

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
June 23rd, 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
Heidi Ashton-Cicko, Assistant County Attorney
Eric Johnson, Principal Planner
Daniel Smith, Principal Planner

CHAIRMAN STRAIN: Good morning. Welcome to the Thursday, June 23rd, meeting of the Collier County Hearing Examiner's Office meeting.

If everyone would please rise for the pledge of allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Some announcements to make.

First of all, individual speakers will be limited to five minutes unless otherwise waived.

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

A review of the agenda, there has been a change. There were three scheduled items, one has been withdrawn.

If you are here for the Wal-Mart store on the East Trail, we will not be discussing that today. They withdrew that application. It is welcome back in the future. I'm not sure of the date. I've heard the 23rd of July may be one of the dates, but I can't confirm that at this time.

MR. SMITH: 28th.

CHAIRMAN STRAIN: That's subject to some activities going on with I believe Commissioner Fiala. So keep watching that date to make sure that's still the next day.

If you are here for the Wal-Mart, the Wal-Mart is not going to be discussed today.

That leaves us with two items that are remaining for the advertised public hearings, Item 4A and 4B. Before that, the review of the meeting minutes. I have reviewed the minutes. They are fine to be recorded as noted -- as submitted.

Which takes us to Petition 4A, first petition, No. PDI-PL20160000263. It's a revision to the San Marino RPUD, 951.

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

(All speakers were duly sworn.)

CHAIRMAN STRAIN: Thank you.

Disclosures on my part, I have talked with staff, I have talked with the applicant. There have been no members of the public contacting me, so that's the limitation of my discussion and my disclosures, which will take us right into the report.

If there are any members of the public here for this particular item, whether you are going to speak or not, are any members of the public here to hear about this item?

(No response.)

CHAIRMAN STRAIN: Alexis, I do have some questions and changes.

Want to identify yourself for the record?

MS. CRESPO: Alexis Crespo with Waldrop Engineering representing the applicant.

CHAIRMAN STRAIN: I met with you. We talked over some of the issues involving the law and, you know, the height change language. We're going to walk through that so everybody can see what's going on.

First of all, the -- there are four elements being addressed in here: Relocation of the driveway connection, some new development commitments concerning that Parcel B relocation on the multi-use map; changes to Deviation No. 2 and No. 4. That's the general location of the San Marino PUD.

The issues at hand today have strictly to do with the residential component of the PUD, which is the only component there is. There was talk at one time about some other uses going on on that PUD but it's being limited to residential, as it's currently approved.

MS. CRESPO: Correct.

CHAIRMAN STRAIN: This is the existing layout. It shows the location of the entryway to the north right here. And, looking at that, when it came in for application it was found that the median cut is actually down about midway. The transportation staff, in coordination with the applicant, have come up with a new site plan, which is this one right here, showing the connection here.

That red oval is something I put there. And, Alexis, that's one of my questions. What are the dotted lines supposed to represent? They weren't on the other master plan right here.

MS. CRESPO: I believe that may just simply be stray line work that needs to be removed. It could delineate the approximate location of FP&L easement but I don't believe it's necessary to show on the master plan. We could submit that after today's hearing.

CHAIRMAN STRAIN: On that same master plan there were a series of tables added right here, and those aren't on this master plan. So to avoid any unknown changes or any issues that would come up from these tables being there, they should not be on the new master plan.

Likewise, this language over here where it is referencing the various utilities on 951, I know you were asked to add that but I would rather not get into any changes from the original master plan, except for the ones you are here to specifically ask for today. So all of this material needs to come off.

The PUD monitoring language, the applicant changed the name of the entity that's going to be responsible to do the monitoring.

Under the traffic commitment, down on F on the bottom, this is a reference to the new access point. Previously it was going to be 800 feet south on the north of the property line. That wasn't working out, so this is the way it was described, and the master plan has been adjusted for that.

In the language that the applicant submitted for Deviation 2, this is the application of the main road. They are going to have sidewalks on both sides of the main entry roads instead of just one side, now that the entry road has been moved interior to the frontage.

Under the wall/berm combination, there is some language changes here, and that was submitted yesterday after I had had some discussions with both staff and the applicant. That language is shown here in the bottom. It would be a masonry wall, berm or combination of wall/berm along Collier as previously allowed. Then this is the piece that was changed to be a 12-foot combination wall/berm with a maximum wall height of 8 feet along the southern boundary line, where the RPUD abuts Willow Run RPUD.

And, for your benefit and your client's, you may want to use the words "masonry or concrete." For example, that Cedar Creek system, in some of the systems that -- the panelized systems that DOT used along roadways that are a substantial height, they are not just masonry, they are panelized concrete, materials like that. So I would suggest that these get added in so you have that option.

MS. CRESPO: We'll definitely add that.

CHAIRMAN STRAIN: Is there anything in the issues that we just went over, Alexis, that is inconsistent with the way you have requested this project to be approved?

MS. CRESPO: Sir, we feel that the changes deviation for -- provide for clarity and we're in agreement with staff on the findings in the staff report.

CHAIRMAN STRAIN: The other thing that occurred is these references were for the 12-foot combination, that's part of the language that needed to be clarified. The new language is shown here, and that was for the southern Type A buffer and the southern Type B buffer.

I believe those are all of the issues that I have had to discuss from my review and consequently discussions with you and staff.

Did you have anything you wanted to add to the record, Alexis?

MS. CRESPO: No.

CHAIRMAN STRAIN: Okay. Thank you.

MS. CRESPO: Thank you.

CHAIRMAN STRAIN: Eric, is there a staff report?

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

Staff is recommending approval. This morning I gave the court reporter the updates to the staff report, and I believe they are going to be a different exhibit.

CHAIRMAN STRAIN: Yes. And I didn't get time this morning to add that to the overhead. Would you mind reading the two items that you are adding to the staff report, and I'll ask the applicant if they have any objection for the record? And, if they don't, we're fine.

MR. JOHNSON: Sure. The current staff report refers back to an analysis of the previous staff report which is -- was dated April 2nd, 2015. It was PUDZ-PL20140000100, which led to the eventual adoption of Ordinance 2015-30.

I provided that staff report for the record as well as updates to that staff report for the record.

CHAIRMAN STRAIN: The language that you added to the staff report, the actual text of that language, could you read that into the record as to where -- like on Page 21 I believe that under Item 6, the timing and sequence of development for the purpose of assuring the adequacy of the available improvements in facilities, both public and private, and, those findings, you added a sentence, and I would like those sentences read into the record where you have added them.

MR. JOHNSON: Starting on Page 16 of 27 of the previous staff report, under the Staff Analysis and Recommendation of Deviation No. 2, I added the word -- the sentence that says, "The petitioner associated with PDI-PL201600002613 is requesting to amend this deviation. The new staff report provides an updated analysis and recommendation."

On Page 17 of 27 of the previous staff report, under Deviation No. 4, under the Staff Analysis and Recommendation, I'm adding the two sentences, "The petitioner associated with PDI-PL20160000263 is requesting to amend this deviation. The new staff report provides an updated analysis and recommendation."

On Page 21 of the previous staff report under Criteria No. 6, the response would be updated as follows: "An updated GMP FLUE transportation and environmental review that addresses the proposed changes is provided in the staff report associated with PDI-PL20160000263."

On Page 22 of the previous staff report under Criteria No. 8, staff is also updating to read as follows: "An updated GMP FLUE transportation and environmental review that addresses proposed changes is provided in the staff report associated with PDI-PL20160000263."

And then finally, again on Page 22, under Criteria No. 1, it should be updated to say, "An updated GMP FLUE transportation and environmental review that addresses the proposed changes provided in the staff report associated with PDI-PL20160000263."

That's it.

CHAIRMAN STRAIN: Thank you, Eric. That doesn't change your recommendation?

MR. JOHNSON: No, sir.

CHAIRMAN STRAIN: Okay. Alexis, is there any concerns from the applicants, questions from the applicants on those changes?

MS. CRESPO: No.

CHAIRMAN STRAIN: Let the record indicate that she said no from the audience.

Thank you.

I don't have any other questions of staff.

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

(No response.)

CHAIRMAN STRAIN: Seeing none, we'll close the hearing on this item and a decision will be rendered within 30 days. Thank you.

MS. CRESPO: Thank you.

CHAIRMAN STRAIN: The next item up is Petition DR-PL20150002617. The petitioner is TT of Naples, Inc. It's commonly known as the Porsche dealership on the northwest corner of Airport and Davis Boulevard.

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

(All speakers were duly sworn.)

CHAIRMAN STRAIN: Okay. Disclosures on my part, I have had meetings with the applicant and the applicant's representatives. I've talked to the applicant a couple of times over the past year or so that this has been in process. I've met with staff and reviewed all of the files for the site, and there have been no members of the public that have contacted me on this matter.

I have talked with representatives of the CRA as well, the Bayshore CRA.

With that in mind we'll move directly into the item.

And, Mr. Brooker, I believe you are representing the applicant for this.

Are there any members of public here for this item, to hear this item or to speak on this item? Whether you are going to speak or not, are you here because you are interested in this item?

(No response.)

CHAIRMAN STRAIN: Okay. Clay, I have read the report, as you know, thoroughly. I'm going to

provide some information on the overhead. I'm doing it more for talking points as we go through because there was some concern with staff and the final issuance of the staff report, so we're going to have to walk through them slowly this morning.

I'll take you through everything I have here so you can see it, and if you want to answer any questions, that would help to have a graphic. Because this room is not set up for people outside bringing graphic material in too easily, we'll have to use the best we have, which is what I've put on the overhead.

MR. BROOKER: May I just add a few introductory remarks because I'm not going to be the one answering the detailed questions with respect to the deviation requests. Katrina Johnson, the project manager, will, but I do have just a couple brief introductory remarks, if I may.

CHAIRMAN STRAIN: Yes.

MR. BROOKER: For the record, Clay Brooker, land use attorney with Cheffy Passidomo.

The property is located within the Bayshore Gateway Triangle Redevelopment Overlay. With respect to the County's Growth Management Plan, and similarly within the Gateway Triangle Mixed Use Overlay District, with respect to the county's Land Development Code.

The express intent of both of these overlay districts is to encourage revitalization of the area. I believe the proposal before you today will do just that.

The applicant is seeking site plan approval for a Porsche dealership, an international icon, the name of which equates to quality and luxury.

We believe that this proposal will be a significant improvement to the older building which exists on the property today, however the new site plan and building presents a modern international architectural style which requires approval of the deviations we've requested today. Those deviations are primarily architectural in nature.

We believe the requested deviations satisfy the applicable criteria for approval and we think that you will agree that the project as a whole, together with the proposed enhancements to the property, will vastly improve the visual character of the property and have a beneficial effect not only on the immediate area but also on Collier County as a whole.

Katrina Johnson will -- sorry. Kristina Johnson will be following me to answer any questions you may have.

I would like to submit to the record, we have one final rendering that Kristina will display for you. It is the rendering of the north facade, that facing Terrace Avenue, with landscaping added, the proposed landscaping added. We believe that presents a better picture of what actually will be in place in the event the site plan is approved.

So with that I will turn it over to Kristina and thank you for your consideration.

CHAIRMAN STRAIN: You are welcome. Thank you for your time.

I will move through the graphics I've put here. So Kristina, when we're discussing each of the deviations individually, you can refer to any of these graphics you would like, and I'll try to move back to the one that you've indicated.

First of all there are nine deviations. Most of them -- eight of them or seven of them have to do specifically with architectural standards. One has to do with a setback correction or discrepancy in the code, and another one has to do with landscaping material used on the site.

General location of the site is, as announced earlier, the northwest corner of Airport and Davis. That is the location of the site in -- the yellow, of course, is the outline of the property with some general description of what the surrounding facility uses are like.

This is the survey of the as-built or existing conditions on the site. There is a long building in the center, which I believe is a former telephone company building with a parking area all around the rest of the site.

The Porsche dealership is proposing a building with this dual footprint. This is going to be mostly for the showroom and offices, and this is the parking area.

Kristina, if I'm mistaken on any of these descriptions, please correct me. I didn't get into the architectural floor layouts explicitly. I believe this is your main building with all of your showrooms and your administrative offices, and this will be mostly all for parking?

MS. JOHNSON: That's right. And, for the record, I'm Kristina Johnson with J.R. Evans Engineering.

And the only item I wanted to add to that description is the service and maintenance areas for vehicles are located in the rear of the building along Terrace.

CHAIRMAN STRAIN: And this is your service entry area; is that correct?

MS. JOHNSON: That's correct.

CHAIRMAN STRAIN: Also, this parking structure is really a merchandise display structure, most particularly on the top floor.

MS. JOHNSON: The second level, which is the top level, the majority of the parking spaces, 77 percent are proposed for display vehicles.

CHAIRMAN STRAIN: Okay. The existing structure, the one that is proposed here, the one that exists, that is the photograph you see here, it runs north and east and west along the full length of the project. There is your back side facing Terrace Ave. This is another piece of the front.

This is a rendering of what is to come in the project that Porsche is proposing. How accurate is this, Kristina, in comparison to what you are submitting now?

These mics have a little problem. They have a little delay.

MS. JOHNSON: The color rendering that we're looking at right now is accurate, with the exception of the second story of the parking garage. In this rendering it does not show what the final requested open area of the parking garage will look like, what the applicant is requesting, and that is to have -- instead of a concrete railing system it will be an open railing system so that the vehicles can be visible.

CHAIRMAN STRAIN: And that railing system was provided as a graphic in one of the deviations, and I believe it shows it. I do. If it doesn't, we'll have to further describe it, but I'm not sure what the material is, but it's a braided kind of --

MS. JOHNSON: That's correct.

CHAIRMAN STRAIN: -- material that is every few inches up from the ground level to a certain height?

MS. JOHNSON: That's correct. It's located in the building elevations that were provided.

CHAIRMAN STRAIN: We'll get to those.

This is another visual of the front of the building in another location. I believe this is the Ocala project.

As this building wraps around the side it's a curvature facade. This is a picture of one of the other projects where this currently exists, at least similar to it.

This is another rendering of that.

I had asked Kristina to find -- if she had a rendering of what the project would look like from Terrace Street, as far as colorations go. This was one that they put together rather quickly and sent to me yesterday. The parking garage now basically is down here. This is the building part. This is the wrap around from the front, the floating facade comes around to the back side here. These are your two service entrances for checking people in, I believe.

MS. JOHNSON: That's correct.

CHAIRMAN STRAIN: And you had said before the meeting started that you had an update to this?

MS. JOHNSON: I do. And I have a few printouts that I would like to make part of the public record.

CHAIRMAN STRAIN: You'll need at least three, one for the court reporter, one for me and one for staff.

MS. JOHNSON: The revised rendering is also as shown on the board here.

CHAIRMAN STRAIN: I was hoping that the handout matches what is on the board, since I can't see the board. Thank you.

Do you have a rendering of the large picture of the back of the building? Is that the one that is on the easel right now?

MS. JOHNSON: That's correct. That's the second page of the packet.

CHAIRMAN STRAIN: Okay. That shows a lot better than the one that we have here.

If Peter -- Peter is here. Would you mind pulling your chair up next to Dan, since you are a member

of staff? I'm going to be asking questions of you and Dan both. And that way you can at least take a look at the materials that Dan has and understand what Kristina is providing.

Kristina, before we get into the specific deviations, I'll continue with the graphics that are here so you'll have something to refer to.

On the sides of the Porsche building there is also a deviation requesting that the continuation of the black style continue on both north -- or east and west sides. This is an example of some of that.

I'll get directly into the deviations. The first one is the deviation for relief from 5.05.08 (C)(A)(B). It's control and expansion joints regarding the size of the panels in the front of the building, and that would be associated with the lines, I believe, Kristina, that are shown here?

MS. JOHNSON: That's correct.

CHAIRMAN STRAIN: Now, from staff's perspective, I think -- I believe staff has recommended approval for this particular deviation?

MR. SHAWINSKY: That is correct.

CHAIRMAN STRAIN: I didn't have any issues with it as well. I thought the deviation and the justification were ample.

The next item is the Terrace Avenue facade to have less than 25 percent glazing.

Kristina, we talked yesterday or the day before, I don't remember which day now. There are several elements in the back of the building. Would you mind explaining how the glazing works out and the percentages, if you were to take out the floating facade and other elements that may not be as necessary for glazing?

MS. JOHNSON: Yes. The requirement from the overlay section of code states that this facade should or has to provide 25 percent glazing. However, when you look at the facade, you have the floating cap architectural feature, which is on the left and highlighted in blue, and you also have a stairwell which is used for emergencies and egress and ingress, and those two features do not have any windows.

And when you take the area of those two features out, the north facade is proposing a total of 24 percent glazing, which is just shy of the 25 percent.

CHAIRMAN STRAIN: That's the -- that's when you remove both the stairwell and when you remove this area here. So, instead of a reduction from 25 percent to, I believe your request is to 17, you would be looking at a reduction from 25 to 24, if we didn't include those two elements in the calculation.

MS. JOHNSON: I'm in agreement with that. Yes.

CHAIRMAN STRAIN: Okay.

Peter, I know that you and I discussed this, you and Dan and I discussed this yesterday. What is your feelings on the description that Kristina provided this morning in relationship to how they calculated that?

MR. SHAWINSKY: For the record, Peter Shawinsky, Architectural Review.

In the code when calculating the fair footage for glazing requirement, we look at the entire facade area.

We are in agreement that the floating cap is more of an architectural element and not conducive to glazing.

The stair tower would allow possibly some additional glazing, but, based on the calculation here and the amount of glazing that is on there, we agree with their description and calculation based on how they have presented it.

CHAIRMAN STRAIN: Okay. The other issue is mitigation in relationship to the reduction in the glazing. The rendering that you've got on a -- I'm assuming you have an easel which matches Page 2 of this particular handout.

The landscaping that is shown there, is any of that landscaping, Dan, in excess of the required landscaping for the project?

MR. SMITH: No, it's not. It's actually -- they mitigated some of it because it was six and a half feet that normally it's 10 feet. And they mitigated that by wrapping it around toward the west part of the building. That's where they picked up some of the landscaping. So they met the square footage for the buffer by wrapping it around. None of it had anything to do with the glazing.

CHAIRMAN STRAIN: I thought staff's position on the buffer was that the setback trumps the buffer, therefore the buffer setback of 10 feet was not required and the six and a half is okay. So what is it

we're requiring to mitigate as a result of that, if it wasn't required?

MR. BELLOWS: For the record, Ray Bellows, Zoning Manager.

The question is, Does the landscaping serve to offset or mitigate the less than required glazing? I don't believe that is an enhanced buffer, it's just altered, and it meets code and staff would support it because of the overlay language to produce the setback.

CHAIRMAN STRAIN: I guess I appreciate the clarification. Thank you.

I don't have anything else, Kristina. Do you have anything you would like to add to that?

MS. JOHNSON: I would like to add to that.

CHAIRMAN STRAIN: You'll have to -- hold on. I'm sorry, but without the -- you'll have to go back to the mic and talk. We don't have walk-around mics here.

MS. JOHNSON: On the last page of the handout is an exhibit that shows some of the enhancements, and what Dan was referring to in his description on the -- if there is any additional landscape in the back of the building there. I'm not in agreement with that. There are five additional palm trees which are proposed in the back of the building that are in addition to the landscape buffer requirements.

The landscape width that Dan was referring to, that is -- the width is not achieved directly behind the building for a length of 76 feet. However, the additional five additional palm trees are not required in that buffer.

CHAIRMAN STRAIN: Dan, have you reviewed that last page to any extent? For example, they show four royal palms installed at 24 feet in height. Are these required by code?

MR. SMITH: 24 feet, no, they are not.

CHAIRMAN STRAIN: Okay. So that's an enhancement.

MR. SMITH: Absolutely.

CHAIRMAN STRAIN: So then your previous testimony that there is no enhancements, there actually are?

MR. SMITH: Well, there are enhancements in that setback, absolutely. But just to let you know, the -- there are a few deviations going on in this process, and one of them is so they have more palms, so not only in the front and the back. And so we've allowed that because we think it's a good project. We're kind of mixing up different things.

The landscaping was never part of the deviation for the glazing. I didn't want to mix that together. However they are adding additional landscape, absolutely.

CHAIRMAN STRAIN: So there is no reason an enhancement for another deviation can't benefit and be an enhancement for another --

MR. SMITH: Sure.

CHAIRMAN STRAIN: This kind of deviation?

MR. SMITH: And I think, for the record, we've moved from 17 percent to 24 percent, is that correct, for the glazing?

CHAIRMAN STRAIN: If we were to take out the stairwell. And the catch, if we leave the stairwell in, because -- I don't know what is wrong with these mics.

If we leave the stairwell in, and, as Peter had indicated, that could possibly have glazing.

MR. SMITH: Okay.

CHAIRMAN STRAIN: We're still well above 20 percent because the other cap is more than -- much larger area than the stairwell.

MR. SMITH: Correct. Okay.

CHAIRMAN STRAIN: That will take to us Deviation No. 3. This is roof line changes. I was trying to -- and I talked with both the staff about this and Kristina. Part of the intent, I believe, of the roof tile change is to see some articulation or movement in the roof lines. The circular process on this particular building, or circular outcome, certainly provides depth and movement to the building.

Peter, I understand that another RaceTrac -- item on my mind.

In another Porsche, this particular area right here was dropped down a few feet to give some movement to the building. And I don't see the relevance of that in the overall scope of things, because at a hundred feet of frontage, before you have movement in the building, the movement is only required to be, I

believe, 3 feet.

MR. SHAWINSKY: That's correct.

CHAIRMAN STRAIN: This particular movement here may not be as vertical in one direction but it certainly is full height of the building in depth. The movement, it crosses over -- it's about 15 feet 7 inches. So I think they have gained actually more articulation in this front facade by including this as an element than we would see if we just had a 3-foot change for a short distance in the cap.

Your comments on that?

MR. SHAWINSKY: The way the code describes it is there is actually two variations on the building, the variation in masting, which you described as the curve of that cloud or facade, which gives movement in a horizontal direction. There is also the vertical articulation, which you noted, as any buildings over 5,000 square feet require a vertical articulation of a minimum of 3 feet for every hundred linear foot of the facade.

So early on what we had recommended was, in that center glass area, to lower that to give the vertical articulation along the building.

I'm in agreement that the curve does give some variation in that, but the original intent was the vertical line. And, as noted in another Porsche, they did lower that to meet local requirements for that.

CHAIRMAN STRAIN: As an alternative, this view of vertical, which is the full height of the building, would provide more esthetic articulation than just a notch going above or below by a few feet.

MR. SHAWINSKY: Agreed.

CHAIRMAN STRAIN: Okay. Anything you want to add, Kristina?

MS. JOHNSON: No.

CHAIRMAN STRAIN: Next item is the saturation level, which is the beginning discussion.

I don't know if the court reporter can keep picking me up without the mics working but this one won't stay working. So we're going to have to deal with it the best we can.

The next item begins the issue on saturation and discussion of the coloration of the building at various facades, Deviation No. 4.

And I'll let you provide a discussion on this Kristina, if you don't mind.

MS. JOHNSON: The applicant is requesting colors with a saturation above Level 8 for a percentage greater than 10 percent of the facade area to instead allow 66 percent on the north, 32 percent on the east and 64 percent on the west. This request notes the Bayshore Gateway Triangle Redevelopment Area's allowable color deviation criteria and that deviation request does not pertain to signage. The deviation is for two colors.

And, lastly, the colors requested in the deviation are not below a lightness level of 3 on the color charts.

The colors and materials are very unique to Porsche and help carry forward the Porsche principle of innovational design functionality and performance. And in order for this building to meet core standards, this deviation is necessary.

CHAIRMAN STRAIN: I had asked at another time when we met earlier this week for an example of where this national branding has applied currently. You've sent me an e-mail, and I believe there are 12 sites. I did look at all of the sites, and you are correct, they are all reflective of the metal cap and the black colors.

You also noted there were additional sites that are either in permitting or under construction in other parts of the country as well.

I did not fly to all 12 locations around the United States. I tried to but I was turned down as a taxpayer's concern for expenditures. But I did look at Google Earth, which is really handy when things like this come up. So I have looked at all of those.

In addition to the issue involving the need for an architectural deviation subject to the 5.05.08, there are also standards within the Bayshore Overlay that have direct correlation to how you handle something that is changing the color scheme.

You provided in -- at least the staff provided in the staff report, I believe it came from you, originally, according to Section 4.02.16 (D)(3)(F), deviations could be allowed on exterior buildings subject to three criteria. I believe, from the answers you provided to meet all of those criteria -- those three criteria, and the only criteria it could have been concerning was if the deviation request may not be for a color that is below Lightness Level 3 in the Collier County architectural color charts.

And, in talking with Peter and subsequent follow-up -- I believe, Peter, this is a Level 3?

MR. SHAWINSKY: That's correct.

CHAIRMAN STRAIN: So, from of the perspective of meeting the intention of the deviations that are allowed within the Bayshore Gateway Triangle pursuant to those three standards, your report seems to indicate they meet those three standards.

Is that still consistent with your thoughts?

MR. SHAWINSKY: Yes.

CHAIRMAN STRAIN: Okay. Now, I did notice that staff was not supportive of this particular deviation, even though it met the Bayshore standards.

MR. SHAWINSKY: Well, it meets the Bayshore standards in requesting a deviation for the particular color. It is a limited color, a dark color. So instead of appropriate for this particular project in this particular location, the code is, at the end of the day, what I have to base a decision upon.

So yes, the request is consistent but we're kind of staying neutral on the overall black color of the building.

CHAIRMAN STRAIN: Thank you. I would like to make a couple points.

And did you put the rear elevation on there?

Okay. One of the items that staff said in their recommendation analysis is the applicant would offer, for example, more glazing or landscaping above codes as a means of justifying a deviation. Staff could give consideration.

We have had testimony that the elevation you see there with the palm trees in effect is more than the minimum standards of the code, and the glazing that they applied has been done in an effort to meet the glazing criteria. That's another deviation. So they have more glazing than they started with. They probably don't have more than what you are referring to, but the landscaping improvements have been made or some landscaping enhancements have been supplied.

MR. SMITH: Correct.

CHAIRMAN STRAIN: And that's the only comments I have on that one.

Do you have anything you want to add, Kristina?

MS. JOHNSON: For the record I would like to point out some other enhancements on the site which have not been mentioned yet.

CHAIRMAN STRAIN: Thank you.

MS. JOHNSON: To better show those I'm going to flip the visual, which will also coincide with the third sheet of your packet.

One of the other enhancements the applicant is proposing is 30 percent glazing on the east facade. The 30 percent glazing is not a requirement of the code. Also there are an additional 679 square feet of green screen proposed on the site, which is above the code required. And this square footage is roughly the equivalent of five to six, the width of five to six parking spaces. And that additional green screen is located along the parking garage on the north side of Terrace. And there is also some green screen proposed on the south side of the parking garage.

CHAIRMAN STRAIN: Thank you.

Staff, any follow-up comments?

MR. SMITH: Just for the record, Dan Smith, Principal Planner.

I talked to Kristina yesterday and we talked about the landscaping, and she said there is additional screening that's going to be proposed for the site, just like she said. And I said, As long as you put it for the record that's something that we would look favorably on.

CHAIRMAN STRAIN: And, Kristina, that additional screening in its location, I understand, is above and beyond what's been supplied so far?

MS. JOHNSON: The additional green screen is above and beyond what's required by code. We recently confirmed with staff that what was proposed is actually in addition to what the requirement is.

CHAIRMAN STRAIN: Okay. And the back-up material that is in this staff report, is that additional screening shown or called out or graphically displayed somewhere where it can be shown?

MS. JOHNSON: Currently the only exhibit that shows it is the exhibit that you have in your packet that will be a -- that's being requested to be a part of the public record.

CHAIRMAN STRAIN: So what I'll need to do is make sure you send this to me as a PDF so that I can take a look at it that way.

Where is the screening? That's the piece in front, in the back of the garage where it says 679 additional feet of additional green screen? That's the front and back both?

MR. JOHNSON: Correct.

CHAIRMAN STRAIN: Thank you.

The next deviation is Deviation 5 is for the use of metal panels exceeding allowable percentage. This is the architectural metal that you are proposing to use, I believe in the back of the building, and then the south facade for -- I guess we have been referring to it as the floating cap?

MS. JOHNSON: Uh-huh.

CHAIRMAN STRAIN: Do you mind explaining how that architectural metal fits into the black metal, what that is? This is not the size of a metal building, it's an implied or architectural feature; is that correct?

MS. JOHNSON: That's correct. And Chris could better describe the material itself and the installation. What I can offer is a description of the location that we're proposing it and the percentages on the building. But Chris would be better at describing the material itself.

CHAIRMAN STRAIN: I would like to get a description of the material because there is -- the code, in discussing it with staff, we believe the intent of the code was to avoid prefabricated metal buildings, the kind that go up in industrial parks. This architectural metal is apparently a product that is used widely for this kind of application. I'm not sure the code was intended to prevent those kind of architectural features, so your description would be helpful.

You just have to identify yourself for the record.

MR. MILLER: For the record, Chris Miller from TT of Naples.

The front facade along Davis Boulevard is the silver metallic panels. It comes in a prescribed width and a length, and so it allows the panels to be returned and attached to the building to be a substrate, giving a little bit of a relief to the structure.

In fact, the side of the face is Terrace Avenue. A trapezium panel is of similar material that is a corrugated metal material, and it comes in width and height sizes that are kind of prescribed or dictated per manufacturer, and they too are attached to the building via substrate, giving it some relief in that sense.

CHAIRMAN STRAIN: The substrate being either masonry or something, so some structural component like that; is that right?

MR. MILLER: It's actually unpliable. It's a weather barrier, and then plywood, and that goes on top of masonry. It can't attach directly to masonry.

CHAIRMAN STRAIN: Thank you.

MR. MILLER: Sure.

CHAIRMAN STRAIN: Kristina, did you have anything you wanted to add?

MR. JOHNSON: Just for clarification, the percentages that we are requesting, which is 68 percent of the south facade, the entire 68 percent is for the floating cap architectural feature. There are -- we're requesting 69 percent on the east facade, and, of the 69 percent, 37 percent are for the floating cap architectural feature and 32 percent is for the black panels.

And then, lastly, we're -- the applicant is requesting 70 percent on the north facade, and, of that 70 percent, 16 percent is for the floating cap architectural feature, which is visible from Terrace Avenue, and 54 percent is for the black panels.

CHAIRMAN STRAIN: Thank you.

From staff's perspective in the discussion we had involving whether the code was for metal buildings or architectural buildings, have you had any further thoughts on that, Peter?

MR. SHAWINSKY: The intent, as presented, the metal shown, we would agree that is an architectural element versus a traditional pre-engineered metal building, so the application here is appropriate.

CHAIRMAN STRAIN: Thank you.

Kristina, do you have anything else on this item that you would like to add?

MS. JOHNSON: I do not.

CHAIRMAN STRAIN: Deviation No. 6 is one supported by staff. I know the applicant hasn't got a problem with that. I have reviewed it. I don't have a problem with that. So unless there are other questions, we'll move on to No. 7.

No. 7 brings in the issue of the, I guess what's referred to as a parking structure. It is also a merchandise display, which brings in a different need for consideration of an alternative so that that actual display can be utilized.

This is the parking structure area or the fence line -- I'm sorry. This is the green screen, as they have referred to it, that would be applied to both the front and back of the parking structure to break it up on the ground floor.

Kristina, would you mind explaining the application of that as well as what you are proposing for the top floor?

MS. JOHNSON: Yes. I'm going to switch this around to use the visual on this.

CHAIRMAN STRAIN: Sure.

MS. JOHNSON: The applicant is requesting that 11 percent of the south facade length of the parking garage be open, where code limits it to 50 percent of the length.

The applicant wishes to utilize the second story of the parking garage for the display of vehicles. Currently the second story of the parking garage proposes 77 percent display parking, and we feel it will act more as a vehicle display area, and that the 50 percent limitation should not apply.

Furthermore, as shown in the visual, there is some additional green screen provided along the south facade to help soften that facade area.

CHAIRMAN STRAIN: Okay. Thank you.

Peter, in your review of this, after the applicant has brought forth a further additional green screening in the rear of the structure, and understanding that the top deck of this, which is only two stories, but the second story is more for merchandise display, does that have any impact on staff's analysis?

MR. SHAWINSKY: It does. Originally the review, based on 5.05.08 (D)(8) for parking structures, doesn't particularly talk to merchandising display, so our initial review was per code language.

The additional embellishments along Davis Boulevard, the green screen and the cable railing that will be used in lieu of the concrete wall, we believe are enhancements to that facade of the parking structure.

CHAIRMAN STRAIN: Thank you.

Anything you wanted to add, Kristina?

MS. JOHNSON: Not at this time.

CHAIRMAN STRAIN: Next item is Deviation No. 8. This deviation is no longer necessary. Because it was part of the public record I will want to address it, just to acknowledge as to having us taking a second look at this. And there is a definite discrepancy in the code, one section of the code.

The Bayshore Overlay allows a six and a half setback. Another section of the code requires a 10-foot landscape planning area along the right-of-way, and Ray Bellows is our zoning manager.

Ray, would you mind describing your review of this?

MR. BELLOWS: Yes. Upon reviewing the Bayshore Overlay language it's my opinion that the allowance for the reduced front yard setback would supercede any buffering standard that would require greater setback.

CHAIRMAN STRAIN: And, Dan, from the concern of the landscape material, I believe the applicant has taken some material that would have gone in the buffer, as it previously was thought to be needed, and actually moved it to another location on site near the back side of this building.

Is that correct?

MR. SMITH: That's correct.

CHAIRMAN STRAIN: I know staff has asked that this be withdrawn, I thought because it's already in the record. We'll just make a note of it and clear it up so there is no future question on it.

Deviation No. 9 is an issue that involves the site. This is a nonconforming site from -- and, Ray, I need to you acknowledge for the record, because this was not in the staff report. I believe staff has previously concurred that this is a nonconforming site building?

MR. BELLOWS: Yes. For the record, Ray Bellows.

We did have some follow-up conversations with the petitioner, and the petitioner was able to provide us with some additional information that confirmed our initial assessment that there are site-related nonconformities with this, as well as some building non-conformance.

CHAIRMAN STRAIN: And it's my understanding that staff is recommending approval of the substitution of the royal palms in lieu of the canopy trees?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: I don't have any other questions.

Do you, Kristina?

MS. JOHNSON: I do not.

CHAIRMAN STRAIN: That takes us to the end of the discussion that I think involves you, unless staff asks you to come back up or I do before this is over.

I do have need for a staff report. There have been some corrections, I should say correction, clarifications made to the staff report, that I don't know if -- do you have enough copies to hand out, or have you already handed them out?

MR. SMITH: The staff report?

CHAIRMAN STRAIN: You had some corrections to the --

MR. SMITH: Oh, I handed them out already.

CHAIRMAN STRAIN: I'll need you to read the analysis corrections into the record.

MR. SMITH: Daniel Smith, Principal Planner.

On Page 18 of the site plan deviations there are some revisions. Again under 18, Analysis, in the staff report: 3, the development shall have a beneficial effect upon area in which it is proposed to be established and upon the unincorporated area as a whole.

I added an additional item, and I made a change. It originally had "vacant." It's actually "existing" development. I added an additional portion to it. Where it says, "While staff is not supporting certain deviations due LDC Section 10.02.03(F(7), requirement for acceptable alternative or improvement, the deviations requested will have a visual and economic beneficial effect for the surrounding neighborhood and unincorporated Collier County for this currently existing development."

Analysis 4 talks about the total land use within the development and the area devoted to each functional portion of the development shall be adequate to serve its attendant purpose.

I revised it because originally it was recommended by staff, and I changed it to, "The proposed deviations will not change the current area within the development and are adequate to serve the intended purpose."

Five, when it talks about street utilities, drainage, facilities, recreation areas, sizes and yards, architectural features, vehicular parking for loading and unloading, et cetera, I changed the staff report to read, "Staff is of opinion that the proposed deviations recommended by staff meet the purpose and intent of the LDC regulations as noted above for the proposed redevelopment. The additional architectural site and landscape improvements of the deviations proposed are appropriate and will benefit the community."

One last change is on the staff recommendation. I inadvertently put "SIP" at the bottom, which is the site improvement plan that was submitted. It's actually a site development plan amendment. I would like to put that in for the record.

CHAIRMAN STRAIN: Okay. Thank you.

Are there any concerns or comments or reactions to the staff changes that they read into the record?

MS. JOHNSON: We're in agreement with the revised staff analysis, as described.

CHAIRMAN STRAIN: Thank you, Kristina.

And is that, as far as the staff report goes, is that all you need today?

MR. SMITH: That's correct.

CHAIRMAN STRAIN: Is that all you need to say?

MR. SMITH: That's correct.

CHAIRMAN STRAIN: Okay. Are there any members of the public here wishing to speak on this item?

(No response.)

CHAIRMAN STRAIN: Hearing none, we will close the public hearing on this matter and a decision on this will be rendered within 30 days. Thank you all for your attendance today.

That takes us to the end of our agenda today. There is no other business.

Are there any public comments to today's meeting?

Yes, ma'am. Please come up and identify yourself for the mic.

MS. LEWIS: My name is Susan Lewis. I live at 154 Palm Drive in Naples. I was here for the Wal-Mart consideration, and I'm very appalled at the fact that it was not publicized, that this meeting was canceled. I understand it was canceled about a week ago, yet there is signage at the Wal-Mart entranceways that still reflects today's date. They should have changed it.

There were several people here who left immediately who arranged their work schedule to be here, and I think, in the public interest, it would have been fair that we would have been notified that it was canceled.

Thank you.

CHAIRMAN STRAIN: Thank you. I appreciate your input.

From staff's perspective, when a change is made, how fast are the signs required to be changed?

Ray, do you have any regulations regarding this change?

MR. BELLOWS: For the record, Ray Bellows.

The Land Development Code and the Administrative Code doesn't have any specific requirement for the signage to be changed. Typically it's announced during the hearing, when the renewed schedule is continued to.

Since this was an advertised petition, it's really a continuance from this meeting day to another day, and that's when the announced time frame is.

If there is time early enough to get the applicant to alter or modify the signage, we can try to do that. And I'll look into this a little bit more and report back to see where we can --

CHAIRMAN STRAIN: Her comment is real appropriate. Many people have to take off time from work to come to these meetings. In fact, we're trying to do more evening meetings to accommodate people so they don't have to take days off.

This particular -- and, by the way, you've mentioned a continuance. That question was brought up between myself and the county attorney's office. They have decided it was a withdrawal, so your office and the county attorney's office should get together on the correct understanding.

MR. BELLOWS: They can withdraw, but when they withdraw they have to readvertise.

CHAIRMAN STRAIN: I believe that's why it wasn't withdrawn, is because they have to readvertise.

So, Heidi, is it correct to deem this a withdrawal instead of a continuance?

MS. ASHTON-CICKO: It's not really a continuance because there was an error in the advertising. That's why we have to readvertise it. But you can certainly notify the public what the tentative dates might be. The signage is a separate issue.

CHAIRMAN STRAIN: I'll ask staff to take a look at the timing. If there is a known continuance, withdrawal ahead of time, substantially ahead of time, like this one was, we ought to provide some methodology for locating and informing the public appropriately, so --

MR. BELLOWS: We'll do that.

CHAIRMAN STRAIN: You may have to look at that again.

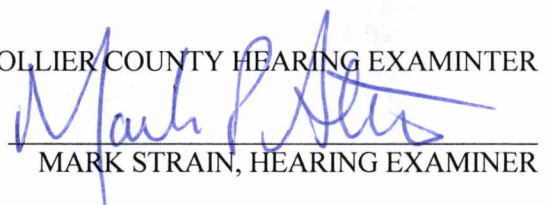
Okay. Are there any other members of the public wishing to speak on this issue?

(No response.)

CHAIRMAN STRAIN: Hearing none, this meeting is adjourned.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:58 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 7-28-16, as presented ✓
or as corrected _____.

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