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February 7, 2012

Chahram Badamtchian, AICP
Senior Planner
Lee County Zoning Department
P.O. Box 398
Ft. Myers, Florida 33902

Re: North Captiva Marina (DCI2011-00023)

Dear Chahram:

The Upper Captiva Civic Association has asked that I provide a response to Ralf Brookes' letter of January 23, 2012 on behalf of his client William Powell (who resides in New Jersey), and which they have posted on their website. It is a very lengthy letter which raises several issues that have already been addressed in our Lee Plan analysis. Therefore I will try to keep this response as brief as possible, while still touching on the most important issues.

Before I address the questions that are reasonably debatable, I will point out the statements and allegations in Mr. Brookes' letter which are simply untrue or at best misleading.

Paragraph 4: Ralf claims that Grady's lodge provided a 20' Type 'D' buffer in order to maximize fire department access. This is not correct. Both projects have proposed a 15' Type 'D' buffer which is what is required. Grady's Lodge site plan shows a 20' building setback which was apparently misinterpreted by Ralf. More importantly, the entire thrust of this paragraph and others is that the design and operation of this building will pose a fire and/or safety hazard. In the first place, the very section of the LDC that Ralf quotes (10-384) states that buildings provided with a complete automatic fire system are exempt from the requirement to provide a 20' fire department access.

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It has been made very clear from the beginning that the building would be sprinkled, as required by the NFPA code. Water would be supplied from the swimming pool and would have to meet all pressure standards. In addition, the layout of the site plan allows for very easy access to any fire equipment on three sides of the building. The final authority for an issue like this on the island is the Fire Chief, and he has never expressed any concerns about his ability to provide protection for this proposed building. The North Captiva Fire Department is a very professional, well-funded operation, and the suggestion that this marina would pose a threat to public safety is simply false.

Paragraph 5: Ralf claims that Grady's Lodge was limited to one story, but the lodge building was allowed to be two stories, up to 35' above flood elevation, which in this location means that the lodge could have been as tall as 46'. This paragraph also repeats the previous error about a 20' buffer being provided for fire protection, as well as the canard that the facility "poses a much greater fire risk hazard." In this connection, it might be relevant to observe that many of the homes and businesses on the island have fuel storage without a sprinkler system.

Paragraph 6: This again repeats the unsupported allegation that fuel storage and pumps will present "a risk that exceeds that which is currently present on Upper Captiva Island." I would think that the Fire Chief should be asked for his opinion on this question. There have been no details on marine fire suppression provided yet because that is an element of the building permit application, not zoning.

Paragraph 7: There is a claim that Section 10-416 of the LDC would require a wall or berm/wall combination not less than eight feet in height in this situation. However, Ralf is misreading this section of the LDC. This berm/wall requirement is an optional element of a 'C' or "E" buffer which is required where a commercial use abuts a residential use. However, in this case, the marina abuts Rum Road which would require a 'D' buffer under the code, and that is what is being proposed. Having said that, the Board of County Commissioners would have the authority to require additional landscaping to provide further buffering if they believed that was necessary.

Paragraph 8: The letter claims that the use of a forklift to bring boats in and out of the dry storage building would be a violation of Policy 25.2.3 which prohibits internal combustion powered vehicles on all pathways on North Captiva (emphasis added). The policy clearly applies only to vehicles traveling on the public pathways on the island, and not to machinery on private property. Moreover, the owner has committed to utilizing a propane powered fork lift with an advanced residential sound suppression system.

Paragraph 9: Still another allegation that the marina would pose a fire safety threat that the Fire District would be unable to handle. An unsubstantiated claim with no input from the professionals in charge.

Paragraph 10: There is a suggestion in this paragraph that if the island is to have such a facility, it would be better located on the north side of Safety Harbor near the barge loading sites and construction yards. Setting aside the question of whether this would be a more compatible or logical location, there is simply no land of adequate size in this area to accommodate such a facility.

Paragraph 11: Any suggestion that used fuel and used oil would not be properly disposed of is simply not true. Every aspect of the design and operation of the marina will be addressed by a Department of Environmental Protection-approved Marina Management Plan, and will also be closely regulated and monitored by State and County personnel. Also, this will not be an industrial marina, and no heavy repairs will be allowed.

Paragraph 12: There is a suggestion in this paragraph that the proposed marina would pose a threat to manatees and be inconsistent with the County's Manatee Protection Plan. In point of fact, this location is a "Preferred Project" under the County's Manatee Protection Plan, and would allow an unlimited number of slips. Please see the attached memorandum from Justin McBride, dated July 22, 2011.

Paragraph 14: It is claimed that the existing septic tank system is inadequate for the proposed use without any documentation or citation. If there is any evidence that the system would not be adequate, it will have to be upgraded as a condition of the permitting.

Paragraph 16: It is alleged that this marina would be inconsistent with Objective 128.5: Marine Facilities Siting Criteria, without any facts or specifics being provided. We believe that the exact opposite is the case, and that this is a location that would be encouraged under that objective.

Paragraph 17: It is stated that the "Existing wet slips and docks already constructed and located within Safety Harbor Club, NCIC and Barnacle Phil's are not fully utilized." If this were true it might have some limited relevance. But it is not true. Just because some of these slips may be empty does not mean that they are not spoken for. There are only a handful of slips available for resale on the island at the present time.

Paragraph 19: Again, it is suggested that a better location would be on the north side of Safety Harbor near the Safety Harbor Club or Barnacle Phil's, even though, in reality, there are no sites of adequate size in that area to accommodate this type of use. There is a further reference to an "illegal unpermitted dredging project that has not yet been restored" with the inference that this has some connection to the project, or the North Captiva Island Club. This activity was at the south end of the canal, totally unrelated to the project or the North Captiva Island Club, and it is my understanding that the matter has been resolved according to a consent final judgment which includes partial restoration and a new dock and boat ramp being permitted.

Paragraph 20: This paragraph alleges the project is inconsistent with many policies under Objective 128 dealing with Marina Design Criteria without again providing any specifics. We have already provided a detailed analysis of these policies to show that the project would be consistent. As just one example, Ralf cites Policy 128.6.13 which reads: "Dry storage of small boats should be encouraged, with dry storage structures located inland as far as possible."

Paragraph 21: The restriction that the slips would only be made available to island property owners have not been included in the proposed Declaration of Restrictive Covenants because those Covenants have not been prepared yet. The restriction will be in there when they are. However, as a practical matter, why would anyone want to purchase a boat slip or dry storage space on North Captiva, an unbridged barrier island, if they did not own property there?

Paragraph 22: Again the suggestion that there is no need because the "docks/slips on the island are never more than half full." Just because docks are occasionally occupied does not mean they are available for purchase or use by others.

Also in this paragraph there are several assertions of rights in the canal that are held by Stephen Hall, an adjacent property owner, and which have allegedly been violated by past maintenance dredging in the canal. Mr. Brookes does not claim to represent Mr. Hall in these matters. Nonetheless, he has misunderstood the judicial record in this matter and his claims are false. In fact, all of the owners of the property in Captiva Palma, including the applicant, have full easement rights to use the canal in front of Mr. Hall's residence for ingress and egress, which includes the right to maintain this access to their private residential and commercial properties. The canal and these property owners' private property rights existed long before Mr. Hall purchased this property in Safety Harbor.

Also in this paragraph are allegations of several violations of various County ordinances and regulations by the existing operation of the North Captiva Island Club

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without any specifics being provided. Since this letter was copied to the Board of County Commissioners (itself a violation of Ordinance 92-32, the unauthorized communication ordinance), we consider these unsubstantiated accusations to be extremely prejudicial to our right to a fair hearing.

In response to the more general, subjective concerns that would fall under Goal 25 of the North Captiva Community Plan, that “the facility is too large,” “will generate too much boat traffic,” or “will have negative environmental impacts, and thereby impact the scale, character or quality of life on the island,” the following considerations are worth noting.

The building is actually quite small for a dry storage facility, which would normally accommodate over 100 boats, and usually larger boats than will be handled here. It is less than 15,000 sq. ft., which is about the size of your typical drugstore, not a WalMart, as Ralf has suggested elsewhere. In addition, the building itself will be 35' high, with an additional 6' for (optional) cupolas on the corners, which are not counted by the County when measuring height. Since the ground elevation when finished will be 5', the final building will be 40' in height, compared to the allowable 46' (35' plus the 11' base flood elevation). By way of comparison, Mr. Powell's house is 46' tall, and that is measuring to the midpoint of the pitched roof. The more salient detail of this aesthetic review is what will be visible to the public. The building will be heavily landscaped, such that you will not even notice it until very close.

This new facility may add to boat traffic in the private canal system, but it will not add to boat traffic to or from the island. Moreover, rather than keeping a boat in Pineland or in an owner's backyard, they would now have the option of coming to the island on the shuttle (included in the purchase of a dock space), and then only using the boat while in residence. This scenario for existing homeowners actually reduces boat traffic.

There is much language in the North Captiva Community Plan about preserving the serenity and quality of life on the island. Certainly more development will have some minimal effect on the serenity and quality of life of those who are there now, but there has to be some recognition of the quality of life for those who still hope to reside on their property. Of some significance is that this marina will concentrate the additional boat traffic at the south end of Safety Harbor, which has been a commercial node for many years, and was originally zoned for this type of activity in 1964 (Z-64-92).

The property owners of North Captiva can be divided into three groups for the purpose of this discussion. In the first group would be those who already have homes and a place to keep their boat on the island. The members of this group would more likely be opposed to this project, concerned that their quality of life might be reduced, and

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because they have no need for it. In the second group would be those who have a home on the island but no docking facility. They would presumably be in favor because even if they had no need for a boat, a future purchaser certainly might. The facility will definitely improve their quality of life. The third group would be those lot owners who have not yet built and have no place to keep a boat. This facility will definitely improve their quality of life and make their property more valuable.

It is very hard to make the argument that the erection of a boat storage facility would ruin the character of North Captiva, when the only way to get to North Captiva is by boat, and once there, one of the main attractions is boating. It is also difficult to understand how a boating facility will impair the character or reduce the quality of life on the island. Instead, it is an essential element in *supporting* the desired lifestyle of this island.

In the special case of Mr Brookes' client, Mr.Powell, he purchased a forty-six foot tall home that was built in 1997, located next to property that had been commercially zoned for thirty-three years at the time, and part of which was specifically zoned for a marina in 1964. Nonetheless, the boat storage building will be heavily landscaped at this boundary, and is also further separated from his residence by Rum Road.

When all is said and done, we still believe that this facility will be an essential component of the island's infrastructure, necessary to support the boat-dependent lifestyle that is so highly desired.

Very truly yours,



Michael E. Roeder, AICP

Director of Zoning and Land Use Planning

MER:pw

cc: client

Johanna Shifflette

From: McBride, Justin [JMcbride@leegov.com]
Sent: Wednesday, January 25, 2012 9:46 AM
To: Johanna Shifflette
Subject: FW: Ncmg1LeeCoMppLtr7-18-11
Attachments: north_cap_hans.XLS

Fyi

Justin D. McBride

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From: McBride, Justin
Sent: Friday, July 22, 2011 9:50 AM
To: Hans Wilson
Subject: RE: Ncmg1LeeCoMppLtr7-18-11

Hans-

Per your request, I have re-reviewed the project described below for consistency with the approved Lee County Manatee Protection Plan. The following chart outlines the results:

Project	Score	Outcome	MPP Allowable Total Slips
561 Run Road	0	Preferred	Unlimited

This project scores as a **preferred** project. Preferred projects are allowed unlimited slips under the approved MPP. The MPP defines a slip as:

A space designed for the mooring or storage of a single watercraft, which include wet or dry slips, anchorage, beached or blocked, hoist, parked on trailers, open or covered racks, seawall, or the number of parking spaces for boat ramps.

The individual worksheet showing the calculations for the project is attached for your reference. Please note that assumption about depth and submerged aquatic vegetation requirements may need to be addressed.

This project may subject to other federal, state or local regulations that may limit your ability to complete the proposed work despite the consistency with the Manatee Protection Plan.

Please let me know if you have any questions or if you need any additional assistance.

Justin D. McBride

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From: Hans Wilson [mailto:hans@hanswilson.com]

1/27/2012