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

1. CALL TO ORDER:

Chairman Hoey called the Destin Harbor and Waterways Board meeting to order at approximately 5:00 p.m. on Monday, November 28, 2022, at Destin City Hall, with the Pledge of Allegiance immediately following.

2. ROLL CALL:

Member Present:	Members Absent	Staff:
Richard Hoey	Harvey Hurst	Kim Montgomery Deputy City Clerk
Jim Green	Casey Jones	Steve O'Connor Principal Planner
Bill McKissick		Daniel Butler Senior Planner
Guy Tadlock		Christopher Willis Planner
John Stephens		Kyle Bauman City Attorney

3. MINUTES: September 26, 2022

Motion by Board member Stephens to approve the minutes of the September 26, 2022, meeting passed with Board member McKissick providing the second. The motion passed with a 4-0 vote, Board member Green not being present at the time of the vote.

4. PUBLIC COMMENTS:

None

5. NEW BUSINESS:

A) 4049 Indian Bayou North - Proposed Single-Family Residential Marine Construction Project

Chairman Hoey mentioned that in light of not having the applicant present to answer their questions and the scope of the request, he feels that this project should be heard at the next scheduled meeting.

Motion by Board member Tadlock to table hearing the requested project to the next scheduled meeting.

Mr. O'Connor spoke up and reminded the members that they cannot hold up the approval process because the FDEP and ACOE permits have not been obtained, which is only allowed, per State Statutes, at the Marine Construction Permit level, which is after City Council's approval.

Board member Tadlock withdrew his motion to table the project.

Mr. Christopher Willis presented the request to the member providing the details and location of the project request.

Mr. Butler added that the applicant is looking to remove the 4-foot section that makes it a shared dock making it two separate parcel docks.

Motion by Board member Stephens that the Harbor & Waterways Board recommend City Council approval of the single-family marine construction project located at 4049 Indian Bayou North, subject to the applicant meeting all applicable City, State and Federal permit requirements, Board member Tadlock provided the second.

The Chairman asked staff if the letters of notification were sent out to the adjacent property owners as well as the owners on the other side of the body of water. According to Mr. Butler, per code, staff is only required to send the letters to the adjacent property owners, which they did.

The contractor and agent for the applicant, Branson Wright entered the meeting. He then proceeded to ask if the property owner could request to have two jet ski lifts installed at this level or at the State level.

According to Board member McKissick, he recommended they should request for the separate lifts at the State level.

There was additional discussion about what happens if the applicant changes the design of the request. According to Mr. O'Connor if the applicant reduces the request then it would not come back before this Board, but if he increases it, it would trigger a new request.

Board member Tadlock pointed out to staff that the request with the covered boat house is 27-feet and asked isn't that going out too far, according to the 20% rule in the Code. Staff reviewed the plans and determined that Mr. Tadlock's calculations is correct.

Mr. Wright asked since there is protected species presence are they not allowed to go out further.

The City Attorney stated that since the request is now questionable, he recommends that the board withdraw the motion to recommend the project and table it until staff can work with the applicant to determine what steps need to be taken.

Board member Stephens withdrew his original motion and made the motion to continue the project to the next scheduled meeting of the Harbor & Waterways Board, with Board member Tadlock providing the second. The motion passed 5-0.

B. 119 Calhoun- Proposed Commercial Marine Construction Project

The City Attorney swore in members of staff and Stephen Tatum, representative for the applicant for any testimony they may provide.

Mr. Butler provided the board with the details of the project request spoke of how it originally came before the Board in April however, the request was tabled due to questions regarding the slip density and the drawings. Then there was a quorum problem with the next scheduled meeting and so, the applicant is not back before them for the recommendation to City Council for approval. Mr. Butler added that the drawings now are all up-to-date with the request and their State and Federal permit requests and staff recommends approval of the request with the three conditions outlined in the packet which does not include the forth since that has been provided after the agenda packet was provided to the Board.

The City Attorney moved the application and staff report into the record with no objection from the applicant, Mr. Steven Tatum.

Mr. Tatum addressed the Board noting that everything is now consistent with the code and if they had any questions, he would be glad to provide any additional information.

Board member Stephens asked if gas cans were to be used for fueling the vessels. According to Mr. Tatum, that is correct, unless they are taken to the marina to be filled.

Board member McKissick asked if the definition of one slip is one boat? According to Mr. Butler, that is correct.

Board member Tadlock asked if there are any plans to have any additional boats moored. According to Mr. Tatum, there is not, and they have removed the two parasail boats that were originally proposed.

Board member McKissick asked why the requested size of the slips are 18-feet wide if only 8-foot wide pontoon boats are going in the slips, noting that is big enough for two pontoon boats in one slip.

Board member Green spoke up and explained the livery vessel requirement policy that was created through the Harbor CRA-AC and all the requirements that livery vessel companies must meet in order to get their approval to run their businesses in the city.

Mr. Tatum added that the Development Order for the project approved that many slips adding the parking is based on the number of boats requested and nothing more.

Board member McKissick stipulated that he contacted the city prior to this meeting and was informed that the applicant has more permits than what is being portrayed in the request.

The City Attorney spoke up and informed the Board that this is a Quasi-Judicial hearing, and any outside information is grounds for reversal therefore all questions need to be asked to staff to answer and not for the applicant to explain.

Mr. O'Connor stated for the record that currently staff has no knowledge of the number of livery vessels permitted for this site.

Motion by Board member Green recommend City Council approval of a commercial watersports docking facility at 119 Calhoun Avenue, which consists of a 144-ft by 6-ft access pier and a 50-ft by 6-ft terminal platform, containing a total of twelve (12) slips and comprising approximately 1,134 square feet, subject to the applicant meeting all applicable City, State, and Federal permitting requirements, with the following conditions:

1. The proposed dock does not propose a sewage pump-out; therefore, no vessels utilized by Wet N' Wild Watersports shall have on-board toilets, per LDC 11.05.01.I.

2. 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, per LDC 11.05.01.U. Such light shall be installed prior to the issuance of the Certificate of Occupancy.

3. The applicant provides the City with approval from FDEP and USACE regarding the revised set of plans at the time of building permit application. The revised plans that are to be sent to FDEP and USACE are not to exceed twelve (12) slips, the maximum slip density allowed per LDC 11.05.01.N and shall be consistent with what is being reviewed by the City of Destin.

Board member Stephens provided the second. A roll call vote of 3-2 was taken and the motion was denied, with Board members Hoey, Tadlock and McKissick dissenting.

The City Attorney noted that even though this is a recommending board, generally a reason for denial should be voiced.

Chairman Hoey spoke up and stipulated that he voted incorrectly and would like to change his vote.

The City Attorney advised the correct procedure is to make a motion to reopen the voting.

Motion by Board member Stephens to reopen the voting with Chairman Hoey providing the second. A roll call vote of 3-2 was taken and the motion passed, with Board members McKissick and Tadlock dissenting.

Motion by Board member Green recommend City Council approval of a commercial watersports docking facility at 119 Calhoun Avenue, which consists of a 144-ft by 6-ft access pier and a 50-ft by 6-ft terminal platform, containing a total of twelve (12) slips and comprising approximately 1,134 square feet, subject to the applicant meeting all applicable City, State, and Federal permitting requirements, with the following conditions:

1. The proposed dock does not propose a sewage pump-out; therefore, no vessels utilized by Wet N' Wild Watersports shall have on-board toilets, per LDC 11.05.01.I.

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Board member Stephens provided the second. A roll call vote of 3-2 was taken and the motion was passed, with Board members Hoey and McKissick dissenting.

C) 600 Harbor Boulevard - Proposed Commercial Marine Construction Project Mr. John Green agent for the applicant.

The City Attorney swore in staff members and Mr. John Green for any testimony that may be provided.

Mr. Willis, Planner provided the details of the request to the board.

The City Attorney asked if staff wanted to add the staff report and all the exhibits into the record. With Staff verifying that they do, the Chairman accepted them into the record. Mr. Green stipulated that he has no objections to the action.

Motion by Board member Green, seconded by Board member McKissick, that the Harbor & Waterways Board recommend City Council approval of the commercial marine construction project located at 600 Harbor Blvd, subject to the applicant meeting all applicable City, State and Federal permit requirements and with the following conditions:

1. The Marine Construction Permit pertaining to this proposed marine facility cannot be issued until the Development Order Deviation is approved.

2. A new FDEP submittal shall be made to accurately reflect the proposed improvements /conditions and approved, and then that approval shall be provided to Staff prior to the issuance of any Building Permit.

3. If the FDEP approves the fuel storage facilities on-site, an Oil Abatement Plan per 11.05.01.E. shall be submitted for review before issuance of any Marine Construction permit.

4. The cost estimate provided does not reflect the current scope of work being proposed. Prior to issuance of any Building Permit, the applicant shall provide the City with a revised cost estimate the reflects the current scope of work. This cost estimate shall be used to determine the Net Positive Environmental Benefit (NPEB) payment that is to be made to the city, per Land Development Code (LDC) 11.05.02.N.

Mr. O'Connor explained that #4 condition was removed because the cost estimate has been provided to staff after the publication of this staff report.

Board member Stephens asked if the Oil Abatement Plan would have to come back before this board after City Council's review. According to Mr. O'Connor, it would not, however they do have it in their power to make that a condition to have it come back before this board for their review and consideration.

Board member Green amended his motion by removing Condition #4 cost estimate.

Board member Stephens stated that he would prefer that the oil abatement plan come back before this board for their review. **Board member Green agreed and amended the original motion to make the Oil Abatement Plan as Condition #4 to be reviewed by the board, once obtained. Board member Stephens provided the second to the amended motion.**

Board member Tadlock asked where the property lines are on the plans. Mr. John Green explained the location of the property lines to the members are on page four of four. Board member Tadlock then asked if there is a plan for any retail sales of the gas to the public. According to Mr. Butler, in the Development Order review, there is no request for retail sales of gas.

The hearing was opened to the public for comment. Ms. Sam Perman of 4652 Destiny Way stated that she understands the purview of the board and mentioned that she too sees things that were approved by the Board but are not being adhered to on the harbor and knows that Code Compliance is understaffed and understands why those things happen.

With no one else coming forward to speak, Chairman Hoey closed the public and called for the vote.

A roll call vote of 5-0 was taken the motion passed.

C. COMMITTEE MEMBER REPORTS:

Tadlock – Spoke of how he feels that certified letters should be sent out to the adjacent property owners instead of just regular mailed letters so that staff has proof that the adjacent property owners have seen the letters and are properly informed of the proposed project.

Mr. O'Connor informed the Board that now is the time to get everything to staff that they would like to recommend to Council they feel needs to be added to Chapter 11, Marina Siting section of the Land Development Code.

Motion by Board member Tadlock, seconded by Board member Green, write into the procedures for marine application permits in Chapter 11 of the Marina Siting to require certified letters to adjacent property owners or applicable waterbody, whatever the application may be, that the adjacent property owners are to receive a certified letter and in the letter, the project request be described with the statement of notifying staff with any comments or concerns prior to the hearing. The motion passed unanimously 5-0.

Board member Tadlock spoke of how to him he feels that there should be some verbiage in the code regarding property line and riparian lines setbacks to keep the city from any possible litigation. Mr. O'Connor suggested that they include the word, "implied" and how it describes as the furthest distance allowed that goes out for any docks.

Motion by Board member Green to recommend that the setback for dock and marina facilities are setback to whatever distance identified per an implied riparian line at the same ray and/or degree of the property line for the furthest distance for a dock allowed. With Committee member Stephens providing the second.

There was a brief discussion regarding any future City Council meetings being rescheduled that happen to fall on this board's same meeting day to reschedule Harbor & Waterways Board meeting be rescheduled to meet on another day.

Mr. O'Connor explained that the draft for the Harbor Capacity Study is wrapping up and should be ready sometime in January. There will be some workshops scheduled and surveys should be sent out specifically to property owners, Livery Vessel, and Charter Boat Associations. There will also be people on the ground surveying as well.

D. ADJOURNMENT:

With there being no further discussion, the meeting adjourned at 7:05 p.m.

Adopted and approved this 24th day of January 2023

~~Richard Hoey, Chairman~~
John Stephens, Chair

Kim Montgomery, Deputy City Clerk