

**M E M O R A N D U M
FROM
THE OFFICE OF THE
LEE COUNTY HEARING EXAMINER**

DATE: February 26, 2026

**TO: Board of County Commissioners FROM: Amanda L. Rivera
Lee County Deputy Hearing Examiner**

**RE: PORT PHOENIX WATER WAY MARINA
Hearing Examiner Recommendation**

Deputy Hearing Examiner Amanda L. Rivera has rendered a Recommendation on the following zoning request:

PORT PHOENIX WATER WAY MARINA

DCI2023-00054

HEARD: January 8, 2026

The Zoning Section of the Department of Community Development will schedule a final hearing before the Board in the coming weeks.

cc: Michael Jacob, Esq. / County Attorney's Office
Joseph Adams, Esq. / County Attorney's Office
Anthony Rodriguez, AICP / Zoning Section
Nicholas DeFilippo / Zoning Section
Warren Baucom / Economic Development
Phil Gillogly / Natural Resources
Brienne Cherry / Community Development
Applicant(s) & Representative(s)
Other Interested Parties

Summary of Hearing Examiner Recommendation

PORT PHOENIX WATER WAY MARINA

The request revitalizes dormant property with development of a commercial marina. The site historically housed marina uses and a wastewater treatment facility. The proposal replaces approved industrial uses in favor of marine-oriented uses more aligned with the property's designation within the Water-Dependent Overlay.

Site design and conditions of approval minimize off-site impacts to surrounding residents. Hearing participants offered no objection to the request.

As conditioned, the Hearing Examiner agrees with the Staff recommendation of approval.

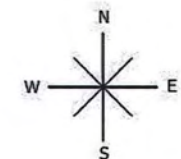
Detailed recommendation follows



DCI2023-00054

Future Land Use

-  Subject Property
-  Suburban
-  Public Facilities
-  City Limits



0 500
Feet



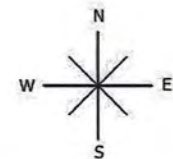


DCI2023-00054

Aerial

 Subject Property

 City Limits



0 500
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00054

Regarding: **PORT PHOENIX WATER WAY MARINA**

Location: 1687 Inlet Dr.
North Fort Myers Planning Community
(District 4)

Hearing Date: **January 8, 2026**

I. Request

Rezone 7.27± acres from Commercial Planned Development (CPD) and Light Industrial (IL) to CPD to allow construction of a new commercial marina, including 44 wet slips, 239 dry slips, 20,610 square feet of marine accessory uses, and a 10,000 square foot restaurant.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to the conditions and deviations set forth in Exhibit B.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property to the planned development zoning district.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to rezone 7.27± acres to the Port Phoenix Water Way Marina Commercial Planned Development (CPD).

In preparing a recommendation to the Board, the Hearing Examiner must apply the Comprehensive Plan (Lee Plan), Land Development Code (LDC), and other County regulations to the facts presented. The record must contain competent substantial evidence to support the recommendation.

Staff recommended approval with conditions.

¹ LDC §34-145(d)(4)a.

Discussion supporting the Hearing Examiner's recommendation of approval with conditions is set forth below.

Character of the Area

The property sits south of Hancock Bridge Parkway and the Waterway Estates community, east of Orange Grove Boulevard. The peninsular site is surrounded by water with single family residences beyond to the north, west, and south. Conservation lands lie to the east.



Zoning History

The Lee County Utilities Waterway Estates Wastewater Treatment Plant historically occupied the IL portion of the property until demolition in 2013.²

The CPD portion has supported a marina since the 1960s.³ Prior zoning actions permitted various marina and ancillary uses.⁴ The site most recently operated as a boat triage area post-Hurricane Ian.⁵

The parcel remains vacant.

Request Synopsis

The request seeks CPD approval of the following development parameters:

² See Staff Ex. 3 (slide 3, *citing* DEM2013-00115); Staff Report (pg. 2).

³ See Staff Report (pg. 2-3, composite Attachment S).

⁴ See *Id.* citing Z-76-123, Z-88-293, & Z-06-065; See also Staff Report (Attachment S).

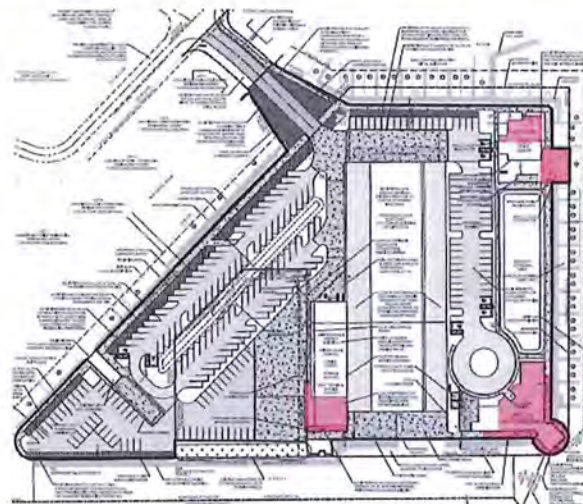
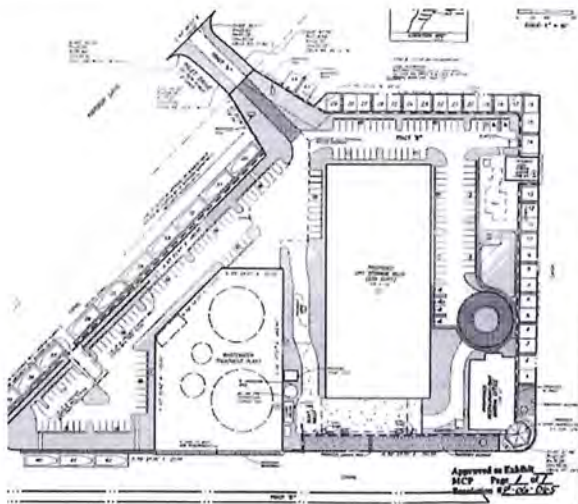
⁵ Speath & Fowler Testimony (Transcript pg. 8-9).

- Boat slips: 283 (44 wet, 239 dry)
- Marine Accessory Uses: 20,610 square feet
- Restaurant: 10,000 square feet

Staff provided the following comparison of existing approvals to the request:⁶

Existing CPD Entitlements (Z-06-065¹) vs Current Request

Category	Existing Approval	Requested Approval	Change
Boat Slips	283	283	N/A
Height	55' (limited to dry storage building) 45' maximum for remainder of buildings	57' (limited to dry storage building) 45' maximum for remainder of buildings	+2'
Subordinate Intensity	7,500 square feet	20,610 square feet	+13,110 square feet
Restaurant	9,500 square feet (including a 2,500 square foot two story gazebo)	10,000 square feet (including 2,500 square feet of outdoor seating)	+500 square feet
Consumption on Premises (COP)	11,200 square feet ²	17,150 square feet	+5,950 square feet



Folding in land zoned IL adds acreage to the project, thereby reducing impacts generated by the development. Removal of IL zoning also eliminates many intense uses. Taking these benefits into account balances against other increases proposed by the request.

The request retains the single access point to Inlet Drive. Site design locates parking along the northern and western boundaries to direct site activity farther

⁶ See Staff Report (pg. 1).

from nearby residences. Wet slips line the perimeter with the restaurant, member building, and boat store situated south and east along the waterway.

Zoning Review Criteria

Before recommending approval, the Hearing Examiner must find the request:

- Complies with the Lee Plan;
- Meets the LDC and other applicable County regulations or qualifies for deviations;
- Is compatible with existing and planned uses in the surrounding area;
- Provides sufficient access to support the proposed development intensity;
- Addresses impacts on transportation facilities by County regulations or conditions of approval;
- Will not adversely affect environmentally critical/sensitive areas or natural resources; and
- Will be served by urban services if located in a Future Urban area.⁷

When the requested zoning action is a planned development, the Hearing Examiner must also find:

- The proposed use/mix of uses is appropriate at the proposed location;
- Recommended conditions (1) provide sufficient safeguards to the public interest, and (2) reasonably relate to impacts on the public interest expected from the proposed development; and
- Requested deviations (1) enhance achievement of the objectives of the planned development, and (2) protect public health, safety, and welfare.⁸

Lee Plan

Planned developments must be consistent with the Lee Plan.⁹

Lee Plan Maps designate the property as Suburban and Public Facilities within the North Fort Myers Planning Community.¹⁰

⁷ LDC §34-145(d)(4)a.1.

⁸ LDC §34-145(d)(4)a.2.

⁹ F.S. §163.3194(1)(a); LDC §§34-411(a), §34-491.

¹⁰ Lee Plan Map 1-A, 1-B, & 2-A.

Suburban lands are typically residential on the fringe of more urban areas.¹¹ Industrial uses are prohibited.¹² The Public Facilities category is comprised of publicly owned lands.¹³ The request continues a use operating on the site for over six decades and eliminates industrial uses. The requested marina remains consistent with the property's future land use designations.

The Lee Plan adopts Community Plans to address specific areas of the county. The vision for each community plan area is incorporated as a Goal within the Future Land Use Element.¹⁴ The request is subject to the North Fort Myers Community Plan.¹⁵ The Community Plan emphasizes livability, economic vitality, and revitalization.¹⁶ The Plan encourages expanding opportunities for recreation, water access, and water recreation areas.¹⁷ The proposed CPD achieves these goals by expanding water access and creating opportunities for public enjoyment of the Caloosahatchee River waterfront.

Public Access to Water

The Lee Plan directs the County increase the recreation potential of natural waterways.¹⁸ The site is within the Water Dependent Overlay zone where water-dependent land uses are a priority.¹⁹

The Lee Plan emphasizes the importance of maintaining water-dependent uses.²⁰ Dry boat storage and marinas are integral to the Water Dependent Overlay. Development of wet slips, dry boat storage, and commercial land uses will enhance opportunities for public access to boating.²¹

Development in Coastal Areas

Land uses in coastal areas are subject to policies in the Lee Plan Conservation & Coastal Management Element.²² The Element directs the County to protect human life and development from coastal flooding impacts.²³

¹¹ Lee Plan Policy 1.1.5.

¹² *Id.*

¹³ Lee Plan Policy 1.1.8.

¹⁴ Lee Plan Goals 17-34.

¹⁵ The Board adopted the North Fort Myers Community Plan in 2009. Lee County Ordinance 09-11.

¹⁶ Goal 30.

¹⁷ Lee Plan Policy 30.5.3. *See also* Lee Plan Goal 79.

¹⁸ Lee Plan Goals 8 & 128; Goal 8 directs the County to improve access to bodies of water.

¹⁹ Lee Plan Map 1-H, Goal 8, Objective 8.1.

²⁰ Lee Plan Goals 8 & 128, Objectives 8.1, 128.1, 128.4, Policies 128.1.1, 128.1.2, 128.1.3, 128.4.2, 128.5.16 (encourages maximum dry storage). *See also* Goal 82, Policy 82.1.2.

²¹ Lee Plan Policies 128.1.3, 128.4.2, 128.4.4, 128.4.8, & 161.1.3

²² Lee Plan Objective 2.6. *See* Goals 59, 72, 101, Objective 101.3, and Policy 101.1.1.

²³ Lee Plan Goal 101.

The property lies within a Coastal High Hazard Area.²⁴ The Plan restricts development in Coastal High Hazard Areas to uplands.²⁵ Development will be subject to regulations designed to reduce vulnerability from natural disasters such as hurricanes and flooding.²⁶

Economic Element

The Lee Plan Economic Element directs the County to strive for a diversified economy to ensure maximum employment opportunities.²⁷ Land development creates jobs, increases property values, generates tax revenue, and contributes to economic growth. The Lee Plan also encourages promotion of tourism.²⁸

The proposed CPD consists of commercial and marina land uses that will contribute to a positive business climate and create additional employment opportunities.²⁹ The proposed COP will support leisure tourism, further strengthening the County's economy.³⁰

Compatibility

The County evaluates compatibility during the zoning process.³¹ The LDC defines *compatible* to mean the state wherein two land uses/buildings/structures/zoning districts exhibit either: (1) a positive relationship based on fit, similarity, or reciprocity of characteristics; or (2) a neutral relationship based on a relative lack of conflict or on a failure to communicate negative/harmful influences on one another.³²

Compatibility exists when land uses exist in proximity without unduly negative impacts on one another.³³ Planned development zoning is useful when integrating new development with surrounding land uses.³⁴ The planned development zoning district allows flexibility in site design to address potential incompatibilities with neighboring development.³⁵

²⁴ Coastal High Hazard Areas are areas below the elevation of the category 1 storm surge line established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model and delineated by Lee Plan Map 5-A. Lee Plan Glossary. See §§163.3177(6)(a)10,c(VI), and 163.3178(2)(h), F.S.

²⁵ Lee Plan Policy 101.3.2. There is a limited exception for public facilities.

²⁶ Lee Plan Goals 59, 72, Objective 72.2; LDC §2-481 *et. seq.* Lee Plan Goal 101 describes Coastal Flooding as including high tide events, storm surge, and impacts of sea level rise.

²⁷ Lee Plan Goal 158. Objective 158.2.

²⁸ Lee Plan Goal 161, Objective 161.1, Policy 161.1.3.

²⁹ Lee Plan Goals 158 & 161.

³⁰ Lee Plan Goal 161, Objective 161.1, Policies 161.1.1, 161.1.3, & 161.1.5.

³¹ LDC §34-145(d)(4).

³² LDC §34-2.

³³ Florida Statutes §163.3164(9); Lee Plan Policy 135.9.6.

³⁴ LDC §34-612(2).

³⁵ *Id.*

Appropriate intensity is determined on a case-by-case basis in accordance with Lee Plan policies and nature of surrounding land uses.³⁶ The property is proximate to single family homes and conservation lands.

Creative site design separates impactful uses from neighboring residential development. Buffering and setbacks are employed to distance alcohol beverage service from residential uses. Proposed restrictions on hours of operation ensure activities present minimal disruption.³⁷

The MCP employs creative site design to address potential incompatibilities with nearby land uses in the following ways:³⁸

- Orientating boat storage building interior to the site.
- Limiting site activity by restricting access to members for most uses.³⁹
- Improving Inlet Drive in a manner suitable to the community.
- Prohibiting live-aboards.
- Locating the fuel dock on the northeast corner, away from residents.⁴⁰
- Imposing hours of operation for outdoor seating and amplified sound.
- Prohibiting live entertainment.⁴¹
- Landscaping Inlet Drive using the same planting material within a truncated area, resulting in increased opacity to shield site activity and limit headlight intrusion.⁴²
- Instituting valet service during high-demand events to ensure parking remains on-site.⁴³
- Enhancing buffers to minimize off-site impacts to nearby residents.⁴⁴
- Limiting height to remain compatible with the surrounding area.⁴⁵

The proposal is consistent with the Lee Plan and compatible with surrounding development.⁴⁶ Given limited opportunities for public access to water, the County favors maintaining and increasing water dependent uses.⁴⁷ The CPD presents an opportunity to increase water access to the public by providing boat storage and

³⁶ LDC §34-413.

³⁷ Conditions 4 and 7.

³⁸ Lee Plan Policies 5.1.5, 6.1.4; LDC §34-411(i).

³⁹ The marine store and restaurant will be open to the public. Other elements will be restricted to members.

⁴⁰ Speath Testimony (Transcript pg. 26).

⁴¹ *Id.*

⁴² DeFilippo Testimony (Transcript pg. 48-49). Enhanced buffers and conditions impose higher trees to provide more mature vegetation at time of planting.

⁴³ See Condition 7.

⁴⁴ Speath Testimony (Transcript pg. 16).

⁴⁵ Existing approvals permit a height of 55 feet; Applicant is seeking 57 feet and placed testimony on the record indicating the two-foot distinction is created by changed FEMA regulations for height measurement. Fowler Testimony (Transcript pg. 30).

⁴⁶ Lee Plan Goal 128, Policy 6.1.4.

⁴⁷ Lee Plan Goal 128, Objective 128.3.

waterfront dining in proximity to navigable water.⁴⁸ The Lee Plan encourages enhancement and protection of water dependent uses.⁴⁹

The Lee Plan encourages compact and contiguous development patterns in areas with services and infrastructure to support development.⁵⁰ The proposed CPD revitalizes dormant marina/public facility property first developed over 60 years ago and served by a full complement of public services.⁵¹

LDC

Development must comply with the LDC or seek deviations. A “deviation” is a departure from a land development regulation.⁵² Applicants seeking deviations from the LDC must demonstrate how each deviation enhances objectives of the planned development and protects public health, safety, and welfare.⁵³

Applicant requests several deviations from the LDC.⁵⁴ The deviations seek relief from standards pertaining to landscaping, parking angles/spaces, buffers, building height, waterbody setbacks, and separation from dwelling units for service of alcoholic beverages.⁵⁵

Applicant offered testimony and evidence in support of the requested deviations.⁵⁶ Staff recommended approval of all deviations, imposing conditions on some.⁵⁷

The project must comply with the North Fort Myers Community Plan and corresponding LDC regulations.⁵⁸ Developers must comply with adopted community specific development criteria.⁵⁹ The proposed MCP and conditions of approval reflect intent to comply with development criteria set out in the North Fort Myers Community Plan.

The boat launch is for the exclusive use of members storing boats in the dry storage barn. The boat launch is not open to the public.⁶⁰ The restaurant and boat

⁴⁸ Lee Plan Policy 128.1.3.

⁴⁹ Lee Plan Goal 128 and Objective 128.1, 128.3, Policy 128.1.3.

⁵⁰ Lee Plan Objectives 2.1, 2.2, Policy 2.2.1.

⁵¹ Lee Plan Policy 6.1.7. The vacant property is ripe for development due to its location in a developed area with access to navigable water.

⁵² LDC §34-2.

⁵³ LDC §§34-145(d)(4)a.2(c) & 34-373(a)(9).

⁵⁴ Applicant Ex. 2 (slides 13-16); Speath Testimony (Transcript pg. 27).

⁵⁵ See Staff Ex. 3 (slides 11-27).

⁵⁶ LDC §34-377(a)(4).

⁵⁷ The Hearing Examiner may recommend approval, approval with modifications, or denial of deviations based on findings that a deviation (1) enhances the planned development and (2) preserves/promotes public health, safety, and welfare. LDC §34-377(a)(4).

⁵⁸ LDC §§33-1531 *et. seq.*

⁵⁹ LDC §33-1534.

⁶⁰ Speath & Fowler Testimony (Transcript pg. 20-21).

store will be open to the public, but boating operations will be restricted to members-only.⁶¹

Environmental/Natural Resources

Rezoning requests must not adversely affect environmentally critical/sensitive areas or natural resources.⁶²

The site is previously disturbed, historically used for marina-related uses. Due to previous development, the Florida Land Use Cover and Classification System did not warrant a protected species study.⁶³ A conservation easement runs along the southern boundary across the canal.⁶⁴

Prior to site development, Applicant must submit a Hazardous Materials Emergency Plan, Hurricane Preparedness Plan, and Marina Management Plan to demonstrate minimization of environmental impacts.⁶⁵

The Master Concept Plan (MCP) denotes compliance with LDC open space requirements.⁶⁶

Manatee Protection

The Lee Plan implements a broad-based approach to manatee protection through the Manatee Protection Plan (MPP).⁶⁷ Since its adoption in 2004, the construction of marine facilities must comply with the MPP.⁶⁸ Projects with an existing State permit are exempt from the MPP. Because the property is subject to a State permit issued prior to adoption of the MPP, the project complies with the MPP.⁶⁹ Conditions of approval address ongoing compliance with MPP should the number of permissible slips change.⁷⁰

The Hearing Examiner finds the amended CPD will not harm environmentally critical/sensitive areas or natural resources.

⁶¹ Transcript pg. 21. Limited boat maintenance may also be open to the public. See *Id.* at 22-24.

⁶² LDC §34-145(d)(4)a.1(f).

⁶³ See Staff Report (Attachment M).

⁶⁴ The MCP denotes the area as Tract D.

⁶⁵ Objective 128.5, Policies 128.5.1, 128.5.3, 128.5.6; Condition 5.

⁶⁶ The LDC imposes a 30% open space requirement for large developments. The MCP meets this standard at 2.1 acres. See LDC §10-1.

⁶⁷ The Board of County Commissioners approved the Manatee Protection Plan (MPP) by resolution on June 29, 2004. Lee Plan Objective 123.7, Policy 123.7.5; LDC §34-1863.

⁶⁸ Marina facilities are subject to six review criteria under the MPP. The review criteria determine the number of slips permissible on property (wet and dry) and method to acquire rights to construct slips. LDC §26-80(a). Lee Plan Objective 123.7, Policies 123.7.4, 123.7.5, 128.4.6; LDC §34-1863.

⁶⁹ DeFilippo Testimony (Transcript pg. 44-45); Lee Plan Policy 128.4.6.

⁷⁰ Condition 6.

Transportation

Zoning actions must demonstrate sufficient access to support development intensity. Expected impacts to the road network must be addressed by existing county regulations and conditions of approval.⁷¹

The property is located at the terminus of Inlet Drive. The surrounding road network connects Inlet Drive to Orange Grove Boulevard, which runs from SE 24th Avenue to Pondella Road. Hanock Bridge Parkway intersects Orange Grove Boulevard farther north of the site.

The MCP depicts a single access to Inlet Drive. Conditions of approval require Applicant to resurface and ensure a 20-foot wide travel width along the roadway.⁷²

Applicant conducted a Parking Demand Study in support of a deviation to reduce required parking spaces.⁷³ The Study concluded the project generates a parking requirement of 208 spaces and provides 214 spaces.⁷⁴ In addition, conditions of approval impose a valet parking system during times of peak demand.⁷⁵ Wet slips provide opportunity for boaters to access the restaurant/store, reducing vehicular traffic to the site.⁷⁶

Applicant's expert engineer prepared a Traffic Impact Statement (TIS) based on the highest trip generation rates associated with the proposed development.⁷⁷ The TIS projects Orange Grove Boulevard will operate at the same level of service (LOS) at buildout in 2027, with or without the proposed development. As such, traffic experts concluded the project will not have a detrimental impact on the surrounding roadway system.⁷⁸

The TIS projects the intersection of Orange Grove Boulevard and Inlet Drive will operate below the adopted LOS with the highest trip generation rates proposed by the development. An intersection analysis will be re-evaluated during development order review when more specific parameters are certain.⁷⁹

⁷¹ LDC §34-145(d)(4)a.1.

⁷² Condition 10. Hearing testimony reflects residents did not want Applicant to fully implement commercial design standards for Inlet Drive in favor of preserving the character of the community. Speath Testimony (Transcript pg. 18-19).

⁷³ See Staff Report (Attachment K).

⁷⁴ *Id.* at 5.

⁷⁵ See condition to Deviation 7.

⁷⁶ Hearing testimony confirmed some slips will be reserved for transient use. Fowler Testimony (Transcript pg. 32).

⁷⁷ See Staff Report (Attachment J: Traffic Impact Statement prepared by Matthew S. Speath, P.E. issued 9/18/25, and Attachment L: LCDOT Staff Memo prepared by Brittany Banker, DOT Plan Reviewer, dated 12/4/25).

⁷⁸ See Staff Report (Attachments J & L).

⁷⁹ See Staff Report (Attachment L).

The TIS concludes the project will not negatively impact area roadways at buildout.⁸⁰ The County's transportation reviewer concurred with this assessment, subject to recommended conditions relating to valet parking and Inlet Drive improvements.⁸¹

Road impact fees will adequately address project impacts to the County network. Further analysis of transportation impacts, including site related turn lane improvements, will occur during development order permitting.

Public Services and Infrastructure

Availability of public services and infrastructure must be analyzed during rezoning.⁸² Public services include facilities, capital improvements, and infrastructure necessary to support development.⁸³

A range of infrastructure and services are available to the property, including potable water, sanitary sewer, law enforcement, fire, and emergency medical services.⁸⁴ The project will have access to the County road network via Inlet Drive to Orange Grove Boulevard. Applicant confirmed installation of sidewalks to provide pedestrian connectivity.⁸⁵

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect County resources.⁸⁶

Conditions must be plausibly related to the project's anticipated impacts and be pertinent to mitigating impacts to the public.⁸⁷ The CPD is subject to conditions addressing impacts reasonably anticipated from development.⁸⁸ Notable conditions limit permitted uses, restrict outdoor entertainment, and impose hours of operation.

⁸⁰ Staff Report Attachment J.

⁸¹ Staff Report Attachment L.

⁸² Lee Plan Policy 2.2.1.

⁸³ Public services and infrastructure available to serve the project will include public water and sewer, paved streets, parks and recreation facilities, libraries, police, fire and emergency services, urban surface water management, and schools. Lee Plan Objective 4.1, Standards 4.1.1, 4.1.2, & 4.1.4.

⁸⁴ See Staff Report (pg. 4). Lee County Utilities serves the site with infrastructure adjacent to the property with sufficient capacity. See Staff Report (Attachment Q). Lee Plan Objectives 2.1, 2.2, and 4.1. North Fort Myers Fire Control District Station #2 is within three miles of the property. Lee County Sheriff and EMS are within four miles. See Staff Report (pg. 4).

⁸⁵ Lee Plan Policies 39.1.3, 39.6.4, 43.1.1. Developer must construct a 6-foot sidewalk to connect to the existing sidewalk on Inlet Drive. See Staff Report (pg. 4).

⁸⁶ Lee Plan Policies 5.1.5, 135.9.6; LDC §§34-145(d)(4) a.2.(b), 34-377(a)(3), 34-411, and 34-932(c).

⁸⁷ LDC §34-932(b).

⁸⁸ LDC §§34-83(b)(4) a.3, 34-377(a)(2)c; Lee Plan Objective 77.3, Policies 5.1.5, 6.1.4.

The Hearing Examiner revised wording of conditions/deviations to improve clarity.⁸⁹

Public

The LDC requires one community meeting for rezoning applications in the North Fort Myers Planning Community.⁹⁰ Applicant conducted three community meetings throughout the application process, resulting in project refinements.⁹¹ Future development orders will also be subject to community review.⁹²

Four members of the public spoke at hearing.⁹³ Speakers sought clarification on buffers, hours of operation, and pedestrian connectivity.⁹⁴

Conclusion

The Hearing Examiner finds the CPD meets LDC criteria and, as conditioned, is compatible with surrounding development.

IV. Findings and Conclusions

Based on the testimony and evidence presented in the record, the Hearing Examiner finds the requested Port Phoenix Water Way Marina CPD:

- A. Complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 6, 8, 30, 77, 101, 128, 158, 161, Objectives 2.1, 2.2, 4.1, 5.1, 6.1, 101.1, 101.3, 126.2, 158.2, 160.1, 161.1, and Policies 1.15, 1.1.8, 2.1.1, 2.1.2, 2.1.3, 2.2.1, 2.2.2, 5.1.5, 6.1.1, 6.1.2, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 101.1.1, 101.2.2, 101.3.2, 128.4.3, 128.4.4, 128.4.5, 128.4.6, 128.4.7, 128.4.8, 128.4.10, 128.4.11, 128.5.1, 128.5.3, 128.5.4, 128.5.7, 128.5.8, 128.5.15, 135.9.6, Lee Plan Maps 1-A, 1-B, 2-A, 1-H.
- B. Meets the LDC or qualifies for deviations. LDC Chapters 2, 10, 33, and 34.
- C. Compatible with existing or planned uses in the surrounding area. Lee Plan Objectives 2.1, 2.2, and Policies 1.1.5, 1.1.8, 5.1.5, 6.1.4, 135.9.5, 135.9.6; LDC §§34-411, 34-413.
- D. Provides sufficient road access to support proposed development intensity. Lee Plan Objective 39.2, Policies 6.1.5, 39.6.4, 43.1.1, 158.3.1.

⁸⁹ LDC §34-145(d)(1)c. and LDC §34-377(a)(2)-(3).

⁹⁰ LDC §33-1532; See also Staff Report (Attachment R).

⁹¹ Speath Testimony (Transcript pg. 25); Applicant Ex. 2 (slide 12).

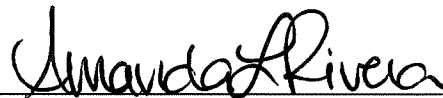
⁹² The LDC requires development order applications to comply with North Fort Myers Planning Community regulations. LDC §33-1532(a)(1).

⁹³ Public Testimony (Transcript pg. 56-62).

⁹⁴ No speakers offered objection to the request. See *Id.*

- E. Expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Objective 39.1, Policies 38.1.1, 43.1.1, 128.4.13, 128.4.15, 158.3.1; LDC §§2-261 *et seq.*, §34-411.
- F. Will not adversely affect environmentally sensitive areas or natural resources. Lee Plan Goals 6, 8, 30, 60, 61, 77, 128, Objectives 8.1, 77.2, 77.3, 126.2, 128.1, Policies 6.1.1, 6.1.6, 60.4.1, 60.4.2, 128.1.1, 128.1.2, 128.4.3, 128.4.4, 128.4.5, 128.4.6, 128.4.7, 128.4.8, 128.4.10, 128.4.11, 128.5.8, Standard 4.1.4.
- G. Will be served by public services. Goals 2, 4, 6, Objectives 2.1, 2.2, 4.1, Policies 2.2.1, 6.1.4, Standards 4.1.1, 4.1.2.
- H. Proposed uses are appropriate at the location. Lee Plan Goals 2, 4, 5, 6; Objectives 2.1, 2.2, Policies 1.1.5, 1.1.8, 2.1.1, 2.1.2, 5.1.5, 6.1.7, 6.1.8, 135.9.5, 135.9.6, 158.2.1, 160.1.3.
- I. Conditions provide sufficient safeguards to the public interest and reasonably relate to impacts on the public's interest expected from the proposed development. Lee Plan Objective 126.2, Policies 5.1.5, 6.1.4, 53.1.5, 56.1.4, 135.9.5, 135.9.6; LDC §§34-377(a)(3), 34-411 and 34-932(c).
- J. Deviations enhance achievement of the CPD and protect public health, safety, and welfare.

Date of Recommendation: February 26, 2026.



Amanda L. Rivera
Deputy Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations
Exhibit C Exhibits Presented at Hearing
Exhibit D Hearing Participants
Exhibit E Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

ATTACHMENT B

HARRIS-JORGENSEN, LLC. 3048 DEL PRADO BLVD. S., SUITE 100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921	DRAWN: RBH	CHECK: PMM	SCALE: 1"=120'	PRD.J. #: 1687 INLET DR
	SKETCH DATE: 10/16/25	FILE NO.:	SHT.- 1	OF - 2
FLORIDA CERTIFICATE OF AUTHORIZATION LB6921				

SKETCH TO ACCOMPANY DESCRIPTION:
A PARCEL OF LAND LYING IN TRACT "A" & "B", & A PORTION OF TRACT "D", WATERWAY ESTATES OF FORT MYERS UNIT 2,
 (PLAT BOOK 12, PAGES 53-67)
 SECTION 16, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
 PUBLIC RECORDS OF LEE COUNTY, FLORIDA
& A PARCEL OF LAND LYING IN SECTION 16,
 TOWNSHIP 44 SOUTH, RANGE 24 EAST,
 PUBLIC RECORDS OF LEE COUNTY, FLORIDA

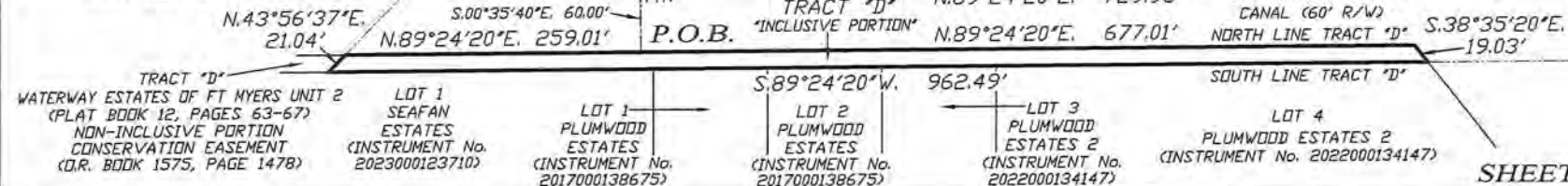
SKETCH / DESCRIPTION NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH LINE OF TRACT "B", AS BEING N.89°24'20"E.
2. FIELD NOTES IN WATERWAY ESTATES UNIT 2.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006, FS 668.50, FS 472.025, 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
6. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 120 SCALE DRAWING.

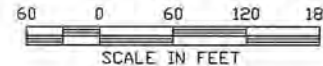
SEE EXHIBIT "A", SHEET 2 OF 2 FOR DESCRIPTION

THIS IS NOT A BOUNDARY SURVEY

SOUTHERLY PROLONGATION OF BLOCK 1
 WATERWAY ESTATES OF FT MYERS UNIT 2
 (PLAT BOOK 12, PAGE 64)



R/W	RIGHT-OF-WAY
CL	CENTERLINE
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
P.R.C.	POINT OF REVERSE CURVATURE
P.C.C.	POINT OF COMPOUND CURVATURE
P.C.	POINT OF CURVATURE
P.T.	POINT OF TANGENCY
(1)	CURVE NUMBER



CURVE TABLE

NO.	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
1	25.00'	89°30'20"	39.05'	35.20'	N.44°39'10"E.
2	718.68'	05°47'17"	72.60'	72.57'	N.48°56'29"W.
3	25.00'	95°47'20"	41.80'	37.10'	N.03°57'03"W.
4	25.00'	83°14'22"	36.32'	33.21'	N.85°33'48"E.
5	668.68'	06°41'37"	78.12'	78.08'	S.49°24'00"E.
6	25.00'	134°32'17"	58.70'	46.12'	S.23°19'32"E.

REVIEWED
 Project: DCI2022-00054
 By: Richard Burris
 Dept: Legal Review
 Date: 10/16/2023

DESCRIPTION TO ACCOMPANY SKETCH
EXHIBIT "A"

**A PARCEL OF LAND LYING IN TRACT "A" & "B",
& A PORTION OF TRACT "D",
WATERWAY ESTATES OF FORT MYERS UNIT 2,**

(PLAT BOOK 12, PAGES 53-67)
SECTION 16, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

& A PARCEL OF LAND LYING IN SECTION 16,

TOWNSHIP 44 SOUTH, RANGE 24 EAST,
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

A PLOT OR PARCEL OF LAND LYING IN TRACT "A" AND "B", WATERWAY ESTATES OF FORT MYERS UNIT 2, AS RECORDED IN PLAT BOOK 12, PAGES 53 THROUGH 67, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND A PLOT OR PARCEL OF LAND LYING IN SECTION 16, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, SAID PLOT OR PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF TANGENCY ON THE SOUTH LINE OF THE AFORESAID TRACT "B", FOR THE POINT OF BEGINNING; THENCE RUN N.89°24'20"E. ALONG SAID SOUTH LINE TO A POINT OF CURVATURE FOR 729.93 FEET; THENCE RUN NORTHEASTERLY ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY FOR 39.05 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 25.00 FEET, A CENTRAL DELTA ANGLE OF 89°30'20", A CHORD THAT BEARS N.44°39'10"E. AND A CHORD DISTANCE OF 35.20 FEET TO A POINT OF TANGENCY; THENCE RUN N.00°06'00"W. ALONG THE EAST LINE OF THE AFORESAID TRACT "B" FOR 490.23 FEET; THENCE RUN S.89°54'00"W. FOR 309.45 FEET; THENCE RUN S.43°56'37"W. FOR 27.98 FEET; THENCE RUN N.59°32'51"W. FOR 102.84 FEET TO THE NORTHEASTERLY CORNER OF THE AFORESAID TRACT "A", SAID POINT LYING ON A NON TANGENT CURVE; THENCE RUN NORTHWESTERLY ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY FOR 72.60 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 718.68 FEET, A CENTRAL DELTA ANGLE OF 05°47'17", A CHORD THAT BEARS N.48°56'29"W. AND A CHORD DISTANCE OF 72.57 FEET TO A POINT OF REVERSE CURVATURE; THENCE RUN NORTHWESTERLY ALONG THE ARC OF A CURVE CONCAVE NORTHEASTERLY FOR 41.80 FEET TO A POINT OF CUSP, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 25.00 FEET, A CENTRAL DELTA ANGLE OF 95°47'20", A CHORD THAT BEARS N.03°57'03"W. AND A CHORD DISTANCE OF 37.10 FEET TO THE NORTHWESTERLY CORNER OF THE AFORESAID TRACT "A" AND SAID POINT LYING ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF HARBOUR LANE (50 FEET WIDE); THENCE RUN S.43°56'37"W. ALONG SAID RIGHT OF WAY LINE TO THE SOUTHWESTERLY CORNER OF SAID TRACT "A" BEING A POINT OF CUSP AND POINT OF CURVATURE FOR 100.61 FEET; THENCE RUN NORTHEASTERLY ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY FOR 36.32 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 25.00 FEET, A CENTRAL DELTA ANGLE OF 83°14'22", A CHORD THAT BEARS N.85°33'48"E. AND A CHORD DISTANCE OF 33.21 FEET TO A POINT OF COMPOUND CURVATURE; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY FOR 78.12 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 668.68 FEET, A CENTRAL DELTA ANGLE OF 06°41'37", A CHORD THAT BEARS S.49°24'00"E. AND A CHORD DISTANCE OF 78.08 FEET TO THE SOUTHEASTERLY CORNER OF SAID TRACT "A" AND A POINT OF TANGENCY, NOT RADIAL TO THE PREVIOUSLY DESCRIBED LINE; THENCE RUN S.32°33'43"E. FOR 102.84 FEET TO A POINT ON THE NORTHWESTERLY LINE OF THE AFORESAID TRACT "B"; THENCE RUN S.43°56'37"W. ALONG SAID LINE TO A POINT OF CURVATURE FOR 540.61 FEET; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CURVE CONCAVE NORTHEASTERLY FOR 58.70 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 25.00 FEET, A CENTRAL DELTA ANGLE OF 134°32'17", A CHORD THAT BEARS S.23°19'32"E. AND A CHORD DISTANCE OF 46.12 FEET TO THE POINT OF BEGINNING.

CONTAINS 302,277 SQUARE FEET OR 6.94 ACRES MORE OR LESS.

AND A PORTION OF TRACT "D", OF THE AFORESAID WATERWAY ESTATES OF FORT MYERS UNIT 2, AS RECORDED IN PLAT BOOK 12, PAGES 53 THROUGH 67, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF TANGENCY ON THE SOUTH LINE OF THE AFORESAID TRACT "B", THENCE RUN S.00°35'40"E., TO A POINT ALONG THE NORTH LINE OF THE AFORESAID TRACT "D", FOR 60.00 FEET, TO THE POINT OF BEGINNING; THENCE RUN N.89°24'20"E. SAID NORTH LINE, FOR 677.01 FEET; THENCE RUN S.38°35'20"E., FOR 19.03; THENCE RUN S.89°24'20"W. ALONG THE SOUTH LINE OF THE AFORESAID TRACT "D" TO POINT ALONG THE SOUTHERLY PROLONGATION OF BLOCK 1, OF THE AFORE SAID WATERWAY WAY ESTATES UNIT 2, FOR 962.49 FEET; THENCE RUN N.43°56'37"E. ALONG SAID PROLONGATION OF BLOCK 1 TO THE AFORESAID NORTH LINE OF TRACT "D", FOR 21.04 FEET; THENCE RUN N.89°24'20"E. ALONG SAID NORTH LINE, FOR 259.01 FEET, TO THE POINT OF BEGINNING.

CONTAINS 14,239 SQUARE FEET OR 0.33 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF THE AFORESAID TRACT "B", AS BEING N.89°24'20"E.

Phillip M Mould,
LS6515, State of
Florida

Digitally signed by Phillip M
Mould, LS6515, State of Florida
Date: 2025.10.16 13:05:49
-04'00'

REVIEWED

Project: DCI2023-00054

By: Richard Burris

Dept: Legal Review

Date: 10/16/2025

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER, LS6515
OCTOBER 16, 2025

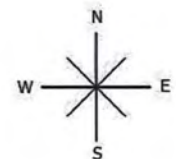
SHEET 2 OF 2
1687 INLET DR

DCI2023-00054

Zoning

 Subject Property

 City Limits



0 500
Feet



Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

References to uses are as defined in the Lee County Land Development Code (LDC). This zoning resolution supersedes Resolution Z-06-065.

1. Master Concept Plan (MCP) and Development Parameters

- a. MCP. Development must be substantially consistent with the one-page MCP entitled "Port Phoenix Safe Harbor Marinas," last revised 12/18/2025 (Exhibit B1).
- b. Compliance with Lee Plan and LDC. Development must comply with the Lee Plan and LDC at the time of local development order approval, except as granted by deviation herein. Subsequent changes may require further zoning approval.
- c. Development Parameters. Development intensity is limited to a marina consisting of 44 wet slips and 239 dry slips and 30,610 square feet of subordinate commercial use floor area. The maximum building height is 57 feet.

2. Schedule of Uses and Property Development Regulations

a. Schedule of Uses

Marina (see Condition 4)
ATM (Automatic Teller Machine)
EMS, fire, or sheriff's station
Essential Services
Essential Service Facilities, Group I
Excavation: Water retention
Parking Lot: Accessory and Temporary
Signs
Marina Accessory Uses*:
 Administrative Offices
 Bar or Cocktail Lounge
 Bait and Tackle Shop
 Boats:
 Boat Parts Store
 Boat Rental
 Boat repair and service (see Condition 4)
 Boat Storage, Dry Exceeding 18 feet Above Grade (see Condition 8)
 Clubs, private
 Consumption on Premises (see Condition 7 and Deviation 3)
 Gift and Souvenir Shop
 Marina Accessory Uses

Recreation facilities: Private – On site
Rental establishments, group I
Storage, Indoor
Storage, Open (see Condition 9)
Temporary Uses
Transportation services, Group I
Vehicle and Equipment Dealers, Group III

*Marina Accessory Uses may not commence prior to establishing the marina use.

b. Site Development Regulations

Minimum Lot Size:	20,000 square feet
Minimum Lot Width:	100 feet
Minimum Lot Depth:	100 feet

Minimum Setbacks, Maximum Building Height and Lot Coverage

Street:	25 feet
Side:	20 feet (See Deviation 9)
Waterbody:	25 feet (see Deviation 4)
Maximum building height:	
Dry boat storage building	57 feet (see Condition 8)
All other uses	45 feet
Lot coverage:	40 percent

3. Environmental Conditions

- a. Direct canal discharge of bilge water from watercraft being lifted/stored in the dry storage building is prohibited. Prior to development order approval, a surface water collection system must be designed to capture bilge water for appropriate treatment prior to any release into the canal.
- b. Required buffer trees must be no less than four (4) inches in diameter at 12 inches above the ground and no less than 16 feet in height at the time of planting. One-half (50 percent) of the required buffer trees along the northwest portion of the property must be Sabal Palms planted in clusters with staggered heights ranging from 12 feet in overall height to a maximum of 20 feet in overall height. Required landscape planting material must be of native species.

4. Marina Operation

- a. Boat repair and service are limited to the hours of 8:00 am through 5:00 pm, Monday through Saturday.

- b. No outdoor storage of boats or equipment is permitted. All boat service, repair, and maintenance must be done completely indoors. Boat service, repair and maintenance does not include boat preparation for storage or launch. Boat preparation may take place in the area south of the dry storage building.
- c. The storage and removal of boats or equipment from the boat storage building must be accomplished using the door on the south side of the dry storage building. The existing lift well located on the western portion of the property is limited to use for emergency purposes.

5. Marina Management Plan

Prior to local development order approval, Developer must submit a Marina Management Plan. The Marina Management Plan must assure no degradation of water quality resulting from marina operations and address the following:

- a. Spill and Contamination Contingency Plan: The Spill and Contamination Contingency Plan must address how runoff from fueling and maintenance activities will be collected and treated prior to discharge, describe measures to be employed to reduce contamination of water bodies from boat refueling and maintenance, and address emergency clean up procedures.
- b. Emergency Preparedness Plan: The Emergency Preparedness Plan must be prepared in accordance with Administrative Code 7-7.
- c. Educational Material and Signs: The developer must submit examples of educational materials and signs to be installed notifying residents/guests on manatee protection. The Developer must install educational signs prior to issuance of Certificate of Compliance on any part of the docking facility.

6. Boat Slips

This CPD approves a maximum of 44 wet and 239 dry slips. These numbers may be modified based on review and approval for compliance with the Lee County Manatee Protection Plan.

7. Consumption on Premises and Outdoor Entertainment:

- a. Limits of COP. The sale/service of alcoholic beverages is restricted to the 17,150-square-foot red hatched COP areas depicted on the MCP and detailed on the "Consumption on Premise Exhibit" dated 6/10/2025 (Exhibit B2). Attempts to reduce the approved 82.5-foot separation requires a public hearing.
- b. Time Limitation.
 - i. Indoor seating – limited to 10:00 a.m. until 12:00 a.m. Daily.
 - ii. Outdoor seating – limited to Sunday through Thursday, 10:00 a.m. until 9:00 p.m., and Friday and Saturday, 10:00 a.m. until 11:00 p.m.

- c. Live Entertainment/Amplified Sound. Outdoor entertainment is limited as follows:
 - i. Piped or recorded music (amplified/non-amplified) sound may not exceed a “conversational” level of volume in the outdoor seating area.
 - ii. Live entertainment is prohibited.
 - iii. Hours of operation for outdoor entertainment are limited to the hours identified in 7.b.ii above.
 - iv. Speakers and sound amplification devices must be oriented towards the building to minimize music conveyed off-site.
8. Building Height

The maximum height for the dry storage building on the MCP is 57 feet above base flood elevation. Other buildings/structures may not exceed 45 feet above base flood elevation.
9. Open Storage

Open storage is only permitted when associated with boat triage during emergency declarations.
10. Inlet Drive

Developer must mill and resurface Inlet Drive from Orange Grove Blvd to the project entrance, providing a new surface and consistent 20-foot width along the entire Inlet Drive corridor.
11. Development Permits

County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Developer must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

1. Internal Landscaping. Deviation #1 seeks relief from LDC §10-416(c)(2), which requires internal landscaping and end landscape islands within parking lot areas, to allow for an unobstructed parking lot area in the property’s southwest corner.

HEX Recommendation: Approve
2. Buffers. Deviation #2 seeks relief from LDC §10-416(d)(6), which requires a 25-foot-wide buffer with an eight-foot wall setback 25 feet from the property line or a 30-foot-wide buffer with five trees and 18 shrubs per 100 linear feet when roads, drives, parking areas associated with nonresidential use are within 125 feet from an existing single-family residential subdivision or single-family residential lots.

Deviation 2a through 2f are requested to provide alternative buffers to demonstrate compatibility and screening to meet Lee Plan Policies 5.1.5, 6.1.1, and 6.1.6. The following provides the itemized buffers and related deviation requests:

- a. Deviation 2a:
To allow no buffer along the first 100-foot length of the entrance drive to the property.

HEX Recommendation: Approve

- b. Deviation 2b:
To allow the buffer along the southwest portion of the entrance drive to vary in width from 12 to 30 feet.
- c. Deviation 2c:
To allow the buffer along the southeast portion of the entrance drive to vary in width from 4 to 33 feet.
- d. Deviation 2d:
To allow the buffer along the west property line to vary in width from 9 to 15 feet.
- e. Deviation 2e:
To allow an eight-foot-wide landscape buffer along the southwest property line.
- f. Deviation 2f:
To allow a ten-foot-wide buffer along the north property line.

HEX Recommendation: Approve Deviations 2b. through 2f., subject to the following condition:

Development order plans must depict Type-F buffer plantings (ten trees per 100 linear feet and a double hedge row) with shrubs specified at 48 inches at installation and maintained at 60 inches. The width of each buffer must be consistent with deviations 2b. through 2f.

- 3. **Height.** Deviation #3 seeks relief from LDC §34-2175(b), which establishes a maximum building height of 45 feet above Base Flood Elevation within the Suburban Future Land Use category, to allow a maximum building height of 57 feet above Base Flood Elevation.

HEX Recommendation: Approve

- 4. **Waterbody Setbacks.** Deviation #4 seeks relief from LDC §34-2194(b), which requires buildings and structures to be setback a minimum of 25 foot from a canal,

bay, or other water body, to allow for reduced setbacks for the placement of three structures.

- a. Deviation 4a.
To allow a 4-foot waterbody setback for the Restaurant Building.
- b. Deviation 4b.
To allow a 15-foot waterbody setback for the Marina Building.
- c. Deviation 4c.
To allow a 12-foot waterbody setback for the Maintenance and Member Building.

HEX Recommendation: Approve

- 5. **Landscaping.** Deviation #5 seeks relief from LDC §33-1543(a), which requires a 30-foot-wide buffer for high density or high intensity development abutting a subdivided lot in an existing large lot residential subdivision, to allow no buffer for the first 100 feet of drive into the property and to allow tapered buffers on both sides per Deviations 2a. and 2c.

HEX Recommendation: Approve

- 6. **Angled Parking.** Deviation #6 seeks relief from LDC §34-2016(4), which requires parking to be developed throughout the site utilizing the same degree of angle, to allow the use of varying angled parking.

HEX Recommendation: Approve

- 7. **Parking Spaces.** Deviation #7 seeks relief from LDC §34-2020(b), which requires a total of 287 parking spaces for the proposed development, to allow for a total of 214 parking spaces.

HEX Recommendation: Approve, subject to the following condition:

When parking demand exceeds the provided parking spaces, Developer/Operator must provide an onsite valet parking service allowing vehicles to be stacked. Parking must remain onsite. Parking outside the property is prohibited.

- 8. **Street Access.** Deviation #8 seeks relief from LDC §10-291(2), which requires Inlet Drive, a local suburban local street, to meet the minimum standards outlined in the subject section, to allow for a 20-foot-wide roadway with sidewalk on one side.

HEX Recommendation: Approve, subject to Condition 10.

9. **Restaurant Setback.** Deviation #9 seeks relief from LDC §34-935(b)(1)(b), which requires a minimum setback of 15 feet for structures/buildings from the development perimeter boundaries for CPD properties, to allow a 4-foot boundary setback for the proposed Restaurant Building.

HEX Recommendation: Approve

10. **Suburban Street Design.** Deviation #10 seeks relief from LDC §10-296(e)(2)h.5, which requires Inlet Drive, a local suburban local street, to meet the minimum standards outlined in the subject section, to allow for a 20-foot-wide roadway with sidewalk on one side.

HEX Recommendation: Approve, subject to Condition 10.

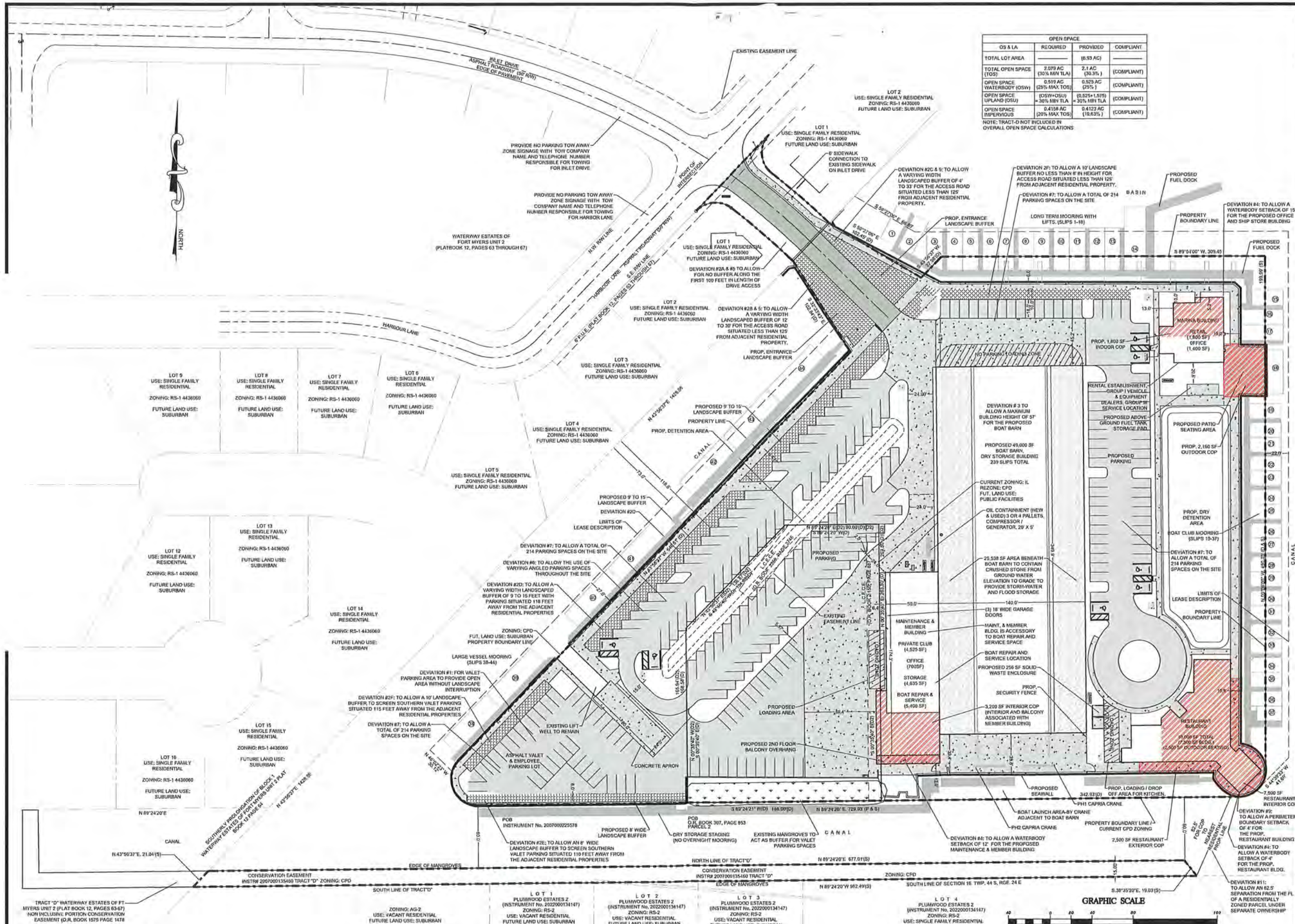
11. **Consumption on Premises.** Deviation #11 seeks relief from LDC §34-1264(b)(1)(a), which states establishments offering alcoholic beverages for consumption on the premises may not be located within 500 feet of a dwelling unit under separate ownership, to allow a minimum separation distance of 82.5 feet.

HEX Recommendation: Approve, subject to Condition 7.

Exhibits to Conditions:

B1 Master Concept Plan dated 12/18/2025

B2 Consumption on Premise Exhibit dated 6/10/2025



OPEN SPACE			
OS & LA	REQUIRED	PROVIDED	COMPLIANT
TOTAL LOT AREA		(6.93 AC)	
TOTAL OPEN SPACE (TOS)	3.079 AC (30% MIN TLA)	2.1 AC (20.3%)	(COMPLIANT)
OPEN SPACE WATERBODY (OSW)	0.519 AC (25% MAX TOS)	0.525 AC (25%)	(COMPLIANT)
OPEN SPACE UPLAND (OSU)	(OSW+OSU) = 30% MIN TLA	(0.525+1.575) = 30% MIN TLA	(COMPLIANT)
OPEN SPACE IMPERVIOUS	0.4158 AC (20% MAX TOS)	0.4123 AC (18.63%)	(COMPLIANT)

NOTE: TRACT D NOT INCLUDED IN OVERALL OPEN SPACE CALCULATIONS

REVISIONS	DATE	BY
0. INITIAL SUB	12/12/23	TG
2. CNTY CMNTS	08/14/24	TG
3. CNTY CMNTS	12/09/24	TG
4. CNTY CMNTS	06/10/25	TG
5. CNTY CMNTS	08/21/25	TG
6. CNTY CMNTS	12/18/25	TG

SPEATH
ENGINEERING
SPEATH ENGINEERING FL, LLC - 301 BRICKELL AVE., 10TH FL.
MIAMI, FL 33130 - PHONE: 305-584-8433

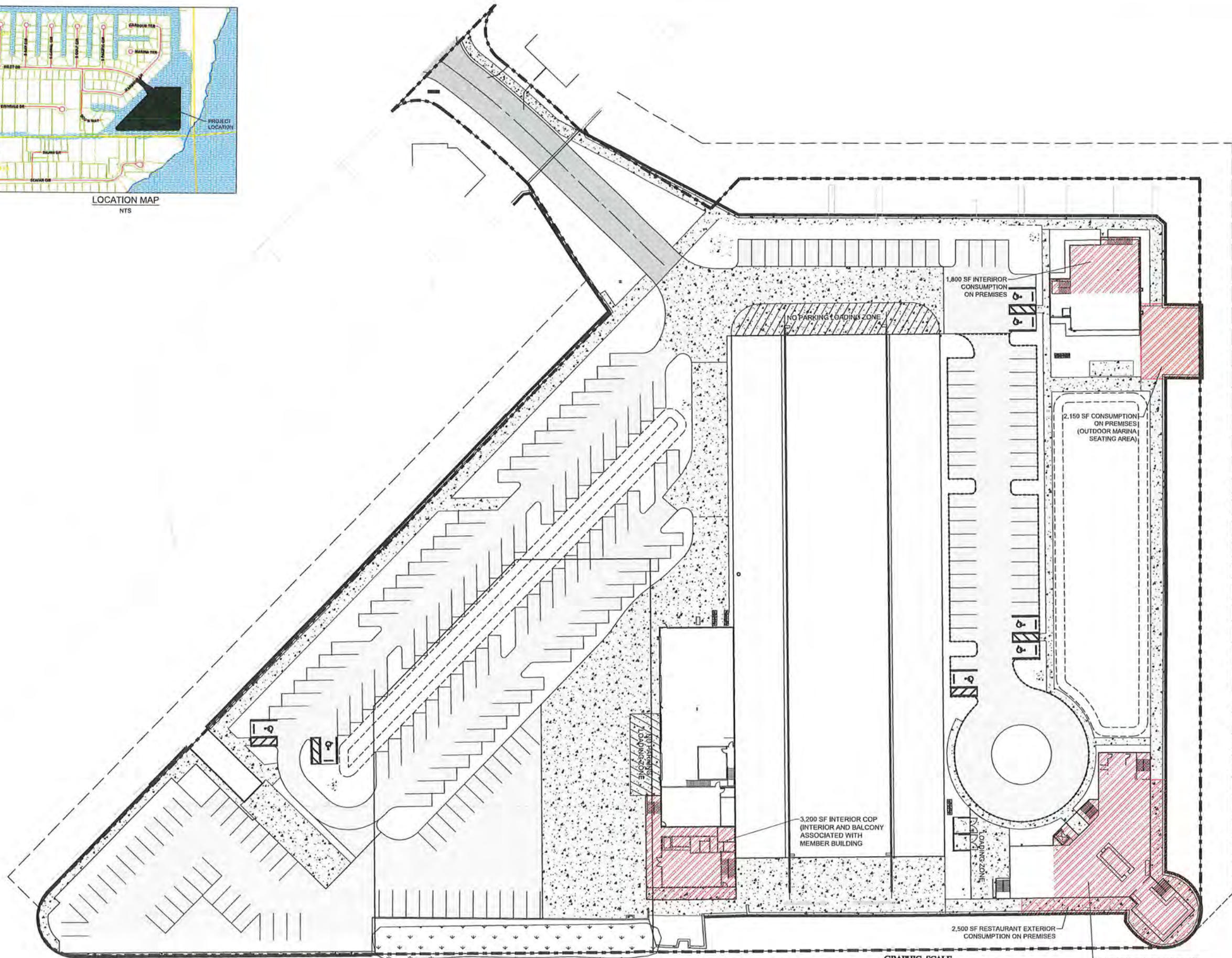
MASTER CONCEPT PLAN
FOR
PORT PHOENIX
SAFE HARBOR MARINAS
LEE COUNTY, FLORIDA



MATTHEW S. SPEATH P.E.
LIC. #67675
FBPE # 31292

DRAWN	TCC
CHECK	MSS
DATE	12/18/25
SCALE	1"=40'
PROJ. NO.	F22-56

SHEET:
MCP
1 OF 1



SPEATH
ENGINEERING
SPEATH ENGINEERING P., LLC • 311 BRICKELL AVE., 10TH FL.
MIAMI, FL 33138 • PHONE: 305-594-4263

A circular professional engineer seal for the State of Florida. The outer ring contains the text "MATTHEW S. SPEATH" at the top and "PROFESSIONAL ENGINEER" at the bottom, separated by three stars. The inner circle contains the word "LICENSE" at the top, the license number "No. 67675" in the center, and "STATE OF FLORIDA" at the bottom.

© 2025 by Speech Engineering PL LLC.
drQualls@aol.com 401-410-COXXXX181A08C875A0X026A3E, cncMatthew.Speech
2025/06/10 16:29:34 -0400

SHEET: CC
1 OF 1

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. DCD Staff Report with attachments for DCI: Prepared by Nicholas DeFilippo, Planner, date received December 22, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. Affidavit of Publication: For DCI2023-00054, Port Phoenix Waterway Marina CPD, dated January 8, 2026 (1 page – 8.5"x11")
3. PowerPoint Presentation: Prepared by Lee County Staff for DCI2023-00054, Port Phoenix Waterway Marina CPD, dated January 8, 2026 (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

1. 48-Hour Notice: Email from Matthew S. Speath with Speath Engineering to Maria Perez, P. Clark, David Harner, and Nicholas DeFlippo, dated Tuesday, January 6, 2026, 8:14 AM (3 pages – 8.5"x11")
2. PowerPoint Presentation: Prepared by Matthew S. Speath for DCI2023-00054, Port Phoenix Waterway Marina CPD, dated January 8, 2026 (multiple pages – 8.5"x11")[color]
3. Consumption on Premises Exhibit: Prepared by Speath Engineering, dated 06/10/25 (2 pages – 11"x17")[color]

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Nicholas DeFilippo

Applicant Representatives:

1. Robert Fowler
2. Jaret Rogers
3. Matthew Speath

Public Participants:

1. Constance Adamski
2. Guy Adamski
3. Joanne McCormick
4. Robert L McCormick

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentations by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.
- C. Participants may not submit documents to the Board of County Commissioners unless they were marked as Exhibits by the Hearing Examiner. Documents must have the Exhibit number assigned at hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.