

**MINUTES OF THE
HARBOR AND WATERWAYS BOARD MEETING
DESTIN CITY HALL, FEBRUARY 28, 2022 - 5:00 P.M.**

1. CALL TO ORDER:

Chairman Hoey called the Destin Harbor and Waterways Board meeting to order at approximately 5:30 p.m. on Monday, February 28, 2022, at Destin City Hall, with the Pledge of Allegiance immediately following.

2. ROLL CALL:

<u>Member Present:</u>	<u>Members Absent</u>	<u>Staff:</u>
Richard Hoey	Harvey Hurst	Rey Bailey City Clerk
Guy Tadlock	Casey Jones	Daniel Butler Senior Planner
John Stephens		Tunazzina Alam Planner
Jim Green		Sae More Planner
Bill McKissick		Kyle Bauman City Attorney

3. APPROVAL OF MINUTES:

➤ **January 24, 2022**

Board member Green moved to approve the minutes of the January 24, 2022 minutes as written, with Board member Stephens providing the second; the motion passes with a 5-0 vote.

4. PUBLIC COMMENTS:

None

5. OLD BUSINESS:

None

6. NEW BUSINESS:

A. 4137 Belcourt Drive- Proposed Single-Family Residential Marine Construction

Mrs. Alam provided the members with the details of the request adding that the request meets all the requirements of the Code and staff recommends approval of the request by the applicant, Josh Reiker, of a residential construction for one (1) 110' x 5' access pier, one (1) 20' x 10' terminal platform, one (1) 15' x 4' finger pier, and one (1) 16' x 10' stepdown platform, comprising approximately 970 square feet.

Board member Green made the recommended motion to that the Harbor and Waterways Board recommends City Council approve the request located at 4137 Belcourt Drive, subject to the applicant meeting all the requirements. Board member Stephens provided the second and the motion passed with a 5-0 vote.

B. 4141 Belcourt Drive - Proposed Single-Family Residential Marine Construction

Mrs. Alam provided the Board members with the background information on the request explaining that the request meets all the requirements of the code and staff recommends approval of the request by Blase Craig for the construction of a 106.5' x 4' access pier, one (1) 16' x 10' terminal platform, two (2) 40' x 4' finger piers, one (1) 40' x 18' covered boat slip, and one (1) 20' x 1' roof overhang, comprising approximately ±1,646 square feet.

Board member Green made the recommended motion to that the Harbor and Waterways Board recommends City Council approve the request located at 4141 Belcourt Drive, subject to the applicant meeting all the requirements. Board member Stephens provided the second. In discussion, Board member Tadlock questioned the submerged land lease requirements. Board member Green noted the location of the submerged land lease information in the application. **Having no further questions, the Chairman called for the vote and the motion passed with a 5-0 vote.**

C. 130 Country Club Drive W. - Proposed Single-Family Residential Marine Construction

Mrs. Alam provided the Board members with the background information on the request explaining that the request meets all the requirements of the code and staff recommends approval of the request residential construction of a 70' long and 36" high seawall to be built in two sections of 30' and 40' on both side of the existing dock.

Board member Green asked the applicant if the project was already built prior to obtaining a city Building Department permit.

The Applicant stated that he uploaded the information to Compass and thought that was all he needed to do to get the project started since it was to be built landward.

Board member Stephens asked if the project impacted seagrass beds. According to the applicant, it did not.

Board member Green stated that since he has the letter from the FDEP which is essentially an exemption, he has no issues with the request.

Board member Green moved to approve the requested project and for the Harbor & Waterways Board to recommend City Council approve the single-family marine construction project located at 130 Country Club Dr. W., subject to the applicant meeting all applicable City permit requirements. Board member Stephens provided the second. The motions passed with a 5-0 vote.

D. 138 Durango Road a Short-Term Rental- Proposed Commercial Marine Construction

Ms. Sae More provided the members with the background information of the project request. She explained that the project meets all the requirements of the Code as well as the 25' riparian line setback requirements, and staff recommends City Council approve the request to construct eight (8) mooring pilings, consisting of 4 measuring 8'X 25' piles with wrap and another 4 measuring 6' X 16' piles with wrap.

Board member Green asked how this request meets the 25' riparian setback when it's on a cove and have there been any comments for concern from the adjacent property owners.

Mr. Butler explained that staff mailed out the required letters to the adjacent property owners and staff has not received any comments within the required timeframe from the adjacent property owners.

Motion by Board member Green seconded by Board member Stephens for the Harbor & Waterways Board recommendation that City Council approve the request for a single-family marine construction project located at 138 Durango Road, subject to the applicant meeting all applicable City permit requirements.

Board member McKissick asked why this is considered a commercial request. According, the applicant's attorney, Alicia Hurwood, the owner, Ms. McDonald has the home listed as a short term rental, therefore the city deemed it as a commercial request. Board member McKissick asked if there are plans for a boat to be present full time as part of the rental. According to the applicant, yes, her personal pontoon boat.

Board member Tadlock provided the members with the background information regarding the horseshoe shaped easement owned by the County. And spoke of several concerns that the HIIA has with the project. He also mentioned that he has obtained the deed to the upland easement owned by the County.

The City Attorney warned Board member Tadlock regarding his conflict and with this being a Quasi-Judicial request and speaking of providing potential evidence.

The applicant's attorney spoke of how the County has supplied a letter for the applicant stating they have no objection to the request and do not have any concerns. And how they have expressed their concern with Mr. Tadlock's conflict with that panel as well.

Board member Green spoke of how at this point of the project review, with the County having no objection and neither adjacent property owner has voiced any concerns, HIIA should deal with their concerns separately from this Board's decision.

Board member McKissick asked the question if the request is for installation of mooring pilings or a boat slip.

According to Mr. Butler, the request is for 8-mooring pilings which constitutes a slip and is why it is before the Board as a boatslip. He reiterated the verbiage in 11.05.01(Q), "No pier shall extend more than 6-feet into a canal or right-of-way. However, it does not say anything about a boatslip extending 6-feet, it says, pier, which is a designated wooden structure.

Vice Chairman Green pointed out that the waterway is a canal and the pilings would not impede any navigational waters. Also, the letter from the County clearly states they have no objection to the request.

The City Attorney explained he has spoken with the Community Development Director as well as the Land Use Attorney regarding this request and it is his determination and the city's position that the Board members need to "divorce" themselves from the HIIA process. Because they are two completely separate processes and, is not a legitimate basis to deny the application request based on potential HIIA issues.

The Chairman spoke of how his concern is whether the city has the right to authorize construction based upon the fact that there are no riparian rights associated with the applicant's property based on the State's 25-foot riparian rights requirements. He also spoke concern that the city may be held liable in the future if this request were approved.

According to Vice Chairman Green, if the County owns the water and the easement, and they have stated they have no objection to the request, he questions if the HIIA even have authority over this since the easement is not State waters, and it was dug by the County. Adding that the letter from the county keeps the city from being liable for anything.

Chairman Hoey also voiced his concern for the fact that the applicant does not have their State permits for the request and feels they should not be able to make a recommendation without them.

The City Attorney advised the members that they are all aware that this board does not have the authority to hold their recommendation based on whether those permits has been obtained. Reminding them those conditions can only be held at the building permit level at time of construction, where those type permits are required.

According to Mr. Butler, staff only needs the proof of submission to the FDEP which is included in the agenda item exhibits.

Vice Chairman Green restated his motion he made earlier **for the Harbor & Waterways Board recommendation that City Council approve the request for a single-family marine construction project located at 138 Durango Road, subject to the applicant meeting all applicable City permit requirements, which involves the FDEP, the State, and everything else discussed.** Adding that everything they've been discussing has a different venue to be dealt with at that level. He also spoke of how he feels if this board denies the permit based on other board members issues and some who sit on other panels to review this application, could potentially open the city up for litigation or liability problem.

Board member Stephens asked for the explanation as to why again this was being deemed commercial at a single family residence. Staff informed the board that the request is being deemed commercial because of the short term rental of the home, and not the marine construction, which are not allowed to be rented or provide the homeowner income based on the zoning regulations.

The City Attorney advised the Chairman to open the hearing for any other public comment. With there being none, Chairman Hoey closed the public.

The City Attorney then explained he doesn't normally swear in Harbor Board attendees because its normally perfunctory however, in this project, being Quasi-Judicial in nature, he asked for everyone that provided testimony to swear and affirm the testimony they provided earlier in the hearing was whole truth earlier. The following individuals swore:

Daniel Butler

Sae More

Missy McDonald

Alicia Hurwood

Board member Tadlock made a substitute motion to table the request until the County has resolved the ownership of the upland property. Board member McKissick provided the second.

The applicant's attorney reiterated that since the County has not conveyed the piece of property in 35 years, the idea that it's going to happen in the next month or two is farfetched. Additionally, that is not what is before the board. What is before them is the application for 8-pilings, and the county has already granted the use for those pilings and asked for the Boards vote to approve and move forward with the application. Noting that if there are later issues that come up, then it can be handled at that time.

Board member Green spoke out against the amended motion pointing out that the request is simply for 8 pilings to make a slip. Not a pier, not a dock, just a slip. And if the County has an issue with it later on, then it's up to them to make the applicant remove the pilings at a later date.

Adding that whatever issues anyone of them have with the request, there are plenty of other venues to voice those concerns.

The applicants attorney, Ms. Hurwood again spoke to the fact that Board member Tadlock has a conflict of interest with this project being that he sits on the HIIA Architectural Board and is making an amended motion to table the project.

Board member Tadlock withdrew his substitute motion.

Chairman spoke of how it's incumbent for the staff to make sure that all of the required permits are received prior to final approval of this project. **He then called for the vote and the motion passed 3-2 with Board members Tadlock and Chairman Hoey dissenting.**

7. **BOARD MEMBER COMMENTS:**

None

8. **DIRECTOR'S REPORT:**

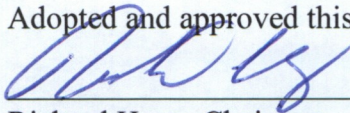
None

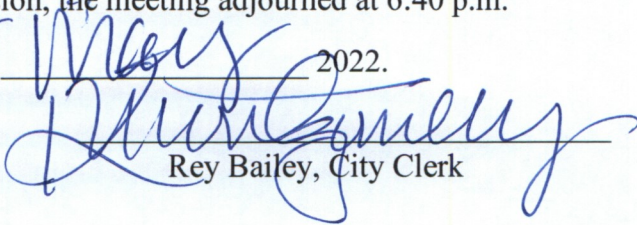
9. **NEXT MEETING DATE:**

10. **ADJOURNMENT:**

With there being no further discussion, the meeting adjourned at 6:40 p.m.

Adopted and approved this 23rd day of May 2022.


Richard Hoey, Chairman


Rey Bailey, City Clerk