

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

TUESDAY, MAY 2, 2017

COUNCIL CHAMBERS

9:00 A.M.

Madam Hearing Examiner Dalton called the hearings to order at 9:03 a.m.

ALSO PRESENT: Planner Justin Heller
Chad Boyko, Principal Planner
Robert Pederson, Planning Manager
Mike Struve, Planning Team Coordinator
Brian Bartos, Assistant City Attorney
John Naclerio, Assistant City Attorney

Hearing Examiner Dalton described the hearing process and order of procedure.

HEARINGS

Case #DE16-0056 *; Address: 2852 SW 51st Street; Applicant: Samir Salman

Senior Recording Secretary Delgado read the case into the record and began administering the oath.

Hearing Examiner Dalton stated that the applicant was not currently present. The case was deferred until the applicant arrived.

Case #PDP16-0004*; Address: 3333 Old Burnt Store Road North; Applicant: Kevin and Gayle McGrath

Senior Recording Secretary Delgado read the case into the record and administered the oath.

Principal Planner Boyko confirmed the case was properly noticed by posting a sign on the site, sending letters to property owners within 500 feet of the subject site, and placing an ad in the newspaper. Principal Planner requested to be recognized as an expert in land use planning. Hearing Examiner Dalton recognized Principal Planner Boyko as an expert.

Veronica Martin, Principal Planner with TDM Consulting, Inc., appeared on behalf of the applicant. Ms. Martin and requested to be recognized as an expert. Hearing Examiner

Dalton requested a copy of Ms. Martin's credentials, which Ms. Martin agreed to provide. Ms. Martin presented a power point presentation titled Shamrock Pines PDP16-0004*, with the following slides:

- Background
- PDP Requirement
- Shamrock Pines Area Location Map (aerial)
- Comprehensive Plan Policy 1.15.f: Mixed-Use Future Land Use Designation
- Land Use & Development Regulations 4.1.2
- General Standards & Requirements for PDPs

Principal Planner Chad Boyko presented a power point presentation titled PDP16-0004, with the following slides:

- PDP16-0004: Applicant; Location; Size; Urban Services Reserve Area; Future Land Use; Zoning
- PDP Requests
- Zoning Map
- Findings of Fact
- LUDR Analysis: Section 4.1
- LUDR Analysis: Section 2.7.11
- Comprehensive Plan Analysis: MX Future Land Use Designation
- PDP General Standards; Concurrency Review
- Recommendation

Principal Planner Boyko stated that staff found that this PDP was consistent with the City's LUDR and the Comprehensive Plan and recommended approval with condition: The applicant will be required to dedicate all conservation tracts and ingress/egress easements shown on Sheet 2 of 2 of the applicant's submitted plans, dated July 19, 2016, bearing a revision date of January 1, 2017 as prepared by TDM Consulting, Inc.

Principal Planner Boyko stated they have received requests for information, no objections had been received.

Discussion held regarding the applicant requirement to dedicate all conservation tracts and ingress/egress easements and Sand Road details as follows:

- Private road
- Access from Old Burnt Store Road
- Ingress/Egress tract does not address Sand Road

Public hearing opened.

No speakers.

Public hearing closed

Hearing Examiner Dalton inquired of the applicant as to the future intent of Sand Road.

Ms. Martin explained that Sand Road is a private road. The warranty deeds for each property along Sand Road dedicate either the northern 25 feet or the southern 25 feet for ingress and egress for the private roadway. The easement, the northern 25 feet of Kevin and Gayle McGrath's property does not actually allow room for Sand Road. All of Sand Road is built on their property. She stated that she has been working with a local attorney, Attorney Higgin, on the dedication language for the subdivision plat because of the legal implications for maintenance of Sand Road.

Hearing Examiner Dalton inquired was the intention of the applicant not to vacate.

Ms. Martin responded in the affirmative.

Discussion held regarding status of the homeowner's association.

Discussion held regarding Administrative Code 64E-6 and subsections.

Hearing Examiner Dalton inquired if the consultant/applicant wanted the staff's report incorporated into the applicant's presentation, and if she agreed with the conditions set forth by staff. Ms. Martin replied in the affirmative and requested the record be left open for 24 hours to turn in additional information. Hearing Examiner Dalton agreed.

Hearing Examiner Dalton recommended that a process for future applicant representatives be recognized as experts; they need to submit credentials in advance to make the process smoother.

Discussion held regarding the process of administering the order or recommendation.

Hearing Examiner Dalton inquired if staff had any further comments. Principal Planner Boyko replied that there were no further comments.

Hearing Examiner Dalton closed the hearing pending receipt of the FAC subsection reference.

Case #ZA17-0001*; Address: 401 SW 7th Place; Applicant: Jose Toledo

Senior Recording Secretary Delgado read the case into the record and administered the oath.

Principal Planner Chad Boyko confirmed the case was properly noticed by sending letters to residents within 500 feet of the property, posting a sign on the site, and placing an ad in the newspaper prior to the hearing. Principal Planner Boyko stated his credentials and requested to be recognized as an expert in land use planning. Hearing Examiner Dalton recognized Principal Planner Boyko as an expert.

Iliana Sagastme appeared on behalf of the applicant, and discussed the request of the applicant to change the zoning. Ms. Sagastme described the surrounding properties.

Discussion held regarding applicant's desire to sell the property and the requested zoning change would increase the value.

Discussion held regarding whether she had viewed Staff's report and whether she wanted Staff's report incorporated into the applicant's presentation. Applicant responded in the affirmative.

Principal Planner Boyko presented a power point presentation titled ZA17-0001, with the following slides:

- ZA17-0001: Applicant; Location; Size; Urban Services
- Future Land Use Map
- Current Zoning Map
- Proposed Zoning Map
- Findings of Fact
- Comp Plan Analysis: Future Land Use Element, Policy 1.15.C
- Comp Plan Analysis: Future Land Use Element, Policy 1.15.C (cont'd.)
- LUDR Analysis: Section 8.7.3.B
- Recommendation

Principal Planner Boyko stated a rezoning will increase the value of the property and explained that commercial properties have more value. Staff received one phone call requesting information, and no objections were received.

Discussion held regarding nearby residential property and conditions in Staff's report regarding buffers.

Public hearing opened.

No speakers.

Public hearing closed.

There were no further comments by the applicant and staff.

Hearing Examiner Dalton stated she would recommend approval.

Case #DE16-0056 *; Address: 2852 SW 51st Street; Applicant: Samir Salman

Senior Recording Secretary Delgado read the case into the record and administered the oath.

Planning Manager Pederson stated applicant had not paid the fee and case would need to be continued.

Hearing Examiner Dalton stated is there anyone here that wishes to apply Public testimony.

Applicant Salman stated that he was unaware that fees need to be paid.

Hearing Examiner Dalton continued Case Number DE16-0056 to the May 16, 2017 hearing.

Hearing Examiner Dalton closed this hearing.

DATE AND TIME OF NEXT HEARING

A hearing of the Hearing Examiner was scheduled for Tuesday, May 16, 2017, at 9:00 a.m. in Council Chambers.

ADJOURNMENT

There being no further business, the hearing adjourned at 9:42 a.m.

Submitted by,



Kimberly Bruns
Assistant City Clerk