

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
July 14, 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
Rachel Beasley, Planner
Heidi Ashton-Cicko, Managing Assistant County Attorney

EXHIBITS

DESCRIPTION	PAGE
SV-PL20150002660	
A - Revised Sign Rendering	55

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, July 14th meeting of the Hearing Examiner's Office.

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

HEARING EXAMINER STRAIN: Housekeeping matters to announce: 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.

In review of the agenda, we have a couple of announcements to make. One is Item 9E. 9E is Petition No. PDI-PL20160000837. The name of the petition is the Bay House Campus, LLC. That item is being continued until the July 28th meeting, 2016.

Are there any members of the public here today that wanted to speak on that particular item? It's the Bay House Campus.

(No response.)

HEARING EXAMINER STRAIN: Okay. Well, that item will be continued until July 28th.

Also, for those of you that have come in, you might have noticed that I did not put Item 9F on here. That was an omission on my part. It should have been. It's Global Properties of Naples, LLC. It's the Vincentian Village Mixed PUD. That is going to be heard today.

On Tuesday I had the unfortunate incident to have my computers go down that tie into all the databases here at the county.

So some of this had to be done kind of hastily, and I wasn't able to cut and paste everything I normally do, so we'll have to -- we'll survive for the day.

With that in mind, the next item up is approval of prior meeting minutes. I have read the minutes of June 9th, 2016. I have two comments: First is that the applicant, his name was spelled wrong, or the speaker for the applicant. His name is Chris Thoemke. And instead of T-h-o-e-m-p-k-e, it's T-h-o-e-m-k-e.

And then the second thing is at that meeting the mikes kept cutting in and out, so some of the grammar on that does not read adequately. It's more the fault of not being able to be picked up. So just as a note, if anybody reads those, they're a little sporadic on how they're written.

***And with that, we'll move into the first advertised public hearing, and it's the one on the board in front of us. It's Petition No. PDI-PL20160000153.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter. And, for the record, it's Ultimate Car Wash, LLC. It's on Immokalee Road.

Terri?

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

HEARING EXAMINER STRAIN: Thank you.

Disclosures on my part: I've spoke to staff. I've actually gone to the site, looked at the layout, talked to Mr. Anderson, who represents the applicant, and I have read the entire package of information supplied by staff.

Is anybody from the public -- not the applicant's team or other members. Is anybody from the public here to speak on this item today?

(No response.)

HEARING EXAMINER STRAIN: Okay. Bruce, I have read the entire packet. I have no need for a formal presentation since I've read everything. If you had anything new you want to add to the record, that would be fine.

MR. ANDERSON: No, sir. Thank you very much. For the record, my name is Bruce Anderson.

HEARING EXAMINER STRAIN: Okay. And I have a couple of questions, but they'll be of staff more than you at this point. Let me make sure we've got everything.

That's the location on Immokalee Road. The particular site has been permitted. The signs are the only thing that needed to be finalized by separate permit.

That's the actual language that's being utilized for the change that adds one drive-through-lane sign that was not allowed by code.

Staff has no objection to that. And, Fred, do we have any -- have we received any opposition or comments, any letters in regard to this item?

MR. REISCHL: Thank you, Mr. Strain. Fred Reischl with Planning and Zoning.

I've not received any objections to this. The sign has been posted. I verified that in person. And no objections. We continue to recommend approval.

HEARING EXAMINER STRAIN: Okay. I don't have any other questions. It's a pretty simple application.

Bruce, if you've got nothing else...

MR. ANDERSON: Thank you very much.

HEARING EXAMINER STRAIN: Thank you. A decision will be rendered within 30 days.

***The next item up will take a little bit longer. It's Petition No. PDI-2115000425 (sic). It's for the Salvation Army PUD.

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. Thank you.

Let me get to my disclosures. I've reviewed the files, I've talked to staff, I've gone to the site, I've also talked to the applicant quite a while ago, and it was in the earlier stages. And as of yesterday -- and I passed this on the planner, Fred Reischl -- I received a letter from Francine McCausland who lives on the north side of Estey Avenue and heard -- the concerns in that -- it was the email, actually -- in that email were about the construction going on on the north side of Estey, and I think that the Salvation Army at one time was involved in that property, and I believe that's why she was writing the email because most of her concerns were addressed to that property.

So with that, are there any members of the public here for this item today?

(No response.)

HEARING EXAMINER STRAIN: Okay. Fred, I have read everything, and I don't need a formal presentation, but I do have a lot of questions.

So why don't we move directly into the questions that I have unless you have something you want to add to the record.

MR. HOOD: Fred Hood, for the record, with Davidson Engineering. Nothing yet.

HEARING EXAMINER STRAIN: Okay. Nothing yet?

Some of the issues I have are concerning the way staff wrote up the analysis, but I think it's based on what they thought the Salvation Army owned. I believe you either own or are under contract for Parcel 17 to the south. And let me do -- let me show some general information that might help.

MR. HOOD: Sure.

HEARING EXAMINER STRAIN: We've also got a lag on -- that's the property in question. This particular piece right now -- I believe you own the commercial piece here; is that right?

MR. HOOD: That's correct.

HEARING EXAMINER STRAIN: That's Lot 17 on the master plan.

MR. HOOD: That's correct.

HEARING EXAMINER STRAIN: And what about Lot 9 there?

MR. HOOD: They do not own that.

HEARING EXAMINER STRAIN: Okay. Because the staff report was written up in some ways indicating that all the adjacent properties are under the ownership of the Salvation Army where the changes are impacting, and in this particular case your change in the landscape buffer here -- which would affect that

property there. So, in essence, you are impacting adjacent properties that are not under the ownership of the Salvation Army. And I just wanted to get that confirmation.

MR. HOOD: You're speaking to Section 4, I believe it is.

HEARING EXAMINER STRAIN: You'll find -- and when we -- I think I've got it laid out here.

MR. HOOD: Okay.

HEARING EXAMINER STRAIN: Hang on a second. That's your -- you've got a request in for no landscape buffer in this area, if I'm not mistaken.

MR. HOOD: Yes, that is correct.

HEARING EXAMINER STRAIN: Okay. And since that does directly impact Parcel No. 9, at some point, Fred, I'm going to have to ask if that's going to change the content of your staff report, because you're not under contract for that. Are you attempting to purchase it, or is there some negotiations going on?

MR. HOOD: No, not that I'm aware of at this point.

HEARING EXAMINER STRAIN: Okay. Fred, so your -- when we get to you as the staff report, on Page 4 of the staff report at the top of the page is where that language is.

MR. HOOD: Just -- actually, I just -- I just realized what happened there. I think that that's a -- it's a mistake in the wording. It's supposed to be "south." In front of Property No. 17 no buffer would be required there.

HEARING EXAMINER STRAIN: Right.

MR. HOOD: It's not supposed to be the one to the north, which is 9.

HEARING EXAMINER STRAIN: Okay.

MR. HOOD: So it's a typo.

HEARING EXAMINER STRAIN: We've got a lag this morning in that machine.

So when we get down to the commercial plan where it says, side yard along a shared boundary between the residential zero lot line to the north, that one's 17, but on one of these other pages there --

MR. HOOD: Right there.

HEARING EXAMINER STRAIN: -- it's identified as No. 9. So not only is it the north/south designation, you actually said No. 9 and you meant 17?

MR. HOOD: Yeah, that's been --

HEARING EXAMINER STRAIN: That's a little different than a typo.

MR. HOOD: Yeah, that's been -- we've had six iterations of this going back and forth between myself and staff, and that one probably was not caught at some point, so I apologize for that. It should be 17, and it should say along the southern property line, not the northern, because we can't take that away.

HEARING EXAMINER STRAIN: Fred, I'm going to ask, like we do at the Planning Commission level as well, you're going to have to keep track of this from notes. I have my comments, but these changes are all going to have to be corrected in any issuance of a decision after this meeting. So please keep track of this. At some point you'll have to coordinate this with Fred Hood.

MR. REISCHL: Yes, sir. We -- as Fred Hood said, we've been working on this back and forth for, I think he said, six different iterations, I agree, so this was something that -- between Fred and myself and the County Attorney, that all of us missed, so I appreciate the clarification.

HEARING EXAMINER STRAIN: Okay. So what that will do, though, it will also make the analysis in your staff report more consistent --

MR. REISCHL: Yeah.

HEARING EXAMINER STRAIN: -- instead of inconsistent, as it is right now, which then falls into your insubstantial change analysis Item D where it says it's for internal buffers and setbacks. That wasn't true with this being the way it is, but it will be -- it will be true now.

MR. REISCHL: And that's why I wrote it that way because that was our, I think, mutual understanding despite the incorrect wording in the actual insubstantial change.

HEARING EXAMINER STRAIN: Your incorrect wording would have resulted in you being able to submit a site plan with no buffers shown on application.

MR. HOOD: Absolutely.

HEARING EXAMINER STRAIN: Okay. And then Item H under the insubstantial change, on

Page 5, Fred, it says, will the proposed change bring about relationship to an abutting land use that would not -- that would be incompatible with the adjacent land use? And, again, we're referring to internal actions, which is now acceptable based on the striking and changing of that particular paragraph, so...

I'm just going to point these out, because every one of them is going to reflect the need for this change.

Let's go back to this plan here. The buffer reductions or removals -- this "no landscape buffer" will now be added to this green line here, and then the setback will be either 10 feet or zero depending on what you do as far as a unified development, inclusive of the Parcel 17.

MR. HOOD: That's correct.

HEARING EXAMINER STRAIN: Okay. This goes out, and this will be whatever's required by code. This is the same situation. It's one PUD, so these two, if it's a unified plan, will not need the -- it can go to a zero setback with no landscape buffer there.

MR. HOOD: That's correct.

HEARING EXAMINER STRAIN: This piece right here, which is for Parcel 17 only -- now, it stops where Parcel 17 ends and goes no further west than that. That would allow you to have a 20-foot setback or zero if it's a unified plan development with no landscape buffer.

MR. HOOD: That's also correct.

HEARING EXAMINER STRAIN: Okay.

Fred, for the -- Fred Reischl. Two Freds. It's not that common. The unified plan of development, that's how this is being judged. They don't get the reduction in landscape buffer or the reduction in distances for setbacks unless they have a unified plan of development.

MR. HOOD: Correct.

HEARING EXAMINER STRAIN: Are you relying on a section of the code in order to define that? Because it's not a defined term, and it is -- so how are we going to take a position that something is not unified if the applicant says it is? What basis for unified plan development are you using?

MR. REISCHL: Through one single SDP, Site Development Plan.

HEARING EXAMINER STRAIN: So they put one single SDP through with the Salvation Army's PUD uses allowed. And whatever uses you can put in -- I think it's C5 on Parcel 17 -- no matter what they put there, it's considered a unified plan of development because they did them both at the same time as one SDP?

MR. REISCHL: As one SDP, correct.

HEARING EXAMINER STRAIN: Okay. Because we do have a section, 4.02.04.F, that does -- under clustering that talks about a unified plan, but that doesn't sound like what we're going to.

MR. REISCHL: Right. That would be cluster development, and they're not requesting any of the cluster standards, so --

HEARING EXAMINER STRAIN: Oh, I know. It was the only place I could find a definition or some kind of reference to what a unified plan of development is. But now that you've put that on record, then at least we know we've got to have at least one SDP for it.

Under the item that was submitted -- wouldn't you know, it's the one I didn't have up here. It's been terrible without computers this week.

Under 2.B in the residential portion, this is 1.A through E, but there's also 2.B, not -- the two you see up there is on the landscape piece, but under accessory structures 2.B reads, other structure setbacks shall be as required by division, then it used to be 2.6.2, and it's been changed to 4.02.02 of the Land Development Code in effect at the time of building permit application.

I understand that's the new code, but the entire PUD is riddled with the old code. So if someone's reading this PUD, that would be the only reference in the entire PUD that changes from the old code to the new code. And I thought we've always -- if you're going to change those references, they're done throughout, not just one. It's going to make it rather confusing for anybody reading this PUD to know what code we're talking about. I'd strongly suggest that 2.B remain 2.6.2 if staff doesn't have an objection to that.

MR. BELLOWES: For the record, Ray Bellows. I don't believe that's a problem.

HEARING EXAMINER STRAIN: Okay. In the future -- and, Ray, I think we've already talked about this a couple times at the Planning Commission level -- if we had changes that require code designation or code references, we should be consistent that the document reads to all one code. And this particular

document had read to the old 91-102 code. So I'd like to suggest that as a format to go forward.

MR. BELLOWS: Yes. I believe that is the policy that we try to do, though there are some caveats where, if the PUD's large and is under different ownership interests involved, we may not be able to change some of the code provisions that apply to somebody else's property for fear of creating some action that would inadvertently impact their ownership interest if they're not the applicant.

So we look at them more on a case-by-case basis when we can do it. But this is under all common ownership. We should have been able to do it.

HEARING EXAMINER STRAIN: Well, for the basis that we're dealing with this decision on, I'd rather go back and leave that to the old code for consistency.

Under the landscape buffer language here, shall be required along the shared boundary between the residential community facility and the commercial area when a unified plan of development is proposed or along the south boundary when a unified plan of development between the residential facility and a C5 is proposed.

Is the word "or" meaning you choose between one or the other, or should that be "and"?

MR. HOOD: It should actually be and/or.

HEARING EXAMINER STRAIN: Well, that's why I'm asking. I don't want you to submit and find out that the "or" means some -- it's interpreted as providing a choice.

MR. HOOD: One or the other.

HEARING EXAMINER STRAIN: So does staff have any problem looking at that as an "and/or" in regards to where these buffers can go?

MR. REISCHL: Not at first glance. I'll have to look at it a little more closely as we get you the revised information.

HEARING EXAMINER STRAIN: Okay. That will work.

Under the next item, the side yard along the shared boundary between the residential community facility and the commercial area is 10 feet or zero when a unified planned development between the commercial area and the C5 property to the south is proposed.

Fred, you've got -- between the residential facility area and the commercial area is 10 feet. Then that would first -- let's take that one first. That's referring to this; is it not?

MR. HOOD: That's correct.

HEARING EXAMINER STRAIN: Okay. And this one says, and the C5 property to the south identifies No. 17 on the proposed master plan. So that's -- isn't that the same as this up here? I mean, this one up here is saying --

MR. HOOD: Yes. It's --

HEARING EXAMINER STRAIN: Okay. Why do we have it twice?

MR. HOOD: That's a good question. This language, again, it was back and forth. This is the sixth iteration. Between myself, Fred Reischl, and the County Attorney's Office, we've come up with different versions of this language, and I think that in this case this was a double -- this was a redundancy that should have been taken out.

HEARING EXAMINER STRAIN: How long have you been --

MR. HOOD: I believe so.

HEARING EXAMINER STRAIN: I've seen you at meetings now for several years.

MR. HOOD: Yeah.

HEARING EXAMINER STRAIN: Has there ever been a time when you've called that I've refused to meet with you ahead of time to understand some of these?

MR. HOOD: Absolutely not, no. I thought the --

HEARING EXAMINER STRAIN: Is there a reason you couldn't have called me? This is a rather difficult process to get through at a public meeting using slides when there's -- part of it needs to be in more documentation.

I would have liked to have gone over this ahead of time with you and then have you better prepared with cleaned up language for today's meeting if that's the way this was going to go.

So in the future you might want to consider that as an option. It's not my obligation to reach out to

you. If you want to -- if you want to know what to expect at these meetings, it would be beneficial to have a discussion ahead of time, Fred.

MR. HOOD: I appreciate that. It had no bearing on not wanting to discuss this with you. At this point we had been through, again, six iterations of this. We've been doing this for over a year now. And I thought that at this point we had had this cleaned up to a point where we could bring it before you and have this approved.

So I apologize for the inconsistencies that you're seeing right now.

HEARING EXAMINER STRAIN: I just would rather we -- I saw better language today. I understand -- I'm trying to be as careful as I can to explain the concerns so when it's redrafted, you and the -- you and the planner come back with the proper language.

We go back to this plan here. Right here you've got a -- from the dotted line over, you've got a 20-foot landscape buffer easement, and then you show a water management facility that is apparently somewhat existing.

MR. HOOD: Yes.

HEARING EXAMINER STRAIN: What's the double line representing around it? You've got one line here and one line right to the outside. What does that double line representing; do you know?

MR. HOOD: Let me look at the actual plan?

MR. REISCHL: I didn't draw the plan, but I believed it to be like a contour line to show that it was a -- because I believe it's dry detention.

MR. HOOD: It is. If you're looking at the one that mirrors the actual water management lake, that's all water management. The other lines, the dotted line that -- the first dotted line is the landscape buffer, and the second dotted line is the setback.

HEARING EXAMINER STRAIN: All right. Now, I understand -- I understand what the -- what the setbacks are and what the lake landscape buffer easement locations are. When I saw those double lines, a lot of times people are trying to attempt to show easement locations, LMEs or whatever. And the only point I want to make is -- and it's more for staff's consideration as well -- the landscape buffer easements will override that line, the first line. Now, if it was an LME, we don't allow landscape buffer easements in an LME.

MR. HOOD: Correct.

HEARING EXAMINER STRAIN: But in this particular case, I need staff to make sure that that isn't an area that's restricted from having landscape buffer material and whatever else would go in there. And I -- and the concern comes as well to this one here. Is this going to be dry detention or a cut?

MR. HOOD: It's dry detention. It's not big enough to be a lake.

HEARING EXAMINER STRAIN: Okay. Just as long as we're not in any conflict between the LBE and any drainage easement that's there, Fred.

And while we're at it, on the original plan right up here -- I think I may have shown the original plan on here somewhere. Right there. That pump station, I didn't see it on your new plan. What happened to it?

MR. HOOD: It just wasn't added. We can add it.

HEARING EXAMINER STRAIN: Okay.

MR. HOOD: I'd have to actually look at the survey to make sure that they included that information, because all of this information that you see here is from the survey. So if it's not on my survey, then I need to have a conversation there.

HEARING EXAMINER STRAIN: Okay. But one way or another, that needs to get resolved.

MR. HOOD: I'll add it.

HEARING EXAMINER STRAIN: Because if it's not on your master plan, it could be a problem going through.

MR. HOOD: Okay.

HEARING EXAMINER STRAIN: On this particular plan -- this is your master plan that currently exists, and it shows two interconnects. Now, I know your intention under unified plan of development is to put interconnects there, here. But what happened to the one up here?

MR. HOOD: We don't anticipate connecting there, so that's why it was pulled.

HEARING EXAMINER STRAIN: Why was the one down here pulled?

MR. HOOD: That one should not have been pulled. It's actually shown on the master plan as a -- it's more of a drive than an actual arrow.

HEARING EXAMINER STRAIN: Right. But that doesn't mean it necessarily could interconnect. That could actually have a -- in fact, you're required to put a wall around your project, especially if you don't go with a unified plan of development. So that arrow needs to be at least put back down here.

MR. HOOD: So would we prefer -- and this is just for this project and also in future projects. Would we prefer to prescribe arrows instead of driveway interconnections that show?

HEARING EXAMINER STRAIN: All I'm saying is I don't want to lose the intent of that interconnection. That doesn't necessarily call it out. It's not called out in the text that I could see. So at least just put the arrows here.

MR. HOOD: Okay.

HEARING EXAMINER STRAIN: And Mike Sawyer's here, and at some point I'm going to ask Mike if that particular removal was reviewed by his department and if they have any problems with it.

MR. HOOD: Okay.

HEARING EXAMINER STRAIN: I'm not sure -- oh, this entire page was added to the PUD or is attempting to be added to the PUD. I tried to check it all against the language that's in the PUD and the language that you're changing, and it seems like it's all in the PUD. So why are we adding this as an exhibit if it's text already? That means we have the same text in two places, which could be kind of awkward if we go to change it in the future or have anything to do with it.

Is there a reason we've got it in there twice, Fred? Fred Reischl.

MR. REISCHL: There was. I remember we discussed it. I can't remember the reasoning why, but I remember at one -- we had a meeting between Scott, Fred, and myself, and we discussed putting it on a master plan, and I don't recall the reasoning right now.

HEARING EXAMINER STRAIN: Okay. I'm not -- and as you know from the Planning Commission experience, we try to avoid the redundancy. It poses all kinds of problems as we go down the road, especially if you try to make a text change on one document and you miss it on the other. I don't see the necessity for any of this, and I'd certainly like staff to take a look at reconsidering that.

I know that to the left of this, when this page is larger -- if I put it on here, you wouldn't be able to read it -- is a listing of all the adjoining lots by number. That, again, isn't necessary to be part of an exhibit to a PUD. It's already part of the land use records.

So I would suggest that page get dropped unless the applicant or you have a necessity that it needs to be there.

Another issue that came up, and the reason I started questioning it is because on this entire page, a lot of which is new, that's the only piece that's underlined as new language, and we know that's not true. So take a look at that and see what you can come back with on that.

I've got a couple -- I may have a couple of more questions, Fred. I'm just checking.

I pulled your SDP application to make sure it was consistent with what you're asking for. And in most cases, subject to the questions I just asked, you did show a landscape buffer easement, landscape buffer along this north side on your new SDP. So I do agree the intention probably was not to include Lot 9 but, unfortunately, it didn't come through like that in the language.

MR. HOOD: Yeah. Right now the SDP is in, and it is, I believe, either -- already approved so we had to go with what was existing versus what we were proposing, so that's why that's there.

HEARING EXAMINER STRAIN: You said "already approved." Would they have approved the SDP before today's --

MR. REISCHL: As long as it meets the current PUD.

HEARING EXAMINER STRAIN: Right.

MR. REISCHL: Correct.

HEARING EXAMINER STRAIN: Okay. Let me check one more thing to see if I've finished up. And, yes, the easement for the sewer -- for the lift station up here is on your survey.

MR. HOOD: Okay.

HEARING EXAMINER STRAIN: At least the survey submitted to the county with the SDP?

MR. HOOD: Okay. So we'll add that.

HEARING EXAMINER STRAIN: Okay. Other than that, I think that gets me to the end of my questions on this one.

I will next go to staff report and any speakers and, Fred, before we finish up, I need to double-check with you on a couple of issues; Fred Hood.

MR. HOOD: Okay.

HEARING EXAMINER STRAIN: Fred Reischl, do you have anything you'd like to add to the record?

MR. REISCHL: I just wanted to add that we had a neighborhood information meeting at the Salvation Army itself, and no members of the public attended. I also received the forwarded email from you about the beach house to the north, which at one time I believe the Salvation Army had some interest in and right now, it -- I don't believe they have any interest in it; therefore, it would be an engineering --

HEARING EXAMINER STRAIN: Inspection.

MR. REISCHL: -- inspection, thank you, issue and not for the Salvation Army.

HEARING EXAMINER STRAIN: Okay.

MR. REISCHL: And also to put on the record that the -- according to our new procedures, I recreated findings from the 01-65 ordinance and looked at the ordinance and created those findings that I believed were the answers from 2001 and added the update for this proposed amendment.

HEARING EXAMINER STRAIN: Okay.

MR. REISCHL: And that's part of the record.

HEARING EXAMINER STRAIN: And I'd like to --

MS. ASHTON-CICKO: The Land Development Code requires that you make findings based on the original rezone request, so he was making his new findings based on the record.

HEARING EXAMINER STRAIN: Does anything you've heard on today's discussion change those findings?

MR. REISCHL: No.

HEARING EXAMINER STRAIN: Okay. Now, those findings are accepted as backup to the application that we provided to the court reporter, so...

All of the paperwork that is accepted into evidence will be added to the record with the Clerk's Office. So if anybody needs to see that record, it will be there.

And then the last thing, Fred, how long will it take you to make these corrections working with Fred Reischl?

MR. HOOD: I can have these done today.

One more thing before we move on. The "and/or" clause that we were adding to 3.4.2.B -- or, I'm sorry, 3.4.I.2, we also need to make in 4.3.I.2.

HEARING EXAMINER STRAIN: We have a lag between the screen and the computer. Let me get to that language, if we can. Four is --

MR. HOOD: 4.3 and, I believe, I.2 had the same language. Let me just read this.

HEARING EXAMINER STRAIN: Right there. Is that it?

MR. HOOD: 4.3 and I.2, okay. That one is actually fine because it is just between -- never mind. I'm sorry.

HEARING EXAMINER STRAIN: Okay.

MR. HOOD: I thought the same language was there.

HEARING EXAMINER STRAIN: Okay. It would -- I am inclined to ask that you come back for a final reading of all the changes at our next meeting. Do you have any objection to that?

MR. HOOD: I don't.

HEARING EXAMINER STRAIN: Okay. And I think that is best. Is there any members of the public here wishing to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. What I'm going to do, Fred, is continue this item until the July 28th meeting. It will be the first thing up.

MR. HOOD: Okay.

HEARING EXAMINER STRAIN: And then we will review, then, any other changes and all the corrections, as well as today's discussion.

MR. HOOD: Okay.

HEARING EXAMINER STRAIN: Okay. Thank you, sir.

MR. HOOD: No, problem. Thank you.

HEARING EXAMINER STRAIN: ***The next two items up -- and we're going to hear these both together and discuss them at the same time. They'll have separate decisions, but they are companion items.

It's Petition No. VA-PL20150002429, the Sandy Beach, LLC, and this is for a variance setback, side yard variance.

The second petition for the same piece of property is Petition No. BD-PL2015000037 (sic), the Sandy Beach, LLC, again, and it's for a boat dock extension for 30 feet in addition to the 20 that's allowed by code.

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: I have talked with staff several times. I've received files. I'm familiar with the site because of other projects that have come in in that location. I have not been to that particular site.

And Mr. -- is any member of the public here for this item today?

(No response.)

HEARING EXAMINER STRAIN: Okay. Mr. Turley, I've read all of your report, your submittals. You do know there's been a need for some clarification of a couple items. I appreciate you sending those to us. They do clear up the questions I had.

So I don't need a formal report. Is there anything that you would like to add to the record?

MR. TURLEY: For the record, my name is David Turley representing Sandy Beach, LLC. No, there isn't, that I can think of, unless you have --

HEARING EXAMINER STRAIN: Oh, I have some.

MR. TURLEY: Okay.

HEARING EXAMINER STRAIN: I just want to make sure you didn't want to add anything before I spoke.

MR. TURLEY: No, I'm fine. Thanks.

HEARING EXAMINER STRAIN: Okay. These particular boat dock lots, as they're called, had come through a process back in '91 -- '99 in which 20 or 21 of them got together and asked for this same variance similar to the variance you're asking for in one collective group, and it was a mass approval.

Apparently, your applicant may not have owned the property at the time and for some reason was not part of that group and, basically, you're asking for similar to what they've received.

The difference is -- and I want to make sure you have no objection to this. It's consistent with code anyway -- the conditions of approval of that prior variance -- and it was 99-26 -- had two stipulations. One is, these docks are private in nature and shall not be used for rental purposes and, two, the docks shall not be used for any commercial purposes including the mooring of commercial boats.

Both of those are consistent with what our code requires anyway. I'm intending to add those as stipulations. Do you have any objection to that?

MR. TURLEY: No objection whatsoever.

HEARING EXAMINER STRAIN: Okay. I also noticed that the typical lot in that area is 30 feet. The lot next door to you is 32 feet. All those lots have the ability to go to zero setbacks. Your particular lot is 39 feet.

You're going to 3.5 setback on each side which pulls off seven feet. So, in essence, you're being -- you're treating yourselves as the 32-foot lot next door to you, and it seems consistent with that neighborhood, and I just wanted to make that point.

MR. TURLEY: That's correct.

HEARING EXAMINER STRAIN: I don't have any other questions of that one, and let me make sure I didn't have any of the other.

The boat dock extension, I have same disclosures. I don't have any other questions that are any different under the boat dock extension, so I'll go to staff report next. Thank you, Mr. Turley.

MR. TURLEY: Thank you.

HEARING EXAMINER STRAIN: Fred?

MR. REISCHL: Thank you, Mr. Strain. Fred Reischl with Planning and Zoning.

There was the newspaper ad, the letters, and the sign posted on the site, and I've received no objections to this.

Staff recommends approval, and I have no objection if you want to add the conditions that were in the original variance. The reason I didn't include them was because they're now part of the Land Development Code.

HEARING EXAMINER STRAIN: And I agree, but just to be extra careful; if someone sees this one had gotten the same benefits of that other one but lacking that language, there may be questions. It would just be simpler to include it as stipulations, so...

And also you want to add three items to the record to be added to this packet for the record. One is the aerial showing the distance across the waterway to the other shoreline and the relationship of these docks to the surrounding docks.

MR. REISCHL: And a letter of no objection from one of the neighbors.

HEARING EXAMINER STRAIN: And then you've got a graphic showing that the dock alignments would all -- the new docks and the side docks on it as well. So those three pages will be accepted for additions to the record, so...

Mr. Turley, thank you.

Is there -- any members of the public wish to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Hearing none, a decision will be rendered within 30 days; most likely a lot less.

MR. TURLEY: Thank you very much.

HEARING EXAMINER STRAIN: As fast as my computers get working, I'll be able to go the next, so...

***The next item up is Petition No. BD-PL2015 -- actually, no. We're going to skip that.

Terri, I'm sorry to confuse the issue. I'm going -- I'm skipping Item F again. For some reason I've got a block against Petition No. PDI-PL20160000403, Global Properties of Naples, LLC. It's also commonly known as the Vincentian PUD.

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.

And, Bob, I know I've talked to you about this, I've talked to your developer, Chris, and I've also talked with staff. I read all the files.

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

(Head nods.)

HEARING EXAMINER STRAIN: Okay. Would you mind explaining to us -- you'll have to do a presentation. I have read the documentation, but not all members of the public may have, Bob, so...

MR. MULHERE: Yes, sir. For the record, my name is Bob Mulhere with Hole Montes here on behalf of Vincentian. Christopher Shucart is my client.

When this project was approved at the Planning Commission hearing, we had proposed a -- and the Planning Commission recommended approval of a square footage of 750 square feet and 300 dwelling units. When we got to the Board, there was a request that we increase that up to 1,250, which we agreed to at that time. And so it was approved within a minimum floor area for the residential units of 1,250 square feet.

Since that time, we have met with numerous national and regional builders, and it's a non sequitur. The project is dead. They will not go forward unless they are able to be competitive in the marketplace for one-bedroom units. We're allowed up to 40 percent of the units as one-bedroom units, but at 1,250 square feet, it's not going to happen.

So the purpose of this amendment is twofold. One, it's to amend the 1,250-square-foot requirement to 800 square feet. Just for, by comparison, Sierra Grande, they actually are marketing units at 821. I'm sure their PUD has something less than that. The Aster is 821 square feet; Orchid Run is 812 square feet. These are actually unit sizes, leasing unit sizes. Aventine is 826. So certainly all of those units would have -- all of those PUDs would have a one-bedroom square footage of somewhere around 750 or 800 square feet.

Directly across the street from this -- I forgot the name of the project -- it's 696 square feet for single family.

HEARING EXAMINER STRAIN: Is that the apartment project, Whiskey Run or --

MR. MULHERE: Yeah.

HEARING EXAMINER STRAIN: Whisper Trace or something like that?

MR. MULHERE: Yeah, something along those lines.

So we're at -- we're proposing 800 square feet.

The second change is very minor. It is to clarify that parking -- we're not changing the overall height, which is 35 feet zoned and 42 feet actual, but we're amending the footnote to read as follows: The existing language was not to exceed two stories, and we're adding "over parking," but in no case shall the maximum zoned height exceed 35 feet and maximum actual height exceed 42 feet.

So we're not changing the height, but we are making it clear that you can have parking under building within that not to exceed two stories.

So that is the extent of the changes we're proposing. Obviously, we feel they're innocuous in nature, and that's probably underscored by the fact that they qualify as an insubstantial change and that we're here before you today.

HEARING EXAMINER STRAIN: Based on your testimony, I've got a couple questions --

MR. MULHERE: Okay.

HEARING EXAMINER STRAIN: -- concerning the height. If you utilize the ground floor for parking and you're not able to fit two habitable floors above that, you're still restricted to the 35 feet. So, in essence, you ate up your habitable area --

MR. MULHERE: That's correct.

HEARING EXAMINER STRAIN: -- by putting in an underground parking or underfloor parking?

MR. MULHERE: That's correct.

HEARING EXAMINER STRAIN: The reduction in square footage -- and because I have sat on the Planning Commission for 15 years, I know of some of the projects you spoke about. When you were in front of the Board of County Commissioners, were you aware of the marketing issue you were going to have in regards to the square footage?

MR. MULHERE: I don't think we were as aware. We were concerned about that, and that's why we had asked for originally 750 square feet because we knew that's what the marketplace called for for one-bedroom units. But there was a concern about the even need to have one-bedroom units. And I don't think it was a unanimous concern, but there was a concern at that level.

And so we thought, let's go out and see what we can do, and let's adhere to that; try to make the commissioner in the district happy.

Unfortunately, since that point, there's been very serious consideration with some national builders and regional builders and local builders, and it's been a non sequitur with every one of them. I mean, the basis is really simple; they cannot be competitive in the marketplace. They simply cannot be competitive in the marketplace without having the same level playing field that everybody else has.

HEARING EXAMINER STRAIN: I've worked on a lot of communities that have single-family product as well as multifamily and others. This particular multifamily product has a height limitation of 35 feet. Do you find that a standard for single-family product in most residential communities as well?

MR. MULHERE: Yes. And, in fact -- excuse me. I'm sorry. I didn't mean to interrupt. That is the height limitation on the adjacent residential straight-zoned properties; 35 feet.

HEARING EXAMINER STRAIN: Okay. And I had one other question. Oh, when this came through the Planning Commission, we had recommended a whole series of enhancements to the project. I think it was a paved entryway. I can't remember them all. There was a whole pile of them. And I believe

they were all agreed to. I'm finding nothing here that changes that.

MR. MULHERE: They were all included. In fact, I think we added a couple at the Board, too, so...

HEARING EXAMINER STRAIN: Okay. That's all the questions I have for right now. I'll see if anything develops with the staff report or any public speakers.

Fred, do you have a staff report?

MR. REISCHL: Thank you, Mr. Strain. Fred Reischl with Planning and Zoning.

I have received one phone call who questioned whether the reduction in the square footage would affect the gap housing agreement. We checked the gap housing agreement, and there was no reference to that, so that, to my opinion, is a nonissue.

Other than that, no objections, and we continue to recommend approval.

HEARING EXAMINER STRAIN: On Page 8 of your staff report, you start out with Exhibit A, findings of fact. Are those a new set of findings of fact, or are they the same ones that were provided with the original PUD?

MR. REISCHL: The original PUD.

HEARING EXAMINER STRAIN: Would you mind amending the Exhibit A with the reference to the ordinance number of that original PUD?

MR. REISCHL: To add the ordinance number to it? Sure.

HEARING EXAMINER STRAIN: I mean, simply as you did in the Salvation Army one, say these -- indicate it's from that ordinance because, otherwise, if you read it, it doesn't match what's being discussed here today perfectly.

MR. REISCHL: No problem.

HEARING EXAMINER STRAIN: So I'd rather we keep it the way it was originally.

Okay. With that, I don't have any other questions of the applicant or staff.

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

(No response.)

HEARING EXAMINER STRAIN: Okay. We will close the public hearing, and a decision will be rendered within 30 days. Thank you very much for your attendance today.

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: ***Now, the next one up, to be consistent with the overhead -- back to that again -- is 606 Sunset Court. It's Petition VA-PL20150001706.

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: Disclosures on my part: I have talked with staff, I've reviewed the files, and I think that's the only -- only things I can remember at this time.

MR. JONES: Good morning.

HEARING EXAMINER STRAIN: Any members of the public here specifically for this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Hearing none, I won't need a formal presentation. I have a few questions. I've read everything. Unless there's anything you'd like to -- first identify yourself, and if there's anything you have to add to the record.

MR. JONES: Matthew Jones for the 606 Sunset Court Trust.

HEARING EXAMINER STRAIN: Okay. Anything that you'd like to add to the record that isn't in the staff report?

MR. JONES: No, sir.

HEARING EXAMINER STRAIN: Okay. I'll move through this as quickly as I can. A couple comments. Is Ben here? Your -- Ben --

MR. JONES: Nelson.

HEARING EXAMINER STRAIN: Ben Nelson, he's not here today?

MR. JONES: No, sir.

HEARING EXAMINER STRAIN: Okay. The graphic that you sent out to the neighbors is right handed, and the details that were provided in the packet of what you're going to build is left handed, meaning

the boat's going to come in --

MR. JONES: Correct.

HEARING EXAMINER STRAIN: -- from different directions. Which one is the real plan?

MR. JONES: It is the left-handed one. That occurred in conversation with Ms. Beasley. I think she had some comment from various staff members that it might be better if we reoriented it to better serve some of the neighbors and, frankly, it actually worked better for the applicant in terms of ingress and egress to and from the dock.

HEARING EXAMINER STRAIN: Okay. And I didn't have a concern over the review of it in that regard. I just noticed it was different and wanted to make the clarification for the record so it was at least discussed.

Under the analysis provided by staff, Item B says, are there special conditions and circumstances which do not result from the action of the applicant, such as a preexisting condition relative to the property, which are the subject of the variance request?

Second paragraph says, while the applicant is proposing a new dock to protrude further into the waterway than the existing dock, it should be noted that the -- and it goes on about the references to the code.

But this dock is not going beyond the 20 feet?

MS. BEASLEY: Rachel Beasley, for the record. No, it is not.

HEARING EXAMINER STRAIN: Because they're not asking for a boat dock extension.

MS. BEASLEY: Correct.

HEARING EXAMINER STRAIN: And when this -- when they reference to protruding further into the waterway is a little confusing. I wanted to make sure we understood it's still not going to go out past the 20 feet that's allowed.

MS. BEASLEY: That is correct.

HEARING EXAMINER STRAIN: Under D, will the variance, if granted, be the minimum variance that will make possible the reasonable use of the land? One thing I'd like to comment on, in reviewing all of these, but this one in particular and the others, in essence, the dock that's there is a nonconformity; is that correct?

MS. BEASLEY: Yes, it is.

HEARING EXAMINER STRAIN: It goes side to side, zero setback.

MS. BEASLEY: Correct. There's zero setback.

HEARING EXAMINER STRAIN: So they are reducing the nonconformity by this action today?

MS. BEASLEY: They are reducing, yes.

HEARING EXAMINER STRAIN: Okay. And there have been no letters of objection received?

In fact, there are letters of support?

MS. BEASLEY: Correct, no letters of objections, yeah.

HEARING EXAMINER STRAIN: Under your recommendation, the boat -- it says, the boat dock facility, including all vessels that are watercraft, shall not protrude further than 20 feet beyond the southerly waterfront property line. Why are you saying that?

MS. BEASLEY: We put that in there because of the survey that didn't show exactly the boat length, and the smaller -- the smaller second boat. Just wanted to ensure that it didn't protrude further than 20 feet.

HEARING EXAMINER STRAIN: If the second boat went out further than 20 feet, would that be in violation of our code?

MR. BELLOWS: For the record, Ray Bellows. Yeah. We measure boat dock facilities to include the boat.

HEARING EXAMINER STRAIN: Then we don't need to say this, correct?

MR. BELLOWS: Well, I believe the intent was to ensure that any combination of future boat doesn't exceed that 20-foot limit.

HEARING EXAMINER STRAIN: So if we didn't say this, they could exceed the 20-foot limit?

MR. BELLOWS: (Shakes head.)

HEARING EXAMINER STRAIN: Then why are we saying it?

MS. BEASLEY: I guess I saw it more as a -- just insurance that the applicant knew that -- since it

wasn't shown on the survey, they knew that they couldn't protrude further than 20 feet.

HEARING EXAMINER STRAIN: And I have been, what, for how many years now suggesting to staff, if it's already in the code, I'd rather not see the redundancy in the documents, because where do you limit that redundancy? I mean, there are plenty of other codes that are equally as important that we're not restating here. So I'd suggest we not need to get into those kind of individual recommendations.

MR. BELLOWS: Understood, and we'll revise it.

HEARING EXAMINER STRAIN: In the applicant's narrative -- and this is I guess for the gentleman that's here today on -- this mike, again, is going in and out again.

And the third paragraph down it says, currently the dock is constructed at 7.5 feet setbacks, and the trust's desirous of maintaining said dimensions. Are you -- this isn't already in the water, is it? The new dock is already constructed?

MR. JONES: No, sir; no, sir.

HEARING EXAMINER STRAIN: What does that sentence mean? Are you familiar with that?

MR. JONES: I'm not familiar with that. Obviously, as Ms. Beasley said and the staff knows, that the current configuration goes from property line to property line, so --

HEARING EXAMINER STRAIN: Okay.

MR. JONES: -- that's rather inarticulate and inartfully drawn language, I will give you that.

HEARING EXAMINER STRAIN: I just wanted to make sure I understood what was happening there without having been to the site, and that kind of confused me a bit.

Let me see if there's anything else. That wraps up my questions. Is there anything else staff would like to add?

MS. BEASLEY: No, just that a staff report was submitted, and staff is recommending approval.

HEARING EXAMINER STRAIN: Thank you. Any members of the public here that wish to comment on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Sir, thank you for your time today.

MR. JONES: Thank you very much.

HEARING EXAMINER STRAIN: A decision will be rendered in 30 days, and this case is closed.

MR. JONES: Thank you.

HEARING EXAMINER STRAIN: Have a good day.

***The next item up is the last item for today's meeting, and it is Petition No. SV-PL20150002660, North Naples, LLC, also known as the Mercedes dealership -- the Mercedes-Benz dealership, the new one in North Naples, North of Wiggins Pass Road.

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've talked in length with staff on different issues; reviewed all the files, old and new; I've talked to a resident from the community across the street with one -- I think Rachelle brought the gentleman in. He's here today.

Various members of the applicant's team have contacted me over -- since before this site was actually picked. So I've talked to them several times.

I've done a site visit. I was up there a week or so ago. After the gentleman from the neighborhood came in, I went up to take a look at the facility. I did it during the daytime, so I didn't see the issues that he had spoken about. And, by the way, this meeting is about sign variances, not about the lighting issue that was brought up to me at that time.

And I have reviewed other sites in the county for signage that has been used for dealerships to see how it compares to this one. So with all that in mind, is the applicant's representatives here?

MR. BROOKER: Good morning, Mr. Strain. For the record, my name is Clay Brooker with the law firm of Cheffy Passidomo representing the applicant here today.

My -- will be very brief. I believe the application states for itself, although, we would like to make one withdrawal from the application, and that is the variance relating to the height of the pylon or ground sign that's proposed. We are proposing to comply with the 15-foot maximum height imposed by the county in that

respect.

I do have a -- for the record, I'd like to make a part of the record a revised rendering of that sign with dimensions, if I may approach.

HEARING EXAMINER STRAIN: Sure. Do you have a few copies with you? How many did you bring? Do you one for the court reporter? Thank you.

That will be admitted as Exhibit A to this particular case.

MR. BROOKER: And if I may, with respect to what we are now identifying as Exhibit A, the service -- the service sign, obviously, is not relevant. It just came from our consults that way, so -- but you see there the -- on the left-hand side of Exhibit A is the revised pylon sign, and it is reduced not only in height to 15 feet but also reduced somewhat in width and, therefore, the sign copy area. If you recall, our application involves a request for a variance in excess of the 80 foot square-foot-sign copy area. This reduced size sign will actually reduce the sign copy area as well.

Our calculations, as we interpret the code, result in about 46 square feet of sign copy area. And I guess this is a question for staff. That is per side?

So as you're looking at that exhibit now, the sign copy area, based upon our calculations, is approximately 46 square feet. The application, if you recall, requested a variance in excess of the maximum 80 square feet imposed by the county to 118.75 square feet. That number, obviously, is no longer in play; the 118.75 is no longer in play.

I apologize for being a little bit general and vague because we literally got this last night or this morning, and we are estimating that sign copy area, from the top of the sign -- of the star logo to the bottom of the "commercial vans" language or phrase to be approximately 46 square feet.

So if our calculations are correct and if we are interpreting the code correctly, we will not need a variance for the sign copy area either. But I qualify all of that with an "if" because I just want to make sure we're on the same page as the county in terms of interpreting and applying that sign copy area provision.

HEARING EXAMINER STRAIN: Okay. And I'll definitely have to get staff to weigh in on it, and we'll do it on the -- while we're sitting here. I wanted to go over some of the issues so everybody sees what it is we're dealing with.

You have three requests for a sign variance. Two of them involve the emblem on the wall that's attached to the building right here, and it's the Mercedes emblem, and I'll show that in a minute. The other originally involved a sign that was higher than standard setback and right next to the parking right here.

A little blow-up of that; those are the same general locations of the three requests.

This is the sign that was the highest sign. This is the one that had the 25-foot or near 25-foot request that had the 118-square-foot area. One of the issues with our sign code is the way we measure sign copy. Sign copy in most people's mind is this, this, and this (indicating), but in Collier County it's everything from the top of this all the way down to the bottom of that, including all this dead space. And for that reason, I can understand your request for adjustment to the sign copy.

I'm pleased to hear that your request for the height has been modified. That will save me a lot of questions today.

On the other two requests, this is the emblem that would go at the top of the wall that is viewed north and south. It's attached to the building, so it would be an additional wall -- considered a wall sign because it's an emblem. That's the location where it would be.

Okay. Let me see if there's any remaining questions left before I go to staff, and I'll see where it goes there.

I had a lot of detailed questions about the height of that prior sign, so I'm not going to get into all those because it's not needed at this point.

I just want to make sure there's nothing else in the issues that I had here. There is one, but it's of staff, and that is the -- some of the backup that staff provided included typical signs at other dealerships; some of them further down the road from the Mercedes dealership. One was for a BMW location, 11286 Tamiami Trail, and the height was 41 feet, 6 inches, which that's probably what got me to drive up to that areas.

I don't ever recall seeing a 41-foot-high sign there, and I was surprised. And afterwards when I discovered it wasn't 41 feet high, I think you came back with a correction.

MS. BEASLEY: Correct. It's actually 14 and not 41. And I brought three copies, if you would like, for the record.

HEARING EXAMINER STRAIN: Absolutely. Could you provide one to the court reporter and myself and to Mr. Brooker, if you don't mind.

And, Terri, this will be just accepted for the record.

Thank you. Okay.

Now, Rachel, your staff report had been written up to not support the third sign -- the first -- the two deviations requested for the emblem on the building staff supported.

MS. BEASLEY: Correct.

HEARING EXAMINER STRAIN: The other deviation for the height of the sign you did not support.

MS. BEASLEY: That is correct.

HEARING EXAMINER STRAIN: With the height of the sign and the discussion you've heard from the application today, has staff got any different position on that now?

MS. BEASLEY: Well, it sounds like it could go two routes. If what the applicant is stating, that it is approximately 46 square feet, they won't need a variance at all, so any weighing in on it from us would not be needed.

But since right now it's just an estimate, Ray and I were talking, and I might have him discuss how we might include it.

HEARING EXAMINER STRAIN: Well, they've asked for an increase in sign copy.

MS. BEASLEY: Right. But if --

HEARING EXAMINER STRAIN: Go ahead.

MS. BEASLEY: Right now, though, he said that with this new, that it's approximately 46, so it's under.

HEARING EXAMINER STRAIN: Right.

MS. BEASLEY: Uh-huh.

HEARING EXAMINER STRAIN: And it's under because you're looking at it as 80 square feet per face, right?

MS. BEASLEY: Correct.

HEARING EXAMINER STRAIN: And it's under because -- I don't know how they've weighed in -- I don't know how they've measured it compared to how staff's sign people may have interpreted their measurement of it. And that's where the problem occurs repeatedly in this kind of an issue.

I think what I'm trying to ask is, based on what they passed out, this sign here, same sign, just all the black reduced, and then the whole sign dropped down to 15 or approximately. Does staff have any concerns with this sign copy regardless of how it would come out in regards to the size of it? This is the intent.

MR. BELLOWS: For the record, Ray Bellows. I don't have a problem with that exhibit being what we approve through the permitting process based on that design.

HEARING EXAMINER STRAIN: As this decision works its way through the process, this would undoubtedly be attached as some exhibit to it, so...

MR. BELLOWS: Yeah.

HEARING EXAMINER STRAIN: Okay.

MR. BROOKER: To give you a little bit of level of comfort in terms of measuring the sign copy area -- because I know we're all working on estimates right now the entire square footage of the entire pylon that is being proposed on Exhibit A is 88 square feet.

So there's literally no way the sign copy area, as it is measured by the county, could exceed 80 square feet per side.

HEARING EXAMINER STRAIN: Well, if you believe there's that much surety in the way things are looked at, then more power to you, but I've learned from experience that everything's not quite as it seems when it gets down to the bottom line.

Did you have something you wanted to add, Heidi?

MS. ASHTON-CICKO: Just if you're going to attach this exhibit and it's less than what our code

allows, then you can indicate that it's going to be this or, you know, per the LDC.

HEARING EXAMINER STRAIN: Thank you.

And with that, I don't have any questions. Clay, you may want to have some rebuttal comments after public speakers, and you're more than welcome to come back up at that time.

Okay. Members of the public who are here to speak? Sir, if you want to come up, identify yourself for the record, and --

MR. PIAZZA: It's Michael Piazza. I am the vice president of the HOA for Falling Waters North Preserve. We are directly across the roadway from the Mercedes of Bonita Springs property.

My main concern, and I think what was just said by them, deleting that roadway signage, the pole sign satisfies our community regarding what's -- the logo and what's going on. The building structure seems to be fine. If the county's fine, we go by the rules.

HEARING EXAMINER STRAIN: Okay.

MR. PIAZZA: Basically, that's it.

HEARING EXAMINER STRAIN: I just want a clarification. They're not deleting the pole sign. They're just deleting the need to go above what code requires.

MR. PIAZZA: Correct. The pole sign is there, but it's within the code.

HEARING EXAMINER STRAIN: It will be within the code with the exception, the copy that's shown on this plan, it does fit within the height, but the copy that they're asking for will be allowed.

MR. PIAZZA: That's fine. That's fine.

HEARING EXAMINER STRAIN: Okay.

MR. PIAZZA: And the street sign enlargement is being deleted from this request.

HEARING EXAMINER STRAIN: The height of the sign is being deleted. The height --

MR. PIAZZA: And the square footage.

HEARING EXAMINER STRAIN: Well, the square footage and the height on the other sign were both inconsistent with the code. They're going to drop the height from 24 -- almost 25 feet down to no more than 15, and they're going to limit it to the copy that's shown on this.

MR. PIAZZA: That's fine.

HEARING EXAMINER STRAIN: Okay. That's what I wanted to clarify. Thank you.

MR. PIAZZA: Thank you.

HEARING EXAMINER STRAIN: Appreciate it.

Anybody else from the public that would like to talk on this item?

(No response.)

HEARING EXAMINER STRAIN: Clay?

MR. BROOKER: I had neglected to mention, just by point of clarification, probably irrelevant, but in our application we mention that this pylon sign would be at a setback of 36 feet from our property line. That's no longer the case since we are dropping the sign. The minimum setback, I understand, is 10 feet in this area. We will comply with that minimum setback. I just don't want there to be any confusion that we are binding ourselves to a 36-foot setback.

HEARING EXAMINER STRAIN: No. That wasn't part of the request. I mean, you used that as a justification for the request, but that was volunteer -- it was a self-created issue.

MR. BROOKER: Right.

HEARING EXAMINER STRAIN: So the code says 10 feet. The signs up and down the 41 are compliant with code, and I don't believe you're going to be any different in that regard, so...

MR. BROOKER: Okay. That's all.

HEARING EXAMINER STRAIN: Okay. Any other members of the public that would like to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Hearing none, this meeting is closed. A decision will be rendered within 30 days. Thank you all for your attendance today.

And we have no other business. Are there any other public comments today?

(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 10:07 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 8-11-16, as presented ✓
or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF
U.S. LEGAL SUPPORT, INC.,
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.