

LOCAL PLANNING AGENCY (LPA) RECOMMENDATION to the BOARD OF COUNTY COMMISSIONERS



Regarding: A Proposed Ordinance Amending the Water and Navigation Regulations of Chapter 166, Environmental and Natural Resource Protection, of the Pinellas County Land Development Code.

LPA Recommendation: The LPA finds that the proposed Ordinance amending Chapter 166, Environmental and Natural Resource Projection, is consistent with the Pinellas County Comprehensive Plan and recommends the amendments be adopted by the Board of County Commissioners. (The vote was 6-0, in favor.)

LPA Report No. LDR- 10-2-16 LPA Public Hearing Date: February 11, 2016

PLANNING STAFF RECOMMENDATION

- Staff recommends that the LPA find the proposed amendments to Chapter 166, Environmental and Natural Resource Protection, of the Pinellas County Land Development Code to be consistent with the Pinellas County Comprehensive Plan, based on the findings of this report.
- Staff further recommends that the LPA recommend adoption of the proposed amendments to the Pinellas County Board of County Commissioners (BCC).

OVERVIEW

Staff is proposing amendments to the Water and Navigation regulations specifically dealing with the permitting requirements for the repair or replacement of existing docks. There has been a longstanding provision in the Land Development Code for waterfront property owners 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 rework this section of the Land Development Code to also provide this same allowance in the following two scenarios:

1. The repair or replacement of previously permitted docks in a new configuration where existing variances are not increased and no new variances are created, and
2. The repair or replacement of docks where no permit can be located, but where the dock has been in existence prior to the adoption of the current code (in 1990), and where the dock is to be maintained in the same configuration that has historically existed.

Since these two scenarios are not explicitly addressed in the dock regulations, staff has had to review them on a case-by-case basis to ensure that the projects do not create any new impacts inconsistent with the overall criteria in the dock code that would warrant a denial of the application or the need to obtain a new formal variance. To date, the above referenced two

scenarios have consistently received a staff level approval of the application.

If the amendments are adopted, applications will still be reviewed for all of the navigation, environmental, and other design criteria within the Water and Navigation regulations. Consequently, there will be no impact on the BCC's historic Water and Navigation responsibilities now contained in the County Charter (formerly delineated in a Special Act of the Legislature enacted in 1955). In addition, the amendments will not affect the consistency of the dock regulations with the County Comprehensive Plan's Coastal or Natural Resources Elements.

The amendments are "housekeeping" in nature as they are only intended to more explicitly codify the Board's and staff's existing policies that have developed over time since the adoption of the current Code in 1990. As stated previously, the Land Development Code allows for docks to be rebuilt in their same, permitted configuration without having to obtain new variances via a "repair permit." As a result, it is logical that rebuilds that do not specifically qualify for a "repair permit" but which result in equal or lesser amounts of nonconformance meet the intent of this section of the Code.

SUMMARY:

A public hearing by the BCC is planned for March 29, 2016, in order to consider adoption of the Ordinance. If the amendments are approved, longstanding policies of the BCC and staff will be more clearly defined, which will address scenarios that have routinely arisen since the adoption of the Code but which are not explicitly defined therein. Staff's intent in proposing these amendments is to (1) provide clearer direction to applicants and marine contractors to assist them in designing and applying for these types of dock projects, (2) provide a more efficient process for staff, and (3) provide clearer and more defensible language in the Code.

**IMPLEMENTATION OF
THE PINELLAS COUNTY COMPREHENSIVE PLAN**

Staff finds that the proposed amendments to the Land Development Code are consistent with the Pinellas County Comprehensive Plan as they do not affect staff's substantive review of any dock applications and are only intended to improve process efficiency for both staff and applicants. As a result, there will be no impact on the consistency of the Water and Navigation regulations with the Coastal and Natural Resources elements of the Comprehensive Plan.

The following goals, objectives and policies of the Comprehensive Plan provide further, additional support for the proposal:

NATURAL RESOURCE CONSERVATION & MANAGEMENT ELEMENT:

NATURAL SYSTEMS AND LIVING RESOURCES

GOAL TWO: PINELLAS COUNTY WILL CONSERVE, PROTECT, RESTORE AND APPROPRIATELY MANAGE ITS NATURAL SYSTEMS AND LIVING RESOURCES TO ENSURE THE HIGHEST ENVIRONMENTAL QUALITY POSSIBLE.

2.1. Objective: Pinellas County shall continue to implement management programs for the

conservation of natural ecosystems and species of conservation concern (inclusive of native vegetative communities, terrestrial, marine, estuarine and aquatic ecosystems, and native wildlife species).

2.1.2. Policy: Pinellas County shall continue to enforce existing ordinances that protect and conserve native ecosystems and wildlife habitat, including habitat for species of conservation concern, from destruction by development activities.

2.1.3. Policy: Pinellas County shall continue to require that the type, intensity and location of development be correlated inversely with important ecosystems and native wildlife species existing on each site.

2.1.4. Policy: Pinellas County shall continue to require that development of a site require maintenance or improvement of existing native vegetative communities and shall continue to require the removal of ecologically undesirable non-native vegetation.

2.1.17. Policy: Pinellas County shall coordinate and share information with other local governments and agencies relative to the conservation, protection and management of natural ecosystems and native wildlife, including species of conservation concern in Pinellas County.

STRENGTHENED CONNECTIONS TO THE WATER

GOAL FOUR: PINELLAS COUNTY WILL REMAIN A LEADER IN THE PROTECTION AND RESTORATION OF ITS SURFACE WATERS AND THE DEPENDENT HABITATS AND RESOURCES WHICH ARE ESSENTIAL TO THIS COUNTY'S CHARACTER, ECONOMY AND QUALITY OF LIFE.

4.1. Objective: Pinellas County shall protect, and conserve surface water resources and their living resources by preserving where appropriate, or restoring where possible, freshwater, marine and estuarine habitats, including coastal wetlands tidal streams, seagrasses, and other submerged aquatic vegetation, and by monitoring and managing, as best as possible, interactions between human activities and dependant marine and freshwater species.

4.1.1. Policy: The County shall continue to prohibit dredging and filling or other development activities having significant long-term impacts on marine and estuarine habitats such as seagrass beds, mangroves, tidal marshes and tidal flats, except in cases clearly in the public interest.

4.1.2 Policy: The County shall continue to enforce its erosion control regulations to reduce sedimentation and turbidity in coastal/marine habitats (particularly seagrass beds) and freshwater habitats that result from upland development activities.

4.1.3. Policy: The County shall continue to enforce alternatives to the hardening and bulkheading of natural coastal shorelines, natural stream courses, and tidal creeks consistent with the land development code.

4.1.4. Policy: The County shall continue its program to require the eradication of ecologically undesirable vegetation from intertidal, riverine and nearby upland areas that is not indigenous to Florida and which has altered natural ecosystems by competitively excluding native plant species.

4.1.6. Policy: Pinellas County shall continue to prohibit non-water dependent development or redevelopment within natural intertidal areas (e.g., salt marshes, tidal flats and mangrove forests).

4.1.17. Policy: Through implementation of land development regulations, by enforcing land use and zoning restrictions, by regulating the location of dock, marinas and boat ramps, by monitoring water quality and freshwater and marine resources, and through public education, Pinellas County will contribute to the protection of marine and freshwater-dependent species.

4.1.22. Policy: The Pinellas County Board of County Commissioners shall continue to utilize its regulatory authority as the Pinellas County Water and Navigation Control Authority to ensure development is consistent with the objectives and policies of this Element pertaining to the protection, enhancement, and restoration of freshwater, marine and coastal resources.

4.1.23. Policy: Pinellas County shall continue to use its land development code, and in particular, its countywide controls under the Water and Navigation Control Authority, to exercise locational restrictions and site-specific development controls to ensure development is undertaken in a manner that does not compromise the County's goals for protecting coastal and marine habitats and dependent species, including manatees.

4.2.4. Policy: Pinellas County shall coordinate with other local governments in protecting multi-jurisdictional estuaries by soliciting municipal comments before applications for development are heard by the Pinellas County Water and Navigation Control Authority.

FLOODPLAINS AND FLOODPLAIN MANAGEMENT

GOAL SIX: PINELLAS COUNTY WILL PRESERVE, PROTECT, RESTORE AND MANAGE THE NATURAL RESOURCES OF ITS FLOODPLAINS TO MAINTAIN OR ENHANCE WATER QUALITY, PLANT AND ANIMAL DIVERSITY, AND AQUATIC PRODUCTIVITY, TO PROTECT THE FLOOD STORAGE VALUE AND PURPOSE, AND TO PROTECT THE PUBLIC AND MINIMIZE PROPERTY DAMAGE.

6.1.15. Policy: The County shall encourage acceptable materials and alternatives to the hardening and bulkheading of natural banks, natural stream courses, lakes and creeks through the enforcement of appropriate ordinances, and in association with the update to the Land Development Code, shall develop criteria for acceptable materials to use for this purpose.

6.2. Objective: Pinellas County shall continue to maintain, and enhance where possible, the current balance of living resources in the floodplains of the County.

6.2.1. Policy: The County shall continue to prohibit dredging and filling or other development activities having significant long-term impacts on the ecological or hydrological function of the floodplains, except in cases clearly in the public interest.

COASTAL MANAGEMENT ELEMENT:

COASTAL LAND USE

GOAL FOUR: LAND USE DESIGNATIONS AND DECISIONS IN THE COASTAL PLANNING AREA SHALL BE CONSISTENT WITH THE FUTURE LAND USE AND QUALITY COMMUNITIES ELEMENT OF THIS COMPREHENSIVE PLAN AND COMPATIBLE WITH

PROTECTION OF THE COUNTY'S NATURAL AND HISTORIC RESOURCES, REFLECTING THE NEED FOR LONG-TERM SUSTAINABILITY, CONTINUED ECONOMIC VITALITY AND CONSIDERATION FOR THE VULNERABILITY OF THE COUNTY'S COASTAL LOCATION.

4.1. Objective: The County shall give priority to water-dependent and water-related land uses in the coastal planning area, in a manner consistent with its goals of long-term sustainability, continued economic vitality, the preservation of recreational and commercial working waterfronts, and the protection of coastal and marine habitats and species.

4.1.1. Policy: The County shall continue to enforce the performance standards for water-dependent and water-related land uses included within its Land Development Code.

4.1.3. Policy: Pinellas County will continually evaluate the economic dynamics and trends affecting the viability of water dependent uses, including recreational and commercial working waterfronts, and adapt decisions and strategies relating to the protection of such uses as appropriate.

4.2. Objective: Boating access facilities will be sited or expanded in an environmentally sensitive manner that strives to meet public access needs while minimizing negative impacts to coastal habitats, species and surrounding land uses.

4.2.1. Policy: The County shall as a minimum use the following criteria for siting marinas and boat ramp facilities:

- Adequate water depth to accommodate the proposed boat use. Sites that require no dredging or filling to provide access by canal, channel or road are preferred.
- Preference shall be given to the expansion of suitable existing facilities rather than construction of newly developed sites.
- Located in areas where there is adequate flushing of the basin to prevent stagnation and water quality deterioration.
- No adverse impact on archaeological or historic sites as defined by state and local comprehensive plans.
- Potential impact of the proposed facility on the West Indian Manatee.
- Reasonable access to a large navigable water body and/or prime boater destination points.
- Minimal impacts to environmentally-sensitive resources, including upland areas, consistent with Federal, State and local regulations.
- Sufficient upland area to accommodate all needed utilities and support facilities, such as parking spaces, rest rooms, dry storage, etc.
- Capacity of the surrounding roadways to handle boating traffic to and from the marina or boat ramp.
- Compatibility with surrounding and adjacent land uses.

- Adequate wastewater treatment capacity for upland and marine pump-out facilities, in accordance with State standards.
- Encourage facilities to have slips available for public use.
- Consideration of public safety and welfare.
- Marina and boat ramp development should be sensitive to the special requirements for developing in the following areas:
 - a. Aquatic Preserves
 - b. Outstanding Florida Waters
 - c. Class II waters
 - d. Areas approved or conditionally approved by the Florida Department of Environmental Protection (FDEP) for shellfish harvesting, and
 - e. Other highly productive and/or unique habitats as determined by FDEP, by the Florida Fish and Wildlife Conservation Commission (FFWCC), as identified in the Comprehensive Conservation and Management Plan (CCMP), or by Pinellas County, based on vegetation and/or wildlife species.

4.2.2. Policy: No marina or boat ramp shall be constructed or expanded in areas determined by the Florida Department of Environmental Protection, or other governmental wildlife protection agency, to be critical to the survival of the West Indian Manatee.

4.2.3. Policy: No marina project shall be approved until a hurricane plan for the project has been established.

4.2.4. Policy: The development of marinas shall be supported as a means of providing public water access to the extent that their development and use shall not adversely impact estuarine resources.

4.2.6. Policy: On a case-by-case basis, Pinellas County will consider the feasibility of mooring fields as a means of boating access to area waters.

4.3. Objective: Pinellas County will continue, and improve upon as necessary, its longstanding efforts to manage and protect its coastal and marine resources, including manatees and their essential habitat.

4.3.1. Policy: Pinellas County shall continue to support the protection of manatees through such measures as enforcing land use, zoning restrictions and speed zones, implementing sea grass protection areas and land development regulations, regulating the location of docks, marinas and boat ramps, providing manatee signage, and educating the public.

4.3.9. Policy: Pinellas County will continue to identify, implement and enforce appropriate measures to protect important manatee sea grass feeding areas.

4.3.11. Policy: Pinellas County shall continue to use its land development code, and in particular, its countywide controls under the Water and Navigation Control Authority, to exercise locational restrictions and site-specific development controls to ensure development is undertaken in a manner that does not compromise the County's goals for protecting

manatees.