

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: DCI2023-00054

IN RE: PORT PHOENIX WATER WAY MARINA CPD

_____/

PROCEEDINGS: PUBLIC HEARING

BEFORE: Amanda Rivera
Hearing Examiner

DATE: January 8, 2026

TIME: 9:00 a.m. to 10:26 a.m.

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

REPORTER: Deborah M. Bruns
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Notary Public

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9 ALSO PRESENT:

10 Jaret Rogers, Safe Harbor
11 Robert Fowler, Fowler Construction
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1 P R O C E E D I N G S

2 HEARING EXAMINER RIVERA: Okay. Good morning,
3 everybody. We're going to go ahead and get started.

4 My name is Amanda Rivera. I'm the Hearing
5 Examiner presiding over today's case. The date is
6 January 8, 2026, and this is case DCI2023-00054. It's
7 a rezoning request to the CPD district in the North
8 Fort Myers Planning Community.

9 Because this is a quasi-judicial hearing, all
10 evidence and testimony must be taken under oath; so if
11 you intend to speak, if you could please raise your
12 hands.

13 (Participants sworn en masse.)

14 HEARING EXAMINER RIVERA: Okay. So the way we're
15 going to proceed this morning is first we're going to
16 hear from the Applicant. They are going to present
17 their request in the case and call any witnesses that
18 they may have in support of that request. Following
19 their presentation we're going to turn to the County
20 Staff. They're going to go over their review and
21 recommendation in the case. They are recommending
22 approval here with conditions and some deviations.

23 After we hear from the County Staff, then I'm
24 going to call forward the public comment cards that I
25 have, in the order that I have them. That's your

1 opportunity to come forward and put any comments that
2 you may have into the record. So there is only one
3 opportunity to speak so make use of the time that you
4 have and make notes as we go through things this
5 morning to make the most of that time, but there is no
6 time limitation. So we're here to hear everything you
7 have to say. And if you could target your comments
8 towards any of the conditions, perhaps, that might help
9 alleviate some of the concerns that you might have,
10 that would help, as well.

11 After we hear from the public, we'll come back to
12 the Applicant and the Staff for any closing comments
13 and rebuttal to address some of the things that they've
14 heard.

15 And because this is a rezoning request to the CPD
16 district, I will be issuing a recommendation to the
17 Board; so this is not the final hearing. There's
18 another hearing that will happen after this. But to
19 speak at that Board hearing, you must speak at the
20 hearing today.

21 So with that we can go ahead and get started
22 whenever the Applicant is ready.

23 MR. DeFILIPPO: Excuse me, Madam Hearing Examiner.

24 HEARING EXAMINER RIVERA: Yes.

25 MR. DeFILIPPO: I have a copy of the Affidavit of

1 Publication.

2 HEARING EXAMINER RIVERA: Thank you, then I will
3 take that.

4 (Staff Exhibit 2 submitted.)

5 HEARING EXAMINER RIVERA: Thank you.

6 Just in terms of housekeeping, the Staff Report
7 was pre-labeled Staff Exhibit 1, and so this will be
8 Staff Exhibit 2. Okay.

9 And that is correct so we can begin. So whenever
10 the Applicant is ready.

11 Good morning.

12 MR. SPEATH: Good morning. The top here says,
13 "Please don't touch," and I wanted to make sure I
14 wasn't touching anything.

15 Good morning, my name is Matthew Speath. I'm the
16 president of Speath Engineering. I'm a professional
17 engineer here in the state of Florida. I'm
18 representing Safe Harbor Marinas and the Safe Harbor
19 Port Phoenix Marina project.

20 I've been a civil engineer here in the state of
21 Florida, primarily doing land development projects here
22 in Southwest Florida and South Florida for the last 23
23 years; so in excess of 600 projects and a couple
24 hundred of them here in Lee County.

25 I'm going to go through just -- I'm going to try

1 to go through this quickly. We've been working with
2 Staff for over two years now on this project. We've
3 covered a huge number of -- of things along the way and
4 provided hundreds and hundreds of pages of
5 documentation, and worked with the community to do so.
6 If you're ever bored and want to read the Staff Report,
7 the Staff Report -- I have a printed version of it here
8 (indicating). I'm sure it's openly available, as well.
9 I'm going to do a quick run-through; but, please, if
10 you have additional questions, please make sure you
11 direct them to me, and I'll be happy to answer them.

12 So we filed this application to rezone the 7.3
13 acres -- and I'll have a couple of graphics that show
14 the property a little bit better as we move on -- from
15 the current zoning of CPD, commercial planned
16 development, and an internal piece, which is IL, light
17 industrial, to a combined CPD, commercial planned
18 development.

19 As part of this project, we are going to have 283
20 boat slips, 44 wet slips, 239 dry slips, a little over
21 20,000 square feet of marina uses, and a
22 10,000-square-foot restaurant space.

23 The project is accessed by Inlet Drive, and its
24 connection, as far as marina uses, is to the
25 Caloosahatchee River.

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1 I've mentioned these have 239 dry slips, they're
2 within a boat barn. There's going to be a maintenance
3 building for minor boat maintenance, a -- combined into
4 that structure a member -- a members area, as well; and
5 then a retail/office/ship store, and then the
6 restaurant that I had mentioned on the southeast
7 corner. And, again, I'll -- in one moment I will pull
8 up and -- as we get a little bit further in, and I'll
9 kind of describe and show you where those locations
10 are.

11 Here, as you can see, we have -- as far as sizing,
12 the harbormaster building or the ship store and retail
13 office is about 1,800 square feet, the marina members
14 building is 3,200 square feet, and the restaurant is a
15 combined 10,000 square feet.

16 So of this is a -- one of the two aerial
17 photographs that I'll show. This is kind of one that's
18 not like a classical aerial photograph. It's more like
19 a bird's-eye photo so you can kind of get an idea of
20 sizing and massing of the area. You'll see in both of
21 these -- both of these photos that I'm going to show
22 that there are boats on the property. That's because
23 this property post-Ian was used as a boat triage
24 operation to help -- how would you describe it, to
25 help...

1 MR. FOWLER: Remove salvageable vessels from the
2 waterway so they weren't leaking everywhere in the
3 marinas.

4 MR. SPEATH: Yeah. So this was the clean -- part
5 of the cleanup effort. That effort ended more than a
6 year ago on-site, so the site is back to its completely
7 vacant condition; however, these photos do show a
8 couple of -- you know, they do show boat storage on the
9 site, and that's the operation that was going on at
10 that time.

11 Here's a, you know, more classical aerial
12 photograph, and this is why I described it, because you
13 can see the site is full of -- full of boats during
14 this period of time.

15 So the intent here is to primarily utilize this
16 existing seawalled site to develop the -- develop the
17 new marina. And in the following -- following slides,
18 I'll show you how it's -- how it's laid out.

19 So primarily -- does this have a pointer on it?
20 It does, okay.

21 So primarily, coming in from Inlet Drive to the
22 northwest, the only single -- only point of access to
23 the property, coming in and having a series of parking
24 lots; upper right-hand corner being that marina
25 building with the ship store and offices; southeast

1 corner being where the restaurant location is; center
2 of the property, this big rectangle, is the dry boat
3 storage; this smaller -- much smaller rectangle to the
4 southwest, that's the maintenance and members area
5 that's kind of shaded over here in red; and then the
6 boats would be launching here to the south side of the
7 boat barn, as you see here.

8 It may be a little hard to see, but this -- as
9 mentioned, this property was part of a planned
10 development previously, but it did not include this
11 trapezoidal-shaped property that's kind of in here in
12 the middle. And that's because this was prior a
13 wastewater treatment plant owned by the County that was
14 abandoned a long -- a long time ago. Do we know the
15 date of that?

16 MR. DeFILIPPO: 2013 --

17 MR. SPEATH: 2013.

18 MR. DeFILIPPO: -- it was demolished.

19 MR. SPEATH: 2013 it was demolished, and so
20 this -- you know, this site has remained vacant.

21 So the new request, since it was a CPD previously,
22 is to bring this industrial-zoned property into the
23 fold with the rest of the CPD that's there. So that's
24 what this area is.

25 Now, there's no building improvements that are

1 associated on this -- on this piece of property, but
2 it's just making the whole -- making the entire
3 peninsula, as a whole, all come together.

4 So you can see that the old designs used to have
5 this area over here that was all carved out of it, and
6 had to work around where the wastewater treatment plant
7 was. So it becomes one comprehensive facility as part
8 of this rezone request.

9 HEARING EXAMINER RIVERA: What is the significance
10 of the red hatching?

11 MR. SPEATH: Yeah, I was going to go right into
12 that.

13 HEARING EXAMINER RIVERA: Thank you.

14 MR. SPEATH: So the significance of the red
15 hatching is -- it's on the MCP, but I'll have it on
16 another exhibit, as well. Those are the areas that, as
17 part of this request, we are also requesting approval
18 for consumption on premise at various locations.

19 So as far as the harbormaster building, we're
20 asking for 1,800 square feet of that; the marina patio
21 area, which is -- oops -- which is this area that's
22 over here, outdoor area of 2,150 square feet; then we
23 have the square footage here, 3,200 square feet for the
24 members building and their balcony; and then 10,000
25 square feet for the restaurant, including the outdoor

1 seating area, so the lower right-hand corner.

2 HEARING EXAMINER RIVERA: Okay.

3 MR. SPEATH: So there's a --

4 HEARING EXAMINER RIVERA: As a note -- to
5 interrupt you.

6 MR. SPEATH: Yes.

7 HEARING EXAMINER RIVERA: So one thing I -- just
8 for housekeeping purposes, that wasn't clear for me,
9 and I read this in detail. I always look at it. So
10 one thing that I'll need to get after the hearing
11 closes is just an amendment to the MCP that shows what
12 the red hatching is supposed to be demarcating.

13 MR. SPEATH: Sure.

14 HEARING EXAMINER RIVERA: Because the conditions
15 that cite to the COP just say, "as shown on the master
16 concept plan," but it's not clear, looking at it, that
17 that's --

18 MR. SPEATH: Okay.

19 HEARING EXAMINER RIVERA: -- what that is. So
20 that's very minor, but I just want to make a note now
21 so that we can remember to do it at the end.

22 MR. SPEATH: Sure, so like a legend, you're
23 saying.

24 HEARING EXAMINER RIVERA: Exactly.

25 MR. SPEATH: But I think there's -- there are

1 individual call-outs on each of them that calls out
2 the -- the amount of square footage for these --

3 HEARING EXAMINER RIVERA: Correct, it's just not
4 visually -- because there's a lot going on, on this
5 MCP, so it's -- it's almost more akin to what we would
6 normally see closer to like a DO approval, which is
7 fine; but the issue just is, from a zoning perspective,
8 my job is not to get into DO at all.

9 MR. SPEATH: Yeah.

10 HEARING EXAMINER RIVERA: That's not what we're
11 here today to do.

12 MR. SPEATH: Understood.

13 HEARING EXAMINER RIVERA: It's just zoning. So
14 I've got to be sure we're protecting what the zoning is
15 doing, and it's just not clear. So if I've got that
16 question, I'm certain folks coming down the line are
17 going to have the same question.

18 MR. SPEATH: Sure. And I'll -- I have a separate
19 exhibit that just talks about just that, as well.

20 HEARING EXAMINER RIVERA: Okay.

21 MR. SPEATH: But we're happy to amend the -- the
22 MCP to include -- to include that as a -- like a legend
23 there.

24 HEARING EXAMINER RIVERA: Thank you.

25 MR. SPEATH: If you think this is complicated,

1 wait till you -- well, you're not going to see it.

2 But wait till you guys see the DO plan. It really
3 starts to dive into a lot of -- a lot of information.

4 HEARING EXAMINER RIVERA: Do you have a copy of
5 this PowerPoint presentation, as well?

6 MR. SPEATH: Yes.

7 HEARING EXAMINER RIVERA: A hard copy that I
8 can --

9 MR. SPEATH: I do have your copy, yes.

10 HEARING EXAMINER RIVERA: Okay, thank you. That
11 might help me as we go through.

12 MR. SPEATH: I have three copies of it here.

13 (Applicant Exhibit 2 submitted.)

14 HEARING EXAMINER RIVERA: Let me go ahead and make
15 that -- Applicant Exhibit 1 was the 48-hour letter, and
16 so -- that was pre-labeled prior to hearing -- so this
17 will be Applicant Exhibit 2, just for our record.

18 MR. SPEATH: Sure.

19 HEARING EXAMINER RIVERA: Thank you.

20 You can continue, thank you.

21 MR. SPEATH: Sure.

22 So for that -- that clarification, and then
23 because we -- you know, the initial -- I guess the
24 initial master concept plan we didn't have those, and
25 then we worked with Staff to integrate it all as one on

1 the plan. So understood that that was one of those
2 things that came later, and obviously because it is a
3 very busy master concept plan, that's why those areas
4 are hatched in red, to kind of differentiate what's
5 going on with those -- with those areas.

6 Moving on, we have the -- and I do have a lot of
7 these as separate exhibits, if you'd like to put them
8 on record as separate exhibits, as well.

9 The -- here we have the -- the design, as we have
10 it proposed, for the wet slips as you go around the
11 property. The number of wet slips is remaining the
12 same as the previous approval. This is just the
13 configuration of it. We -- I went through multiple
14 iterations both with Staff and the local community,
15 with concerns that they had as far as how the wet slip
16 orientation was going to work, how -- especially the
17 fuel dock and other things that were associated with
18 the property. And so this has gone through multiple
19 iterations, but this is the iteration that we're
20 currently working with on the property.

21 So you can see that it essentially follows the
22 perimeter of the project with pier docks on the north
23 and east side; here you've got parallel tie-ups; the
24 same thing here, it's staging really because, you know,
25 you're going to have boats coming in and out through

1 the -- the dry storage, through the boat barn, and
2 being launched here. So that's what you've got as far
3 as staging on the site.

4 We also worked with the County and with -- you
5 know, with the community nearby to generate areas of
6 landscape buffering and how that was going to be done.
7 This is the landscape exhibit. And we do have,
8 obviously, DO level landscape drawings and such that
9 will be far more detailed than this. This is just a
10 schematic to show what the intent is as far as --
11 (unintelligible) -- but as far as how we intend to
12 provide additional buffering from the -- from the site
13 to the direction of the residential homes in the
14 neighborhood. That was definitely something that was
15 both brought up at a Staff level and at the community
16 level, and something that we worked to integrate into
17 a -- what is a tight site. You know, we have a lot
18 of -- a lot of stuff going on, a lot of operations.
19 We've got things going on around the entire perimeter.
20 But as you can see, these are just some of the
21 schematics where you have the docks that are on the
22 outside; then you've got, you know, walkways; then
23 you've got the landscape perimeter, which is both
24 hedges and trees, and how they work in with the
25 entrance and buffering to the communities that are --

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1 that are nearby.

2 This is the one I was mentioning. It's a little
3 more clear because it gets rid of all the other
4 information that's on -- on the site. And it does have
5 a -- shows the locations and square footages for the
6 consumption on premise. So this is the same as what's
7 shown on that master concept plan. It's just a
8 simplified version so we can look at it independently.
9 If you would prefer, we have copies of that that we
10 could put in as an exhibit.

11 HEARING EXAMINER RIVERA: That may be helpful as a
12 standalone exhibit, if you've got it. I can append
13 that as an exhibit to the master concept plan.

14 (Applicant Exhibit 3 submitted.)

15 HEARING EXAMINER RIVERA: Thank you.

16 MR. FOWLER: You're welcome.

17 HEARING EXAMINER RIVERA: Okay. So that will be
18 Applicant Exhibit 3.

19 MR. SPEATH: And these areas are directly tied to
20 those specific uses, as we had discussed.

21 The -- you know, the intent -- really, I think
22 that the restaurant intent is very straightforward,
23 consumption on premise. The intent here for the
24 members area is to be able to utilize that more for --
25 the thought process is more for events and things like

1 this, to be able to have, you know, members activities
2 that would include alcohol. And then up in the area
3 that we're talking about, like the ship store and that
4 type of thing, is to be able to, you know, purchase,
5 consume, wait for your boat, have a lounge-type area.
6 This is a whole outdoor patio area. There's not a
7 structure that's out here. So it's really kind of a
8 seating and sitting area, which this kind of thing
9 aligns with the type of facility that Safe Harbor has.
10 So that's where these various areas are, but we will be
11 restricted to those areas.

12 One of the other, you know, points that we worked
13 a lot with Staff on is Inlet Drive, and I don't think
14 you're going to see a lot of what's going on here, but
15 we wanted to -- the condition that the Staff has -- and
16 it's been a condition since we've been working from the
17 beginning, was to do a -- to provide improvements to
18 Inlet Drive. Now, our concern from the very beginning,
19 and things that we -- things that we've presented to
20 the community, was that we didn't want to have
21 too-impactful improvements to Inlet Drive. We didn't
22 want to like come in and, you know, back up driveways
23 and mow a big commercial thoroughfare through there
24 for -- for what they have. We wanted to maintain the
25 character of the -- you know, the community and the

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1 drive without -- with minor impacts.

2 So the drive, as it currently stands, is -- the
3 roadway as it currently stands, it's somewhere between
4 19 and 19 and a half feet wide of paved area and --
5 with the sidewalk that's on one side, and that's not to
6 the standards. However -- and there's swaling on one
7 side of the road, the way that the water sheds, the way
8 the roadway is sloped. So the real discussion, both
9 with the community and Staff, was what can we do to
10 improve it but with limited impacts.

11 So the improvements came down to let's get the
12 road to a minimum 20-foot width, so we have two 10-foot
13 lanes, which is just fixing up kind of those edges, and
14 if there's some areas that are much more substandard,
15 fixing those and getting those aligned, milling and
16 resurfacing, and making a whole nice new roadway that's
17 in there, and then improving -- eventually, you know,
18 improving striping and signage and such as it goes down
19 the way.

20 This exhibit we put on here to show how the
21 largest anticipated vehicle that might go into the site
22 would be able to navigate that 20-foot lane roadway --
23 two 10-foot lanes, a 20-foot roadway, without any
24 additional impacts.

25 Now, we anticipate that to be very minimal. This

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1 isn't a site where we're trailering in and out.
2 There's going to be occasional trailers, I'm sure, but
3 it's not one of the facilities -- there's no boat ramp
4 or anything like that at the facility. It's not
5 intended to have an extreme amount of large-size
6 traffic, mostly deliveries and things that you would
7 typically have with those type of operations that we
8 have with the marina and the restaurant.

9 And there was a -- it's a while ago now, but there
10 was a study included in the information that's provided
11 to Staff on the number of heavy trucks and things like
12 this that would be utilizing the roadway.

13 HEARING EXAMINER RIVERA: So the boat launch that
14 you spoke of, that would be exclusively for the use of
15 the folks that are storing within the dry storage?

16 MR. SPEATH: Correct, yeah.

17 HEARING EXAMINER RIVERA: Okay.

18 MR. SPEATH: There would just be boat launch
19 from -- from that dry storage --

20 MR. FOWLER: It's actually fixed, as well --
21 sorry, Robert Fowler, Fowler Construction. We're
22 utilizing a crane so it doesn't even move outside of
23 that access that goes into the barn, collects the boat,
24 puts it in the water.

25 HEARING EXAMINER RIVERA: Okay.

1 MR. FOWLER: So there may be a backup -- Jaret is
2 here as operations. There will be a backup fork truck,
3 you know, just in case; but there's no other means of
4 moving boats nor intent to -- they also won't put boats
5 onto a trailer from the fork (sic) unless there's some
6 strange emergency but...

7 HEARING EXAMINER RIVERA: And will that be
8 something that's discussed, kind of how the site is
9 going to function in terms of membership and open to
10 the public -- because it said there was both. So the
11 restaurant is going to be open to the public; the store
12 might be open to the public. It just wasn't clear
13 exactly who is going to be able to access the site, and
14 then -- that explains a little bit, that they're not
15 going to be trailering anything because they'd have to,
16 it sounds like, be a member --

17 MR. SPEATH: Correct. The boating operations will
18 be members only. The items that -- the portions of the
19 site that are open to the public would include the
20 restaurant and that ship store that you were
21 discussing, correct.

22 HEARING EXAMINER RIVERA: So just those two
23 things, the two structures.

24 MR. SPEATH: Yes. And we -- we didn't anticipate
25 it, but also the way it's been worked out with Staff,

1 that the maintenance building could also have the --
2 could be open to and could have some -- it's not
3 prohibited. It's not -- it's not anticipated and not
4 planned that way; but ultimately Staff has asked us to
5 review it that way, that the maintenance building could
6 have some outside public -- outside of membership
7 public --

8 HEARING EXAMINER RIVERA: So those folks would
9 have to trailer to the site.

10 MR. SPEATH: They may be able to, yeah. And as I
11 said, we anticipate that there may be some, there
12 probably will be some, but it would be limited.

13 HEARING EXAMINER RIVERA: Okay. How is that going
14 to be -- I mean, how would you limit it, I guess? It's
15 just going to open for business and...

16 MR. FOWLER: I want to back up to maybe give a
17 little context, if you don't mind. But to answer that
18 question, boat barns and those operations -- and Jaret
19 can speak to this very directly. Those operations, in
20 order to keep those boats running, there's a
21 maintenance aspect that goes with it. So that is by
22 far the intent of and the need for this maintenance
23 area. To say that we would exclusively never let
24 another boat seems shortsighted, and it's also
25 something that came up from -- from many discussions to

1 say, hey, let's -- let's show this as it's possible
2 that we do that. We don't ever want to say never,
3 never. But that maintenance is there to support the
4 boat barn operations.

5 Matt, if you don't mind -- you can tell me not
6 to -- but I want to back up just a second. I know that
7 the folks behind me and everybody on this side of the
8 room has lived this since -- 2019 we started. But just
9 for a bit of context, this property was a marina -- and
10 can you go to 6 real quick? Sorry, Matt, I'm
11 completely screwing you up.

12 This convoluted site plan is exactly what was a
13 marina before, with the exception of the water
14 treatment plant. We could have proceeded down that
15 road under that PD and modified it, et cetera, but this
16 being County property, the County administration has
17 asked us to do the whole thing, which makes sense. So
18 we've happily been doing that, resulting in Matt's
19 work.

20 I believe you all know that we've had three public
21 meetings and many other discussions with the community,
22 and lots of changes have happened along the way with
23 their input, not the least of which being
24 reconfiguration of the fuel dock, and Matt talked about
25 the landscaping buffers.

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1 So I just want to put that back out there, that
2 this is actually a County-initiated project. They left
3 the (unintelligible) in for somebody to come and
4 develop this marina, and it's -- even the footprint is
5 barely different than what was there before. And I'm
6 happy to say that -- I'm sure they'll speak and --
7 there's a lot of support for it. So I just want to
8 throw that context back out to the -- sorry, Matt.

9 MR. SPEATH: You're good.

10 MR. FOWLER: But it did answer her question, I
11 think.

12 MR. SPEATH: I've been working with you for more
13 than 20 years.

14 MR. FOWLER: Yes.

15 MR. SPEATH: I know how that -- I know how it
16 goes. We're good.

17 Let's see -- he knows what I'm going to get to
18 next.

19 Did we cover that? Is that --

20 HEARING EXAMINER RIVERA: Yes, we're good for now,
21 thank you.

22 MR. SPEATH: So, again, we do anticipate that
23 there's going to be a little bit -- I'm not going to
24 say that there's not going to be at all, but it's not a
25 major part of operations; right? It's not a standard

1 part of operations.

2 So this just shows how it continues in, and how
3 the improvements are being done through -- through the
4 neighborhood and, again, very minimal. I don't think
5 we do a widening more than a foot anywhere that's in
6 there. And the idea with that, again, was if we did it
7 to like the book standard, everybody would hate it,
8 everyone. I mean, it's just not what you want to go
9 through, through the community. So we worked out like,
10 hey, what can we do to -- to ensure that we're
11 committed to not having a detrimental impact to the
12 neighborhood, but a positive impact to the
13 neighborhood, and do some level of improvement but not
14 have a -- not have a, you know, commercial
15 thoroughfare. We don't want to have US 41 going
16 through there.

17 Rob, are you ready to go?

18 MR. FOWLER: It's just like I knew what you were
19 going to say.

20 MR. SPEATH: Just like you knew what I was going
21 to say.

22 So we had three community meetings. You can see
23 at the first one we were discussing with the community
24 all the way back on June 8th, 2023. So that's when we
25 had the initial meeting, and I think that that's the

1 meeting that we had the most -- most comments, most
2 concerns, most things that were thrown at us; and we
3 took a real commitment to coming back, working both
4 with Staff and our team, to determine what -- what
5 would be the best options for integrating the
6 community's concerns. And I would say that we really
7 were able to implement most of the -- most of the
8 concerns and most of the major -- especially the major
9 concerns that were -- you know, that were brought up.
10 Obviously we can't get everybody with every single
11 thing that they want, but some of the major ones, as
12 Rob had mentioned:

13 The fuel dock, there was -- that initially was on
14 the east side of the property, and there was concerns
15 with the -- with boat traffic that was going to be in
16 there. So it was actually moved to the northeast
17 corner, but up towards the open basin on the northeast
18 corner, but with maneuverability up in that northern
19 portion to get it out of the -- that canal section.
20 Then talking about -- we talked about buffering Inlet
21 Drive, hours of operation, and more.

22 But I think that it was a -- we completed that
23 first public meeting. We had a second public meeting
24 and kind of rolled out these solutions to the
25 community, and they were well received. And then we

1 actually held a third one to kind of update as we went
2 further with Staff. There wasn't a lot of changes, but
3 we wanted to show progress and show where we were with
4 our overall planning and some -- some other additional
5 things that we show as far as like how we were handling
6 that, and how we were showing the community and --
7 showing them some renderings and some other things of
8 what we were intending to plan for the future of the
9 project.

10 We have a bunch of different deviations from Code
11 that are associated with here. I don't know if it
12 makes sense for me to go through them, or whether, you
13 know, Staff wants to do that. What's the -- what's the
14 best way, do you think, to -- to -- to address that?
15 That's the end of, really, what I want to discuss, but
16 I can go quickly through the deviations from our
17 perspective.

18 MR. DeFILIPPO: I'm planning on going over them,
19 as well --

20 MR. SPEATH: Okay.

21 MR. DeFILIPPO: -- in my presentation so...

22 MR. SPEATH: Let me -- let me just give a quick
23 run-through.

24 The first deviation, you know, asking for no
25 internal landscaping, the intent of that is really

1 because we wanted to reserve a portion of the site --
2 not a very big portion of the site, but a portion of
3 the site to still be able to operate as a boat triage
4 if we have another emergency situation. Obviously it
5 wouldn't operate at the same level as what you saw with
6 the entire site, but we still wanted to have that
7 capability in place even if it was in a reduced
8 capacity. And that's also why in the -- in the plan
9 there is a -- a boat well that's on the west side
10 that's not part of the boat operations. It's purely
11 for emergency purposes. It's already existing. We
12 just decided to keep it.

13 MR. FOWLER: It's worth noting that the triage
14 center that was put in there was one of the very few in
15 the entire area that was actually -- I just went blank
16 with the agency. But we had all of the cleanup, all of
17 the protections, everything you needed to pull a boat
18 out -- DEP, sorry, all those letters, can't keep up.

19 So, you know, the County is dying for such
20 services, and this was a way we were able to do that,
21 and we actually did it the right way so we didn't want
22 to give that up entirely in case it helps. Hopefully
23 we'll never see that storm again but...

24 MR. SPEATH: Small ones, they happen.

25 MR. FOWLER: I know.

1 MR. SPEATH: So the next one is a deviation from
2 the section of the Code requiring berms and walls. I
3 mean, just as far as sizing and configuration of the
4 site, this is a necessary requested deviation.

5 The same thing with 2A -- and if you continue
6 down, the whole section of 2 has to do with walls and
7 sizing and configuration of the landscape buffers. So
8 these 2A through 2 -- 2F is it? Yeah. They're all
9 just slightly different versions of those buffering
10 requirements, landscape requirements, and how we're
11 deviating from them in different portions of the
12 property. Each one of those is itemized on that master
13 concept plan so you can see how they associate with
14 each other.

15 We are requesting a deviation for height for the
16 boat barn only. So this is just for the height of the
17 overall structure. The --

18 HEARING EXAMINER RIVERA: And, Matt, just to
19 interrupt --

20 MR. SPEATH: Yes.

21 HEARING EXAMINER RIVERA: -- you're requesting 45
22 feet because that's what the Code requirement is for
23 your future land use classification, but the CPD that
24 was in existence already approved 55 feet; is that
25 correct? So you're basically extending two feet --

1 MR. SPEATH: Correct.

2 HEARING EXAMINER RIVERA: -- beyond what you
3 already have?

4 MR. SPEATH: Yes.

5 MR. FOWLER: And during the course of this
6 project, since 2019 -- is that what you were going to
7 say, too?

8 MR. SPEATH: Go ahead --

9 MR. FOWLER: Sorry.

10 MR. SPEATH: You're fine.

11 MR. FOWLER: FEMA has changed the classification
12 of this property and raised everything, and one of the
13 things that we've now consistently applied across
14 County projects is where FEMA has raised that, that's
15 also raised the base level. So we're not adding
16 building, everything is just up higher.

17 MR. SPEATH: So then we -- again, we're going into
18 additional deviations for landscape buffers, Deviation
19 5, Deviation 6 -- it's cut off.

20 Oh, the same -- the same directional parking so
21 that we have -- on one side of the site we have
22 90-degree parking, and the other side of the site we
23 have angled parking. This is just due to -- to
24 configuration and size constraints, but they are
25 completely separated areas so there shouldn't be any

1 issues with operations or confusion related to the
2 types of -- I can go back real quick just to show --
3 you see on the master concept plan, the area that's on
4 the west there is the one that's angled versus the area
5 that's on the right that -- that's 90-degree parking.
6 And then the southwest parking is intended for
7 overflow, staff, or a valet parking area, in that
8 open -- in that open space.

9 HEARING EXAMINER RIVERA: And that gets to
10 Deviation 7, which is for the valet. Can you just
11 describe that a little bit, how that valet is going to
12 work?

13 MR. SPEATH: Sure. So the valet is primarily for
14 the -- for the restaurant structure. There's not
15 really a need for valet for the operations of the -- of
16 the marina. But given demand and such that's in there,
17 if you have those times that are operating, and there's
18 anticipated -- anticipated additional need for that
19 parking, that's where the -- that's where the valet
20 would come in. So it would be a part of the restaurant
21 operations. That's really where it's needed.

22 It's going to come down to logistics of actual
23 operation, too, because we're also categorizing that
24 area for employee parking because we want to keep the
25 parking closest, you know, for our patrons. So there

1 isn't a specific valet plan, but it would be
2 specifically tied to the restaurant operations.

3 HEARING EXAMINER RIVERA: And will the marina
4 allow folks to access the restaurant -- I assume, from
5 these slips, but they're going to have -- are they
6 going to be dedicated and leased to folks, or is that
7 going to be open to the public?

8 MR. SPEATH: There's not open-to-the-public slips
9 as far --

10 MR. FOWLER: There are -- there are transient
11 spaces for the restaurant, and then there's a lot of
12 leased slips.

13 HEARING EXAMINER RIVERA: Okay. So folks will be
14 coming to the restaurant not just by vehicular access,
15 but they'll be coming from the --

16 MR. FOWLER: Yes.

17 HEARING EXAMINER RIVERA: -- waterway, as well.
18 And I assume you'll be -- someone is going to be
19 monitoring it, but Condition 7 limits you to not do any
20 kind of off-site parking, so you've got to keep
21 everybody somehow housed on the site --

22 MR. FOWLER: Right.

23 HEARING EXAMINER RIVERA: -- so you're not
24 spilling over into the neighborhood?

25 MR. FOWLER: Correct, yes.

1 HEARING EXAMINER RIVERA: So someone will be
2 there, I assume, to kind of be monitoring that?

3 MR. FOWLER: This is a, you know, precedent we've
4 dealt with all over the place. We have
5 (unintelligible) and Boathouse up on -- you know,
6 they've got both transient vessel traffic, they've got
7 parking traffic. They have off -- the off-site is just
8 a canal so they have to transit around it but -- so,
9 yeah, it's a common thing, but the restaurant is
10 managing their folks, as well as the marina managing
11 off-site.

12 HEARING EXAMINER RIVERA: Thank you.

13 MR. SPEATH: 8 being what we discussed with the
14 20-foot-wide roadway coming into the property with the
15 single sidewalk. The standard shows two sidewalks and
16 things that would, again, be disruptive to the
17 neighborhood.

18 Deviation Number 9, setback deviations. A lot of
19 these were further discussed in the Staff Report,
20 comparing the structures, how we have them proposed, to
21 the ones that were there before. A lot of this has to
22 do with configuration of the -- of the site and the
23 constraints that we have with it. So Deviation 9 is
24 the setback of 15 feet to allow a 4-foot setback from
25 development perimeter.

1 10, kind of the same here as we have it outlined
2 for the roadway standards.

3 What was the difference between -- that we had
4 between 8 and 10? I guess it's just --

5 MR. DeFILIPPO: Just different sections of Code, I
6 think.

7 MR. SPEATH: Yeah, different Code standards that
8 we needed to deviate from, the same intent.

9 Then Deviation 11, which is the -- the 500-foot
10 setback from residentially-zoned properties for
11 consumption on premise, for the -- for the area where
12 the restaurant is located, to allow for an
13 82-and-a-half-foot separation to the properties that
14 are to the south of the -- of the property. Without
15 doing a bunch of flipping back and forth, it's this
16 area that's down here on the other side of the canal.

17 There's also a -- as part of this, there's also
18 a -- as part of our development, there's actually an
19 easement that's over here, a -- what do you call it, an
20 environmental --

21 MR. DeFILIPPO: Conservation.

22 MR. SPEATH: Conservation easement, thank you. So
23 the conservation easement that you can see a little bit
24 of in that aerial over -- the photograph that's over
25 here so -- and the conservation right here. So as it

1 comes in here, it will be a little bit different
2 buffering, but that's -- that's the one that's right
3 here.

4 We can see that also down -- a little bit down in
5 the corner, this direction. And that's itemized here
6 on this -- on the master concept plan. We go right to
7 the -- to the corner of the property when doing that
8 dimension and showing that dimension.

9 That's it. Thank you very much.

10 HEARING EXAMINER RIVERA: I have a question on
11 condition -- I think it was -- 6 because that ties to
12 the Manatee Protection Plan, and I thought somewhere in
13 here I read that the Manatee Protection Plan wasn't
14 applicable because of some vesting that had happened on
15 the prior -- I just want to -- maybe you can speak to
16 that.

17 MR. DeFILIPPO: I can speak to that, yes.

18 HEARING EXAMINER RIVERA: Okay. I just wanted
19 to -- I read two conflicting things so I wanted to know
20 whether that applies or it doesn't.

21 And can you just describe to me -- you mentioned
22 it briefly, I think, Mr. Fowler, the -- it's called a
23 CAPRIA crane system. There was a lot made of it, about
24 how revolutionary it seems to be, but it wasn't
25 actually explained how that works.

1 MR. FOWLER: What's amazing and how revolutionary
2 it is, is how simple it is. So it's actually not high
3 tech or anything else like that, like we see down on
4 the beach, and some of those have failed. It's a very
5 simple crane system, is really all it is. In this case
6 we have one -- it's going to be ground-mounted so it
7 runs on like railroad ties on the bottom.

8 What it does, some of the things -- it's
9 completely electric so it's silent, and it allows --
10 one, I mentioned that we've basically rebuilt right on
11 the footprint of what was there before. On our boat
12 barn, we're somewhat constricted, as well. A standard
13 fork truck versus this is going to require an extra 15,
14 20 feet of width in the aisle. That CRAPIA crane, its
15 crane doesn't have the weight behind it. It can take a
16 longer boat and in the same aisleway stack it. So
17 that's one big part of it.

18 But the simplistic operations; the electric,
19 quiet; and there's a bunch of other stuff in there that
20 the marina guys get excited about. I don't know that
21 we do -- but you can stack the boats tighter and et
22 cetera, et cetera, which it's more efficient. It's not
23 a high-tech solution. It's actually a very simple
24 solution that makes life easier and quieter and fits
25 the bill for what we -- we're constricted to.

1 HEARING EXAMINER RIVERA: Thank you.

2 And then the membership -- if we can go back to
3 that for a moment. So who is that going to be marketed
4 to exactly? Is it just going to be open to whomever
5 wants to be a member, and then there's a certain amount
6 that are sold, and is that tied somehow to the number
7 of boat slips and dry storage that you have?

8 MR. ROGERS: Membership is open to the public.

9 HEARING EXAMINER RIVERA: But it will be a paid
10 membership --

11 MR. ROGERS: Sure.

12 HEARING EXAMINER RIVERA: -- because it's -- okay.

13 MR. FOWLER: This is Jaret Rogers, senior vice
14 president for Safe Harbor, here --

15 HEARING EXAMINER RIVERA: Okay.

16 MR. FOWLER: -- West -- Florida West?

17 MR. ROGERS: Florida West.

18 MR. FOWLER: All right.

19 HEARING EXAMINER RIVERA: I'm just trying to get
20 an under -- reading what I read, there was a lot made
21 of memberships versus nonmemberships and the public
22 accessibility. I'm just trying to get a flavor of --

23 MR. FOWLER: You, like many, have that question;
24 but at the end of the day, it's open to anyone. What
25 do you have, 160 marinas now?

1 MR. ROGERS: 152. You know, you pay for storage,
2 and you're a member. It's that easy.

3 HEARING EXAMINER RIVERA: So there will be the
4 boat -- so the boat storage would be exclusive to the
5 membership. There's that maintenance and member
6 building in the southwest corner, more or less, and
7 that's where you're requesting the COP, and that will
8 have some type of amenity, I'm assuming for members.
9 That will be exclusive to the members, as well.

10 MR. ROGERS: Correct.

11 HEARING EXAMINER RIVERA: But the restaurant and
12 the store, again, those are just going to be open to
13 whomever, and there will be signage or something on the
14 site that will locate people so that they understand
15 where to go and where not to go?

16 MR. ROGERS: (Inaudible.)

17 HEARING EXAMINER RIVERA: Okay. And are there
18 member events and things like that that are hosted
19 then --

20 MR. ROGERS: Yes.

21 HEARING EXAMINER RIVERA: -- on the site?

22 MR. ROGERS: Yes.

23 HEARING EXAMINER RIVERA: Okay. And those would
24 be invitation only --

25 MR. ROGERS: Correct.

1 HEARING EXAMINER RIVERA: -- and open to the
2 members?

3 MR. ROGERS: (Nods head.)

4 HEARING EXAMINER RIVERA: Okay, thank you.

5 MR. SPEATH: Thank you.

6 HEARING EXAMINER RIVERA: I'm ready for Staff
7 whenever you're ready.

8 MR. DeFILIPPO: All right.

9 HEARING EXAMINER RIVERA: Good morning.

10 MR. DeFILIPPO: Good morning. For the record, my
11 name is Nick DeFilippo. I'm a senior planner with the
12 Planning section. I've previously been accepted as an
13 expert witness in the Lee Plan and Land Development
14 Code, and I'd like to be accepted once again.

15 HEARING EXAMINER RIVERA: Yes, thank you.

16 MR. DeFILIPPO: I have copies of my PowerPoint.

17 HEARING EXAMINER RIVERA: That will be Staff
18 Exhibit 3.

19 (Staff Exhibit 3 submitted.)

20 HEARING EXAMINER RIVERA: Thank you.

21 MR. DeFILIPPO: You're welcome.

22 Okay. So the request is to rezone approximately
23 7.27 acres from commercial planned development and
24 light industrial to commercial planned development.
25 The request will permit a commercial marina consisting

1 of 283 boat slips, 44 wet and 239 dry, and 300 -- and
2 30,610 square feet of commercial uses. Staff has
3 recommended approval with conditions.

4 So some history on the site:

5 The parcel that is zoned light industrial was
6 formerly a wastewater treatment plant. That was
7 demolished in 2013 under that demo permit.

8 The remainder of the property, there's been a
9 marina use existing there since the 1960s.

10 There were several zoning actions:

11 The first one, in 1976, there that rezoned from
12 industrial to neighborhood retail business district,
13 which allowed for the continued marina use.

14 Then there was another rezoning in '88 that
15 rezoned the CPD and permitted 44 wet, 239 dry slips;
16 and that rezoning actually allowed for some more
17 intensive outdoor marine repair that was adjacent to
18 the residential properties.

19 So then in 2006 it was rezoned again to CPD, the
20 slip count remained the same, and it transitioned more
21 into a commercial marina with restaurant and commercial
22 square footage.

23 This table that I have over here is just a
24 comparison of the existing CPD, that would be Z-06-065,
25 versus the current request:

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1 The boat slip count, there's no change between
2 these.

3 The height, as the Applicant talked about, the
4 55-foot height for the dry storage building was
5 previously approved under that existing CPD. The
6 current request is seeking a 2-foot increase to 57.
7 The remainder of the buildings are going to meet the
8 45-foot maximum height.

9 The subordinate intensity is increasing by 13,110
10 square feet.

11 The restaurant is increasing by 500 square foot,
12 and that's just the restaurant building. The outdoor
13 seating is consistent with the current approval.

14 And then the consumption on premises is
15 increasing, as well, by -- I put 5,950 square feet, but
16 there's a sub-note there because on the current
17 approval, there's a -- there was an outdoor pool that
18 was approved, and I couldn't quantify the square
19 footage on that. It looks fairly large so I would --
20 I'm guessing that number is a little bit closer to
21 what's currently approved.

22 And one thing also to note is that the current CPD
23 entitlements were approved on only 5.7 acres; so we are
24 adding some acreage, and as a result some of these
25 numbers are increasing a little bit.

1 So this is just -- I wanted to put them side by
2 side so you can see the 2006 approval on the left and
3 then the current request on the right.

4 Much of the -- like the restaurant building, same
5 location. The dry storage boat barn is in the same
6 location. Let me see which one is the pointer here.

7 So this was where the pool was up here, and you've
8 got the -- that was another little outdoor -- I
9 think -- I can't read it from here but -- I think it
10 was a tiki bar, actually. I think it was a tiki bar.
11 So that's transitioning more into a separate marina
12 building, and they still are maintaining that patio
13 space but...

14 So transitioning to Lee Plan compliance, the
15 Future Land Use categories here are Suburban and Public
16 Facilities. The Suburban Future Land Use category is
17 predominantly -- it's characterized by predominantly
18 residential areas. It doesn't permit industrial land
19 uses. The Applicant is not proposing industrial land
20 uses. There's a current marina, commercial marina,
21 approval there, and the current request is maintaining
22 that.

23 The Public Facilities Future Land Use category is
24 publicly-owned lands within the county, and the uses
25 are determined by the NTD; so the use that they're

1 proposing is consistent with that Future Land Use
2 category, as well.

3 The property is within the North Fort Myers
4 Community Planning area. It's not located within the
5 commercial corridor or town center overlays, and what
6 the Applicant is seeking is to develop this former
7 marina site, which is consistent with the goals and the
8 objectives in Goal 30, Lee Plan Goal 30. The public
9 information meeting was held. The Applicant went over
10 that.

11 So to talk a little bit about some of the
12 commercial land use Lee Plan policies, so they are
13 proposing to develop a former marina site, like I just
14 stated, and that's consistent with Objectives 2.1 and
15 2.2 of the Lee Plan.

16 The request is maintaining a water-dependent
17 marina as the principal use and adding some
18 accessory -- conditioned with accessory components, but
19 marina is still the primary function. And they are
20 reinvesting in a designated marine location rather than
21 converting to a non-water-dependent development. So
22 that's consistent with Lee Plan Policy 6.1.4 and Lee
23 Plan Goal 8, which is the water-dependent overlay goal.

24 They are proposing alternative buffers, and I'm
25 going to go more into detail on that, but Staff finds

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1 that they provide appropriate screening and buffering.

2 And they're connecting to Lee County Utilities,
3 which is consistent with the standards in 4.1.1 and
4 4.1.2.

5 And they're consistent with the Manatee Protection
6 Plan and maintaining the mangrove fringe that's there
7 currently; so they have taken into consideration
8 environmental concerns, as well.

9 And I will touch more on traffic later.

10 So this is the water-dependent overlay map, Lee
11 Plan Map 1-H. The property is up here, and they are
12 designated on that, a portion of it. So that
13 designation on the water-dependent overlay protects the
14 rights to rebuild and expand on these water-dependent
15 uses, and that's outlined in Goal 8 and Policy 128.1.2.
16 So their request is consistent with that.

17 The Manatee Protection Plan, I can talk about that
18 a little bit.

19 So the Manatee Protection Plan allows for an
20 exemption if you have an existing State permit. This
21 property has a State permit that was issued prior to
22 adoption of the Manatee Protection Plan, and the permit
23 is still active. It's been extended. So the slip
24 count is consistent with that valid permit; so that's
25 how it complies with the Manatee Protection Plan.

1 HEARING EXAMINER RIVERA: So is Condition 6
2 basically just there to say if there's any modification
3 to those numbers, then the Manatee Protection Plan may
4 apply?

5 MR. DeFILIPPO: Yes, and then the Manatee
6 Protection Plan, it can be like a living document. So
7 like if things were to change, maybe in the future they
8 could get more slips if -- you know, the Manatee
9 Protection Plan were to kind of change, then they could
10 request additional slips, if they comply with the
11 Manatee Protection Plan. That's the intent, and I was
12 trying to capture that to provide a little flexibility.

13 The facility has adequate water depths and is
14 located on existing channels, got direct access to the
15 Caloosahatchee River. So that's consistent with Policy
16 128.4.8.

17 And Staff's proposed the Marina Management Plan
18 condition, which addresses compliance with several
19 policies.

20 And I got cut off there on the bottom, but I think
21 it says -- it's supposed to go into detail about how
22 the MCP demonstrates compliance with the remainder of
23 Objective 128.5, as far as the -- the marine design
24 criteria.

25 So surrounding uses, to the north -- well,

1 obviously it's surrounded by canal on all sides.

2 So to the north we've got canal and then
3 single-family homes zoned RS-1 within the Suburban
4 Future Land Use category.

5 To the south we have the canal and then Tract D,
6 which has a recorded conservation easement over it; and
7 then we have single-family homes and vacant lots that
8 are zoned AG-2 and RS-2 that would allow -- you know,
9 that would allow for the construction of single-family
10 homes.

11 To the east there's a canal, and then this large
12 chunk right here is under conservation easement
13 dedicated to FDEP. It's associated with the Buttonwood
14 Harbour subdivision, which is just north of that.

15 And then to the west we've got another canal and
16 then single-family homes.

17 This is just a picture of the MCP because I'm
18 going to go into detail soon and just -- on all the
19 deviations; and when I do that, I'm going to zoom in to
20 different parts of the MCP so that you can clearly see
21 where these are on the site.

22 So Deviation 1, which is -- which -- so that
23 section of the Code would require internal landscaping
24 within the parking lot areas, and the Applicant has
25 requested to allow for unobstructed. And that's the

1 area that would be used as a boat triage. There's that
2 existing well there. Staff has recommended approval of
3 that deviation.

4 And one thing also to add in there about the boat
5 triage is following Ian a lot of the coastal boat
6 triage locations were damaged and were not -- we
7 weren't able to use them; so it is important to have a
8 further inland location in the event that it's needed
9 in the future.

10 Deviation 2, which requires a 25-foot-wide buffer
11 with an 8-foot wall set back 25 feet from the property
12 line, or a 30-foot-wide buffer with 5 trees and 18
13 shrubs per 100 linear feet when roads, drives, parking
14 areas associated with nonresidential uses are within
15 125 feet of an existing single-family residential
16 subdivision or single-family residential lots. So that
17 deviation is broken down into 2A to 2F. I give you
18 just a general overview here, but we're going to jump
19 to all these locations on the MCP.

20 Staff recommended approval of Deviation 2A, and
21 then Deviations 2B through 2F with this condition, that
22 Type F buffer plantings be put in there. So you're
23 looking at additional trees and the double hedgerow
24 that's going to be maintained at a minimum of 60
25 inches. So there's additional plant material that's

1 going to go in there.

2 So this is 2A, and that's going to be on either
3 side of that entrance road. Let me -- this might be
4 helpful. So looking here, over here, to allow no
5 buffer along the first 100-foot length. The Applicant
6 coordinated with those two homeowners, and in the Staff
7 Report I provided that coordination. The homeowners
8 indicated that they did not want the buffer plantings
9 to go there. They wanted to maintain -- one of them
10 has a driveway access there, they wanted to maintain
11 that, so Staff recommended approval of this one, of
12 Deviation 2A.

13 Whoops, sorry about that.

14 HEARING EXAMINER RIVERA: So essentially the
15 buffer line correlates with the property line of the
16 adjacent --

17 MR. DeFILIPPO: Yeah. Like right here, yeah.

18 HEARING EXAMINER RIVERA: Okay.

19 MR. DeFILIPPO: So Deviation 2B would allow for --
20 this is the southwest. So we're right -- we're going
21 to be right here. It would allow that buffer to vary
22 in width, just given the dimensions of that right
23 there. So it's going to vary in width from 12 to 30
24 feet, and it's going to have the Type F plantings
25 again. So Staff recommended approval of that.

1 HEARING EXAMINER RIVERA: So the planting material
2 will still be present, just in a truncated area, as it
3 tapers farther north?

4 MR. DeFILIPPO: Yes.

5 HEARING EXAMINER RIVERA: So it will be more
6 vegetated in terms of density. You're not going to be
7 able to see through it.

8 MR. DeFILIPPO: Yeah. Also I should -- while
9 we're talking about the plantings -- that's the
10 Condition 2. Condition 3 requires all the required
11 buffer trees to be 16 feet in height, which is -- the
12 Code only requires 10 feet. So that's a pretty
13 substantial height increase there. So that should
14 provide some more mature vegetation, which should
15 shield and provide some good buffering.

16 This is Deviation 2C, and this is very similar to
17 this one. It's just given the shape of this, now we
18 have a varying width of 4 to 33 feet. Same plantings,
19 same Type F buffer, so Staff recommended approval of
20 that. And so just to -- before we keep going, so 2B to
21 2F had that condition on there, that condition of
22 approval.

23 Did I skip one?

24 So 2D would allow a varying width buffer, from 9
25 to 15 feet -- that's going to be here -- and it's going

1 to have the Type F buffer trees and shrubs again.

2 Staff recommended approval of that deviation.

3 Deviation 2E would allow the 8-foot landscape
4 buffer right here; and, once again, that has a Type F
5 buffer trees and shrubs. Staff recommended approval of
6 that deviation, as well.

7 And then 2F would allow a 10-foot buffer here --
8 and I forgot to circle it, but it's also right here, as
9 well. So this is -- I just went back a slide. We're
10 in the southwest corner here, and then this is the
11 north here. So those are those -- those are the 2
12 10-foot wide buffers; and, once again, they have the
13 Type F buffer trees and shrubs. Staff recommended
14 approval of that deviation, as well.

15 Deviation 3 is a deviation from the maximum
16 building height of 45 feet above the base flood
17 elevation, to allow the 57 feet above base elevation --
18 base flood elevation height for the dry storage boat
19 barn. Staff recommended approval of this deviation, as
20 well. This is just a minor 2-foot increase over what's
21 already permitted there, and the condition requiring
22 those mature buffer trees should provide some
23 additional shielding and buffering and kind of reduce
24 the perceived mass of that building.

25 HEARING EXAMINER RIVERA: So that specific -- the

1 condition to that deviation didn't limit the 57-foot
2 height to the boat storage building, but Condition 2B
3 does; is that correct? So that's the intention? All
4 the other buildings, I believe, are supposed to be
5 maintained at 45 feet consistent with what the Code
6 would otherwise allow?

7 MR. DeFILIPPO: Yes, all the other buildings are
8 supposed to be 45 foot, and the condition is only
9 supposed to allow for this building to be 57.

10 HEARING EXAMINER RIVERA: Okay.

11 MR. DeFILIPPO: That's the intent.

12 Deviation 4 is the setbacks for building
13 structures from a waterbody. The Applicant -- the Code
14 requires 25 foot. Applicant is requesting a 4-foot
15 waterbody setback for the restaurant building, a
16 15-foot waterbody setback for the marina building, and
17 a 12-foot waterbody setback for the maintenance and
18 member building. Staff recommended approval of those,
19 as well, given the site design, and it will enhance the
20 water-dependent uses.

21 So I just broke out where these are. So over here
22 we've got the marina building, which is the 15-foot;
23 and this is the restaurant building, the 4-foot; and
24 this is the member and maintenance building, which is
25 the 12-foot.

1 So moving along, Deviation 5, this is a Code
2 section from the North Fort Myers Community Planning
3 area. This requires a 30-foot-wide buffer for
4 high-density or high-intensity development abutting a
5 subdivided lot in an existing large-lot residential
6 subdivision. So this is tied into those other buffer
7 conditions, as well. They're requesting no buffer for
8 the first 100 feet, and then to allow those tapered
9 buffers, which we went over in Deviations 2B and 2C.
10 So Staff recommended approval of this subject to those
11 conditions in 2B and 2C.

12 Deviation 6 requires parking lots to be developed
13 throughout the site utilizing the same degree of angle,
14 and the Applicant is requesting to use varying angled
15 parking. Staff recommended approval of this deviation.
16 It helps to maximize the parking down there and the
17 valet lot.

18 Deviation 7 is the parking deviation. So they're
19 required a total of 287 parking spaces. The deviation
20 is to allow for 214 parking spaces. Staff recommended
21 approval of the deviation with the following condition.

22 Deviation 8 and 10, I lumped these together in
23 here because these are for the -- the roadway design.
24 So they're seeking a deviation from those sections of
25 Code to allow for the 25-foot roadway, the sidewalk on

1 one side, and Staff recommended approval of these two
2 deviations subject to this condition. The Applicant
3 discussed this previously, but they're going to mill
4 and resurface the road and widen it a little bit to
5 make it a consistent 20-foot width.

6 Deviation 9 is another setback deviation. The
7 Code section requires a minimum setback of 15 feet from
8 all development perimeter boundaries. The Applicant is
9 requesting a 4-foot boundary setback for the proposed
10 restaurant building. Staff recommended approval of
11 this deviation.

12 And Deviation 11 is the consumption on premises.
13 The Code section requires that establishments offering
14 alcoholic beverages for consumption on premises may not
15 be located within 500 feet of a dwelling unit under
16 separate ownership; so the deviation would allow for
17 that 82-and-a-half-foot separation, and these are the
18 conditions of approval.

19 One thing to note, I noticed a typo in my
20 recommended conditions. I believe -- let me find the
21 condition -- Condition 7. In the Staff recommended
22 conditions and deviations, I -- in 7A I put 17,500
23 square foot. It should be 17,150 square foot. It's a
24 typo on my part, and the 17,150 matches what's on the
25 MCP.

1 HEARING EXAMINER RIVERA: Okay, thank you.

2 MR. DeFILIPPO: So these conditions talk about
3 hours of operation. They limit the hours of operation
4 for outdoor seating and live entertainment and
5 amplified sound; so they don't permit any live
6 entertainment at all, and they provide additional
7 safeguards for the amplified sound, as well. Much of
8 this condition was carried over from the previous
9 zoning approval.

10 Oh, and this slide right here is just kind of
11 showing you where that is on the MCP.

12 Then moving on -- on to traffic, the traffic
13 impact statement indicated that the roadways have
14 sufficient capacity, and the -- the Lee County DOT memo
15 that was provided stated that, as well. The site has a
16 single access onto Inlet Drive, which is a two-lane
17 undivided local road. And then at time of local
18 development order review, the project will be further
19 evaluated to determine if site-related improvements to
20 any of the nearby road networks are required. You
21 know, as part of the zoning application, you look at a
22 worst-case scenario; so at time of DO we'll get into
23 the details.

24 So, if approved, the development will be served by
25 Lee County Utilities for sewer and water.

1 Going to have adequate access to a roadway.

2 Fire station, EMS, and the Sheriff's Office,
3 they're located nearby to the site.

4 So there are adequate urban services to
5 accommodate the future development.

6 Staff's findings and conclusion:

7 We find it's consistent with the Lee Plan.

8 Meets the Land Development Code and other County
9 regulations or qualifies for deviations.

10 Compatible with existing and planned uses in the
11 area.

12 Will have sufficient access.

13 And Staff recommends approval of the request as
14 conditioned.

15 I'm available for any questions.

16 HEARING EXAMINER RIVERA: Thank you. I'm going
17 through --

18 MR. DeFILIPPO: Okay.

19 HEARING EXAMINER RIVERA: I appreciate that. It
20 was very detailed. The Staff Report, as well, was very
21 well prepared so, thank you, because I was able to
22 review much of that, and you answered my questions as
23 you went through today. So I think you did cover them
24 all.

25 Did Applicant have any questions of Staff?

1 MR. SPEATH: I don't, no, thank you.

2 HEARING EXAMINER RIVERA: Thank you.

3 MR. SPEATH: Can I speak for everybody?

4 HEARING EXAMINER RIVERA: We're going to take a
5 quick break then, let's say ten minutes, and we will
6 come back at 10:15, and that's when I'll call the cards
7 that I have. So if there's a certain order that
8 everyone would like to speak, if you can just let Staff
9 know that. If someone needs to exit early or something
10 of that nature, let them know. Otherwise, I'll call
11 them in the order that I have them. And we'll resume
12 at 10:15, thank you.

13 (Recess from 10:06 a.m. to 10:16 a.m.)

14 HEARING EXAMINER RIVERA: Okay. We're back on the
15 record, and we're going to open the public comment
16 portion. And if you weren't here at the beginning and
17 didn't take the oath, if you could just let me know
18 that when you come to the podium.

19 The first card I have is for Guy Adamsik.

20 MR. ADAMSKI: Adamski.

21 HEARING EXAMINER RIVERA: Adamski, I'm so -- and I
22 should apologize at the outset. I am terrible at names
23 typically. So I do my best, and I never mean to
24 offend.

25 Did you want to say anything today, sir?

1 MR. ADAMSKI: I just have a question. I don't
2 know if it's appropriate or not --

3 HEARING EXAMINER RIVERA: If you could come up --
4 I'm sorry -- for the court reporter and for the -- we
5 need you to come to the podium, please. Thank you.

6 Good morning again.

7 MR. ADAMSKI: Good morning, Guy Adamski is my
8 name. I'm a neighbor in the area there.

9 The only question I really have is, are these
10 PowerPoints accessible to the public?

11 HEARING EXAMINER RIVERA: Yes, they are.

12 MR. ADAMSKI: And how?

13 HEARING EXAMINER RIVERA: If you would like a hard
14 copy, we can make that for you today before you leave,
15 or we can provide it electronically.

16 MR. ADAMSKI: Oh, I'd say I'm old-fashioned. If I
17 can get a hard copy (unintelligible) --

18 HEARING EXAMINER RIVERA: If you want to just
19 stick around after the hearing --

20 MR. ADAMSKI: Okay.

21 HEARING EXAMINER RIVERA: -- we'll make sure you
22 get that. Thank you, sir.

23 MR. ADAMSKI: Very good, thank you.

24 MR. DeFILIPPO: Here's a copy of Staff's.

25 HEARING EXAMINER RIVERA: And then Constance

1 Adamski was also on the same form.

2 MR. ADAMSKI: You got the last name right that
3 time.

4 HEARING EXAMINER RIVERA: I always do my best. I
5 just don't always get it.

6 (Discussion at Applicant table)

7 MS. ADAMSKI: All I want to know is how many
8 letters went out to people, or what determined who you
9 sent the letters to?

10 HEARING EXAMINER RIVERA: I can ask Staff to
11 address that. The LDC -- there's a code that codifies
12 who they need to send it to --

13 MS. ADAMSKI: Okay.

14 HEARING EXAMINER RIVERA: -- and it's typically
15 500 feet to the perimeter, but I'll ask them --

16 MS. ADAMSKI: Okay.

17 HEARING EXAMINER RIVERA: -- to confirm that.

18 MS. ADAMSKI: Good to know.

19 HEARING EXAMINER RIVERA: Thank you.

20 Okay. The next card I have is for Carol Forter?
21 Did I say that correctly?

22 MS. McCORMICK: She left.

23 HEARING EXAMINER RIVERA: Oh, okay. Do you know
24 if she'll be coming back?

25 MS. McCORMICK: I don't think so.

1 HEARING EXAMINER RIVERA: Okay.

2 And then Robert McCormick?

3 MR. McCORMICK: Robert McCormick --

4 HEARING EXAMINER RIVERA: Good morning.

5 MR. McCORMICK: -- I live on Harbour Lane.

6 The other thing -- one of the questions I had is,
7 as you drive in, okay, and coming out of the Inlet,
8 the -- it would be the north side, are they going to
9 have a buffer zone there for also headlights?

10 MR. SPEATH: Yes.

11 MR. McCORMICK: You know where I'm talking about.

12 MR. FOWLER: Yeah, you're talking about the top of
13 the screen, the top of the picture?

14 MR. McCORMICK: Right.

15 MR. FOWLER: Yes.

16 MR. McCORMICK: Right there.

17 MR. DeFILIPPO: Right here?

18 MR. McCORMICK: Yeah, all the way down.

19 MR. DeFILIPPO: To here?

20 MR. FOWLER: No, he's talking about --

21 (Participants speaking en masse.)

22 MR. ROGERS: The horizontal face.

23 MR. McCORMICK: Right, right. In other words --
24 well, we live across from there. So cars that
25 are coming in -- well, in wouldn't bother me, going

1 out.

2 MR. FOWLER: Right, right, there's going to be a
3 buffer zone there.

4 MR. SPEATH: Yes.

5 MR. McCORMICK: Okay. All right. That's one of
6 the main things. Okay, thank you.

7 HEARING EXAMINER RIVERA: Thank you. Thank you
8 for coming today, sir.

9 Next I have -- is it Frank Mengler?

10 MR. MENGLER: Yes, and I have no comments.

11 HEARING EXAMINER RIVERA: No comments? Okay,
12 thank you, sir.

13 Okay. And the last I had was Joanne McCormick.
14 good morning.

15 MS. McCORMICK: Good morning. I also live on
16 Harbour Lane. A lot of my questions have been
17 answered, but I have one: The sidewalks, there's no
18 sidewalk from Harbour Lane coming into the marina. Is
19 there going to be a sidewalk there?

20 MR. SPEATH: Yes, yes, there's an added sidewalk.

21 MS. McCORMICK: Okay.

22 HEARING EXAMINER RIVERA: Is that the only
23 question?

24 MS. McCORMICK: Well, I was interested in the
25 buffer. Also, the noise level, I saw that the outdoor

1 seating on Monday through Sunday is from 10 a.m. to 12
2 a.m. So the restaurant is going to be open till 12 --
3 till midnight?

4 HEARING EXAMINER RIVERA: That's what they
5 proposed in the conditions; but if you have comments
6 you wanted to place about that, you're welcome to do
7 so --

8 MS. McCORMICK: Okay.

9 HEARING EXAMINER RIVERA: -- and then we can
10 discuss it.

11 MS. McCORMICK: All right, thank you.

12 HEARING EXAMINER RIVERA: Thank you. Thank you
13 for coming today.

14 Was there anyone else that wished to speak? That
15 was the last card that I had.

16 (Discussion at Applicant table)

17 HEARING EXAMINER RIVERA: And we can get --
18 everything that's in here is public record. So --

19 MS. McCORMICK: Okay.

20 HEARING EXAMINER RIVERA: -- if you just want to
21 hold after the hearing, and then we can make sure
22 everyone gets a copy of anything that you guys have
23 today.

24 MS. McCORMICK: Thank you.

25 HEARING EXAMINER RIVERA: Was there anyone else

1 that wished to speak? Okay, thank you.

2 So then we'll close public comment, and we'll come
3 back to the Applicant and the Staff, if there were any
4 final comments that you wanted to place into the
5 record. I can ask Staff to address the noticing
6 question just so we've got that information.

7 MR. SPEATH: Thank you, Matthew Speath again, very
8 little. The only thing I wanted to clarify, because we
9 didn't really get into it too much, was on the Inlet
10 Drive portion that's in between the two residences
11 where it's -- I think it's uncommon to be asking for no
12 buffer for those locations. And the real -- the real
13 reason for this, if you see this at street level, both
14 of these residences it looks -- it appears right now
15 like Inlet Drive continues in, and like the entrance is
16 really here, right? But it's not -- the property
17 actually extends all the way up to the intersection.
18 And so the houses, as they are currently configured and
19 as the people have their property, they're essentially
20 the same as any other corner lot that's within --
21 that's within the community, right, and their yards go
22 right up to the edge of what looks like Inlet Drive,
23 but it's really the driveway to the property.

24 And so the request to have that portion in front
25 of each one of those residences with zero buffer is

1 essentially just to allow them to continue to have
2 their lawns go down to the street side without any
3 additional interruption. So the buffers would then
4 start as you hit the line -- as you hit the further
5 line beyond where the platted lots end, and then you
6 have those triangular buffers that were there, and I
7 felt that that was important to explain. And we also
8 did coordinate with the owners of those residences --

9 MR. FOWLER: Matt, it was requested by those two
10 owners --

11 MR. SPEATH: Yeah --

12 MR. FOWLER: -- as well --

13 MR. SPEATH: -- yeah, and you can see -- I
14 mentioned one of them has a driveway that comes onto
15 the -- onto the -- you know, that connects onto what is
16 not really Inlet Drive. It should be off the other
17 side. Obviously we don't mind. It's just
18 clarification on why that area doesn't have any buffer,
19 you know, requested. The deviation for zero buffer,
20 it's really to maintain the character of how the
21 residents want it.

22 HEARING EXAMINER RIVERA: Okay, thank you. And
23 that was covered in the Staff Report so I do appreciate
24 that clarification.

25 MR. DeFILIPPO: And just to answer the question

1 about the surrounding radius in which the letters are
2 sent, that is LDC Section 34-202, and it is 500 feet.

3 HEARING EXAMINER RIVERA: And that was from the
4 perimeter; correct?

5 MR. DeFILIPPO: Yes.

6 HEARING EXAMINER RIVERA: And so that was the
7 noticing -- you're addressing the question that had to
8 do with who the mailed notices are given to?

9 MR. DeFILIPPO: Yes, that is correct.

10 HEARING EXAMINER RIVERA: Okay. And that would be
11 from the entire perimeter of the site?

12 MR. DeFILIPPO: Yes.

13 HEARING EXAMINER RIVERA: Thank you.

14 Okay. Well, again, I had a number of questions,
15 but the Staff Report was incredibly -- as was the
16 Applicant materials that were included in what I had.
17 So they got answered as I went through, and the ones
18 that didn't, I asked today. So I have the information
19 that I need to make a recommendation to the Board.

20 So if you spoke today, or you filled out a card,
21 you'll receive a copy of the recommendation that I'm
22 issuing once it's issued, as well as the date that it's
23 going to go to the Board for their final hearing. And
24 if you spoke today, you're welcome to attend that
25 hearing and speak at that hearing, as well.

1 Otherwise, I appreciate everyone's time and
2 effort. I know this was many years in the making, it
3 seems, getting here, and I do appreciate the work that
4 has gone into it.

5 Thank you, and please stay well.

6 (Proceedings concluded at 10:26 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 1
through 65, is a true and correct record of my
stenographic notes.

Dated this 16th day of January, 2026.

Deborah M. Bruns

Deborah M. Bruns, FPR

(This transcript was electronically signed.)

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HEARING EXAMINER RIVERA: [105] MR. ADAMSKI: [8] 56/20 57/1 57/7 57/12 57/16 57/20 57/23 58/2 MR. DeFILIPPO: [29] 5/23 5/25 10/16 10/18 27/18 27/21 34/5 34/21 35/17 39/8 39/10 39/16 39/21 45/5 48/17 48/19 49/4 49/8 51/7 51/11 54/2 55/18 57/24 59/17 59/19 63/25 64/5 64/9 64/12 MR. FOWLER: [29] 9/1 17/16 20/20 21/1 22/16 24/10 24/14 25/18 28/13 28/25 30/5 30/9 30/11 32/10 32/16 32/22 32/25 33/3 36/1 37/13 37/16 37/18 37/23 59/12 59/15 59/20 60/2 63/9 63/12 MR. McCORMICK: [8] 59/3 59/5 59/11 59/14 59/16 59/18 59/23 60/5 MR. MENGLER: [1] 60/10 MR. ROGERS: [11] 37/8 37/11 37/17 38/1 38/10 38/16 38/20 38/22 38/25 39/3 59/22 MR. SPEATH: [57] 6/12 9/4 10/17 10/19 11/11 11/14 12/3 12/6 12/13 12/18 12/22 12/25 13/9 13/12 13/18 13/21 13/25 14/6 14/9 14/12 14/18 14/21 17/19 20/16 20/18 21/17 21/24 22/10 24/9 24/12 24/15 24/22 25/20 27/20 27/22 28/24 29/1 29/20 30/1 30/4 30/8	30/10 30/17 31/13 32/8 33/13 34/7 34/22 39/5 56/1 56/3 59/10 60/4 60/20 62/7 63/11 63/13 MS. ADAMSKI: [4] 58/7 58/13 58/16 58/18 MS. McCORMICK: [9] 58/22 58/25 60/15 60/21 60/24 61/8 61/11 61/19 61/24 ' '88 [1] 40/14 0 00054 [2] 1/2 4/6 0398 [1] 2/7 065 [1] 40/24 1 1,800 [2] 8/13 11/20 1-H [1] 44/11 10 [5] 34/1 34/4 49/12 52/22 61/1 10,000 [2] 8/15 11/24 10,000-square-foot [1] 7/22 10-foot [4] 19/12 19/23 50/7 50/12 100 [2] 47/13 52/8 100-foot [1] 48/5 10491 [1] 2/3 10:06 [1] 56/13 10:15 [2] 56/6 56/12 10:16 [1] 56/13 10:26 [2] 1/11 65/6 11 [2] 34/9 53/12 12 [3] 48/23 61/1 61/2 12-foot [2] 51/17 51/25 125 [1] 47/15 128.1.2 [1] 44/15 128.4.8 [1] 45/16 128.5 [1] 45/23	13,110 [1] 41/9 14 [2] 3/18 3/19 14/14 [1] 3/19 15 [4] 33/24 36/13 49/25 53/7 15-foot [2] 51/16 51/22 1500 [1] 1/13 152 [1] 38/1 16 [1] 49/11 160 [1] 37/25 16th [1] 66/14 17 [1] 3/19 17,150 [2] 53/23 53/24 17,500 [1] 53/22 17/17 [1] 3/19 18 [1] 47/12 19 [2] 19/4 19/4 1960s [1] 40/9 1976 [1] 40/11 2 2,150 [1] 11/22 2-foot [2] 41/6 50/20 2.1 [1] 43/14 2.2 [1] 43/15 20 [3] 3/3 24/13 36/14 20,000 [1] 7/21 20-foot [4] 19/12 19/22 19/23 53/5 20-foot-wide [1] 33/14 2006 [2] 40/19 42/2 2013 [4] 10/16 10/17 10/19 40/7 2019 [2] 23/8 30/6 202 [1] 64/2 2023 [1] 25/24 2026 [3] 1/10 4/6 66/14 21 [1] 3/4 214 [1] 52/20 22 [1] 3/4 23 [1] 6/22 239 [4] 7/20 8/1 40/1 40/15
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