



CORAL BAY COMMUNITY COUNCIL

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CBCC Follow-up Comments

The St. John CZM Committee has the responsibility in its decisions to balance what is good for the people of St. John with what is good for the environment. Good growth is accompanied by good planning. Thank you for providing us with the opportunity to make follow-up comments after the Public Hearing.

Here are some additional observations and concerns to assist the Committee in its deliberations.

1. Coral Bay Harbor is a uniquely pristine and productive seagrass, mangrove and coral marine nursery environment, and as such is mandated for the highest level of protection under environmental laws. The applicant has made no effort to understand and design the marina to conform with these laws, nor listened to the advice and comments on the proposal made by various government agencies responsible for environmental protection.

2. Coral Bay has been legislatively identified as an Area of Particular Concern by the VI government. Motor boat use is restricted in all of Coral Bay, by VI DPNR regulation. Comprehensive land and water use planning is needed for the Coral Bay harbor area in order for the CZM committee to have the needed information to determine the future use of large portions of the bay. Perhaps a small marina or dock not impacting other land owner or mooring area rights and public trust uses, could be permitted at this point in time by the CZM Committee. But a monopolization and control of the greater portion of the Coral Bay harbor – in the absence of any of the “public trust” planning activities described in this paragraph and below – is not in keeping the intent and language of the CZM law, including provision of public recreation, open water access for fishing, and other purposes, or protecting the environment from a use that could occur better elsewhere or in a different form. (i.e., moorings rather than docks, for instance.)

With almost no publicly owned shore land in Coral Bay, how can the Committee feel comfortable making private submerged land use decisions, without a comprehensive plan for appropriate public and private use and environmental protection for many years into the future? Public needs must be incorporated into any private marina permitting that is done now or in the future – with participation by the public to assure that the needs are accurately and actually met.

3. A Water Use Plan for the designated mooring area has also been a requirement under the law for more than two decades, yet has not been done. DPNR has started and abandoned 2 efforts in the last 15 years, and denied the written request of the Coral Bay Marine Uses Planning Committee made in spring 2013 to lead a new effort. (see letters in file). Perhaps this is because they were already planning to let Summer's End pre-empt the VI Code process. This is not the only place in the bay a marina could be built. It is the only place under the applicant's control, so it is being proposed, despite its unsuitable physical and environmental aspects as a marina site.

4. In the oral hearing presentation, and other documents, there have been statements that the “mega yacht” docks will be built first, followed by the smaller boat docks. What happens if the developer builds the first portion and claims they cannot afford to build the rest of the docks – that will provide the fuel, pumpout and dock services for St. Johnians? We are all aware of this

strategy for reducing future investment and getting what the applicant really wants - the megayacht slips.

5. Since the applicant has created barriers in their plans for shoreline access by the public road, and only plans a very small dinghy dock behind a secure 24 hour gate, there is a loss of shoreline, water access by many boaters who bring their tenders into this shoreline along 107 right now. There are places that boaters are free to park their cars in currently, even overnight. All of that will be gone in this plan. Any mooring plan needs to have – as part of it – dinghy docking for all moored boats and vehicle parking (or other publicly agreed provisions), and repair/supplies access.

It is very unclear how the applicant plans to resolve these important issues– for live-aboard boaters going to work, or land-based boat owners leaving a dinghy for access to their boat. Since there is no publicly-owned dock facility in Coral Bay, it is especially important that the submerged land lease application include, as is required, access for the public to the water, which in the Coral Bay context means public docking facilities for dinghies and parking. The applicant by the way they have designed parking, has eliminated any potential for public roadside parking within the public right of way.

6. The extent of qualified marina and other planning for this project is wholly inadequate to assure a good project. Many modifications/details are still needed, items that are normally required of an applicant. We are not aware that there is any actual engineering analysis of the dock design for hurricane survival, nor an explanation of why the docks are principally set sideways to the prevailing wind and waves, leaving vessels “to rock and roll” in any southeast wind and wave conditions. We note that the marina layout prepared by Springline Architects and circulated in 2012 is now included – with what appears to be little or no change-- as a plan “stamped” by ATM, and using their reputation in the EAR. No meaningful additional details are added, to assure that the marina will meet the “world class” standards it purports to meet.

7. Boaters in marinas are usually supposed to and prefer to use the restrooms and showers ashore rather than their boat’s facilities. Should they have to cross a public road, with increasing traffic, for these essential services?

8. Driving 1333 pilings using traditional methods would mean months of continuous pounding noise resonating through the entire Carolina Valley area. One pile driver operator has told us that only 3 to 5 pilings might be installed in a working day. (also see the detailed pile driving noise analysis in the CBCC comment packet). The applicant has not done test cores or a geological analysis yet, therefore neither they nor the CZM committee is in a current position to judge that the noise, time, cost, difficulty and practicality of the proposed construction methods are appropriate. On this basis alone, the permit must be denied, as providing insufficient information about centrally required elements of the EAR, that impact many sections of analysis.

9. In the Army Corps permitting process, the applicant is going to need to meet the requirements of Section 404 permitting under the Clean Water Act., and the requirements of the Fish and

Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq. as amended), and the National Environmental Policy Act. The current application does not meet these requirements, neither in mitigation nor in designing the docks to minimize negative impacts on the seagrass. Furthermore the environment assessment is deficient under any of the laws.

Fortunately, there are no significant seagrass areas in need of restoration in Coral Bay, based on aerial photos from 1946 forward. The book cited below provides much useful information.

Compensating for Wetland Losses Under the Clean Water Act
<http://darwin.nap.edu/books/0309074320/html>

Alternative dock designs and water access that might more fully protect the seagrass habitat and fulfill the requirements for protection of seagrass under the Clean Water Act have been ignored by the applicant, and should have been presented as alternative. .

10. The Submerged Lands leasing law and regulations require that the fairways (open water surrounding the docks used as traffic lanes by the arriving and departing boats) be included in the land area to be leased. The maps and documentation presented are not clear enough to independently calculate the acreage being claimed for the submerged land area, but as has been detailed elsewhere in the comments – the area is 28 to 30 acres plus some private moorings. When adding the plan to control/manage the designated mooring area – the monopoly control takes in most of the rest of the bay, if not all.

We thank you for the opportunity to comment on this project application. We look forward to CZM encouraging and directing the applicant and any others considering marina investments in Coral Bay to respect the natural needed conditions for boats and boaters (wind, waves, depth, natural barrier protection from open seas) , start off planning to protect our natural environment – and legally-protected precious marine benthic habitat (seagrass, mangroves, coral, turtles) rather than having to seek substantial mitigation opportunities, and to make their initial applications more in sync with the values, culture and tourism economy of Coral Bay and St. John.

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