

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: SEZ2025-00001

IN RE: EAST FORK CREEK FARM

VOLUME 1

PROCEEDINGS: PUBLIC HEARING

BEFORE: Amanda Rivera
Hearing Examiner

DATE: August 21, 2025

TIME: 9:10 a.m. to 9:40 a.m.

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

REPORTER: Deborah M. Bruns
Florida Professional Reporter

FORT MYERS COURT REPORTING
2271 McGregor Boulevard, Suite 220
Fort Myers, Florida 33901
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1 APPEARANCES:

2 For the Applicant: Michael Ross Whitt, Esquire
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6 RVi Planning
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8 For the Staff: Khalil Muhammad, Planner
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Zoning Division
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12 ALSO PRESENT:

13 Alexis Crespo, RVi Planning
14 David and Alise Bartley, Applicants
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E X H I B I T S

Applicant Exhibit	Description	Identified/ Submitted
1	48-hour letter (previously submitted)	9/--
2	Binder with presentation, 48-hour letter w/ exhibits, and conceptual plan	9/9
Staff Exhibits		
1	Staff Report	9/9
2	Affidavit of Publication	9/9

(Other exhibits may have been marked but not delineated on
the record.)

1 P R O C E E D I N G S

2 HEARING EXAMINER RIVERA: Good morning, my name is
3 Amanda Rivera. I'm the Hearing Examiner presiding over
4 today's case.

5 (Feedback from speaker occurring)

6 (Off-the-record discussion)

7 HEARING EXAMINER RIVERA: Okay. Today's date is
8 August 21st, 2025, and this is case SEZ2025-00001.
9 It's a special exception request for consumption on
10 premises for an agri-tourism operation off of Hendry
11 Creek Drive.

12 Because this is a quasi-judicial hearing, all
13 evidence and testimony must be taken under oath; so if
14 you intend to speak, if you could please raise your
15 hand. Do you swear or affirm the testimony you will
16 provide is the truth?

17 (Participants respond affirmatively.)

18 HEARING EXAMINER RIVERA: Okay, thank you.

19 So first we're going to hear from the Applicant.
20 They are going to present their request in the case and
21 call any witnesses that they may have in support of
22 that request.

23 Following their presentation, we're going to hear
24 from the County Staff. They're going to go over their
25 review and recommendation in the case. In this case

1 they are recommending approval with some conditions.

2 After that I will open up the public comment
3 period. Excuse me. I will call forward any cards that
4 I have here in the order that I have them. There is
5 only one opportunity to speak; so I would encourage you
6 to take notes as we go through things and make the most
7 of your time when you're at the podium.

8 After we conclude public comment, we'll come back
9 to the parties, and we'll hear any closing comments and
10 rebuttal testimony that the Applicant and the Staff may
11 have.

12 So with that we can begin when the Applicant is
13 ready.

14 MR. WHITT: We're ready.

15 HEARING EXAMINER RIVERA: Okay. Good morning.

16 MR. WHITT: Hi, good morning. My name is Michael
17 Whitt. I'm an attorney with the firm of Hahn Loeser
18 Parks here in Fort Myers. I have the privilege of
19 representing the Applicant, JJDaze Holdings, LLC. The
20 principals, Mr. and Mrs. Bartley, who are present
21 today, you'll hear from one or both of them. They'll
22 present testimony with respect to the application.

23 The -- the Applicant is an entity that owns the
24 property, if you want to call it the operator; and
25 what's actually going on, on site, is the East Fork

1 Creek Farms operation. The East Fork Creek -- I always
2 have to go slowly because I tend to butcher that -- is
3 the east fork of Hendry Creek that runs through the
4 property. It's a very idyllic, beautiful site. You'll
5 hear some of the history, that that property has been
6 operated as a farm for decades.

7 So the application, as you say, is for a special
8 exception for consumption on premises. David and Alise
9 Bartley -- let's just go back one -- will testify, and
10 we also have Patrick Murray and Ms. Alexis Crespo from
11 RVi Planning. They've kind of driven everything, as
12 the planners on this application, and you'll be hearing
13 from them in just -- in just a moment.

14 I just want to quickly address the nature of the
15 request, and there's a little, if you want to call it,
16 tweak in the request, and we'll address that more in
17 the presentation and testimony.

18 This property is AG. We're looking for a special
19 exception in the AG-2 district for a consumption on
20 premises of alcoholic beverages. There was back and
21 forth in the application process with the license,
22 what's defined as a 13CT, which is under a catering
23 license. The Bartleys have been active in
24 investigating and trying to get what's called a 4COP, a
25 general consumption on premises liquor license. So we

1 would ask ultimately that the language of approval be
2 for a 13CT -- and that says "and," really it should be
3 4 -- you're not going to hold two permits like that,
4 you know, if we got a 4COP license. So a 13CT or a
5 4COP license, if that is ever able to be obtained, and
6 they would get approval from the State of Florida. As
7 you know, there's a pretty exhaustive background
8 investigation and all of that to be able to get that
9 approved.

10 HEARING EXAMINER RIVERA: Does that change -- not
11 to interrupt you, but does that --

12 MR. WHITT: Yes.

13 HEARING EXAMINER RIVERA: -- change the use
14 classification? Because typically you see a 4COP with
15 a restaurant, and everything in the Staff Report
16 evaluated it as a caterer's license. It was going to
17 be special events, and parking was used for a meeting
18 hall rather than a restaurant. So will that be
19 discussed in your presentation?

20 MR. WHITT: I don't believe it's limited to a
21 restaurant. That may be -- because it can be a number
22 of different things. I don't believe that it is going
23 to change the use at all on the site, and I'll allow
24 RVi to address that a little more in depth; and
25 probably Mr. and Mrs. Bartley, as far as their plans

1 for use of the event center there on that site, where
2 everything is going to be located, you know, in a
3 pretty confined spot there on the property.

4 HEARING EXAMINER RIVERA: And just one more thing.
5 Do you -- I should have asked that, sorry. Do you have
6 the Affidavit of Publication?

7 MR. MUHAMMAD: Yes.

8 HEARING EXAMINER RIVERA: Was it advertised
9 specifically tied to a 13CT, or did it --

10 (Staff Exhibit 2 submitted.)

11 MR. MUHAMMAD: I think that we did specify 13CT.

12 HEARING EXAMINER RIVERA: And the reason that I'm
13 asking that question, of course -- I mean, I'll hear
14 the testimony that we have today, but I can't consider
15 anything more expansive than what was included here.
16 So this actually has a 2COP so I might need to hear
17 testimony on what that is. I'm not sure of the
18 distinction between a 2COP and a 4COP and 13CT. We'll
19 just do all of the letters that are included. So
20 this -- what was advertised for today was a 2COP; so,
21 unfortunately, the LDC in 34-145(c) does restrict me.
22 I can't approve anything --

23 MR. WHITT: I understand.

24 HEARING EXAMINER RIVERA: -- that's more
25 expansive. So I'll just need to ensure that we don't

1 need to readvertise and go through that exercise.

2 MR. WHITT: And we'll look under the LDC as far as
3 the 2COP and how that -- and how that's addressed.

4 HEARING EXAMINER RIVERA: Thank you.

5 MR. WHITT: Okay. With that, I'm going to turn
6 the podium over to Patrick.

7 HEARING EXAMINER RIVERA: Thank you. And I
8 will -- just for labeling purposes, this affidavit will
9 be Staff Exhibit 2 because Staff Exhibit 1 is the Staff
10 Report. Thank you.

11 Good morning.

12 MR. MURRAY: Good morning. For the record, my
13 name is Patrick Murray. I don't think I've had the
14 pleasure of presenting to you in the past, but I have
15 been previously qualified as an expert witness by the
16 Lee County Hearing Examiner, and my application --
17 résumé is on file.

18 HEARING EXAMINER RIVERA: Okay, thank you.

19 MR. MURRAY: For you, I do have a copy of the
20 48-hour letter and the exhibits that were noted in it,
21 the presentation itself, and then the conceptual plan
22 dated April 14th, 2025.

23 HEARING EXAMINER RIVERA: Okay, thank you. So I
24 will accept as that Applicant Exhibit 2.

25 (Applicant Exhibit 2 submitted.)

1 HEARING EXAMINER RIVERA: Thank you very much.
2 Applicant Exhibit 1 was the 48-hour letter that I
3 received. That was pre-labeled. So the binder that
4 you're presenting would be Applicant Exhibit 2, thank
5 you.

6 MR. MURRAY: So in general, the project location
7 is south of Hendry Creek Drive. This is a -- just
8 under a ten-acre property, which is west of South
9 Tamiami Trail, and the subject property does have an
10 agricultural exemption through the Lee County Property
11 Appraiser. It includes current uses, such as
12 hydroponic, aquaponic, other agricultural practices
13 that include chickens, goats, bees, and other
14 production.

15 A side by side of the future land use and the
16 zoning maps, you notice that the future land use
17 property is suburban, and the zoning is agriculture,
18 with commercial and residential surrounding it.

19 This is a -- if you orientate yourself, north is
20 facing to the east here; but to get the entire site
21 plan on one page, the ten acres -- so it's essentially
22 divided up into two portions, where the agricultural
23 portion of the site is the eight acres to the south
24 where you can see all those greenhouses and aquaponic
25 things and farming production, infrastructure; and then

1 the northern portion of the site is where the requested
2 COP areas would occur, the parking and additional
3 infrastructure, such as stormwater ponds and ingress
4 and egress to the site.

5 I'll note that the surrounding properties to the
6 west are single-family residential; and then to the
7 east is a vacant agricultural property with no
8 structures or applications in process at the moment.

9 This is a more zoomed-in portion of the site plan
10 that specifically outlines the COP area. The site does
11 have two ingress and egress points that will include
12 existing gates and will remain open during events.

13 The northern boundary includes a six-foot opaque
14 wall that has since been constructed, along with the
15 western boundary, also including a six-foot opaque wall
16 and a Type A five-foot-wide buffer along Roberts Lane.

17 The COP would be restricted to the two areas
18 hatched. Specifically, in the center is the
19 educational/event center, which is approximately 5,000
20 square feet. Roughly about 3,000 of those square feet
21 would be COP area.

22 The portion to the west hatched is the open-air
23 pole barn, which is also approximately 5,000 square
24 feet, where about 4,500 square feet of that would be
25 the consumption on premises designated area of the

1 site.

2 HEARING EXAMINER RIVERA: Can you go back for --
3 the opaque wall. So it says the -- no, the slide you
4 were on, I apologize, in your comments.

5 MR. MURRAY: (Complies.)

6 HEARING EXAMINER RIVERA: So the end of the wall,
7 it basically extends the entire frontage along Hendry
8 Creek Drive, and then it -- how far down does it extend
9 on the west and the east side? Does it cover the
10 enclosed area and the COP area for the new building and
11 the pole barn?

12 MR. MURRAY: Yes, so it does -- it goes from
13 Hendry Creek Drive down Roberts Lane to East Fork
14 Creek.

15 HEARING EXAMINER RIVERA: Okay, so it does extend
16 on both sides, east and west, or just the west, and
17 then the east isn't required because it's AG property?

18 MR. MURRAY: That's correct. So it does not
19 require -- and I -- and we'll address this in the
20 revised conditions that we were just provided this
21 morning. We're updating to reflect that the eastern
22 boundary does not require a Type A buffer or a six-foot
23 wall. And I'll note that those six-foot walls have
24 been constructed and are completed at this time.

25 HEARING EXAMINER RIVERA: Okay. So the other

1 hatching that's throughout, is that fencing for the
2 remainder of the perimeter on the west side?

3 MR. MURRAY: On the western side, that -- the
4 dotted line is the -- is the wall location, and then
5 the hatching is the property boundary.

6 HEARING EXAMINER RIVERA: Okay, that's just the
7 boundary. Okay, thank you.

8 MR. MURRAY: In April, earlier this year, we did
9 have a community meeting with surrounding property
10 owners. Following that community meeting, we were able
11 to receive feedback and tailor our conditions -- our
12 proposed conditions to what was heard and the concerns,
13 but primarily that the consumption on premises would be
14 strictly prohibited -- strictly limited to the pole
15 barn and event center. The buffers would be the
16 six-foot wall. We initially submitted a six-foot
17 opaque fence, and then Mr. and Mrs. Bartley have since
18 constructed a wall, and then included a five-foot
19 buffer along the western boundary abutting the
20 single-family residential.

21 Specific hours and days of the week of operations
22 were also determined, so Monday through Saturday noon
23 to 10 p.m., and then Sunday noon to 9 p.m.

24 A lot of the discussion at this community meeting
25 revolved around music, so it was decided to prohibit

1 music in the open-air pole barn. You would not be
2 allowed to have any amplified music within that
3 open-air pole barn. And then within the enclosed event
4 center, the windows must be closed, the doors must be
5 closed, and the amplified music must be directed toward
6 the north and east of the property.

7 These are recent photos. I believe Monday. This
8 shows the wall that's currently being constructed. So
9 that top left there is looking west on Hendry Creek at
10 the entrance of the site; the bottom looking east at
11 the intersection of Roberts Lane and Hendry Creek; and
12 then the larger photo in the center there is internal
13 to the site, which shows the vacant property to the
14 east with additional plantings. Those are banana
15 trees, which will essentially grow to a larger extent.

16 This is the event center in its entirety. It has
17 been constructed and has been approved. I'm going to
18 turn it over to Mr. and Mrs. Bartley to kind of express
19 their plan with the event center and how the COP would
20 further -- further provide information to agricultural
21 properties and what their vision is.

22 HEARING EXAMINER RIVERA: Thank you.

23 Yes?

24 MR. WHITT: Before we get to the Bartleys, I'd
25 like to ask if we could take maybe a five-minute break.

1 I need to review the affidavit, which we have not seen,
2 and then have a conversation with the Applicant,
3 because that may be an issue.

4 HEARING EXAMINER RIVERA: Certainly. And if you
5 need more than five minutes, that's fine, as well. If
6 not, I'll provide you a copy of this now, and we'll
7 reconvene at 9:35, let's say. But if you need more
8 time, just let us know.

9 MR. WHITT: Okay.

10 HEARING EXAMINER RIVERA: Thank you.

11 MR. WHITT: Thank you so much.

12 HEARING EXAMINER RIVERA: Absolutely.

13 (Recess from 9:27 a.m. to 9:39 a.m.)

14 HEARING EXAMINER RIVERA: Okay. We are back on
15 the record.

16 Did the Applicant have a course of action you'd
17 like to pursue?

18 MR. WHITT: Yes, thank you, Madam Hearing
19 Examiner. We are going to seek a continuance --

20 HEARING EXAMINER RIVERA: Okay.

21 MR. WHITT: -- of the case from today. I believe
22 we're looking at a proposed date of October 10th, 2025.

23 HEARING EXAMINER RIVERA: Okay.

24 MR. WHITT: So -- yeah, because of the error in
25 the affidavit that was published, we just think that

1 the risk is too great to move forward, and it's going
2 to put you in a very awkward position of what you can
3 approve. So we'll go back, we'll work with Staff.
4 We'll make sure everything is right this time when we
5 come back.

6 HEARING EXAMINER RIVERA: Thank you. And then
7 that would also include an opportunity to supplement
8 the record to include the 4COP and whatever --

9 MR. WHITT: Exactly.

10 HEARING EXAMINER RIVERA: -- implications that
11 that might have for parking and use classifications and
12 things like that.

13 MR. WHITT: Yes, ma'am.

14 HEARING EXAMINER RIVERA: Okay. So we will
15 continue then to Friday, October 10th, at 1 p.m.

16 Thank you to the folks that came today. We will
17 see you, hopefully, back again at that time. I hope
18 everyone stays well and stays safe until that time,
19 thank you.

20 (The deposition concluded at 9:40 a.m.)

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25

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 1
through 16, is a true and correct record of my
stenographic notes.

Dated this 21st day of October, 2025.


Deborah M. Bruns, FPR

(This transcript was electronically signed.)

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