

**MINUTES OF THE
HARBOR AND WATERWAYS BOARD MEETING
DESTIN CITY HALL, SEPTEMBER 26, 2022 - 5:00 P.M.**

1. CALL TO ORDER:

Chairman Hoey called the Destin Harbor and Waterways Board meeting to order at approximately 5:00 p.m. on Monday, September 26, 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	Kim Montgomery Deputy City Clerk
Jim Green	Casey Jones	Steve O'Connor
Bill McKissick	John Stephens	Sae More Planner
Guy Tadlock		Kyle Bauman City Attorney

3. PUBLIC COMMENTS:

None

4. NEW BUSINESS:

Motion by Chairman Hoey with Board member Tadlock providing the second to set aside the order of the day to move item A to the C position.

A) Single-Family Residential Marine Construction Proposed at 155 Calhoun Avenue

Miss More explained the applicant is requesting the Harbor and Waterways Board's approval for single-family marine construction located at 155 Calhoun Avenue, located within the Choctawhatchee Bay, a Class II Florida Waterbody. The proposed marine construction project meets the following requirements of Section 11.05.00, City of Destin Land Development Code (LDC), in addition to providing the 25-foot riparian setback, the proposed project meets the following:

- 11.05.01.A – Construction of new dock
- 11.05.01.C, 11.05.01.D – Waste Disposal into the Harbor and Waterways of Destin
- 11.05.01.F, 11.05.01.G, and 11.05.01.M – Length of the pier

Additionally, the applicant provided a receipt of submittal from Florida Department of Environmental Protection (FDEP) of Self-Certification, File #0424960001EE. City Staff reviewed the application and determined that the plans comply with City Codes and regulations. Specifically, the proposed dock complies with LDC Section 11.05.01.M, Marina Siting, and the Coastal Management Element of the City's Comprehensive Plan (Coastal Management Element Policy 6-1.1.3). Staff recommends approval of the single-family marine construction project proposed at 155 Calhoun Avenue, consisting of one (1) 175' x 24' pier with a 24' x 8' terminal

landing, and one (1) 4'x16' finger pier, comprising a total of ±996 square feet, subject to the applicant meeting all applicable City permit requirements.

Motion by Vice Chairman Green seconded by Board member Tadlock to recommend City Council approve the request of the single-family marine construction project proposed at 155 Calhoun Avenue, consisting of one (1) 175' x 24' pier with a 24' x 8' terminal landing, and one (1) 4'x16' finger pier, comprising a total of ±996 square feet, subject to the applicant meeting all applicable City permit requirements. The motion passed 4-0.

B) Commercial Marine Construction Proposed at 105 and 109 Calhoun Avenue

Miss More explained the applicant is requesting the Harbor and Waterways Board's approval of their application for Harbor and Waterways Board review for the construction of a 26-slip commercial marina consisting of one (1) 392' x 8' access pier, one (1) 171' x 9' terminal platform, six (6) 30' x 4' finger piers, four (4) 25' x 3' finger piers, and two (2) 21' x 3' finger piers, comprising a total of ±5,821 square feet. Additionally, the applicant is proposing to provide a Water Taxi Boarding Area. The proposed commercial marine construction project located at 105 and 109 Calhoun Avenue, located within the Choctawhatchee Bay, a Class II Florida Waterbody. Additionally, the proposed marine construction project meets the following requirements of Land Development Code (LDC) Section 11.05.00, in addition to providing the 25-foot riparian setback on the south side of the dock,

- 11.05.01.A – Construction of new dock
- 11.05.01.C, 11.05.01.D – Waste Disposal into the Harbor and Waterways of Destin
- 11.05.01.N – Slip density
- 8.09.03.A.9.d - Water taxi stop

Miss More also stated that the applicant has provided permits from both Florida Department of Environmental Protection (FDEP), Permit No. 0317602-002-EI/46 and U.S Army Corps (USACE) of SAJ-2019-03226 (SP-SWA). City staff has reviewed the application and determined that the plans comply with city codes and regulations, aside from the Variance requested for the maximum length of the dock which will be heard before the Board of Adjustment on October 5, 2022. The plans show 208 feet of waterfront allowing for a 312' long pier. The proposed project is proposing a 392' long pier. The excess length is due to an identified environmentally sensitive area of sea grass within the first 100+/- feet of the pier. There are inconsistencies in the requested number of slips illustrated on the "revised" site plan submitted to the city versus the site plan submitted to the Florida Department of Environmental Protection (FDEP) and the United States Corps of Engineers (USACE). The number of slips on the approved USACE and FDEP plans are thirty-three (33). However, the applicant is requesting twenty-six (26). Twenty-five (25) commercial slips plus one (1) transient slip identified as a "Transient Mooring Area." This transient mooring area is considered a slip and therefore shall only allow for one (1) transient vessel at a time. It is worth noting there are two existing docks at the site and portions of both structures exist within 25' of the riparian lines. The dock to the south will retain

one boat slip or lift as identified on the site plan. The dock to the north is identified to have the existing boat lift removed. However, the dock layout is remaining untouched.

Staff recommends approval of the 25-slip commercial marina, also proposed to include a Water Taxi Boarding Area and 1 transient mooring slip, proposed at 105 & 109 Calhoun Avenue. The project consists of one (1) 392' x 8' access pier, one (1) 171' x 9' terminal platform, six (6) 30' x 4' finger piers, four (4) 25' x 3' finger piers, and two (2) 21' x 3' finger piers, comprising a total of ±5,821 square feet, subject to the decision of the Board of Adjustment on the variation from the maximum permitted length of the dock, as well as the following conditions:

1. Conditioned upon the Board of Adjustment's approval for the requested 392' pier length.
2. Signs shall be posted along the existing docks that state "No Moring" along the length of the dock where there is no approved or identified slip per the submitted site plan.
3. Conditioned upon only one (1) transient vessel moored at any time in the area identified as "Transient Mooring Area" on the site plans.
4. No vessels utilized at the Heron's Nest marina shall have on-board toilets, per LDC 11.05.01.I, unless addressed within the Development Order process.
5. The Water Taxi Stop area shall meet all the standards for a Water Taxi Stop per 8.09.03.A.9.d – Water Taxi Stop.
6. The proposed dock shall install a white navigation/security night-light installed at the furthest point seaward on said dock and such light is to be illuminated continuously from dusk to dawn every night of the year and it shall be installed prior to the issuance of a Certificate of Completeness (CC) per LDC 11.05.01.U.
7. The proposed dock shall provide appropriate firefighting equipment and facilities as specified by the Fire Marshall per LDC 11.05.01.V.
8. At the time of marine construction permit application submittal, the applicant shall provide the city with revised and approved plans from FDEP and USACE reflecting 25-slips, plus one transient slip and the water taxi boarding area. The plans shall not deviate from the approved dimensions as presented or as approved by the Harbor and Waterways Board, the Board of Adjustment, or City Council.

Chairman Hoey opened the public portion of the meeting for any comment. With no one coming forward, he closed the public and asked the members for any discussion or a motion.

Agency member Tadlock asked Mr. Buckingham the following, if the project would have a net environment fee assessed and spoke of the need for projects to have pump outs.

According to Mr. O'Connor, this project does not, being that it is not on the harbor. Mr. Buckingham explained to the members this project is for Bay fishing only and there are not any charter boats with heads planned for the project, and if they would change that, he, as they all know, would have no problem installing one.

Mr. Tadlock asked about the riparian line on the eastern side, as it looks to coincide with the property line and thought it needed to be 25-feet out.

According to Mr. O'Connor, the language in the code states that projects must be 25-feet from the property line and not riparian line, and that portion of the dock he is referring to is on the riparian line.

The Chairman brought up the letters of concurrence for the adjacent property owners.

According to Mr. Buckingham, the adjacent property owners are the city of Destin and the other is present at this meeting. Additionally, the FDEP and the ACE has approved and issued the necessary permits for the project.

Mr. O'Connor reminded the members staff is required to mail letters of notifications to the adjacent property owners, which staff has done so.

Board member Green asked why slips 28, 29, & 30 were removed from their application.

According to Mr. Buckingham, they were only allowed to have x-number of slips, and even though the ACE and the FDEP approved them, staff explained per code, they could not have that many slips, so they were removed. Mr. O'Connor explained that the density for that zone is one per eight feet, which allows 26-slips.

Board member Green asked about the process for the dock length that is necessary because of the sea grasses present and the shallowness of the water. According to Mr. O'Connor, usually they would go before the Board of Adjustment first however, due to time constraints, staff needed to bring this project before this board first.

Board member Green spoke of how well the project is planned and the location and spoke in favor of the project.

Board member McKissick asked if they would have any rental boats, all charter type boats or all personal boats. According to Mr. Buckingham, they will be strictly bay fishing boats.

The Chairman spoke of the importance to have a white navigational light at the end of the of the dock, especially with this project being so far out into the water for safety purposes. He also spoke positively of the protective railings that they have planned to provide safety as well as impeding anyone from trying to tie up and dock, which is not allowed, as well as the No Mooring signage.

Motion by Board member Green for the Harbor and Waterways Board recommend City Council approval of the Commercial Marine Construction project located at 105 and 109 Calhoun Avenue, subject to the recommended Staff conditions and all applicable Federal, State, and City permit requirements including the No Mooring signs on existing docks, with Board member McKissick providing the second.

Chairman Hoey opened the public portion of the meeting for any comments. With no one coming forward to speak, he closed the public for comments and called for the vote. **The motion passed with a unanimous vote of 4-0.**

C) Draft Land Development Code Marina Siting Section of the Draft Article 4 – Zoning Districts, Overlays, and on-site regulations.

According to Mr. O'Connor, staff is prepared to take any comments or inclusions the board wishes to make or anything they notice that didn't make it into Section 4.11, or a recommendation that will be included in the draft, which will come back to them later, after the tentatively scheduled Council workshop on October 27th.

The Chairman mentioned that since they did not receive their packet until just today, they may need more time to review it all. However, he does have some comments to make since he was able to review it from the agenda center on the city website.

Mr. O'Connor explained to the members that if the issues are process related, they were moved to Article 2 and if its regulation related, it stays in Article 4, Section 11.

Chairman Hoey mentioned the following:

- Include rebuilds into the language
- Self-certifications 1000 sq. foot or less in 4.11(B)

Board member Green referred to section A-4, Docks shall not be constructed which permits commercial docking of boats without onboard toilets unless the dock is equipped with sewage pumps and asked if this applied to only new construction.

According to Mr. O'Connor, because he is not 100% positive on the nonconformity language he does not want to misquote it to them and he will get the answer and bring that information back. However, specifically for new construction, the language is if a structure is demolished or destroyed to a certain percentage, they're allowed to rebuild as it was.

Chairman Hoey spoke of the 25-foot setback used by the FDEP as well as the 10-foot setback for parallel docks along the shoreline, and asked Mr. O'Connor to have it added to the language in the Code for Holiday Isle for consideration of adoption. For clarification purposes, Mr. O'Connor asked if he would like to have the following language added throughout and not just Holiday Isle.

According to the Chairman, all docks anywhere in the city limits if the owner is wanting to build within 25-feet, or a 10-foot setback for a marginal dock, it needs to come before them for consideration and a recommendation.

After a brief discussion on this topic, the members agreed that any project where the owner is wanting to go into the riparian rights of the adjacent property, it should have to come before the Harbor & Waterways Board for recommendation for approval.

Mr. O'Connor informed the members that staff has already directed the consultant, 3TP to identify projects as Category 2, meaning they come before the Board for recommendation to City Council for a Consent Agenda approval if they break projected riparian setbacks.

Board member Green asked Mr. O'Connor to explain what is meant by the statement, in Section B, #6, "What shoreline shall require protection from erosion as determined by the city."

According to Mr. O'Connor, if there is an identified area of erosion along a shoreline, then wherever it is in the city, that property owner would have to take the appropriate measures to mitigate that erosion by whatever would be the best mitigative techniques along a shoreline.

Board member Tadlock spoke of how marginal docks on Holiday Isle are referred to as parallel docks and are limited to 6-feet beyond the property line and no mooring pilings are allowed outside that 6-feet. Additionally, the parallel docks are allowed from property line to property line. Where essentially, someone could walk up and down the canal, if not fenced, and so far, he is not aware if anyone has objected to those parallel docks being connected. Adding that the only areas of Holiday Isle where they are allowed is Sandpiper Cove, Holiday Isle, and Harbor Lights, and he would like for staff to work with Architect Review Board for the appropriate language regarding those. Additionally, in the General Regulations, Item #3, he feels the city needs to think about how more and more fuel is being unloaded at private residences on the canals in the harbor and how he is concerned for the water quality because of this. He also spoke of how he doubts there is sufficient boating taking place for these type deliveries in case there is a fuel spill, and spoke of an incident that once took place at one of the residences who had their fuel for their boat brought in, and feels there should be a limit on or not allow dispensing of large amounts of fuel in residential areas.

Board member Green asked if the covenants requirements supersede city codes. According to Mr. O'Connor, city staff only enforces city codes and if a covenants is stricter, staff will still permit the structure to meet city codes, but the owner would still have to adhere to their HOA.

Board member Tadlock suggested the city codes to reflect the HOA rules to be consistent.

Mr. O'Connor he pointed out that if each HOA has different requirements asking staff to adhere to each one's rules sets up staff to possibly make mistakes. Therefore, it's best to just have one set of rules to adhere to, to keep that from happening. However, if that is their directive, staff will draft it to bring before City Council.

Board member Green stated that to him, the contents of what they have reviewed is going in the right direction.

Mr. O'Connor informed the members that staff will input their comments and bring them back before them to review at a future date.

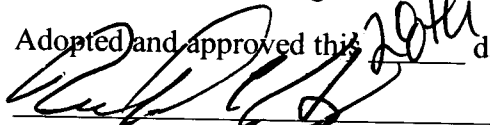
5. **PUBLIC COMMENT:**

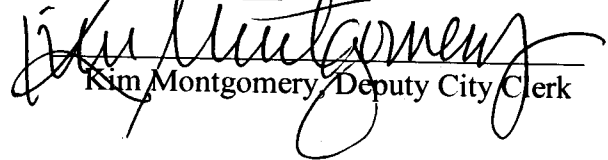
None

6. **ADJOURNMENT:**

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

Adopted and approved this 20th day of November 2022.


Richard Hoey, Chairman


Kim Montgomery, Deputy City Clerk