

**MINUTES OF THE HEARINGS OF
THE CITY OF CAPE CORAL
HEARING EXAMINER**

Tuesday, November 7, 2023

COUNCIL CHAMBERS

9:00 A.M.

Madam Hearing Examiner Dalton called the hearings to order at 9:00 a.m.

ALSO PRESENT: Chad Boyko, Principal Planner
Justin Heller, Senior Planner
Patrick White, Senior Planner
Anthony Santora, Associate Planner
John Naclerio, Assistant City Attorney

Case#: DEV23-000008*; Address: 5809 Chiquita Blvd S; Applicant: Keith Leander

Recording Secretary Rhine read the case into the record and administered the oath.

Senior Planner Heller confirmed the notice requirements had been met.

Hearing Examiner Dalton found that proper notice had been met.

Keith Leander, applicant, presented the following information:

- Request
- Will not impede canal navigation
- Provide more room to the South
- Safer to use boat

Hearing Examiner Dalton stated there are certain standards set out in the LDC and asked Mr. Leander if he had an opportunity to review the Staff Report.

Mr. Leander responded in the affirmative.

Hearing Examiner Dalton asked Mr. Leander if he wished to incorporate the Staff Report into his presentation.

Mr. Leander responded in the affirmative.

Senior Planner Heller requested to be recognized as an expert.

Hearing Examiner Dalton recognized Mr. Heller as an expert based on his credentials and similar testimony in prior hearings.

Senior Planner Heller presented the following displayed slides:

- DEV23-000008
- Owner, Location, Requests
- Background
- Aerial of Site
- Proposed Marine Improvements
- Analysis: Section 5.4.11.A (4 slides)
- Comp Plan / Recommendation: Approval with conditions
- Conditions of Approval

Hearing Examiner Dalton asked Mr. Heller if he wished to incorporate Staff's Report into his presentation.

Senior Planner Heller responded in the affirmative.

Public Hearing opened.

No speakers.

Public Hearing closed.

Hearing Examiner Dalton asked Mr. Leander if he wished to incorporate Staff's testimony into his testimony.

Mr. Leander responded in the affirmative.

Hearing Examiner Dalton asked Mr. Heller if he had any further testimony.

Senior Planner Heller responded in the negative.

Hearing Examiner Dalton stated she found Standard Four was met in its entirety based upon her review of the documents and testimony today. She will grant the deviation as requested and will attempt to get the deviation order out today.

Hearing closed.

Case#: VAC23-000010*; Address: 1729 SE 39th St; Applicant: Brian Haag

Recording Secretary Rhine read the case into the record and administered the oath.

Senior Planner White confirmed the notice requirements had been met.

Hearing Examiner Dalton found that proper notice had been met.

Senior Planner White requested to be recognized as an expert.

Hearing Examiner Dalton recognized Mr. White as an expert based on his credentials and similar testimony in prior hearings.

Brian Haag, Windward Construction, presented the following information:

- Request
- No objection from Neighbor to the west

Hearing Examiner Dalton asked Mr. Haag if he wished to incorporate Staff's Report into his presentation.

Mr. Haag responded in the affirmative.

Senior Planner White presented the following displayed slides:

- Case #VAC23-000010
- Applicants, Locations, Request
- 2023 Aerial Map
- Future Land Use Map / Current Zoning Map
- Exhibit A – Vacation in Blue
- Exhibit B – ROW Vacation in Blue; PUE Vacation in Red
- Exhibit C – ROW Vacation in Blue; PUE Vacation in Red – PUE Reservation in Orange
- Background
- Analysis: LDC, Section 3.4.5.B.1-5 (6 slides)
- Analysis: Comprehensive Plan
- Recommendation: Approval with Conditions
- Recommendation and Conditions (4 slides)

Public Hearing opened.

No speakers.

Public Hearing closed.

Senior Planner White stated two inquiry phone calls were received.

Hearing Examiner Dalton asked Mr. Haag if he had any further testimony.

Mr. Haag responded in the negative.

Hearing Examiner Dalton asked Mr. Haag if he wanted to incorporate Staff's testimony into his testimony.

Mr. Haag responded in the affirmative.

Hearing Examiner Dalton asked Mr. White if he had any further testimony.

Senior Planner White responded he would like to incorporate Staff's Report into his presentation.

Hearing Examiner Dalton stated she would recommend the vacation be granted as requested and will attempt to get the recommendation out as quickly as possible.

Hearing closed.

Case#: VAC23-000011*; Address: 1110 Lorraine Ct; Applicant: Arnold Egan

Recording Secretary Rhine read the case into the record and administered the oath.

Senior Planner White confirmed the notice requirements had been met.

Hearing Examiner Dalton found that proper notice had been met.

Senior Planner White requested to be recognized as an expert.

Hearing Examiner Dalton recognized Mr. White as an expert based on his credentials and similar testimony in prior hearings.

Arnold Egan, applicant, presented the following information:

- Owner of property and contractor
- Complemented Staff on their report
- Request
- Will provide a 6' Public Utility Easement along the length of the new property line
- Match similar lots in the City
- Land returned to tax rolls
- Increase value of site
- Agreed with Staff's Report and will abide by Staff's Conditions

Hearing Examiner Dalton asked Mr. Egan if he wished to incorporate Staff's Report into his presentation.

Mr. Egan responded in the affirmative.

Hearing Examiner Dalton stated the reason for asking Mr. Egan if he wanted to incorporate Staff's Report.

Senior Planner White presented the following displayed slides:

- Case #VAC23-000011
- Applicant, Location, Request
- 2023 Aerial Map
- Current Zoning Map / Future Land Use Map
- Exhibit A – ROW Vacation in Blue
- Exhibit B – ROW Vacation in Blue, PUE Vacation in Red
- Exhibit C – ROW Vacation in Blue; PUE Vacation in Red – PUE Reservation in Purple
- Background
- Analysis: LDC, Section 3.4.5.B.1-5 (5 slides)
- Analysis: Comprehensive Plan
- Recommendation: Approval with Conditions
- Recommendation and Conditions (2 slides)

Public Hearing opened.

No speakers.

Public Hearing closed.

Hearing Examiner Dalton asked Mr. Egan if he had any further testimony.

Mr. Egan responded in the negative.

Hearing Examiner Dalton asked Mr. Egan if he wished to incorporate Staff's testimony into his presentation.

Mr. Egan responded in the affirmative.

Hearing Examiner Dalton asked Mr. White if he had any further testimony.

Senior Planner White responded one email and one telephone inquiry were received.

Hearing Examiner Dalton asked Mr. White if any opinion was provided.

Senior Planner White responded just seeking information.

Hearing Examiner Dalton stated she would recommend the vacation go forth as requested and will attempt to get the recommendation out today.

Hearing closed.

Case#: VAC23-000013*; Address: 511 Skylark Ct.; Applicant: Eric P. Feichthaler, Esq.

Recording Secretary Rhine read the case into the record and administered the oath.

Associate Planner Santora confirmed the notice requirements had been met.

Hearing Examiner Dalton found that proper notice had been met.

Eric P. Feichthaler, partner of Burandt, Adamski, Feichthaler and Sanchez, applicant's representative, presented the following information:

- Thanked Staff for their professionalism
- Letter of objection not relevant as it is for a different street
- Easement over entire vacated area
- Exhibit D
- Requested conditions 5 and 6 be eliminated or reworded

Hearing Examiner Dalton asked Mr. Feichthaler if he wished to incorporate Staff's Report into his presentation except for the two conditions.

Mr. Feichthaler responded in the affirmative.

Associate Planner Santora requested to be recognized as an expert.

Hearing Examiner Dalton recognized Mr. Santora as an expert based on his credentials and similar testimony in prior hearings.

Associate Planner Santora presented the following displayed slides:

- VAC23-000013
- Applicant, Property Owner, Address, Location, Size, Urban Services, Request
- Background Information
- 2023 Site Aerial Map
- Future Land Use Map
- Exhibit A (3 slides)
- Exhibit B (3 slides)
- Exhibit C (3 slides)
- Exhibit D (3 slides)
- Exhibit E (5 slides)
- Exhibit F (3 slides)
- Exhibit G (3 slides)

- Analysis – Land Development Code (3 slides)
- Analysis – Comprehensive Plan
- Recommendation: Approval with Conditions
- Conditions of Approval (3 slides)
- Public Correspondence: One email of objection one block to the east

Hearing Examiner Dalton asked Mr. Santora if he had any response to applicant's testimony regarding conditions 5 and 6.

Associate Planner Santora responded Staff had no objection as long as the City retains the option of requiring the relocation and the applicant bearing the cost of the relocation.

Assistant City Attorney Naclerio suggested conditions 5 and 6 wording to be "Within 180 days of approval of this vacation request and if required by the City the owner shall remove. . ."

Hearing Examiner Dalton asked Mr. Naclerio if he wanted to keep the 180-day restriction.

Assistant City Attorney Naclerio responded in the affirmative.

Hearing Examiner Dalton asked Mr. Santora if he agreed with the rewording.

Associate Planner Santora answered in the affirmative.

Hearing Examiner Dalton asked Mr. Santora if he had any further testimony.

Associate Planner Santora requested Staff's Report and Exhibits A-G be incorporated into his presentation.

Public Hearing opened.

No speakers.

Public Hearing closed.

Hearing Examiner Dalton asked Mr. Feichthaler for his comments.

Mr. Feichthaler agreed with Assistant City Attorney's comments and stated the applicant would comply.

Hearing Examiner Dalton asked Mr. Feichthaler if he agreed with the language as recited and modified today.

Mr. Feichthaler responded in the affirmative.

Hearing Examiner Dalton asked Mr. Feichthaler if he had any further testimony.

Mr. Feichthaler responded in the negative.

Hearing Examiner Dalton asked Mr. Santora if he had any further testimony.

Associate Planner Santora responded in the negative.

Hearing Examiner Dalton stated she would recommend the vacation go forth with the condition as modified as proposed by the Assistant City Attorney as agreed to by Staff and as accepted by the applicant's representative and will attempt to get the recommendation out as quickly as possible.

Hearing closed.

Case#: RZN23-000008*; Address: 2304 SW 8th Pl.; Applicant: Hungry Catfish Farms, LLC

Recording Secretary Rhine read the case into the record and administered the oath.

Principal Planner Boyko confirmed the notice requirements had been met.

Hearing Examiner Dalton found that proper notice had been met.

Linda Miller, Vice President of Avalon Engineering, applicant's representative, requested to be recognized as an expert.

Hearing Examiner Dalton recognized Ms. Miller as an expert based upon her credentials and similar testimony in prior hearings.

Ms. Miller presented the following information:

- RZN23-000008
- Future Land Use
- Zoning
- Review Criteria (5 slides)
- Accepted Staff Report and Staff Recommendation

Hearing Examiner Dalton asked Ms. Miller if this was spot zoning.

Ms. Miller responded in the negative.

Principal Planner Boyko requested to be recognized as an expert.

Hearing Examiner Dalton recognized Mr. Boyko as an expert based on his credentials and similar testimony in prior hearings.

Principal Planner Boyko presented the following displayed slides:

- RZN23-000008
- Applicant, Location, Size, Urban Services, Request
- Current Zoning Map / Proposed Zoning Map
- Findings of Fact
- Analysis – Land Development Code (3 slides)
- Analysis – Comprehensive Plan
- Recommendation: Approval
- Correspondence: One phone call inquiry

Public Hearing opened.

No speakers.

Public Hearing closed.

Hearing Examiner Dalton asked Ms. Miller if she had any further testimony.

Ms. Miller responded in the negative and requested Staff's Report and presentation be incorporated into her presentation.

Hearing Examiner Dalton asked Mr. Boyko if he had any further testimony.

Principal Planner Boyko responded in the negative.

Hearing Examiner Dalton stated she would recommend the rezoning go forth as requested and will attempt to get the recommendation out as quickly as possible.

Hearing closed.

DATE AND TIME OF NEXT HEARING

Hearing Examiner Dalton stated the first Hearing in 2024 was scheduled for Tuesday January 16, 2024 commencing at 9:00 a.m. in Council Chambers and requested the City Clerk to post the Calendar for 2024 on the City website.

The next Hearing Examiner Hearings have been scheduled for Tuesday, December 5, 2023, at 9:00 a.m. in Council Chambers.

ADJOURNMENT

There being no further business, the hearing adjourned at 10:17 a.m.

Submitted by,



Sheri Rhine
Recording Secretary