



Staff Report

File #: 16-133A, **Version:** 1

Agenda Date: 2/23/2016

Subject:

Authority to advertise a public hearing to be held on March 29, 2016, regarding a proposed ordinance amending the Water and Navigation regulations of Chapter 166 of the Land Development Code, specifically dealing with the permitting requirements for the repair or replacement of existing docks.

Recommended Action:

Advertise a public hearing to be held on March 29, 2016 for a proposed ordinance amending the Water and Navigation regulations in the Land Development Code which address permitting requirements for dock repair or replacement.

Strategic Plan:

Deliver First Class Services to the Public and Our Customers

5.3 Ensure effective and efficient delivery of county services and support

Practice Superior Environmental Stewardship

3.3 Protect and improve the quality of our water, air, and other natural resources

Summary:

The proposed amendments are primarily "housekeeping" in nature and intended to codify County policies that have developed since the adoption of the Water and Navigation regulations in 1990. Specifically, they would formally eliminate the need for dock applicants to obtain a variance in the following two scenarios: (1) the repair or replacement of previously permitted docks in a new configuration, but where variances are not increased, and (2) the repair or replacement of docks, in their historic configuration, where no permit can be located, but where the dock existed prior to the adoption of the code in 1990. These two scenarios are not explicitly addressed in the Code; however, they clearly meet its intent.

The proposed amendments are intended to improve efficiency in processing these types of applications for staff, dock applicants, and marine contractors, and will have no impact on the Board of County Commissioners historic Water and Navigation responsibilities.

Background Information:

Dock owners have long been able to obtain "repair permits" to repair or replace previously permitted docks in their exact, permitted configuration without having to obtain new variances. The proposed amendments will formally apply this provision to the two scenarios described above. Over the years, staff has routinely received applications that fall into these two categories and which do not qualify for "repair permits" even though they result in equal or lesser impacts to the environment, navigation, and surrounding neighbors.

As a result, policies have evolved over time whereby staff has reviewed these projects on a case-by-case basis and issued the permit once it was determined that there were no new impacts. The proposed amendments formally codify these policies so that they are more defensible and provide

clearer direction to staff, contractors, and applicants.

The amendments were approved unanimously by the Local Planning Agency on February 11, 2016.

Fiscal Impact:

N/A

Staff Member Responsible:

Kelli Levy, Environmental Management Division Manager, Public Works

Partners:

Dock applicants and marine contractors

Attachments:

Proposed Ordinance

Proposed Ordinance (strikethrough version)

Advertisement

ORDINANCE NO. 16 -

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY LAND DEVELOPMENT CODE, BE AMENDED BY REVISING SECTIONS 166-242 (DEFINITIONS) & 166-322 (DOCK REPAIR PERMITS); PROVIDING THAT THE DEFINITION OF “REPAIR PERMIT” BE REMOVED FROM SECTION 166-242 (DEFINITIONS); PROVIDING THAT SECTION 166-322 (DOCK REPAIR PERMITS) BE RENAMED “DOCK REPAIR AND RECONSTRUCTION” AND REVISING THE STANDARDS AND CRITERIA CONTAINED THEREIN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 2.04(v) of the Pinellas County Charter grants the Pinellas County Board of County Commissioners (the “Board”) Special Power to exercise countywide authority in implementing and enforcing water and navigation regulations; and

WHEREAS, the Board exercises this power through implementation of the Water and Navigation Regulations, which were codified through Ordinance 90-19 effective February 26, 1990; and

WHEREAS, the Water and Navigation Regulations are set forth in Article V of Chapter 166 (Environmental and Natural Resource Protection) of the Pinellas County Land Development Code as amended (the “Land Development Code”); and

WHEREAS, the existing Water and Navigation Regulations require a variance for any nonconforming dock reconstruction that does not qualify for a “Repair Permit” as defined in Section 166-242 (Definitions) of the Land Development Code, which may only be issued where the dock is reconstructed in the same configuration as the originally issued permit for the dock; and

WHEREAS, Section 166-291 (Variances) has historically been interpreted by County staff to allow dock reconstruction where such reconstruction does not increase the dock’s nonconformity with the Land Development Code; and

WHEREAS, the Board finds such interpretation to be rational, efficient, and consistent with the intent of the Water and Navigation Regulations and therefore desires to codify such interpretation; and

WHEREAS, the Board finds that removing the variance requirement in such instances will provide permit applicants and County staff with more explicit direction in preparing and processing dock permit applications respectively; and

WHEREAS, the Board finds that removing the variance requirement in such instances comports with the Natural Resource Conservation & Management and Coastal Management Elements

of the Comprehensive Plan and maintains adequate protection for the environment and public under the Water and Navigation Regulations.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida:

SECTION 1. That the definition of “Repair Permit” in Section 166-242 (Definitions) of the Land Development Code is hereby repealed and declared null and void and of no effect.

SECTION 2. That Section 166-322 (Dock Repair Permits) of the Land Development Code is hereby retitled “Dock Repair and Reconstruction” and amended in its entirety to read as follows:

Section 166-322. **DOCK REPAIR AND RECONSTRUCTION**

(a) Where any dock permit was previously issued under this article, a variance granted under section 166-291 shall not be required for the county to issue a permit for repair, replacement, or reconfiguration of the dock where either subsection (a)(1) or (a)(2) below is satisfied:

- (1) The dock is reconstructed in the same configuration approved in said permit.
- (2) Said permit demonstrates nonconformance with any one or more of the following subsections in this article:
 - i. Depth under subsection 166-321(f), 166-321(g), or 166-324(7); or
 - ii. Length under subsection 166-324(1), 166-333(a)(3), 166-333(a)(4), or 166-333(a)(7); or
 - iii. Dock and slip limits under subsection 166-324(3), 166-324(4), 166-333(a)(5); or
 - iv. Prohibited structures under subsection 166-321(k), 166-321(l), 166-321(m), 166-324(5), or 166-333(a)(2); or
 - v. Dock length and setback in the unincorporated county under subsection 166-333(b)(1), 166-333(b)(2), or 166-334(b)(1); or
 - vi. Commercial and multiuse private dock width in the unincorporated county under subsection 166-334(b)(1); and

The dock is reconstructed subject to the following condition(s) relevant to any of the applicable subsections identified in this subsection (a)(2) above:

- i. Depth of the slips is not decreased;
- ii. Total length of the dock is not increased;
- iii. Total nonconforming number of docks and/or slips is not increased;
- iv. Square footage of each category of prohibited structure is not increased;
- v. The dock is reconstructed such that there are no new structures located beyond the applicable setback and length limits required in the unincorporated county;
- vi. Width of the multiuse or commercial dock in the unincorporated county is not increased.

This subsection (a)(2) does not permit nonconformance with any criteria, requirements, or restrictions not explicitly listed in this subsection (a)(2) above, including but not limited to the criteria set forth in section 166-281.

- (b) Where no dock permit was previously issued under this article, a variance granted under section 166-291 shall not be required for the county to issue a permit for repair or replacement of that dock where the dock was originally constructed on or prior to February 26, 1990, remained in existence until two years or less prior to application submittal, and is reconstructed in the same configuration as existed on February 26, 1990. For the purposes of this subsection (b), a dock shall be considered to have "remained in existence" if at least 75% of the dock's pilings remain.
- (c) Repairs to or replacements of permitted boat lifts shall not require a permit under this article from the county unless pilings are to be replaced. Such boat lifts are to be reconstructed without enclosed sides.
- (d) Repairs to or replacement of deck boards only do not require a permit under this article from the county. This exemption does not apply to any support structure such as stringers, caps or floaters and all deck boards must meet the minimum construction criteria of subsection 166-332(7).

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 4. Inclusion in Land Development Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Land Development Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. Filing of Ordinance; Effective Date. Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the ordinance with the Department of State.

ORDINANCE NO. 16 -

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY LAND DEVELOPMENT CODE, BE AMENDED BY REVISING SECTIONS 166-242 (DEFINITIONS) & 166-322 (DOCK REPAIR PERMITS); PROVIDING THAT THE DEFINITION OF “REPAIR PERMIT” BE REMOVED FROM SECTION 166-242 (DEFINITIONS); PROVIDING THAT SECTION 166-322 (DOCK REPAIR PERMITS) BE RENAMED “DOCK REPAIR AND RECONSTRUCTION” AND REVISING THE STANDARDS AND CRITERIA CONTAINED THEREIN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 2.04(v) of the Pinellas County Charter grants the Pinellas County Board of County Commissioners (the “Board”) Special Power to exercise countywide authority in implementing and enforcing water and navigation regulations; and

WHEREAS, the Board exercises this power through implementation of the Water and Navigation Regulations, which were codified through Ordinance 90-19 effective February 26, 1990; and

WHEREAS, the Water and Navigation Regulations are set forth in Article V of Chapter 166 (Environmental and Natural Resource Protection) of the Pinellas County Land Development Code as amended (the “Land Development Code”); and

WHEREAS, the existing Water and Navigation Regulations require a variance for any nonconforming dock reconstruction that does not qualify for a “Repair Permit” as defined in Section 166-242 (Definitions) of the Land Development Code, which may only be issued where the dock is reconstructed in the same configuration as the originally issued permit for the dock; and

WHEREAS, Section 166-291 (Variances) has historically been interpreted by County staff to allow dock reconstruction where such reconstruction does not increase the dock’s nonconformity with the Land Development Code; and

WHEREAS, the Board finds such interpretation to be rational, efficient, and consistent with the intent of the Water and Navigation Regulations and therefore desires to codify such interpretation; and

WHEREAS, the Board finds that removing the variance requirement in such instances will provide permit applicants and County staff with more explicit direction in preparing and processing dock permit applications respectively; and

WHEREAS, the Board finds that removing the variance requirement in such instances comports with the Natural Resource Conservation & Management and Coastal Management Elements

of the Comprehensive Plan and maintains adequate protection for the environment and public under the Water and Navigation Regulations.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida:

SECTION 1. That the definition of “Repair Permit” in Section 166-242 (Definitions) of the Land Development Code is hereby repealed and declared null and void and of no effect.

~~*Repair permit means the permit for the repair or replacement of a previously permitted dock.*~~

SECTION 2. That Section 166-322 (Dock Repair Permits) of the Land Development Code is hereby retitled “Dock Repair and Reconstruction” and amended in its entirety to read as follows:

Section 166-322. ~~DOCK REPAIR PERMITS~~ DOCK REPAIR AND RECONSTRUCTION

~~(a) Repairs to docks, or replacements thereof, together with associated mooring piles, will require a repair permit from the county if the construction is done in the same configuration as the originally issued permit. If no original permit can be identified, a new permit is required.~~

(a) Where any dock permit was previously issued under this article, a variance granted under section 166-291 shall not be required for the county to issue a permit for repair, replacement, or reconfiguration of the dock where either subsection (a)(1) or (a)(2) below is satisfied:

(1) The dock is reconstructed in the same configuration approved in said permit.

(2) Said permit demonstrates nonconformance with any one or more of the following subsections in this article:

- i. Depth under subsection 166-321(f), 166-321(g), or 166-324(7); or
- ii. Length under subsection 166-324(1), 166-333(a)(3), 166-333(a)(4), or 166-333(a)(7); or
- iii. Dock and slip limits under subsection 166-324(3), 166-324(4), 166-333(a)(5); or
- iv. Prohibited structures under subsection 166-321(k), 166-321(l), 166-321(m), 166-324(5), or 166-333(a)(2); or
- v. Dock length and setback in the unincorporated county under subsection 166-333(b)(1), 166-333(b)(2), or 166-334(b)(1); or
- vi. Commercial and multiuse private dock width in the unincorporated county under subsection 166-334(b)(1); and

The dock is reconstructed subject to the following condition(s) relevant to any of the applicable subsections identified in this subsection (a)(2) above:

- i. Depth of the slips is not decreased;
- ii. Total length of the dock is not increased;
- iii. Total nonconforming number of docks and/or slips is not increased;
- iv. Square footage of each category of prohibited structure is not increased;

- v. The dock is reconstructed such that there are no new structures located beyond the applicable setback and length limits required in the unincorporated county;
- vi. Width of the multiuse or commercial dock in the unincorporated county is not increased.

This subsection (a)(2) does not permit nonconformance with any criteria, requirements, or restrictions not explicitly listed in this subsection (a)(2) above, including but not limited to the criteria set forth in section 166-281.

- (b) Where no dock permit was previously issued under this article, a variance granted under section 166-291 shall not be required for the county to issue a permit for repair or replacement of that dock where the dock was originally constructed on or prior to February 26, 1990, remained in existence until two years or less prior to application submittal, and is reconstructed in the same configuration as existed on February 26, 1990. For the purposes of this subsection (b), a dock shall be considered to have "remained in existence" if at least 75% of the dock's pilings remain.
- (c) Repairs to or replacements of permitted boat lifts shall not require a permit under this article from the county unless pilings are to be replaced. Such boat lifts are to be reconstructed without enclosed sides.
- (d) Repairs to or replacement of deck boards only do not require a permit under this article from the county. This exemption does not apply to any support structure such as stringers, caps or floaters and all deck boards must meet the minimum construction criteria of subsection 166-332(7).

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 4. Inclusion in Land Development Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Land Development Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. Filing of Ordinance; Effective Date. Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the ordinance with the Department of State.

**NOTICE OF PUBLIC HEARING:
PROPOSED ORDINANCE TO AMEND THE PINELLAS COUNTY LAND
DEVELOPMENT CODE**

The Pinellas County Board of County Commissioners proposes to amend the Pinellas County Land Development Code by Ordinance.

A public hearing on the Ordinance will be held on Tuesday, March 29, 2016, at 6:00 p.m. in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida 33756.

Interested parties may appear at the hearing and be heard regarding the proposed ordinance.

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The proposed ordinance can be inspected by the public at the Pinellas County Board Records Department, 315 Court Street, Fifth Floor, Clearwater, Florida 33756 during regular business hours. Comments may be sent to this same address or submitted via telephone at (727) 464-3458.

Persons are advised that, if they decide to appeal any decision made at this hearing, they will need a record of the proceedings, and, for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. WITHIN TWO (2) WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE, PLEASE CONTACT THE

OFFICE OF HUMAN RIGHTS, 400 SOUTH FORT HARRISON AVENUE, SUITE 500,
CLEARWATER, FLORIDA 33756, (727) 464-4880 (VOICE), (727) 464-4062 (TDD).

KEN BURKE, CLERK TO THE
BOARD OF COUNTY COMMISSIONERS
By: Norman D. Loy, Deputy Clerk

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- (1) The dock is reconstructed in the same configuration approved in said permit.
 - (2) Said permit demonstrates nonconformance with any one or more of the following subsections in this article:
 - i. Depth under subsection 166-321(f), 166-321(g), or 166-324(7); or
 - ii. Length under subsection 166-324(1), 166-333(a)(3), 166-333(a)(4), or 166-333(a)(7); or
 - iii. Dock and slip limits under subsection 166-324(3), 166-324(4), 166-333(a)(5); or
 - iv. Prohibited structures under subsection 166-321(k), 166-321(l), 166-321(m), 166-324(5), or 166-333(a)(2); or
 - v. Dock length and setback in the unincorporated county under subsection 166-333(b)(1), 166-333(b)(2), or 166-334(b)(1); or
 - vi. Commercial and multiuse private dock width in the unincorporated county under subsection 166-334(b)(1); and

The dock is reconstructed subject to the following condition(s) relevant to any of the applicable subsections identified in this subsection (a)(2) above:

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- ii. Total length of the dock is not increased;
- iii. Total nonconforming number of docks and/or slips is not increased;
- iv. Square footage of each category of prohibited structure is not increased;
- v. The dock is reconstructed such that there are no new structures located beyond the applicable setback and length limits required in the unincorporated county;
- vi. Width of the multiuse or commercial dock in the unincorporated county is not increased.

This subsection (a)(2) does not permit nonconformance with any criteria, requirements, or restrictions not explicitly listed in this subsection (a)(2) above, including but not limited to the criteria set forth in section 166-281.

- (b) Where no dock permit was previously issued under this article, a variance granted under section 166-291 shall not be required for the county to issue a permit for repair or replacement of that dock where the dock was originally constructed on or prior to February 26, 1990, remained in existence until two years or less prior to application submittal, and is reconstructed in the same configuration as existed on February 26, 1990. For the purposes of this subsection (b), a dock shall be considered to have "remained in existence" if at least 75% of the dock's pilings remain.
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APPROVED AS TO FORM

By:


Office of the County Attorney