

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER  
Naples, Florida  
October 12, 2017

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 10:00 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  
Eric Johnson, Principal Planner  
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everybody. I'm trying to get the mikes to work and they're not. There it goes.

Good morning, everyone. Welcome to the Thursday, October 12th meeting of the Collier County Hearing Examiner's Office.

If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you. Some housekeeping matters. Speakers will be limited to five minutes unless otherwise waived, all decisions are final unless appealed to the Board of County Commissioners, and decisions will be rendered within 30 days.

That takes us to the review of the agenda. First of all, the month of September, as everybody is well aware, had interference called Irma. Two meetings of this panel had this -- yeah, this office, had been continued from those two meetings to today. So we have an unusually long agenda today. We have nine items on the agenda. One or two which may be continued, and we'll talk about those right now in review of the agenda.

The first item that is continued is Item 9F. That's Foxfire. It's a PDI; some changes to the Foxfire property. If you are here for Foxfire today, that item is being continued to the October 26th meeting, the next meeting that we have this month. It's Petition No. PDI-PL20160003062, and it's supplied for by the Foxfire Community Association of Collier County. So if you're here today for that one, that one will not be heard.

And that takes us to what I was told by staff that there would be potentially a boat dock extension continued, and it would probably be Item 9D.

MR. REISCHL: D.

HEARING EXAMINER STRAIN: Is that confirmed? Is the applicant here for 9D?

MR. NELSON: Yes.

HEARING EXAMINER STRAIN: Would you mind coming up to the podium. Could you identify yourself for the record.

MR. NELSON: My name is Bill Nelson. I work with Greg Orick Marine Construction, and I'm representing the owner as an agent in this matter.

HEARING EXAMINER STRAIN: Okay. Yesterday I had a meeting with staff on all eight of the nine elements to today's meeting, and that particular petition apparently had gone through various staff members, and it was missing substantial amounts of information that were necessary.

I asked staff to contact you, asked you to consider a continuance. They said that you've agreed to one.

MR. NELSON: Yeah. We'll go ahead and agree to a continuance, and I'd like to set a meeting with you, if possible.

HEARING EXAMINER STRAIN: I'd like to show you the deficiencies that I found with staff so that you can at least be prepared to supply them by the next go-round.

Fred, did you have a time-certain date for the continuance that can coordinate with the timing of everything needed to get there?

MR. REISCHL: No. The staff report's already written. It would just be the additional information supplied by the applicant.

HEARING EXAMINER STRAIN: Right. That additional information will have to be discussed and then collected by the applicant.

The next meeting is October 26th. That's two weeks away. Do you feel that if -- you have time to get that accomplished? Ray, do either of you want to --

MR. BELLOWS: I believe if the applicant responds or resubmits with the revised information, we can make that meeting.

HEARING EXAMINER STRAIN: That means you'd have to get with everybody here by the first part of next week because I think Wednesday of next week would be your normal deadline?

MR. BELLOWS: Correct.

HEARING EXAMINER STRAIN: So would that work for your schedule?

MR. BELLOWS: It just depends on if you actually need signed, sealed surveys or engineering or anything that I basically cannot provide by myself.

HEARING EXAMINER STRAIN: Okay. Well, I think it will come out of that meeting. We can always -- if we schedule it now for the 26th and if we need an extra couple weeks after that, we can reschedule for another date. But one way or another, we can keep it moving until it's complete.

MR. NELSON: Sure.

MR. REISCHL: Without readvertising.

HEARING EXAMINER STRAIN: Yes. We're trying to avoid that cost for you.

MR. NELSON: Sure. Sounds good.

HEARING EXAMINER STRAIN: Okay. With that, then we will continue Item 9D. It's Petition BD-PL20170000541 for David Bautsch, and it's at the Little Hickory Shores, for a boat dock extension. That will be continued to the October 26th date.

Thank you very much.

MR. NELSON: Thank you.

HEARING EXAMINER STRAIN: That moves us back -- and if anybody is here for the 9D item, as you just heard, it will not be heard today. It's continued to the 26th as well.

And that moves us back to the first regular advertised public hearing. It's Item 3A. And I've been using the numeral 9, because that's what the Planning Commission uses. So wherever I've said nine for the continued petitions, I meant three.

\*\*\*First up is Petition No. BDE-PL20170000573. It's Luke Larson requesting a 4-and-a-half foot boat dock extension, a parcel on the Isles of Capri.

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

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

HEARING EXAMINER STRAIN: Thank you.

Disclosures on my part: I briefly talked with the applicant this morning, and we had a lengthy meeting with staff, went over various issues, and I've read the files both that were provided by the staff report and others that I could find on record.

So with that, are there any members of the public here for this particular boat dock extension?

(No response.)

HEARING EXAMINER STRAIN: Okay. And could you identify yourself for the record.

MR. SCHEELE: Yes, sir. For the record, my name is Patrick Scheele, staff engineer for Turrell, Hall & Associates.

HEARING EXAMINER STRAIN: Okay. Patrick, I've read the entire package, and there is no member of the public here that is interested in this particular one, so we don't need a formal presentation. You can be most efficient if you just respond to some questions and clarifications that I have needed. And I briefed staff on these yesterday, and they may have contacted you so you might be prepared.

MR. SCHEELE: Certainly.

HEARING EXAMINER STRAIN: On Page 10 -- and I don't know if you've -- it's basically your existing aerial. And every subsequent aerial that is in the package shows a square white box on the right-hand side of the dock that exists today, and that box seems to continue on some of the documents. I can't tell if the intention is to leave it. In fact, the new layout of the aerial with the boat slip in it shows this white square there as well. That's on Page 12 of the staff report.

What is that?

MR. SCHEELE: So that is a temporary poly float dock that he uses to put his kayaks in and out of. It's existing now; it was existing before. It's not a part of our design but, yes, it got carried over through the aerial.

HEARING EXAMINER STRAIN: Does he intend to keep it there?

MR. SCHEELE: I believe that's his intention, yes, sir.

HEARING EXAMINER STRAIN: I had one of those in a marina that I involved myself with, and a company called Turrell & Associates handled the issues involving DEP when they found that there, and they said, well, that is like a dock. It's permanently blocking the -- some base, and I'm just wondering how staff

looked -- staff didn't recognize it until I brought it up yesterday.

I just was wondering, did you guys take a look at that as far as a fixed additional element that is -- it appears to be within the setback of the dock. Because your dock goes from setback to setback.

MR. SCHEELE: Correct.

HEARING EXAMINER STRAIN: And this is outside that. So I don't know how that is necessarily acceptable unless staff has found it to be.

I asked you about it yesterday. Did you have time to look into it?

MR. REISCHL: Just very quickly, and that if it's in the setback, it shouldn't be there. But it was a personal watercraft dock, which we don't count personal watercraft as part of the fixed dock; however, if this is in the setback, this would have to be moved.

HEARING EXAMINER STRAIN: Well, I know the personal watercraft aren't counted as part of the fixed dock, but this is a -- what appears to be, based on the aerials, almost a permanent floating dock that is sitting there where the personal watercraft, apparently, anchor or get pulled up.

I don't have a problem with using personal watercraft. I just saw this was in the setback, and I can't understand the basis of it if we don't even know what it is, which is what staff hadn't recognized until yesterday.

Now that we know what it is -- Ray, is the zoning director. Is that something that's allowed in the setback of a dock?

MR. BELLOWS: For the record, Ray Bellows. I'm the zoning manager for Collier County, and that structure would not be allowed in the riparian line setback. It's still part of a floating dock.

MR. SCHEELE: Okay. Right.

HEARING EXAMINER STRAIN: So one of the stipulations you'll probably see in the decision is that's going to have to be removed.

MR. SCHEELE: Okay. And I spoke with the owner this morning. It is segmented, so he can break it down to be a smaller size, and I'll advise him to keep it out of his setback.

HEARING EXAMINER STRAIN: I think that's the issue. And, in fact, we have another case in a BDE where they had a small craft facility in the setback. They're actually moving it out of the setback to be more compliant. So I think that would be a good move, and you'll probably see that in some language that comes out.

Your ST permit, has it been issued?

MR. SCHEELE: Yes, sir. I received admin approval on the ST.

HEARING EXAMINER STRAIN: Okay. Your distance across the canal, I mean, I know what you textually said. Normally we look at that to be found on the site plans. I didn't see a site plan in the packet that shows the distance of the canal. Through that distance we calculate the intrusion in the canal by a percentage, which is one of the criteria.

I understood you saw -- I saw it in the text, so I know it's there, but I need you to put it on the site plan, because the site plan generally is what's used as a backup to the decision, and it will be attached.

So at some point I need that along with the one that had -- usually you want to use the one that has the setbacks and the other information on it so it's a complete exhibit then when it gets finished.

Do you have any problems providing that?

MR. SCHEELE: No, sir, not at all. We'll add that dimension. It's listed in the notes right now, but we'll be sure it's a visual dimension as well.

HEARING EXAMINER STRAIN: And I notice you provided the water depth, and you actually showed the new facility overlaid on the water depths; that works out fine. So the rest of this particular application I didn't have any problems with.

And I think when you provide the information I just asked for, you have a site plan that is called out as proposed with depths. You might want to use that one to put the information on, including calling out the setback information on that one. You've got the riparian line setback. Just put a note in there that it's 15 feet so we know what it is that you acknowledged with your hearing time.

MR. SCHEELE: Understood.

HEARING EXAMINER STRAIN: Okay. I don't have anything else. I do appreciate it.

Fred, do you have any comments from staff?

MR. REISCHL: Thank you, Mr. Strain.  
Fred Reischl.

With the additional information, we accept that information and recommend approval.

HEARING EXAMINER STRAIN: Okay. Again, is there any members of the public here that wish to comment on this?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close this case, and you'll receive a decision within 30 days.

MR. SCHEELE: Thank you.

HEARING EXAMINER STRAIN: Thank you for your time.

THE COURT REPORTER: These mikes aren't working. None of the red is coming on.

HEARING EXAMINER STRAIN: There's a little button there. You have to push it down the first time, I think, to get it to go on. It will turn green when it's operational. It takes a minute.

MR. BELLOWS: Testing.

HEARING EXAMINER STRAIN: Give it about 20, 30 seconds before you see if it works. We'll try to ask our maintenance staff to take a look at this a little closer before the next meeting.

\*\*\*The next item up is Item 3B. It's Petition No. BD-PL20160003559. It's for 4011 Belair Lane. It requests a 15-foot boat dock extension in a location in Lely Barefoot Beach called South Port on the Bay.

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 -- by the way, this is the one on 181 Topanga Drive. I have talked with staff. We had a long meeting yesterday. I provided information to them about missing data that I need on this particular case; I think Jeff and I just said hello in the beginning of the meeting. We may have commented on it a little bit; nothing in particular; and I've reviewed all the files and historical information that I could find.

So with that, is there any members of the public here for this particular boat dock extension?

(No response.)

HEARING EXAMINER STRAIN: Okay. Jeff, I won't need a presentation.

MR. ROGERS: Okay.

HEARING EXAMINER STRAIN: I've read everything. I think, as with the last one, it would be more efficient just to go through and ask questions that I need clarified, then we'll go from there.

The narrative on the staff report says you want a 35 feet -- 35-foot total protrusion. For some reason in this particular case I got a lot of data that involved the process that you went through from beginning to end, and some of your earlier documents said 30 feet or 32 feet or different measurements.

I just want to verify -- because we're going to have to sort this out and get down to the right document. And I have talked with staff. In the future, I don't think the progression up to where staff finally got at all the responses they needed to come to a final solution. I just need the final solution and the backup for that. So I hope in the future it doesn't get as confusing as it was trying to read these over the weekend.

But there are several different pages that have a lot of different numbers. The final outcome is you need 35 feet total, 20 and 15; is that correct?

MR. ROGERS: Correct, yes.

HEARING EXAMINER STRAIN: You did not supply the calculation for the percent of the waterway. Staff did that. From now on it's something you normally do. You need to make sure that's done in the future.

On Page 7, this is a staff question. Staff got into discussion of a view-shed issue involving the height of the pilings. I don't see how that's relevant, and I suggest to staff that that doesn't need to be done in the future.

And I don't need a comment, Eric. I'm just going to -- these comments are for the record.

Page 18. Page 18 is different than Page 79. I know, apparently, you had a conversation with the staff member after I pointed this out saying that Page 18 and 79 are identical. They're not. The differences are the way you've shown the calculations for distance, and Page 18 is only half a page, not a full page.

I don't know what the purpose for 18 was, and I'm not sure what Section A-A refers to, because I couldn't find a drawing where the Section A-A was shown on my drawings.

I wanted to point out the discrepancies only because if this is a document that's not needed for the final decision, then I'm not sure -- we don't need to put these in here anymore. And I don't need you to supply them to staff unless they ask for them. But staff, then, doesn't need to pass them on to me if they're just background for your research. I'll do my own research. So that would be helpful just not to have it mixed up like this again.

I did notice on Page 52 you provided the setbacks and layouts on this one, and I like the way you did that. It's typically the way you've done it in the past. The one item I couldn't find is the narrowest part of the navigable waterway, and it isn't from mangrove to mangrove in this case. It's from that point of the farthest outside element of the dock to the nearest point of the mangrove across the way.

MR. ROGERS: Correct.

HEARING EXAMINER STRAIN: It's going to be in the 70s or close to it, and it's going to leave ample room, but I'd like to see that on the document that becomes the final exhibit in this particular --

MR. ROGERS: I've got one and that -- per my conversation with staff yesterday, if you'd like to see it for today.

HEARING EXAMINER STRAIN: Sure. Could you put it on the overhead.

MR. ROGERS: Yeah, no problem.

HEARING EXAMINER STRAIN: And it is that middle one. I can't read the number on there, but -- there, 67. That's close to 70. Okay. That's what I was looking for.

MR. ROGERS: Okay.

HEARING EXAMINER STRAIN: Thank you. Page 54; Page 54 is a site plan showing a series of different measurements, and on this particular one, it's the proposed site plan. I understand it now. You have a 35-foot protrusion from the property line, which happens to be the mean high-water line --

MR. ROGERS: Correct.

HEARING EXAMINER STRAIN: -- which is rare, but that's what it is.

MR. ROGERS: Yep.

HEARING EXAMINER STRAIN: You also show a 30-foot protrusion on the right side, and that basically covers everything I need to understand after I talked with staff yesterday.

And you just seem -- you confirmed what I said, that the property line in this case was the same as the mean high-water line?

MR. ROGERS: As mean high-water line, yes, sir.

HEARING EXAMINER STRAIN: Staff recommendation is, of course, it won't happen till the CO. I don't think you have a problem with that.

MR. ROGERS: Right.

HEARING EXAMINER STRAIN: Those are all the questions I have and most of those, as I said, I gave to staff yesterday to make sure we could clean them all up for this meeting, and I appreciate you bringing that one detail. That was the one that was most missing as far as trying to understand what was the remaining distances.

With that, do you have anything else, Jeff?

MR. ROGERS: No, sir.

HEARING EXAMINER STRAIN: Okay. Eric, do you have any additions to the staff report?

MR. JOHNSON: Yes, I do. For the record, Eric Johnson, principal planner.

I gave the court reporter this morning some paperwork that I wanted to add as an addendum to the staff report. It's only just the public noticing requirements that I wanted to have put into the packet earlier.

Staff basically, as you mentioned, recommending approval with the stipulation. It seems like the applicant's okay with that.

The analysis shows that the request complies with four of the five primary criteria and five of the six secondary criteria.

With that, I have nothing more to say.

HEARING EXAMINER STRAIN: Okay. I don't have any further questions of staff.

Are there any members of the public here that would like to speak on this boat dock extension?  
(No response.)

HEARING EXAMINER STRAIN: Okay. Hearing none, Jeff, thank you. A decision will be rendered within 30 days, and this hearing is closed.

MR. ROGERS: Would you like to keep that?

HEARING EXAMINER STRAIN: I would like to keep that for myself, and please make sure you send a copy to staff electronically.

MR. ROGERS: There's five copies here for everybody.

HEARING EXAMINER STRAIN: Okay. Can you send it electrically, though, so we have a clean copy. Electronic copies are what I generally use, but if you'll leave that with staff, that will be fine.

MR. JOHNSON: Mr. Strain, sorry to interrupt. I also included with the court reporter the exhibit that was included in your packet that had been cut off. I emailed that to you yesterday, so I just wanted to provide a full copy, full drawing.

HEARING EXAMINER STRAIN: Okay. That exhibit is similar to the exhibit that you have in the DEP permit. Again, the DEP permit is fine for information if it's not provided elsewhere, but generally all that did was confuse the issue because you have different measurements on that DEP permit that line up if you backtrack them but not necessarily on the face value.

MR. ROGERS: That's the updated version of the exhibit that Eric had sent you, and it's the -- cross-section A-A gives you a realistic perspective of the mangroves, where the dock's going to be, and water depths and so forth, so...

HEARING EXAMINER STRAIN: Okay. And that's the one I've seen, and that's the one I was working with with the distance.

MR. ROGERS: Okay.

HEARING EXAMINER STRAIN: Because in the A-A in the DEP --

MR. ROGERS: Is a little bit different.

HEARING EXAMINER STRAIN: -- had the mean high-water at a 30-foot protrusion, the mean high-water line. That was another confusing issue.

MR. ROGERS: Yeah. Two surveys.

HEARING EXAMINER STRAIN: Again, I hope in the future we'll sort some of these documents out and we have just what succinctly is needed for the application.

MR. ROGERS: I agree.

HEARING EXAMINER STRAIN: Thank you, sir.

With that, we'll close the public hearing, and a decision will be rendered within 30 days.

\*\*\*The next item up is 3C. It's Petition No. SV-PL20170001467. It's for Equity Piper Naples, LLC, requesting a sign variance on Piper Boulevard and Cypress Way East.

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

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

HEARING EXAMINER STRAIN: Thank you.

Disclosures on my part: I've talked to Mr. Arnold, I talked to staff in depth yesterday, and I've reviewed the files. In fact, this particular property had actions going back when I was working -- I was on the Planning Commission at the time, so I did have ample information to review.

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

(No response.)

HEARING EXAMINER STRAIN: Okay. Wayne, I will not need a presentation. And, basically, your application is extremely straightforward. You have two properties that are not split by plat. If they were, they both could have had the signs you're asking for, and because they weren't platted separately but they're -- apparently they're a condominium.

MR. ARNOLD: For the record, Wayne Arnold. Yes, they are owned as two condominium units.

HEARING EXAMINER STRAIN: All right. So because they're two condo units and not separately platted parcels, you have to ask for this variance for the sign; is that --

MR. ARNOLD: That's correct. That's the simplicity of it. It's really the separation issue in the

Land Development Code.

And I am in concurrence with staff's recommendations to support the variance, although I would offer one suggestion for the Hearing Examiner to consider.

HEARING EXAMINER STRAIN: Sure.

MR. ARNOLD: The way that it's written it says allow a pole sign, but I think the section of the code that it's under references pole or monument sign. And it just seems, for clarification, that that's how the recommendation would be issued, that it could be a pole or monument sign.

HEARING EXAMINER STRAIN: I don't have a problem with the change. In fact, monument signs are better than pole signs anyway.

Does staff have any problem?

MR. BELLOWS: For the record, Ray -- that's not working?

MR. ARNOLD: It is.

MR. BELLOWS: For the record, Ray Bellows. I've reviewed this petition for Kay Deselem, and I concur with the change that is -- includes that wording.

HEARING EXAMINER STRAIN: Okay. No objection from staff.

Is there any further staff comments? Ray, anything else by staff?

MR. BELLOWS: No other comments.

HEARING EXAMINER STRAIN: Okay. Anything you want to say, Wayne?

MS. ARNOLD: No, thank you.

HEARING EXAMINER STRAIN: Okay. I have no other questions. Like I said, it was pretty straightforward. I appreciate your time. I will close the public hearing. A decision will be rendered within 30 days. Thank you.

MR. ARNOLD: Thank you.

HEARING EXAMINER STRAIN: The next item was 9D. It's the Bautsch boat dock extension that has been continued. It's on Little Hickory Shores. That has been continued to the 26th of October.

\*\*\*The item after that is Petition No. PDI-PL20170000247. It's an insubstantial change to the Sabal Bay PUD, which is also known as Isles of Collier, for an additional sign on their commercial tract or one of their commercial tracts on Tamiami Trail.

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. My disclosures: I have talked with staff. I think Bob and I briefly talked about it in the morning. In the past I've had other conversations with staff questioning the need for this. The applicant did follow through and continue with it. I have no objections to that. There is a corrected document that was issued a couple of days ago. The applicant had notice. The staff report contained the correct language, but the exhibit that would be provided as part of the decision did not have the most recent language, and that now has been submitted.

There's no members of the public here for this discussion, Bob, so I don't need a presentation. The only thing I needed was the docs corrected. Other than that, I don't have any questions.

Do you have anything else you want to add?

MR. MULHERE: I don't. With staff recommending approval, you introduced the item accurately so, no.

HEARING EXAMINER STRAIN: Ray, is there a staff report?

MR. BELLOWS: No staff report other than we are recommending approval.

HEARING EXAMINER STRAIN: Doesn't get much simpler than that, Bob.

MR. MULHERE: Thank you very much.

HEARING EXAMINER STRAIN: Thank you. We'll close the public hearing, and we will have a decision within 30 days.

\*\*\*The next item up is Petition No. 3G. It's BDE-PL20170001321. It's Darren and Jill Martens requesting approval of a boathouse in the Vanderbilt Beach Estates.

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

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



HEARING EXAMINER STRAIN: Thank you.

Disclosures on my part: I have talked with staff, done the research on the various -- the property, and also reviewed the files provided to me by staff.

So with that, we will move -- are there any members of the public here for this particular item?  
(No response.)

HEARING EXAMINER STRAIN: Okay. I will not need a formal presentation. Would you identify yourself for the record again.

MR. NELSON: My name is Bill Nelson. I work with Greg Orick Marine Construction, and I represent the owners as an agent in this matter.

HEARING EXAMINER STRAIN: By the way, you any relation to Ben?

MR. NELSON: No, I'm not.

HEARING EXAMINER STRAIN: Okay. Ben has a marine company, too, and I wasn't sure you two were affiliated.

MR. NELSON: Yeah, I think -- you actually asked me that before.

HEARING EXAMINER STRAIN: I've known him for many years; that's why I was curious. And I didn't know if he had a son or not; I don't know him that well.

I do have a lot of questions. We won't need a formal presentation. My questions are just for additional information and to clear up some discrepancies I found in the review.

And the first one is the aerial on Page 3 provided in the staff report shows that the boathouse is to the left side of the property. Are you familiar with that location in the aerial?

MR. NELSON: Yes. The aerial is showing the old boathouse that was built, you know, quite a while ago.

HEARING EXAMINER STRAIN: Okay. Your narrative that you provided to support the boathouse criteria says the following on No. 7, it's on Page 60 of the staff report, the boathouse is located well within the setbacks of the uplands property, as shown in the survey, and is in the same location as the previous boathouse as to minimize the impact on the view of the adjacent neighbors. Actually, you're not.

MR. NELSON: Yeah. That was definitely an overlook on our part. I believe what was meant to be said was basically there was an existing boathouse, and we are bringing it within the setbacks, because the old boathouse was too far west, actually, within the west setback, and that it would be a minimal impact on the neighbor to the east since he already had a boathouse and would actually improve upon the neighbor to the west, since we are bringing it into compliance out of the setbacks.

HEARING EXAMINER STRAIN: You do realize that kind of statement enhances your argument for this boathouse. So that would have been a better thing to say in the staff report than this. And just so you know -- I know you haven't done a lot of these yet. This is the second, maybe third time I've seen you guys here -- those kind of statements have to be supported. I have to check them out. And in the one that we got continued, there were several statements there that there was no support submitted. They're just statements.

MR. NELSON: Okay.

HEARING EXAMINER STRAIN: I will not ever accept those without the supporting documentation. And when you say something like this, I will have to verify it against the existing boathouse and, as soon as I did, I realized that's not true.

MR. NELSON: Yes.

HEARING EXAMINER STRAIN: So it would be better, as you put these together, to be real careful how you word these.

MR. NELSON: Yeah.

HEARING EXAMINER STRAIN: Actually, the wording that you just said helps your argument. It doesn't hinder it. So it would have been actually better to have that kind of language.

MR. NELSON: That's my fault. I did not review it thorough enough.

HEARING EXAMINER STRAIN: In the staff report it was 60 pages. Pages 34, 35, and 42 show 15-foot setbacks. Pages 50, 52, and 60 show 16-foot setbacks. Have you resolved with staff what your setback is going to be?

MR. NELSON: Yeah. Basically, there was a lot of confusion on this. The latter pages in the 50s

and whatnot, that is actually showing the existing dock permit. There is no boathouse on that. The dock is set 16 feet off the side property line. The boathouse will be set 15 feet off the side property line on the east side.

HEARING EXAMINER STRAIN: Okay.

MR. NELSON: So that --

HEARING EXAMINER STRAIN: The decision's going to have to have an exhibit attached to it, and I want to use the right setback.

MR. NELSON: And I've got updated documents that show both the boathouse and the dock that are much clearer. Some of the ones in the packet were zoomed in pretty small, so...

HEARING EXAMINER STRAIN: We're going to talk about some of those. Those -- I can't write a decision until I have legible and accurate backup documents for the exhibits. So it's important we get those electronically as soon as you possibly can. And if you only have hard copies, we can convert them.

MR. NELSON: Sure. Yeah, and I do have electronic copies as well.

HEARING EXAMINER STRAIN: Okay. So 15 feet is what you're asking for?

MR. NELSON: Yes, 15 feet on the east side -- or from the east side, and then the other side is not really marked for the boathouse, but it's clearly within the dock, which the dock is set at 16 feet on the west side.

HEARING EXAMINER STRAIN: Well, anytime you do a boat dock extension, you always need to show your riparian lines, you need to show your setback.

MR. NELSON: This is the actual site plan here.

HEARING EXAMINER STRAIN: I don't know, when you send us electronically and when we record it, if those numbers that show the setback are legible. You may have to blow that piece up so we have legible numbers, and I have to -- it's going to have to be given to the Clerk's Office. They're going to have to record it as a document against the property. And every time they scan something, it gets a little blurry, so we need it crisp to start with.

MR. NELSON: That's actually an original signed, sealed --

HEARING EXAMINER STRAIN: Okay.

MR. NELSON: -- so that's pretty much as good as it gets.

HEARING EXAMINER STRAIN: Okay. That's fine. We may have to blow it up to make sure it stays that way.

MR. NELSON: Sure.

HEARING EXAMINER STRAIN: On Page 43 of the application, you had provided a detail called "boathouse." It shows cross-sections; it shows the trusses; it shows the layout.

On the left side of the cut through the boathouse showing the height above the seawall, you have two numbers that add up to 15 feet, and then you have a long line that just has the number one in it. I need that clarified. That's -- I think you mean 15 feet, or just take it off. I don't need two different numbers showing.

MR. NELSON: Sure, yeah.

HEARING EXAMINER STRAIN: Okay. Page 35 and 42, let me look and see what I have there. There's a -- yeah. This is the detail that shows a deck to the right of the bow of the boat, and it says proposed dock, 505 feet. This application has nothing to do with that. We're dealing with just the boathouse here. I want to make sure of that. However you permit the proposed dock or what the requirements are, that's going to be between you, staff, and the Building Department.

MR. NELSON: It's already permitted.

HEARING EXAMINER STRAIN: That's fine. Maybe you could take the word "proposed" out.

MR. NELSON: Okay. Again, I believe what happened there is we actually put the dock permit into this packet, and that's also where this form with the red writing came in. That was actually approved by the county staff, and so I'm not sure if that was requested or if we added that, but...

HEARING EXAMINER STRAIN: Sounds like it was information staff got as additional backup. And, again, maybe in the future that won't be coming through. If I receive something, I have to scrutinize it.

MR. NELSON: Sure.

HEARING EXAMINER STRAIN: That's why when I see the cross-section of a boathouse and there's two numbers and one number's obviously wrong, I've still got to ask it be corrected, because what I do

ends up going on record --

MR. NELSON: Understood.

HEARING EXAMINER STRAIN: -- and I can't have these errors going on record.

On Page 44, which is the one that you just referenced -- I think it is the one. It's got a lot of handwriting on it. That particular one has a series of numbers showing measurements, and I can't tell where the boathouse measurement begins with, because we have a requirement that the most restrictive applies, and that's either got to be the seawall or the property line or whatever.

So your measurement needs to -- if the seawall's back farther, than the measurement would come from the front of the seawall. I just want to make sure the 20-foot measurement is coming from that location, and this document didn't seem to show that. And if you -- the exhibit that we would actually use for this decision will need to have that number clearly shown. And as long as the survey you just showed me has that, I think we'll be good with that.

MR. NELSON: Sure.

HEARING EXAMINER STRAIN: And I think that's the last item I have to bother you with today. Hang on just a second.

The side setbacks provided for the boathouse, basically, you're asking for 16 feet on the left and 15 feet on the right.

MR. NELSON: No. It's 15 feet on the left and on the -- so this is where it's getting confusing. We have a dock and a boathouse. The dock's already been permitted. It's already been built.

The boathouse is asking for a 15-foot setback on the left, and on the right it's over 20 feet.

HEARING EXAMINER STRAIN: From staff's perspective, do you have -- Ray, is there a -- I'm sorry.

Eric, is there a preference on how you would have liked to have seen this scene (sic) so that it's clear to staff what the setbacks are?

MR. JOHNSON: For the record, Eric Johnson, principal planner in zoning.

For this particular application, we would have just really wanted to see the setbacks for the boathouse since that's the subject of this particular petition.

HEARING EXAMINER STRAIN: So when you finish the detailing of the document that you'll -- as backup --

MR. NELSON: Yes.

HEARING EXAMINER STRAIN: -- reference the boathouse setbacks on there. Label it that way so no one confuses the dock with the boathouse and you don't get caught up in that problem when you submit.

And, Eric, you'll get these as the initial person to receive these. Just make sure that they're something that when staff reads it, it's not too confusing, and we'll just -- whatever comes out of that hopefully will be clean enough for an exhibit for the decision.

MR. JOHNSON: Yes, sir.

HEARING EXAMINER STRAIN: And those are the questions I have on this one. And I will be talking with you about the other one that's been continued so we can get the right documentation on that.

MR. NELSON: Okay. Thank you.

HEARING EXAMINER STRAIN: Do you have anything else you want to add?

MR. NELSON: That's it.

HEARING EXAMINER STRAIN: Okay. Eric, do you have a staff report?

MR. JOHNSON: Yes; yes, I do.

The staff evaluated this project and has noted in the staff report that all the standards were met for a boathouse. Staff is recommending that the Hearing Examiner approve the petition.

Just as an addendum to the staff report, I gave the court reporter the public notice information that I would have liked to have had included in this as well as Mr. -- or Barbara Miller's email that I had sent to you earlier in the week.

HEARING EXAMINER STRAIN: Yes.

MR. JOHNSON: That's also included with the addendum.

HEARING EXAMINER STRAIN: Okay. Thank you, Eric.

Is there any members of the public here who wish to comment on this item?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close the public hearing, and I will have a decision rendered within 30 days.

MR. NELSON: Thank you.

HEARING EXAMINER STRAIN: Thank you.

\*\*\*That takes us to the next item up, which is Petition No. 3H. It's BD-PL20170000565, Jill Gaynor requesting a 56 (sic) boat dock extension over the 20 feet at 75 Pelican Street West.

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

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

HEARING EXAMINER STRAIN: Thank you.

Disclosures on my part: Staff, the files. I don't think Jeff and I even spoke about this one. I did look at the various files supplied by staff, plus any historic files, and that's about it.

Jeff, there's nobody here from the public for this one, so I won't need a presentation.

MR. ROGERS: Okay.

HEARING EXAMINER STRAIN: I do have some questions. If you don't mind, I'll just move into those.

It wasn't clear on the aerials that were provided. You're asking -- the current amount is -- the current dock sits at an extension that was granted at 70 feet?

MR. ROGERS: Correct.

HEARING EXAMINER STRAIN: And you're asking for 76, six more feet. Are you building six more feet on this dock or --

MR. ROGERS: No. So to give you a quick little history, there was a previous BDE issued back, I believe, in 1991 for the 50-foot extension. So an overall of 70 feet; however, the dock was built to 76 feet, or the previous owner added on to the dock at some point. I'm not really sure.

The Gaynors bought this very recently, and the dock was existing at 76 feet. And so when we had to do the BDE for adding the boatlift, we needed to incorporate the additional six because they didn't want to reduce it down to what was actually approved of 70 feet.

So somewhere along the line it was extended six additional feet, and we're trying to include that.

HEARING EXAMINER STRAIN: Okay. And as a possibility, in looking at this, I notice that the mean high-water line is set out from the top of riprap. If you were to look at the most restricted point, it might be that top of riprap. That could have been the difference, because that spacing is about the six feet depth that you're asking for now.

MR. ROGERS: Correct. And I couldn't find a good exhibit related to the previous BDE to make that argument.

HEARING EXAMINER STRAIN: Okay. I don't have a problem with it. I just wanted to understand it from that perspective, so that's fine.

The current kayak launch is within the setback, and one of the things you're doing is reconfiguring that kayak launch, and you're getting it out of the setback.

MR. ROGERS: Correct.

HEARING EXAMINER STRAIN: Okay. I didn't -- I didn't see that in the discussion of the criteria, but I did see it in your narrative. So I was glad to see that. I think next time it might be helpful to put it in the discussion so that -- in the discussion of the criteria, because it's a good justification for what you're doing.

MR. ROGERS: Okay.

HEARING EXAMINER STRAIN: And there's a staff recommendation. Let me see what that was. The SD permit. Do you have -- did you get the SD permit yet?

MR. ROGERS: It's not issued yet, but it's under review.

HEARING EXAMINER STRAIN: Okay. That will just continue as a recommendation in any decision.

I don't have anything else. I don't believe there's any missing pieces on this one that I can find, so we should be pretty good.

With that, if you don't have anything else, Jeff, I'll turn to the staff report.

Ray?

MR. BELLOWS: For the record, Ray Bellows. No need to do a staff report. The staff recommendation has been agreed to, and we recommend approval.

HEARING EXAMINER STRAIN: Okay. Thank you.

MR. ROGERS: Thank you.

HEARING EXAMINER STRAIN: Any members of the public here that would like to comment on this?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close the public hearing, and a decision will be rendered within 30 days.

Thank you, Jeff.

MR. ROGERS: Thank you.

HEARING EXAMINER STRAIN: \*\*\*The next and final item up is Item 3I. It's Petition No. PDI-PL20170002630. It's for Pulte Home Company requesting an insubstantial change to the Buckley MPUD.

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. My disclosures: I can't remember if Lindsay and I have talked, I don't believe we have, the applicant's representative. I did speak with staff yesterday. I reviewed all the files. This is one of the PUDs that I've reviewed many times on the Planning Commission level. I'm very familiar with it.

I talked to the applicants on the phone. I think we may have met once concerning what they were planning to do. I wanted to make -- get their assurance that they would notify the one or two buyers they had within the development that they were proposing these changes. They did that. They provided the evidence showing that the -- they've been notified, so that was taken care of.

And with that, are there any members of the public here for this one?

(No response.)

HEARING EXAMINER STRAIN: No?

Lindsay, I don't need a formal presentation. So unless you have something you want to add to the record, I don't -- anything?

MS. ROBIN: Nope.

HEARING EXAMINER STRAIN: Okay. I don't have a problem with the application. I reviewed it all. It was probably the first one for today that really didn't have a lot of questions from my part, or any for that matter, so it was a job well done.

MR. ROGERS: Great.

HEARING EXAMINER STRAIN: And I don't have anything, so thank you.

Oh, I did run into a couple people in the hallway who were coming because they had gotten the notice that you were increasing the number of houses on the property, and they live in the development next -- behind it. I assured them that wasn't the case. I told them what you were doing. After that -- and it was only internal to your project. After that, they left. They had gotten a typical notice, and it confused their understanding of what was actually happening. They decided not to stay after they found out you weren't increasing density. Their only issue was more housing, and that was where they left it.

So with that, I'll turn to staff report. Do you have anything?

MR. FINN: For the record, I am Tim Finn, the principal planner, and we're recommending approval.

HEARING EXAMINER STRAIN: You're a new fellow, so you've learned from Nancy Gundlach that sometimes the simplest things is the way to approach things.

MR. FINN: Yes.

HEARING EXAMINER STRAIN: Keep it simple. So thank you. I appreciate it, Tim.

I'll ask one more time: Are there any members of the public here for that item?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we will close the public hearing, and a decision will be rendered in 30 days.

MS. ROBIN: Thank you.

HEARING EXAMINER STRAIN: Thank you, Lindsay.

Now, I have misled our court reporter. I told her today we'd be a couple of hours. A lot of this information has been taken care of, or the two most controversial ones were continued, so that works out well.

And with that, I have no other business.

Any member of the public here wish to comment?

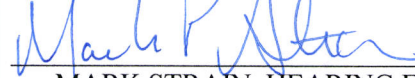
(No response.)

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

\*\*\*\*\*

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 10:45 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST

DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 10-25-17, as presented ✓  
or as corrected \_\_\_\_\_.

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