

**PLANNING AND ZONING BOARD MINUTES  
THURSDAY, NOVEMBER 3, 2022 - 1:30 PM  
COUNCIL CHAMBERS, CITY HALL, VERO BEACH, FLORIDA**

**PRESENT:** Vice Chairman, Jose Prieto; Members: Theodore Perry, Robin Pelensky, Jeff Stassi and Alternate Member, Elliese Shaughnessy **Also Present:** Planning Director, Jason Jeffries; Principal Planner, Cheri Fitzgerald; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

**Excused Absence:** Jeb Bittner

Today's meeting was called to order at 1:30 p.m.

**I. PRELIMINARY MATTERS**

**A. Agenda Additions and/or Deletions**

None

**II. APPROVAL OF MINUTES**

**A. Regular Meeting – October 20, 2022**

**Mr. Perry made a motion to approve the minutes of the October 20, 2022 Planning and Zoning Board meeting. Mr. Stassi seconded the motion and it passed unanimously.**

**III. PUBLIC COMMENT**

Mr. David Hunter asked if there were any parameters on the time they are allowed to give public comments.

Mr. Prieto said generally the Board limits public comments to three (3) minutes.

**IV. PUBLIC HEARINGS**

**[Quasi-Judicial]**

**A. Site Plan Application Submitted by Coastal Tech for the Demolition of Existing Buildings and Construction of a 21,355 Square Foot Dry Storage Building for the City of Vero Beach Municipal Marina Located at 3599 Rio Vista Boulevard (#SP22-000005).**

\*Please note that all exhibits are on file in the City Clerk's office.

Mr. Jason Jefferies, Planning Director, went over the procedures for quasi-judicial hearings with the Board members.

The Vice Chairman read Site Plan Application #SP22-00005 submitted by Coastal Tech by title only.

The Deputy City Clerk swore in staff and the audience testifying for today's hearing en masse.

Mr. John Turner, City Attorney, asked the Board members if they had any ex parte communications and if so, what kind.

Mr. Stassi reported that he met with Mr. Sean Collins, Marina Director, and walked the site.

Mr. Turner asked if they discussed the site plan.

Mr. Stassi answered yes. He said they walked the site and looked at the current building.

Mr. Turner asked if he reached any conclusions as a result of visiting the site and having a discussion with Mr. Collins. Mr. Stassi answered no.

Mr. Turner said so you have an open mind and will be fair and impartial. Mr. Stassi answered absolutely.

No other ex parte communications were reported.

Mr. Jefferies, who has been sworn in, said this is a major site plan application to construct a 21,355 square foot City Marina dry storage building at 3599 Rio Vista Boulevard. He reported that the neighborhood meeting was held on May 5, 2022. The applicant and owner of this site is the City of Vero Beach. The Engineer of record is Coastal Tech and the Architect is Edlund Dritenbas Binkley. He then gave a brief overview of the major site plan application review process with the Board members.

Mrs. Cheri Fitzgerald, Principal Planner, who has been sworn in, went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes). Staff recommends approval of the site plan subject to including that the proposed off-site parking may be located greater than 500-foot walking distances and the conditions be met as outlined in staff's memorandum.

Mr. Monte Falls, City Manager, who has been sworn in, said that he is present today as the applicant for the project in that the City owns the property. He reported that the City enlisted the assistance of Coastal Tech to help with the project because they are coastal engineers. Mr. Tim Fontaine is their representative and is present today to give the Board a presentation. He reported that the City also enlisted Edlund Dritenbas and Binkley as the Architects. Mr. John Binkley is the Lead Architect and he advised the City that the architectural embellishments added to this project would add about \$600,000 to the project costs. He said the off-site parking is in excess of 500-feet and they would need the Board's approval. He said the City has owned and operated this facility since 2007, and that distance has not been a detriment to the management of the Marina since then. Marina staff is housed on the north side of the Marina and makes that trip on a frequent basis during the day.

Mr. Tim Fontaine, of Coastal Tech, who has been sworn in, gave a Power Point presentation (attached to original minutes). He said they wanted to save as many trees as possible. The trees that they couldn't avoid they tried to relocate and the trees that they could not relocate would be removed. He said they wanted to maximize pedestrian mobility and access and even though they are ADA compliant, they would be improving pedestrian mobility with this project. He said they wanted to maximize the stormwater ponds, however they did give priority to the parking and to the existing trees. They wanted good appropriate landscaping with Florida native plants and drought tolerant

plants, however some of this was difficult because there are good mature trees on the site. He reported that the stormwater pond shown on the site plan was an odd shape because they were giving priority to the tree. They don't want to impact the existing root system, which is why the stormwater pond is much smaller than it could be. This also would require some underground stormwater storage. He said the City is paying more for this project in order to preserve the trees. He doubted this was something that a private developer would do. He said they added a sidewalk on the north side of the site. He explained that they wanted to keep the pedestrian movement on the north side around the building for pedestrian safety. He reported that they looked at the Indian River Lagoon National Estuary Program's website and they had a section on the 10 steps to success. Their first step was to reduce and identify freshwater sediments and nutrient loads, such as stormwater from entering the Lagoon and improving systems to treat and control them before they reach the Lagoon. He said that is exactly what this project would do. He noted that the existing site has a very good collection system, however that system collected the water and put it into the Lagoon as quickly as possible. There was no water quality or quantity treatment system onsite. They do have the collection transmission, as well as a water quality and a water quantity treatment system. The area west of the building where the boats would be staged prior to being placed into the building would be graded to where the stormwater would shoot flow into the stormwater system to the north or south. He noted that was not something that would be required in a typical permitting process. They could have received permits to have it shoot flow across the bulkhead towards the Lagoon. He stated that a portion of their stormwater system is offline, which was a good thing. He said the only way to explain this was if you had a bottle filled with water, the water would not escape. That is the benefit of the underground chambers. It would capture the nutrients and other things they are trying to treat from the stormwater and it would stay there if it rains too much. That is stormwater quality treatment. They are trying to capture that first inch of rain to treat. He explained that the first inch of rain would collect all the nasties and either take it to a stormwater system or to the Lagoon. With this project the first flush of the pollutants would go into the stormwater system and the existing condition goes directly into the Lagoon. He said this project is going to improve the quality of stormwater entering the Lagoon and it is going to reduce the volume of stormwater entering the Lagoon when compared to the current condition. He referred to the slide showing the site plan. He explained that the two (2) rectangles to the east of the building were the underground storage systems. If they looked at the grading plan they would see on the west side of the building where the stormwater would either go north to the inlet that is on the north side or to the south towards the other inlet. He felt an argument could be made that this was a good stormwater system where they have not only underground storage where it is an offline system, which was ideal, but they also would have the above ground system. He reported that an environmental assessment was done by Ecological Associates, Inc. (EAI). They did a desktop analysis, as well as a site visit. The desktop analysis was a very quick literature review and they didn't find anything concerning. The site visit result was that there was no wetlands or native soils. There was no observed listed wildlife or suitable habitat for listed wildlife within the site so there were no Gopher Tortoises or anything else that would need to be relocated. He reported that the wildlife surveys or permitting was not anticipated to be part of the proposed redevelopment of the site.

Mrs. Pelensky said it was stated that there would be some stormwater that would enter the Lagoon.

Mr. Fontaine said that is correct. He explained that the City has stormwater requirements and so does the Water Management District. The City requires you to treat the first one and a half inches across your entire site. So you would look at the entire site, calculate your area, and calculate the one and a half inches, which must be stored onsite for water quality treatment. After your development you have to demonstrate that during a rain event you would have less water leaving the site than in

your existing condition. What should happen is if you went out with a measuring cup and it gets past one and a half inches you would see some water leaving the site, but you should see zero water leaving the site for that first inch and a half.

Mr. Turner asked Mr. Fontaine to give the Board some of his background and his training in the area that he is making his presentation on.

Mr. Fontaine reported that he attended the University of Florida (UF). He has a Bachelor of Science and Mechanical Engineering and a Masters in Coastal Engineering. The majority of his career was working with Coastal Technology Corporation doing coastal projects, which include waterfront parks, marinas, boat ramps, seawalls, etc. He also worked for another firm and focused on land development. He had the delegated authority for the stormwater design work. He reported that his wife's entire career has been focused on water resource engineering. She has an Undergraduate Degree and a Graduate Degree from UF in Civil Engineering. Her entire career has been focused on water resource work on doing these types of stormwater analysis and reporting so they have a good team working on this project.

Mr. Richard Grosso, Attorney, who has been sworn in, said that he was representing the Vero Beach Preservation Alliance (VBPA), as well as Mrs. Leslie Tilly and Mrs. Karen Marcil, both in their individual capacity and as the organization. He thought this process allowed them to ask questions of those who have already spoke, as well as to make their own presentation.

Mr. Turner asked Mr. Grosso to give the Board a description of how his clients were affected parties in this matter.

Mr. Grosso felt it would be better for them to give their own presentation.

Mr. Turner said if that is what he would like to do, that would be fine.

Mrs. Karen Marcil, who has been sworn in, reported that she lives just east of the area where this project is going to take place. She said they feel like they would be greatly impacted by the size of the building being over 21,000 square feet in a residential neighborhood. They have been speaking to the City Council for months with legal and many different roles trying to have them consider the fact that it doesn't meet the Comprehensive Plan because it is not keeping with the scale and size in a residential neighborhood. They formed the VBPA, which is a non-profit organization, to pull the community together to bring awareness as to what was going to happen. Their whole purpose is to preserve Vero Beach. To preserve the size, the scale, and to keep Vero Beach as special as it is. They feel that this building in a residential neighborhood does not in any way fit in that criteria.

Mr. Grosso asked are you here speaking both for yourself as an individual and as a representative of the organization. Mrs. Marcil said yes. She is here both as an individual and as the President of the VBPA.

Mr. Grosso asked can you tell us what the document is that I am handing you. Mrs. Marcil said this is a google map of the location. She said this is where the Marina is and where her house is located.

Mr. Grosso asked approximately how far away is that. Mrs. Marcil answered 479-feet.

Mr. Grosso said we would like to make that visual a part of the record as an exhibit.

Mr. Turner said the exhibit would be marked as Affected Party, AP-1.

Mrs. Leslie Tilley, who has been sworn in, said that she lives right across the street from the Marina and has lived there for 32 years. She said that her house is 350 to 400-feet from the dry storage location. She has enjoyed living there for 32 years and raised her children there. She said that she was impacted greatly by the news of this project after waking up out of two (2) years of Covid and tragedy in her family and then coming into the new year with news from a colleague that there was a 25,000 square foot building planned down the street. She said that she and her husband attended the meeting in October, 2019, and the plans were for a 16,000 square foot building. She said there was no communication with the neighbors or the people who live in the Vero Towers, who are the closest and would be the most impacted. She and Mrs. Marcil have been neighbors for 32-years and they met with the neighbors and decided to form the VBPA as a vehicle to communicate and educate themselves and everyone. She said they created a website and have learned a lot over the last eight (8) months. She said that her street is the street that the dry boat storage is located on. She said that she walks down the street, through the Marina, around the dry storage building and the Dog Park two (2) or three (3) times a day. She then showed the Board a map showing where her house is in proximity to the structure.

Mr. Grosso asked in this Exhibit 2, how close does it show where your house is. Mrs. Tilley answered 403-feet on this map.

Mr. Grosso marked this as Exhibit AP-2. He asked what is this other document that I have handed you. Mrs. Tilley answered Electronic Articles of Incorporation from when we formed in April and decided to become a non-profit organization (marked as Exhibit Ap-3).

Mr. Grosso asked we being who. Mrs. Tilley said. Karen Marcil, Leslie Tilley, and Florence N. Roberts.

Mr. Grosso questioned and the name of the organization. Mrs. Tilley said the Vero Beach Preservation Alliance, Inc.

Mr. Grosso asked what is the general purpose of the organization.

Mrs. Tilley read into the record, Article III of the Electronic Articles of Incorporation, "*The Vero Beach Preservation Alliance is a nonpartisan, nonprofit, organization committed to preserving the quality of life enjoyed by the people of Vero Beach, Florida.*" She said that they have learned so much that they did not anticipate. She said it is more than just the quality of life. It has a lot to do with what their environment is and how this building is going to impact the environment and the sea life; the manatees, the dolphins, the turtles, and potential seagrass with the number of boats and the boat traffic going back and forth to the Ft. Pierce Inlet, which is down the river and into the Lagoon.

Mr. Grosso asked based on your review of the application and the analysis, how do you believe this will impact you and your organization.

Mrs. Tilley said the organization will definitely be impacted. They will continue to learn and be involved. They are hoping to get involved in growing seagrass and helping with the manatees. They have been in touch with Ms. Kim Dinkins, of Save the Manatee Club, and someone from the West Coast came and spoke about seagrass and how to get it started. She said that they would love to be

involved with that, along with clams, cleaning the water, etc. She said they have just been woken up, which she felt that Covid had a lot to do with it. She said in stopping this massive building that is coming at them they could not work fast enough. It was not in their plans to do this, but they have become passionate about it. They feel it is very important for the community because it is a symbol of overbuilding on a very small piece of property. She said there is a Maritime Forest across the street so this is sandwiched between a very sensitive Lagoon that is very biodiverse and is famous for its biodiversity and is in trouble and the Maritime Forest that has a lot of creatures that are probably going to go into some sort of healthy trust. She said the Beachland Elementary School children are going to be studying the animals, plants, and trees that are in the Forest. She said it is a very unusual forest that no one is even talking about.

Mr. Turner asked does staff or the applicant have any questions of these individuals about their Affected Party status or standing for this hearing. Mr. Jeffries answered no.

Mr. Grosso said that he has three (3) more documents that he would like to enter into the record. He said that he wrote a letter to Mr. Turner yesterday that spelled out what he thinks the perimeters of quasi-judicial rules are that allows them to participate, which was dated November 2, 2022 (Exhibit AP-4). He then submitted an objection letter that he wrote on August 24, 2022 (Exhibit AP-5), and an objection letter that he wrote on October 16, 2022 (Exhibit AP-6).

Mr. Turner recommended to the Board that for the purposes of this quasi-judicial proceeding, they've demonstrated that the individuals are affected parties, which would probably carry over to the non-profit corporation, but only for the purpose of this hearing.

Mr. Grosso said that he did not have a clear understanding of what actually is being put into the record. He said that they have seen a Power Point presentation and heard testimony, but it would be important to know.

Mr. Turner said that there was no problem doing that, but he was not sure if they were at that point yet. He asked Mr. Jeffries if he has completed his presentation.

Mr. Jeffries said staff has completed their presentation and the applicant has submitted theirs. He said the Affected Party can make their presentation. In terms of what is in the record, it is staff's report and the Power Point presentation.

Mr. Grosso asked is staff's report the document that was written to Chairman Bittner from Mrs. Fitzgerald dated October 20, 2022. Mr. Jeffries answered yes.

Mr. Grosso questioned and it is a pretty thick document. Mr. Jeffries answered yes, with the attachments.

Mr. Grosso said the current facility houses up to 54 boats. He asked is that right.

Mr. Jeffries said that he wants to be accurate because there was previous site plan approval when the building was built. He said it was not based on what they are currently holding, but based on the number of slips that were approved at the time through that development order.

Mr. Grosso said to be clear, his question is how many boats are stored there now or can be stored there.

Mr. Jeffries said that he would have to go back to the previous site plan approval to know the exact number that was approved. He does not have that information with him.

Mr. Grosso said if this project is approved today it would have the capacity to store up to 140 boats. He asked is that right.

Mr. Perry said Exhibit A (referring to the staff report) shows 120 dry slips.

Mr. Jeffries said the proposed number of slips is 143, which is 123 for the dry storage building and 23 for the wet slips.

Mr. Grosso questioned as we are sitting here today, you can't tell us how much of an increase that is or the capacity of the existing boat barn. Mr. Jeffries said that he doesn't see that it is readily available. He explained that they review this based on the site plan before them and based on the current Code.

Mr. Grosso questioned, but if we're trying to identify how many more boats will be able to launch from this facility if this is approved as opposed to now, you can't tell us that number. Mr. Jeffries said today's approval is, does this site meet all the Land Development Regulations (LDR).

Mr. Grosso questioned, but if we are trying to determine the increase in the amount of boat usage as a result, that is not an answer that you can give us right now. Mr. Jeffries said this is about the building meeting the City's LDR setbacks, height restrictions, the permitted use in the district, and does the proposed use meet the concurrency and the amount of impact.

Mr. Jeffries referred to the previous question regarding the number of boat slips. He reported that there were 54.

Mr. Grosso said so the difference if this is approved would be 54 boats now compared to 143. Mr. Jeffries said that is correct.

Mr. Grosso said the analysis that City staff did before they needed approval did not take into account the increase in boating activity that would result from this approval. He asked is that right. Mr. Jeffries explained that their approval is based on the LDR's of the City of Vero Beach. If you could point out a specific regulation that has us look at that impact...

Mr. Grosso asked is that to say no, you did not consider as an impact of this the increase of the number of boats that could launch from this facility. Mr. Jeffries said the only impact, if there was an impact, that was looked at was in terms of the environmental assessment that was conducted.

Mr. Grosso said and that analysis was site specific, that piece of earth. He asked is that right. Mr. Jeffries said they did an environmental assessment that is required by the City's Comprehensive Plan.

Mr. Grosso said what you, as staff, understanding in what was required was to only look at the actual footprint of the site in the immediate launch area of the boats. He asked is that right. Mr. Jeffries said we look to see if the proposed development meets the City's LDR.

Mr. Grosso said you didn't think it was important to require an analysis of offsite impacts; what happens when the boats leave the vicinity of the launch area. He asked is that right. Mr. Jeffries said what is important is what is in the City's adopted LDR and the adopted Comprehensive Plan.

Mr. Grosso said you don't seem to want to tell him yes or no. Mr. Jeffries said that he keeps repeating that they are here today to approve a site plan that is based on the City's LDR and with the Comprehensive Plan.

Mr. Grosso asked can you show me in staff's report where there is an analysis of off-site boating impacts. Mr. Jeffries asked is there a specific policy that should state that they should look at that.

Mr. Grosso said in our opinion there is and he would be happy to address that in his closing, but he was just trying to get the facts out.

Mr. Jeffries said staff reviewed this site plan based on the City's Comprehensive Plan and LDR.

Mr. Grosso said in the October 20<sup>th</sup> staff report that is in the record, if there is any off-site analysis I would find it in this report. He asked is that correct. Mr. Jeffries said all relevant analysis to the City's criteria under Section 64.10 is a part of that review in summary and all the attachments supporting the review analysis to the City's criteria to approve a major site plan.

Mr. Grosso said there is no additional analysis that you haven't mentioned today. He asked is that right.

Mr. Turner said we try to give as much freedom and leeway as we can, but he felt for the benefit of the Board and the audience that they should move on.

Mr. Grosso agreed. He said the maximum size of the boats stored in the facility now is 22-feet. He asked is that correct. Mr. Jeffries said that might be a better question for the applicant.

Mr. Grosso asked is there anyone present who can answer that. Mr. Falls answered 22 to 23 feet.

Mr. Grosso said if this project is approved and built it would accommodate boats that are up to 35-feet. He asked is that accurate. Mr. Falls said 30 to 35-feet would be the maximum depending on the layout of the racks.

Mr. Grosso referred to the parking. He said the parking spots to be approved at the facility by site plan are short and don't meet the requirements. He asked is that right.

Mr. Jeffries said 48 parking spaces are required on this site and 27 parking spaces would be provided on site and 21 are to be provided off-site within the greater Marina complex and that is allowed pursuant to the City's parking Code. He said that he could site the Section that allows shared parking.

Mr. Grosso said that he has it written down. He thought it was Section 63.02 (1)(3) of the Code. He said if he had this right, on site they would be short by 21 spaces, but you propose to make that up by using spaces available down the street at the west slip City Marina. Mr. Jeffries said as allowed. He said if approved by the Planning and Zoning Board, an off-site facility is provided for in the City's parking Code.

Mr. Grosso said this Board has the authority to say yes to a waiver of the onsite requirement is what you are telling me. Mr. Jeffries said that he would not describe it as a waiver. He said the City does allow shared parking facilities throughout the City.

Mr. Grosso said the shared parking facility is more than 500-foot walking distance away and it requires a special approval by this Board. Mr. Jeffries said the Board has to approve that distance, a safe walking distance from the on site location to the off-site facility.

Mr. Grosso said the offsite parking that you are proposing to use is more than 500-foot walking distance away. He asked is that correct. Mr. Jeffries answered yes.

Mr. Grosso said the heavy use of the dry storage facility in terms of trucks coming and bringing in boats, it is typically on weekends and holidays. He asked is that accurate. Mr. Jeffries said that is a question of the applicant.

Mr. Grosso questioned that is not something you considered as part of your analysis. Mr. Jeffries said the safe walking distance and the offsite facility has been recommended by the City Engineer. He said that he would like Mrs. Danessa Chambers to describe the analysis that they did in making that recommendation as the City Engineer.

Mr. Grosso said it is a simple question. He asked is the peak time for usage of trucks coming in on weekends and holidays. Mr. Falls said the majority of the boats that are housed in the dry storage facility arrive by water. On rare occasions they have a boat brought in by trailer.

Mr. Grosso asked do most people use the facility on weekends and holidays. Mr. Falls said that might be two (2) different questions. You asked how the boats arrived. He said they are not trucked in. As a general rule they are brought in by water.

Mr. Grosso questioned the people who come to use them. Mr. Falls said the people who come to use them, use them at their leisure. He asked Mr. Collins to discuss the time of use.

Mr. Jeffries clarified that these answers were being provided by the applicant.

Mr. Sean Collins, Marina Director, who has been sworn in, said the boat usage in the launching and retrieval of those boats are done on the west side at the seawall. He explained that the boats come by water and staff forklifts them out of the water and onto the storage rack. When people call to use their boat they schedule the launch for the time they are going to be there and staff loads the boat onto the forklift from the storage rack and launches it into the water.

Mr. Grosso asked is there a peak time when people come to use the parking. Mr. Collins said it varies throughout the day.

Mr. Grosso questioned if it is not heavier on weekends or holidays. Mr. Collins felt that typically with any recreational activity the vast majority of the workforce works Monday through Friday so weekends, evenings, and holidays is the majority of their time off.

Mr. Grosso asked is it also true of the existing City west slip Marina. Mr. Collins answered yes.

Mr. Jeffries asked that the City Engineer respond on the staff's review and why the City Engineer recommended that this meets the criteria.

Mrs. Danessa Chambers, Assistant City Engineer, who has been sworn in, reported that in their analysis they are primarily looking at if pedestrians can safely get from one parking lot to the other without any conflict with vehicular traffic and that is what they looked at in their analysis. The route identified in the plan demonstrated that pedestrians could move from parking lot A to parking lot B to get to and from the uses and park in either parking lot without being in danger of vehicular use.

Mr. Grosso asked does that mean they are walking through a parking lot. Mrs. Chambers said typically when you park in a parking lot you would walk in the parking lot, yes.

Mr. Grosso said there isn't a wide sidewalk from the Marina parking lot that they could walk to the new facility. Mrs. Chambers said the designated route is on the existing sidewalk along Indian River Boulevard.

Mr. Grosso asked how wide is it. Mrs. Chambers thought the sidewalk was four (4)-feet. She said that she would have to double check that information.

Mr. Grosso said typically people that are coming to get on their boat are bringing their coolers, water gear, etc. He asked is that right. Mrs. Chambers answered yes.

Mr. Grosso asked when we look at Section 63.02 (1)(3) of the Code that allows this Board to approve off-site parking that is more than 500-feet away, can you point to anything there or anywhere else in the Code where it tells this Board under what conditions they should say yes or under what conditions they should say no. In other words, what should guide their decision. Mr. Jeffries said that is located in Section 63.05, which outlines the shared parking options.

Mr. Grosso asked is that the complete answer. Mr. Jeffries said the criteria is that surplus parking is available at the location to be designated and that the parking has an approved site plan.

Mr. Grosso questioned, even then this Board could say yes or no to allow that 500-foot greater offsite parking. Mr. Jeffries said they would be doing it based on that criteria, the recommendation of the Planning Director, and City Engineering that it meets applicable criteria and design standards.

Mr. Grosso asked if we wanted to see where this criteria was that they were basing their recommendation on, where would they look. Mr. Jeffries answered in Chapter 63.

Mr. Grosso asked specifically where. Mr. Jeffries answered in Section 63.05 (g).

Mr. Grosso asked Mrs. Fitzgerald in staff's memo, did she draw a conclusion that this project when built would be compatible with the surrounding neighborhood. Mrs. Fitzgerald said as mentioned in the staff report, the design of the building is proposed to be exceeding the architectural embellishment to have an appearance of a common stucco façade, rather than a metal building. She said the design criteria and the location criteria was reviewed by the Public Works and Engineering Department in terms of the design and layout of the parking.

Mr. Grosso asked can you show me where in your analysis you analyzed the size, the nature of the structure, the fact that you would be replacing mature trees with this expanded boat barn and where

you analyzed and found that it would maintain or enhance the unique small town character of this neighborhood. Mrs. Fitzgerald was not sure that was a relevant question. She asked could you be more specific.

Mr. Grosso asked is there an analysis in your memo ...

Mr. Jeffries said the analysis in the memo is in Exhibit A, which provides how this is meeting the zoning standards for that zoning district. He said this is a permitted use in that zoning district. This land has been zoned this way for more than 30 or 40-years as C1-M for Marina Use and the site plan has been analyzed in terms of size, meaning that it does not exceed the Floor Area Ratio (FAR) requirement for that zoning district. He said it is actually one (1) FAR, which is one-third of what is the maximum FAR for the district. He said that is how you determine the size of the building and being compatible with the district. The City has established maximum FAR's through the Comprehensive Plan, through its zoning districts to ensure that development on particular sites are compatible with surrounding development. He said this building meets those criteria.

Mr. Grosso asked are you then assuming that since it meets the specification criteria in the Code that it then automatically is consistent with Objective 1 of the Comprehensive Plan to maintain and enhance the small town character of the community.

Mr. Jeffries said that is a criteria when they rezone property, not particularly for the actual site plan application.

Mr. Grosso asked if that is his understanding of the law. Mr. Jeffries said that is his understanding of the City Code.

Mr. Jeffries asked are you inferring that if a private developer was to come in on a private site and the City, in terms of the maximum FAR on a particular site is 1-FAR and they come in with a building that is a point five (5) or point three (3) that it would not meet the goals and objectives and that it would stand up to private property rights.

Mr. Grosso said that his answer to that question is yes. He said all development orders are required to comply with Comprehensive Plans. He said there is case law that just because they might comply with specifications in the Code does not mean compliance with the Comprehensive Plan.

Mr. Jeffries said that would be found arbitrary and capricious.

Mr. Turner asked that they withhold arguments to an appropriate time. He asked that they continue with the cross examination.

Mr. Grosso said the resource study done by Coastal Tech did find that the vicinity of the proposed expansion was heavily graced by manatees. He asked is that accurate. Mrs. Fitzgerald said that she would defer that to Coastal Tech because they prepared that report, but from her recollection that was not the case.

Mr. Grosso said if it was heavily graced by manatees that might change your opinion of consistency with some of the relevant environmental parts of the Code. He asked is that right.

Mrs. Fitzgerald asked what is the definition of "was." She asked was there any timeframe in

particular.

Mr. Grosso said that he didn't know, he didn't right this report. He asked is this something you analyzed before you recommended approval. Mrs. Fitzgerald said that she would defer this to Coastal Tech because they wrote the report. She noted that they looked at the manatee population.

Mr. Grosso said Coastal Tech was required to analyze potential impacts on the manatees because there is the potential for adverse manatee impacts. He asked isn't that right. He said they wouldn't have had them analyzed if there wasn't a potential for manatee impacts. He asked is that right.

Mr. Jeffries answered no. He said under the abundance of caution the reason they did an environmental assessment was because the site is adjacent to the Lagoon, although there was some argument that it was necessary on a developed site, but they did have the applicant do the environmental assessment.

Mr. Grosso said that he has the September 30, 2020, Bentic Resource Coastal Study and would like to put it into the record for the Affected Parties. He said that he forgot what number they were on.

Ms. Sherri Philo, Deputy City Clerk, reported that it would be entered as Exhibit AP-7.

Mr. Grosso asked did the City consult with the United States Fish and Wildlife Service prior to recommending approval of this development order regarding the potential impact on the manatees.

Mr. Jeffries said the applicant did.

Mr. Grosso asked is there a letter in the staff report on record that shows the result of that consultation. Mr. Jeffries said that he didn't think they had a letter.

Mr. Grosso asked is there anybody who could answer the question, in terms of assessing the environmental impact of this dry storage facility, what is the special extent. He asked how far away from the actual boat launch area did anybody analyze those impacts.

Mr. Turner asked is that a question for Mr. Jeffries.

Mr. Grosso said whoever would be the most appropriate person to be in the position to know.

Mr. Jeffries said that would be a question for the applicant.

Mr. Turner felt that was a little broad, unless Mr. Jeffries knows the answer or could direct him to a document.

Mr. Jeffries said for an environmental assessment they are just required for the impact of the development on the site.

Mr. Grosso asked and you didn't go any farther than that. Mr. Jeffries said that he would have to ask the applicant if they did that in their environmental assessment.

Mr. Grosso said what he is trying to establish for the record is how far away from the actual site where boats come in and are taken out did that environmental assessment go. That is the question.

Mr. Jeffries said they looked at impacts to the site.

Mr. Grosso asked and only the site. Mr. Jeffries answered yes.

Mr. Grosso said those were his questions.

Mrs. Pelensky said that she has a question.

Mr. Grosso said they have two (2) expert witnesses who would like to make short presentations as well.

Mrs. Pelensky said that she wanted to know what specifically does the organization object to.

Mr. Grosso said it is way too big of a facility for the location. The fact that they were going to have a building that is going to be about 250% the size of the existing building. He said they are taking away trees, changing the ambiance, etc.

Mrs. Pelensky said that she just wanted to know specifically.

Mr. Grosso said when you add the traffic, where are people going to park. They are going to park on neighbor's yards. It seems like they were trying to shoehorn something that is way too big for the site. He said sometimes you have to work within what you have and they don't think that is what is happening with this. There are also the impacts on the manatees and the Lagoon by all the boat traffic. He said that he would like Dr. Gilmore to speak about that.

Mr. Gross said if it is appropriate, he would like Dr. Brant Gilmore, who is a Scientist, to explain his analysis of the environmental impact of the project.

Mr. Prieto asked is that part of the Affected Party's presentation. Mr. Grosso answered yes.

Dr. Richard Grant Gilmore, who has been sworn in, said that he resides in Vero Beach and is a Marine Scientist who has studied the Lagoon for about 50-year beginning at Harbor Branch. He said that he spent most of his life in a boat on the water. He said this location is where the Lagoon narrows. He said some of the last viable substantial seagrass is located to the south by the Main Relief Canal, which is the largest fresh water relief canal in Vero Beach. All these locations to a biologist is that it is an eco-town where you have changes in the water and how it flows.

Mr. Grosso asked Dr. Gilmore to explain his qualifications as an expert.

Dr. Gilmore said that he has been a biologist for about 54 years. He then gave some background on his experience. He said what he wanted to address here was boats. He said there have been a number of very good studies of boats and their impacts on seagrass, manatees, and other entities. The best evidence that he would like the Board to consider was a report on the Mosquito Lagoon and the northern Indian River Lagoon done by the Merritt Island National Wildlife Refuge (MINWR), showing the impact of increase in boats and boat activity (Exhibit AP-10). He said they have to realize that a boat is not going to stay at a marina. The more boats you have, the more boats that are going to be going into the Lagoon. The larger boats also have a little more impact. He said studies have been done over the past 40-years that shows the boat traffic impact on seagrass and it is not

always positive. He said they know from previous studies that the narrows from the Marina north are where manatee deaths are occurring. He said it is almost intuitive that if they increase the number of boats going through the channel to the north they are going to have a greater opportunity for manatee impact. Going south are some of the last remaining seagrass beds in the Lagoon and if you are going to go offshore fishing, most boats would head south. He reported that he did a study with a local fisherman about three (3) years ago about Seatrout spawn. He said they found Seatrout spawning on the seagrass east of the Barber Bridge. So, saying that there were no biological resources would be impacted was not really true. He felt that everyone was sensitive to anything that impacts seagrass negatively.

Mr. Grosso asked is it a valid assessment of the environmental impact of a dry storage facility if it only looks at environmental impacts immediately in the vicinity of the facility. Dr. Gilmore said boats are supposed to travel. They do not stay in a storage facility.

Mr. Grosso asked why does that matter to the environmental impact. Dr. Gilmore said because the boats are going to be in the water. That is what boats do.

Mr. Grosso asked what will happen to the Indian River Lagoon when they do. Dr. Gilmore said many biologists are looking at boating activity and their impact on manatees and seagrass.

Mr. Grosso asked is wake an issue with the larger boats. Dr. Gilmore answered yes. He said there was an excellent study that showed seasonal changes in boat passage that there are wakes re-suspending sediments and clouding the water and not permitting seagrass to grow in those locations.

Mr. Grosso asked is seagrass important to manatees. Dr. Gilmore said that is their primary food. He said they are starving.

Mr. Grosso asked in your opinion, would putting in a stormwater system where none exists now offset the adverse environmental impacts of this facility. Dr. Gilmore answered no. He said it is an excellent idea, but it would not offset the impact of boating activity.

Mr. Jeffries asked what is the driver of increased boating traffic. Dr. Gilmore answered more boats.

Mr. Jeffries asked is it the building of a dry storage building or is it the increase of population of people with boats. Dr. Gilmore said the storage facility is to increase the number of boats.

Mr. Jeffries asked is the population of Indian River County increasing. Dr. Gilmore answered some, yes.

Mr. Jeffries asked has additional boaters increased. Dr. Gilmore said that he didn't know the answer to that question, but he imagined that it has.

Mr. Jeffries asked where would those people be able to store their boats if it wasn't at a facility along the river. Dr. Gilmore said the point is that they have reached and passed the capacity for this Lagoon to survive. He said they have to go back the other way. There are good statistics that Spotted Seatrout, manatees, etc., are disappearing from the Lagoon.

Mr. Jeffries asked have regulations been passed by the State to limit people's ability to boat. Dr. Gilmore answered not to his knowledge.

Mr. Jeffries had no more questions.

Mr. Grosso entered into the record Dr. Gilmore's biography and three (3) of the data sources that he referred to in his testimony, which were Exhibit AP-8) Dr. Richard Grant Gilmore's Biography, Exhibit AP-9) the Florida Fish and Wildlife Conservation Commission Marine Mammal Pathobiology Laboratory Preliminary 2022 Manatee Mortality Table by County, Exhibit AP-10) Identification of Watercraft Use Patterns in Canaveral National Seashore, and Exhibit AP-11) Quantitative Assessment of Seagrass Scarring in the Southern Mosquito Lagoon and Northern Indian River of Brevard and Volusia Counties, Florida.

Mr. Grosso said that he has one (1) more witness. He would like to call an expert land use planner, Mr. Michael Williams to make a presentation. He asked Mr. Williams to first explain his qualifications and then give professional opinions about the proposal.

Mr. Michael Williams, who has been sworn in, said that he has a BA of Science Degree in Urban Planning. He gave a brief background on his experience. He spent over 40-years in planning and design, design creation, and development. He said that he has always appreciated the small town character that he has experienced since living in Vero Beach. He submitted his biography into evidence (Exhibit AP-12). He said that the Comprehensive Plan limits uses and the maximum development of structures on each property in the City to ensure development is consistent with the Vero Beach vision of maintaining its small town character with low density and low rise development. He said that was a quote from the Marina City Zoning Facts that was published by the Planning Department. He said it was very specific and very clear. He questioned why is the south complex Phase 1 of the Marina expansion suggesting a shoehorn 21,355 square foot, 50-foot tall building at the ridgeline good for his community and his neighbors. He said the proposed building is bloated and it can only support part of the parking. In his calculations 44% of the required parking was being obtained remotely on what is called "off-street" parking on other properties currently owned by the City. He said all the parking is not on one (1) contiguous lot. He challenged the Board to envision a user going to pick up their boat for a 9:00 a.m. launch and arrives at the proposed 21,355 square foot building with their spouse, children, friends, and dog with a cooler full of water and food for the day with a recreational cooler and safety gear all needed to get on the boat for a fun day on the Lagoon and all the onsite parking was taken. He said they would be traveling from a remote parking area that may not have public sidewalks. He said the proposed building is large and out of scale, not only for this site, but the neighborhood. The existing building is 6,266 square feet and the proposed building is 240% larger with no feasibility or marketing study to support this size of a structure or boat storage capacity. The land uses around this is a medium density high rise project moving into the north, the newly constructed rowing facility, Beachland Elementary School, baseball fields and the Dog Park, and leaves the balance of single-family homes. The entire neighborhood is populated with Live Oak Trees and when crossing the bridge you would see a green canopy and the ocean in the distance, with a few large structures. He said the Marina Master Plan from 2020, highlighted 11 features of the existing Marina that had the potential to be expanded. In his professional opinion it was a very thorough prepared document. It addressed graphically with common sense language on how expansions can occur. He said the potential for this site was listed at 16,060 square-feet, which is 33% less than the 21,355 square foot building. He said that he was in no way condoning support for what is contained in the Master Plan. He was just pointing it out that it was a document referenced in the Marina Zoning Facts. He felt that the Master Plan as it was presented in its entirety was developed being mindful of the added parking for each of the 11 components. He did not recall it referencing that this potential site should be developed with a

density of structure that drives the parking ratio out of the element that could be handled by having on-site parking. He said this proposed land use density creates an atmosphere of unreasonable and disruptive impacts, as well as causing a noticeable and direct impact on safety, stability, and habitability of the residential neighborhood. He said that he has a vested interest in preserving this fine community. Growth has to be a constant and will always be a positive force for any healthy community. Sound planning decisions would always have impacts for current and future generations.

Mr. Jeffries asked Mr. Williams to clarify his credentials. He asked are you a member of the American Planning Association (APA). Mr. Williams answered no.

Mr. Jeffries asked do you have AICP certification. Mr. Williams answered no. He said that he did reference that he has always been on the private sector.

Mr. Jeffries said under the private sector, individuals also have AICP certification and you are saying that you are a planning professional. He asked in the current planning principals, isn't it encouraged by materials put out by the APA to encourage shared parking to reduce pavement and the environmental impacts of parking.

Mr. Williams answered yes, for off-hours of operation. But to take a building that operates as intensely as this is going to be operating with the transfer of people and possessions from their vehicle to the boat he felt was unreasonable.

Mr. Jeffries said between both sites there is sufficient parking for the demand. He asked is that correct. Mr. Williams said in the documents that he referenced there is adequate parking.

Mr. Jeffries said you stated that this is out of scale. He asked what is the building to the north across Date Palm Road. Mr. Williams answered a multi-family condo complex.

Mr. Jeffries asked how high is it. Mr. Williams said it was probably 60 or 65-feet.

Mr. Jeffries questioned its FAR. Mr. Williams said that he did not check the FAR. He said it is a medium density designation on the zoning map.

Mr. Jeffries questioned and to the south. Mr. Williams asked do you want to hear what I have to say or do you want to continue to interrupt me. He said you asked a question about the densities and I am saying the property further to the north from the wet docks has a higher density and multi-family designation.

Mr. Jeffries asked what is the definition of density. Mr. Williams answered from his prospective, what the acreage can support based on the propose use that you are contemplating.

Mr. Jeffries asked did you review the road classification of Indian River Drive. Mr. Williams said that he did not know the road designation.

Mr. Jeffries had no more questions.

Mrs. Pelensky said that she has a question for staff.

Mr. Turner asked are you through with your presentation. Mr. Grosso answered yes.

Mr. Turner asked are you going to present any other testimony. Mr. Grosso answered no, but he would like the opportunity to close.

Mr. Turner asked is there any rebuttal. There were none.

Mr. Grosso entered Mr. Williams' resume into the record. The Deputy City Clerk reported that this is marked as Exhibit AP-12.

The Board took a 10-minute recess at 3:14 p.m. and reconvened at 3:23 p.m.

Mr. Grosso recalled Mrs. Tilly.

Mrs. Tilly said that she did not feel that the parking issue was fully addressed. She said it seemed like the overflow parking would be placed north where people most likely would be walking from the dry storage north along Buena Vista Boulevard. She said there were four (4) different parking lots in the Marina area and those individuals would be choosing the closest parking that they could get. If they end up on the north side by her house they would be walking across the grass with wagons, children, etc. She said the Yacht Club does have their own parking lot, but they often park in the Marina parking lot. She said that she walks down the street and sees the baseball field, the Dog Park, etc., and anyone who lives there that comes to use the Marina is going to come to a wall. She said there is not going to be the vision of the ballpark lit up at night that she has seen for 32-years. It is too big a building for the spot. It is a very narrow sensitive piece of land. She said they don't have any argument with the dry storage building that is there or one that is a little bigger.

Mr. Prieto asked Mr. Grosso if his presentation was over. Mr. Grosso answered yes.

The Vice Chairman opened the public hearing at 3:26 p.m. He said based on everything that they have heard, if there was anything new to add that they limit their comments to three (3) minutes.

At this time, the Deputy City Clerk swore in Mr. Roger Marcil.

Mr. Roger Marcil, who has been sworn in, stated that he has lived next door to the Marina since 1988. He has had three (3) different boats at the Marina. He said they are putting in a very large boat storage building on the narrowest part of the river. He said these boats could go to other storage buildings on wider parts of the river. He said the Taylor Creek Marina has a boat storage building that has plenty of open spaces available. Sebastian also has a very large boat storage building that has many open spaces. He asked what study was done that qualifies the need for this large boat storage building. He understands that the County is growing, but this is on City property that is paid for by City property taxes. He asked why doesn't the County acquire some land to build a large boat storage building in the wider part of the river with County taxpayer's money. He said this Marina has been around for 75 years and it has not been expanded and they haven't made any changes. Somehow it has managed for this long and now all of a sudden they need to triple the size of the Marina and the boat storage building. He said that he doesn't understand that in the Vero Beach Master Plan. He said that he used to drive his boat through there and as soon as you get near the Barber Bridge you had to slow down to idle speed because it was a Manatee Zone. He said that he got pulled over by the Marine Patrol because he was going too fast. He said that when he takes his boat out now he does not see many Marine Patrol officers slowing anyone down. When you bring in

large boats with two (2) or three (3) engines they are going to take off and sometimes they are going to go too fast. To address people getting on and off their boats, when people are getting on their boat they are loud because they are excited. It is even worse when they come back because many of them have been drinking. When they get off their boat and are heading back to their car they are going to be going past Mrs. Tilley's house and by his house. The sidewalk is a long way away from the boat storage barn. To go out onto Indian River Boulevard and walk to a parking lot, that is not going to happen. People are going to park in the parking space and walk down a narrow road so they would be walking half on the grass and half on the road. He said you are jamming in a building that is too big for the area and it doesn't fit into the community. He recommended that they keep the building at 16,000 square feet.

Mr. David Hunter, who has been sworn in, felt that the idea that there is a demand for more boating is obvious. He said that Ft. Lauderdale just built a large dry dock boat yard that accommodates 240 vessels. So that gives you an idea of how big ours is if they are going to be talking about 120 vessels and they are almost half the size of Ft. Lauderdale. He said you can expect to see more of these boat condominiums being built along the waterfront and that is what this is. This is essential Ft. Lauderdale type thinking in putting in a large boat barn. He said you did have a dry storage facility for the City Marina originally. It was only in 2007 when the City decided to purchase the property, partly to prevent a condominium from being built on the property. He said the community likes the current scale. Small is beautiful. He said the function there with 14 to 18-foot Boston Whalers makes perfect sense. But, building a large facility as currently planned is unnecessary. He said the County is growing with hundreds of thousands of people moving into large scale developments. We are not obligated, as a City, to provide boat facilities for all of these want to be boaters who are moving here. He said in the case of a boat barn, unless they have restrictions that it is only available for City residents they could have people coming from as far away as Orlando coming here to store their boats. This is not the local community's interest. He said this is already an overstressed Lagoon. Bethel Creek is called "creek" for a reason. It is because it is a small water area and does not support a large expansion as the City is currently planning. He encouraged the Board to reject the boat barn as it is now planned and that they go back to the drawing board and do the renovation of the existing docks and the existing facility with no expansion. He said we love our Marina, but we don't want expansion.

At this time, the Deputy City Clerk swore in Mrs. Jean Catchpole.

Mrs. Jean Catchpole, who has been sworn in, said that she is present representing the Indian River Neighborhood Association. She said their main concern is the protection of the Lagoon. Since this building is going to be built adjacent to the Lagoon, they feel that they should look at the stormwater plan. She knows that Mr. Jeffries and Mrs. Chambers have explained this and she knows it meets the regulations as they exist today. However, she would like to see them held to a higher standard than the 25-year standard. She said they are having higher rain storms and heavier wind storms with the climate change and possibly more flooding concerns for this area. She asked the Board members to look at that. She said there are new regulations coming from the State, but they are not in place yet. She would like the City to set an example and use a higher stormwater standard.

At this time, the Deputy City Clerk swore in Mr. Gary Froonjian.

Mr. Gary Froonjian, who has been sworn in, said if it does rain and they have an inch and a half of storage, he would like to understand how that would work. He asked after a rain fall and people wash their boats, how would that affect the overflow. He asked would it then flow into the Lagoon.

Mr. Turner explained that this was not a question and answer period from the public. This is to take their comments regarding the site plan.

Mr. Froonjian said let's assume there is going to be sanding on boats, bottom paint applied, boat washing, etc. He said these are all chemicals. Also, there is a gasoline issue from boats in the water. He said the environmental impacts on the Lagoon from this expansion and the boats they would be bringing in was unsustainable. He said the only flushing they get is when the wind blows or if they have a hurricane. This is at the narrowest portion of the entire 156 miles of the Lagoon. He said they are about 15 miles from one inlet and 18 miles from the other. He asked who would want to inundate this area with boats. He wished that they had been approached on this before hundreds of thousands of dollars was spent on a plan that was unsustainable in this area. He said this is not a good idea.

Mr. John Carroll, who has been sworn in, said no one spoke as a user of the Marina so he was going to speak to that. He said that his boat has been in the building since 2007. He said that he doesn't take the boat out as much as he would like to, but even when he did take it out often there was no parking on the site. He said you would have to park north of the Yacht Club. He wondered why people want the status quo when the status quo is already bad. The building that was purchased by the City was in poor shape at that point in time and now it is in dilapidated shape. He said it is pouring rust into the Lagoon on a daily basis, which is ridiculous. This plan would correct all the flaws of the Marina. It is not going to be perfect. He said maybe there should be a sidewalk between the building and the parking lot. But, the drainage situation as designed meets the criteria and as such, he does not see any way that the Board cannot approve the plan.

Mrs. Karen Marcil, who has been sworn in, said one thing that has not been talked about was that there is a real need for wet slips and they have the second and third phase of the Marina in the Master Plan. She asked where is the parking going to be when they add the additional wet slips and moorings. She said there is a waiting list for the wet slips and the moorings, but there is not a waiting list for dry storage. She wanted people to realize that this is just Phase 1 and there is only so much land so she doesn't know where the additional parking was going to go in the future.

At this time, the Deputy City Clerk swore in Mrs. Brooke Steinkamp.

Mrs. Brooke Steinkamp, who has been sworn in, said that her husband came to today's meeting to speak to the Board for their son who is on one of the rowing teams for the Vero Beach Rowing Club, but he had to leave to take their son to rowing practice. Her husband asked her to point out to the Board the impact that this does have on their programs. She said the wake from the boats does sometimes cause the boats to flip over. Sailing and rowing are more dangerous than you would assume. Injuries do happen. She said as a mom of a rower, the wake from boats does impact the children who participate in the rowing programs.

Mr. Ken Daige, who has been sworn in, thanked the neighborhood people who made a presentation. The information that they put on the record was going to help him to do other things in his neighborhood. He said the building is just too big for the area. He said yes, the site will hold it. Back when the site was purchased in 2007, the tin can building had already lived its life and needed to be replaced. However, with the economy and everything else it never got done. The plan is huge and it will make an impact on the neighborhood. They heard from the residents on how it is going to impact them. He said they do look at the Comprehensive Plan and they can do this, but it is going to

impact the surrounding neighborhoods. He said the way it is going to impact people like us is the way they did the budget cycle in that they gifted \$2 million dollars to it. They did the finance plan and there is going to be a long term return on investment. But, that money comes out of other things that they could have done throughout the City. As a longtime resident, he does not understand why they are building like this and are saying that they have to accommodate the County. He said the County has deep pockets and if they want to build a marina or a boat barn that would be up to them. He said that he has been questioning how much more do we want in the City, how much more do we want to impact our roads, how much more do they want to impact their neighborhoods, etc. He said that he walked the area and it is very hard to move around. The streets are busy and they are not in season yet. He said the Board members have a tough job and he knows it is sometimes difficult on how they are going to make their decisions. But, this is going to impact those people. This is going to impact people like him dollar wise. He said that he has friends who live over there who are older and are not going anywhere. This is their home. He said people come here for what we have in the City. He has been in this area since 1975 and he has seen a lot of changes. He said look what happened to the east of the Police Station. There is a massive structure going up and the Board couldn't really stop it. It can be done going forward if they tweak some things in their Ordinances. He asked what is going to happen here. What are we going to become. He said the neighborhood is going to be impacted.

The Vice Chairman closed the public hearing at 3:48 p.m., with no one else wishing to be heard.

Mr. Tim Fontaine said a question was raised about what was going to happen when someone washes their boat. He said under the current condition if someone washed their boat and the boat was on the west of the dry storage building, the water would shoot to the west and fall into the Lagoon. After this project the water would be directed to the inlets and into their stormwater system. He said most users use freshwater to get the salt off their boat and then they put the boat back into the dry storage building. He noted that the Marina does not have a permit to do any painting or repairs so that would have to take place somewhere else. He said the Attorney mentioned the seagrass survey that was performed by Coastal Tech, however that seagrass survey was done by their sub-consultant. The seagrass that was identified in the survey that had the bite marks from the manatees was far to the north. He then showed on the screen Figure 5-1 of the seagrass survey. He said the green and blue area is where the manatees were feeding on the seagrass. He assumed that most people leaving the Marina would get to the intracoastal waterway by either heading north or south so the area where the manatees were feeding on the seagrass should not be an issue. He noted that in the Manatee Protection Plan the seagrass area identified as a congregational area for manatees is the reason why the area is a slow speed area. Therefore, the majority of the boats should not impact the manatees. He said according to the National Estuary Program, the number one way to improve the Lagoon is stormwater improvements. He noted that the City does have more stringent requirements than the DEP or the Water Management District. They do require that inch and a half of water quality treatment, which is not required on every Water Management District project.

Mr. Falls said that he is the City Manager and Applicant for this project. He said the City did not hire a land use attorney, a marine biologist, or a land planner to help them. He said they didn't do that because they didn't think the public needed to spend that money. He said central beach is a special place. It was developed on what was once a pristine coastal hammock. It is no longer that. Roads and homes were built and many of their neighbors live in those homes and use those roads, but it will never be a coastal hammock again. He said many years ago there was a presentation made in Vero Beach by a renowned professor of Duke University and he said the only way to save the barrier island was to retreat. Mr. Falls said they know that was not going to happen. He said they

have about 50 boats in the existing Marina and they are going up to 120. Currently they have about 12 to 15 movements of people using their boats a week. If it is utilized at the same rate it would be about 36 movements a week. He said when people go to the beach with their umbrellas, coolers, etc., they drop them off at the boardwalk and then walk back to it. That is what will happen here. They won't be carrying coolers on the sidewalk. They would be dropped off at the building so people can load them up and go and enjoy their boats for the day. He said they are here today for a site plan that meets or exceeds all the City's standards. They could have proposed another building, but they didn't. They proposed a nice stucco building with many architecture embellishments that will add about \$600,000 to the cost. They could have built to the maximum FAR 1, but they didn't. They are one-third of that. They exceed the required green space and the stormwater system exceeds the stormwater requirements. There is no stormwater system there now. If this project is not built there still will be no stormwater system there. He said they also exceed the setback requirements. The traffic impact is actually a reduction in what traffic could have been there. He asked staff to speak to how traffic is calculated.

Mrs. Chambers explained that it is calculated based on the existing uses so because there is a dry storage building and also the Waddell building, the total trips to day based on those uses would be approximately 45 trips per day. With the footprint of the new building it is actually a 12 trip per day reduction because they were essentially removing the Waddell building, which also has an assigned number of trips based on its footprint.

Mr. Falls said then it is correct to say that this building has the possibility of not producing as much traffic as what could be produced with the uses that are currently existing. Mrs. Chambers said that is correct.

Mr. Jeffries noted that a further traffic study was not required. It is only required when there are 400 or more in daily traffic.

Mr. Falls said the City, as the applicant, has the same property rights as any property that is being developed. The City owns and operates the Marina and if there are operational issues that arise, he would call the Marina Director and they would fix it. If this was a private enterprise they would not have that first hand connection. He said this plan meets or exceeds all the existing City Codes and they respectfully ask the Board for their approval.

Mr. Grosso asked would any expansion of the existing facility trigger a need for a stormwater management system. Mr. Jeffries said if the City was just to add onto the building, even if it was deemed to be a minor site plan, there would be a stormwater review. He said that Mrs. Chambers could speak about the specific thresholds in Chapter 73 on what they would look at and what they require when it is an addition or a modification.

Mr. Grosso said so the implication is that even a small increase in size would require a modern stormwater management system to be put in.

Mrs. Chambers said a 1,500 square feet net increase of impervious or a substantial improvement to the building would require to the maximum extent practicable based on the City Engineer's discretion. Typically, based on site constraints if someone was not gutting the full site they would not have to meet the maximum extent of the Code because it is based on what improvements you are doing. So, it would be unlikely that they would meet the full extent for the entire property like they are doing with this site.

Mr. Jeffries explained that new construction requires full compliance.

Mr. Grosso questioned all new construction requires full compliance. Mr. Jeffries said a complete redevelopment of a site is what he was talking about. Not an addition or modification to a site.

Mr. Grosso said so the project doesn't have to be this big in order to be required to meet modern stormwater management requirements. He asked is that right. Mrs. Chambers said that is correct. If it is a brand new site it meets the full Code. Modifications are case by case.

Mr. Grosso asked Mr. Fontaine, categorically more boats were not going to reduce the manatee boat conflicts in the Lagoon are they. Mr. Fontaine said in general in looking at manatee strikes, they look at a motor boat, not the number of motors that are on a boat.

Mr. Grosso questioned more boats equals more strikes categorically. Mr. Fontaine said more boats equals more potential for a strike.

Mr. Falls said the City does not issue permits for people to buy boats. That is regulated by the State of Florida. He felt that was irrelevant to what they were looking at today. He said as long as people can purchase boats there are going to be more boats on their waterways. Florida is a boating State.

Mr. Mike Williams said that he is not a hired consultant.

Mr. Turner said you are not in the rebuttal. If you had a question that would be fine, but we will let Counsel ask the questions.

Mr. Falls said that he did not infer that the other side had hired anyone.

Mr. Jeffries asked the Affected Party if they have completed their presentation. Mr. Grosso answered yes. He believed that they were entitled to a closing as well, but that is all the testimony they have.

Mr. Jeffries said staff does not have any additional information.

Mr. Turner felt that Board should hear the closing arguments and then the Board can enter into their discussions and he would give them some direction.

Mr. Turner asked does the applicant or staff have any closing remarks. There were none.

Mr. Turner asked does the Affected Party have any response that they would like to direct to the Board.

Mr. Grosso said this City like everywhere else in south Florida is trying to come to terms with the finite amount of land and water and resources in the neighborhoods that you have. When you have a public project that you think might benefit the City, the other side of the coin in your Code and in your Comprehensive Plan is what does that do to the people who are going to take the brunt of it. The people who live in the specific neighborhood who for some perceived benefit to everybody else have their immediate neighborhood where they made their homes and lives are the ones that bear the brunt of those impacts, such as traffic, people, and this big boat barn in their front yards. He said that

is what your Code and Comprehensive Plan is for. There are two (2) things that the Code and Comprehensive Plan deals with. The basic standard applies to specs, the engineering specs that apply to everything in any category. But, they have to be applied on site specific basis. That is where the policy is about disruption of the neighborhood and compatibility in your Comprehensive Plan and in your Code, which they cited in their letters that were submitted into the record. He said you can't just look at the numbers. It can't just be we meet the FAR, it can't just be we meet the height. You have to look at the actual on the ground aesthetics in the neighborhood. The size, the bulk, the structure, and the compatibility on how you place this office building that looks a lot like a home with a big boat barn and you remove some of the mature trees that also adds to the ambiance. It is kind of a double whammy. He said you are increasing the size by about two and a half times. You are increasing the size of the boats that are going to be there. He said you have a really charming unique neighborhood there and there is no way a boat barn this size is not going to change that for the worst. As for the parking, he felt it was a real legal issue. He said there is a provision in State law that is very clear. You can't have a part of your Code that allows you to say yes to development where there is no criteria. Your Code says you may waive that 500-foot rule. He said the Code says nothing about under what conditions or findings you must make; under what criteria you are supposed to say yes, under what criteria you are supposed to say no. There is very clear case law; ABC Liquors, Inc. versus the City of Ocala, Florida First District Court of Appeal. He said you can't have a Code provision that just gives you complete unfettered discretion to say yes or no with no governing criteria. That allows you to make up the rules as you go. He said that is a real flaw in the Parking Code. He believed any approval based on that violates Code, violates State law, and violates basic due process under the Florida Constitution. He said they had a scientist tell them that you cannot meet your criteria for evaluation of natural resources if all you looked at was the immediate vicinity. If you pretended that the whole reason people are putting boats there is to drive up and down the Lagoon, you can't do a valid full assessment unless you've looked at boating impacts, seagrass impacts off site, and where the boats are going and where they are coming from. You didn't do that. It is not in the record. He said that is a real flaw relative to the environmental criteria. He said environmental criteria is applied based on the nature of the issues at play. If the nature of the issues were Gopher Tortoises that would be one thing, but the nature of the issues at play here are manatees. The marine resources that move up and down the Lagoon. The reality of what the environmental impacts here is. It is not just the immediate vicinity. He said it is all the stuff off-site that apparently staff did not believe was important or relative to look at. They cited in their submittals several Comprehensive Plan policies and several Code provisions that they think were violated, with one being that they are required to consult with the United States Fish and Wildlife Service for any project that would adversely affect manatees. He said there is nothing in the record, there is no written consultation, and there is no written results or conclusion of the consultation whatsoever in this record, which he thought that was in violation. If the idea was that somebody made a phone call, they really don't know what the results were and they don't have any analysis so you can't comply with that requirement. They think that what is being applied for is too big for the site. He said it might meet the technical specs, but putting something up this big in its unique setting and reality of what it does to this neighborhood he did not know if anyone would volunteer to live in that neighborhood immediately adjacent or close to this facility if that is what is going to be and what they are going to see every day in their daily lives. He asked that the Board reject this site plan.

Mr. Jeffries said what they are here to do today is review a site plan for a development at the particular site that is before the Board at 3599 Rio Vista Boulevard. He said that is what they are here for. Does this site plan meet the relevant goals and objectives of the City's Comprehensive Plan and does it meet all the applicable LDR's of the City of Vero Beach. It is staff's finding that this complies with all zoning district standards in the C1-M Zoning District. The offsite parking

requirements are met by available parking in a complex subject to the rules and regulations as outlined in Chapter 63 of the Code. He said there is specific criteria in Code Section 63.05 related to what is required to provide a shared parking facility and the City has used that for multiple sites throughout the City. As required by the City's Comprehensive Plan an environmental assessment was done and found no impacted critical habitats or species. This was reviewed by Indian River County's Environmental Section, which they found that this lays within Zoning 6 and they noted in the Indian River County Management Protection Plan that this area is contiguous to the expansion of existing boating facilities, which is what they are here today to review. He said the proposed site plan will improve the stormwater quality by providing those improved stormwater facilities. The building design exceeds the architectural requirements of the LDR of what is required on a metal building for the C-1M Zoning District; what has been designed in keeping with the compatibility in the scale of the community as an architecture of the design of the building that matches the architecture of other institutional buildings in the area, which are Beachland Elementary School and the Museum.

The Vice Chairman closed the public hearing at 4:14 p.m., with no one else wishing to be heard.

Mr. Turner said these quasi-judicial hearings and proceedings are reviewed for three (3) criteria. One (1) is giving the applicant and parties due process in law; the notice and the opportunity to be heard. He said that is reviewed by the Court on appeal. That is one (1) of the standards that the Board needs to think about. More importantly is that they apply the essential requirements of the law, which means that they are following the correct law, which in this case are the LDR's and any other laws or standards that would apply in this particular site plan review and that they are not looking at things that don't apply as far as the legal aspect of it. He said probably most important is competent and substantial evidence. He said they know the evidence they hear and they determine what is credible and what weight they want to give to testimony, the evidence presented and the staff report, which has been recognized in Court cases as being competent substantial evidence. He said these are all things the Board can consider in making their decision. He said if the Court has to look at the record and determine that is what they look to see; that the Board met those requirements in their decision.

Mrs. Pelensky said we are a community living on this great Lagoon that everybody recognizes is so special. She asked why they don't have it in the Code in the environmental requirements to look further in the LDR outside of the land; how much is that going to impact this Lagoon. To her it is the environment. She said that she does not understand why they don't have it in the Code. Where they have a piece of land on the Lagoon why they don't say how that also is going to impact the adjacent property, which happens to be the Lagoon. She said that she sees this very similar to what happened on Route 60 where the new storage area is. She said it meets the Code and all the property rights, but she felt like the LDR's were not comprehensive enough for the City. She said people are coming here because we are so good and so careful. She said that she was having a hard time with this one. Not that it doesn't meet Code, it does. To her there is plenty of substantial evidence here that it meets Code. But, they are not talking about next door to a parking lot or next door to an amusement park, but next door to the Lagoon. That is what she is having a hard time with.

Mr. Perry said they could work on adding that to their plan, but as the plan sits this meets and exceeds all the requirements.

Mr. Prieto reiterated that they are here to vote on the site plan. They have heard a lot of evidence, testimony, and opinions and they take all of that into consideration and they don't take it lightly.

But, as it has been pointed out several times, they are voting on a site plan approval as a Planning and Zoning Board.

**Mr. Stassi moved that Site Plan Application submitted by Coastal Tech for the demolition of existing buildings and construction of a 21,355 square foot dry storage building for the City of Vero Beach Municipal Marina located at 3599 Rio Vista Boulevard (#SP22-000005) based on competent substantial evidence.**

**Mr. Prieto asked is your motion to approve it. Mr. Stassi answered yes.**

At this time, the Deputy City Clerk read back the motion.

**Mr. Perry seconded the motion and it passed 5-0 with Ms. Shaughnessy voting yes, Mr. Perry yes, Mrs. Pelensky yes, Mr. Stassi yes and Mr. Prieto yes.**

Mr. Prieto asked if it was possible to move the remainder of the items on today's agenda to a later date.

Mr. Turner thought that staff was going to reschedule the following items on today's agenda to the next Planning and Zoning Board meeting. He asked is there anyone present who is interested in the following three (3) Ordinances. There were none.

Mr. Turner said these items will be rescheduled and re-noticed.

Mr. Jeffries reported that the following three (3) Ordinances will be rescheduled to the December 1, 2022, Planning and Zoning Board meeting.

**[Legislative]**

- B. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Restructuring and Amending Chapter 72 to Revise Chapter Heading to be Entitled Environmental Protection Standards; Amending Article I, In General, Relating to New or Revised Definitions; Amending Article II, Landscaping, to Update the Landscaping Ordinance with Revised Site Landscape Requirements; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date.**

This item was not heard.

**[Legislative]**

- C. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 72, Article I, In General, Relating to New or Revised Definitions; Deleting Chapter 72, Article III Related to Tree Classifications; Creating a New Chapter 72, Article III Related to Tree and Palm Protections with Revised Tree Preservation Requirements; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date.**

This item was not heard.

[Legislative]

- D. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Creating a New Chapter 72, Article IV, Lagoon and Beach Protection with Development Standards to Protect the Indian River Lagoon and Beach Dunes; Amending Chapter 72, Article I, In General to Add Definitions; Amending Chapter 64, Article I, Development Review; Deleting Chapter 74, Bulkheads and Waterways; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date.**

This item was not heard.

**V. PLANNING DEPARTMENT MATTERS**

None

**VI. BOARD MEMBERS' MATTERS**

None

**VII. ADJOURNMENT**

Today's meeting adjourned at 4:26 p.m.

/sp