

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

**TUESDAY, April 17, 2018**

**COUNCIL CHAMBERS**

**9:00 A.M.**

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

ALSO PRESENT: Mike Struve, Planning Team Coordinator  
Shawn Baker, Planning Technician  
Justin Heller, Planner  
John Naclerio, Assistant City Attorney

**HEARINGS**

**Case # SE17-0010\*; Address: 2125 SW Santa Barbara Place; Applicant: Ali Bigi**

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

Planning Team Coordinator Struve confirmed the notice requirements had been met.

Hearing Examiner Dalton stated she found proper notice was given.

Hearing Examiner Dalton asked Mr. Struve if he had any other request for the Hearing Examiner.

Mr. Struve stated he received an email from one of the authorized representatives requesting a continuance.

Hearing Examiner Dalton stated she will grant the request for Case# SE17-0010. The case was a continuation to May 1, 2018, 9:00 a.m. in Council Chambers.

Case closed.

**Case # SE18-0001\*; Address: 801 Cape Coral Parkway West;  
Applicant: Ram Kumar Kashyap and Jaswant Kashyap, Trustees of  
the Kashyap Revocable Trust**

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

Planning Team Coordinator Struve confirmed the notice requirements had been met.

Hearing Examiner Dalton stated she drove by the site and noticed there was only one sign posted not two, and the sign was pushed over and not facing out. She noted (LUDR) Land Use and Development 8.3.A states no Public Hearing shall be held unless all requirements for Public Notice have been satisfied.

Discussion held regarding the following:

- Signs positioned in the right place, provided pictures.
- Unlawful removal
- Required to post a sign on the site
- Signs are flimsy, and they do not withstand strong winds.

Hearing Examiner Dalton noted there was only one sign required and it was placed firmly in the ground so the wind would not be an issue. She asked if the applicant has anything to say.

Charles Basinait, Attorney with Henderson/Franklin, stated the notice requirements had been met. He was just now getting this information and was not aware of this. He said the notice is to let the public know about the hearing coming up.

Assistant City Attorney Naclerio stated the City did place the sign on the property at least 10 days in advance. He said the requirement to notify the public was met. The unintentional notice should not affect the Public Hearing.

Hearing Examiner Dalton explained what the requirements are for the posting, she said her question is if the sign was posted, would it be of your option? That if the requirement is 10 days and only posted 9 days would that be okay? She questioned if the applicant is required to make sure the sign is posted correctly.

Attorney Basinait stated he disagreed with being responsible for the posting, and stated there is nothing showing that this is a requirement. He suggested the signage is supplementary to the notices that go out to the property owners. He declared there is no claim of improper notice being done. He stated that the Code requirements have been met and wants to go forward with the case.

Hearing Examiner Dalton stated the function is to allow people to see what is being done. She expressed concern about whether someone had proper notice to show up today.

Attorney Basinait requested to continue the case today.

Hearing Examiner Dalton stated her concern was for this to be a challenge down the road for the Client or for the City.

Mr. Struve stated the staff person that posted the sign is present.

Recording Secretary Sorrels administered the oath.

Planning Technician Baker stated she posted the sign on Friday, April 6, 2018 and it was facing forward. One was facing Cape Coral Parkway and the other towards Skyline Parkway.

Hearing Examiner Dalton stated she has decided the matter has to be renoticed.

Mr. Struve stated we do have time to get this on the May 1, 2018 agenda.

Attorney Basinait stated instead of renoticing this case it could be date certain. He expressed his concern with the cost of advertising.

Hearing Examiner Dalton stated notice was not properly found.

Hearing closed.

**Case # DE18-0004; Address: 3908 SE 18th Place; Applicant: William Gottfried**

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

Planner Heller confirmed the notice requirements had been met.

Hearing Examiner Dalton stated she found proper notice was given.

Jane Marley, Aquamarine Construction Inc., representing the applicant stated this is a request for 6.5-foot deviation to Section 3.16.2.B.2 of the Land Use and Development Regulations (LUDR), to allow a marine improvement with a projection of 36.5 feet into the canal from the seawall. The structure will not interfere with the navigability of the canal. She presented an overhead projection of the location (Exhibit A). She reviewed the location and noted the setback from the canal. Owner requested two additional pilings to be added.

Planner Heller presented a power point titled Case # DE18-0004 with the following slides:

- Owner/ Applicant
- Background
- Subject property
- Aerial View
- Site Plan
- Analysis Section 3.16.9.C LUDR
- Analysis the deviation will be in harmony with the general intent and purpose.
- Analysis Conditions do not exist which are the result of applicant.
- Analysis Literal enforcement of the regulations would result in an undue hardship.
- Analysis effect of deviation on navigability of waterway.

- Analysis Effect on extant marine improvements in the waterway.
- Comprehensive Plan Policy 1.3.5
- Recommendation approval with the following conditions noted in Section 3.16.9.B.
- No Correspondence.

Public hearing opened.

No speakers

Public hearing closed.

Hearing Examiner Dalton asked if there were any further questions from staff or the applicant. Mr. Heller stated no and the applicant Ms. Marley nodded no for the record.

Hearing Examiner Dalton stated the request will be granted.

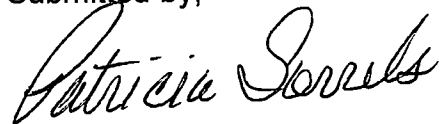
#### **DATE AND TIME OF NEXT HEARING**

A hearing of the Hearing Examiner was scheduled for Tuesday, May 1, 2018, at 9:00 a.m. in Council Chambers.

#### **ADJOURNMENT**

There being no further business, the hearing adjourned at 9:40 a.m.

Submitted by,

A handwritten signature in cursive script that reads "Patricia Sorrels".

Patricia Sorrels  
Recording Secretary