

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
October 27, 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
Daniel Smith, Principal Planner
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, October 27th meeting of the Collier County Planning -- Hearing Examiner's Office. I'm getting mixed up. Where I am today.

If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you.

Some housekeeping announcements. Individual speakers will be limited to five minutes unless otherwise waived; decisions are final unless appealed to the Board of County Commissioners; and a decision will be rendered within 30 days.

Review of the agenda: As noted on the overhead, we have one item remaining for today. It will be 9A. 9B, the Petition No. VA-PL20160001181, it's the Roxanne B. Stone-Jeske and Nancy D. Koeper variance request for a swimming pool setback, that has been moved to the Planning Commission as a normal process for that -- for a variance, and it will be heard by the Planning Commission sometime scheduled in the future and the Board of County Commissioners. There was some extensive -- or let's just say public concerns over that, and for that reason it was moved forward.

So if you're here for that one today, which I can tell nobody is -- I know everybody in the room -- so we'll move on.

The approval of the prior minute meetings, I reviewed the September 22nd meeting. They're good to record as they've been submitted.

***And that takes us to 4A, Petition DR-PL20160001107. The petitioner's TT of Naples, Inc.

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.

Before we move into the applicant's discussion, my disclosures on this, I have talked with staff, I've also met with the applicant, various parties of the applicant's company and, in fact, two or three times Patrick Vanasse and I have exchanged emails and talked on the phone several times on the matter.

And with that, I did put some elements on the overhead just to make everybody familiar with it for the record. I think everybody that's here now is, but there were a few things that hopefully next time we get further detail in the staff report. We'll run over those during this presentation.

This is the zoning map's location map. It's over on Airport Road across from the airport. That's the site as it appears today from our Tax Appraiser's website. It involves three different lots.

I went back to see how long those lots have been developed for. The two southern lots had been -- actually got developed first in 1975, so they're older codes that allowed those buildings and the operations there to be in place.

In 1985 they were expanded a bit, and you can tell the improvement of aerial photography over the years.

Then in 1995, even though the aerial photography got worse, it shows the newest facility. And if you look at the dates that the permits were issued on this one, they were actually issued in '88, which means it was under the 1982 code; 82-2 was prior to 91-102. That's for the main building.

The zoning in 1976 was industrial. In 1982 the zoning code modified it to C5 along that strip across from the airport and industrial on -- it looks like the easternmost site would have been industrial. The western two sites would have been C5.

And then that brings us to where our questions are going to be involving the staff recommendations and the rest of the issues. So before I get into all that, in regards to these dates, when staff does a site plan with deviations in the future, it would help a lot to have a reference and copies of the codes that occurred when the project was being qualified and the differences today under the justifications to enter into a site plan with deviation process, because in the ordinance that established that process it was clear that it has to be as a result of a change in code over time.

And there were nine deviations here, and the first six alluded to that, and they were easily verified.

The last three, I kind of ran out of time. And I met with the applicant and I said, you know, Patrick, here's the code. Here's the ordinance; I sent that to Pat. And I said, we need to make sure that for the remaining three they tie correctly to the code.

From now on that ought to be requested early and documented in the staff report. It will just make everything a little bit smoother.

Patrick has provided all that. And if you could distribute copies of that, they'll be for the record. Give one to the court reporter. I've already got them. Thank you.

So with the information that I just showed on the overhead, we'll move right into the discussion that we need to have to finalize all the details. First of all, there are no members -- are there any members of the public here to speak on this matter?

(No response.)

HEARING EXAMINER STRAIN: Okay. There's nobody here to speak on this matter. As you know, I've read everything thoroughly. I don't need you to make a presentation, Patrick, but there will be some -- I would like to walk through the deviations so we understand where they're coming from. And I believe we can use this map, for the most part.

There may be some modifications needed when I do a final exhibit for this, but let's move into it.

Deviation No. 1 involved the buffer encroachment mitigation table. You provided a table showing that you provided enough mitigation to exceed that need and to make up for where the buffer encroachments were, and I believe staff's in concurrence with that.

MR. SMITH: Correct.

HEARING EXAMINER STRAIN: Okay. Thank you.

Deviation No. 2 involves, again, the buffer requirements; type D buffer, vegetation, allow the 80-square-foot buffer encroachment in front of the bicycle rack on the west buffer. Again, staff didn't have a problem with that particular change.

MR. SMITH: No.

HEARING EXAMINER STRAIN: These are the deviations.

And Deviation No. 3 involves a display area encroachment. Now, in this one the applicant intends to add additional pervious/landscape area within the parking lot. Based on that plan there, do you know where those are being added on this plan?

MR. SMITH: The top -- there you go. That's the plan, for additional there, and then I think what they were -- that was additional for some of the other deviations as mitigation.

HEARING EXAMINER STRAIN: And I just wanted to make sure I understood it, was reading it properly.

I went over this with the applicant. We seem to be on the same page, but I wanted staff's concurrence as well.

Deviation 4, south buffer display encroachment. This one you said that the staff believes that the encroachment was approved in error, but it was approved by a 2006 SDP.

MR. SMITH: That's correct.

HEARING EXAMINER STRAIN: Is that along here?

MR. SMITH: If you go towards the corner, you can see there's a small 3- to 4-foot encroachment toward the Airport-Pulling Road. Right there. There's a small encroachment right there.

And I think what happened is when you read the landscape plan and the site plan, if you were just doing a landscape review, based on the way the plan -- it was really hard to determine that there was an encroachment right there unless you looked at the site plan. So I think they might have saw -- they approved that in error because there was --

HEARING EXAMINER STRAIN: That's the area right there.

MR. SMITH: Correct.

HEARING EXAMINER STRAIN: Now, that's the one issue of staff recommendation. That's the one you request -- you had made a recommendation to expand this to a --

MR. SMITH: Well, yeah. That was the parking lot island. It looks like it was a parking lot island at one time. It was, like, cut in half. It's only five feet, and there's no curbing on the west side. So it looks like

there was something that was done there at some particular time. It just doesn't meet code.

HEARING EXAMINER STRAIN: Okay.

And Deviation 5 was supported by staff, and it involves dimensional standards involving the side-yard setback on the north. This particular setback up here. I'm very familiar with that. I know staff was supportive of that.

Deviation 6 talks about the entryway and customer entrance treatment. They were modifying that a bit. Again, that got staff report -- support.

MR. SMITH: Correct.

HEARING EXAMINER STRAIN: Deviation 7 was one of the ones I had a question about because of the parking space allocation. Really the reduction in parking spaces is something that usually can be done by an administrative parking variance, APV. And I don't know how it got into this process.

But in researching that, Patrick, can you tell us what research you found and we can just add it to the record as far as copies of the code?

MR. VANASSE: Yes. If you look at the packet we provided, we went back and we looked at the '94 code and looked if the regulations were different at that time. If they weren't, we went to the '82 code because our approval -- initial approval was 1988 for this building.

And then from '82 we looked if anything had changed from '82 to '88. So what we found is in the '82 code the requirements for new and used car sales were different than what we have in the present code. And if we applied that requirement to our project today, we could meet that requirement.

So I think that was the rational nexus that Mark was asking for in justifying why we were bringing this forward as part of the deviation.

HEARING EXAMINER STRAIN: Now, that will change the change in parking spaces from a code required 103 to 82 instead of 81, and you're okay with that?

MR. VANASSE: Yes.

HEARING EXAMINER STRAIN: Okay. I mean, I know you haven't had time to read it --

MR. SMITH: Yeah.

HEARING EXAMINER STRAIN: -- but staff had previously found this satisfactory, so I'm assuming it hasn't changed.

MR. SMITH: Absolutely.

HEARING EXAMINER STRAIN: By the way, this kind of information is exactly what I'd like to see in the future staff reports anytime you do site plan with deviations, and then we wouldn't even need to additionally put it on record because it would be part of the package.

MR. SMITH: Noted.

HEARING EXAMINER STRAIN: Deviation No. 8, this, again, is one that involves the foundation plantings. And I asked Patrick to review that against the earlier codes, which -- you want to tell us your results of that?

MR. VANASSE: Yes. We went back to look at '94. The requirements were different in '94, and we just applied those requirements to our improvements today.

And, again, we could have met the foundation plantings at that time from an area standpoint and also the dimensional standards which are now a minimum of 10 feet wide or at five feet back then. So, again, that's the rational nexus to bring this forward and justifying our deviation.

HEARING EXAMINER STRAIN: Okay. And staff had supported the deviation.

MR. SMITH: Correct.

HEARING EXAMINER STRAIN: Your information only enhances their ability to make sure it could be supported. And as long as staff has no changes, we'll continue on.

Okay. Deviation No. 9 talks about the standards for landscaping in vehicular use areas. It was a 10 percent valuation. Do you want to tell us about your research on that?

MR. VANASSE: Yes. The '82 code applied. Same thing. We looked at those requirements. They were different than what is required today. We applied that to our project today. We could have met those requirements. Again, this provides the nexus for the deviation.

HEARING EXAMINER STRAIN: Does staff have any problems with that?

MR. SMITH: No.

HEARING EXAMINER STRAIN: Okay. The other issue is I'd like to walk through the project enhancements because they will be attached in a decision. There's a couple -- I had asked you to -- your previous list. Let's go back to that for a minute.

Your previous list had a note on the end of it that was a little bit confusing. You listed a series of bullets talking about your enhancements, and I may have those on the overhead. Right there. But at the bottom -- and it's this language right here; these enhancements listed above, along with the deviations and mitigation areas described below. And I just want to make sure that everything that needs to be considered as an enhancement was listed on this list.

So I'd asked you to restate that list, and we'll walk through a bit of your restatement now. It will be eventually something that's worked up as part of the discussion and the decision.

The buffer tree requirement is exceeded by seven trees providing an enhanced buffer, and I believe that's one that was -- that's the first one on here. I need these pages set up so I can read them.

The 50 percent of the shrubs, I understand that. Five species of trees, a maximum of 35 percent, and then nearly 4,500 square feet of turf.

We'll move down the list. Proposed buffers, then those -- you end right here with proposed buffers. And the things that you're considering as additional enhancements that were noted, I want to make sure staff understands them, too.

Based on your reference here, the things that were listed in the narratives for justification and deviations that could have been added to this list, I think you've got four or five of them.

One thousand, two hundred twelve square feet of decorative pavers. That's noted in there as one of the things you've added.

MR. SMITH: Yes.

HEARING EXAMINER STRAIN: Foundation planting requirement is exceeded by 2,143 square feet. I'd like staff to confirm that number either today or at whatever -- if that's not the number you previously worked with, just let me know --

MR. SMITH: Okay.

HEARING EXAMINER STRAIN: -- so I have the right number.

Vine-covered trellis is being provided. Conforming and nonconforming foundation planting provided exceed current code requirements by 2,143. That's similar to the foundation planting.

Then, Patrick, are those one and the same? You just stated them twice?

MR. VANASSE: Correct. Yep.

HEARING EXAMINER STRAIN: Okay. So we only need to check out one.

And then the last item you pulled from your narrative is conforming and nonconforming VUA landscaping areas provided exceed current code requirements by 2,655.

So what I'd like to ask staff to do is verify those three or four additional items as enhancements. It's not so much a need as just making sure it's accurate.

MR. SMITH: Correct.

HEARING EXAMINER STRAIN: So if you have a problem with 2,143 and that's a different number, I want to make sure the number's right. Patrick?

MR. VANASSE: If I could just kind of clarify something. As part of our discussion with the Hearing Examiner this week, we asked the question with regards to the foundation plantings, if it's required that we look at the entire building including the old part of the building and the improvements. And I think the direction we were given is we could look at just the improvements.

So we've recalculated our facade, and our foundation requirement changed because of that. So the amount that we're showing as the excess foundation plantings that we're providing is a little greater than what you would have seen.

MR. SMITH: Okay.

HEARING EXAMINER STRAIN: And I'd like the verification based on that form of analysis.

MR. VANASSE: Yeah. And we'll provide the revised plan for that.

HEARING EXAMINER STRAIN: Okay. That may be all I have. Yes, it is.

Okay. I think that takes us to the end of all the issues that we have here today. I don't have any other questions. Do you have anything else you want to add for the record?

MR. VANASSE: Nope. I think it's all covered.

HEARING EXAMINER STRAIN: Okay.

MR. VANASSE: Thank you.

HEARING EXAMINER STRAIN: Thank you.

Is there a staff report? Let's put it this way: Is there anything that staff would like to add?

MR. SMITH: No, I think we covered about everything. Thank you.

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

(No response.)

HEARING EXAMINER STRAIN: Okay. Hearing none, we will close the public hearing, and a decision will be rendered within 30 days. It actually will be rendered probably within seven to 10 days, more or less. As soon as I get the confirmation from staff, it should be rendered quickly, and I'll get it over to you.

I know you've waited a little bit longer than you expected to on this. Part of that was my fault. We didn't have a meeting two weeks ago. So we'll do our best to get this to you quickly.

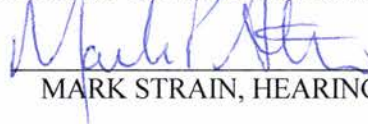
Okay. Thank you. And I believe that's the last item on today's agenda. And with that, we will -- are there any members of the public here to speak on any matter whatsoever?

(No response.)

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

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:18 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 11-10-16, as presented ✓
or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF
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