



MEMORANDUM

Date: October 10, 2024

To: Honorable Mayor and Commissioners

Via: Todd Stoughton
Interim City Manager

From: Katie Halloran,
Planning Director

Subject: **File 24-6098 Major Development Plan and Landscape Waiver - 711 Eisenhower Drive (RE# 00023130-000000, 00072082-002900, & 00072070-000000)** - A request for a Major Development Plan and landscape waiver to allow for the redevelopment of a marina, including the demolition of existing dry storage boat racks and outbuildings, the construction of new boat racks and a restroom facility, seawall repair, maintenance dredging, and a landscape waiver including a reduction of minimum landscape buffer requirements from 30 feet to 9 feet for property located in the General Commercial, Conservation, and Public and Semi-Public Services zoning districts, pursuant to Sections 108-91, 108-517 and 122-32 of the Land Development Regulations of the City of Key West, Florida.

Introduction

The proposed text amendment involves the adoption of new definitions for the terms “reconstruction,” “replacement,” and “repairs and maintenance” within Article II, Nonconformities of the Zoning Code (Chapter 122). These discrete amendments of the Land Development Regulations have broad implications for the regulation of Nonconformities under Chapter 122 – Zoning and for the administration of the Development Review Process under Chapter 108 – Planning and Development.

Background

The application involves a request to develop portions of the upland and submerged land at Garrison Bight Marina. The applicant proposes to demolish an existing boat barn, dry racks and outbuildings. The applicant proposes to install four new boat racks and improve landscaping, drainage, and site amenities, repair an existing seawall, and conduct maintenance dredging.

Garrison Bight Marina is an existing legally nonconforming marina located at 711 Eisenhower Drive in the General Commercial, Conservation, and Public and Semi-Public Services zoning districts. The marina has existed as far back as the 1960s although the exact date of establishment and original development approvals are unknown. The marina is a full-service marina offering fuel, bait, and a service shop and parts dealership. The marina has a license for 225 dry slips and 17 wet slips. The site also includes a restaurant.

The marina consists of several parcels including both uplands and submerged lands. The larger upland parcel is privately owned by the applicant and totals approximately 77,000 square-feet. The applicant leases from the City approximately 25,000 square feet of an adjacent parcel is approximately 17,800 square-feet and is owned by the City of Key West. The current upland lease is valid until November 30, 2028.

The applicant also maintains several submerged land leases with the City of Key West. The submerged land leases include wet slips and docks, including a fuel dock.

There is no on-site parking. Per Section 108-572, the existing parking requirement is 227 spaces, including the existing restaurant, the number of recreational vessels, and the licensed capacity of charter vessels. The applicant has requested a parking variance in support of this development plan.



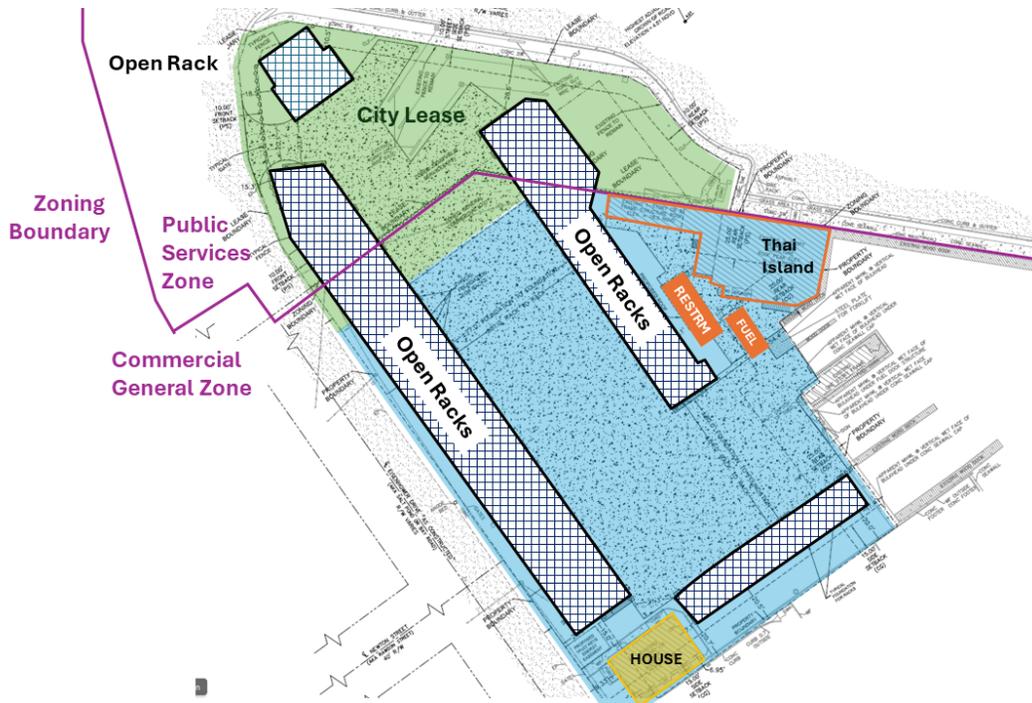
Analysis

The applicant seeks to redevelop the upland portion of the marina by replacing aging, nonconforming boat storage structures and improving landscaping, drainage and site amenities. The applicant also proposes to repair the existing seawall and conduct maintenance dredging in the submerged lands near the seawall/bulkhead. Additionally, the applicant is seeking a waiver to minimum landscape requirements for the minimum required landscaping for the street frontage and vehicular use area.

The applicant proposes to demolish an existing boat barn and several open-air boat storage racks and replace them with four new open air storage racks able to accommodate 201 boats, which is a reduction from the current dry rack capacity of 225 vessels. Two of the proposed racks would be located on both the privately owned and City-leased parcels. One would be located entirely on the private parcel, and one would be located entirely on the City-leased parcel. In total, the proposed work includes the following:

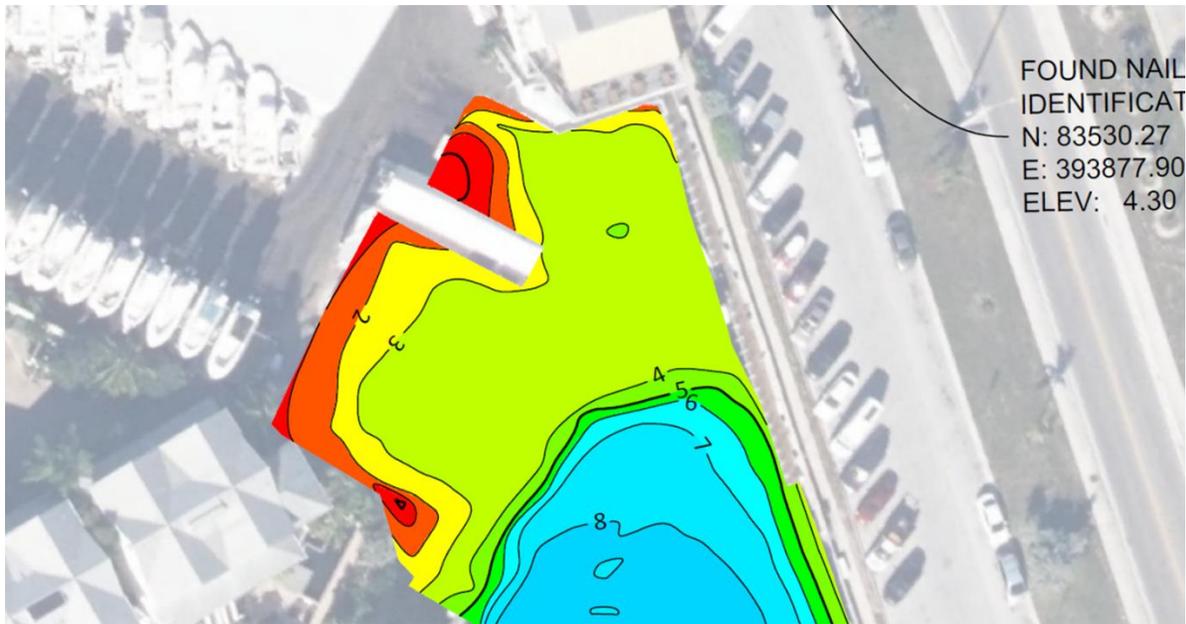
Proposed Upland Development:

- **Demolition:** Demolish existing nonconforming boat barn, boat racks, and outbuildings that support 225 dry storage slips and machine shop/maintenance facilities
- **New Boat Storage:** Install 4 new boat racks supporting 201 dry slips; the number of boat slips is being reduced by 24. One boat rack will be located entirely on City-owned property leased to the applicant; and two racks will be partially located on City-owned property leased to the applicant
- **Landscaping:** the applicant is making landscaping improvements including perimeter landscaping, however a landscape buffer yard waiver is required.
- **Drainage:** the applicant proposes to bring the site into compliance with drainage requirements and reduce impervious surface by 7,000 square feet; repair a failing City stormwater pipe and outfall located on the private parcel, and provide an easement to the City allowing future maintenance of the pipe.
- **Site Amenities**
 - New 211 square-foot restroom building
 - Eliminate certain encroachments along Eisenhower Drive and southeast property line
 - Improve accessibility with improved surfacing materials
 - Creating a screened solid waste storage area
- **Miscellaneous:**
 - Relocate an aboveground fuel tank
 - Eliminate service/repair shop
 - Eliminating one substandard housing unit; one unit to remain



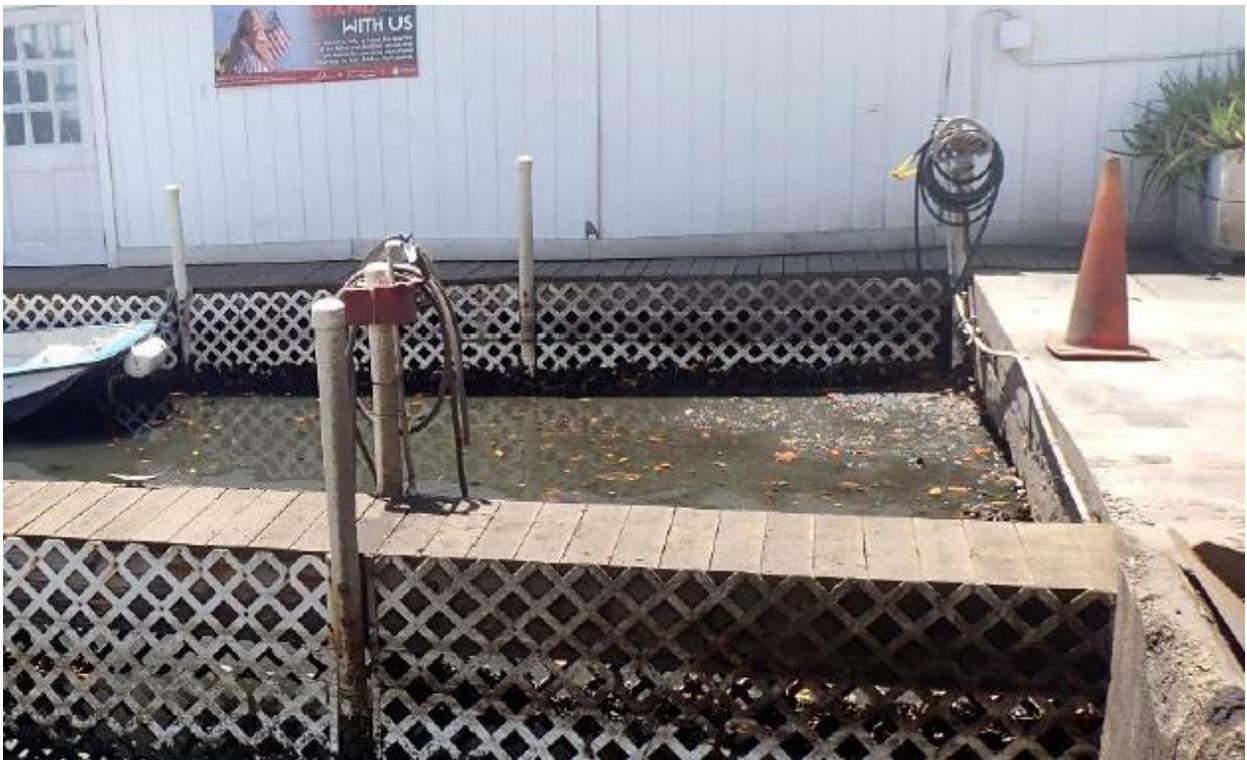
Proposed Submerged Land/Seawall Development

- **Maintenance Dredging:** Remove sediment to a depth of 5’ below mean low water in an 11,000 sq. ft. area adjacent to marina seawall/bulkhead.
- **Seawall Repair:** Repair 112 linear feet of existing seawall, and repair and replace a 280 sq. ft. and 620 sq. ft. section of cap.





Photos along the marina's seawall/bulkhead show that sediment has accumulated up to the water line.



Surrounding Zoning and Uses:

Surrounding properties are located within the General Commercial and Public and Semi-Public Services zoning districts. Surrounding zoning districts and uses include:

North: Public and Semi-Public Services - Marine repair,

South: General Commercial – Transient residential, boat rentals/watersports

East: Public and Semi-Public Services - Marina

West: Historic Medium Density Residential – Residential, community center,

Process:

The applicant initially submitted a minor development plan application for the upland portions of the proposed development, which was reviewed by the development Review Committee on April 24, 2024. The applicant subsequently submitted a major development plan application for the dredging and seawall repair. The two applications have been combined into one and are being reviewed together.

Development Review Committee:	April 24, 2024
Tree Commission Meeting	July 2, 2024
Planning Board Meeting:	June 18, 2024
Tree Commission Meeting (Final landscape plan approval):	July 2, 2024
Final Tree Commission Approval	TBD
City Commission Meeting	TBD
Local Appeal Period:	10 Days

Development Review Committee

The Development Review Committee is responsible for reviewing development applications for consistency with applicable development standards, including concurrency requirements.

Stormwater/Utilities Comments:

Solid Waste:

- Please provide a site plan that shows the location(s) for trash and recycle storage containers. Solid waste storage areas must be screened from adjacent properties and public ways. (Sec. 108-279)

Stormwater Management:

- Please provide soil erosion and sediment control plan (BMPs) that includes stormwater pollution prevention plan (SWPPP) general notes. Soil erosion and sediment control measures must be implemented during construction. Construction entrance and designated truck washout may be necessary to prevent site materials from leaving the site and concrete slurry from entering the storm drain. Dewatering may be required. The contractor will not be permitted to directly discharge into the storm drain. Please coordinate dewatering activities through the Utilities Department.
- A City stormwater pipe and outfall is located on the privately-owned parcel. The applicant relocated the proposed boat racks to avoid the pipe. There is reason to believe the pipe is failing. The applicant has agreed to repair/replace the failing pipe during site work, and to provide an easement allowing the City to repair/maintain the pipe.

Sanitary Sewer:

- Restroom building sanitary sewer connection may not go into the grease interceptor. Connection to the sanitary sewer lateral must be downstream of the grease interceptor.

Keys Energy Services

- Applicant shall avoid placing tall trees under transmission lines and shall provide power lines in the site plan. Proposed boat rack “D” must maintain 19’ clearance from power lines. The 2023 National Electrical Safety Code 234 shall be followed. If power is required for the project, applicant shall

submit a project review form.

Concurrency Analysis

Code Section 108-233 and Comprehensive Plan Objective 9-1.5 require the City to conduct concurrency reviews to ensure that that facilities and services needed to support development are available concurrent with the impacts of such development. Facilities subject to concurrency reviews are listed below, along with staff’s evaluation are listed below:

FACILITIES/SERVICES	COMMENTS	COMPLIES?
Potable water	No increased demand on potable water is expected.	Yes.
Wastewater	No increased demand on wastewater is expected.	Yes.
Water quality	Impervious surface is being reduced by 7,000 SF and complies with impervious surface coverage. Construction management best practices should be observed.	Yes.
Stormwater	<p>Stormwater management improvements are proposed on-site.</p> <p>Additionally, an existing City stormwater outfall pipe runs underground on the privately-owned parcel. The pipe is damaged and the outfall is largely buried by silt deposits along the seawall. This outfall serves stormwater infrastructure along nearby rights-of-ways in a flood-prone area of the City.</p> <p>The applicant agrees to repair/replace a failing City stormwater pipe and outfall that serves Eisenhower Drive, and has provided an easement to allow the City to maintain/repair the pipe and outfall.</p> <p>The proposed maintenance dredging will also increase the efficacy of the outfall.</p>	Yes.
Solid Waste	No increase in solid waste demand is expected.	Yes.
Roadways	No increase in trip generation is expected.	Yes.
Recreation	No increase in recreation demand will result.	Yes.
Fire Protection	Project reviewed by Fire Department. No comments provided.	Yes.
Reclaimed Water	N/A	Yes.
Other public facilities	N/A	Yes.

Conclusion: Staff reviewed the provided concurrency analysis following the criteria in City Code Section 94-36 and determines that public facilities are expected to accommodate the proposed development at the adopted level of service (LOS) standards.

Chapter 108 Development Review Summary:

CODE SECTION	COMMENTS	COMPLIES?
Article III: Site Plan		
Sec. 108-279. - Location and screening of mechanical equipment, utility hardware and waste storage areas.	<ul style="list-style-type: none"> • Screened solid waste area is provided. 	Yes.
Sec. 108-289. - Land clearing, excavation or fill.	<ul style="list-style-type: none"> • Drainage improvements are proposed. Applicant shall provide soil erosion and sediment control plan and stormwater pollution prevention plan to the City stormwater engineer and comply with approved plan. Applicant shall coordinate dewatering activities with the Utilities Department. Spoil materials and effluent are prohibited from entering the storm drain or discharging into tidal waters. • The subject site was contaminated by a petroleum leak from a below-ground fuel storage tank circa 1991. The site was subject to a Remedial Action Plan ordered by the Florida Department of Environmental Protection (FDEP). Monitoring wells were required to monitor contamination until 2015. In 2015, FDEP found that the property owner satisfied site rehabilitation requirements and that contamination levels had been reduced to acceptable levels. If previously unknown contamination is uncovered during the course of construction, the applicant shall immediately notify the City and FDEP. The excavation and disposal of any contaminated soil shall be accomplished in accordance with all applicable regulations. 	Yes.
Article V: Open Space, Screening & Buffers		
Sec. 108-346. - Open space, landscaping and removal of exotic vegetation.	<ul style="list-style-type: none"> • Open space is proposed to be 32.13% which meets open space requirement of 20% and improves upon existing open space by approximately 2%. • Exotic vegetation shall be removed. 	Yes.
Sec. 108-347. - Required screening.	<ul style="list-style-type: none"> • The application meets the requirement to provide a landscape buffer of at least 2.5 feet in width with at least 45 plant units per 100 linear feet along the south property line. 	Yes.

Article VI: Landscaping		
Sec. 108-411. - Landscape plan approval.	<ul style="list-style-type: none"> The proposed landscape plan has been reviewed and approved by the Tree Commission. 	Yes.
Sec. 108-412. - Minimum landscaping requirements.	<ul style="list-style-type: none"> The applicant meets the minimum landscaping requirements including the minimum landscaped area, minimum native plant requirement, and landscaping combination requirement. The owner shall be responsible for maintenance of all required landscaping. 	Yes.
Sec. 108-413. - Requirements along street frontage.	<ul style="list-style-type: none"> The site requires a landscape strip along the frontage at least 30' in width, with at least 120 plant units per 100 linear feet. The proposed landscape strip provides a width ranging from 9' to 30', which does not meet minimum requirements for depth. However, the landscape plan does exceed the maximum number of plant units per 100 linear feet. The applicant requests a waiver to the frontage landscape minimum depth requirement. 	No. Waiver required.
Sec. 108-416. - Other landscape requirements for nonvehicular use areas.	<ul style="list-style-type: none"> The landscape plan provides 4 trees for every 2,000 sq. ft. of nonvehicular open space. 	Yes.
Sec. 108-452. - Required sight distances for landscaping adjacent to public rights-of-way and points of access.	<ul style="list-style-type: none"> The applicant has provided the required clear zone adjacent to the intersection of two rights-of-way. 	Yes.
Sec. 108-517. - Waivers or modifications.	<ul style="list-style-type: none"> Per Section 108-517, the Planning Board may waive or modify the standards of Chapter 108 Article VI upon a finding that the modification meets the criteria outlined in Section 108-517. Staff has reviewed the application and found it consistent with these criteria. 	Yes.
Article VII: Off-Street Parking and Loading		
Sec. 108-571. - Applicability.	<ul style="list-style-type: none"> Per Section 108-571, parking shall be provided at the time any building or structure is erected, which triggers parking requirements for this project. Additionally, Section 106-122 provides that the construction of any building or structure shall comply with all performance standards in the Code, including parking standards. 	Subject to approval of parking variance.
Sec. 108-572. - Schedule of off-street parking requirements by use generally.	<ul style="list-style-type: none"> The existing parking requirement is 227 spaces. The applicant proposes to reduce the number of existing slips by 24, which reduces the parking requirement by 6 spaces for a total parking requirement of 221 spaces. 	Subject to approval of parking variance.

Article VIII: Stormwater and Surface Water Management		
Sec. 108-777. - Water quality criteria. & Sec. 108-778. - Water quantity criteria.	<ul style="list-style-type: none"> The applicant has submitted a stormwater management plan which has been reviewed and accepted by the City stormwater engineer. The applicant shall comply with all stormwater and surface water management criteria of the Code of Ordinances. Mitigative techniques proposed by the applicant and required by federal and state agencies include turbidity curtains, marine life entrapment protections, upland fenced perimeter dewatering area for removed material, and manatee habitat condition signage. 	Yes
Article IX: Utilities		
Sec. 108-956. - Potable water and wastewater.	<ul style="list-style-type: none"> Applicant has sufficient access to potable water and wastewater disposal system. 	Yes.

Review Summary: Chapter 110 - Resource Protection

CODE SECTION	COMMENTS	COMPLIES?
Article IV: Coastal Resources		
Sec. 110-181. - Coastal shoreline impact. & Sec. 110-182. - Shoreline vegetation and stability.	<ul style="list-style-type: none"> The applicant provided a sediment analysis report and a benthic resource assessment report that indicated a lack of native habitat and living marine resources in the project area. There is no natural shoreline on the project site. As described in the application, applicant will utilize mitigative techniques throughout the course of construction to minimize adverse impacts to water quality and coastal shoreline resources. No compensatory mitigation is required. 	Yes.
Sec. 110-183. - Living marine resources.	<ul style="list-style-type: none"> The applicant provided a benthic resources analysis which indicates that no seagrass communities, hardbottom habitats, or hard or soft corals were located on or around the seawall or within the proposed dredge area. The applicant will utilize marine life entrapment protections and manatee habitat condition signage throughout the course of construction. 	Yes.

	<ul style="list-style-type: none"> • Upland improvements to stormwater management are expected to reduce adverse impacts on water quality and living marine resources. 	
Sec. 110-184. - Water-related and water-dependent uses.	<ul style="list-style-type: none"> • The existing and proposed use is a water-dependent use. 	Yes.
Sec. 110-185. - Impacts of coastal development on tidal flushing and circulation patterns.	<ul style="list-style-type: none"> • The existing land development patterns, including the Palm Avenue Causeway, have contributed to stagnation and siltation. The proposed work is not expected to contribute to stagnation or siltation, but is intended to mitigate the results by removing silt deposits that have resulted from existing tidal flushing and circulation patterns. • Poor tidal flushing and circulation patterns have contributed to the accumulation of sediment which reduces natural water flow, reduces potential habitat for living marine resources and generally contributes to poorer water quality. • A sediment carbon dating analysis was provided by the applicant. It concludes that the sediment proposed for removal is likely not geologically old or a natural subsurface deposit. Instead, it concludes that the material was likely deposited in the area after the original artificial dredging of the area in the mid-century. 	Yes.
Sec. 110-186. - Marinas and dock facilities.	<ul style="list-style-type: none"> • The applicant has obtained necessary permits from FDEP and the Army Corps for the seawall repair and maintenance dredging. • The applicant must obtain approval from FDEP for the proposed relocation of an aboveground fuel storage tank. • FDEP has advised that the project also requires authorization from the South Florida Water Management District (SFWMD). As co-owner of the property, the City is required to be a co-applicant. • The applicant has provided the necessary reports/analyses regarding the environmental impact of the proposed work and has demonstrated to the satisfaction of the City that the proposed work will not adversely impact living marine resources. 	Yes, pending approval of necessary SFWMD authorization, and FDEP authorization for fuel tank relocation.
Sec. 110-187. - Ocean, gulf and nearshore water quality.	<ul style="list-style-type: none"> • The applicant proposes improvements to the stormwater management system to treat polluted stormwater prior to discharge into outstanding waters. • The final stormwater management plan shall be reviewed and approved by the City stormwater engineer and/or City Engineer, and shall be 	Yes, provided final stormwater management plan treats runoff prior to discharge into

	<p>consistent with criteria contained within the Code of Ordinances.</p> <ul style="list-style-type: none"> The benthic resource assessment identified poor water quality in the project area due to shallow conditions, low light, and high turbidity 	outstanding waters.
Sec. 110-190. - Multiagency review of coastal management issues.	<ul style="list-style-type: none"> Planning staff and the applicant have met the criteria contained within Section 110-190. As a result of multi-agency coordination efforts, it was determined that authorization by South Florida Water Management District is required. 	Yes, pending approval of necessary SFWMD authorization.
Sec. 110-191. - Impacts of development on coastal waters.	<ul style="list-style-type: none"> Dredging activities have been approved by FDEP and the Army Corps. SFWMD authorization is required. Staff finds that the use of outstanding waters for the existing/proposed water-dependent activities are not contrary to the public interest and do satisfy a community need; improvements to the marina facility supports Comprehensive Plan Objective 7-1.4, which provides that the City shall continue to preserve and improve access to the Gulf of Mexico and Atlantic Ocean. Additionally, the proposed work is not expected to result in adverse impacts to coastal or environmental resources, will result in improvements to stormwater and water quality. 	Yes, pending approval of necessary SFWMD authorization.
Article V: Wildlife Habitat Preservation and Protection of Flora and Fauna		
Sec. 110-222. - Critical habitat management plan required.	<ul style="list-style-type: none"> The applicant provided a benthic resource assessment which did not identify critical habitat or endangered and threatened flora and fauna. During construction, the applicant will implement a manatee protection plan as required by the LDRs. 	Yes.
Article VI: Tree Protection		
Sec. 110-366. - Protective barricades; performance bond.	<ul style="list-style-type: none"> The applicant shall provide protective barricading for trees on site before and during construction activities. 	Yes.
Sec. 110-325. - Review and action by tree commission.	<ul style="list-style-type: none"> Fifteen trees exist on-site. The Tree Commission has authorized the removal of 4 trees. 	Yes.

Chapter 122 Review Summary: Conservation District

The Conservation zoning district consists of environmentally sensitive natural systems, including the area proposed for dredging in the subject application. Conservation zoning district regulations include additional criteria for development review.

CODE SECTION	COMMENTS	COMPLIES?
Sec. 122-126. - Intent.	<ul style="list-style-type: none"> The applicant provided a benthic resources assessment, bathymetric survey and sediment analysis. The reports were produced by environmental professionals, based on physical and biological data obtained from a specific site investigation, and based 	Yes.

	on the data and analysis necessary to support the environmental impact assessments, which . The reports concluded that the proposed work will not negatively impact the function and value of environmentally sensitive lands.	
Sec. 122-133. - Additional criteria applicable to required development plans.	<ul style="list-style-type: none"> The benthic resource assessment found that the proposed work area does not include hardbottom biological communities. The bathymetric survey included a map of tidal waters potentially impacted by the proposed work. 	Yes.
Sec. 122-134. - Required intergovernmental coordination.	<ul style="list-style-type: none"> The applicant has coordinated and continues to coordinate with applicable government agencies. The applicant shall coordinate with SFWMD to obtain any additional required permits. 	Yes, pending approval of necessary SFWMD authorization, and FDEP authorization for fuel tank relocation.
Sec. 122-143. - Conditions for approving location of structures and uses hazardous to living marine resources within tidal waters.	<ul style="list-style-type: none"> Neither the City nor federal and state agencies responsible for permitting the project have found that compensatory mitigation is required for the proposed work. 	Yes.

RECOMMENDATION

The Planning Board considered the above request for a Major Development Plan and Landscape Waiver on September 19, 2024. After due deliberation the Board resolved to recommend approval of the request subject to compliance with the following conditions.

Staff has reviewed the subject application for compliance with all applicable development standards. Based on the review criteria of the Land Development Regulations, staff recommends that the subject development plan and landscape waiver be **APPROVED** with the following conditions:

Conditions required prior to issuance of a Building Permit

1. The applicant shall provide a complete stormwater management plan which shall be reviewed and approved by the City stormwater engineer. The plan shall meet the criteria identified in Chapter 108, Article VIII of the Land Development Regulations (the “LDRs”) and Section 110-187, which provides that no new point-source pollution shall be permitted to discharge into ocean, gulf, and nearshore waters. The stormwater management plan shall comply with Comprehensive Plan Policy 4-1.1.1, including the provision that stormwater facilities which directly discharge into Outstanding Florida Waters shall provide an additional treatment pursuant to Section 62-25.025 (9), Florida Administrative Code.
2. The applicant shall provide a soil erosion and sediment control plan that includes a stormwater pollution prevention plan. The plan shall be provided to and approved by the City stormwater

- engineer.
3. The applicant shall obtain and provide to the City all necessary permits from federal, state and regional agencies, including the South Florida Water Management District, Florida Department of Environmental Protection, and the Army Corps of Engineers.

General Conditions:

1. The applicant shall obtain Planning Board approval for a variance to minimum parking standards.
2. Maintenance dredging and seawall repair shall be consistent with the attached plans by Glen Boe and Associated, Inc, dated 07/07/2023, and shall meet the permit conditions issued by the Florida Department of Environmental Protection, Army Corps of Engineers, and South Florida Water Management District.
3. Upland development including site work and boat rack construction shall be consistent with the attached plans by Weiler Engineering Corporation, signed and sealed on 06/13/2024 by Michael Giardullo.
4. The construction of restrooms shall be consistent with the attached plans by Architectural Alliance Architecture, signed and sealed 05/15/2024 by Pete Meador Ebersolo.
5. Landscaping shall be installed in accordance with the attached plans by Architectural Alliance Landscape, signed and sealed 06/25/2024 by Hugh Johnson. The applicant shall meet the specifications and criteria for plant materials, installation, and maintenance identified in Section 108-481 and Section 108-482 of the LDRs. Pursuant to Section 108-416, grass, ground cover, shrubs, and other landscaping materials shall be used to treat all ground not covered by building, paving, or other structures. Installation shall comply with Sec. 108-452. - Required sight distances for landscaping adjacent to public rights-of-way and points of access.
6. During the course of construction, the contractor is not permitted to directly discharge into the storm drain. The applicant shall coordinate dewatering activities through the Utilities Department. Dredged material and effluent shall not be discharged into outstanding waters and shall be disposed of in an approved off-site facility.
7. A turbidity barrier shall be deployed throughout the course of construction and shall remain until the project is completed and the site returns to ambient levels.
8. The restroom building sanitary sewer connection may not go into the grease interceptor. Connection to the sanitary sewer lateral must be downstream of the grease interceptor.
9. Solid waste storage areas must be screened from adjacent properties and rights-of-way.
10. The applicant shall coordinate with the Utilities Department regarding the replacement of the City stormwater outfall pipe. The pipe shall be replaced using material specifications provided by the Utilities Department. The applicant shall grant the City an easement in a form acceptable to the City Attorney for the purpose of providing the City the ability to access, repair, and maintain the existing stormwater pipe.
11. The property owner shall be responsible for removing boat racks from the City-owned parcel upon

termination of the lease.

12. The applicant shall meet the manatee protection criteria identified in Section 110-186.
13. Boat maintenance and cleaning activities shall be located as far as possible from open waterbodies in order to reduce contamination of waterbodies by toxic substances common to boat maintenance. Runoff from boat maintenance must be collected and treated prior to discharge.