

THE OFFICE OF THE LEE COUNTY  
HEARING EXAMINER

CASE NO.: DCI2024-00023

IN RE: JBRA CPD

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## VOLUME 2

PROCEEDINGS: PUBLIC HEARING

BEFORE: Donna Marie Collins  
Chief Hearing Examiner

DATE: June 13, 2025

TIME: 9:00 a.m. to 9:16 a.m.

LOCATION: Lee County Hearing Examiner's  
Hearing Room, Second Floor  
1500 Monroe Street  
Fort Myers, FL 33901

REPORTER: Deborah M. Bruns  
Florida Professional Reporter

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Yury Bykau, TR Transportation Consultants  
14 Alexis Crespo, Planner  
Rick Arenas, JRBA, LLC  
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## 1 P R O C E E D I N G S

2 HEARING EXAMINER COLLINS: Good morning, my name  
3 is Donna Marie Collins. This is a continuation of  
4 DCI2024-00023, JBRA CPD. The case was continued to  
5 today to allow Staff and the Applicant to consider  
6 changes to the request. I will administer the oath,  
7 and we will get to presentations.

8 Please raise your right hand. Do you swear or  
9 affirm the testimony and evidence you give will be the  
10 truth?

11 (Participants respond en masse.)

12 HEARING EXAMINER COLLINS: Thank you.

13 MS. STRAYHORN: Good morning, Madam Hearing  
14 Examiner. For the record, my name is Megan Strayhorn.  
15 I'm an attorney with Strayhorn and Persons-Mulicka here  
16 on behalf of the Applicant, providing legal counsel.

17 I do have a copy of the 48-hour packet that we  
18 have submitted, and I'll approach you with that. This  
19 includes --

20 (Applicant Exhibit 7 submitted.)

21 MS. STRAYHORN: This includes the revised master  
22 concept plan, revised (unintelligible), revised  
23 deviations. So moving forward here today, we have  
24 removed the two parcels located on South Street, which  
25 were proposed to be the commercial parking lot parcels,

1 and we are only moving forward on the parcel located on  
2 the corner of San Carlos Boulevard and Main Street.

3 We do have our full team present with us today.

4 And before we get into the presentation, I would  
5 like to address some of the public comments that were  
6 addressed at our prior hearing in April, and I will  
7 only respond to those comments which are germane and  
8 relative to the request before you today.

9 This is an existing building. It formerly housed  
10 the Beach Bulletin. There have been some building  
11 permits -- building plans submitted, as well as an LDO  
12 application that has been submitted to rehabilitate the  
13 building and make improvements on that site. Prior to  
14 these plans being submitted, our internal team did not  
15 have an opportunity to review these building permits --  
16 or building plans, I should say; however, fortunately,  
17 Staff was able to rectify the situation and identify  
18 the situation. Now those building plans have been  
19 submitted and are in a pending status as a result of  
20 this current rezoning request.

21 The intention for this commercial planned  
22 development -- although this parcel is already zoned  
23 commercial, and therefore has a myriad of schedule of  
24 uses that would be permitted there -- is to put a  
25 package store. And as a result, we have this public

1 hearing to flesh out and make any conditions necessary  
2 since there are residences within 500 feet.

3 So with us today -- I will turn it over to our  
4 expert. We have Patty Kulak here. I will note for the  
5 record that our experts have already been deemed  
6 experts in their respective fields as part of this  
7 hearing, and we are all under oath. Thank you.

8 MS. KULAK: Good morning, Patty Kulak with RVi.  
9 As you've heard, we have removed the commercial parking  
10 lot from the request of the CPD, and the boundaries of  
11 such will just be the property that is already  
12 existing, which will be the 284,000-square-foot package  
13 store.

14 So doing that property overview, the acreage of  
15 the site has decreased with the removal of the parking  
16 lot, bringing the site acreage down to .06. We will be  
17 reusing the former building that still stands on-site.  
18 The property is still within the Urban Community Future  
19 Land Use, and C-1 zoning is the current zoning that we  
20 are requesting to change to the CPD.

21 The zoning request, as you'll see, now only  
22 includes the property shown on the screen. We're still  
23 not expanding the building footprint nor the height.  
24 We are maintaining the two access points onto Main  
25 Street; and with the reduction in request, it did also

1 reduce the number of deviations. So from the previous  
2 presentation, Deviation Number 4 was removed and --  
3 along with numbers 8, 9, and 10, which were all  
4 specific to the parking lot parcels only.

5 We went through the Lee Plan consistency at our  
6 last hearing, but it is worth highlighting now that  
7 we've removed the commercial parking lot. We're still  
8 supporting infill development in the Urban Community.  
9 There are adequate infrastructure and access to the  
10 site that has been maintained for the entirety of its  
11 construction. We are compatible with the surrounding  
12 land uses and the transitional design between the  
13 commercial and the neighboring residential, and we are  
14 still maintaining green spaces and addressing the  
15 buffering.

16 One change from the last request is we did add a  
17 new condition of approval that Staff is in agreement  
18 with, which is a double hedgerow buffer in between the  
19 commercial lot and the commercial lot to the north,  
20 just to create some buffering between the two  
21 businesses. It will include a double hedgerow along  
22 with some landscaping.

23 HEARING EXAMINER COLLINS: Okay. Can we go back?

24 MS. KULAK: Absolutely.

25 HEARING EXAMINER COLLINS: I just have a question.

1 Did you renumber the deviations on the master concept  
2 plan from the original application?

3 MS. KULAK: Yes.

4 HEARING EXAMINER COLLINS: So they go from 1 to  
5 whatever, and they apply only to this plan?

6 MS. KULAK: Correct.

7 HEARING EXAMINER COLLINS: Okay.

8 MS. KULAK: And we also -- in your 48-hour package  
9 every document has been changed. So the application  
10 has been updated --

11 HEARING EXAMINER COLLINS: So focus on those  
12 submittals in connection with my recommendation.

13 MS. KULAK: Absolutely. That 48-hour package has  
14 an updated application and narrative that explains the  
15 transition from the first request to current day, and  
16 it does address any of the changes throughout any of  
17 the criteria that were necessary.

18 HEARING EXAMINER COLLINS: So even though I was  
19 listening very carefully when you did your original  
20 presentation on the deviation, if you could just touch  
21 on them quickly, as we --

22 MS. KULAK: I left them all in for this exact  
23 purpose.

24 HEARING EXAMINER COLLINS: Okay.

25 MS. KULAK: So the first deviation is Deviation

1 Number 1. That is the separation needed from  
2 residentially-zoned property, but also a 100-foot  
3 separation needed from other businesses that have a  
4 liquor license. That would be the business directly to  
5 the north that does share a property line with us. And  
6 the justification for that was the -- the neighborhood  
7 is already impacted by other businesses having liquor  
8 licenses within that 500-foot radius. We would not be  
9 increasing that other than our site would be  
10 complements to those; so complements, not expansion.  
11 Staff does have a recommendation of approval with this  
12 condition, with that new enhanced Type A buffer that  
13 was added with this request.

14 Deviation Number 2 is the reduction in driveway --  
15 separation required between driveway locations. That  
16 only pertains to Main Street. All three of these are  
17 existing. We are maintaining the -- the ingress and  
18 egress points of the site for access. So these are --  
19 they're on-site today. If you want to view the  
20 property, you use one of these. Staff does recommend  
21 approval of this.

22 HEARING EXAMINER COLLINS: So there's three  
23 driveways?

24 MS. KULAK: No, there's three separations that  
25 are --

1 HEARING EXAMINER COLLINS: Oh, yes. Okay, I  
2 understand.

3 MS. KULAK: The third deviation is the elimination  
4 of the required perimeter plantings on the building.  
5 We are utilizing the existing building, and the current  
6 building does not have access to have plantings along  
7 the frontages along Main Street or San Carlos Boulevard  
8 because of where the parking lot is. So we're going to  
9 maintain that buffer due to the existing constraints of  
10 the site.

11 The drive aisle width, which is required to be 12  
12 foot, we are asking for a reduction down to 8.5, and  
13 this is for the maneuvering of vehicles due to the  
14 angle of parking. So a patron will come in, park; and  
15 when they reverse out, the Code requires a 12-foot  
16 width. The site only has 8 and a half currently.  
17 We're asking to maintain that 8 and a half.

18 Deviation Number 5 is to allow the garbage trucks  
19 to back on -- back out of the refuse site, which is our  
20 dumpster location. The existing dumpster location is  
21 currently up towards the north property boundary. We  
22 were requested by the Solid Waste Department to have it  
23 be moved down to the street. That way there is easier  
24 access onto Main Street for the reversal needed. And  
25 this is a recommendation of approval with the condition

1 that it only applies to the Solid Waste --

2 HEARING EXAMINER COLLINS: So this allows the  
3 trucks to back out?

4 MS. KULAK: Yeah.

5 HEARING EXAMINER COLLINS: Wouldn't they be  
6 backing in though, I mean, to empty the dumpsters?

7 MR. MENDEZ: (Indicating.)

8 MS. KULAK: No, because the -- the trucks have the  
9 dumpster lift --

10 HEARING EXAMINER COLLINS: Okay, got it.

11 MS. KULAK: -- in the front, pulling in, lifting,  
12 and then maneuvering --

13 HEARING EXAMINER COLLINS: Yeah.

14 MS. KULAK: -- backwards.

15 HEARING EXAMINER COLLINS: It comes back to me.

16 MS. KULAK: Deviation Number 6 is the elimination  
17 of a 15-foot Type D buffer along the east and south  
18 property boundaries. Again, these are existing on-site  
19 today, which is asking to keep them current, as we  
20 cannot change the site design, to have them not be a  
21 buffer or a deviation. Staff does recommend approval,  
22 and it just has the condition that the pavement may not  
23 encroach into the green space. We're in agreement with  
24 that.

25 Deviation Number 7 is the required 100-foot

1 separation on San Carlos Boulevard. We have it reduced  
2 down due to the existing points of egress on the site.  
3 That was -- I can't locate this. And these were my  
4 backup slides.

5 So I'll go back to the decision-making criteria.  
6 We did review this in the first hearing, but it is  
7 worth mentioning for the continuation hearing.

8 We do find that the use is appropriate for the  
9 location given the commercial corridor that we're in.  
10 We do have a few conditions of approval that Staff has  
11 worked with us -- we're all in agreement, all of the  
12 deviations. Staff is in agreement that these should be  
13 approved based on the site constraints that are there,  
14 and the added buffering on that north -- north property  
15 line does create a little bit of the separation that  
16 was brought up at the last hearing as a request -- not  
17 a requirement, but a request that we did comply with to  
18 create that nice separation for the two businesses.

19 And then going through the Lee Plan consistency,  
20 this does support the infill. It's a local business,  
21 we're reusing a building that's already on-site, and  
22 we've reduced the scope to be as least intrusive to the  
23 neighborhood as needed in order for the business to be  
24 successful.

25 So I will leave that as -- as our conclusion, that

1 Staff does recommend approval. We've worked with  
2 Staff; we've listened to the public; we've made the  
3 recommendations that not only we've heard from Staff,  
4 but also the concerns that were brought up previously,  
5 by narrowing that scope and really focusing just on our  
6 package store site.

7 And going through this, this morning, we did  
8 review that this is consistent with the Land  
9 Development Code, it is compatible with the surrounding  
10 land use, and we just request your approval for the  
11 commercial planned development. Thank you.

12 HEARING EXAMINER COLLINS: Thank you.

13 Is that it for Applicant's presentation?

14 MS. STRAYHORN: Yes, that's -- that is it.

15 HEARING EXAMINER COLLINS: Okay, thank you.

16 Adam?

17 MR. MENDEZ: Yes. Good morning, Madam Hearing  
18 Examiner, Madam Court Reporter. For the record, Adam  
19 Mendez.

20 Not a whole lot for me to cover. It was a great  
21 summary of the project and also the changes that are  
22 here before you. I would like to just submit to you a  
23 couple of handwritten captures of things to button up  
24 on the Staff clean copy of conditions.

25 Just two little minor remarks that I caught with a

1 fresh set of eyes. So here it is on page -- I believe  
2 it's 2 of 3, and I have a copy for the Applicant, as  
3 well.

4 (Staff Exhibit 5 submitted.)

5 HEARING EXAMINER COLLINS: Okay. Have you  
6 discussed this with Applicant?

7 MR. MENDEZ: Yeah, I let them know this morning.  
8 So this is just -- these are the two minor things right  
9 here.

10 So on -- I gave you my copy.

11 (Discussion at lectern)

12 MR. MENDEZ: Deviation 5, I used the word  
13 "existing." It should be exiting with respect to the  
14 vehicles backing out.

15 And the deviation prior to that, Deviation 4 --

16 (Document handed to Mr. Mendez.)

17 MR. MENDEZ: -- thank you -- is relative to that  
18 8-and-a-half-foot parking aisle, and that should be  
19 approval subject to consistency with the exhibit that's  
20 in the Staff report as Attachment I, which will limit  
21 the scope of that deviation to exactly where it's  
22 needed, and it demonstrates its appropriateness. So  
23 Attachment I in the Staff report.

24 I can actually show you what that looks like.  
25 It's right here in their deviation summary. This is

1 Attachment I, the Staff report, should be related to  
2 Deviation 5 as a condition of approval.

3 Those are the only two differences --

4 HEARING EXAMINER COLLINS: Wait. That's  
5 relating -- wait. You mean Deviation 4?

6 MR. MENDEZ: Sorry, Deviation 4, good catch, yeah.

7 So those are -- those are my comments with respect  
8 to this. It's now been reduced to 0.26 acres for a  
9 240,000-square-foot package store and some other retail  
10 and business services uses.

11 So Staff's recommendation is approval, and I'm  
12 happy to answer any questions you may have.

13 HEARING EXAMINER COLLINS: Okay, thank you very  
14 much. I appreciate the detail in the 48-hour letter,  
15 and I will probably not do another site visit to this  
16 site. I've already been there once. I have an idea of  
17 the lay of the land. Now that we're limited to  
18 essentially redeveloping an existing site, it's a much  
19 more straightforward request.

20 I don't anticipate it will take long for me to  
21 complete my recommendation, and you can probably count  
22 on a final hearing before the Board at the first zoning  
23 hearing in August.

24 MR. MENDEZ: Okay.

25 HEARING EXAMINER COLLINS: Thank you.

1 MR. MENDEZ: Thank you.

2 HEARING EXAMINER COLLINS: Is there any -- I  
3 didn't even ask. Are there any members of the public  
4 here today?

5 MR. ZOMBECK: Yes, I am.

6 HEARING EXAMINER COLLINS: Okay. Would you like  
7 to speak, sir?

8 MR. ZOMBECK: Could I?

9 HEARING EXAMINER COLLINS: Yes. State your name  
10 for the record.

11 MR. ZOMBECK: Sure, John Zombeck. I live right  
12 behind the --

13 HEARING EXAMINER COLLINS: Yes, I remember you  
14 from the first hearing.

15 MR. ZOMBECK: Everything's great. They cleaned up  
16 that lot and everything, but they blew out the fence so  
17 now commercial vehicles are driving from their  
18 construction zone through the park -- through that lot  
19 onto South Street. So the -- may I?

20 HEARING EXAMINER COLLINS: Yes.

21 MR. ZOMBECK: So they cleaned this all up. They  
22 took -- they knocked down all this fencing. So now  
23 these vehicles are driving -- whether it be any kind of  
24 truck, electricians, whatever, they're all using it as  
25 an access. Can that be referenced?

1 HEARING EXAMINER COLLINS: Well, not as part of  
2 this application. You can contact Code Enforcement --  
3 well, speak to the Applicant while you have them here  
4 certainly --

5 MR. ZOMBECK: I mean, it's not --

6 HEARING EXAMINER COLLINS: -- after the hearing --

7 MR. ZOMBECK: -- you know, it's just a minor  
8 thing, trying to slow things down.

9 HEARING EXAMINER COLLINS: Otherwise, you know, if  
10 you want to inquire with Code Enforcement whether that  
11 constitutes a violation of County codes -- I don't know  
12 if it does or not --

13 MR. ZOMBECK: Okay.

14 HEARING EXAMINER COLLINS: -- but hopefully you  
15 can have a conversation with them --

16 MR. ZOMBECK: Sure.

17 HEARING EXAMINER COLLINS: -- after the hearing --

18 MR. ZOMBECK: Yeah.

19 HEARING EXAMINER COLLINS: -- today, express your  
20 concerns --

21 MR. ZOMBECK: Absolutely. That's the only thing.

22 HEARING EXAMINER COLLINS: Okay.

23 MR. ZOMBECK: I appreciate it.

24 HEARING EXAMINER COLLINS: Thank you very much.

25 Is there anything further you'd like to add for

1 the record?

2 MS. STRAYHORN: Nothing from Applicant.

3 MR. MENDEZ: (Shakes head.)

4 HEARING EXAMINER COLLINS: Okay. Thank you very  
5 much. I felt well prepared for this hearing initially,  
6 and I will get up to speed quickly on these changes.  
7 And like I said, I don't anticipate it will take long  
8 for me to release a recommendation.

9 Thank you.

10 MR. MENDEZ: Thank you.

11 MS. KULAK: Thank you.

12 (Proceedings concluded at 9:16 a.m.)

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## CERTIFICATE OF REPORTER

STATE OF FLORIDA )

COUNTY OF LEE )

I, Deborah M. Bruns, Florida Professional Reporter, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the transcript, pages 83 through 100, is a true and correct record of my stenographic notes.

Dated this 16th day of June, 2025.



Deborah M. Bruns, FPR

(This transcript was electronically signed.)

|                                     |                                              |                                                        |                                                                                           |                                                   |
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