

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER  
Naples, Florida  
July 11, 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  
James Sabo, Principal Planner  
John Kelly, Senior Planner  
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDING

HEARING EXAMINER STRAIN: Good morning, everyone.

Welcome to the Thursday, July 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 announcements:  
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.

In review of the agenda, we have three -- Item 3, we have two items up today for  
discussion. Those are -- Petition 3A is a boat-dock extension for Godfrey and Patricia Turner, and  
the Petition 3B is the SD Tract 22, LLC. It's for the Lely Planned Unit Development signage  
deviation.

\*\*\*So with that, we'll move to the first advertised public hearing. Petition No.  
BD-PL20180001843, Godfrey and Patricia Turner requesting a 57.5-foot boat-dock extension over  
the 20 feet.

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: The gentleman in the blue, did you -- are you going to  
be talking on the boat dock?

MR. BRENCHLEY: Me?

HEARING EXAMINER STRAIN: Yes.

MR. BRENCHLEY: No.

HEARING EXAMINER STRAIN: Okay. That's what I needed to find out.

MR. BRENCHLEY: I'm on the sign.

HEARING EXAMINER STRAIN: Gotcha. This was only for the boat dock, the first  
one.

MR. BRENCHLEY: I'm sorry.

HEARING EXAMINER STRAIN: That's why I was wondering.

So is there a representative of the applicant here?

And for my disclosures, I had called the applicant's -- one of their experts, or one of their  
consultants, Jeff Rogers, yesterday about a clarification, and at a previous point I have talked to  
staff a couple of times but not recently on this matter.

So with that, Miss, there is nobody here from the public for this application, so I won't  
need a formal presentation. And we had heard this before, and we talked over some corrections.  
If you'd please come to the microphone and just identify yourself for the record.

MS. CLARK: Bernice Clark, Imperial Marine.

HEARING EXAMINER STRAIN: Pull that closer. Good.

Okay. Rather than have you explain things, I have read everything in detail, as you know,  
from before, and I've read the re-submittals. I got clarification yesterday from Jeff Rogers at  
Turrell & Associates. He sent me a new plan.

By the way, I didn't see the new plan that he sent me in the packet. It is -- I've got it now,  
and it shows they did take into consideration the second lift which didn't show up clearly on the  
first plan, at least the one I had in the packet. And they still didn't change the recommendation.  
You're still minimizing the impacts to seagrasses, so we're good there.

But in reviewing the document, I wanted to make sure you understood some of the things  
that were read that would be stipulated.

There were some environmental recommendations that staff didn't include in their recommendations but I found them in the text of the document. They are the following: The dock will not be below 2.2 feet NAVD. Do you have any -- are you in agreement with that?

MS. CLARK: Absolutely.

HEARING EXAMINER STRAIN: The terminal area will not exceed 160 square feet. Are you in agreement with that?

MS. CLARK: Correct.

HEARING EXAMINER STRAIN: Access dock will not exceed four feet wide. Are you in agreement with that?

MS. CLARK: Yes.

HEARING EXAMINER STRAIN: The access dock in the terminal platform to be sited to impact the smallest seagrass beds possible, which would be the plan you've submitted that's been verified by your consultant. Are you fine with that?

MS. CLARK: Yes.

HEARING EXAMINER STRAIN: Okay. Couple of other things that I need clarification on, one from you in particular. In your application you limited the boat length to 16 feet. That's a real small boat, especially when you consider that the length has got to include the -- a railing on the front, as well as the engine hanging out in the back. So you'd end up with probably a 13- or 14-foot boat which I don't think, by the plan I've seen, that's what you intend to put there.

And I'm asking, then, what is the length -- the boat length is part of the review because you've got to be a certain percentage of your shoreline. And I just want to make sure that your boat length is going to be within reason. Have you got a boat length that you would accept a stipulation for that would fit your needs?

MS. CLARK: I asked the owner a few times what he had in mind. He hasn't actually shopped yet. But I agree, that's a pretty small boat. I may be wrong, but is it as long as it doesn't exceed the length of the platform?

HEARING EXAMINER STRAIN: Not necessarily. It's a certain percentage of the shoreline. And you're asking for three vessels, which is another question I've got to resolve with staff because our -- I'm not sure how they're looking at the jet skis in regards to vessel footage.

But I would suggest if you've got a reasonable length that you think the owner's going to get to, I'd --

James, did you have any input on this when you were dealing with anybody on this project as far as what boat length? Because you would have to use the boat length to calculate the percentage they are against the shoreline. I know that's higher than what they've got, but --

MR. SABO: For the record, James Sabo, certified planner with the county.

The length -- in relation to the shoreline, the shoreline is 120 feet so that, you know, they could go up to a 30-foot boat without an issue.

I have a stipulation to recommend up to 20 feet maximum boat length. But if Mr. Turner thinks he wants a longer boat in the future, I mean, 30-foot's not even that big a boat if you're on the gulf, so...

MS. CLARK: So 30-foot would be the max?

HEARING EXAMINER STRAIN: If staff would have had a 30-foot for their review, they're saying they still would have recommended approval.

MR. SABO: Correct.

HEARING EXAMINER STRAIN: And that's critical, because if you go by -- if they would have to change their recommendation based on a discussion today on a boat length, we'd

have a whole different opportunity to go back and review this whole thing.

MS. CLARK: Right.

HEARING EXAMINER STRAIN: If you can -- you only applied for a 16-foot boat, but if you can live with a 30 -- maximum not to exceed 30 feet, then I can stipulate that, and we can move forward.

MS. CLARK: That sounds good.

HEARING EXAMINER STRAIN: Will that get you where you need to go?

MS. CLARK: Absolutely.

HEARING EXAMINER STRAIN: That's about twice the length that you had in your application, so it seems like it would be acceptable.

And then while you're standing there -- and I want to ask staff, then. It would be a good time to talk about the number of vessels.

James and Ray, between the two of you, how do we look at these boat -- these skis, these -- whatever you call those things, Ski-Doos --

MS. CLARK: Jet skis.

HEARING EXAMINER STRAIN: -- jet skis in comparison to the vessel -- number of quantity? Because, you know, we have -- we do have a limitation for single-family homes of two vessels. So how is staff looking at that since there's three shown on this plan?

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

The historic application is where you have a boat slip that's -- could contain one full size boat. There's no prohibition for that same slip to contain two personal watercraft or jet skis, because we don't look at that as a third slip.

HEARING EXAMINER STRAIN: Okay. And I don't disagree with it. I just wanted it clear for the record as to how we got here. So you understand that?

MS. CLARK: Yes, we do.

HEARING EXAMINER STRAIN: That will be a stipulation as well that the two jet skis are occupying the space of an additional boat slip. So if you were to change and put two boats there, you wouldn't be able to have the jet skis or vice versa.

MS. CLARK: Right.

HEARING EXAMINER STRAIN: Okay. And then further on in the text of the staff report, this was applied for the lift going to the north side of the dock, not the one furthest out, but on the right side of the dock, I should say, as you step onto it. That was described as a kayak platform both in the application and in the writeup, and I've noticed that it's now a jet ski platform. And I don't think that makes any difference, but it is a difference in the staff report.

And does staff have any issue with that being used for jet skis in lieu of kayaks?

MR. SABO: For the record, James Sabo.

No, we do not. Actually, what had happened, Mr. Hearing Examiner, we had an issue with the DEP, the Florida DEP, in terms of how they calculate. They were going to use the through flow dock platform which allows all the water to flow through, but the DEP still considers that dock a platform. So they eliminated that, went to a lift, and now they've satisfied those DEP requirements.

HEARING EXAMINER STRAIN: Okay. You also got the new plan for -- from Turrell & Associates, I take it, and you didn't have any problems with that, James?

MR. SABO: I do not.

HEARING EXAMINER STRAIN: Okay. I'm looking for the rest of the questions I may have before we finish up. And that wraps up the questions I had on this one.

So I appreciate the time. I know you had a lot to redo from last time, but it successfully

got redone.

MS. CLARK: Thank you for your time.

HEARING EXAMINER STRAIN: Thank you. If there's any comments that you need to respond to after you hear staff report or anything else, just raise your hand and let me know. We'll get you back up here.

MS. CLARK: Okay. Thank you.

HEARING EXAMINER STRAIN: And, James, do you have anything you want to add to the staff report, anything of that nature?

MR. SABO: I do not. Just the recommendation is approval with the stipulations you had mentioned earlier from environmental as well as maximum boat length, 30 feet; maximum number of boats, two, and with the clarification about jet skis; and the maximum number of slips is two.

HEARING EXAMINER STRAIN: Okay. And, Ray, would you mind sending me an email verifying the analysis of the number and how jet skis are looked at, that you just described.

MR. BELLOWS: I'll be glad to.

HEARING EXAMINER STRAIN: Thank you. That way I'll keep it on file, and next time we have a dock in a similar situation, I won't have to ask the question again. I appreciate it. Okay. With that, is there any member of the public that wishes to speak on this item?

(No response.)

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

Thank you for your time, ma'am. Appreciate it.

\*\*\*That takes us to the next item on today's agenda, Advertised Public Hearing 3B, Petition No. PDI-PL20180003406, SD Tract 22, LLC. It's requesting an insubstantial change to the Lely PUD for a second wall sign and an increased area of a wall sign for Naples Community Hospital's Immediate Care building and Stock Plaza.

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

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

HEARING EXAMINER STRAIN: Disclosures on my part: I really haven't had any. I've read all the staff report, and staff and I had a meeting set up yesterday, but I had to cancel due to a conflict, so we'll just move into this right from that.

And is there a representative of the hospital here or the applicant?

Good morning, sir. And we have a member of the public here today, so I'll need at least a brief presentation of what you're proposing to do so everybody's equally informed.

MR. BRENCHLEY: Very good. Thank you. My name is Mark Brenchley. I represent the owners, also NCH and the sign company, who are all interested in having this sign installed on this building. I'll move to the mic on the other side.

HEARING EXAMINER STRAIN: Sure.

MR. BRENCHLEY: North is up, for identification purposes.

HEARING EXAMINER STRAIN: That mic -- you may have to tap it. Yeah, it's just got turned -- these mics are hard to work. Sorry.

MR. BRENCHLEY: Collier Boulevard is here on the right, and this building, Building 200, is in the center of this plaza. It's now called Stock's Plaza, and the building is 100 percent leased by NCH for a multitude of healthcare services.

The existing sign, I'll show you in a second, is here in the center of the facade facing Collier. The proposed sign is to the north at the entrance of the Immediate Care, and here is a photograph of the frontage of the building.

This sign here exists. And the main entrance to the multiple-use healthcare facilities is the center, and inside that door you have to go up to the second floor lobby to register and sign in. This is where they provide services such as primary care, imaging, outpatient, and pediatric rehab, sleep center, and Immediate Care; clinic care on the right.

Because the hours of operation of the Immediate Care are different from the hours of operation of the normal care, this is a separate entrance and a critical entrance to be independent of this entrance not only for way-finding opportunities, as people coming to the Immediate Care and Urgent Care, they may be traumatized, they may be upset because of an injury that they're unaware of an easy resolution, or they're worried about blood. They come to this facility and they don't know where to go currently because there's only one sign here. And if they go in here during the regular working hours, they have to go upstairs, and they can lose critical time before they come over here.

Also, because this is different hours of operation and a separate entrance, the way-finding signage of this request is critical to the reasonable use of this facility and the reasonable way-finding opportunities required that the signs provide. And that basically is the application.

If this were a multi-tenant operation, this building, each of these tenants would be allowed a prescribed signage, but because this is a single tenant building, only one sign is permitted by the code, and that, then, prohibits this second sign which really shows and provides information identification to a separate facility. This is why the NCH requires additional signage to highlight this entrance in particular.

Any questions?

HEARING EXAMINER STRAIN: Yes. You said that the primary entrance -- the center entrance has the -- you go in. You have to go upstairs to be directed.

MR. BRENCHLEY: Yes.

HEARING EXAMINER STRAIN: Does that mean, then, on the right side, the Immediate Care entrance, do you go in and the directory -- the direction's right there on that floor?

MR. BRENCHLEY: Right there, right there. All services begin there inside that door because of the nature of the service.

HEARING EXAMINER STRAIN: So if I was -- and I have a tendency to do a lot of work on the weekends that sometimes causes me harm. If I was to rush in there one day, especially on a weekend, I couldn't not only not get in the center part, but if I got in, I'd have to go to the second floor to find out where to go to be treated because of the lack of sign on the end of the building?

MR. BRENCHLEY: That's correct.

HEARING EXAMINER STRAIN: Is that an accurate statement?

MR. BRENCHLEY: Yes.

HEARING EXAMINER STRAIN: Okay. Thank you. That's all the questions I have.

I do have a stipulation I want to ask you about your two deviations. The basis for the deviations that you have here is because this is an immediate urgent care facility, which is basically an essential service in Collier County. And we've always assisted Naples Community Hospital in other locations with their signage, in particular up at Heritage Bay.

In this particular one, I see the deviations, but I don't see them limited to your operation. And my concern would be is if -- say you moved, you left that location, I'd be concerned that the signage variance stays with that operation regardless of who's in there.

So I would suggest that some language to the deviations could be added to the effect that -- I'll read it, a typical one: Deviation from Subsection 5.06.04.F.4, which restricts the number of wall signs to one to instead allow two signs on one wall. This deviation applies solely to

Building 200 in the Stock Plaza at Lely Resort, and the following language I'm suggesting, "and occupancy by an urgent/emergency care provider."

So that means anybody with an operation similar to yours who provides an essential service like medical care that you do and justifies the right area -- right-hand area being something for emergency/urgent care would qualify for the signage as well, but it would eliminate all other retail and others. And if they split the building up, they could have their own signs, otherwise they'd have to come back in and get a different sign.

MR. BRENCHLEY: That's a very legitimate requirement, yes.

HEARING EXAMINER STRAIN: I would add that to both the deviations so it applies just to you guys.

MR. BRENCHLEY: Now, do I add that or do you --

HEARING EXAMINER STRAIN: No, we'll take -- I'll do that in my writeup, depending on how this --

MR. BRENCHLEY: We'll certainly accept that, yes.

HEARING EXAMINER STRAIN: That would be my questions, so thank you. And we have to go to staff report and then public speakers. If there's any issues that you want to rebut, I'll ask you back up afterwards.

MR. BRENCHLEY: Thank you.

HEARING EXAMINER STRAIN: Thank you.

John, do you have a -- I know you have a staff report. Usually you say "yes" when I ask you.

MR. KELLY: Yes.

HEARING EXAMINER STRAIN: Can we get into the particulars of your staff report? The question that I've just posed and the added language, do you have any problem with that being added to the deviations?

MR. KELLY: No, I do not. In fact, it's included in my recommendation that the deviations be both location and use specific.

HEARING EXAMINER STRAIN: They're location specific, but I wanted to add that use language since it wasn't there.

MR. KELLY: Certainly.

HEARING EXAMINER STRAIN: Okay. And I don't have anything else. Do you have anything else that you want to add?

MR. KELLY: No. Just for the record, John Kelly, planner with Collier County.

HEARING EXAMINER STRAIN: Okay. Is there anybody in the public here that would like to speak on this item? We have one registered speaker. Ma'am, if you want to come up and identify yourself for the record, and we'll be glad to hear what you've got to say.

MS. WAGER: Patricia Wager. I really appreciate this presentation, because the only reason I came is because I live in that community, and I had no idea what the sign was going to be. So I really appreciate this, because in our neighborhood we thought they were going to put up a much bigger sign on 951. We had no idea what the sign was.

HEARING EXAMINER STRAIN: Understood.

MS. WAGER: So I'm very happy to hear this is what it is. I don't have an objection to it, because I didn't know what it was. But now that I see it, I can see the need for it, and I appreciate being able to see the presentation --

HEARING EXAMINER STRAIN: I'm glad you --

MS. WAGER: -- and to report back to our neighborhood what it is, because everybody was fearful.

HEARING EXAMINER STRAIN: Well, I'm glad you came --

MS. WAGER: -- that it might be something horrible.

HEARING EXAMINER STRAIN: I'm glad you came today to get it clarified. Also, in the future, if it would ever save you a trip, feel free to call the planner or myself. We'd be glad to --

MS. WAGER: Which I didn't know until I learned today, which was good for coming, because I learned that.

HEARING EXAMINER STRAIN: We're here to keep everybody well informed.

MS. WAGER: Thank you.

HEARING EXAMINER STRAIN: Thank you, ma'am. Appreciate it.

Is anybody else here that would wish to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: There's, obviously, I don't believe, any need for rebuttal.

And with that, we'll close the public hearing on this matter, and a decision will be rendered within 30 days, most likely within 10 days or so.

Thank you very much for your attendance today.

And that takes us to the last items on our agenda, which is other business. There's none listed. Are there any other public comments?

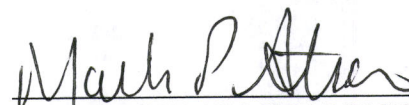
(No response.)

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

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There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:20 a.m.

COLLIER COUNTY HEARING EXAMINER

  
MARK STRAIN, HEARING EXAMINER

ATTEST  
CRYSTAL K. KINZEL, CLERK

These minutes approved by the Hearing Examiner on 7-25-19, as presented ✓  
or as corrected \_\_\_\_\_.

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