

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
NAPLES, FLORIDA
January 24, 2019

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
Timothy Finn, Principal Planner
John Kelly, Senior Planner
James Sabo, Principal Planner
Scott Stone, Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning everyone. Welcome to the Thursday, January 24th meeting of the Collier County Hearing Examiner's office. Everybody please rise for the pledge of allegiance.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Announcements. Speakers will be limited to five minutes unless otherwise waived. Decisions are final unless appealed to the Board of Collier County Commissioners. Decision will be rendered within 30 days.

With that we have four items on today's agenda. In the order in which they'll be called, the first one is a change to Harvest for Humanity, PUD. The second one is the boat dock extension on Isles of Capri. The third one is a District School Board request for an ancillary bus area down on Rattlesnake Hammock, and the last item is Christ the King Orthodox Presbyterian Church and it's south of Santa Barbara Boulevard.

We'll move right into our first advertised public hearing. It's petition number PL20180002744, and that's for the Harvest for Humanity PUD and comparable and compatible use analysis. It's for the -- the agent is Hah Yo Kee Investments, LLC represented by Bob Mulhere.

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

THE COURT REPORTER: Do you swear or affirm the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

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

HEARING EXAMINER STRAIN: Okay. Disclosures on my part, I've had some discussions with the applicant and the applicant's representatives. And review of the staff report and that's about it on this one. So with that, let's move right into the presentation.

Bob, I think there is some members of the public here concerning this so we'll need a presentation for their benefit.

MR. MULHERE: Okay. Thank you. The microphone is a little low. It doesn't want to stay up, so. Let's see. So as you mentioned, Mr. Strain, the proposal here is to go through the comparable use determination to allow the Guadalupe Center to manage a childcare center, operate a childcare center, on a track within the Harvest for Humanity PUD that previously was the home of a satellite campus for Hodges University.

So, I'll put an exhibit on the visualizer here so to orient us. That's not very good. I'd like to make it bigger if I only knew how. Here we go. So highlighted in yellow you can see three tracks identified; G, H and J. Those three tracks within the PUD when it was amended to allow the Hodges University, all allow for the higher education use; however, the track that we were speaking of is H, which is the improved and developed track that actually was the location of the Hodges satellite campus.

There are a number of conditions and restrictions in the PUD that related to the operation of the Hodges University. Most of those conditions really would not be applicable to the operation of a childcare center. I had a conversation, Mr. Strain, with you earlier yesterday regarding one of those conditions which was hours of operation, which presently are limited from 7:00 a.m. to 10:00 p.m. I spoke with Dawn Montecalvo of the Guadeloupe Center who is the director, and we have no problem with adjusting those hours of operation from 7:00 a.m. to 8:00 p.m.

I'm unaware of -- I think there was one other condition that dealt with the limitation of

80 students for Hodges, and we can live with that same limitation. We did a traffic impact analysis and the childcare center actually has a lesser traffic impact than the university did; however, we can live with the fact that that restriction is in place. If in the future the demand is greater, we would have to come back in and amend the PUD to revise that stipulation, but for now that works for us. We think that's an equivalency of the 80-student limitation that applied to the university. So that concludes my presentation.

HEARING EXAMINER STRAIN: Now, just for the sake of the members of the public that are here, are interested, that's the property that you're talking about roughly right there, correct?

MR. MULHERE: Correct.

HEARING EXAMINER STRAIN: So track H ends at this line right here?

MR. MULHERE: That is correct.

HEARING EXAMINER STRAIN: Okay. As far as equivalency, the way the PUD is written you still have other uses available, besides you're not taking out those uses, you just have a comparable use substituting possibly for those?

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: And what I would like to get your acknowledgment on is that your up to 80 children in this facility would substitute and stand in place of the 80 allowed students for what the university use could have been for?

MR. MULHERE: That's correct.

HEARING EXAMINER STRAIN: You don't get 80, plus another 80 for another use?

MR. MULHERE: No.

HEARING EXAMINER STRAIN: Your total intent -- intensity is going to be 80 regardless?

MR. MULHERE: That is correct.

HEARING EXAMINER STRAIN: Okay. And other than the hours of operation, that's the only questions I had. I've read the entire report and I'll now move to staff and then I'll move to public speakers. You may have to come back up to answer some.

MR. MULHERE: Yup.

HEARING EXAMINER STRAIN: John, your staff report. One thing I'd like to ask is, did you have any opposition letters or emails or conversations?

MR. KELLY: No, sir.

HEARING EXAMINER STRAIN: Okay. Could you --

UNKNOWN SPEAKER: I --

HEARING EXAMINER STRAIN:

Sir, you'll have to come up and speak during speaker time. I'm asking John if he had any and apparently he hasn't had any. That's the answer I'm talking about.

MR. KELLY: I've received no contact from the public.

HEARING EXAMINER STRAIN: Okay. There were a couple changes suggested. One is hours of operation strictly for the childcare. Does staff have any opposition to that?

MR. KELLY: No. I will modify the staff report to include a recommendation that the childcare children are to be the equivalent and counted towards the 80-student population. And the second is that the hours of operation be 7:00 a.m. to 8:00 p.m.

HEARING EXAMINER STRAIN: Okay. Thank you. So with that --

MR. MULHERE: And, Mr. Strain, I forgot to mention one thing if I could. I just wanted to mention that we also did receive a letter of both support -- support non-objection to this request from the HOA. Which, you know, is important because there were a lot of commitments that related to the HOA that, you know, are no longer in place so it was

important to receive that.

HEARING EXAMINER STRAIN: The HOA is represented -- represents some of these surrounding areas?

MR. MULHERE: Correct. The entire PUD is represented by the HOA.

HEARING EXAMINER STRAIN: Is the board of the HOA controlled by a developer or by the residents living there?

MR. MULHERE: It's not controlled by the developer. I'm not sure who all is on it. Chris could probably -- Chris Lombardo could probably answer that.

MR. LOMBARDO: It's controlled by the residents.

HEARING EXAMINER STRAIN: Chris, identify yourself and state on the record. Thank you.

MR. LOMBARDO: It's Chris Lombardo on behalf of the owner of the property. The board right now is controlled by the residents.

HEARING EXAMINER STRAIN: Thank you.

MR. MULHERE: And in addition to Chris Lombardo is here also, Dawn Montecalvo is here with the executive director for Guadeloupe and Bob Spano as well.

MR. LOMBARDO: And if I may, also Casey who is my partner on this project.

HEARING EXAMINER STRAIN: Thank you. With that we've completed our staff comments and report. Nothing else, John?

MR. KELLY: No. Staff recommends approval of the Collier County -- rather staff recommends that the Collier County Hearing Examiner affirm the opinion of the zoning manager that the use of the child daycare center is comparable and compatible with the other uses permitted in track H of the Habitat for Humanity PUD with those two stipulations. And so I believe we have a registered public speaker as well.

HEARING EXAMINER STRAIN: Okay. Thank you, John. With that we'll call the speakers. If -- once you're called please come up to the microphone. You may identify yourself for the record and we're certainly glad to hear what you have to say. Go ahead, Ray.

MR. BELLOWS: One speaker has registered. Mr. Andreas Mueller.

MR. MUELLER: Good morning. My name is Andreas Mueller. I'm here for United Senior Services.

HEARING EXAMINER STRAIN: Were you sworn in when we started, sir?

MR. MUELLER: Yes.

HEARING EXAMINER STRAIN: Thank you.

MR. MUELLER: United Senior Services owns several properties within the Jubilation Community. When I -- when we received the invitation to today's meeting, this was the first time we heard about the project for the childcare center. I did talk to other residents and it appears no one has been involved or informed about this project. None of the homeowners know anything about it. I understand that nobody is here from the homeowner association today. There is nobody here from the management company here today. The next HOA meeting is on March 16th, and I was hoping that the decision of the childcare center could be postponed until the residents have the opportunity to talk amongst each other, whether that's something they want.

There are several -- the first initial reaction was of course childcare center is needed in Immokalee and how could anybody be against it; however, when you get to the nitty-gritty things, how would -- after all it's a gated community, how would it work with a gate and the access control. The 80 people you were talking about, the 80 students that were formally approved would probably come by bus or by car. If it's a childcare center, 80 parents would come in the morning to drop off their children and in the evening or the afternoon, 80 people would come and pick up their children if they're not transported by bus. Those are things

with regard to vehicle control, traffic control and of course the use of the common elements need to be, at least I think, should be discussed amongst the residents and the people who live there.

The other thing is there's a playground right next to that building. The playground currently is used by all of the other -- by all the residents and their children who live in Jubilation. And the question was whether that playground will be kind of annexed to that childcare center or whether it would be -- can it be used by all the residents as it is currently the case.

So what I really -- what I am here for is, I ask you not to take a decision today, but postpone it to the next meeting and I'm sure it would be easier for you if you had, either for or against, but an opinion of the majority of the homeowners. Thank you.

HEARING EXAMINER STRAIN: Thank you for your input, sir. Is there any other member of public here to speak on this item? Okay, Bob.

MR. MULHERE: Yeah --

HEARING EXAMINER STRAIN: Chris is going to handle it? I've got five comments that the gentleman addressed I'd like to get your intake, or input on them all.

MR. LOMBARDO: Sure.

HEARING EXAMINER STRAIN: First of all, let's start with the playground. There's a playground that exists. Is any of the uses of that playground changing as a result of your operations?

MR. LOMBARDO: No. The -- the --

HEARING EXAMINER STRAIN: Those are wild mics.

MR. LOMBARDO: I know. I can handle it. The playground stays the same. The playground is not part of this parcel. If you look at Parcel H and you see the parcel behind it, there's a little white block right there -- no that's -- right there. That's not included. That is -- that remains. That's the playground. There's no impact on the playground.

HEARING EXAMINER STRAIN: What about the common element issue that was raised?

MR. LOMBARDO: Well, I'm not sure I understood --

HEARING EXAMINER STRAIN: I don't either, but are you impacting the common elements for the facility? Like, I don't know if they have rec centers. I don't know what they've got there. Is any of that changing?

MR. LOMBARDO: No, because the -- so the building that H is was originally kind of a gathering area for Jubilation years ago. Hodges University purchased that and then changed that and it no longer became a rec center for the community. It became the university. The traffic by the way for college students would probably give -- Mr. Mulhere is right, is greater than you would have in a circumstance like this. You know, 80 students would be 80 students driving in.

Obviously, the university operated. The gates are not new. The gates were abandoned for probably five or six years or more. The gates recently had been reinstalled because we have been -- our entity has been paying the lions share of the association fees to insure that those types of things are maintained. My understanding from the board is that the gates are opened during the day which, so there's no impact on that. It's a security issue at night, which does not impact us. We have been dealing with both the management -- excuse me -- the management company, the law firm for the association and the association for about six months, I believe. So as far as we know we're fully aware.

And we've actually talked with members of the community, and typically what I get is they would like to see a facility like this because it's a beneficial facility for a community of this nature.

HEARING EXAMINER STRAIN: Okay. Traffic. Is your traffic engineer here today?

MR. LOMBARDO: No.

HEARING EXAMINER STRAIN: Okay. They -- he had a peak hour calculation in his traffic report. Do you know what that is offhand, Bob?

MR. MULHERE: I don't but I have the TIS here I can look at.

HEARING EXAMINER STRAIN: All right. I guess, Chris, now that you've heard some concerns from some of the neighbors, the request from the individual was to postpone your decision until after one of the neighborhood meetings. Is that something you're willing to do or not?

MR. LOMBARDO: No. And I'm going to let Dawn Montecalvo speak to that, if you don't mind.

MS. MONTECALVO: I'm sorry, I didn't hear the question, but I was going to answer your peak hours.

HEARING EXAMINER STRAIN: You need to first identify yourself.

MS. MONTECALVO: I'm sorry. I'm Dawn Montecalvo.

HEARING EXAMINER STRAIN: Can you spell that last name, please?

MS. MONTECALVO: M-O-N-T-E-C-A-L-V-O.

HEARING EXAMINER STRAIN: Thank you.

MS. MONTECALVO: And I'm the CEO of the Guadeloupe Center. Good morning.

HEARING EXAMINER STRAIN: Of what?

MS. MONTECALVO: The CEO of Guadeloupe Center.

HEARING EXAMINER STRAIN: Thank you. You talk pretty fast so I missed it.

MS. MONTECALVO: I'm from New Jersey. Sorry.

HEARING EXAMINER STRAIN: No problem.

MS. MONTECALVO: So to answer your question about the peak hours. Our students would be dropped off before 9:00 a.m. and then most likely picked up starting around 3:00 to 5:30 p.m. And our dropoff would start at 7:00 a.m. So peak hours would be 7:00 a.m. to 9:00 a.m. and about 3:00, 3:30 to 5:30 p.m.

And because of our DCF regulations, most likely the most number of students we'll have at this time would be 64 students.

HEARING EXAMINER STRAIN: Okay.

MR. MULHERE: I do have specifically the traffic engineer's calculations. So the p.m. peak hour is entering 28, exiting 32 for a total of 60 for the proposed use versus 44 entering and 40 exiting for a total of 84 for the existing use.

HEARING EXAMINER STRAIN: And you would have no problem limiting your activities to those peak hours -- to the traffic cap during the peak hour, p.m. peak hour?

MS. MONTECALVO: No problem.

MR. MULHERE: And Mr. Chairman, I'm sure that the Guadalupe Center would be happy to meet separately with the residents to address any issues that they have, but I don't see any reason to delay this. This is really a comparable use determination and not something that talks about operation.

HEARING EXAMINER STRAIN: The question was asked and that's what I'm following up on.

MR. LOMBARDO: And we would like --

HEARING EXAMINER STRAIN: You'll need to get to the mic, Chris.

MS. MONTECALVO: The need is great right now. We have a list of over 500 children on our wait list all under the age of three. We currently run a facility with 270

children on Hope Circle. And our goal was to have this center open by September so that when school starts the younger children can start also for the families. If we delay this, most likely we are not going to be able to move them in this season. We may have to not move forward with this project and look at an alternative plan. So, we identified this area as the highest need and we're committed to the area and we really would like to get these children in once school starts in the fall to coordinate with families.

HEARING EXAMINER STRAIN: Understand. Thank you. Chris, I think you might be able to best answer this question. The gate.

MR. LOMBARDO: Yes.

HEARING EXAMINER STRAIN: You kind of mentioned it's been on and off.

MR. LOMBARDO: There were years, many, many years where the gates were not maintained. They were actually damaged. The gate arms themselves -- we own a warehouse back there as well. The gate arms are sitting in our warehouse and so we know -- I mean, I've owned this property for three years now. For three years the gates didn't even exist. It's only recently that the gates were reinstalled. The gates are left open during the day. They're closed at night. But my point is Hodges University operated as well prior to us with the same situation with the gates there, apparently was no issue.

HEARING EXAMINER STRAIN: So you worked within the time frames that the gates are operating?

MR. LOMBARDO: Yes.

HEARING EXAMINER STRAIN: Both open and closed?

MR. LOMBARDO: Yes.

HEARING EXAMINER STRAIN: Okay. Thank you. I don't have any other questions. You have anything else you want to add to the record, Bob?

MR. MULHERE: No. Thank you.

HEARING EXAMINER STRAIN: Does staff?

MR. KELLY: No, sir.

HEARING EXAMINER STRAIN: Staff understood we're going to be adding a stipulation for traffic cap during peak hour? Is that a recommendation staff could follow?

MR. KELLY: It is now, yes.

HEARING EXAMINER STRAIN: Okay. With that, I have other questions and this matter will be -- this hearing -- we'll be closing this matter and a decision will be rendered within 30 days most likely within a week to ten days.

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: Okay. Thank you all for your attendance on the matter today.

Next case up is petition number BD-PL20180002024, the Jill Gaynor boat dock extension on Isle of Capri. All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

THE COURT REPORTER: Do you swear the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

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

HEARING EXAMINER STRAIN: I noticed in those standing up that the applicant didn't seem to be represented here today. Is anybody here representing Mr. Gaynor?

(No response.)

HEARING EXAMINER STRAIN: We're going to postpone this one and reopen it at the end of today's meeting in case they're showing up and are a little late. In the meantime, who is the planner in charge of this particular project? John, was that you?

MR. KELLY: Yes.

HEARING EXAMINER STRAIN: Do you have any others on today's agenda?

MR. KELLY: No.

HEARING EXAMINER STRAIN: Would you mind -- we're going to move onto the next one. Would you mind calling up Jeff Rogers and asking if he's going to be appearing here today or not?

MR. KELLY: Okay.

HEARING EXAMINER STRAIN: Because without him I'm not going to have my questions answered and it's probably fruitless to try to get this passed today.

MR. KELLY: We'll get right on it.

HEARING EXAMINER STRAIN: Thank you, sir.

Next petition up is petition number CU-PL20180001030. And it's The District School Board of Collier County requesting an ancillary plant facility, which is an expansion of their bus farm facility on Rattlesnake-Hammock Road. All those wishing to testify on this item, please rise to be sworn in by the court reporter.

THE COURT REPORTER: Do you swear the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

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

HEARING EXAMINER STRAIN: Disclosures on my part. I did -- I was contacted by the applicant's agents for a meeting. I really read everything. I didn't have any questions as I was reading and I just wanted to see what had to be discussed today with the public and the applicant's presentation.

Was there members of the public here that are not part of applicant's team?

MR. ARNOLD: I didn't see any.

HEARING EXAMINER STRAIN: I didn't either. So, Wayne, we won't need a presentation. I have read everything and this will probably be one of the simpler ones today. I don't have any questions on it. It's a duplication of what you're already doing. You've got the buffers in. You're up against rather long preserves on the property. I could not find any complaints about the current operation, so from that point it seems pretty simple. Do you have anything you want to put on the record?

MR. ARNOLD: For the record, I'm Wayne Arnold with Grady Minor. We're certainly in agreement with the staff's positive recommendation and hope you'll find it in support too.

HEARING EXAMINER STRAIN: One item I noticed staff didn't address is the number -- you have a new trip generated for this side of the facility. And it's the only piece we're talking about. And the trips for new would be 113 peak hour trips. You have any problems capping your traffic impacts at 113 peak hours?

MR. ARNOLD: No, sir.

HEARING EXAMINER STRAIN: Okay. That's the only stipulation I believe I have that needs to be cleaned up. With that I'll thank you and if there's anybody, any comments, you're more than welcome to come up afterwards I'll double -- I'll ask everybody again.

MR. ARNOLD: Thank you.

HEARING EXAMINER STRAIN: With that we'll go to staff report next.

MR. SABO: Mr. Chairman, James Sabo, principal planner. The zoning division recommends approval as it is consistent with the land use code and -- or I'm sorry, Land Development Code and the growth management plan.

HEARING EXAMINER STRAIN: And did you have any -- you have any objections to adding to trip cap to the --

MR. SABO: I do not.

HEARING EXAMINER STRAIN: Okay. Did you receive any objections by email, by letter or phone calls concerning this project?

MR. SABO: No, I did not.

HEARING EXAMINER STRAIN: Thank you. That's all I have. Any member of the public here wish to speak on this item? Hearing none, we'll close the public hearing and a decision will be rendered within 30 days. Most likely within a week to ten days.

MR. ARNOLD: Thank you.

HEARING EXAMINER STRAIN: Thank you. Okay. That takes us to the third item on the agenda which would be Petition number -- well, actually it's the fourth item on the agenda, but it will be the third item to be heard today. Petition number CU-PL20180001697. Christ the King Orthodox Presbyterian Church. This is on Santa Barbara Boulevard south of Davis, north of Crews Road. All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

THE COURT REPORTER: Do you swear the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

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

HEARING EXAMINER STRAIN: Okay. Disclosures on my part, I know I talked to the applicant's agent yesterday or the day before asking for a couple of clarifications. I've also gone over the matters with staff. And with that are there any -- well, any members of the public here that are not part of agent's team for this application? Okay. Thank you. Wayne, we'll need to have a presentation. It might be as simple as a site plan just to orient everybody who may not have been --

MR. ARNOLD: I think many of the members here are part of the congregation for the church. I'm not sure that they're necessarily neighbors or objectors. You might want to ask that clarification.

HEARING EXAMINER STRAIN: I certainly will. Well, is anybody here objecting to this church? Well, now that simplifies it. Thank you.

MR. ARNOLD: I'm happy to give a brief presentation if you feel like you need it.

HEARING EXAMINER STRAIN: No, I've read everything and unless someone from the audience needs to be reoriented to their facility, I don't have it -- I don't have a need. So, I do have a couple of comments.

First of all, there's a whole list of staff recommendations. Are you okay with those?

MR. ARNOLD: For the record, I'm Wayne Arnold and yes, we are okay with staff's recommendations. You and I had email conversations regarding a couple of other potential conditions.

HEARING EXAMINER STRAIN: There were two of them. You had stated numerous times day care. You're not going to have any day care so day care would be prohibited. Do you have any objection to that stipulation?

MR. ARNOLD: No, sir. Our application did not include a separate conditional use for day care.

HEARING EXAMINER STRAIN: And your TIS indicated you were limited -- you had 12 peak hour daily day trips. Daily weekday trips. Do you have any objections to stipulating as for a stipulation?

MR. ARNOLD: No, sir that's consistent with our traffic impact statement.

HEARING EXAMINER STRAIN: And those are all the items I had. I have talked to -- that's right too. I did talk to a neighbor or two from that area. They were pleased with your operation. I didn't -- I found no objections, and with that I'll turn to staff unless you have anything else you want to add to the record.

MR. ARNOLD: Not at this time.

HEARING EXAMINER STRAIN: Okay. Tim, good morning. First of all, do you have any objections either email, by phone conversation involving this project?

MR. FINN: I received nothing, no.

HEARING EXAMINER STRAIN: You've heard a couple of stipulations I suggested be added to your recommendations. Do you have any problems with those?

MR. FINN: No, I don't.

HEARING EXAMINER STRAIN: Okay. Anything else, and as far as the staff report, is there anything you want to add to the staff report?

MR. FINN: The project is complied with GPM and rezoning criteria within the LDC therefore staff recommends approval.

HEARING EXAMINER STRAIN: Thank you. Okay. So with that is there any members of the public here that would like to address this issue? Okay. Hearing none, Wayne, I don't think you have a need for rebuttal.

MR. ARNOLD: I don't think so either.

HEARING EXAMINER STRAIN: With that we'll close the public hearing on this matter and a decision will be rendered within 30 days. Most likely a week to 10 days. Thank you all. Thank you everyone for coming. I appreciate it.

The next item I'd like to talk to is about a boat dock extension, Isle of Capri. Is anybody here for that boat dock extension other than staff? Okay. The applicant's agent is on the way and we're going to wait -- we're going to take a break for about 10, maybe 15 minutes at the most until the agent shows up and then we'll resume the meeting and try to get this one settled, so right now we'll be in recess for a little bit.

(Off the record.)

HEARING EXAMINER STRAIN: Welcome back from our break everyone. Now that Jeff Rogers has graced us with his presence, we can move into the last one. And I've also informed him he's getting the bill from the court reporter for down time. So with that we'll move into petition number BD-PL20180002024. It's the Jill Gaynor boat dock extension on Isle of Capri. All those wishing to testify on behalf of this item please rise to be sworn in by the court reporter.

THE COURT REPORTER: Do you swear the testimony you're about to give will be the truth, the whole truth and nothing but the truth?

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

HEARING EXAMINER STRAIN: Thank you disclosures on my part, I've actually talked with staff yesterday on this particular one. I had the applicant call me several times over the past several months about the project trying to get it moving forward. And before the meeting today I talked to Jeff Rogers who represents the applicant.

And Jeff, there's no members of the public here for this particular item so I don't need a presentation. Why don't we just go into some of the corrections needed on this to get a -- to get this resolved.

First of all, if you notice on this that deck is 4.3 feet wide. Forty-three feet goes to the outside of the piling and up to the top of the riprap which is quite a few feet probably in from the mean high waterline.

MR. ROGERS: Correct.

HEARING EXAMINER STRAIN: And that is 43 feet overall which is what you're asking for. I've got no problem with that. There's a few things I want to make sure you understand. This width of the dock down here is 12 feet, but up here it's 12-and-a-half. So, as long as you're okay with that. And this 22 feet goes to the top of the riprap too, so when you total up this side, it's not 43 feet. It's a little bit less than that. As long as you're okay with that. If you can put the second slide on I gave you. Here's where the discrepancy

comes in. This particular cross section shows the dock width here at eight feet. We know it can't be because you got 4.3 on the other one, or the other one is wrong. This 43 feet goes to the center of piling here, but the center of piling here is inside, or waterside of the mean high water touchdown point, and the 43 feet is supposed to stop where on the previous drawing it shows to the end of the riprap which is got to be to the landward side of the mean high waterline. So I don't know how you can build this at 43 feet and still be consistent with the other one or vice versa. I can't use these like they're done until this gets cleared up. And I have no other questions on this project other than trying to get this issue resolved. It's a reconfiguration of a previously extended dock. He's dropped it from 76 feet to 43 feet, which is better, not less. So there's no reason why this one shouldn't finish out. But I'll need your firm to get me consistent drawings so we can finish them out.

MR. ROGERS: Will do. And I want to apologize, Mark for --

HEARING EXAMINER STRAIN: Well, I understand it wasn't your fault and I appreciate you coming over as quick as you did and dropping everything because the court reporter is a really expensive lady to keep waiting. Thank you, Jeff.

And with that I'll go to staff for the staff report. John?

MR. KELLY: For the record, John Kelly, senior planner. Staff has had no comments from the public and we recommend that the Hearing Examiner affirm the opinion of the zone -- sorry, wrong case. Recommend that the hearing examiner approve petition BDE-PL20180002024 with the condition that an ST permit must be signed and approved prior to the issuance of any permits to construct the boat dock.

HEARING EXAMINER STRAIN: Thank you, John. John, Jeff's firm made numerous mistakes on the drawings. We're here to catch those mistakes. Now, I didn't bring these up to you yesterday when we met because I hadn't looked at them yesterday until last night I sat down and went through all four cases to understand how the decisions would fit together with the exhibits. And when I was looking for the right exhibit for this case, I found the one that says 43 feet and I looked at the cross section to see how it matched and then all of a sudden I realized things weren't matching up. Honestly, that's a -- staff should have caught that before it got here. So I would hope that from going forward these kind of numbers are added up and caught, that's when it should have happened and we wouldn't have had to wait for Jeff because he would have been here trying to explain his errors right from the beginning, so --

MR. ROGERS: Well, in the staffs' defense, we need to do a better job on reviewing these drawings as well, so it's a mutual issue here that we'll get resolved.

HEARING EXAMINER STRAIN: Well, I appreciate you coming in and getting that on short notice and you did do something new for this office. First time we held a meeting up for anybody. Looks like you carried the day, so thank you.

MR. ROGERS: There's a first for everything.

HEARING EXAMINER STRAIN: Thank you. Is there any members of the public here to address this item? Hearing none we'll close the public hearing in this matter and the decision will be rendered within 30 days, mostly likely a week to ten days. But it's going to be contingent on you getting me the corrected exhibits.

MR. ROGERS: I have a question. Do I send it to staff or do I send them to you?

HEARING EXAMINER STRAIN: No. I need John to verify the exhibits are right this time and then I need to -- he'll forward them to me. You can copy me at the same time --

MR. ROGERS: Understood.

January 24, 2019 HEX Meeting

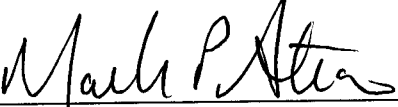
HEARING EXAMINER STRAIN: -- but I need to go through staff on that.

MR. ROGERS: Understood.

HEARING EXAMINER STRAIN: Okay. Thank you. With that there is no other business. Are there any members of the public here wishing to comment? Hearing none, this meeting is adjourned.

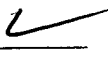
There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:47 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST
CRYSTAL K. KINZEL, CLERK

These minutes approved by the Hearing Examiner on 1-25-19, as presented 
or as corrected _____.

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