H.O.    February 18, 2015

**SP-14-04 – Rick and Leila Minnis**
**Fit By Grind Boat Works (DTS #20140429)**

Request: Approval of a Special Permit for the interior and exterior restoration of boat hulls, including fiberglass, upholstery and hull repair in the GC (General Commercial) / HA (Historical & Archaeological Overlay District) zoning district. The site is located within the Village of Cortez, south of Cortez Road and west of 123rd Street West at 4412 123rd Street West, Bradenton, Florida (0.2382± acres).

**Hearing Officer:**    February 18, 2015 (continued from January 21, 2015 and December 17, 2014)
<table>
<thead>
<tr>
<th><strong>PROJECT SUMMARY</strong></th>
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<tr>
<td><strong>CASE#:</strong></td>
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<td><strong>PROJECT NAME:</strong></td>
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<td><strong>APPLICANT(S):</strong></td>
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<td><strong>STAFF RECOMMENDATION:</strong></td>
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<tr>
<th><strong>SITE CHARACTERISTICS AND SURROUNDING AREA</strong></th>
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<tr>
<td><strong>ADDRESS:</strong></td>
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<td><strong>GENERAL LOCATION:</strong></td>
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<td><strong>SIZE:</strong></td>
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<td><strong>EXISTING USE(S):</strong></td>
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<td><strong>PROPOSED USE(S):</strong></td>
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<td><strong>PREVIOUS APPROVAL(S):</strong></td>
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<td><strong>ZONING:</strong></td>
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<td><strong>FLOOR AREA RATIO (FAR):</strong></td>
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<td><strong>FUTURE LAND USE CATEGORY:</strong></td>
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<td><strong>OVERLAY DISTRICT(S):</strong></td>
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SURROUNDING USES & ZONING

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<tbody>
<tr>
<td>NORTH</td>
<td>Cortez Road / RV Resort – CRV (Commercial Recreational Vehicle)</td>
</tr>
<tr>
<td>SOUTH</td>
<td>Residential – GC (General Commercial)</td>
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<tr>
<td>EAST</td>
<td>123rd Street West / Vacant GC (General Commercial)</td>
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<tr>
<td>WEST</td>
<td>Residential – GC (General Commercial)</td>
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SITE DESIGN DETAILS

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<tr>
<td>ACCESS:</td>
<td>123rd Street West</td>
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<tr>
<td>FLOOD ZONE(S)</td>
<td>Zone AE with a Base Flood Elevation of 10’ NAVD 1988 per FIRM Panel 12081C0281E, effective 03/17/2014.</td>
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<tr>
<td>AREA OF KNOWN FLOODING</td>
<td>No</td>
</tr>
<tr>
<td>UTILITY CONNECTIONS</td>
<td>Existing structure currently connected to County water and sewer</td>
</tr>
</tbody>
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POSITIVE ASPECTS

- The requested project is utilizing existing structures or outside work areas.
- Maintaining the Cortez Village heritage of boating by providing repair and restoration services to boat hulls both exterior and interior.

NEGATIVE ASPECTS

None known.

MITIGATING MEASURES

None required.

STAFF SUMMARY

The applicant is requesting a Special Permit to operate a boat works operation on the property. The boat works operation will include the interior and exterior restoration of boat hulls, including fiberglass, upholstery and hull repair, but does not include boat motor repair. The site is located within Cortez Village and is zoned GC (General Commercial) with a FLUC of ROR (Residential/Office/Retail). The Land Development Code (LDC) definition section and use table do not include uses that are similar to those proposed for this site; therefore, it was determined that the project must comply with the Special Permit requirements of Motor Vehicle Repair. A Special Permit is required because the project is adjacent to property with GC zoning but is developed residentially.
The definition for **Motor Vehicle Repair** reads in part:

“(C) **Major.** Activities of greater intensity than those listed in (A) or (B). Major motor vehicle repair shall also include the repair of boats and boat motors. (See Section 704, Motor Vehicle Repair).”

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**STAFF RECOMMENDED STIPULATIONS**

1. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Building and Development Services Department.

2. Boat motor repair is not permitted as part of this Special Permit.

3. The maximum number of on-site boats shall not exceed three (3).

4. Outdoor speakers are prohibited.

5. The covered work area shall be a permanent structure which meets the requirements of the Cortez Village Guidelines and shall not exceed 24-feet in height over Flood Protection Elevation. Within 30 days following approval of the Special Permit, the property owner shall apply for a Certificate of Appropriateness for such structure and shall thereafter proceed expeditiously and in good faith to obtain the required Certificate of Appropriateness and any other required permits (including, but not limited to, a building permit), and then to erect the structure. The structure shall contain drop down curtains or similar enclosure to ensure containment of any airborne particles and compliance with County noise restrictions.

The term of this Special Permit shall automatically expire within 180 days from the effective date of the Special Permit in the event the Certificate of Appropriateness is not obtained or if the permanent structure is not constructed in accordance with the requirement of this Special Permit and the applicable provisions of the LDC.

6. For as long as any residential uses(s) exist on any adjacent property, the boat works shall be limited to the hours between 7:00 a.m. and 9:00 p.m. Grinding work shall be limited to the hours between 8:00 a.m. and 7:00 p.m.

7. The caretaker’s residence is an accessory use to the principal use which is upholstery, fiberglass, interior and exterior restoration of boats hulls, and hull repair. As such, the caretaker’s residence shall not be occupied or rented by anyone other than the caretaker of the boat works business.

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**SPECIAL PERMIT CRITERIA PURSUANT TO LAND DEVELOPMENT CODE SECTION 505**

1. **Is the proposed use consistent with the Comprehensive Plan and the Land Development Code?**

   The FLUC is R/O/R which allows for water-related uses (boat repair) such as the one proposed in this project. The project’s Floor Area Ratio (FAR) is 0.15 and complies with the R/O/R maximum FAR of 0.35. The proposed use is consistent with the following Comprehensive Plan policies:

   **R/O/R:** Establish the Retail/Office/Residential future land use category as follows:

   **Policy 2.2.1.17.1** Intent: To identify, textually in the Comprehensive Plan’s goals, objectives, and policies, or graphically on the Future Land Use Map, areas which are established
and developed areas exhibiting a broad range of commercial, residential and, in certain cases, light industrial uses, and to recognize the continued existence of such areas through the long range planning timeframe. Also, to provide for orderly transition from, or redevelopment of, these existing and developed multiple-use areas. Also, to prohibit the intrusion of new industrial areas into these ROR areas, which typically fail to exhibit a planned or integrated approach to multiple use development, and instead exhibit an incremental or unplanned history of multiple use development. Also to establish at a few major and highly accessible, but currently undeveloped, sites for the development of major future community or region-serving commercial uses with a variety and permitted intensity of use which allows for a multi-purpose commercial and office node, with residential uses. Also, to provide incentives for, encourage, or require the horizontal or vertical integration of various residential and non-residential uses within these areas, achieving internal trip capture, and the development of a high quality environment for living, working, or visiting.

Policy 2.2.1.17.2 Range of Potential Uses (see Policies 2.1.2.3 - 2.1.2.7, 2.2.1.5): Retail, wholesale or office commercial uses which function in the market place as neighborhood, community, or region-serving. Also residential uses, lodging places, public or semi-public uses, schools, recreational uses, appropriate water-dependent/water-related/water-enhanced uses (see also Objectives 4.2.1 and 2.10.4), and short-term agricultural uses.

Policy 2.2.1.17.3 Range of Potential Density/Intensity:

Maximum Gross Residential Density:

For development existing at time of plan adoption or treated as a special exception under this Comprehensive Plan - 16 dwelling units per acre

For new development -
9 dwelling units per acre

Minimum Gross Residential Density: 7.0 only in CRA’s and UIRA for residential projects that designate a minimum of 25% of the dwelling units as “Affordable Housing”.

Maximum Net Residential Density:
For development existing at time of plan adoption or treated as a special exception under this Comprehensive Plan - 20 dwelling units per acre

For new development -
16 dwelling units per acre

24 dwelling units per acre inside the CRA’s and UIRA for residential projects that designate a minimum of 25% of the dwelling units as “Affordable Housing”.

Maximum Floor Area Ratio: 0.35
1.0 inside the CRA’s and UIIRA
Maximum Floor Area Ratio for Hotels: 1.0

Maximum Square Footage for Neighborhood,
Community, or Region-Serving Uses: Large 300,000SF

Policy 2.2.1.17.4 Other Information:

a) All mixed and multiple-use projects shall require special approval,
as defined herein, and as further defined in any land development
regulations developed pursuant to § 163.3202, F.S.

b) All projects for which either gross residential density exceeds 6
dwelling units per acre, or for which any net residential density exceeds 9
units per acre, shall require special approval.

c) All non-residential projects, or part thereof, exceeding 0.25
FAR shall also require special approval except mini-warehouse.

d) Non-residential projects exceeding 150,000 square feet gross
building area may be considered only if consistent with the requirements
for large commercial uses, as described in this element.

e) In areas where existing development is recognized utilizing the
Retail/Office/Residential category, or where the spatial form of the
Retail/Office/Residential designation on the Future Land Use map is
accordingly inconsistent with the commercial locational criteria contained
in this element; development or redevelopment within the area designated
under this category shall not be required to achieve compliance with the
commercial locational criteria described in Sections 2.10.4.1 and 2.10.4.2
of this element. However, any such development or redevelopment shall
still be required to achieve compliance with other commercial
development standards contained in this element, and be consistent with
other goals, objectives, and policies in this Comprehensive Plan (see also
2.10.4.2).

f) In areas where the Retail/Office/Residential category is designated
in a manner entirely consistent with the commercial locational criteria, all
commercial development or redevelopment shall be conducted in a
manner consistent with the commercial location criteria and development
standards contained in this element.

g) In order to distinguish between uses which may be permitted in
the R/O/R category, as compared to those which require siting within an
industrial category, the following guidelines shall be utilized:

I. No uses which have a primary purpose of distribution of
goods from that site shall be permitted in the Retail/Office/
Residential designation.
II. No new areas (a new area, for the purposes of this policy, shall be defined as property beyond those parcel configurations as of May 11, 1989 which had light industrial uses established upon them) engaging in the manufacturing, processing, and assembly of goods shall be permitted in the Retail/Office/Residential designation except as provided below:

III. Legally established light industrial uses existing prior to the adoption of this Comprehensive Plan shall be considered legally conforming uses, limited to their approved location. With special approval, other light industrial uses and additional square footage within the same parcel may be approved if there are no additional impacts to adjoining properties and all special approval criteria are met.

IV. If a legally established light industrial use ceases operation for over six months with no action to re-establish and/or continue such use, the use shall now be prohibited from development within the R/O/R designation.

This project is also consistent with Land Development Code (LDC) Sections 604.6.8 - Cortez Fishing Village Historical & Archaeological Overlay District and 704.50 - Motor Vehicle Repair. The detailed reviews of these Sections are included within this Staff Report.

2. **Is the establishment, maintenance, or operation of the proposed use detrimental to, or will it endanger, the public health, safety, or general welfare?**

The establishment, maintenance, or operation of the proposed boat works and caretaker residence will not endanger the public health, safety, or general welfare. The Applicant has received a "Notice of Permit Exemption" for an air pollution permit from the Florida Department of Environmental Protection (FDEP). Additionally, the Applicant met with staff from Manatee County's Natural Resources Department and complied with the requirements for proper waste storage/disposal.

A noise evaluation was conducted on January 10, 2015 by Manatee County Code Enforcement. The results of the test indicated that the ambient noise (Cortez Road traffic) was higher than site noise sources (grinding and machinery).

3. **Will the establishment of the use impede the normal and orderly development and improvement of surrounding properties for uses permitted in the zoning district?**

The proposed project is utilizing the existing on-site structures, landscaping, and impervious areas so there will be no impediment to the normal and orderly development and improvement of surrounding properties. The number of boats stored on the property at any one time is limited to 3, and boat motor repair is prohibited.

4. **Has the applicant complied with the requirements for Level of Service review?**

A Traffic Impact Statement (TIS) utilizing ARTPLAN 2012 to evaluate the level of service on Cortez Road (SR 684) was submitted, reviewed, and approved. The TIS addressed the Comprehensive Plan requirements and provided appropriate traffic-related information to substantiate the findings that there is sufficient capacity on Cortez Road to accommodate background and project generated traffic. In conjunction with this outcome, the Transportation Planning Division recommends transportation concurrency approval. The TIS did not identify any off-site concurrency-related improvements which are directly attributable to the project.
impacts. Water and sewer service is currently provided to the site and is not impacted by the proposed change of use.

5. **Do adequate measures exist, or will they be taken, to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion on public street?**
   The Applicant is using the existing driveways on 123rd Street West. The northern driveway is for the boat works, the southern driveway is for the residential (caretaker) use.

6. **Is the proposed use consistent with the community character of the immediate neighborhood of this proposed development?**
   Yes, the boat repair use is consistent with the Cortez Village community character by utilizing the existing structures and is in keeping with the fishing/boating community that is a large part of Cortez. The caretaker’s residence is the original residential structure, the upholstery use is located within the residential carport, and the boat works is located in a covered work area.

7. **Will development of the proposed use have a substantial adverse affect on a known archaeological, historical, or cultural resource located on or off the parcel proposed for this development?**
   This project is located within the Cortez Fishing Village Historical & Archaeological Overlay District and complies with those requirements (addressed elsewhere within this Staff Report). Any new structure (the boat works cover) requires the Applicant to obtain a Certificate of Appropriateness. The site is already developed; therefore, there are no wetland impacts.

8. **Will the design of the proposed use minimize adverse effects, including visual impacts, of the proposed use on adjacent property?**
   The project is utilizing the existing structures, landscaping, and will have an open work area with a permanent structure complying with the Cortez Village Guidelines. The number of boats is limited to three and there is adequate area for the storage/parking/merleneering of these boats on the site. Additionally, a noise evaluation was conducted and concluded that the boat works operation does not exceed the established noise thresholds for commercial uses adjacent to residential uses (65 dba). The Applicant has agreed to the proposed hours of operation stipulation.

9. **Have adequate provisions been made, or will they be made, for buffers, landscaping, public open space, or other improvements associated with the use?**
   The existing buffers and landscaping appear to meet the intent of LDC Section 715. In addition, the Applicant installed a 6-foot opaque fence on the west property line to provide better screening to the residential use located to the southwest. There are no requirements for public open spaces associated with this use. With respect to the parking requirements, the Applicant submitted a statement providing details with respect to the type of business that is conducted on the property. According to the Applicant, the use is not a usual commercial facility in that customers do not pull up with their boat and want immediate service: rather, the Applicant receives a phone call describing what needs to be done and then goes to the customer to determine if it is a mobile job or one that would be performed on-site. If the job will be conducted on-site, either the Applicant brings the boat to the site or an appointment is made with the customer to bring the boat to the site. The property is fenced and gated during and after work hours. The Planning Director has reviewed this information and in accordance with LDC Section 710.1.5.5.9.4, has determined that this use does not require parking.

10. **Does the proposed use meet all other standards or requirements set forth in the Land Development Code, which apply to the use in the zoning district for which this development seeks approval?**
    The site is in compliance with all provisions of the LDC Sections 704.50 which addresses standards for boat repair and 604.6.8 Cortez Fishing Village Historical & Archaeological Overlay District.
### Conditional Use Criteria Pursuant to Section 704 of The Land Development Code

**LDC 704.50 – Motor Vehicle Repair**

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<td><strong>704.50.1 – Standards.</strong></td>
<td>This use shall be allowed by Special Permit in the GC district if the proposed location is adjacent to property that is either developed residually or has a residential zoning or Future Land Use Category. If the site is not adjacent to such residential development, zoning, or category then it shall be allowed by Administrative Permit. The Applicant is complying with this standard by submitting for a Special Permit.</td>
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<td><strong>704.50.2 – Setbacks.</strong></td>
<td>All vehicle repair structures shall be set back fifty (50) feet when abutting a residential or professional zoning district. The property abuts GC zoning on all sides; therefore, this criterion is not applicable. The permanent structure location meets the minimum setback requirement of the GC zoning district.</td>
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<td><strong>704.50.3 – Noise.</strong></td>
<td>No outdoor speakers shall be allowed adjacent to residential areas. No outdoor speakers are proposed and there is a stipulation that prohibits outdoor speakers. Additionally, a noise evaluation was conducted and concluded that the boat works operation does not exceed the established noise thresholds for commercial uses adjacent to residential uses (65 dba). The Applicant has agreed to the proposed hours of operation stipulation.</td>
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<td><strong>704.50.4 – Screening.</strong></td>
<td>Additional trees equal to one (1) tree per thirty (30) feet shall be provided adjacent to residential areas, along with a solid six (6) foot fence. The site is surrounded by GC zoning with residential uses. The Cortez Village Design Guidelines encourages the use of chain link fencing instead of solid fencing; however, the Applicant has installed a 6-foot opaque fence on the west property line to provide better screening to the residential use located to the southwest. The Guidelines also encourage using a landscaping palette that is consistent with the existing palette in the Village. In order to comply with this provision, the Applicant proposes to keep the existing landscaping and chain link fencing with the addition of the privacy fence on the southwest property line.</td>
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<td><strong>704.50.5 – Filtration of Pollutants.</strong></td>
<td>A filtration system shall be installed as stipulated under 717.3.13 and located before pollutants enter the retention/detention area. LDC Section 717.3.13 requires on-site detention and filtration of stormwater runoff if the proposed development increases the impact of stormwater discharge. No additional impervious area is proposed for this site; therefore, there is no increased impact to stormwater discharge. Additionally, the Applicant is stipulating that no boat motor repair will occur on-site. The Applicant has received a Notice of Permit Exemption for an air pollution permit from FDEP and is providing the required waste storage/disposal as required by the Manatee County Natural Resources Department.</td>
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<td><strong>704.50.6 – Boat Motor Repair.</strong></td>
<td>All motor vehicle repair establishments which repair boat motors, shall provide a screened area outside of the required parking spaces, for the parking and storage of all boats. This area shall be screened with a solid minimum six (6) foot fence and landscaping per Section 715. Such areas shall be set back from property zoned A-1, RSF, RMF, RSMH, PDR, PDMU and PDW by a distance of twenty-five (25) feet. There shall be no parking of boats outside of this storage area, except for those boats immediately entering or exiting the premises. The Applicant has agreed to stipulate that no boat motor repair will be done. The property is not located adjacent to any of the zoning districts specified. Additionally, the number of boats on the property at any one time is limited to three (3).</td>
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CRITERIA FOR COMMERCIAL PROPERTIES IN THE
CORTEZ FISHING VILLAGE HISTORICAL & ARCHAEOLOGICAL OVERLAY DISTRICT
SECTION 604.6.8

604.6.8.1.3.1.1 Properties shall be developed with no more than one aisle of parking between the building and the street.
In accordance with LDC Section 710.1.5.5.9.4, the Planning Director has determined that this project does not require parking.

604.6.8.1.3.1.2 The street façade of new commercial structures facing Cortez Road shall be broken up to look like a series of small structures, rather than one long unbroken façade. Added elements such as porches, and windows shall recall proportions found in other structures in Cortez.
The Applicant has stipulated that the covered work area will be a permanent structure meeting the requirements of the Cortez Village Guidelines and will apply for a Certificate of Appropriateness. The intent of this business is to maintain more of a residential-look than a commercial-look by maintaining and using the existing residential structure as the caretaker’s residence and the carport for the upholstery business.

604.6.8.1.3.1.3 Front entrances shall be of pedestrian friendly scale and be visible from Cortez Road.
The requested use consists of open and covered work areas. The orientation of the business is not Cortez Road and there is no public access to the site; therefore, this criterion is not applicable.

604.6.8.1.3.1.4 New commercial construction shall be limited in height to no more twenty-four (24) feet over Flood Protection Elevation.
The proposed permanent structure for the covered work area will not exceed 24-feet in height. This height limitation is stipulated.

604.6.8.1.3.2 All commercial projects in Cortez shall meet the landscaping requirements in Section 715.
The Applicant is utilizing the existing landscaping and the existing landscaping appears to meet this criterion.

REMAINING ISSUES OF CONCERN – NOT RESOLVED OR STIPULATED
None

ATTACHMENTS
1. Plot Plan
2. Traffic Impact Statement
3. Notice of Permit Exemption for an air pollution permit from FDEP
4. Citizen Complaint, NRD and Applicant Response/Resolution
5. Noise Survey Form
6. Parking Determination
7. Public Comments
NOTICE OF PERMIT EXEMPTION

Matthew Minnis, Owner
Fit By Grind Fiberglass Boat Works
4412 123rd Street West
Cortez, Florida 34215

Re: DEP Project File No.: 0810247-001-AC

Dear Mr. Minnis:

On January 21, the Department received your letter requesting the Department to determine whether Fit By Grind Fiberglass Boat Works located at 4412 123rd Street West in Cortez and Manatee County requires an air pollution permit. The operation is a small boat repair and restoration operation that includes activities such as fixing chips and holes in boats and restoring boat finishes. Based on the information received by the Department, the Department has determined an air pollution permit for the facility is not required pursuant to Rule 62-210.300(3)(b)2., Florida Administrative Code (F.A.C.).

The exemption is based on the following details as described in your letter:

1. The operation uses approximately two 55 gallon drums of polyester resin per year which is approximately 970 pounds per year.
2. Based on the product Material Safety Data Sheet, the polymer resin contains 35 % styrene monomer.
3. The total emissions of styrene will be below 400 pounds per year.

*Note: Styrene is classified as both a Hazardous Air Pollutant (HAP) and a Volatile Organic Compound (VOC). Pursuant to Rule 62-210.300(3)(b)2. F.A.C., the permitting threshold for any Individual HAP is 1.0 ton per year or greater and the permitting threshold for VOCs is 10 tons per year or greater.*

This permit exemption does not relieve the facility from complying with any other requirements of Chapter 403, F.S., rules of the Department, or any other requirements under federal, state, or local law. [Rule 62-210.300, F.A.C.]

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. Petitions filed by the applicant or any of the parties listed below must be filed within 21 days of receipt of this notice. A petitioner shall mail a copy of the petition to the applicant at the address indicated above, at the time of filing. A petition for administrative hearing must contain the information set forth below and must be filed (received) with the Agency Clerk in the Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000, Agency.Clerk@dep.state.fl.us, before the deadline. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person’s right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the approval of the
presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Permitting Authority’s action is based must contain the following information:

(a) The name and address of each agency affected and each agency’s file or identification number, if known;

(b) The name, address, any email address, telephone number and any facsimile number of the petitioner; the name, address, any email address, telephone number, and any facsimile number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner’s substantial interests will be affected by the agency determination;

(c) A statement of when and how each petitioner received notice of the agency action or proposed decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency’s proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency’s proposed action including an explanation of how the alleged facts relate to the specific rules or statutes; and,

(g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the agency to take with respect to the agency’s proposed action.

A petition that does not dispute the material facts upon which the Permitting Authority’s action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Permitting Authority’s final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Permitting Authority on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available in this proceeding.

This permit exemption is final and effective on the date filed with the Clerk of the Department unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, F.S. or unless a request for an extension of time in which to file a petition is filed within the time specified for filing a petition. Upon timely filing of a petition or a request for an extension of time to file the petition, this permit acknowledgement will not be effective until further Order of the Department.

Any party to the Order (Permit Exemption) has the right to seek judicial review of the Order pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal under Rule 9.110 of the Florida rules of Appellate Procedure, with the clerk of the Department of Environmental Protection in the Office of General Counsel, Douglas Building, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days after this Order is filed with the Clerk of the Department.

If you have any questions, please contact Danny Stubbs, at (813) 470-5729, or by e-mail at danny.stubbs@dep.state.fl.us.
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Kelley M. Boatwright
Permitting & Waste Cleanup Program Administrator
Southwest District

CERTIFICATE OF SERVICE

This is to certify that this NOTICE OF PERMIT EXEMPTION was sent by electronic mail before the close of business on the date indicated below to the persons listed below.

Mathew Minnis, Fit By Grind Fiberglass Boat Works (fitbygrind@yahoo.com)
Ms. Danielle Henry, Florida DEP Southwest District (Danielle.D.Henry@dep.state.fl.us)

Clerk Stamp

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to Section 120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

(Clerk) 1/30/2015
(Date)
Danielle,

The complaint came to this office as anonymous from Sean McGinnis, so my interaction has been with the business owner/operator (Matt Minnis) only. He set up a drum for waste acetone as I requested. As for the fugitive dust, our Air Program is restricted to monitoring and typically refers such matters to the District.

Mr. Minnis is seeking approval for this operation from Manatee County through a Special Permit. As such, the County may need input from the District regarding the odors and dust.

A copy of my investigation report is attached. Let me know if you would like me to follow-up with the complainant.

Paul

Paul Panik
Parks and Natural Resources
Environmental Protection Division
Environmental Manager
(941)742-5980 ext. 1872
1112 Manatee Ave W., 2nd Floor
Bradenton, FL 34205
www.MyManatee.org/naturalresources

(See attached file: Investigation Report.doc)

"Henry, Danielle D." ---01/05/2015 03:42:28 PM---Good afternoon Paul, The complainant continues to have concerns with odors and dust from the site be

From: "Henry, Danielle D." <Danielle.D.Henry@dep.state.fl.us>
To: "paul.panik@mymanatee.org" <paul.panik@mymanatee.org>
Cc: "McGinnis, Sean" <Sean.McGinnis@dep.state.fl.us>
Date: 01/05/2015 03:42 PM
Subject: FW: FW: Complaint in Cortez

Good afternoon Paul,

The complainant continues to have concerns with odors and dust from the site below that you investigated on 10/14/14. Have you been in contact with the complainant to share your findings and discuss the county ordinances that you are able to enforce?

Please feel free to contact me if you have any questions about this request for additional follow up.

Thank you,
Danielle D. Henry
Environmental Manager
Compliance Assurance Program
Florida Department of Environmental Protection - Southwest District
13051 N. Telecom Parkway
Temple Terrace, Florida 33637
Business Phone: 813-470-5901
Fax Number: 813-470-5994
Danielle.D.Henry@dep.state.fl.us

From: capt.scottgreer@verizon.net <capt.scottgreer@verizon.net>
Sent: Wednesday, December 10, 2014 10:19:13 PM
To: McGinnis, Sean
Subject: Re: FW: Complaint in Cortez

What about all the fumes my family and I and all my close neighbors are subjected to on a daily basis. They open the front and back of the tent every time they work so they can get air in there, the dust particles blow all over everyone that lives down wind at the time. The only time they zip it up is when an inspector comes around. No one can open their windows in their homes close bye or hang their laundry. This is a travesty.....

Capt. Scott Greer
Stray Dog Charters
941-794-5615
www.straydopharters.com

On 12/05/14, McGinnis, Sean<Sean.McGinnis@dep.state.fl.us> wrote:

Scott,

Please see the message below regarding Fit To Grind on 123rd Street in Cortez.

Sincerely,
Sean

Sean P. McGinnis, CHMM
Environmental Manager
Compliance Assurance Program
FDEP - Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
813-470-5866
sean.mcginnis@dep.state.fl.us

From: McGinnis, Sean
Sent: Wednesday, October 15, 2014 11:36 AM
To: 'paul.panik@mymanatee.org'
Subject: RE: Complaint in Cortez

Paul,

Thank you for checking out this site. I don’t think any additional follow up is necessary.

Sean
From: paul.panik@mymanatee.org [mailto:paul.panik@mymanatee.org]
Sent: Wednesday, October 15, 2014 10:23 AM
To: McGinnis, Sean
Subject: Re: Complaint in Cortez

Sean,

The inspection results are as follows:

**Site Investigation (10-14-2014, 1:55 pm)**

I met with the property and business owner, Matt Minnis, on site. This is a residential/commercial property on Cortez road. The property owner resides here and operates 2 businesses. Fit by grind specializes in small boat repairs and restorations. His wife runs a canvas shop, Stich Witch, that generates no waste. The majority of the boat work is conducted under a large tent toward the front of the property. The owner indicated he purchases 5 gallons of acetone monthly. All grinding is done inside the tent. No impacts to the ditch out front were noted. One small open container with acetone was being used to clean tools. One small drum with solidified resin and rain water was observed behind the tent. He was advised regarding proper waste storage/disposal and provided literature and a stencil. He will send me a photo of a dedicated waste drum. Follow-up via SQG program.

Do you require any follow-up on this?

Paul

Paul Panik
Parks and Natural Resources
Environmental Protection Division
Environmental Manager
(941)742-5980 ext. 1807
1112 Manatee Ave W., 2nd Floor
Bradenton, FL 34205
www.MyManatee.org/naturalresources

---

Good morning Paul,

Could you have someone investigate the following complaint in Cortez?

Address: 4412 123rd Street
Cortez, FL 34215
Manatee County

An anonymous resident called this in. The 24-hour call back has been met. The site is a boat yard that does fiberglass work. The caller stated he was concerned regarding the fiberglass fugitive dust, the hazardous materials being stored at...
the location, and the fact that this location is near a stormwater feature which leads to a surface water body. The caller said that the county had been out there about a month ago and activities had stopped, including the removal of the business name/sign. However, the caller claims the business is now operating again with the addition of a tent enclosure and a concrete pad.

Site Info: Fit to Grind
Rick and Leila Minnis (property owner)

Complainant: Anonymous

Thanks,
Sean
Morning Paul
Here is our new waste storage containment.
It is in use as of today.
Thank matt
Please call me if you need anything else.
910 443 5674

Sent from Yahoo Mail on Android
HAZARDOUS WASTE
Complaint Investigation

NUMBER: 20140063.0(1.0)
DATE: 4/2/2015 10/14/14
SUBJECT: Fiberglass business with multiple issues

The Manatee County Natural Resources Department received the following citizen complaint on October 15, 2014:

Caller: Anonymous (from Sean McGinnis, DEP SW District)
Location: Mixed use property along Cortez Rd
Address: 4412 123rd ST W
          CORTEZ, Florida
Description: From Sean McGinnis: An anonymous resident called this in. The 24-hour call back has been met. The site is a boat yard that does fiberglass work. The caller stated he was concerned regarding the fiberglass fugitive dust, the hazardous materials being stored at the location, and the fact that this location is near a stormwater feature which leads to a surface water body. The caller said that the county had been out there about a month ago and activities had stopped, including the removal of the business name/sign. However, the caller claims the business is now operating again with the addition of a tent enclosure and a concrete pad.

Natural Resources Department staff investigated this complaint on October 15, 2014 and determined that:

Paul Panik:
I met with the property and business owner, Matt Minnis, on site. This is a residential/commercial property on Cortez road. The property owner resides
here and operates 2 businesses. Fit by grind specializes in small boat repairs and restorations. His wife runs a canvas shop, Stich Witch, that generates no waste. The majority of the boat work is conducted under a large tent toward the front of the property. The owner indicated he purchases 5 gallons of acetone monthly. All grinding is done inside the tent. No impacts to the ditch out front were noted. One small open container with acetone was being used to clean tools. One small drum with solidified resin and rain water was observed behind the tent. He was advised regarding proper waste storage/disposal and provided literature and a stencil. He will send me a photo of a dedicated waste drum. Follow-up via SQG program


Investigation Reviewed by: Paul Panik on October 15, 2014
Investigation Approved by: Robert Brown on

For more information concerning this investigation contact the Manatee County Natural Resources Department at (941)742-5980 during normal business hours.
### Facility Detailed List Report

**Number of Facilities = 1**

<table>
<thead>
<tr>
<th>Facility Info for ID: 211492</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Facility ID</strong></td>
</tr>
<tr>
<td>211492</td>
</tr>
<tr>
<td><strong>Address</strong></td>
</tr>
<tr>
<td><strong>SIC Code</strong></td>
</tr>
<tr>
<td><strong>Comment</strong></td>
</tr>
</tbody>
</table>

### Waste Info

<table>
<thead>
<tr>
<th>Waste Type</th>
<th>Storage Method</th>
<th>Disposal Method</th>
<th>Min. (Units)</th>
<th>Max. (Lbs)</th>
<th>Unit Year</th>
<th>Disposal Location</th>
<th>Qnt Storage</th>
<th>Qnt Disposed</th>
<th>RCRA Hazardous</th>
</tr>
</thead>
<tbody>
<tr>
<td>NFWS - Non-Hazardous</td>
<td>OQ - Other Questionable</td>
<td>SL - Solid Waste</td>
<td></td>
<td>26</td>
<td>316</td>
<td>Off-Site</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

Comments: Like small drum container with spent acetone and paint waste. Another small canister with toluene.

### Activity Info

<table>
<thead>
<tr>
<th>Activity Type</th>
<th>Description</th>
<th>Activity Date</th>
<th>Return To Compliance Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Facility has no corresponding activity information.

Signature: ____________________________

Date: ____________________________
Date: 1/10/2015

Location: 1412 128th St W. Bradenton - Stitch Witch/Fit by Grnd

Project: Stitch Witch/Boat manufacturing & repair / Fit by Grnd

Equipment: Meter SLM 2100

Calibrator QC10 QC-20

Serial # DAK040086

Serial # QIK060202

Performed by: Ben Damon

Assistant: NA

Start

Calibration: 114.0

Finish

Time of Day: 2:30 PM

Partly Cloudy / Overcast

2:38 PM

Partly Cloudy / Overcast

Breezy, some gusting

Breezy, some gusting

Noise Source: Grinding machinery from Stitch Witch

Noise Source dB level: 62.0

Ambient Noise dB level: 63.8

Difference to adjust: -1.8

Adjusted Noise Source dB level: Invalid test - Ambient noise higher than source

Difference Between Source & Ambient

0 to 3 dB .................................................. Invalid Test

4 to 5 dB ................................................... 2 dB

6 to 9 dB ................................................... 1 dB

10 dB or more .......................................... 0 dB

Type 1 SLM – An ANSI standard that indicates a SLM accurate to + or - 1 dB.

Type 2 SLM – An ANSI standard that indicates a SLM accurate to + or - 2 dB.

Remarks: The cars coming & going along Cortez Rd. made for intermittent spikes in noise. Grinding noises were not making any noise louder than the cars

Signature: [Signature]

Title: Manatee County Code Enforcement Officer II

Revised Oct 14, 2014
MEMORANDUM

To: File – SP-14-04 DTS#20140429
From: John Barnott, Robert Schmitt
Date: February 3, 2015
Subject: Fit By Grind Boat Works – Parking Determination
        4412 123rd Street West

In accordance with LDC Section 710.1.5.5.9.4 and based on the information provided by the property owner/applicant regarding the type of business that is operated on the property, a determination has been made that parking is not required for this project.

The basis for this determination is as follows:

1. The operators of the business reside on-site in the caretaker’s residence.

2. The business does not have any employees (other than Jenny and Matt Minnis who reside on the property).

3. The Special Permit limits the number of boats to a maximum of three (3).

4. The site has sufficient room for the maximum number of boats (3) to be stored/parked while being repaired.

5. The business is by appointment only.

6. In addition to the on-site business, a large portion of the work performed is a mobile business.

7. The property is fenced and gated during and after work hours.
RE: Fit By Grind - Traffic Impact Statement
Petition # SP-14-04/DTS#20140429
Consultant: Blalock Walters, P.A.

Dear Mr. Rudacille,

The Manatee County Public Works Department, Transportation Planning Division, has reviewed and approved the Traffic Impact Statement (TIS), dated November 19, 2014 as prepared by Blalock Walters, P.A. Based on the data provided in this document, the Applicant has addressed the Comprehensive Plan requirements, and provided appropriate traffic-related information to substantiate the findings. In conjunction with this outcome, the Transportation Planning Division recommends transportation concurrency approval.

Please note that the project will directly impact Link # 2310 (SR 684/Cortez Road from 127th Street West to 119th Street West) with two (2) pm peak-hour trips. However, there are no off-site transportation concurrency improvements required for this project.

If you have any questions or require further assistance, please contact Clarke Davis at 941.708.7450 Ext 7272 or me at the number below.

Thank You,

Jason Utley, AICP
Transportation Systems Modeler
Manatee County Government
941.708.7478
jason.utley@mymanatee.org
1022 26th Avenue East
Bradenton, FL  34208
For the Hearing Officer mtg.

Margaret Tusing, Principal Planner  
Department of Building and Development Services  
1112 Manatee Avenue West, 4th Floor  
Bradenton, Florida 34205  
941-748-4501, ext 6828  
941-518-8039 (mobile)  
941-708-6156 (fax)  
margaret.tusing@mymanatee.org

----- Forwarded by Margaret Tusing/MCG on 01/06/2015 08:17 AM -----  
From: Jenny Krohn <fitbygrind@yahoo.com>  
To: margaret.tusing@mymanatee.org  
Date: 01/06/2015 08:13 AM  
Subject: Fw: letter to Manatee County Court

Sent from Yahoo Mail on Android

From: Rob Quarles <q2tenors@verizon.net>;  
To: fitbygrind@yahoo.com>;  
Subject: letter to Manatee County Court  
Sent: Tue, Jan 6, 2015 4:13:28 AM  
Matt,
   Here is the letter I wrote for your next court date. I hope you can open it. If not let me know.

   Rob @ Fiberlay

Testimonial for Fit By Grind.doc
Testimonial for Fit By Grind

This letter is on behalf of Matt Minnis and his company, Fit By Grind. I visit Matt once a week and deliver him his supplies. Small businesses are the backbone of our economy and Matt provides a vital service to the local Cortez fishing industry, as well as boat repair for Manatee and Sarasota counties.

When I visit Matt’s shop it is one of the most clean and organized places I see. He obeys all rules and regulations when it comes to proper storage and disposal of all hazardous materials. He also has all the proper venting and ducting to control grinding dust. Matt is also very safety conscious making sure all cords and stray boards are not where people can trip over them.

Matt always pays his bills on time, and when he calls in an order his upbeat personality and voice shine through. Matt is extremely knowledgeable about the products we provide him and how they work and are applied. I have been in the fiberglass and composite industry for twenty years and Matt is one of our best customers. It would be a shame that complaints against Matt that have no base or merit could possibly shut down his business.

I swear these statements to be true to the best of my knowledge and are given freely without coercion.

Sincerely Yours,

Rob Quarles
Fiberlay Inc.
Sarasota Fl.
941-923-8112
Good afternoon. I have been a home owner in Cortez Village for 20 years. I live on 45th Ave W. I guess I do not understand why Fit by Grind has a problem, when there are several places in Cortez where boat repair business is done each and every day.

Sincerely,

Mary Anne Hughes
941-792-2031
Fit by Grind Boat Works  
Karla Maddox  
to:  
Margaret.Tusing, Bobbi.Roy  
12/08/2014 12:27 PM  
Show Details  

Dear Ms. Roy and Ms. Tusing,

I am a resident of Cortez, and I am concerned that the Fit by Grind Boat Works business is exposing me and the rest of the residents of Cortez to health hazards, noise, and is overall negatively affecting home lives and health.

This operation is surrounded by houses on either side of the street in very close proximity, and while they do have a tent up, they are not properly ventilating and disposing of the hazardous materials and chemicals that are used to fiberglass work and boat repairs. Furthermore, these chemicals are highly toxic and highly flammable. This operation would be better suited for one of the many boat yards or marinas located in the area to reduce the noise, unsightliness, and health hazards which this poses to tax paying residents.

Fiberglass is a hazardous material that has been linked to lung cancer and lung failure. Furthermore, the chemicals used to adhere fiberglass are carcinogenic. The Environmental Protection Agency has guidelines for the proper use of these dangerous agents, but even if done correctly, still should not be in someone's literal backyard. For these reasons, I strongly object to the Fit by Grind Boat Works being located next to residences, regardless of the zoning.

I wish to attend the hearing on the 17th, but I don't know if I'll be able to miss work to do so. In my absence, I would appreciate if all of these concerns are voiced and considered by the attendees. I would also appreciate a synopsis of the discussion and rulings.

What follows are the details of how and why fiberglass work has been deemed so dangerous; this was obtained from the following website:


Everyone has heard about the association between lung cancer and asbestos. Since some forms of asbestos are similar in appearance to fiberglass fibers, many people wonder if handling fiber-glass could also result in the development of cancer or other serious health hazards. Scientists have made over 400 studies of fiberglass in an attempt to answer this question. The conclusion is that it will not, because its properties are very different from asbestos. OSHA confirmed these findings in 1991 when it decided to regulate fiberglass as a nuisance dust, and not as a cancer causing agent. The state of California, neverth less, still requires that fiberglass be labeled as a potential cancer causing agent.

The principal difference between glass fibers and asbestos fibers is their size and the way the fibers break down. Glass fibers are cylindrical single fibers that can never split lengthwise; they only break across the fiber. As they break, they form tiny fragments that no longer have the properties of a fiber. Asbestos fibers, on the other hand, are always present as bundles, never as a single fiber. Asbestos fibers fracture only lengthwise when the bundles break
apart, releasing thousands of long tiny fibers. When these are inhaled, they become trapped in the small sacs of the lungs known as alveoli. Because asbestos fibers are long, sharp, and irritating to lung tissue, the alveoli close up and trap them in the lungs. This eventually results in the lungs becoming hard, fibrous and inelastic. Over time, the continued irritations cause cancer in some individuals.

Because fiberglass breaks across the fiber to form tiny fragments, the tissue response is very different when these particles are inhaled. When fiberglass fragments are inhaled and deposited in the small air sacs of the lung, the alveoli do not close up and trap the particles. The particles are expelled from the alveoli and there is a rapid clearance of fiberglass dust particles from the lungs.

However, fiberglass presents other problems—such as irritations of the eyes, skin, or respiratory tract. The mechanical action of the fibers scraping against skin may cause a condition known as dermatitis. To protect yourself, wear long sleeve shirts and pants to keep the fibers off your skin, and wear clean clothes every day. Gloves and eye protection may also help. Use soap and warm water to remove any fibers that you do get on your skin. Dust is produced when mat or cloth is rolled out, where chopper guns are used, and in finishing operations where flashing is removed or sanding occurs. So always wear a dust mask in these areas to help avoid inhaling glass fibers.

The primary hazard associated with fiberglass is the chemicals used during the fabrication or lay up process. Styrene monomer, or raw resin, is catalyzed with an organic peroxide; the most common is methyl ethyl ketone peroxide. Cobalt compounds, often used as accelerators, can result in allergic dermatitis or asthma like conditions. Acetone is a central nervous system depressant used for clean up of tools, utensils, and spray equipment. The important thing to remember about these chemicals is that they are health hazards when inhaled; proper respiratory equipment must be worn and adequate ventilation provided. You should also be aware that these chemicals can form flammable or explosive concentrations at normal room temperatures, so proper handling and ventilation is essential.

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Karla A. Maddox
English Teacher
kmaddox@mail.usf.edu