

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
August 8, 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
Tim Finn, Principal Planner
John Kelly, Senior Planner
Gil Martinez, Principal Planner
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, August 8th, 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.

Review of the agenda: We have three items up on today's agenda. The first item will be Coco -- 325 Cocohatchee, LLC, the second item is the Richmond Group of Florida for a Collier Boulevard Mixed-Use Commerce Center, and the third item will be the MPO properties at Sierra Meadows LLC, which is called Edison Planned Unit Development.

***There are no changes to the agenda, so we'll move right into our first petition. It's 3A. Petition No. VA-PL020190000913. It's a variance for the 325 Cocohatchee, LLC.

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: For my part, I've had a brief conversation with the applicant's representative, talked to staff at one point or another during the processing, and reviewed all their items on record.

And is there any member -- other than the applicant's team, any member of the public here on this issue?

(No response.)

HEARING EXAMINER STRAIN: Okay. Alexis, I believe you're representing the applicant. If you don't mind coming up, identifying yourself for the record.

MS. CRESPO: Good morning. Alexis Crespo with Waldrop Engineering representing the applicant.

HEARING EXAMINER STRAIN: And since no one's here from the public and I have read everything that has been provided, I really don't have any major questions. I have a couple clarifications, if you don't mind. We won't need a presentation since it's all been read.

The property apparently owns some submerged lands, and the true boundary of the property goes well beyond out into the Cocohatchee River area; is that correct?

MS. CRESPO: Correct.

HEARING EXAMINER STRAIN: Okay. Because I noticed in the -- one of the attachments that 25 feet is a limitation, is a request because of the mean high-water line. Normally you would be able to measure from the property line. In that case you'd be much further out with your -- back with your house than normal.

MS. CRESPO: Correct.

HEARING EXAMINER STRAIN: I just wanted to make sure. I didn't see anything else that provides any need for questions, and it's pretty straightforward. Thank you.

MS. CRESPO: Thank you.

HEARING EXAMINER STRAIN: Is there anything you want to add to the record?

MS. CRESPO: Just that we're in agreement with the staff report, and we would respectfully request your approval.

HEARING EXAMINER STRAIN: Okay. Thank you.

MS. CRESPO: Thank you.

HEARING EXAMINER STRAIN: John?

MR. KELLY: John Kelly, senior planner.

I wanted to add to the record for clarity the vegetation map and a wetland and surface waters maps that were excluded from the package. I believe they give a good representation of what you were just speaking about as far as the Ccohatchee River going through that property.

Otherwise, staff recommends that the Hearing Examiner approve Variance Petition VA-PL20190000913 to reduce the minimum eastern (sic) rear yard setback from 75 feet to 25 feet for redevelopment or construction of a single-family home and accessory structures, as in the Estates district they're viewed the same.

And with that, that's all I have.

HEARING EXAMINER STRAIN: Just one clarification. Just so -- you said eastern rear setback. You mean the west of the house, right?

MR. KELLY: I'm sorry; correct. West.

HEARING EXAMINER STRAIN: Okay. I have no other questions, John. It was pretty straightforward. I appreciate your research. It seemed to answer all the questions I had.

Is there any member of the public here that would like to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Hearing none, we'll close the public hearing on that item, and a decision will be rendered within 30 days, most likely within a week or two, assuming I can get all the data. Thank you.

***That takes us to the second item on today's agenda. It's Petition No. PDI-PL20180003363, the Richmond Group of Florida, Inc. requesting an insubstantial change to the Collier Boulevard Mixed-Use Commerce Center PUD.

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

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

HEARING EXAMINER STRAIN: Thank you.

Disclosures on my part: At one point in the past I think Randy Johns and I talked about this for a minute when they were starting the process, and I had talked with staff yesterday about some clarifications I needed on some of the paperwork and will certainly find out where that stands today.

Oh, I'm sorry. This was the Edison one I talked with staff yesterday about. We didn't talk about this one, did we, Tim?

MR. FINN: No.

HEARING EXAMINER STRAIN: Yeah. We didn't have a discussion on this one. Everything seemed straightforward.

Are there any members of the public here who are not part of the applicant's team for this item? One, two.

Okay. Bob, I'll need you to provide a --

MR. MULHERE: Sure.

HEARING EXAMINER STRAIN: -- presentation so everybody in the audience knows what this issue's about, and we'll go from there.

MR. MULHERE: Okay. Thank you. For the record, Bob Mulhere with Hole Montes here representing the Richmond Group, who is the applicant.

Also with me this morning, if necessary, who can comment on civil engineering is Jim Carr, who's the civil engineer for the project, and Norm Trebilcock, who's the transportation engineer.

I put on the visualizer an aerial that staff prepared. It's in the staff -- actually Passarella prepared it, but it's in the staff report. And it shows the subject PUD, and it shows the commercial

tract which is right here (indicating), and the residential tract. The changes that we are requesting deal with the residential tract which is entitled already for 433 multifamily. We're not -- obviously, since this qualifies as an insubstantial change, we're not changing anything that would trigger an amendment, that is density or height or any of those things.

So I'll talk about what we are changing. And we believe this is a far better plan. This is the existing PUD master plan. And you can see that there were actually three access points onto Magnolia Pond Drive from the residential tract, and you can see that the preserve was sort of ringing around the property leaving residential pods or tracts internally.

There was an interconnection between the residential tract and the commercial tract. The commercial tract is presently undeveloped. There is no access to Collier Boulevard. Obviously, the property on the south basically abuts I-75 and on the east abuts Collier Boulevard and on the north abuts Magnolia Pond Drive. And just to give you some perspective there, Mike Davis Elementary is across the street -- basically across the street to the north, and Golden Gate High School is to the west.

So, again, this is the existing master plan. And I'll make that a little smaller. And this is the proposed master plan which has been reviewed by environmental staff. They concur that this is a more favorable protection of the preserve area. We still meet the minimum preserve requirements, and we meet all of the required setbacks.

The sort of long, narrow lake that is in the commercial tract was created by Collier County as part of roadway improvements. You can see it references the OR book and page. That was not on the original master plan but, obviously, since it exists, we provided it on this master plan as well as this little easement right up here.

And we now have a single point of ingress and egress. And those are the changes, changing the points of ingress from three to a single point of ingress. This was also reviewed by transportation staff who concur, and all of staff, collectively, is recommending approval.

So that's really it in a nutshell. I know you have some speakers. I'd like to reserve an opportunity to respond.

HEARING EXAMINER STRAIN: And I do have some questions of you, Bob.

MR. MULHERE: Sure.

HEARING EXAMINER STRAIN: First of all, the changes are limited to a map change.

MR. MULHERE: That's correct.

HEARING EXAMINER STRAIN: Okay. And then, basically, you consolidated the preserve area to the eastern -- or to the western side of the site, which actually provides a better buffer to the property owner further west from that.

MR. MULHERE: Correct.

HEARING EXAMINER STRAIN: You took out two additional interconnections to Magnolia Pond Drive that now consolidate to one, which means less traffic impacts so that road, at least from multiple --

MR. MULHERE: Less conflicts, yeah. Yeah, I mean, everyone is accessing Magnolia Pond one way or the other. This just has less conflicts.

HEARING EXAMINER STRAIN: And you moved the potential interchange between the two tracts to the south of the waterway so that -- because the waterway was currently existing, and that, you said, was dug by Collier County?

MR. MULHERE: Correct.

HEARING EXAMINER STRAIN: And I know we -- I don't know if it was Collier County or DOT, but I know someone had utilized that property --

MR. MULHERE: Yes.

HEARING EXAMINER STRAIN: -- during the improvements made at the interchange.

MR. MULHERE: Also, I failed to mention that there's a pretty substantial drainage easement on the western side on both properties. I don't remember the width, but it's pretty wide. It runs right along here.

HEARING EXAMINER STRAIN: And I have a question. I notice you did a TIS. Why? You didn't change density, you didn't change uses, you didn't change anything that would have triggered the need to pay -- for your clients to have to pay for a TIS. Why was one asked for? Do you have any --

MR. MULHERE: I'm thinking -- I could defer to Norm, but my recollection is because we were changing the access point, there was a requirement for us to demonstrate that that wouldn't have --

HEARING EXAMINER STRAIN: But you're reducing the number of access points. Your impacts are less than before.

MR. MULHERE: Yes. Sometimes, though, when you have multiple access points, it's better. In this case, because they were all dumping out on the same road, it doesn't matter.

HEARING EXAMINER STRAIN: Right. And I was looking at the TIS trying to figure out -- all you did was take the old numbers and have to repeat them in another section saying the same thing. It just seemed like a waste of effort and money on behalf --

MR. MULHERE: It seems like we have so much to argue about, sometimes we just don't argue about everything.

HEARING EXAMINER STRAIN: I understand. I couldn't figure it out and, likewise, from what you're saying, it probably wasn't necessary.

With that, I don't have any other questions from your side of things. I do have a staff or two comment I've got to make, and that's about all.

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: And you will be able to have rebuttal depending on what comes up.

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: Tim, I know you and I spoke on the -- I think I either emailed you or talked to you on the phone about the findings that you -- what did you want to do in that regard?

That was the one you couldn't find the findings for, and I sent them to you.

MR. FINN: Well, I'm good with including the original findings from 17 years ago, but because I didn't find it in the records room, I reevaluated it, and I included that in the staff report. So, I mean, I'm fine with either.

HEARING EXAMINER STRAIN: Well, I don't -- it doesn't matter to me. I checked what you wrote this time versus what was there before. Substantially, they're the same.

MR. FINN: Yes.

HEARING EXAMINER STRAIN: So there was not -- there's no changes really to --

MR. FINN: No, there isn't.

HEARING EXAMINER STRAIN: -- the findings, so I don't have a problem leaving it, but I didn't know for sure, now that the others were found, what you wanted to do. If you want to leave them, that's fine. If you didn't bring copies, we'll leave them the way they are.

MR. FINN: Yeah. Well, let's just go ahead and leave it.

HEARING EXAMINER STRAIN: Okay. Is there anything from the staff's perspective you want to add?

MR. FINN: No. I don't, no.

HEARING EXAMINER STRAIN: Recommendation is still to approve?

MR. FINN: Still to approve, right.

HEARING EXAMINER STRAIN: Okay. With that, I'll move to public speakers. I don't know if we have any registered public speakers we'll start with, Ray. Let's start with the register public speakers.

MR. BELLOWS: Garrett Beyrent.

MR. BEYRENT: For the record, Garrett Beyrent. I'm a lobbyist for myself right now. I own the property that's on the -- to the left of the word that says -- it looks like it says "preserve." I can never read any of this stuff. I don't know if my eyesight's getting worse or --

HEARING EXAMINER STRAIN: It does say "preserve," and it is blurry.

MR. BEYRENT: Right. Okay.

HEARING EXAMINER STRAIN: But your property's got a bigger buffer than it had before.

MR. BEYRENT: Right, yeah. Well, my question was -- I have two questions. The first question is, who is the preserve going to be dedicated to? What entity, specifically?

HEARING EXAMINER STRAIN: Whatever the county requires for all the other projects in the county, it will be the same dedication.

MR. BEYRENT: Okay. The other question I've got is I always wondered why when I'm looking at plans, I can never figure out why I'm never notified, and I'm the adjacent property owner, but I'll just forego that.

The problem I had recently with this -- the only problem I have is that people keep referring to these projects as Magnolia Pond when, in fact, there is only one Magnolia Pond PUD, and that's the property to the west, which isn't shown on here. And the problem was is that I got a call from Jace Kentner. He's the director of economic development. And he had gotten a call from Commissioner Fiala. She was upset by the fact that they were doing affordable housing on Magnolia Pond. And I said, no. I'm already in for an innovation zone designation.

And I just wanted to make sure that people, when they submit projects around this area, that they submit exactly the name of the particular project so that everybody around it knows what's going on. And that's basically it. I have no problem at all with it. I think it's a better plan than originally was out there. So thank you.

HEARING EXAMINER STRAIN: Thanks for your input, Garrett.

Is there anybody else here who has not spoken that would like to address us on this issue?
(No response.)

HEARING EXAMINER STRAIN: Okay. Bob, do you have anything you want to add?

MR. MULHERE: I appreciate Garrett's comments. The -- I did fail to mention the name of the PUD, which is Collier Boulevard Mixed-Use Commerce Center, so I appreciate that.

HEARING EXAMINER STRAIN: But the name of the owner is Magnolia Pond Road Development Company LLC, so that does lend to some confusion.

MR. MULHERE: And it's on Magnolia Pond Drive. Yes, I got it. Thank you.

HEARING EXAMINER STRAIN: Okay. With that being said, and there's no other speakers, we'll close this matter -- the hearing on this matter, and a decision will be rendered within 30 days, most likely a lot less.

Thank you very much.

MR. MULHERE: Thank you.

HEARING EXAMINER STRAIN: ***The next and final item up for today is Petition No. PDI-PL20190000108, MPO Properties Sierra Meadows LLC, and this is the one for the Edison Village Planned Unit Development.

Disclosures on my part: I have talked to Randy Johns, I have talked to staff, and I have reviewed extensively a lot of the paperwork that was provided.

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

reporter.

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

HEARING EXAMINER STRAIN: Thank you. And is there any member of the public here that is not part of the applicant's team for this item?

(No response.)

HEARING EXAMINER STRAIN: Okay. Who is -- Randy?

MR. JOHNS: Yeah.

HEARING EXAMINER STRAIN: Okay. Brian, good morning.

MR. HOWELL: Good morning.

HEARING EXAMINER STRAIN: We don't need a presentation, Randy. I've read everything. So unless you've got something you want to add to the record -- I do have some questions, and I did contact staff about some things that need to be cleaned up. They were supposed to contact you. I don't know if they did or not.

MR. JOHNS: Okay. I haven't talked to them myself. Maybe they're talking to Justin.

HEARING EXAMINER STRAIN: Okay. Maybe it might best be expedited if -- Gil, did you get -- were you able to contact the applicant yesterday after our meeting?

MR. MARTINEZ: Yes. I had an extensive conversation with Mr. Justin Ebright regarding what we discussed as far as what was the height of the building as whether zoned or actual, and what he responded verbally to me is consistent with what's in the staff report.

HEARING EXAMINER STRAIN: Okay. And that -- Randy, just so you know, the SDP that was filed for this project said the building had a zoned height of 36 feet, but --

MR. JOHNS: Right.

HEARING EXAMINER STRAIN: -- you were asking for a zoned height to correct the error in the setback to -- buildings under 30 feet would be able to have -- in fact, let me just read the text so we get on the same page. I don't want to make a mistake in the language.

However, the minimum front yard structures up to 30 feet in zoned height shall be 25 feet for the Lot 12 of the Edison Village subdivision.

So if your zoned height on your SDP showed 36 feet, you wouldn't meet that criteria. In looking at your building, your zoned height based on the architectural plans you submitted for the SDP look to be 27 feet, 9 inches -- 9 and three-quarter inches.

MR. JOHNS: Correct.

HEARING EXAMINER STRAIN: So the paragraph works if you change your SDP through a -- just for a correction to staff, that your zoned height is less -- is the height that shows on your architectural plan.

MR. JOHNS: Right.

HEARING EXAMINER STRAIN: And that was the only -- that was one of the bigger clarifications I needed to --

MR. JOHNS: Thirty-six feet was our maximum height instead of being our mean height.

HEARING EXAMINER STRAIN: Right. It was actual height. I checked, and you're right. Your towers go up to 36 feet.

MR. JOHNS: Exactly.

HEARING EXAMINER STRAIN: I just don't want to go through today's motion and have staff come back in and say, wait a minute, you said 36 feet. You now can't qualify for the exemption or the change you've instituted into your PUD, so...

MR. JOHNS: Yes.

HEARING EXAMINER STRAIN: If you -- so what I'll probably do is suggest that -- make a condition that you'll submit a correction to the SDP in whatever format staff requires to get that zoning height corrected on the SDP. Is that okay with you?

MR. JOHNS: Yes. That's perfect.

HEARING EXAMINER STRAIN: Okay. And you're not close enough to the mic, just so you know.

MR. JOHNS: Sorry.

HEARING EXAMINER STRAIN: Okay. There's a cross-section on your master plan. Gilbert, did you bring that question up to him at all?

MR. MARTINEZ: Mr. Chair, I apologize, I did not bring that question up.

HEARING EXAMINER STRAIN: Okay. And, Randy, I don't -- let me see if I can get a -- do you have a loose copy of that master plan with you?

MR. MARTINEZ: I have it online in the file.

HEARING EXAMINER STRAIN: You have it electronically?

MR. MARTINEZ: Correct.

HEARING EXAMINER STRAIN: Because I have it electronically -- thank you, John. I have it electronically, as well. I didn't --

Heidi, do you have the master plans?

MS. ASHTON-CICKO: I don't think he's going to be able to read it, but I can provide it to him.

HEARING EXAMINER STRAIN: Yes. You'll have to turn it 90 degrees. That's 180. Go back. Right there. Could you blow up on that second one up from the bottom. Nope. Right there; that one. That's good enough.

Now, Randy, what this shows is the cross-section that's supposed to be out on the front setback that you're dealing with, and it shows 25 feet for the berm and buffer, and then it shows an additional five feet for a 4-1 slope before you hit the building.

MR. JOHNS: Okay.

HEARING EXAMINER STRAIN: You can't do that because you don't have the additional five feet. And I just want to make sure from staff's perspective that -- and where'd Ray go?

MS. ASHTON-CICKO: He got called out.

HEARING EXAMINER STRAIN: Okay. Well, I don't know how you -- did you -- did your SD -- I didn't find it on the SDP, but did your SDP provide an alternative detail of that?

MR. JOHNS: I would have to go and look, but I'm pretty sure it does, because we've already graded it, and it works. So I'll have to check it.

HEARING EXAMINER STRAIN: Okay. I don't see a problem in you adjusting it. The problem is that the map is -- those numbers shouldn't have been put on the PUD. They're too much detail to be in the conceptual site plan. And your SDP is the document that should have handled some of that detail. The dimensioning, yes, but to put slopes on there, that's kind of difficult, because you never know in the field what kind of adjustments you've got to make.

MR. JOHNS: Exactly.

HEARING EXAMINER STRAIN: I'll probably -- I'll make a note in the decision that references that particular issue so that it's covered if there's any question in your -- as you -- you go for as-built reviews and all the finals on the project.

MR. JOHNS: Okay.

HEARING EXAMINER STRAIN: I don't -- there's no problem you're going to meet engineering standards to get that accomplished. I'll just make a note that you'll probably have an alternative area of design for that in the -- as approved by staff in the final SDP.

MR. JOHNS: I think our SDP does show it, but we'll have to --

HEARING EXAMINER STRAIN: Okay.

MR. JOHNS: -- find it.

HEARING EXAMINER STRAIN: I just didn't want you to, again, get caught up in the process after this is over with, so...

MR. JOHNS: Okay. Thank you.

HEARING EXAMINER STRAIN: Okay. That's the only other thing I think I had, Randy, so that's it. Thank you, sir.

Anything you want to add for the record, Randy?

MR. JOHNS: No, sir. I think we're good.

HEARING EXAMINER STRAIN: Okay. Gilbert?

MR. MARTINEZ: For the record, Gil Martinez, principal planner.

Staff recommends approval of the petition before the Hearing Examiner with the stipulations that you just stated regarding --

HEARING EXAMINER STRAIN: Correction to the slope.

MR. MARTINEZ: -- correction you're going to make in your decision.

HEARING EXAMINER STRAIN: I'll just make a reference the slope will be modified as needed to fit within this revised setback.

MR. MARTINEZ: Okay.

HEARING EXAMINER STRAIN: Because I just don't want that detail to get caught up on you. You have no problem with that?

MR. MARTINEZ: No. Recommend approval.

HEARING EXAMINER STRAIN: Okay. Thank you.

Any members of the public here for that item?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close the public hearing. A decision will be rendered within 30 days but most likely within a couple of weeks.

MR. JOHNS: Thank you.

HEARING EXAMINER STRAIN: Thank you, sir. Appreciate it.

Okay. That takes us to the end of today's agenda. There's no other business.


Any other public comments?

(No response.)

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

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:23 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 8-19-19, as presented or as corrected _____.

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