

**MINUTES REPORT
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
(EROC)**

**Wednesday, May 11, 2022
2:00 p.m.**

Committee Members Present:

Tracy Hayden, Vice-Chair
Victor DuPont
Michael Reitmann
Bill deDeugd
Buck Ward

Bob Knight
Matt Roepstorff
Tim Keene
Carl Barraco, Jr.

Excused / Absent:

Randal Mercer, Chairman
Ian Moore
Sam Hagan

Mike Roeder
Bill Ennen
Jim Ink

Lee County Government Staff Present:

David Loveland, Director, Community Development
Anthony Rodriguez, Zoning Manager
Adam Mendez, DCD Zoning
Amanda Swindle, Assistant County Attorney
Cheryl Simpson, DCD Admin, Recorder
Christine Boyette, DCD Admin

Outside Consultants/Members of the Public Present:

Hans Wilson, Hans Wilson & Associates
Brent Stokes, Marine Industry representative

CALL TO ORDER AND AFFIDAVIT:

Ms. Tracy Hayden, Vice-Chair called the meeting to order at 2:00 p.m. The meeting was held in the Board Chambers, 2120 Main Street, Fort Myers, Florida.

Ms. Amanda Swindle, Assistant County Attorney confirmed the Affidavit of Publication was legally sufficient as to form and content and the meeting could proceed.

APPROVAL OF MINUTES – April 13, 2022

Mr. Bob Knight made a motion to approve the April 13, 2022 minutes as written. Mr. Michael Reitmann seconded. The motion was called and carried unanimously.

DOCK AND SHORELINE AMENDMENTS

Mr. Adam Mendez reviewed the proposed Dock and Shoreline amendments within Chapter 26. He provided background and a history of the regulations and ordinances initially adopted in the mid- to late- 1980s, with various changes codified in 2009 in recognition of the Manatee Protection Plan (MPP). He stated that staff has been working with the Marine Industry since August 2020 and some members of the industry were present. Substantive changes included:

- New definitions within the chapter;

- Housekeeping to address scrivener's errors, eliminate inconsistencies and to provide greater clarity throughout the Chapter;
- Codify additional site plan details to effectuate permit reviews;
- Introduce specific departures from standard regulations through administrative and special exception processes that rely on impact and compatibility rather than hardship;
- Clarify that single-family docking facilities in all waterbodies permit two slips by right;
- Establish administrative and special exception processes to obtain additional slips;
- Provide handrail waiver criteria;
- Consider dock lengths exceeding 200 feet through an administrative review process;
- Designate figure 26-1 as required only in state designated aquatic preserves instead of all waterbodies;
- Replace kayak and canoe references with "paddlecraft";
- Permit larger boathouses by right and by special exception, permit seating areas associated with boathouses, and introduce the potential for dock pavilions as defined in lieu of the right to construct a boathouse.

As a result of LDCAC and Marine Industry input, changes were made to insure that the proposed language was consistent with the MPP and were not effectively amending the MPP. Staff affirmed that this is not retroactively amending the MPP but is consistent with the MPP which defines a single family residence as containing no more than two boat slips. Currently the LDC specifies two boat slips in natural waterbodies. As proposed, there will be revised language that states two boat slips are permitted by right in all waterways.

He reviewed additional revisions and clarifications as a result of LDCAC, LPA and Industry comments.

Following the presentation, Ms. Hayden called for public comments.

Mr. Hans Wilson, local consulting engineer specializing in waterfront facilities commended staff for their job of addressing comments and responses from the Industry and making changes. He mentioned that the over structure pavilion will make people's utilization of the dock facilities much more attractive. He thought that there was still some concern regarding the relationship of the ordinance with the county's Manatee Protection Plan because there is what he called a "no-man's land" in the MPP where less than 5 slips is not subject to MPP review, but placing a limit of two slips for a single family residence specifically in the ordinance makes a lot of sense.

Mr. Brent Stokes spoke on behalf of the Industry. He too appreciated the effort staff has made to address the issues. He still had concerns with the limitation of two slips because many of his customers have more than two slips. He doesn't see the need for the limitation especially in artificial waterways. Setbacks are a major concern and he would prefer to leave the setbacks as they are now in artificial waterways.

Ms. Hayden called for committee comments. She also thanked staff for the summary, the staff notes and comments, and discussions from each committee, finding all very helpful.

Mr. Buck Ward had concerns first on Page 3 of 27 regarding Multi-slip docking facilities. Mr. Mendez agreed to review that section to ensure that all multi-slip docking facilities are captured, but he thought it was more oriented toward the slips, not the amount of docks. The suggestion was made to change the word "docks" to "slips". On Page 4 of 27 Mr. Ward questioned the definition of paddlecraft as well as the need to define a single or double-bladed paddle "as a

lever”. Staff agreed to look at that language as well.

Page 7, 26-46 (c)

Mr. Ward asked for a clarification with respect to the construction of the principal structure and why the accessory structures (dock, boathouse) could not be built before the primary structure. Mr. Mendez clarified that if the applicant is proposing to exceed the limits of what is permitted by right, in order to get a special exception or administrative approval, they would not be able to secure the dock and shoreline permit approval until the building permit for the house is issued, concurrently or before. A dock or other dock and shore structures if permitted by right could be constructed before the primary structure. It is the exceedances that this is capturing.

Mr. Bob Knight asked for a clarification and staff reasoning for this section as well. Mr. Mendez explained that the departures staff is proposing are special exceptions and administrative paths that don't require a hardship analysis. The requirement is to ensure that the use for the property is a single family residence.

Further discussion followed with the suggestion that wording in that section be changed; perhaps the word commencement should be changed to "*prior to the approval of a permit for a principal structure.*" Staff agreed to look at the section and revise the language accordingly.

Mr. Tim Keene asked staff to consider the extent of the deviation, particularly, if minor. If the paragraph was stated more as an additional condition that the HEX or whomever has to consider during the various process rather than an absolute, Mr. Keene felt it could be included as an additional criteria for consideration. Staff made note of Mr. Keene's comment.

Mr. Stokes had additional comments concerning this section as well, stating that the dock permit should not be held up; that the zoning of the property and the zoning codes dictate what can be built on the property. He also stated that working on a vacant lot is completely different than working concurrently with other construction, so being able to work prior to commencement is very important.

Mr. Mendez provided two scenarios for clarity:

A property with 500 sq. ft. boathouse is proposed, which is within current limitations. The applicant could build the dock as long as the lot is buildable, and would not need a Special Exception or an approved building permit for a single family residence.

If an applicant wants to entertain building a bigger boathouse through a special process, then they would need to pursue a special exception (SE). The SE could be sought before the permit for the house is submitted and the applicant can get an answer on what can be done, but would not be able to secure a permit for the dock structure and have it issued prior to the house being approved.

Page 16, Sec 26-74

Ms. Hayden referred to artificial waterbodies and mangroves, and asked if there should be a definition added. The navigable channel definition only pertains to natural waterbodies. Staff agreed to review.

Page 17. Mr. Keene asked if there had been complaints about boat houses blocking views. The comment was made that a vessel could block the view more than the boat house. The

restrictions for boathouses are more restrictive than what could be built to block the views. But boathouses can't be enclosed – it's just a roof and supporting structures; but that is why a special exception process is warranted when someone wants to increase the size of a boathouse.

Page 18. Mr. Ward had questions relating to the handrail criteria. Mr. Mendez said there is an administrative deviation process specifically carved out for handicapped situations to increase the size of walkways in the instances Mr. Ward referenced.

Page 20. Ms. Hayden referred to (d)2, where “minimal” was struck out, leaving “*average 12” in diameter.*” She referred to (a)(2) above suggesting that change be made to the last sentence in that section as well. Staff agreed to fix that oversight.

Page 22 (26-80(a)). Ms. Hayden referred to paren (a) “*transfer of watercraft slip credits to and from single family docks as defined...*” She didn't see a definition for a watercraft slip credit. Mr. Mendez responded that this was intended to point the reader to “Boat slips” and not necessarily to slip credits which is handled in the Manatee Protection Plan.

Mr. Bill deDeugd made a motion to accept the amendments with the suggestions and revisions that staff agreed to review. Ms. Hayden summarized her list: staff will check the definition of multi-slip docking facilities within Sec 26-41; staff will check the definition for paddlecraft. Staff agreed to review the wording in Sec 26-46 regarding variances or special exceptions with respect to construction of the primary structure; staff will look at whether a definition is needed for navigable channels in artificial waterbodies with mangroves. Staff will address the oversight in Sec 26-75 (a)2.

Mr. Knight seconded.

Mr. Keene referred again to page 7 of 27 (26-46) asking if staff was going to consider changing the wording to take into consideration the extent of the deviation being requested. Mr. Mendez responded that dock structures can be built without the primary structure if they don't exceed what is permitted by right. It would be difficult to establish a tier system or make a judgment as to what is minor and what is not for structures exceeding the standard.

After discussion the original motion remained unchanged. The motion was called and passed unanimously.

Ms. Hayden announced that the next meeting was scheduled for July 13, 2022.

There was no further business. Ms. Hayden adjourned the meeting at approximately 3:00 p.m.