manager
Fred Reischl, Principal Planner
Eric Johnson, Principal Planner
Nancy Gundlach, Principal Planner
Heidi Aston-Cicko, Managing Assistant County Attorney

EXHIBITS

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PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the December 10th meeting of the Collier County Hearing Examiner's Office.

If everybody will please rise for the Pledge of Allegiance?

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you.

I have announcements to make. 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.

Normally those decisions take a little less time. We have some holidays coming up, so hopefully we will make -- I'll make them -- I'll just do them -- they'll be done as fast as they can be done but we may take more time than usual.

Review of the agenda. We have six items that are noted on the overhead. There are no changes for the prior minutes meetings of October 22nd and November 13th. I've reviewed those. They are okay to be recorded and submitted.

And that will take us to our first advertised public hearing. The first item up is Petition Number ZVL-PL20150002365. It's a comparable and compatible use analysis for the Naples Beach Brewery, LLC.

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

HEARING EXAMINER STRAIN: Are there any members of the public other than the applicant here for this issue today?

Okay. Paula, since you're representing the applicant just because there are no members of the public

here, we won't need a formal presentation.

For the record, Exhibit A will be the staff report, Exhibit B will be the legal ad.

My disclosures are discussions with staff, review of the files. I've met with Bob Mulhere and Paula Fleishman in regards to it.

What's your last name, Paula?

MS. MCMICHAEL: McMichael.

HEARING EXAMINER STRAIN: McMichael. I'm sorry.

We have two Paulas working here and I just get them mixed up.

And with Paula prior to this meeting.

With that, Paula, I will basically go into the questions, and we do have some clarifications on this one as a result of a couple discussions we had.

First of all, there's a -- that's the general location that we're talking about over in the industrial park.

There's a lot of lag time between what my computer shows and what this overhead does for some reason. In fact, there's way too much lag time. I'm already on the next one.

I did ask the applicant to provide a specific location as a backup exhibit to the decision. If the -- there it is. It's in those three units.

I know that there might be some expansion. We'll be talking to Mr. Kelly about that in just a minute.

Staff had several stipulations. They're on the next slide that still won't come up.

The combined retail enhanced tasting room of 900 square feet will not exceed 20 percent of the gross floor area of the principal use, which is 4500 square feet.

And I want to ask, John, would this apply in a ratio if they increase the 4500 square feet to a number in the future, would they still be 20 percent of that number from the way you wrote your determinations or was your determination intending to apply that way?

MR. KELLY: Okay. And -- and it's actually based upon the accessory uses section of the LDC for the industrial area, and it's 20 percent of the gross floor area. So, depending on if they expand, it's 20 percent of whatever the total value is before area.

HEARING EXAMINER STRAIN: Okay. So that the current figures of square footage don't really matter as much as the 20 percent. That's what I wanted to make sure.

Paula, do you have any objections to any of the staff stipulations?

MS. MCMICHAEL: No. We agree with all the staff stipulations.

HEARING EXAMINER STRAIN: Okay. Well, that's the last item I have on that.

Staff; that is, John, have you received any objections to this?

MR. KELLY: No, sir.

HEARING EXAMINER STRAIN: Okay. And that's all I need from the applicant. Thank you.

MS. MCMICHAEL: Thank you.

HEARING EXAMINER STRAIN: John, do you have a staff report?

MR. KELLY: Yes. The staff report's been submitted.

HEARING EXAMINER STRAIN: No. I'm sorry. Do you want to add anything to the staff report verbally for the record?

MR. KELLY: No, sir.

HEARING EXAMINER STRAIN: Okay. With that, we will close the public hearing on this matter and there will be a decision rendered within 30 days. Thank you all.

The next item up is Petition Number PDI-PL20150000262, the Emmanuel Evangelical Lutheran Church of Naples, Inc.

All those who wish to testify on behalf of this item, please rise and be sworn in by the court reporter.

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

HEARING EXAMINER STRAIN: Okay. Are there any members of the public here for this particular issue?

Okay. Well, Paula, it's going to be the same process as before. There won't be a formal presentation. I've read all the documentation.

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

My disclosures are, I met and talked with staff, I reviewed the files and I did meet with Bob Mulhere and Paula on this matter previously.

There have been some corrective changes needed for this. We'll walk through them as we go through this document.

And I'll ask you questions about them, Paula, from the perspective of agreeing or disagreeing.

This is the general location of the site, South Oil Well Road. That's an aerial of it. It's an undeveloped section of the estates. Right now there's no options. The principal use is built on the property.

And there is a site plan but it's taking awhile to show up. And I don't know how to get it to show up any faster than this machine wants to work.

That's the site plan as a future build out. The area that we're talking about or concentrating on is the upper left-hand corner for the most part. I believe there's some parking and a garden plot in the rest of it.

The athletic field operation that is being requested today is being authorized for five years and with an option to authorize for another five.

And, Paula, we have some corrective language to that. I want to make sure staff and you are in agreement on this, and I got this from your office.

Approving the continuation of the athletic fields as an interim accessory use. The county will evaluate any changes it impacts to adjacent roadways or neighborhood properties to determine whether the five-year extension should be granted administratively or brought back before the hearing examiner.

Is that -- since it came from your office, I'm assuming you met with your applicant, Aaron Cromer.

MS. MCMICHAEL: Yes. We agree to that criteria for the continuation of the use.

HEARING EXAMINER STRAIN: How is staff on that?

MR. SMITH: The staff concurs.

HEARING EXAMINER STRAIN: Okay. The second item that we needed to correct a little bit is the traffic control. During peak events will be -- traffic control will be provided if it is determined to be warranted by the Collier County Growth Management Division or the Collier County Sheriff's Office.

Now, I've got that -- I got that data as well confirmed by our transportation department.

Do you have any concerns with that?

MS. ASHTON-CICKO: It will be provided by owner.

HEARING EXAMINER STRAIN: Certainly can.

MS. MCMICHAEL: At the cost of the owner? Is that --

MS. ASHTON-CICKO: Yeah.

HEARING EXAMINER STRAIN: That is the intent.

MS. ASHTON-CICKO: It typically has something to say that the owner will provide it whenever appropriate.

HEARING EXAMINER STRAIN: Any objection to that, Paula?

MS. MCMICHAEL: No. That's fine.

HEARING EXAMINER STRAIN: Okay. In discussions with the County Attorney's Office over the wording of the accessory uses that added what we're here for today, principally the sports-related community events, instead of adding it as an except -- an additional use stated under accessories, it is already an existing use that's allowed, so we moved it up -- we recommended moving it up to number one as an add on to that paragraph.

There is the additional language that was suggested. I received that from you this morning. I've asked the County Attorney's Office to review it for comments.

I think, Heidi, you have a corrective comment about that?

MS. ASHTON-CICKO: Yeah. I just have an additional sentence that needs to be added to the end of the paragraph. These uses are also permitted prior to the construction of a principal use as listed in Paragraph A of Exhibit A of the PUD.

MS. MCMICHAEL: And we agree to that. That's a good clarification.

HEARING EXAMINER STRAIN: Thank you.

And that takes us through that one. Let me make sure I don't have any other questions for staff.

No. That's all my questions.

Thank you, Paula.

MS. MCMICHAEL: Thank you.

HEARING EXAMINER STRAIN: Appreciate it.

Dan, do we have a staff report? And I know you've provided one in the past.

MR. SMITH: Yeah. I'll read it if you want. Maybe I -- I guess I'd better read it.

HEARING EXAMINER STRAIN: Do you want to elaborate on anything especially what you just heard is changing?

MR. SMITH: No. Staff concurs. Staff recommends the Collier County Hearing Examiner for Petition PDI-PL2015000262, Emmanuel Evangelical Lutheran Church Community Facility PUD subject to the following conditions to be incorporated into the final acts decision. One, changes per this meeting in the record, two, issuance of development permit by the county. Our issuance of development permit by the county does not in any way create any rights on the part of the applicant to obtain permit from the State or Federal agency and does not create any liability on the part of the county, provisions of the permit if you can't -- if -- if the applicant fails to obtain our requisite approvals or fulfills the obligation proposed by the State and Federal agency or it takes actions that result in a violation of State and Federal law.

Three, all other applicable State and Federal permits be obtained before commencement of the development.

HEARING EXAMINER STRAIN: Okay. Thank you, Dan.

I don't believe I have any other questions.

Are there any members of the public that would like to speak to this issue?

Okay. Hearing none, we will close the public hearing in this matter and a decision will be rendered in 30 days.

Thank you for your time.

The next item up is Petition Number SV-PL20150001856. It's the RaceTrac Petroleum, Inc. application for the corner of Radio Road and Davis Boulevard.

All those who wish to testify on behalf of this item, 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, Rose.

Staff -- the Exhibit A will be the staff report, Exhibit B will be the legal ad.

Disclosures on my part. I've read the files, met with staff and met with the applicant.

Are there any members of the public here for this issue today?

Well, Tom, I've read the entire package and so I won't need a formal presentation. I have some questions that I want to ask of you, some just clarifications for the record.

This is the general location of the RaceTrac that's being proposed. That's the aerial of it.

That's an overlay on the aerial of how it's fitting into the corner of Radio Road and Davis Boulevard.

Those are the points that are being addressed in regards to sign variances. These are identical to the other sign variances you've received on three other locations in Collier County?

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: Okay. I want to compliment you on the way your product has been developed in the other parts of the county, your landscaping and the appearances, excellent. Your project looks real good.

MR. HARDY: Thank you, sir.

HEARING EXAMINER STRAIN: The canopy on this particular project on the other side had a dimension to check the ratios with.

In discussions with you yesterday, you told me this canopy will be consistent with the size, I think it was, of the Rattlesnake and the Barefoot Beach canopy? Is that correct?

MR. HARDY: Barefoot Williams and Rattlesnake, yes.

HEARING EXAMINER STRAIN: Okay. And I did verify that the size of the signs were consistent with those locations, so as long as the canopy is, we should be in good shape.

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: This is the elevations of your project showing where the sign

locations are that are being asked for today.

And it's my understanding from reading the staff report that the collective size of the facade signs don't exceed one sign but is broken up into several.

MR. HARDY: Yes, sir.

And for the record, I'm Tom Hardy, RaceTrac comptroller.

MS. GUNDLACH: Thank you, Tom.

HEARING EXAMINER STRAIN: That's your landscape plan, which looks like the rest of your facilities should do real well.

MR. HARDY: Yes, sir.

HEARING EXAMINER STRAIN: These are the stipulations --

Heidi? Heidi?

MS. ASHTON-CICKO: Sorry.

HEARING EXAMINER STRAIN: These are the stipulations that staff has provided. Do you have any objections to them?

MR. HARDY: No, sir. We are happy to agree with staff for those stipulations.

HEARING EXAMINER STRAIN: Okay. That's the last issue I have. Thank you very much.

MR. HARDY: Thank you, sir.

HEARING EXAMINER STRAIN: Nancy, good morning.

MS. GUNDLACH: Good morning.

HEARING EXAMINER STRAIN: Do you have any -- any staff comments you want to add involving the staff report or anything?

MS. GUNDLACH: Commissioner, good morning. We -- actually, Mr. Hearing Examiner. Good morning.

HEARING EXAMINER STRAIN: I'll change that when I walk out the door.

MS. GUNDLACH: Staff has recommended approval of this land use petition, and on Pages 6 of 7 of the staff report, we do have recommendations of approval.

If you would like for me to read through them, it would be my pleasure.

HEARING EXAMINER STRAIN: No. That's not necessary. I prefer that you do what Dan did and we hear that whole paragraph all over again.

Heidi?

MS. ASHTON-CICKO: I do have a concern with the conditions of approval because number two sounds like it is allowing an additional fuel canopy sign beyond the three that are listed in the first condition.

So, I would suggest that number two be omitted. It's the same sign as number three, which is 30 feet for a sign under canopy facade facing the vacant commercial parcel.

She's just referring to another section of the LDC which isn't mentioned in the condition.

HEARING EXAMINER STRAIN: And that's fine. But I under -- from -- I expected that staff had put that there because it was the required deviation to have a sign on that -- that facade, which wouldn't have been allowed without the deviation, but if it's --

MS. ASHTON-CICKO: Well, it should be listed in the list of deviations when you write up your report.

HEARING EXAMINER STRAIN: It is. It will be, yes.

MS. ASHTON-CICKO: So is the condition of approval. It's not needed.

HEARING EXAMINER STRAIN: Okay. Do you have any objection, Tom?

MR. HARDY: No, sir.

HEARING EXAMINER STRAIN: Okay.

Nancy?

MS. GUNDLACH: That way is fine with me.

HEARING EXAMINER STRAIN: Well, we will eliminate number two and the staff recommendations will be part of the decision-making process.

Okay. Anything else, Nancy?

MS. GUNDLACH: No.

HEARING EXAMINER STRAIN: Any members of the public here to discuss this item?
Okay. With that, we'll close the public hearing and a decision will be rendered within 30 days.

And I notice your attorney came with you today, Tom. I was --

MR. HARDY: Not with me. He's not with me today.

HEARING EXAMINER STRAIN: Oh, he's not with you? I was a little surprised because I thought it was simple and I was thinking, okay, there's going to be a complex issue to this, but...

MR. HARDY: No.

HEARING EXAMINER STRAIN: He's not with you. All right.

MR. HARDY: Not today. Not with me.

Thank you, sir.

HEARING EXAMINER STRAIN: Thank you.

The next item up is Petition Number VA-PL20150001635, Evansburg Properties, LLC. It's for a reduction of a front yard principal structure set back from 30 feet to 23 feet.

All those wishing to testify in 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.

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

Disclosures on my part. I talked with staff and reviewed all the files.

Are there any members of the public here to speak on this that are not with the applicant?

Okay. Who's representing the applicant?

Do you mind coming up to the speaker and identifying yourself, sir?

MR. YURK: Good morning. My name is Gerald Yurk. I'm the architect for the applicant. I'm with Architecture Artistica, Inc.

HEARING EXAMINER STRAIN: Good. You're the gentleman I have a few questions of.

MR. YURK: Good.

HEARING EXAMINER STRAIN: I'm glad you're here.

We won't need a formal presentation since no members of the public are here and I did review the entire record, so I'm fine with that.

As a process or overview, this is the location of the house that is involving the setback variance. There's the subject property on the aerial.

This is a configuration of the requested stair system that would be installed if the variance is approved. I notice it's a circular drive and the stair goes off to both sides instead of straight down from the house.

One of the questions I had is in the upper left hand photo shows the house in 2014, at least that's the label that's on it. And the lower right hand shows the house in 2015.

What happened? Just -- I mean, you had a circular drive and it looks like that's gone and the house has been partially demolished.

Was that house damaged or how did this come about?

MR. YURK: There is -- or there was a circular drive. It's semi-circular drive, only a half circle. You drive up the driveway and stop at the front door and then you had to back down, so that was one of the conditions that led to this request.

The contractor for the job did get a demo permit and had been doing demo work mostly inside, but some outside as well. That's what changed.

HEARING EXAMINER STRAIN: Can you -- you'll be replacing the driveway with this circular pattern?

MR. YURK: That's correct.

HEARING EXAMINER STRAIN: That's what your intention is?

MR. YURK: Correct.

HEARING EXAMINER STRAIN: I also noticed in your writeup that the -- and then I'll quote. While the proposed design is aesthetically pleasing and practical, the chief building official does not concur with the applicant's claim the proposed encroachment represents the minimum necessary.

What were the particulars of that discussion? Why -- what was he believing the minimum necessary

was or did you -- did he explain that to you in your discussions?

MR. JOHNSON: I have had no discussions with the Building Department. My only discussions were with planning, Mr. Eric Johnson.

HEARING EXAMINER STRAIN: Well, then, I'll ask Eric. I saw that statement under the findings, number four.

Where did you get that information from, Eric?

MR. JOHNSON: For the record, Eric Johnson, Principal Planner, Zoning Division.

I had a discussion with the building official and he looked at a drawing and determined that that -- that you actually could design it so that it would protrude less into the setback.

HEARING EXAMINER STRAIN: In doing so, would still meet the minimum requirement.

MR. JOHNSON: When he told me that, I have to assume that, it -- by protruding less into the setback, it would -- it would still be designed to meet the rise and run formula.

We're not talking a great deal of -- of big dimension but, nonetheless, I did have to report it at -- at face value, that it could be designed with less intrusion.

HEARING EXAMINER STRAIN: I understand. I -- I just know our codes are set up for minimum standards. You know, based on what I can see, the applicant is improving those minimum standards. It's just a matter of does the improvement encroach more than necessary?

I'm not sure. It's an impractical situation to say that it's -- it's effective the way it's designed.

There is another statement on the -- on electronic Page 27. I believe this comes from the applicant, the project narrative, third paragraph.

The other condition that needs to be corrected is the steep stair coming out of the house at the front entry. The rise and run formula for safe stairs in the building code is not complied with here creating a dangerous situation.

Do you have any kind of documentation that you have supplied or that -- that verifies that? I mean, is there a -- have you done a measure survey on the stair system? Have you submitted any documentation to verify that?

MR. YURK: We -- the first thing we did when we were brought out to this project was look at the stairs because they were extremely steep.

We found that, although they were built by what, 15, 16 years ago, the rise and run formula was a bit different than it is today. And the cold weather, it was the same then or not, I didn't research, but we felt it was unsafe.

When you try to -- when you come out of that house, it was really an unsafe condition. Just -- you were just going right down.

So, we went to the code, designed a new stair to those -- those requirements, within a fraction of an inch with each one, and determined that we needed that kind of distance to get down to the -- to the elevation of the driveways on either side.

So, we have to look at the distance of travel vertical from the finished floor of the house to the driveway pavement at the bottom.

HEARING EXAMINER STRAIN: Well, I know this is -- this house is high. Do you have a parking -- do you have a parking deck on the lower floor? Or is it --

MR. YURK: We have two garage doors coming into the garages.

HEARING EXAMINER STRAIN: Okay. On the -- another item that I found was in the narrative. It said, a noncompliance stair is a preexisting condition.

The only reason I'm asking about that is because if it's not compliant, I'm just wondering how a building permit inspected and approved it. Maybe it was compliant at the time. Maybe codes have changed. I don't know. And I was hoping that you would -- may have information on that.

MR. YURK: I have not -- I have not gone back and talked to any building people or reviewed any codes from 15 or 16 years ago, no.

HEARING EXAMINER STRAIN: Well, there's no objections from anybody and I think your stairs are a greater improvement over what's there, so I'm not overall seeing a problem. And I just wanted some clarification on how it may have occurred in the first place.

MR. YURK: Thank you.

HEARING EXAMINER STRAIN: Thank you.

And, Eric, do you have a follow-up staff -- any staff report?

MR. JOHNSON: Sir, I just wanted to say that, you know, the property is zoned RSF-3. The house is a permitted use in that zoning district and the project or the petition was advertised in the Naples Daily News on November 20th.

Staff reviewed the petition based on the evaluation criteria in LDC Section 9.04.03, A through H, and that's in the staff report. And staff is recommending approval of the petition subject to the two standard conditions of approval that the County Attorney's Office provided us.

If you want, I could read those into the record.

HEARING EXAMINER STRAIN: No. I do not want you to read those into the record. They are part of the record, but I -- I heard it once from Dan. That will be enough for the next six months.

Okay. I don't have any other questions.

Are there any members of the public here that wish to speak on this item?

Okay. With that, we will close the public hearing.

Thank you, sir, for your time and a decision will be rendered within 30 days.

Okay. The next item up is Petition Number CU-PL20140001610. It's the Grace Place -- Grace Place for Children and Families, Inc. It's in Golden Gate City.

All those who wish to testify in behalf of this item, please rise and be sworn in by the court reporter.

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

HEARING EXAMINER STRAIN: Were there any members of the public here involving this application that are not with the applicant?

Okay. Disclosures on our exhibits. Exhibit A will be the staff report, Exhibit B will be the legal ad.

Disclosures on my part. I talked with staff, reviewed the files, talked with the District Commissioner and attended the pre-ap hearing.

And with that, is there a representative for the applicant?

MS. DEJOHN: Good morning. Laura DeJohn with Johnson Engineering here today on behalf of Grace Place for Children and Families.

Also here is the representative, Dave Tobiasz, from Grace Place, and project engineer, Jim Carr, from AB&B.

We've read through the staff report. We appreciate staff's analysis and recommendation for approval. We agree with the conditions in the staff report.

So, unless you have questions, I'll allow the hearing to proceed.

HEARING EXAMINER STRAIN: You just answered some of my questions, so we're in good shape.

I'll just run through the location information, a little bit about the project.

That's the general location and that's the aerial for it. The site is partially developed.

The Master Plan that is being asked for today, if it ever comes up on this screen. There it is.

This is a slight change from the previous Master Plan, which is still trying to come up on the screen.

Hopefully, maybe by the next meeting, we can get this machine fixed. And originally only did this when I put a power point up, so I converted everything to slides under PDFs thinking it would help it, but that's not even working right.

This is the prior plan and the only staff recommendation is the student capacity is limited to a maximum of 258 students and you're in agreement with that.

MS. DEJOHN: Correct.

HEARING EXAMINER STRAIN: Make sure I don't have any other questions.

The -- I had one question from our traffic department, but before they come up, I want to make sure I've got everything.

Yeah. That's it.

So, thank you. I don't have any questions for either of you. I've got one for our traffic department.

MS. DEJOHN: Thank you.

HEARING EXAMINER STRAIN: Thank you.

Mike. Good morning.

MR. SAWYER: Good morning. For the record, Mike Sawyer, Transportation/Planning.

HEARING EXAMINER STRAIN: Just a quick question, Mike.

On the 258 students, is your traffic number based on students or based on square footage of buildings in regards to an application like this?

MR. SAWYER: For a school of this type, it would be based on the number of students as well as staff. So, we've accommodated that.

With this particular project, if you were, it -- the traffic is primarily just going out onto the local streets. We certainly do evaluate it out to the main roadways, which is really where we -- we track them on the traffic that is actually involved.

HEARING EXAMINER STRAIN: Okay. The reason I asked is the square footage was not clearly addressed in the application. It's based on students. I just wanted to make sure that it wouldn't pose a problem in the future traffic calculations.

MR. SAWYER: No, not at all.

HEARING EXAMINER STRAIN: Okay. Thank you, sir.

Fred, is there a staff report?

MR. REISCHL: Thank you, Mr. Strain.

Fred Reischl with Zoning Division.

I have received no objections and our NIM was -- had no members of the public attending, so with the condition for the limit on the students, we're recommending approval.

HEARING EXAMINER STRAIN: That's great. Thank you, Fred. Appreciate it.

I have no other questions.

That's -- so, we will close the public hearing in this matter and a decision will be rendered within 30 days.

That takes us to our last item for today. It's Petition Number BD-PL20150001141, the Gregory Gatlin request for an 18.3 foot boat dock extension on the Isles of -- in the area of Isles of Capri.

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. This one may be a little more complicated once I seen Jeff's name in here.

MR. ROGERS: As of yesterday.

HEARING EXAMINER STRAIN: As of yesterday, you've been standing there?

MR. ROGERS: Yeah. It got complicated. I feel like it.

HEARING EXAMINER STRAIN: Yeah. I think -- I think it was Eric who came in yesterday with some new news. It did make it a little more complicated.

I've got a bear full. We'll discuss that. I want to verify it doesn't make any changes in regards to staff's report.

First of all, let's walk through the condition.

Oh, let's go back to Exhibit A. Exhibit A is the staff report, Exhibit B will be the legal ad.

Disclosures on my part is I've talked with staff, reviewed the files, and until today I don't think Jeff and I had a discussion on this one.

MR. ROGERS: Uh-uh.

HEARING EXAMINER STRAIN: With that, this is the general vicinity of where the project and site location is.

There's an aerial.

That's another aerial showing the existing conditions, which are mimicked in the distance from the shoreline to the conditions being asked for today.

MR. ROGERS: Correct.

HEARING EXAMINER STRAIN: That's a little more detail of what the existing conditions are.

The new conditions would mirror parts of the existing conditions but that a way to get that outer dock

section that currently is only access that looks like across the boat.

MR. ROGERS: Yes. Correct.

HEARING EXAMINER STRAIN: Distance between the shorelines is 300 feet.

This particular dock extension aerial is not coming up because of the slide, but you're actually lowering the docks instead of making them higher. You're lowering them. I understand the gentleman kayaks in the area?

MR. ROGERS: Correct. Yes, sir.

HEARING EXAMINER STRAIN: Picked a really good area to kayak in, so I'm glad to see they're being lowered.

And yesterday's information, we discovered this, so we will need to discuss the impact of the existing permit that wasn't necessarily disclosed to the extent we've discovered it.

This permit did not provide for that outer leg. It was a little shorter by five feet than the one you're asking for, so in essence you are asking for a little bit more protrusion than you currently have.

MR. ROGERS: Correct.

HEARING EXAMINER STRAIN: There was one letter of objection initially. That gentleman rescinded his objection based on the fact that it was no further out than it currently is.

I don't know if that was consistent in his mind with a permit or not, but he's -- he's across the waterway. I don't -- I don't -- is there anybody here objecting to this today?

I don't think he followed up and came to the meeting.

So, with that, I know you probably don't want to add a lot to it. I notice that the -- did you know the guy that did that first? If you notice down at the end, it's Wayne Wyloe -- Wyclose --

MR. ROGERS: Right.

HEARING EXAMINER STRAIN: -- but it was done by Scofield Marine --

MR. ROGERS: Yes, sir.

HEARING EXAMINER STRAIN: -- which I thought is interesting. That's a predecessor to some of what you guys are doing.

MR. ROGERS: Correct.

That's where -- like you said, we didn't fully understand the original approval that happened in 1998 for the dock.

It was our understanding that it was a 13 -- it was an 18 foot extension and not a 13. That was a misunderstanding on Turrell's behalf.

We looked into the records, we asked for the records of the previous approval and we're -- we're told that it would take some time to get, so we kind of just went with the previous owner's statement that it was an 18-foot extension, that it was granted.

And live and learn, don't take the previous owner's word -- word for it.

So, the dock was changed a little bit. The overall protrusion is 38.5 feet. The original approval was for 33 feet, so we are here today requesting a 5.3 foot extension from the previously approved PD.

HEARING EXAMINER STRAIN: I did notice that the water depth in the original extension seemed to be a criteria that it was partially dependent upon. The water depth is shallower and they obviously were trying to get the boat out to where there was deeper water.

MR. ROGERS: Correct.

HEARING EXAMINER STRAIN: You failed to address that as a need in your primary and secondary criterion. Just curious why, because I think it was one you could have benefited from.

MR. ROGERS: The previous owner had a larger vessel than what our current owner has or would like to store on site.

So, when originally the water depths were a little bit more restrictive in '98 for the previous owner and that -- and his vessel.

The gentleman that now owns it, Greg, and Janet Gatlin, they are more of kayakers, not really into boating, so the water depths are not an issue in this case.

As you know, kayaks don't take much water to float; therefore, they don't even have a boat right now. And I don't think they have any plans to have a boat to be stored on site.

So, with that being said, we didn't fully look into it. Should have and shame on us basically.

HEARING EXAMINER STRAIN: But if -- based on the amount of water distance between the -- your dock and the dock across the way and the size of that channel, I didn't see there was a problem.

MR. ROGERS: Right.

HEARING EXAMINER STRAIN: I thought it was interesting that your prior -- your predecessor, who you currently worked with, was the person involved in it, so...

MR. ROGERS: Well, it was -- just in our defense, it was done under Scofield Marine with Turrell Hall, and his files aren't part of Turrell's.

So, it was a mad scramble last night in the office looking for that information with no luck, so...

HEARING EXAMINER STRAIN: Unless staff has a -- has a concern, I mean, I -- at this point I don't know if there's a concern over that change.

MR. ROGERS: Okay.

HEARING EXAMINER STRAIN: And with that, that's all the questions I have for you, Jeff. Thank you.

MR. ROGERS: Appreciate it.

HEARING EXAMINER STRAIN: Eric, do you have -- do you want to add anything to your staff report?

MR. JOHNSON: Yes, I would.

Eric -- Eric Johnson.

HEARING EXAMINER STRAIN: By the way, that was good research finding that, so thank you for bring it in today.

MR. JOHNSON: Eric Johnson, Principal Planner, Zoning Division.

Some facts. The property is zoned RSF-4. A single family house is the permitted use there. Dock facilities are allowed there as well.

The item was at, as you mentioned or alluded to, that the Naples Daily News advertisement November 20th. I think that was one of the exhibits.

Staff originally reviewed the -- the petition, based an evaluation on LDC, Section 5.03.06.

Staff determined that four of the primary criteria and four of the secondary criteria have been met and so, therefore, staff is recommending approval of the petition subject to the two conditions of approval that were given to us by the County Attorney's Office.

Mr. Pritzel and Mr. Decker had, you know, given me their e-mails and I forwarded them to you.

You know, I -- I -- I can't say whether or not they would have been in favor or an objection based on this new revelation, but staff is still recommending approval of the -- of the facility.

If anything, criterion number two would have been changed a little bit, but -- or we would need to see possibly more information, more prints, in order to make a better evaluation of criterion number two.

But the fact of the matter is for the primary and for the secondary, still staff is, you know, saying the criteria are met.

So, with that said, staff is still recommending approval of the petition.

HEARING EXAMINER STRAIN: Okay. That's what I was looking for.

Thank you. I appreciate it.

Are there any members of the public here wishing to speak in this matter?

Okay. Hearing none, I will close the public hearing and a decision will be rendered within 30 days.

Thank you all for attending.

The last two items up, there's no other business scheduled, and number six is for general public comments.

Does anybody here wish to make a comment at this time?

Okay. With that, this meeting is adjourned. Thank you all for attending.

* * * * *

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:39 a.m.

COLLIER COUNTY HEARING EXAMINER


MARK STRAIN, HEARING EXAMINER

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 1-14-16, as presented ✓
or as corrected _____.

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