

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
December 12, 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
Gil Martinez, Principal Planner
James Sabo, Principal Planner
John Kelly, Senior Planner
Sally Ashkar, Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, December 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, decisions are final unless appealed to the Board of County Commissioners, and a decision will be rendered within 30 days.

Under the review of the agenda, we have one item to discuss. It's Item 3A. It's Petition DR-PL20180002114, Petitioner W.R. Real Estate, LLP, the Walker's Coon Key Marina. This item was continued from October 24th and the November 14th meeting to today's meeting.

There's been a request to continue it again. Since the item has been advertised once and we've gone through several continuances, it will need to be readvertised again, which brings in another issue.

The -- I never like to move an item to another board if it's already been advertised for this office, because that would mean the applicant would have to pay for a second advertisement, and they're around 11 or 12 hundred dollars, if I'm not mistaken.

Since this one has to be advertised anyway and with some circumstances changing from my office as well as the fact that this has had a lot of heightened public attention with an outside counsel for another opposing -- for a group of opposing party, I've decided to move this to the Collier County Planning Commission. So it will not necessarily be continued from this office -- from this office to another date with this office. It will be continued to some date with the -- to be determined by advertisement in front of the Collier County Planning Commission.

And I'll direct staff today to start preparing their paperwork to reschedule it. And I will be remaining as Chairman of the Planning Commission even though I won't necessarily be in this office after January. So please reschedule it to the Planning Commission. And I can tell you today schedule it to the earliest convenient meeting where everything can get done, and we'll fit it into whatever calendar we have.

So with that -- so Item 3A has been removed from today's agenda, and it will be moved onto the Planning Commission, which takes us to the remaining five items for today.

The first item is Advertised Public Hearing 3B, Petition No. BDE-PL20190000307, the Michael Korchmar boathouse. It's considered a boat dock extension, but for a boathouse as well.

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: I have had -- I went over some details on this one with staff yesterday, and that's all. Other than reading the packet, that's about it.

Is there anybody here, a member of the public, who is not on the -- representative of the applicant's team?

(No response.)

HEARING EXAMINER STRAIN: Okay. With that, who is here to represent the applicant's team? Sir, if you mind coming up and identifying yourself for the record.

MR. NELSON: Hello. My name is Bill Nelson. I work with Greg Orick Marine, and I'm working as an agent for the owner of the property.

HEARING EXAMINER STRAIN: Okay. There's no members of the public here

opposing this, so I don't need a presentation. I've read all your documentation. I have maybe one or two questions just for clarification, and then we'll go to staff report and anything you want to add.

First of all, you have said in the primary criteria a couple different times this platform will not be used in the future for the additional mooring of vessels, and I'm assuming it's that platform that's off to the -- I can't remember if it's east or west.

MR. NELSON: West.

HEARING EXAMINER STRAIN: Yeah. And that was the platform you were talking about?

MR. NELSON: Yeah. There's a bigger deck area in front of the boat slip.

HEARING EXAMINER STRAIN: Over part of the riprap, if I'm not mistaken.

MR. NELSON: Yes. And that's the portion that we're asking for a dock extension because of, basically, a curved property line.

HEARING EXAMINER STRAIN: Okay. With that in mind, then, you wouldn't have any opposition to a stipulation on a decision indicating you're not going to be using that for docking purposes?

MR. NELSON: No problem.

HEARING EXAMINER STRAIN: And that is -- that's the only question I have. I don't have any other issues with it. So with that, unless you've got something you want to add for the record, I'll move to staff.

MR. NELSON: No.

HEARING EXAMINER STRAIN: Okay. Thank you.

Gilbert, anything that staff wants to add?

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

Staff finds the petition to be consistent with all the necessary criteria and recommends approval.

HEARING EXAMINER STRAIN: Okay. Thank you. Any members of the public who are here that want to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, this hearing's closed, and the issue will -- the matter will be resolved by a decision within 30 days, most likely a lot less. Thank you for your time today.

MR. NELSON: Thank you.

HEARING EXAMINER STRAIN: ***The next item up on the agenda is Petition 3C. It's No. VA-PL20180001818, Wedgefield of Naples Association, Inc.'s requesting a variance from the Land Development Code for a side-yard setback.

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.

I have my -- disclosures on my part, I think I've talked to the applicant's representative once or twice on the phone, and I talked to staff yesterday.

Sandra, do you want to come up and identify yourself for the record.

MS. BOTTCHE: Sandra Bottcher, SLB Consulting, representing Wedgefield for the pool variance.

HEARING EXAMINER STRAIN: You may want to pull that mic down. It doesn't pick up very well.

There are no members of the public that stood up for this item. So there is -- I won't need a presentation. I have a couple questions I want to clean up.

MS. BOTTCHER: Okay.

HEARING EXAMINER STRAIN: I didn't ask staff yesterday -- I'm assuming they got in touch with you. I needed a -- I think it was exhibit -- Attachment A that you had referred to as the site plan. That needs to have the actual dimension put on it for the variance instead of just the deduct from the 15. That would be helpful. Did you have a -- did you bring a clarification of that?

MS. BOTTCHER: I did.

HEARING EXAMINER STRAIN: Okay. Could you put it on the overhead for me. That looks fine. That will -- that's nice and clear. Thank you.

Make sure I don't have any other questions. I did have a question of staff. Maybe you can try to -- if you were involved in it from the Wedgefield of Naples Association, I questioned the form of notice. Did staff verify yesterday that the proper notice was sent out?

MR. FINN: Yes, it was.

HEARING EXAMINER STRAIN: Okay. Do you have a copy of it for the record today?

MR. FINN: Yes.

HEARING EXAMINER STRAIN: Okay. The one that was in the staff packet wasn't the -- didn't meet the notice requirements, but it turned out it wasn't the notice. It was just kind of a prelude to the notice. So the real one is apparently what's in the file. They've now got it, and we'll put it on record today.

MS. BOTTCHER: Okay.

HEARING EXAMINER STRAIN: That's the only questions I had. You did a good job.

MS. BOTTCHER: Okay.

HEARING EXAMINER STRAIN: Thank you.

MS. BOTTCHER: Thank you.

HEARING EXAMINER STRAIN: Straightforward.

We'll go to staff. Any points from staff?

MR. FINN: No. For the record, I'm Tim Finn, principal planner.

The project is compliant with the GMP and LDC and, therefore, staff recommends approval.

HEARING EXAMINER STRAIN: Okay. And would you do two things before you leave today: Make sure the court reporter has a copy of this corrected site plan and a copy of the proper notice that was -- met the criteria for notification mail -- the mailed notifications.

MR. FINN: Yes.

HEARING EXAMINER STRAIN: Okay. Anybody here wishing to speak on this item? (No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close the public hearing, and a decision will be rendered within 30 days. I'm going to try to get them all out before Christmas.

MS. BADGER: Okay. Thank you.

HEARING EXAMINER STRAIN: ***That brings us to the next item. It's Item 3D, Petition No. PDI-PL20190000503, Eagle Creek Golf and Country Club, Inc. It's for a change in a height for a wall along Collier County Boulevard.

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 talked to staff yesterday. That's the only discussion I recall having on this matter.

So with that, I noticed three people stood up. Are you all a member of the same team or --

MS. RITENOUR: Yes.

HEARING EXAMINER STRAIN: Okay. The fellow looks pretty serious.

UNIDENTIFIED SPEAKER: I'm overdressed, right?

HEARING EXAMINER STRAIN: I want to make sure we're covered with that. I won't need a presentation.

And, Anna, I know we've had a couple cases before. I think this one you might be pleasantly surprised that I probably don't have much of anything for questions. Let me look through to make sure. No.

MS. RITENOUR: Okay.

HEARING EXAMINER STRAIN: That makes your day real easy. I'll turn to staff if they have anything they want to add for the record.

MR. KELLY: John Kelly, senior planner.

No, staff finds that the project meets the variance criteria and recommends approval.

HEARING EXAMINER STRAIN: Okay. So with that, unless you want to add anything, close the -- any members of the public here that want to speak on this item?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close the public hearing, and a decision will be rendered hopefully before Christmas but no later than 30 days.

MS. RITENOUR: Thank you.

HEARING EXAMINER STRAIN: Thank you.

***That takes us to Petition No. 3E. It's BDE-20190000308, Kenneth L. Seibert requesting approval of a boathouse in Vanderbilt Beach.

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: And I had discussions yesterday with staff on this matter, and that's my only disclosures.

And with that, do you want to come up and identify yourself for the record. This is -- you're getting used to this today. Second time, huh?

MR. NELSON: My name is Bill Nelson. I work with Greg Orick Marine Construction, and I'm working on it as an agent for the owner's behalf.

HEARING EXAMINER STRAIN: Thank you. I don't -- there's no members of the public here, so I don't need a presentation.

I have a question or two of staff. I'll wait till I get to them on that, and I don't think -- I don't have any of you. So it's pretty straightforward with the exception of questions I have from staff. If you hear anything in the discussion with staff that you want to comment on, you're more than welcome to before we close the public hearing.

MR. NELSON: Thank you.

HEARING EXAMINER STRAIN: Okay. So with that, I'll turn to staff. And I believe -- and, John, you may want to turn this over to environmental.

As I told you when I met with you all yesterday, I needed some explanation as to why this isn't a variance, based on the fact that the requirements are -- the dock facilities shall -- where it says it shall be aligned at least 10 feet from seagrass beds, we've reduced that by this action to seven feet. I'm not concerned about that issue other than the fact that the procedure was properly followed. So maybe you can explain where we're at with that.

MS. COOK: For the record, Jamie Cook, principal environmental specialist in Development Review.

The reason that staff had approved this with the seven feet instead of 10 was because this dock is on a man-made canal that can be dredged at any point in time, and the seagrasses could be removed that way.

HEARING EXAMINER STRAIN: So, in essence, the seagrasses in these locations are almost irrelevant because of the potential dredging issues?

MS. COOK: Yes, sir.

HEARING EXAMINER STRAIN: Okay. Fair enough.

And, Ray, as the zoning manager, do you have any concerns with that?

MR. BELLOWS: No concerns and wanted to also add that the boathouse criteria itself does not address the seagrass beds as well.

HEARING EXAMINER STRAIN: Okay. Thank you.

John, do you have anything you want to add?

MR. KELLY: Staff found that the project meets the boathouse criteria and recommends approval.

HEARING EXAMINER STRAIN: Okay. I have no other questions. That was the only question of staff or the applicant. I don't know if you have anything you want to say.

MR. NELSON: No.

HEARING EXAMINER STRAIN: Thank you for your time today. And was there any member of the public -- there's nobody here, but is there any members of the public who'd like to speak on this matter? I have to ask that.

(No response.)

HEARING EXAMINER STRAIN: So with that in mind, the hearing's closed, and a decision will be rendered within 30 days; hopefully before Christmas.

MR. NELSON: Thank you.

HEARING EXAMINER STRAIN: And that's it.

MR. NELSON: I've got the next one, too.

HEARING EXAMINER STRAIN: Oh, the next one's yours, too? You are a popular person today. Okay.

***The next one up is Petition No. BDE-PL20190000309, Douglas R. Oehler requesting a 32.5 [sic] boat dock extension over the maximum 20 feet. And this is up by -- 171 Topanga Drive. 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: My disclosures are the same as they were for the others: I spoke with staff yesterday on the matter.

And with that, we'll go -- this one didn't have much. If I'm not mistaken, there was -- yes, there was one discrepancy, and it was only with the Conservancy's letter. The Conservancy's letter referenced a plan that they reviewed dated November 28th, 2018, and the plans that were included in the packet were dated February 25th, 2019.

I asked the Conservancy what their issues would be to look at. They were concerned only with the crossing of the mangroves, limiting it to a 4-foot width. The plan that's presented in the packet limits it at the 4-foot width. So from that basis, there's nothing changed.

Did you substantially change anything between the two plans?

MR. NELSON: No. I think originally we might have had a 5-foot cut-through, and we did shrink it down to 4, so...

HEARING EXAMINER STRAIN: Okay. So they approved it at whatever plan you had, and they said they wouldn't have approved it if it was beyond 4.

MR. NELSON: Yeah.

HEARING EXAMINER STRAIN: So that probably is what happened. I don't have any other questions, so that makes another one easy for you today.

MR. NELSON: Yep.

HEARING EXAMINER STRAIN: Go ahead. James, do you have any comments from

staff?

MR. SABO: Yes. For the record, James Sabo, principal planner. No comments. The recommendation from the Zoning Division is approval for 171 Topanga Drive.

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

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close the public hearing, and a decision will be rendered within 30 days. Again, I'll try to get it out before Christmas. Thank you.

HEARING EXAMINER STRAIN: Okay. Thank you.

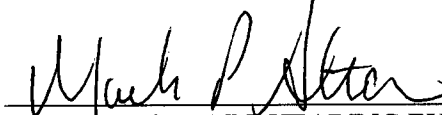
That takes us to the most difficult one on today's agenda. Other business: There is none.

Public comments: Nobody's here.

So this meeting's adjourned. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:15 a.m.

COLLIER COUNTY HEARING EXAMINER


MARK STRAIN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 1-6-20, as presented or as corrected _____.

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