

**MINUTES OF THE HEARINGS OF  
THE CITY OF CAPE CORAL  
HEARING EXAMINER**

**Tuesday, December 5, 2023**

**COUNCIL CHAMBERS**

**9:00 A.M.**

Madam Hearing Examiner Dalton called the hearings to order at 9:00 a.m.

ALSO PRESENT: Candise Forde, Associate Planner  
John Naclerio, Assistant City Attorney

**Case#: DEV23-000004\*; Address: 4932 Normandy Ct; Applicant: Waterway Boat Lift Covers Inc. (Continued from 10/17/2023)**

Recording Secretary Pasek read the case into the record and administered the oath.

Associate Planner Forde confirmed the notice requirements had been met.

Hearing Examiner Dalton found that proper notice had been met.

Francine Holt, Permit Specialist, Waterway Boat Lift Covers, applicant's representative, presented the following displayed slides:

- Christopher Bouchard Canopy
- Agenda
- Introduction
- Examples of Radius Verandah Beam Systems
- Customer Request
- Ordinance 80-21 section 5.4.7.B.4
- Current Ordinance
- What Is Being Asked
- Conclusion

Hearing Examiner Dalton asked Ms. Holt if she reviewed the Staff Report.

Ms. Holt responded in the affirmative.

Hearing Examiner Dalton stated the applicant is required to do a complete presentation fulfilling all the parts of the Land Development Code and asked Ms. Holt if she wished to incorporate the Staff Report into her presentation.

Ms. Holt responded in the affirmative.

Hearing Examiner Dalton asked Ms. Holt if she had any further testimony.

Ms. Holt responded in the negative.

Associate Planner Forde presented the following displayed slides:

- Case # DEV23-000004
- Applicant, Authorized Representative, Location, Request
- 2023 Aerial Map
- Dock Diagram and Canopy Specs
- Background
- Criteria in LDC, Section 5.4.11.A.2.b
- Criteria in LDC, Section 5.4.11.A.2.c (4 slides)

Hearing Examiner Dalton stated she did not understand the relevance of Criteria in LDC, Section 5.4.11.A.2.c as the section states "in determining whether to approve a deviation request related to marine improvements other than a Boat Canopy."

Associate Planner Forde responded it was included to be all encompassing.

Hearing Examiner Dalton stated she did not feel that was proper as consideration of this section did not apply to boat canopies.

Assistant City Attorney Naclerio confirmed that Section 5.4.11.A.2.b would be the factors to be considered for boat canopies.

Hearing Examiner Dalton stated she was striking any criteria listed under 5.4.11.A.2.c from consideration.

Associated Planner Forde continued display of slides:

- Recommendation: Approval with Conditions / Correspondence: none
- Conditions of Approval

Hearing Examiner Dalton stated Staff's presentation did not comply with the Land Development Code requirements as it did not address if the request was compliant with the Comprehensive Plan and did not provide factual evidence in support. A recess was offered for Staff to correct the presentation.

Assistant Attorney Naclerio stated factors in 5.4.11.A.2.b were addressed and asked for confirmation that Hearing Examiner Dalton's concern was the Comprehensive Plan requirements were not addressed.

Hearing Examiner Dalton responded in the affirmative.

**Recessed at 9:14 a.m. and reconvened at 9:30 a.m.**

Associate Planner Forde provided the following information:

- Consistent with Policy 1.15 Table 1 of the Comprehensive Plan
- Does not exceed more than 4.4 dwelling units per acre
- Consistent with objective 1.3 Policy 1.3.5 of the Conservation and Coastal Management element of the Comprehensive Plan

Hearing Examiner Dalton asked Ms. Forde if she had any further testimony.

Associate Planner Forde responded in the negative.

Public Hearing opened.

No speakers.

Public Hearing closed.

Hearing Examiner Dalton asked Ms. Holt if she agreed with the conditions recommended by Staff.

Ms. Holt responded in the affirmative.

Hearing Examiner Dalton asked Ms. Holt if she had any additional testimony.

Ms. Holt responded in the negative.

Hearing Examiner Dalton asked Ms. Holt if she wanted to include Staff's testimony into her presentation.

Ms. Holt responded in the affirmative.

Hearing Examiner Dalton asked Ms. Forde if she had any further testimony.

Associate Planner Forde responded in the negative.

Hearing Examiner Dalton stated she will grant the deviation as requested with the conditions that are set forth and will attempt to get the recommendation out today.

Hearing closed.

**DATE AND TIME OF NEXT HEARING**

The next Hearing Examiner Hearings have been scheduled for Tuesday, December 19,

2023, at 9:00 a.m. in Council Chambers.

**ADJOURNMENT**

There being no further business, the hearing adjourned at 9:32 a.m.

Submitted by,

A handwritten signature in black ink that reads "Stacey Pasek". The signature is written in a cursive, flowing style.

Stacey Pasek  
Recording Secretary

*Transcribed by Sheri Rhine 12/06/2023*