

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
January 28, 2016

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
Fred Reischl, Principal Planner
Nancy Gundlach, Principal Planner
Eric Johnson, Principal Planner
Scott Stone, Assistant County Attorney

EXHIBITS

DESCRIPTION	PAGE
PDI-PL20150001593	
A - Staff Report	4
B - Legal Advertisement	4
 PDI-PL20150001934	
A - Staff Report	10
B - Legal Advertisement	10
 PDI-PL20150002549	
A - Staff Report	17
B - Legal Advertisement	17
 BD-PL20150000255	
A - Staff Report	18
B - Legal Advertisement	18

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, January 28th 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.

I have a couple of housekeeping matters to announce. Individual speakers will be limited to five minutes unless otherwise waived.

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

With that in mind, the review of the agenda, everything is in order. I notice we have representatives from each particular case here. So we'll leave the agenda as it's noted.

The approval of prior meeting minutes. The January 14th minutes were distributed. I've read those, and I find nothing wrong with them. They can be recorded.

***Which takes us to our first advertised public hearing. It's Petition No. PDI-PL20150001593, and it's the Naples Associates V, LLP, also known as the Temple Citrus Grove. And I think it's got another name. Marbella --

MR. RATTERREE: Isles.

HEARING EXAMINER STRAIN: Marbella Isles. And for the record, could you state your name.

MR. RATTERREE: Yes, sir. For the record, my name is Kevin Ratterree, vice president with GL Homes, developer of Marbella Isles.

HEARING EXAMINER STRAIN: Okay. And the first matter of business will be swearing in. 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. Disclosures on my part: I talked with staff; I've reviewed all the files; and I have talked with Bob Duane, the applicant's representative.

Exhibits today: Exhibit A will be the staff report. Exhibit B will be the legal ad.

Are there any members of the public here for this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. And, Kevin, with that in mind, I've already read the staff report. I have a few questions. If you have anything you wanted to add to the record, you're more than welcome to at this time.

MR. RATTERREE: Let's let the questions fly.

HEARING EXAMINER STRAIN: Okay. Well, first of all, there were some staff recommendations. Do you have any objections to those?

MR. RATTERREE: No, sir.

HEARING EXAMINER STRAIN: Okay. Let me pull it up. I need a clarification from staff on the NIM. There was a NIM held, I believe.

MR. RATTERREE: Yes, sir.

HEARING EXAMINER STRAIN: Okay. And, Nancy, would you -- I notice it wasn't in your report, so would you make an acknowledgment as to the conditions of the NIM and anything that may have occurred there.

MS. GUNDLACH: Yes, sir. Good morning, Mr. Hearing Examiner.

The NIM meeting was held on December 8th, and there were no attendees.

HEARING EXAMINER STRAIN: Okay. Usually the staff report simply says that. It was missing this time. I wanted to make sure the record was clear on that.

And I did just catch something. I have a standard note about staff recommendations, but there really wasn't any in this one. So I appreciate you agreeing to nothing.

MR. RATTERREE: Well, that's my style.

HEARING EXAMINER STRAIN: Thank you, Kevin.

There was also an issue involving a notation, and let me see if we can get to it here. On this particular table, we've added the line that's in the red box, and it basically affects two product types, single-family detached and single-family zero lot line, the line that would go to zero on a lake maintenance easement, which is usually 20 feet from the control elevation.

While the two-family duplex notes three feet, which is consistent with how it would read, I would assume in other locations that that isn't a change. That's still three feet.

MR. RATTERREE: That's correct.

HEARING EXAMINER STRAIN: Because that wasn't advertised as a change. In order to be consistent with that, we were suggesting -- and I talked to Scott Stone about this -- to add the word "single-family" in front of the word "lots" on there so that we know the change is limited to what was advertised, and that was the single-family lots. Is that -- do you have any objection to that or concerns?

MR. RATTERREE: Correct, as long as the understanding and interpretation of the term "single-family" includes both single-family detached and the zero lot line attached units.

HEARING EXAMINER STRAIN: And, Scott, does that work?

MR. STONE: I suppose in an abundance of caution, we could explicitly write "single-family detached and attached," but I do personally believe that "single-family" covers both.

HEARING EXAMINER STRAIN: Then from Ray's perspective, would it matter to you, Ray? Does it need more clarification?

MR. BELLOWS: I think it's clear enough, though I don't have a problem if you want to add that additional qualifier.

HEARING EXAMINER STRAIN: Okay. Well, then, Kevin, if you don't mind, when we get done today, if you could forward the corrected language to my office, that way when a decision's written up, we can incorporate that into the language.

MR. RATTERREE: Be happy to.

HEARING EXAMINER STRAIN: And that would involve all the various properties that were just around the lake that are shown on this map. It doesn't involve any other thing that's off the lake, any other property off the lakes, I believe.

MR. RATTERREE: Just because that map is the entire community. The requested change only applies to single-family and zero lot line. There's a total of 466 homes in the community, of which only 127 are affected by the change that's coming forward, which would be those single-family zero lot line lots that abut the

lakes.

HEARING EXAMINER STRAIN: So they'd have to abut one of those eight lakes?

MR. RATTERREE: Well, actually, Lake No. 5, 6, and 7 are lakes that abut up against the duplex product, and their amount of -- this change did not apply to those particular lots.

HEARING EXAMINER STRAIN: Okay. Great. Thank you.

MR. RATTERREE: You're welcome.

HEARING EXAMINER STRAIN: Is there a staff -- or anything, conditions you need or clarifications to the staff report, Nancy?

MS. GUNDLACH: No.

HEARING EXAMINER STRAIN: Okay. Are there -- any members of the public wish to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we will close this public meeting, and I will have a report -- a decision within 30 days but most likely within 10.

MR. RATTERREE: Thank you very much.

HEARING EXAMINER STRAIN: Thank you, Kevin. Appreciate it.

***The next item up is Petition PDI-PL20150001934. It's the Sterling Oaks Association Club, Inc., and it's for a setback variance on the west side of the project.

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: Disclosures on my part: I've talked with staff; reviewed the files; and the applicant, Mr. Cotter, I spoke with him when this originally started, which seems like far too long ago.

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

Are there any members of the public here wishing -- that will be speaking on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. It's good to see you again. I'm sorry it took so long for you to get to this point today. I know it's been an interesting road for you. I've seen the paperwork. In fact, I can't think of many projects where I've had 510 pages of backup. So as much as you've had the trouble putting it together, I certainly had a time reading it all.

I don't have a lot of questions. There are a couple I wanted to clarify. Do you have anything you want to add to the data that's been provided to the staff report? Because I have read it all.

MR. COTTER: Not at this time, no.

HEARING EXAMINER STRAIN: Okay. First of all, do you agree with the staff recommendations?

MR. COTTER: Yes, sir.

HEARING EXAMINER STRAIN: Okay. And I'm sure your answer to this is going to be affirmative. This request is strictly for the buildings in question, not for any other part of this project. And for the benefit of everybody, that's the aerial of the maintenance facility that's just south of the clubhouse in Sterling Oaks, and that corresponds to the tract -- it's in Tract H, as laid out here.

And in looking at the file, this is -- the rectangle on the right, I believe, is the addition that needs the bulk of the setback variances; is that correct?

MR. COTTER: Correct.

HEARING EXAMINER STRAIN: Setback changes, I should say.

In looking at it in the language that was written, the language is pretty broad. Basically anything going in Tract H would be subject to this language, and I think the intent is that you want the building addition that you're doing -- and I believe the existing building has a slight intrusion into the 20-foot setback as well.

So my suggestion -- and I'll get staff to confirm this -- is that we write that language that's on that page there to be more specific and tie it to the surveys that you provided. So basically the two buildings that are on the survey, which would be both -- these are pages from the survey. It's a four-page survey. Those are the buildings that will be subject to this setback change, not other buildings that could fall within Tract H.

MR. COTTER: No, just this isolated incident only.

HEARING EXAMINER STRAIN: Okay. And that's acceptable to you as the applicant?

MR. COTTER: Yes.

HEARING EXAMINER STRAIN: Okay. I'll ask staff to confirm that in a minute.

And I did want to check one other thing. According to this, the setback is at 13 feet, but the advertisement and the request is for 12 feet. And I talked to Scott, and I think there was someone that at the time thought there needed to be an abundance of caution to make sure that the building was covered, but if this survey is accurate, we don't need to really be at 12 feet. Thirteen feet would be sufficient, would it not?

MR. COTTER: Yes.

HEARING EXAMINER STRAIN: Okay. Because I'd like to match the survey and read the request for the setback. If you're at 13 feet by the survey, I don't know why we would need to say 12 unless staff in their report can tell me something different to that question, so...

MR. COTTER: Yes, I agree with that.

HEARING EXAMINER STRAIN: There also is the issue of a small shed. Apparently that's being relocated. That was discovered after the fact.

And I believe that is all I have. That's the only questions I have are those there, so thank you.

MR. COTTER: All right.

HEARING EXAMINER STRAIN: And I'll ask staff to comment on some of the things I just brought up to you. Appreciate your time.

MR. COTTER: All right. Thank you.

HEARING EXAMINER STRAIN: Eric? This rather voluminous package of information was yours. And since it's 510 pages, I'm not going to ask you to read the whole thing for the record. So maybe if you could just answer the -- you heard my comment about the clarification to the language. Do you have any problem or objection to that?

MR. JOHNSON: No, sir. For the record, Eric Johnson, principal planner.

Building on what you were discussing with the applicant, the scope of this application PDI is limited to that which is shown on the spot survey, a building. Any other encroachment required a separate application. I think that's the kind of language that we were looking for.

HEARING EXAMINER STRAIN: Okay. And I agree, and I would want to make sure that the exhibit that I'm going to use will tie that to the decision, the four pages of the survey. Sitting here, any problem with that?

MR. JOHNSON: No, none whatsoever.

HEARING EXAMINER STRAIN: Okay. This distance that they're requesting is really, by survey, 13 feet, not 12. Do you see any issues there from staff's perspective, reducing the setback to 13 feet instead of 12 feet?

MR. JOHNSON: I don't have an issue with it as long as the County Attorney's Office doesn't have an issue with it.

HEARING EXAMINER STRAIN: Mr. Stone?

MR. STONE: I concur.

HEARING EXAMINER STRAIN: Okay. Then the other thing I have to ask, Reverend Slater, the Victor Church pastor who lives right next door, in his letter he wrote that the encroachment was to a 10-foot landscaping buffer. That is less than the encroachment. It really is a 15-foot landscape buffer. I didn't know if anybody had clarified with him -- that with him, or if you know why it would have gotten in there at 10 feet. It is a 15-foot landscape buffer; is it not?

MR. JOHNSON: That's correct. It's a 15-foot landscape buffer.

HEARING EXAMINER STRAIN: Okay. And on Page -- and I really wish you had not given me 510 pages. But on Page 502, the staff report is for -- and it has a project called Quail Creek Village Foundation Paving. I'm sure it doesn't need to be part of this staff report. On Page 508 is an application for certificate that seems to be linked to that project.

On Page 509 it's talking about a project called Sweetwater Bay and Heron Lakes, neither of which I think are associated with this project. On Page 510 is a one-page contract between the owner and contractor

that I can't find has any bearing on this case.

So those issues in the staff report, I don't know -- when you put another large staff report together, you need to go through all those pages and make sure they're all relevant to the case, because at least the last five or six pages don't seem to be.

And with that, I don't have any other questions. Are there -- any members of the public wish to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, we'll close the public hearing. A decision will be rendered within 30 days, most likely within 10. I do thank you all for coming.

***The next item up is Petition No. PDI-PL20150002549. It's the Naples RV Resort, LLC, also known as Naples Motorcoach Resort, commercial planned unit development.

All those wishing to testify on 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.

Disclosures on my part: I've visited the site, talked with staff, read the files, and had conversation with Mr. Arnold.

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

In reviewing the application, Wayne -- I hated to see you come back here again. And it's a nice project. I went down and took a look at it. Everything looked really well.

I don't have any questions from the application. It's pretty straightforward. I don't know if you had anything you wanted to add to the record. I have read the staff report.

MR. ARNOLD: I'm Wayne Arnold with Q. Grady Minor & Associates, and I don't have any additional comments.

HEARING EXAMINER STRAIN: Okay. Thank you.

Is there anything that staff would like to add to the staff report?

MS. GUNDLACH: Staff is recommending approval.

HEARING EXAMINER STRAIN: Thank you, Nancy.

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

(No response.)

HEARING EXAMINER STRAIN: Okay. Then we will close the public hearing, and a decision will be rendered within 30 days, most likely less than 10.

Thank you, Wayne.

MR. ARNOLD: Thank you.

HEARING EXAMINER STRAIN: ***The next and final item is Petition No. BD-PL201500002555 (sic), Richard and Magdalene Talford. It's a boat dock roof -- roofing for a boathouse, and it's in Connors Vanderbilt Beach Estates.

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.

Disclosures on my part: I did talk with staff. I've reviewed the files.

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

And is the representative of the applicant here? Mr. Turley, please come on up.

MR. TURLEY: For the record, my name is David Turley. I'm the agent for the Talford family. And you have to excuse me. I'm getting the flu or a cold or whatever.

HEARING EXAMINER STRAIN: Hopefully you won't have to say much.

MR. TURLEY: Between coughs.

HEARING EXAMINER STRAIN: I have read your entire report, and I have a few comments. I just didn't know if you had anything you wanted to add to the report.

MR. TURLEY: No.

HEARING EXAMINER STRAIN: Okay. My first comment is, well done.

MR. TURLEY: Thank you.

HEARING EXAMINER STRAIN: That was one of the cleanest applications I've seen in a long time, and it's -- there wasn't many issues there, so I do appreciate the way you put it together.

MR. TURLEY: I tried to cover all the boundaries just in case.

HEARING EXAMINER STRAIN: You certainly did, and that brought down the necessity for any questions or back and forth.

This is the proposed -- at least the conceptual rendering. And I did notice, and I thought it was a good idea that on this rendering you supplied letters of no objection from the adjoining neighbors. That was a good move. They actually saw and signed off on what you're proposing.

MR. TURLEY: Thank you.

HEARING EXAMINER STRAIN: Do you have any issues with the staff recommendations?

MR. TURLEY: None whatsoever.

HEARING EXAMINER STRAIN: Okay. And I'll also note this meets all the criteria. And I don't think I have anything that needs to be changed. We're good.

MR. TURLEY: Thank you.

HEARING EXAMINER STRAIN: Mr. Turley, thank you.

MR. TURLEY: Thank you.

HEARING EXAMINER STRAIN: I appreciate your application.

Is there a staff report or anything that needs to be added to the staff report, Fred?

MR. REISCHL: Fred Reischl, zoning division. Nothing additional at this time. We recommended approval with one condition.

HEARING EXAMINER STRAIN: And that's the condition Mr. Turley's already agreed to.

MR. REISCHL: Correct.

HEARING EXAMINER STRAIN: Okay. And with that, are there any members of the public that wish to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: Okay. Mr. Turley, thank you. We'll close the public hearing, and a decision will be rendered within 30 days, most likely within 10.

MR. TURLEY: Thank you.

HEARING EXAMINER STRAIN: Thank you, sir.

That brings us to our remaining items on the agenda.

One is other business. There is none.

Public comments. Does anybody from the public wish to comment on this matter?

(No response.)

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

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:19 a.m.

COLLIER COUNTY HEARING EXAMINER

MARK STRAIN, HEARING EXAMINER

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 2-25-16, as presented or as corrected _____.

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