



Tuesday, December 5, 2023

9:00 AM

Council Chambers

**1. HEARINGS CALLED TO ORDER**

**2. HEARINGS**

- A. Case#: DEV23-000004\*; Address: 4932 NORMANDY CT;  
Applicant: WATERWAY BOAT LIFT COVERS INC (Continued  
from 10/17/2023)

**3. DATE AND TIME OF NEXT HEARINGS**

- A. Tuesday December 19, 2023, at 9:00 a.m. in Council Chambers

**4. ADJOURNMENT**

In accordance with the Americans with Disabilities Act and Florida Statutes 286.26, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0411 for assistance, if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance.

If a person decides to appeal any decision made by the Board/Commission/Committee with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

**PLEDGE OF CIVILITY**

We will be respectful of each other even when we disagree.  
We will direct all comments to the issues. We will avoid personal attacks.

The hearing shall, to the extent possible, be conducted as follows:

1. The Clerk shall read into the record the Ordinance or Resolution Title and Number, or the Applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
2. The Applicant, staff, and all Participants requesting to speak or present evidence or both the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
3. Staff will testify regarding proper notice of the Hearing in accordance with City requirements.
4. The Applicant may waive the Applicant's right to an evidentiary hearing if Applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the Applicant, a Public Hearing shall be held for all decisions requiring an ordinance or resolution.
5. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner, determines to proceed in a different order, taking proper consideration of fairness and due process:
  - The Applicant shall make the Applicant's presentation, including offering any documentary evidence, and introduce any witnesses as Applicant desires. The Applicant shall present the Applicant's entire case in thirty (30) minutes.
  - Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner with the agenda materials, as staff desires; summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in thirty (30) minutes.
  - Participants in opposition to or support of the application shall make their presentation in any order as determined by the Hearing Examiner. Each Participant shall present their argument in 5 minutes.
  - The Applicant may cross-examine any witness and respond to any testimony presented.
  - Staff may cross-examine any witness and respond to any testimony presented.
  - The Hearing Examiner may choose to allow Participants to respond to any testimony if the Hearing Examiner deems the response to be necessary to ensure fairness and due process.
  - The Hearing Examiner, may ask questions of the staff, Applicant, and Participants.
  - Final argument may be made by the Applicant, related solely to the evidence in the record.
  - Final argument may be made by the staff, related solely to the evidence in the record.
  - For good cause shown, the Hearing Examiner may grant additional time to any of the hereinabove time limitations.
  - The Hearing Examiner's, decisions must be based upon Competent Substantial Evidence in the record.



**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL

<b>Item Number:</b>	<b>2.A.</b>
<b>Meeting Date:</b>	<b>12/5/2023</b>
<b>Item Type:</b>	<b>HEARINGS</b>

**TITLE:**

Case#: DEV23-000004\*; Address: 4932 NORMANDY CT; Applicant: WATERWAY BOAT LIFT COVERS INC (Continued from 10/17/2023)

**REQUESTED ACTION:**

Approve or Deny

**SUMMARY EXPLANATION AND BACKGROUND:**

The owner is requesting a 10-foot deviation from the marine improvement standard established in the Land Development Code, to allow a boat canopy with a maximum length of 50 feet. The proposed canopy cover will have a length of 50 feet and a width of 18 feet. The location consists of lots 10, 11, and 12; Block 74, Unit 6, Cape Coral Subdivision. The address is 4932 Normandy Court.

**STRATEGIC PLAN ALIGNMENT:**

1. Is this a Strategic Decision? No
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan? No

**RECOMMENDATIONS:**

City Planning Staff Recommendation: Approval

**SOURCE OF ADDITIONAL INFORMATION:**

Matt Grambow, Interim Director of Development Services, 574-0446

**FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:**

N/A

1. Will this action result in a Budget Amendment? No

**PREPARED BY:**

Vanessa Sberna, Planning  
Technician

Division- City  
Planning

Department- Development  
Services

**ATTACHMENTS:**

Description	Type
▣ Novus Packet	Backup Material
▣ Power Point	Backup Material
▣ Continuance	Backup Material



DEPARTMENT OF DEVELOPMENT SERVICES  
CITY PLANNING DIVISION

For Internal Use Only

Case \_\_\_\_\_

Date \_\_\_\_\_

Tel. (239) 574-574-0553  
Fax (239) 574-0591  
P.O. Box 150027  
Cape Coral, FL 33915-0027

**ADMINISTRATIVE DEVIATION APPLICATION**

Please Select Proper Application Type: Boat Canopy deviation

(This application can **ONLY** be used for Administrative Deviations provided in the dropdown box.)

**ADMINISTRATIVE DEVIATION REQUIREMENTS**

***\*Letter of Intent and Application requirements applies to all deviation requests\****

1. ☒ **Letter of Intent including the following:**

- The sub section of the LDC, Article 5, Section 5.8.11. for which the deviation is sought, and the general intent and purpose of this section where either of the following applies:
  - Actual request.
  - Existing conditions that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship.
  - Literal conformity with the regulations would inhibit innovation or creativity in design.

2. ☒ **Applicant's portion of request shall be typewritten, and signature notarized.**

- All forms (Application, Acknowledgement Form, Authorization to Represent) MUST be signed by the property owner or the applicant. If the Authorized Representative is an attorney, the application and the Acknowledgement Form may be signed by the attorney and an Authorization to Represent Form is not required.
- If there are any deed restrictions on the property, a copy of the restrictions will be required.

***\*Please select the type of deviation you are applying for (checkmark your selection)***

3. ☐ **Dumpster deviation request must include:**

- Development plan or sketch showing building, parking, driveways, North directional arrow, and proposed location of dumpster.
- If the applicant is requesting relief from having a dumpster on site, please include a detailed plan showing site constraints.
- Please refer to the new Land Development Code, Article 5, Section 5.1.15 for dumpster enclosure regulations.
- If proposing to utilize toters (garbage cans), a letter a letter from Waste Pro must be included.

4. ☐ **Landscape / Buffers deviation request must include:**

- A narrative that clearly defines the section(s) of the regulations of the requested deviation(s).
- An explanation as to the reason for the deviation and why it should be approved.

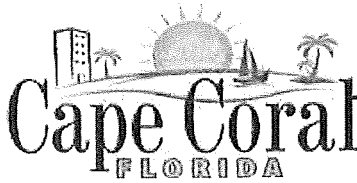




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- Sample detail drawings, elevations, and perspectives that graphically demonstrate the proposed deviation and illustrate how each deviation would operate to the benefit of the public.
  - Legal description and certified survey done within past six months is required.
  - If the subject property is within 500 feet of any County properties, the applicant must provide a typewritten list of all affected property owners with the above area. List to include name, address, zip code, and block and lots. Computer lists are not acceptable.
5. ☐ **Maximum Lot coverage of Impervious Surface up to 10 percent must include:**
- Up to a 10% increase in the maximum percentage of lot coverage by impervious surfaces, provided the applicant submits calculations by a Florida Registered Professional Engineer showing that the conveyance system for the contributing drainage basin can accommodate the additional stormwater run-off from greater than 60% impervious.
  - A property owner may also add retention storage on-site to compensate for the additional runoff in situations where they propose to exceed 60% impervious surfaces.
  - All such calculations and drainage plans must be approved by the City Public Works Department prior to issuance of any building permits.
6. ☐ **Non-Residential Design Standards deviation request must include:**
- Sample detail drawings
  - Schematic architectural drawings
  - Site plans
  - Floor plans
  - Elevations
  - Perspectives that graphically demonstrate how each deviation would operate to the benefit of the public interest
  - Legal description and certified survey done within past six months is required.
  - If the subject property is within 500 feet of any County properties, the applicant must provide a typewritten list of all affected property owners with the above area. List to include name, address, zip code, and block and lots. Computer lists are not acceptable.
7. ☐ **Parking less than 5 percent deviation request must include:**
- Minimum number of parking spaces required by the City.
  - Number of parking spaces proposed by the applicant.
  - Reason(s) for reduction in parking spaces (refer to LDC, Article 3, Section 3.3.6.). Check all that apply:
    - ☐ ITE parking generation rates
    - ☐ Parking generation study
    - ☐ Reduction for protection of tree(s)
    - ☐ Reduction for provision of additional trees
    - ☐ Reduction for provision of bicycle racks and/or motorcycle pads
    - ☐ Proximity to dedicated City parking areas



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- ☐ Satellite parking areas
- ☐ Shared parking

8. ☐ **Preservation of Vegetation deviation request must include:**

- Up to five (5) percent of a required setback; or
- Up to five (5) percent of the required parking spaces.

9. ☐ **Setback less than 3 percent deviation request must include:**

- Setback requirements where the setback is not decreased by more than 10% in the applicable zoning district and the encroachment does not extend into an easement, right-of-way, or is an encroachment over the property line for a zero-lot line site.

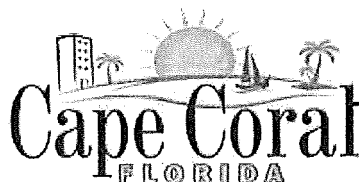
10. ☐ **Sign deviation request must include:**

- Site layout showing dimensions, boundary lines, North directional arrow and complete legal description of the property.
- The location and dimensions of all existing and/or proposed buildings and structures, including additions and eaves, overhangs, porches and patios.
- The setback distance from all buildings, additions on structure to property lines. Indicate the square footage associated with each existing and proposed use of buildings.
- Location and dimensions of driveways. Show parking areas with layout and number of spaces and traffic flow.
- Proposed sign specifications.

11. ☒ **Boat Canopy deviation request must include:**

- Letter of Intent – Should address the standards in Section 5.4.11.A.1 of the Land Development Code.
- Sample detail drawings or photos
- Site plan

**FEE:** Per City Code of Ordinances, Section 5-4(a)(1)a., a \$55.00 application due at time of submittal. Following the approval of your request, if applicable the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.



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**ADMINISTRATIVE DEVIATION APPLICATION**

<b>PROPERTY INFORMATION</b>			
Project Name:	Bouchard Canopy		
Location/Address	4932 Normandy Ct		
Strap Number	18-45-24-C2-00074.0100	Unit	Block 74 Lot (s) 10 - 12
Plat Book	11	Page	72
Future Land Use	Single Family		
Current Zoning	Single Family		
<b>PROPERTY OWNER (S) INFORMATION</b>			
Owner	Jennifer Bouchard		
Address	75 S Main St #7		
Phone	603-396-3870		
City	Concord		
Email	cbouchard7128@gmail.com		
State	NH		
Zip	03301		
Owner	Christopher Bouchard		
Address	75 S Main St #7		
Phone	603-777-7128		
City	Concord		
Email	cbouchard7128@gmail.com		
State	NH		
Zip	03301		
<b>APPLICANT INFORMATION (If different from owner)</b>			
Applicant	Francine Holt		
Address	15040 Tamiami Trl		
Phone	941-505-0546		
City	Punta Gorda		
Email	permitting@waterwayblc.com		
State	FL		
Zip	33955		
<b>AUTHORIZED REPRESENTATIVE INFORMATION (If Applicable)</b>			
Representative			
Address			
Phone			
City			
Email			
State			
Zip			



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AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT Francine Holt or Waterway Boat Lift Covers  
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST BEFORE THE HEARING EXAMINER  
AND CITY COUNCIL.

UNIT 6 BLOCK 74 LOT(S) 10 - 12 SUBDIVISION \_\_\_\_\_

OR LEGAL DESCRIPTION CAPE CORAL UNIT 6 PART 3 BLK 74 PB 11 PG 72 LOTS 10 THRU 12 + OR 3393 PG 1478

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

Jennifer Bouchard

PROPERTY OWNER (Please Print)

Jennifer Bouchard

Jennifer Bouchard (Jun 13, 2023 16:36 EDT)

PROPERTY OWNER (Signature & title)

Christopher Bouchard

PROPERTY OWNER (Please Print)

Christopher Bouchard

Christopher Bouchard (Jun 13, 2023 16:35 EDT)

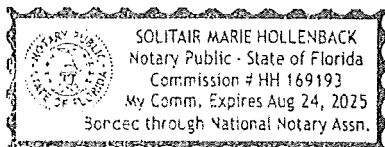
PROPERTY OWNER (Signature & title)

STATE OF FL

COUNTY OF Charlotte

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online  
notarization, on this 13<sup>th</sup> day of June, 2023 by All Parties,  
know is personally known to me or produced Personally Known as identification.

Exp Date: 8/24/2025 Commission Number: HH 169193



Signature of notary Public:

Printed Name of Notary Public:

Solitair M Hollenback

Note: Please list all owners. If a corporation, please supply the City Planning Division with a copy of corporation papers.



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If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

**(ALL SIGNATURE MUST BE NOTARIZED)**

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

CORPORATION/COMPANY NAME (IF APPLICABLE)

Jennifer Bouchard

OWNER'S NAME (TYPE OR PRINT)

Christopher Bouchard

OWNER'S NAME (TYPE OR PRINT)

Francine Holt

APPLICANT NAME (TYPE OR PRINT)

Jennifer Bouchard

Jennifer Bouchard (Jun 13, 2023 16:36 EDT)

OWNER'S SIGNATURE

Christopher Bouchard

Christopher Bouchard (Jun 13, 2023 16:35 EDT)

OWNER'S SIGNATURE

Francine Holt

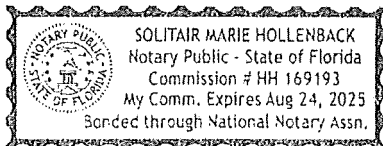
APPLICANT SIGNATURE

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

STATE OF FL

COUNTY OF Charlotte

Sworn to (or affirmed) and subscribe before me, by means of ☒ physical presence or ☐ online notarization, on this 13th day of June, 2023 by All Parties,  
know is personally known to me or produced Personally Known as identification.



Exp Date: 8/24/2023 Commission Number: HH 169193

Signature of notary Public:

Printed Name of Notary Public:

Solitair M Hollenback

## DISCLOSURE OF INTEREST AFFIDAVIT

BEFORE ME this day appeared Christopher Bouchard, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at 4932 Normandy Ct and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

[OPTIONAL PROVISION IF APPLICANT IS CONTRACT PURCHASER: In addition, I am familiar with the individuals that have an ownership interest in the legal entity that is under contract to purchase the Property.]

3. That, unless otherwise specified in paragraph 6 below, no Lee County Employee, County Commissioner, or Hearing Examiner has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.

4. That the disclosure identified herein does not include any beneficial Ownership Interest that a Lee County Employee, County Commissioner, or Hearing Examiner may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Lee County Employee, County Commissioner, or Hearing Examiner that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Lee County Employee, County Commissioner, or Hearing Examiner.

Name and Address	Percentage of Ownership
<u>Christopher Bouchard</u>	<u>50%</u>
<u>Jennifer Bouchard</u>	<u>50%</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.

Christopher Bouchard (May 19, 2023 12:18 EDT)

Property Owner

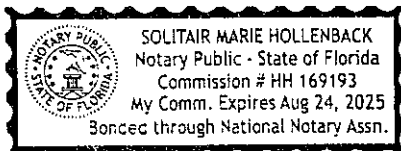
Christopher Bouchard  
Print Name

\*\*\*\*\*NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS\*\*\*\*\*  
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☒ online notarization, on May 19, 2023 (date) by Christopher Bouchard (name of person providing oath or affirmation), who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

STAMP/SEAL



[Signature]  
Signature of Notary Public



## WATERWAY BOAT LIFT COVERS

15040 TAMiami TrL. PUNTA GORDA, FL 33955

239.340.8429 | 941.505.0237

TOLL-FREE 1.877.201.3606

WaterwayBoatLiftCovers.com

8/3/2023

To whom it may concern,

Waterway Boat Lift Covers received a request from the Bouchard's at 4932 Normandy Ct to construct a 50 foot canopy. The Bouchard's have a boat that they would like to cover to protect it from the elements. Current ordinance for Cape Coral is 40 foot canopy maximum. We are requesting on the Bouchard's behalf, approval to make the 50 foot cover. This will protect the Bouchard's boat from the Florida elements.


Waterway Boat Lift Covers will be using a 17.5oz vinyl fabric which will be supported by an aluminum frame. The vinyl top is then strapped and bungeed to the aluminum frame to secure the top. The aluminum frame is attached to the boat lift I-Beams and secured using stainless steel Z plates and the beam is locked down with U bolt's, lock washers and nuts.


Customer has not chosen a color for his cover at this time.

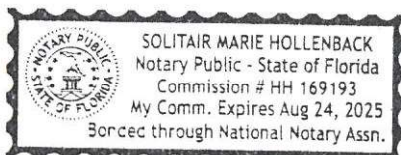
Thank you,

*Francine Holt*

Francine Holt  
Permit Specialist  
239-505-0237  
Waterway Boat Lift Covers

  
Solitair M Hollenback  
Notary

  
Eric Craig  
License Holder







WITH ESPLANADE

**City of Cape Coral**  
Department of  
Development Services  
City Planning Division  
**2023 Aerial Map**  
**DEV23-000004**

**Legend**

 Subject Parcel



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation, or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.



0 30 60 90 120 Feet

NORMANDY CT

Subject Parcel

DEL PRADO BLVD S

RAMP



# LEGEND

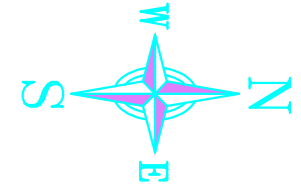
- UNDER DECK
- 8" PILE
- ⊗ 10" PILE
- ⦿ 12" PILE
- ◆ REFLECTOR

DEV23-000004  
Exhibit A  
Page 1 of 2

77' CANAL (19'-3" MAX PROJECTION)

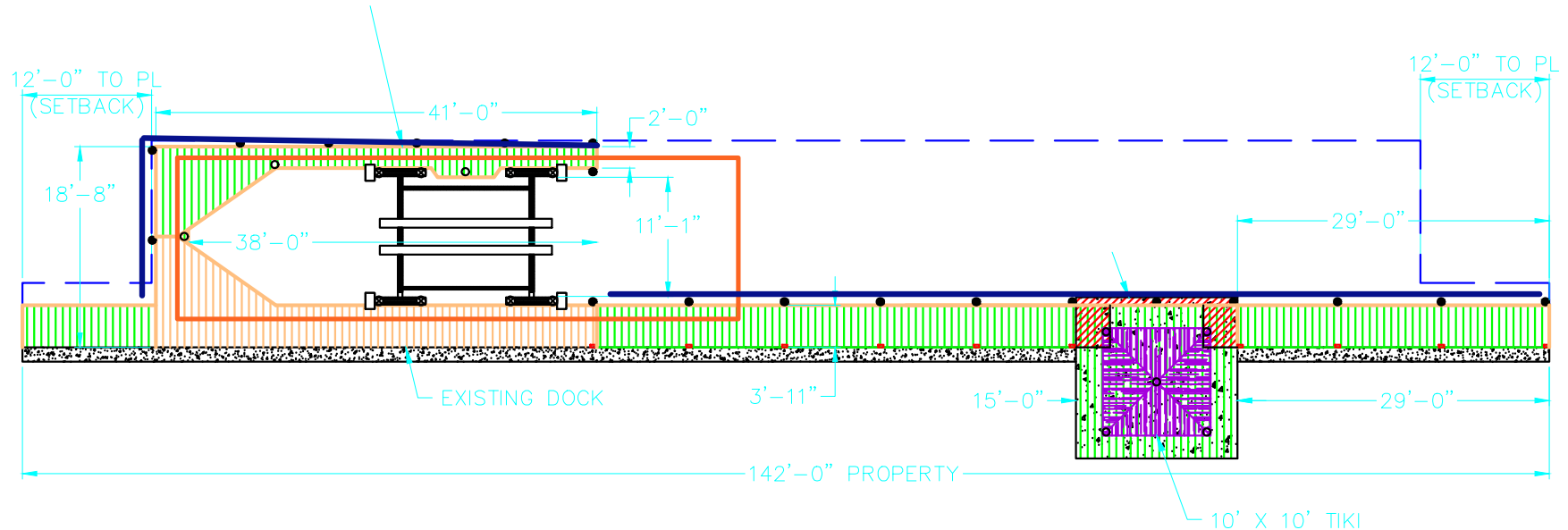
BUILDABLE AREA

Proposed 50' x 18' Canopy  
Max Height 14'



Dock 884sqft  
Canopy 650sqft  
Total 1534sqft

— Handrail



## BMI MARINE CONSTRUCTION CUSTOM DOCKS & LIFTS

TOTAL SQFT: 884

DECKING TYPE: AZEK COLOR: ----

LIFT TYPE & SIZE: 20K DOL

CRADLE TYPE & SIZE: ----

BUNK TYPE & SIZE: ----

CUSTOMER NAME

CUSTOMER ADDRESS

JOB NUMBER

DRAWING DATE

BOUCHARD

4932 NORMANDY CT  
CAPE CORAL, FL  
33904

23-060

10FEB23

ADDRESS: 813 SE 47TH ST  
TELEPHONE: 239-542-0456  
FAX: 239-542-0466  
EMAIL: OFFICE@BMIDOCKS.COM  
WEBSITE: WWW.BMIDOCKS.COM  
LICENSE: CBC 1253238

DRAWING NUMBER

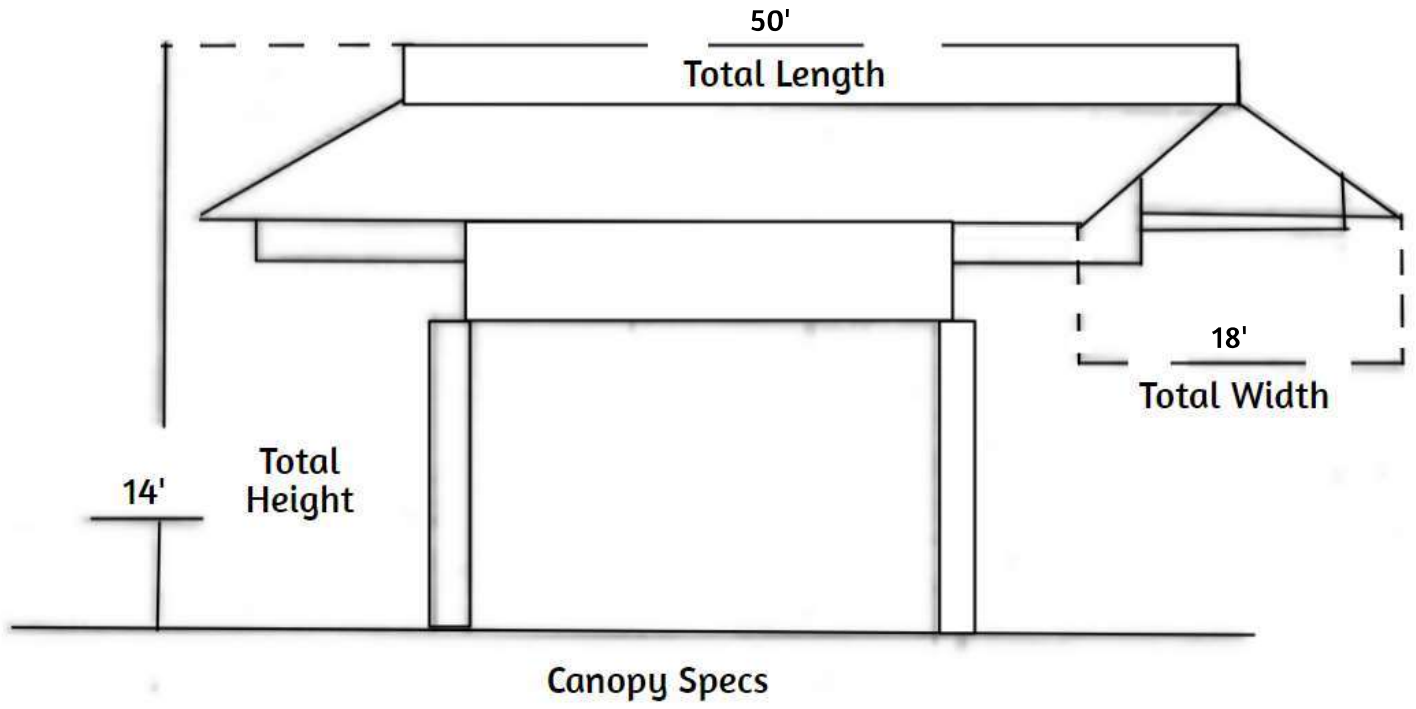
DRAFTSMAN

A1

RAFAEL ROMERO

—UNLESS OTHERWISE INDICATED, ALL MEASUREMENTS ARE APPROXIMATE—  
—DOCK PLES ARE 8" 2.5 CCA PRESSURE TREATED MARINE GRADE PILINGS—  
—DOCK PILES ARE WRAPPED IN BLACK POLY-VINYL—  
—STRINGERS ARE PRESSURE TREATED 2"x8" ROUGH SAWN LUMBER—  
—ALL FINAL DOCK HARDWARE AND DECKING SCREWS ARE STAINLESS STEEL—  
—LIFT PILE DIAMETER IS DETERMINED BY THE LIFT MANUFACTURERS SPECIFICATIONS—





**CITY PLANNING DIVISION STAFF REPORT**  
**DEV23-000004**

Staff report prepared by Candise Forde, Associate Planner  
Phone: 239-242-3204  
Email: [cforde@capecoral.gov](mailto:cforde@capecoral.gov)

<b>PROPERTY ADDRESSES:</b> 4932 Normandy Court Cape Coral, FL 33904 Block 74 Lots 10-12	<b>APPLICANT:</b> Francine Holt 15040 Tamiami Trail Punta Gorda, FL 33955
<b>SUMMARY OF REQUEST</b>  The applicant is requesting a 10-foot deviation from the marine improvement standard established in Section 5.4.7.B.4 of the Land Development Code (LDC), to allow a boat canopy with a maximum length of 50 feet. The LDC currently limits boat canopies to a maximum of 40 feet in length and 18 feet in width. The applicant is proposing a 50-foot x 18-foot canopy cover to accommodate their 48-foot-long boat.	

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**Review Date:** September 19, 2023

**Prepared By:** Candise Forde, Associate Planner

**Reviewed By:** Mike Struve, Planning Team Coordinator

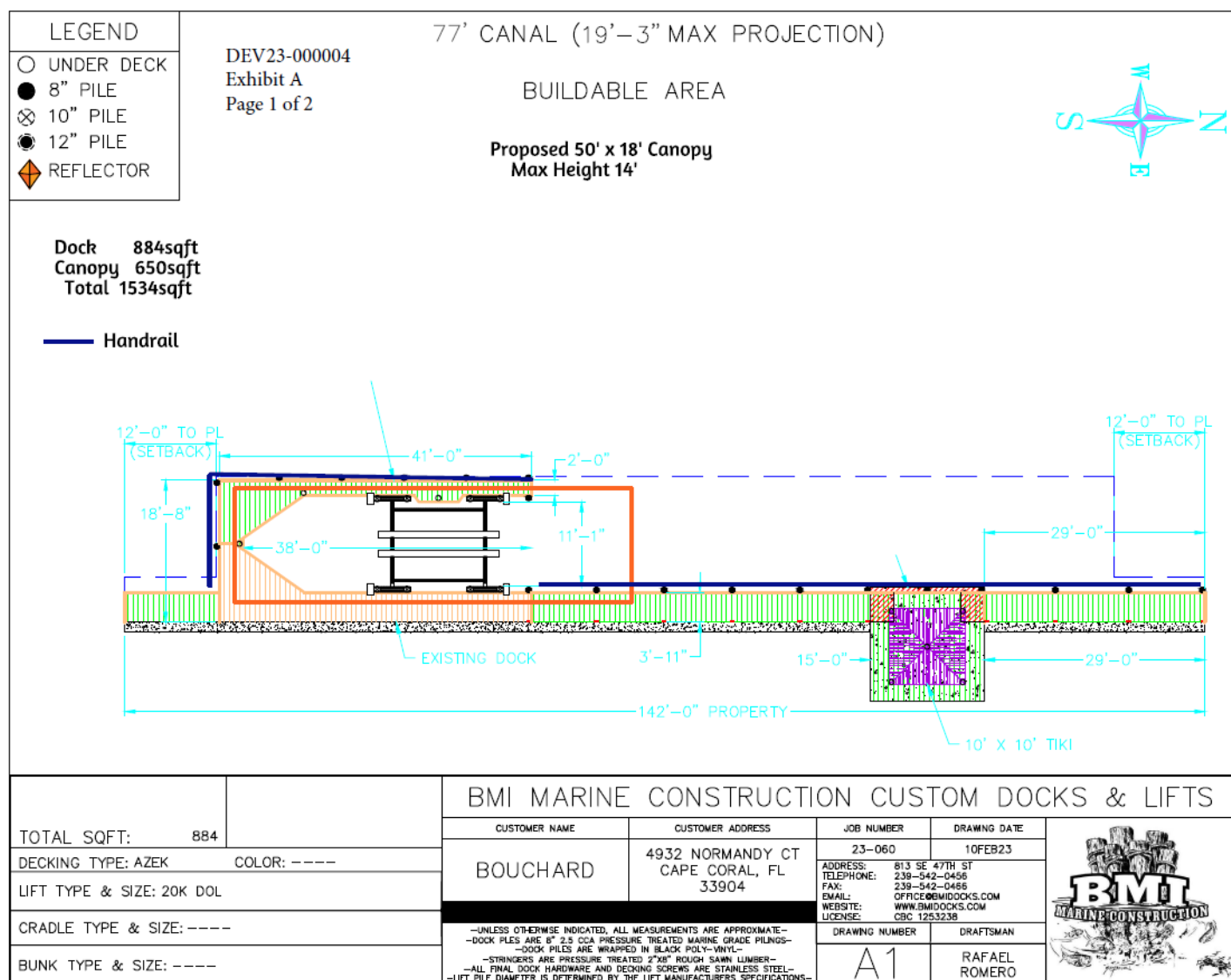
**Approved By:** Amy Yearsley, City Planning Manager

Site Characteristics/Existing Conditions

The 17,778 square foot site is improved with a single-family home and dock with boat slip and a second smaller cantilever dock. The site is along the Normandy Canal and less than 380 feet from the intersection of Normandy Canal and Bimini Canal. The Normandy Canal has a measured width of 77 feet at the site. The surrounding area consists primarily of single-family homes. The site and all surrounding properties have a Single Family (SF) Future Land Use Classification and Single-Family Residential (R-1) Zoning.

LDC, Section 5.4.11. states that deviations of up to a 10% increase in either the maximum length or width of the boat canopy requirements may be approved by the Developer Services Director in accordance with Section 3.3.6. Since this application involves a request that exceeds 10% of the standard established for the length of a boat canopy, this request must be approved by the Hearing Examiner consistent with Section 5.4.11.A.2.

Figure two: Proposed Sketch of Proposed Marine Improvement



## Analysis:

Section 5.4.11.A.2.b and 5.4.11.A.2.c. authorizes the Hearing Examiner to approved deviation requests related to boat canopies subject to the following factors listed below. Staff analysis and recommended findings appear after each factor.

1. The factors that shall be considered include the design, size and location of the proposed boat canopy, the effect on the waterbody in which it's located and the effect of the canopy on the use and enjoyment of the surrounding properties:

Staff analysis: The proposed canopy will not extend more than 18' into the canal or 23% of the waterbody, which is less than the 25% maximum. Thus, not causing a navigational hazard for boaters using the canal.

The location of the canopy will still provide a 12' setback from each property line, allowing the neighbors to still access and use their marine improvements on their respective properties.

The canopy will not obscure visibility of the canal itself, with Section 5.4.7.b.3 allowing no greater than a 30" overhang from any dock or seawall to which the canopy is attached. And the restriction on the overhang will prevent a navigational hazard for those using the canal.

#### **Section 5.4.11.A.2.c:**

1. The effect the proposed deviation would have on the navigability of the waterway involved:

Staff analysis: The proposed canopy cover is anticipated to be 50 feet long by 18 feet wide. Boat canopies may extend up to 25% of the waterbody. Which would allow up to a 19' wide canopy for this parcel, however, only 18' is being proposed.

Boat canopies may extend up to 30" past the dock or seawall to which the canopy is attached. Therefore, the edge of the canopy could extent up to 20.5' into the canal. Staff finds that the extension of the subject boat canopy into the canal will not negatively affect visibility nor impede or restrict navigation in the canal since it is less than the allowable maximum.

2. Whether the proposed deviation would infringe upon the use of neighboring properties or any extant marine improvements upon the use of neighboring properties or any extant marine improvements in the subject waterway;

Staff analysis: Both adjacent sites to the north and south of the subject property are developed and have existing marine improvements. While the subject marine improvement is located only about 26 feet from the neighboring marine improvement to the south, boats enter these marine improvements from opposite directions which will prevent conflicts between these two property owners. Across the subject site on the west side of the canal, an existing marine improvement with a boat canopy extends about 21 feet into the canal. The width of this marine improvement combined with the width of the applicant's marine improvement and boat canopy will result in a travel lane of about 41 feet in this canal that should be adequate for most boats traveling in this waterway.

3. Whether there are any special conditions related to the subject property or waterway which justify the proposed deviation;

Staff analysis: There are no special conditions related to the subject property which would justify the proposed deviation.

4. Whether conditions exist that are not the result of the applicant, and which are such a literal enforcement of the regulations involved would result in unnecessary or undue hardship."

Staff analysis: There are no existing conditions that would result in unnecessary or undue hardship.

While a literal enforcement of the regulations would not result in an unnecessary or undue hardship, the extension of the canopy will allow the applicant to fully cover their boat to protect it from the elements compared to a shorter canopy allowed by the LDC.

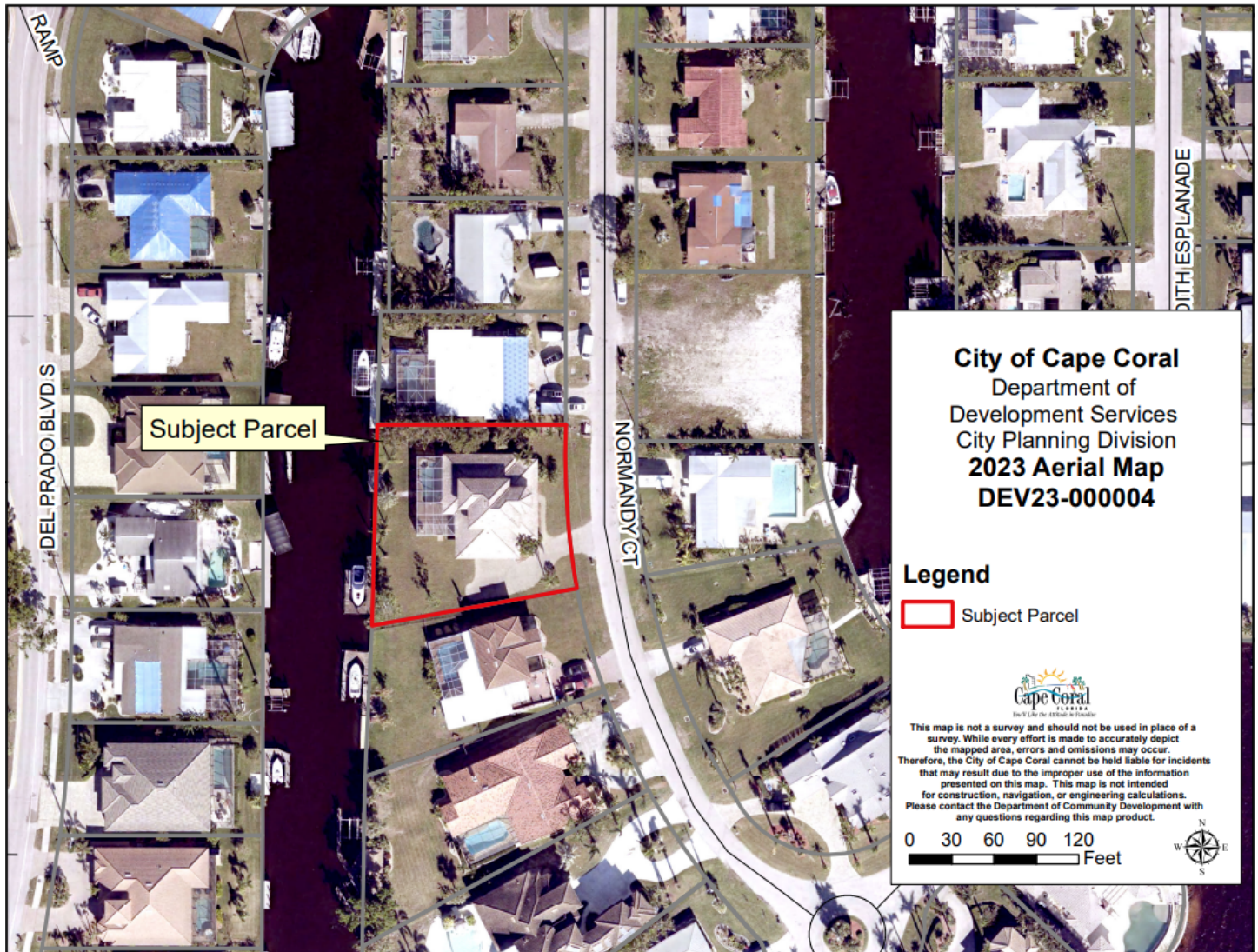
**Recommendation:**

Staff finds that the 50-foot-long canopy requested by the applicant will not affect navigability or visibility, will not be an endangerment to existing marine structures, and this request is consistent with the general intent of the LDC and the public interest. Planning staff recommends **approval** of the requested deviation with the following conditions:

1. This deviation approves a boat canopy with a length not to exceed 50 feet at 4932 Normandy Court, to cover an existing marine improvement that is depicted in Exhibit "A".
2. The boat canopy shall not extend horizontally more than 30 inches over any dock or seawall to which the canopy is attached. Canopies attached to marine improvements that are built to the maximum projection, may extend up to 30 inches beyond the structure. Per Section 5.4.7.b.3 of the LDC.
3. The Petitioner shall pay to the City of Cape Coral the cost of recording the deviation with the Office of the Lee County Clerk of Court.
4. The City shall record the deviation with the Office of the Lee County Clerk of Court following the receipt of the recording fees from the Petitioner.



Figure 1: 2023 Aerial of the Subject Parcel.







**| Case # DEV23-000004**  
**HEX Presentation**  
**December 5, 2023**

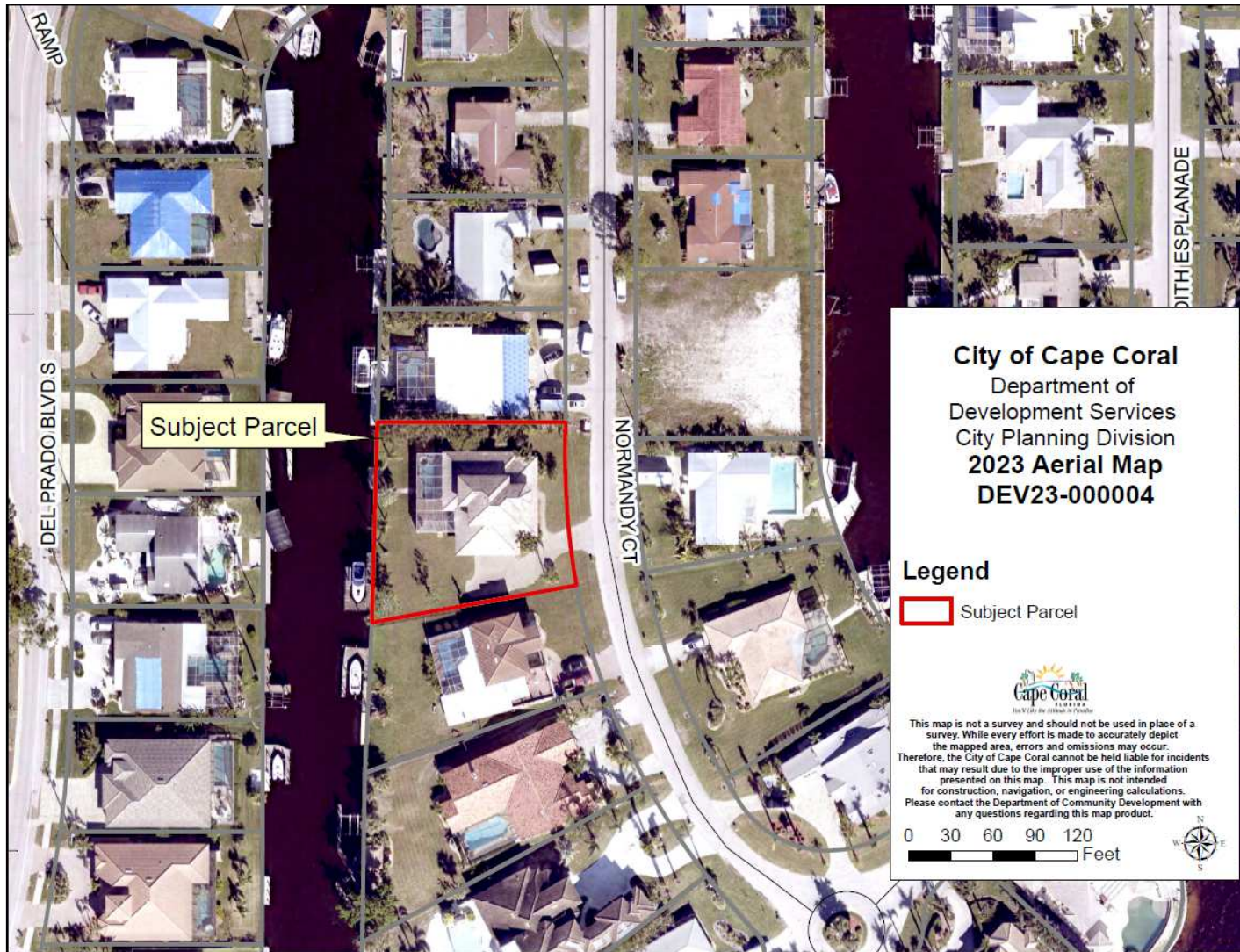
**Applicant: Christopher and Jennifer Bouchard**

**Authorized Representative: Francine Holt**

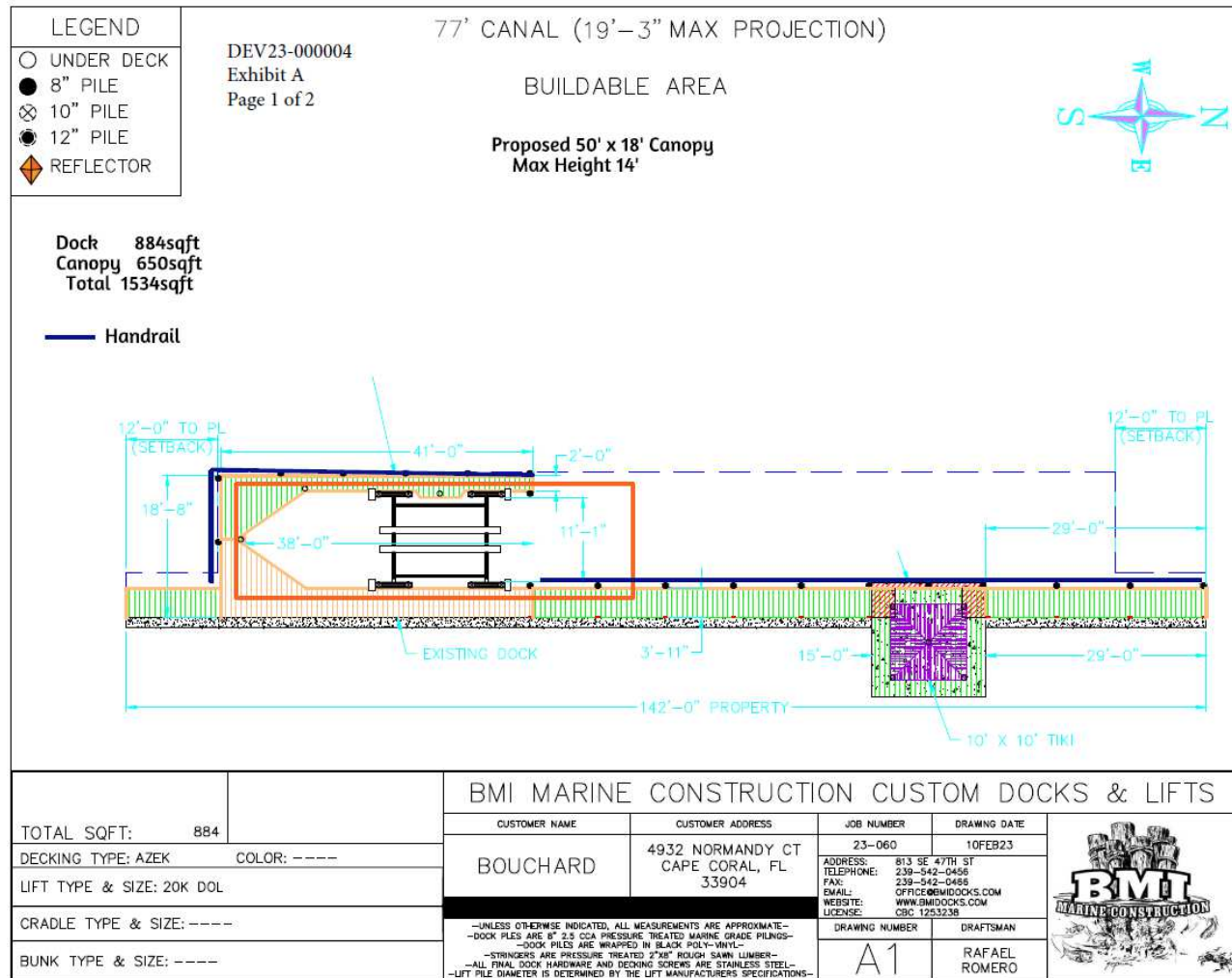
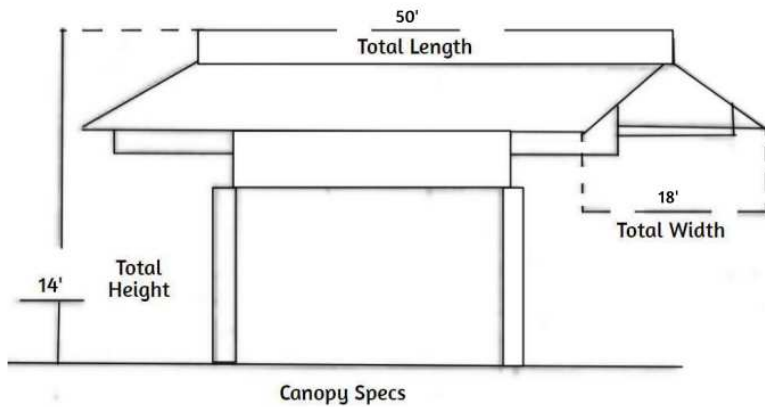
**Location: 4932 Normandy Court**

**The applicants are requesting:**

**A 10-foot deviation from the marine improvement standard established in Section 5.4.7.B.4 of the Land Development Code (LDC), to allow a boat canopy with a maximum length of 50 feet.**







# Background:

1. The 17,778 square feet site is within a predominately residential area of the City.
2. The site abuts Normandy Canal and is less than 380 feet from the intersection of Normandy Canal and Bimini Canal, which then leads to the Caloosahatchee River.
3. The site currently has a single-family house and a dock with a boat lift onsite. The house was built in 1998. The dock was originally installed in 1999, with an addition and lift replacement occurring in 2013.

# **Criteria in LDC, Section 5.4.11.A.2.b,**

- 1. The factors that shall be considered include the design, size and location of the proposed boat canopy, the effect on the waterbody in which it's located and the effect of the canopy on the use and enjoyment of the surrounding properties:**

**Staff analysis: The proposed canopy will not extend more than 18' into the canal or 23% of the waterbody, which is less than the 25% maximum. Thus, not causing a navigational hazard for boaters using the canal.**

**The location of the canopy will still provide a 12' setback from each property line, allowing the neighbors to still access and use their marine improvements on their respective properties.**

**The canopy will not obscure visibility of the canal itself, with Section 5.4.7.b.3 allowing no greater than a 30" overhang from any dock or seawall to which the canopy is attached. And the restriction on the overhang will prevent a navigational hazard for those using the canal.**

# **Criteria in LDC, Section 5.4.11.A.2.c,**

**1. The effect the proposed deviation would have on the navigability of the waterway involved:**

**A. Staff analysis: The proposed canopy cover is anticipated to be 50 feet long by 18 feet wide. The width of the canopy is a 23% projection into the 77-foot-wide canal, which is less than the maximum of 25%.**

# **Criteria in LDC, Section 5.4.11.A.2.c,**

- 2. Whether the proposed deviation would infringe upon the use of neighboring properties or any extant marine improvements upon the use of neighboring properties or any extant marine improvements in the subject waterway;**
  - A. Staff analysis: The proposed extension of the dock with the accompanying boat canopy will not infringe upon the neighbor to the north or south, still allowing them access to their docks and to the waterway.**
  - B. Both adjacent sites are developed and have existing marine improvements. The location and orientation of the neighboring marine improvement are such that the requested deviation should not interfere with either adjacent property owner continuing to use their respective marine improvement.**



# **Criteria in LDC, 5.4.11.A.2.c,**

**3. Whether there are any special conditions related to the subject property or waterway which justify the proposed deviation;**

**A. Staff analysis: There are no special conditions related to the subject property which would justify the proposed.**

# **Criteria in LDC, 5.4.11.A.2.c,**

- 4. Whether conditions exist that are not the result of the applicant, and which are such a literal enforcement of the regulations involved would result in unnecessary or undue hardship;**
  - A. Staff analysis: There are no existing conditions that would result in unnecessary or undue hardship.**
  - B. While a literal enforcement of the regulations would not result in an unnecessary or undue hardship, the extension of the canopy would allow the applicant to fully cover their boat to protect it from the elements compared to a shorter canopy allowed by the LDC**

# **Recommendation:**

**Planning Staff recommends approval with conditions of the deviation.**

# **Correspondence:**

**Prior to HEX, staff did not receive any correspondence.**

# Conditions of Approval:

- 1. This deviation approves a boat canopy with a length not to exceed 50 feet at 4932 Normandy Court, to cover an existing marine improvement that is depicted in Exhibit “A”.**
- 2. The boat canopy shall not extend horizontally more than 30 inches over any dock or seawall to which the canopy is attached. Canopies attached to marine improvements that are built to the maximum projection, may extend up to 30 inches beyond the structure. Per Section 5.4.7.b.3 of the LDC.**
- 3. The Petitioner shall pay to the City of Cape Coral the cost of recording the deviation with the Office of the Lee County Clerk of Court.**
- 4. The City shall record the deviation with the Office of the Lee County Clerk of Court following the receipt of the recording fees from the Petitioner.**

Thank you



OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL  
HEX ORDER FOR CONTINUANCE  
DCD Case # DEV23-000004

APPLICATION FOR: Deviation (Boat Canopy)

.NAME OF OWNERS: Jennifer and Christopher Bouchard

NAME OF APPLICANT: Francine Holt/Waterway Boat Lift Covers

NAME OF APPLICANT'S AUTHORIZED REPRESENTATIVE: Francine Holt

STAFF REPRESENTATIVE: Candise Forde

PROPERTY ADDRESS: 932 Normandy Court, Cape Coral, FL 33904

SCHEDULED HEARING DATE AND TIME: October 17, 2023, at 9:00 a.m.

CONTINUATION DATE: December 5, 2023, at 9:00 a.m.

At the commencement of the hearing on October 17, 2023, the Hearing Examiner found that proper notice had been given, based upon staff's testimony. Staff then requested a continuance of the Hearing prior to presentation of substantive evidence by either the Applicant or staff.

Staff is entitled to one continuance as of right, pursuant to Land Development Code, Article 3, Section 3.1.11.D.4.I. The Hearing Examiner granted Staff's request for a continuance

Staff coordinated the continuation date of December 5, 2023 at 9:00 a.m. with the Applicant's Representative.

Nothing herein contained shall be construed to waive any deadlines set forth in the City Codes, Ordinances or Regulations. This matter will be heard as part of the regular Cape Coral Hearing Examiner agenda commencing at 9:00 am on December 5, 2023, with hearings to be held at the Cape Coral City Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, Florida 33990.

ORDERED in Chambers on October 17, 2023.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

  
ANNE DALTON, ESQUIRE

10/17/23  
DATE

ATTEST:  
  
CITY CLERK