

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING/AGENDA ITEM #9b**

SUBJECT: LEGISLATIVE – First Reading of an Ordinance Amending the Land Development Code (Amending Land Development Code Article III) to Add Marinas

DATE OF MEETING: October 4, 2021

OVERVIEW/SUMMARY: This request is legislative (not quasi-judicial) in nature and does not require disclosure of ex parte communication. As the Board of County Commissioners may be aware, staff has prepared an amendment to the Land Development Code to provide siting criteria for marinas and other boat-related facilities. Currently, the Land Development Code omits mention of marinas and is limited to regulations related to boat docks on Bulow Creek. Although the Flagler County Comprehensive Plan includes a Coastal Management Element (attached in relevant part) which provides a regulatory framework for marinas, the County has not adopted regulations specific to marinas within the Land Development Code to implement the framework. The County has also adopted a Manatee Protection Plan which depicts areas conducive to boating facilities. This proposed amendment is consistent with the Comprehensive Plan, the Manatee Protection Plan, and other regulatory guidance regarding the siting of boat-related facilities.

The absence of marinas in the Land Development Code became a prominent issue in 2019 when the Hammock Community Association (HCA) challenged the County’s review of Hammock Harbour LLC’s site development plan. Hammock Harbour proposed to develop a dry indoor boat storage facility and restaurant with direct access to the Intracoastal at 5658 North Oceanshore Boulevard, a site zoned C-2 General Commercial and Shopping Center District. It also lies within the A1A Scenic Corridor Overlay District. Although marinas and indoor boat storage are not listed as permitted uses in any zoning district of the unincorporated county, C-2 does explicitly allow boat service establishments and commercial recreational uses. However, the HCA contended that Hammock Harbour’s proposal was a warehouse and therefore prohibited within the A1A Scenic Corridor. The Planning and Development Board and County Commission disagreed with the HCA and affirmed staff’s processing of the site development plan application.

Having exhausted all avenues of appeal within the County government, the HCA petitioned the Circuit Court for relief. The circuit judge found that the Planning and Development Board did not have sufficient evidence to deny HCA’s appeal. Importantly, the judge did not determine whether Hammock Harbour’s proposed use was allowed or disallowed in the Scenic Overlay District.

Staff then began researching an amendment to the Land Development Code to provide standards for marinas and boat related facilities (the “Marina Ordinance”). Simultaneous to staff’s preparation of the Marina Ordinance, Hammock Harbour filed an application to determine whether its proposal is permissible under the existing Land Development Code. This is a right of any owner of commercial property under the Land Development Code. Because no code can possibly list every conceivable commercial use of land, the C-2 zoning code includes a miscellaneous use category which allows:

“Other commercial uses of a nature similar to those listed that may be permitted upon determination by the planning board that such uses are appropriate tin the C-

2 district. The standard industrial classification manual will be used as a reference for these determinations.”

On August 10, 2021, the Planning and Development Board determined that marinas include dry boat storage by definition, and are a similar use to those listed in the C-2 zoning district based on the Standard Industrial Classification (SIC) Manual.

However, the Planning and Development Board required new marinas within the C-2 district, such as Hammock Harbour’s, to be reviewed through the Special Exception process. A special exception is *not* a variance. A special exception is a permitted use but which requires an applicant to demonstrate to the Planning and Development Board compliance with certain additional site development plan guidelines.

The Planning and Development Board reviewed the draft Marina Ordinance at its July 13, August 10, and September 14 regular meetings (excerpts from minutes attached), providing input to staff. The Marina Ordinance distinguishes between three tiers of marinas based on size and intensity, Tier 1 being the smallest and Tier 3 being the largest. The Planning and Development Board recommends that Tier 2 and Tier 3 marinas, i.e., the more large scale marinas, be made a special exception, not a permitted use, within C-2 zoning. The draft Marina Ordinance attached to this memo follows the Planning and Development Board’s recommendation of listing Tier 2 and 3 marinas as a special exception, as opposed to a permitted use, within C-2 zoned districts. Staff also lists as option number two in the recommendation section below that Tier 2 and Tier 3 marinas as a permitted use in C-2 zoned districts, not a special exception. This is a matter for the Board of County Commissioners’ consideration.

This Marina Ordinance must not be viewed as specifically applying to any particular parcel. This is not a quasi-judicial review of Hammock Harbour’s or any other property owner’s site development plan. This Marina Ordinance applies to many zoning districts in the unincorporated county. If ultimately adopted, this ordinance would not rescind any other section of the Land Development Code but adds standards for marinas and boat-related facilities. As an ordinance amending the actual listing of permitted uses within certain zoning districts, this ordinance requires two public hearings.

This agenda item is:

quasi-judicial, requiring disclosure of ex-parte communication; or
 legislative, not requiring formal disclosure of ex-parte communication.

Public notice has been provided for this amendment according Section 125.66, Florida Statutes. Public correspondence received related to this amendment has been attached.

OPTIONS FOR THE BOARD: Five possible options are available to the Board as it relates to the amendment:

1. APPROVAL OF THE ORDINANCE ON FIRST READING as recommended by the Planning and Development Board, with Tier 2 and Tier 3 marinas listed as Special Exception uses in the C-2 zoning district –

Based upon the testimony and evidence provided, the Board of County Commissioners finds

that the proposed amendment to the Land Development Code is consistent with the Comprehensive Plan and adopts an amendment to the Land Development Code titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING THE FLAGLER COUNTY CODE OF ORDINANCES, TO AMEND ARTICLE III, ZONING DISTRICT REGULATIONS, OF APPENDIX C, LAND DEVELOPMENT CODE; TO ADOPT STANDARDS AND REQUIREMENTS FOR MARINAS, TO PROVIDE FOR ZONING DISTRICTS WITHIN WHICH MARINAS MAY BE LOCATED, AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

[This option is consistent with the attached ordinance.]

2. APPROVAL OF THE ORDINANCE ON FIRST READING as recommended by staff to the Planning and Development Board, with marinas listed as permitted uses (not requiring a Special Exception) in the C-2 zoning district –

Based upon the testimony and evidence provided, the Board of County Commissioners finds that the proposed amendment to the Land Development Code is consistent with the Comprehensive Plan and adopts an amendment to the Land Development Code titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING THE FLAGLER COUNTY CODE OF ORDINANCES, TO AMEND ARTICLE III, ZONING DISTRICT REGULATIONS, OF APPENDIX C, LAND DEVELOPMENT CODE; TO ADOPT STANDARDS AND REQUIREMENTS FOR MARINAS, TO PROVIDE FOR ZONING DISTRICTS WITHIN WHICH MARINAS MAY BE LOCATED, AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

[This option would list Tier 2 and Tier 3 marinas as permitted uses in the C-2 zoning district.]

3. APPROVAL OF AN ALTERNATE ORDINANCE ON FIRST READING limited to adding indoor boat storage as a permitted use in the C-2 zoning district –

Based upon the testimony and evidence provided, the Board of County Commissioners finds that the proposed amendment to the Land Development Code is consistent with the Comprehensive Plan and adopts an amendment to the Land Development Code titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING THE FLAGLER COUNTY CODE OF ORDINANCES, TO AMEND ARTICLE III, ZONING DISTRICT REGULATIONS, OF

APPENDIX C, LAND DEVELOPMENT CODE; AMENDING SECTION 3.03.17.B, ADDING INDOOR BOAT STORAGE AS A PERMISSIBLE USE OF PREMISES IN GENERAL COMMERCIAL ZONE DISTRICTS; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

[This option would replace the text of the amendment and would be limited to adding indoor boat storage as a permitted use in the C-2 district's general commercial areas. Standards for development would be covered by existing provisions of the Land Development Code.]

4. DENIAL OF THE ORDINANCE ON FIRST READING related to marinas –

Based upon the testimony and evidence provided, the Board of County Commissioners finds that the proposed amendment to the Land Development Code is not consistent with the Comprehensive Plan and does not adopt an amendment to the Land Development Code.

[This option would ideally include direction to staff for a subsequent amendment to the Land Development Code.]

5. CONTINUANCE OF THE ORDINANCE ON FIRST READING related to marinas –

The Board of County Commissioners continues the public hearing related to the proposed amendment to the Land Development Code to a date and time certain (or as soon thereafter as the matter may be heard) so that additional information can be provided to the Board.

[This option would continue the public hearing.]

ATTACHMENTS:

1. Draft Ordinance
2. Comprehensive Plan Coastal Management Element (in relevant part)
3. Planning and Development Board September 14 (draft), August 10, and July 13, 2021 regular meeting minutes
4. Public notice
5. Correspondence (most recent items received listed first)

ORDINANCE NO. 2021 - __

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING THE FLAGLER COUNTY CODE OF ORDINANCES, TO AMEND ARTICLE III, ZONING DISTRICT REGULATIONS, OF APPENDIX C, LAND DEVELOPMENT CODE; TO ADOPT STANDARDS AND REQUIREMENTS FOR MARINAS, TO PROVIDE FOR ZONING DISTRICTS WITHIN WHICH MARINAS MAY BE LOCATED, AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on February 18, 1991 the Board of County Commissioners adopted Ordinance 91-2, codified at Appendix C of the Flagler County Code (the "Land Development Code"), as amended; and

WHEREAS, the Land Development Code became effective on March 18, 1991; and

WHEREAS, among other things, the Land Development Code implements the County's Comprehensive Plan and establishes uses and development criteria within the County's zoning districts; and

WHEREAS, the Comprehensive Plan includes, at its Water Dependent/Water-Related Land Uses Sub-Element of the Coastal Management Element, specific requirements related to water dependent uses, including marinas; and

WHEREAS, the Land Development Code did not at the time of its adoption, nor as subsequently amended, include marinas as a permitted or permissible use within any zoning district; and

WHEREAS, it is necessary to amend the Land Development Code to implement the Comprehensive Plan specific to marinas and other water-dependent uses; and

WHEREAS, at its May 11, 2021 regular meeting, the Planning and Development Board requested that staff research adding marinas as a use in the Land Development Code; and

WHEREAS, the Planning and Development Board initially reviewed the results of staff's research as a discussion item at its July 13, 2021 regular meeting, providing comments to staff for revision of the draft amendment; and

WHEREAS, on August 10, 2021, staff provided the Planning and Development Board with the requested revisions in a format aligning with the text of the Land Development Code so that the proposed amendment could be reviewed in the context of the Code, and distinguishing current text from proposed new and deleted text; and

WHEREAS, staff again revised the ordinance based on feedback from the Planning and Development Board, and on September 14, 2021, the Planning and Development Board held a public hearing on the updated draft amendment to the Land Development Code; and

WHEREAS, following the public hearing, the Planning and Development Board recommended adoption of the amendment to the Land Development Code, but specifying that Tier 1 and Tier 2 marinas should be included as a special exceptions within C-2 zoned districts; and

WHEREAS, on October 4, 2021, the Board of County Commissioners reviewed the ordinance, the Planning and Development Board's recommendation, and held its first public hearing on the proposed amendment to the Land Development Code; and

WHEREAS, on October 18, 2021, the Board of County Commissioners held its second public hearing on the proposed amendment to the Land Development Code; and

WHEREAS, this amendment will preserve and improve the quality of life and will help protect the health, safety and welfare of the community; and

WHEREAS, public notice of the adoption of this Ordinance has been provided in accordance with Section 125.66, Florida Statutes, and in accordance with the Flagler County Land Development Code.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS

- A. The above Recitals are incorporated herein as Findings of Fact.
- B. The Board of County Commissioners further finds as follows:
 - 1. The proposed amendment will provide for the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies; and
 - 2. The proposed amendment will serve to protect the health and safety of residents or workers in the area and will be complementary to the use of adjacent properties or the general neighborhood.

SECTION 2. LAND DEVELOPMENT CODE AMENDMENT

A. Appendix C. Land Development Code, Article III Zoning Districts, is hereby amended as follows:

1. Amendment of Section 3.06.10 – Docks, boathouses and piers, of Section 3.06.00, Special Provisions Other, to read as follows:

3.06.10. Boating facilities — Docks, boathouses, ~~and piers~~, boat ramps, and marinas.

A. Docks, boathouses, and piers.

1. Private (non-commercial) docks, boathouses, and piers shall be permitted as an accessory use on a lot or parcel within any residential zoning district or within any planned unit development or specific portion thereof developed as a single- or two-family neighborhood, as provided herein.

- a. If the lot or parcel adjoins a canal or waterbody which is not an Outstanding Florida Waters, the over-water surface area of the dock, boathouse, or pier will be limited to 1,000 square feet – unless issued a permit or other authorization by the St. Johns River Water Management District, the U.S. Army Corps of Engineers, or other regulatory agency having specific permitting authority to exceed 1,000 square feet – and not permitting more than one dock on each lot or parcel.

- b. If the lot or parcel adjoins a canal or waterbody which is an Outstanding Florida Waters, the over-water surface area of the dock, boathouse, or pier will be limited to 500 square feet – unless issued a permit or other authorization by the St. Johns River Water Management District, the U.S. Army Corps of Engineers, or other regulatory agency having specific permitting authority to exceed 500 square feet – and not permitting more than one dock on each lot or parcel. A dock, boathouse, or pier adjoining an Outstanding Florida Waters may be subject to Aquatic Preserve Design criteria as determined by the St. Johns River Water Management District, the U.S. Army Corps of Engineers, or other regulatory agency having specific permitting authority.

2. Commercial docks, boathouses, and piers shall be permitted as an accessory use on a lot or parcel within any commercial or industrial zoning district, as provided herein.

- a. If the lot or parcel adjoins a canal or waterbody which is not an Outstanding Florida Waters, the over-water surface area of the dock, boathouse, or pier will be limited to 2,000 square feet – unless issued a permit or other authorization by the St. Johns River Water Management District, the U.S. Army Corps of Engineers, or other regulatory agency having specific permitting authority to exceed 2,000 square feet – and

Additions appear as underlined text, deletions as strikethrough

- not permitting more than one dock on each lot or parcel unless authorized to do so.
- b. If the lot or parcel adjoins a canal or waterbody which is an Outstanding Florida Waters, a dock, boathouse, or pier shall not be allowed unless issued a permit or other authorization by the St. Johns River Water Management District, the U.S. Army Corps of Engineers, or other regulatory agency having specific permitting authority.
3. Public docks, boathouses, and piers shall require Public Use approval.
4. For purposes of this section, the over-water surface area of any dock, boathouse, or pier consists of any impervious or semi-impervious surface and includes, but is not limited to, roofs, boat cover canopies, elevated platforms, decking, etc.
5. Building permits issued by Flagler County will be required for the actual construction of any docks, boathouses, and piers, and all construction activity will be required to meet the requirements of the Florida Building Code.
6. Minimum dimensional requirements of the zoning district within which the lot or parcel is located shall apply to the placement and construction of any dock, boathouse, or pier, unless specifically superseded by this section. For purposes of determining conformance with minimum setback requirements, the dock, boathouse, or pier shall observe a minimum side yard setback that follows the waterward projection of the side lot line into the adjoining canal or waterbody.
7. The extent of the projection of the dock, boathouse, or pier into the adjoining canal or waterbody shall be limited (unless superseded by the St. Johns River Water Management District, the U.S. Army Corps of Engineers, or other regulatory agency having specific permitting authority) to the lesser of:
- a. One-fourth of the average width of the adjoining canal or waterbody; or
- b. The minimum distance necessary to extend access from the dry land lot or parcel area to waters of sufficient depth as to allow vessel access.
8. Except as provided herein in section B., below, within or adjacent to Bulow Creek and its tributaries from its headwaters to the Volusia County line, no dock, boat ramp, boathouse, marina or other water-dependent structure shall be erected, constructed or placed. This prohibition does not apply to viewing platforms that are at least twenty-five (25) feet landward of the stream bank and elevated at least five (5) feet above existing grade. Existing structures that have been duly permitted prior to the effective date

of this section may be maintained and repaired but not expanded or enlarged.

- B. After a public hearing and when determined to be in the public interest, the board of county commissioners may authorize public (as a Public Use) or community use (as a Semi-Public Use) docks on Bulow Creek. The commission may impose reasonable conditions on construction or use. This section shall not affect the right to construct docks that have been authorized pursuant to a development order or agreement which has been previously approved by Flagler County.

B. Boat ramps.

1. Private (non-commercial) boat ramps shall be approved as part of the subdivision plat or site plan review process.
2. Commercial boat ramps shall be approved as part of the site plan review process.
3. Public boat ramps shall require Public Use approval.

C. Marinas.

1. Marinas shall be classified into the following subcategories:
 - a. Tier 1: A Tier 1 Marina consists of wet docks/slips and/or dry boat storage for at least three (3) watercraft, but not to exceed one wet dock/slip per residential lot or dwelling unit, that is intended to be used for private (non-commercial) recreational or leisure purposes by persons or groups of persons who are residents of a development, or a nonprofit organization. A marina with four day-use docks/slips shall be considered a noncommercial marina, and no more than four day-use docks/slips will be permitted as part of a Tier 1 Marina.
 - b. Tier 2: A Tier 2 Marina is any facility or structure which serves as an accessory facility to other adjacent rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, charter, shipping, or sales. A Tier 2 Marina may include wet docks/slips and/or dry boat storage and, as a commercial accessory use, shall be open to the general public.
 - c. Tier 3: A Tier 3 Marina is any facility or structure that is used for business or income-producing purposes as a principal use or structure, through rental or any other means, the services of which are open to the general public for a fee. A Tier 3 Marina consists of wet docks/slips and/or dry boat storage, and may include ancillary uses such as ship stores (including sales of convenience items), bait and tackle shops, food and beverage sales, and similar uses as determined by the Planning and Development Board.

2. Marina development standards.

- a. The parcel proposed for development has direct access to navigable waters.
- b. Any landside marina development – all parking, dry storage, and non-water dependent facilities – shall be built on existing uplands and shall not be built on functioning wetlands.
- c. All outdoor storage areas shall be screened from adjacent uses and properties by an opaque wall, fence or plant material meeting the requirements of Article V.
- d. The parcel proposed for development shall be separated from any established residential use or residentially zoned property by an uncomplimentary land use buffer meeting the requirements of Article V.
- e. New marinas shall participate in the Florida Department of Environmental Protection (FDEP) Clean Marina program.
- f. Any dry boat storage structures shall meet the following additional requirements:
 - 1. Dry boat storage shall be constructed consistent with uniform building code wind load standards, and include interior sprinkler systems or equivalent fire suppression systems.
 - 2. Dry boat storage shall be contained within fully enclosed buildings, not including the space needed for forklifts to load the racks.
 - 3. Forklifts shall be equipped with residential sound packages or be zero emission electric, with electric preferred.
 - 4. Unless superseded by other requirements or regulations, forklifts shall not be equipped with audible back-up alarms and shall alternatively utilize a spotter or camera system. Indicator lighting (i.e., go, caution, stop) shall be utilized wherever possible in lieu of audible alarms.
 - 5. Unless superseded by other requirements or regulations, dry boat storage structures shall not include a loud speaker or paging system which is broadcast in a manner where the message could be clearly heard under normal conditions outside of the structure.
- g. New or expanded marinas shall develop hurricane preparation and response plans which describe measures to be taken concerning damage to marina sites, neighboring properties, and the environment. The plans shall be subject to review and approval by the County's Director of Emergency Management and the Planning Director.

- h. New or expended marinas that provide fueling services shall be designed to contain spills from on land equipment and be prepared to contain spills in the water. A fuel management/spill contingency plan is required to be developed prior to the operation of the marina fueling facility. All fueling staff are to be trained on the plan and response and containment drills should be held not less than annually.
- i. New or expanded dry boat storage facilities shall be encouraged as compared to wet slip docking facilities.
- j. New or expanded marinas shall not be located in aquatic preserves, Class II waters, or Outstanding Florida Waters.

D. Relationship to Manatee Protection Plan. New docks, boathouses, piers, boat ramps, and marinas consisting of five (5) or more slips, or expansion of an existing dock, boathouse, pier, boat ramp, or marina into a facility with five (5) or more slips, shall comply with the Boat Facility Siting recommendations as provided in the Manatee Protection Plan.

E. Relationship to other permit requirements and regulations. Nothing contained herein shall supersede the requirements or regulations of a Federal or state department, agency, or organization having specific jurisdiction over the siting, development, or operation of marinas. All necessary permits or approvals from applicable Federal and state departments, agencies, and organizations must be obtained prior to initiating any marina operation, and all such permits or approvals must be kept in a current compliant status for the duration of the marina use.

2. Amendment of Section 3.08.02 Specific definitions of certain terms used in this article, of Section 3.08.00, Definition of Terms, to read as follows:

Dock: A fixed or floating structure, including access walkways, terminal platforms, catwalks, mooring pilings, lifts, davits and other associated water-dependent structures, used for mooring and accessing vessels.

Marina: Any structure or combination of structures, other than a single residential dock or slip, located on or over the water surface of navigable waters, or on land adjacent to navigable waters, and which is designed or used for the overnight mooring or storage of watercraft. Marinas are classified into the following subcategories:

- a. Tier 1 — A Tier 1 marina consists of wet docks/slips and/or dry boat storage for three watercraft, but not more than 25 watercraft, that is intended to be

used for private recreational or leisure purposes by persons or groups of persons who are residents of a development, or a nonprofit organization.

- b. Tier 2 — A Tier 2 marina is any facility or structure which serves as an accessory facility to other adjacent rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, charter, shipping, or sales.
- c. Tier 3 — A Tier 3 marina is any facility or structure that is used for business or income-producing purposes as a principal use or structure, through rental or any other means, the services of which are open to the general public for a fee.

Motorboat: A vessel equipped with machinery for propulsion, irrespective of whether the propulsion machinery is in actual operation.

Multi-slip docking facility: Any marina or dock designed to moor three or more vessels.

Personal watercraft: A vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Pier: A fixed or floating structure used primarily for fishing or swimming and not designed or used for mooring or accessing vessels.

Slip: An area of the water column above sovereign submerged lands specifically set aside for a boatlift or the mooring of a single vessel associated with a docking facility.

Vessel: Is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Wet slip: See Slip.

3. Amendment of Section 3.06.04 – Parking requirements for all districts, of Section 3.06.00, Special Provisions Other, to read as follows:

A. *Off-street parking space requirements.*

20. Boat ramp: For commercial boat ramps, twenty (20) spaces for each boat ramp lane, with total provided parking to provide at least forty percent (40%) of the spaces to accommodate vehicles with attached boat trailers.

21. Pier: For commercial piers, one (1) space for each fifty (50) linear feet of pier or terminal platform over water (not including any portion over dry land).

22. Marina: One (1) space per three (3) boat berths (wet slip or dry storage). Parking for ancillary and accessory uses shall be based on the requirements for each use, with total minimum off-street parking based on the sum of the marina and any ancillary and accessory uses.

4. Amendment of Section 3.03.00 Use and Other Requirements by District as provided herein.

- a. Amendment of section 3.03.04, *R-1 – Rural residential district*, subsection C., *Permitted special exceptions*, to read as follows:

4. Tier 1 Marina.

- b. Amendment of section 3.03.05, *R-1b – Urban single-family residential district*, subsection C., *Permitted special exceptions*, to read as follows:

4. Tier 1 Marina.

- c. Amendment of section 3.03.06, *R-1c – Urban single-family residential district*, subsection C., *Permitted special exceptions*, to read as follows:

4. Tier 1 Marina.

- d. Amendment of section 3.03.07, *R-1d – Urban single-family residential district*, subsection C., *Permitted special exceptions*, to read as follows:

4. Tier 1 Marina.

- e. Amendment of section 3.03.08, *R-2 – Two-family residential district*, subsection C., *Permitted special exceptions*, to read as follows:

4. Tier 1 Marina.

- f. Amendment of section 3.03.09.01, *R-3 – Multifamily residential district*, subsection C., *Permitted special exceptions*, to read as follows:

7. Tier 1 Marina.

- g. Amendment of section 3.03.09.02, *R-3b – Multifamily residential district*, subsection C., *Permitted special exceptions*, to read as follows:

7. Tier 1 Marina.

- h. Amendment of section 3.03.10, *MH-1 – Rural mobile home district*, subsection G., *Permitted special exceptions*, to read as follows:

2. Tier 1 Marina.

- i. Amendment of section 3.03.11, *MH-2 – Urban mobile home district*, subsection C., *Permitted special exceptions*, to read as follows:

2. Tier 1 Marina.

- j. Amendment of section 3.03.12, *MH-3 – Mobile home park district*, subsection C., *Permitted special exceptions*, to read as follows:

2. Tier 1 Marina.

- k. Amendment of section 3.03.13, *R/C – Residential/limited commercial use district*, subsection D., *Permitted special exceptions*, to read as follows:

21. Tier 1 Marina.

- l. Amendment of section 3.03.17, *C-2 – General commercial and shopping center district*, subsection C., *Permitted special exceptions*, to read as follows:

13. Tier 2 and Tier 3 Marinas.

- m. Amendment of section 3.03.20, *PUD – Planned unit development*, subsection B., *Permitted principal uses and structures*, to read as follows:

20. Tier 1, Tier 2, and Tier 3 Marinas.

- n. Amendment of section 3.03.20.1, *NRC-PUD – New rural communities-planned unit development*, subsection B., to read as follows:

1. All such rural communities shall consist of residential uses and customary accessory uses. These uses may include a Tier 1 Marina.

- o. Amendment of section 3.03.20.2, *MUL-PUD – Mixed use, low intensity-Planned unit development*, subsection B., *Permitted principal uses and structures*, to read as follows:

17. Tier 1 and Tier 2 Marinas.

- p. Amendment of section 3.03.20.3, *MUH-PUD – Mixed use, high intensity-Planned unit development*, subsection B., *Permitted principal uses and structures*, to read as follows:

18. Tier 1 and Tier 2 Marinas.

- q. Amendment of section 3.03.20.4, *CHI-PUD – Commercial high intensity-Planned unit development*, subsection B., *Permitted principal uses and structures*, to read as follows:

2. Tier 1, Tier 2, and Tier 3 Marinas.

- r. Amendment of section 3.03.20.5, *I-PUD – Industrial-Planned unit development*, subsection B., *Permitted principal uses and structures*, to read as follows:

2. Tier 3 Marina.

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or relettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.
- B. Only Section 2 herein shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged by this Ordinance.

SECTION 4. SEVERABILITY

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect upon Official Acknowledgment by the Secretary of State that the Ordinance has been filed.

[Signature page to follow.]

**PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF
FLAGLER COUNTY, FLORIDA THIS 18TH DAY OF OCTOBER, 2021.**

**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: _____
Donald T. O'Brien Jr., Chair

ATTEST:

APPROVED AS TO FORM:

By: _____
Tom Bexley, Clerk of the
Circuit Court and Comptroller

Sean S. Moylan, Assistant County Attorney

DRAFT

FLAGLER COUNTY COMPREHENSIVE PLAN
COASTAL MANAGEMENT ELEMENT
(in part)

Estuarine Water Quality Sub-Element

Objective E.1.4: To continue to maintain the water quality of the inter-lagoonal system as good or better as classified per Florida Department of Environmental Protection (FDEP) standards.

Policy E.1.4.1: Marinas and other multislip docking facilities shall be located in upland areas and dredging for marinas or multislip docking facilities shall be the minimum necessary to provide adequate channels for launching boats.

Policy E.1.4.2: Construction of new canals and enlargement of existing canals or ditches that connect with the inter-lagoonal system shall be prohibited unless a detailed study of contaminants in the sediments is performed and adequate safeguards to prevent release of any contaminants are provided. Any contaminated dredge materials shall be disposed of at safe upland sites in compliance with all current U.S. Army Corps of Engineers (USACE), Florida Department of Environmental Protection (FDEP), St. Johns River Water Management District (SJRWMD), and any other Federal, State, or local agencies having jurisdiction.

Policy E.1.4.3: In an effort to control non-point source pollutant loadings, Flagler County's adopted stormwater management regulations shall continue to include requirements for retention/detention of stormwater runoff to maintain surface water quality, as per Florida Department of Environmental Protection (FDEP) standards, to encourage percolation and control impacts to drainage canals, surface water, and groundwater. Type of retention/detention required will be in compliance with as specified in the Florida Administrative Code (FAC).

Policy E.1.4.4: Dumping of debris of any kind, including yard clippings and trimmings, into drainage ditches, natural and man-made lakes, salt water bodies, and stormwater control structures is prohibited through State and local litter regulations and code enforcement activities.

Policy E.1.4.5: Flagler County shall continue to require a periodic inspection program for stormwater control structures to insure their proper functioning and maintenance.

Policy E.1.4.6: The following requirements shall apply within Aquatic Preserve Resource Protection Areas 1 and 2, within Outstanding Florida Waters, or on lands immediately adjacent to the above and including lands adjacent to approved or conditionally approved shellfish harvesting areas:

- (1) Flagler County will support State and Federal regulatory agencies implementing increased upland buffer widths composed of native vegetation separating the developed part of the site from wetlands and/or deep water habitats;

FLAGLER COUNTY COMPREHENSIVE PLAN
COASTAL MANAGEMENT ELEMENT
(in part)

- (2) dredge-and-fill activities shall be prohibited unless there is overriding public interests;
- (3) thirty-five percent (35%) of the site must be open space with pervious surfaces; and
- (4) septic tanks and drainfields, percolation ponds, or polishing ponds shall be set back a minimum of one hundred (100) feet from the shoreline or wetlands.

Policy E.1.4.7: Direct discharge of untreated stormwater runoff into Class II waters shall be prohibited through Land Development Regulations and the adopted stormwater management regulations.

Policy E.1.4.8: Construction sites which border estuarine systems must control surface water run-off during and after construction activities to a level equal to or less than that which occurred prior to construction.

Policy E.1.4.9: Flagler County shall require all dredge and fill operations to utilize proper mitigation techniques and devices in addition to obtaining all applicable Federal, State, and local permits.

Policy E.1.4.10: Flagler County shall continue to work with the St. Johns River Water Management District (SJRWMD) on Outstanding Florida Water (OFW) designations for appropriate systems within the County, such as the Matanzas drainage basin system.

Water Dependent/Water-Related Land Uses Sub-Element

Objective E.1.7: For shoreline uses, priority shall be given to water-dependent uses.

Policy E.1.7.1: Prioritization of water-dependent uses shall be based on type of water-dependent use, adjacent land use, water quality, impact on critical habitat, and impact on coastal resources.

Policy E.1.7.2: The priority ranking of water-dependent uses in the marine commercial areas shall be:

- (1) public use marinas and other water-oriented recreation;
- (2) aquaculture;
- (3) commercial fishing;
- (4) water-dependent industries or utilities; and then
- (5) low-density residential uses with marinas.

Policy E.1.7.3: Outside of marine commercial areas, shoreline land uses shall be designated for recreation, conservation, or residential use.

FLAGLER COUNTY COMPREHENSIVE PLAN
COASTAL MANAGEMENT ELEMENT
(in part)

Policy E.1.7.4: Water-related uses shall be built on uplands. Filling of wetlands or open water in order to accommodate water-related uses shall not be allowed.

Policy E.1.7.5: New and, where applicable, expanded marinas and multislip (three or more slips) docking facilities shall conform to the following criteria:

- (1) public use marinas shall be allowed only in commercial zoning districts;
- (2) marinas and multislip docking facilities must provide vehicular parking and sewage pump-out facilities or contracted pump-out service. Overnight use requires on-shore sanitary facilities. This criterion also applies to expanded facilities;
- (3) all parking, dry storage, and non-water dependent facilities should be built on existing uplands and shall not be built on functioning wetlands. This criterion also applies to expanded facilities;
- (4) marinas and multislip docking facilities shall prepare hurricane plans which describe measures to be taken concerning damage to marina sites, neighboring properties, and the environment; this hurricane plan shall be reviewed and approved by the Emergency Management Division Chief and the Planning and Zoning Director or their designees. This criterion also applies to expanded facilities;
- (5) dry dock storage facilities shall be encouraged as compared to wet slip docking facilities. This criterion also applies to expanded facilities;
- (6) fueling facilities associated with marinas shall be designed to contain spills from on land equipment and shall be prepared to contain spills in the water. New or expanded facilities must have a fuel management/spill contingency plan prior to the operation of the marina fueling facility;
- (7) new or expanded marinas shall not be located in aquatic preserves, Class II waters, or Outstanding Florida Waters (OFW); and
- (8) new marinas and boatyards shall participate in the Florida Department of Environmental Protection (FDEP) Clean Marina and/or Clean Boatyard program.

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD REGULAR MEETING

Flagler County Government Services Building,
1769 East Moody Blvd., Board Chambers, Bunnell, FL

MEETING MINUTES

Tuesday, September 14, 2021 at 6:00 PM

1. **Roll Call:** The meeting was called to order by the Chair and a quorum was present.

Members Present: Anthony Lombardo (Chair), Fernando Melendez, Mark Langello, Jack Corbett, Timothy Connor

Members Excused: Michael Boyd and Mike Goodman (Vice Chair)

Staff Present: Adam Mengel, Growth Management Director, Chuck Merenda, Assistant Director, Gina Lemon, Planner

Board Counsel: Sean Moylan, Assistant County Attorney

2. Pledge to the Flag.

3. Approval of: August 10, 2021 regular meeting minutes.

Motion: Motion to approve.

Motion By: Mr. Corbett

Motion 2nd by: Mr. Melendez

Vote: Carried unanimously

Mr. Langello arrived at 6:02 pm

4. **Quasi-judicial requiring disclosure of ex parte communication:**

Application #3259 – **SPECIAL USE IN THE AC (AGRICULTURE) DISTRICT** – request for Special Use for photovoltaic solar energy center; Parcel Number: 30-10-28-0000-01010-0000; parcel size 155+/- acres. Owner: Rayonier Forest Resources, Lp/Applicant: Florida Renewable Partners and Kimley-Horn and Associates, Inc.

Project #COND-000488-2021

(TRC, PDB, BCC)

Board Member Disclosures: None.

Staff Presentation: by Adam Mengel, Growth Management Director

Applicant Presentation:

Mark Shelton, AICP, Senior Planner, Kimley-Horn and Associates, Inc. at 12740 Gran Bay Parkway West, Suite #2350, Jacksonville, FL 32258 advised that they agree with the staff report and introduced Erico Lopez.

Erico Lopez, Senior Project Manager, Florida Renewable Partners at 700 Universe Boulevard, Juno Beach, FL 33408 gave information on the company of Florida Renewable Partners and its associated companies. He gave a description of the project, timeline and its tie in to the FPL line north of the site.

Board discussion:

Mr. Melendez questioned if the Putnam County side is up and running. Mr. Lopez responded that their approvals are in place but construction has not started. Mr. Melendez questioned how tall the panels are. Mr. Lopez explained that the panels move/track the sun and are approximately 10-12' at their highest point.

Mr. Lombardo asked what happens with the site after the 25-35 lifetime of the site. Mr. Lopez explained that by the end of the life of the site there could be continuance of the site or return to a farming or other use.

Mr. Langelo questioned the voltage or amps from the site with concern for the remoteness of the site; protection of an individual should they enter the site and the wetlands on site.

Mr. Lopez explained that the site is connected to their Juno Beach Office, there will be an alert sent and an individual contacted to inspect the site. The inverters are secured within an aluminum or steel structure. Mr. Lopez explained that in the review of the project, Flagler County has requested that there be little vegetation on the perimeter of the site, so that if law enforcement or emergency response is necessary, they will be able to have clear vision in to the site. The power will be extended above ground through an easement to the transmission lines north of the site. Mr. Lopez advised that the wetlands will be protected with the required buffers.

Mr. Melendez questioned about data collected regarding danger to farm animals as result of the solar facility.

Mr. Lopez responded that there has not been any grounded evidence that farm animals would be harmed by the solar facility.

Mr. Lombardo commented that there must be signs alerting about the high voltage, etc.

Mr. Lopez responded that there are signs about the site, "keep out", "high voltage" and other safety messages.

Public Comment:

Greg Blosé, President and CEO of the Palm Coast-Flagler Regional Chamber of Commerce spoke in support of the proposed solar facility.

Motion: To recommend approval to the Board of County Commissioners approval of the Special Use Application #3259 for the installation of the solar facility, subject to development consistent with the Site Plan dated May 11, 2021.

Motion By: Mr. Langelo

Motion 2nd by: Mr. Melendez

Vote: Motion carried unanimously

5. **Legislative:**

Review and recommendation to the Board of County Commissioners on an ordinance titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING THE FLAGLER COUNTY CODE OF ORDINANCES, TO AMEND ARTICLE III, ZONING DISTRICT REGULATIONS, OF APPENDIX C, LAND DEVELOPMENT CODE; TO ADOPT STANDARDS AND REQUIREMENTS FOR MARINAS, TO PROVIDE FOR ZONING DISTRICTS WITHIN WHICH MARINAS MAY BE LOCATED, AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

(PDB, BCC)

Staff Presentation: by Adam Mengel, Growth Management Director

Mr. Mengel advised that this proposed ordinance to include Marinas in Article III of the Flagler County Land Development Code, it has been publically noticed for recommendation by the Planning and Development Board this evening and for public hearing by the Board of County Commissioners for two readings, on October 4, 2021 at 9:30 a.m. and October 18 at 5:30 p.m.

Public Comment:

Carol Scott, 38 San Carlos Drive, read into the record the letter written by Mike Goodman, Planning Board Member that was included in agenda backup material.

Donna Richardson Drevnoik, 6 Ocean Vista Lane, member of Scenic A1A since its beginning; pointed out narrowness of the Intracoastal, expressed that proposal is industrial in nature.

Joyce Skaff, 5648 N. Oceanshore Boulevard, spoke of purpose Scenic A1A Corridor Overlay and in opposition to the proposed amendment.

Alicia Seldon, Hammock Dunes, spoke in opposition to the proposed amendment.

Dennis Clark, 5784 N. Oceanshore Boulevard, spoke in opposition to the proposed amendment.

Elayne Byrd, Hammock Dunes, spoke in opposition to the proposed amendment, specific to parking, noise, boat washing and gas tanks.

Jody Bollinger, 5648 N Oceanshore Boulevard, presented research she had compiled from Florida County Property Appraiser property use codes, specifically Brevard and St. Johns Counties. She spoke in opposition to the proposed amendment as it relates to warehousing.

Jennifer Pickett, 38 Atlantic Drive, spoke in opposition to the proposed amendment, spoke of traffic and definition of marina.

John Russell, 5652 N. Oceanshore Boulevard, same location for 50 years, spoke historically of activity of the hammock area and building his hardware store 40 years ago. He advised

that when Newcastle Marine built building on property adjacent to his, he lost his homeowners insurance. Says he pays a premium price for the hardware store, with provisions for marina he questions the ability to maintain insurance, asked for forethought when considering the amendment.

Thomas Gallagher, 34 Cherokee Avenue, spoke in opposition to the proposed amendment, due to exceeding limits on Scenic A1A.

Sherree Frazier, owner in Flagler County since 2003 currently in Canopy Walk, spoke in opposition to the proposed amendment based on environment and aesthetics.

Dennis Bayer, Esquire on behalf of Hammock Civic Association, expressed frustration that proposals offered by the association had not been included; asked that the use be a Special Exception in the C-2 District when adjacent to residential or in the Scenic A1A Overlay, give consideration to hours of operation, parking, boat washing, dredging and buffering.

Bob Million, 17 S. Waterview Drive, handed out information with photographs and referred to Mr. Goodman's letter read into the record including the City of Seattle Fire Code. That fire code refers to floating docks with a roof over on them, not a dry storage and not a marina. The marina fire codes are included in NFPA 303 and NFPA13, Chapter 12. Parking should be revised, any ancillary use should provide parking independently; dock setback compared to a side yard setback - FDEP will determine the setback in the sovereign lands; boat service is excluded from marinas in general, it is normal to differentiate between a boat yard and a marina. A boat yard does industrial type work. County's 2016 manatee plan includes definitions, he questioned the need to rewrite definitions.

Greg Blosé, President and CEO of the Palm Coast-Flagler Regional Chamber of Commerce spoke in support of the amendment but requested that the parking be 1 space per wet slip and 1 space for each 6 dry slips; cautioned against duplication of regulations by other agencies; boat yard vs marina, encouraged definition for a boat yard.

Public Comment closed.

Board Discussion:

Mr. Langelo spoke in favor of having the marina as a special exception, supported not having mention of fire code in the marina regulations of the Land Development Code since they are applicable through the fire code anyway.

Mr. Conner spoke about parking for ancillary uses being necessary and should be based on each ancillary use. He sought clarification on the type of building for dry boat storage, staff pointed out that the proposed amendment describes the building at fully enclosed. He mentioned concern for noise. He agreed that the marina should be a Special Exception.

Mr. Corbett commented that when chartering a boat parking is usually insufficient. He felt that the parking should be based on the use and type of marina.

Mr. Lombardo agreed with the Special Exception in the Tier 2 and 3 categories.

Motion: Mr. Conner moved to recommend approval of the proposed amendment to the Flagler County Land Development Code, Article III with a change to allow a marina as a Special Exception in the C-2 District rather than primary use.

Motion 2nd by: Mr. Langello with offer of an amendment for the required parking to be related to each use. The Special Exception will address the noise.

Mr. Conner accepted the amendment – he encouraged staff to work with others to fine tune the language prior to advancing to the Board of County Commissioners.

Attorney Moylan asked for clarification on the motion. Mr. Conner clarified that the marina use would be a Special Exception in the C-2 District.

Chairman Lombardo restated the motion as recommendation to the Board of County Commissioners for approval with the marina use to be a Special Exception in the C-2 District for Tier 2 and Tier 3 and parking, noise, fuel all be part of the discussion for the Special Exception.

Vote: Motion carried unanimously

4. Staff Comments: None

5. Board Comments: None

6. Public Comments:

Alicia Seldon, Hammock Dunes – complained about process, asked if there is an ability to appeal. Staff advised that the item will be going to the Board of County Commission on October 4, 2021.

Jody Bollinger asked about the noise in a Special Exception. She wanted to make sure that if a special exception, the noise would be addressed.

7. Adjournment: Motion to adjourn

Motion by: Mr. Langello

Motion 2nd by: Mr. Corbett

Meeting adjourned at 7:42 pm

FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD REGULAR MEETING

Flagler County Government Services Building,
1769 East Moody Blvd., Board Chambers, Bunnell, FL

MEETING MINUTES

Tuesday, August 10, 2021 at 6:00 PM

ADOPTED SEPTEMBER 14, 2021

1. **Roll Call:** The meeting was called to order by the Chair and a quorum was present.

Members Present: Mike Goodman (Vice Chair), Michael Boyd, Fernando Melendez, Mark Langello, Jack Corbett.

Members Excused: Anthony Lombardo (Chair) and Timothy Connor

Staff Present: Adam Mengel, Growth Management Director, Chuck Merenda, Assistant Director, and Gina Lemon, Planner

Board Counsel: Sean Moylan, Assistant County Attorney

2. Pledge
3. Approval of July 13, 2021 regular meeting minutes.

Motion: Motion to approve as written.

Motion By: Mr. Boyd

Motion 2nd by: Mr. Langello

Vote: Carried unanimously

Agenda order adjusted by consensus of the Board. Application #3260 Site Development Plan in a PUD moved to item 4 and Application #3257 Determination of Use in C-2 moved to item 5.

5. **Application #3260 – SITE DEVELOPMENT PLAN REVIEW IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – request for Site Development Plan for proposed 73 lot subdivision, Plantation Bay, Section 2A-F, Unit 16, in the PUD District lying south of South Old Dixie Highway and north of Plantation Bay, Section 2A-F, Unit 8; Parcel Number: 03-13-31-0000-01010-0030; 40 +/- acres. Owner: WL Residential Land, LLC / Applicant: Finley Engineering Solutions.

Project #SDP-000489-2021

(TRC, PDB, BCC)

Board Member Disclosures: None

Staff Presentation: by Adam Mengel, Growth Management Director

Applicant Presentation: Jerry Finley, Finley Engineering Solutions provided brief description of the project and it's connectivity to the new connection to US Highway 1 presently under construction.

Board Discussion:

Mr. Langello questioned lot dimensions not being shown on the site development plan. Staff explained that the lot dimensions will be on the soon to be presented, preliminary plat.

Public Comment:

None.

Motion: Motion to recommend approval of the PUD Site Development Plan for Plantation Bay Section 2A-F, Unit 16 and the amendment to the Specific Development Standards for Plantation Bay Section 2A-F to include standards for Unit 16 as adopted through an ordinance titled similar to:

AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, FLAGLER COUNTY, FLORIDA AMENDING ATTACHMENT #1 PLANTATION BAY SECTION 2A-F UNITS 5, 6, 7, 8, 9 12B, 13, AND 16 SUPPLEMENTAL PUD DEVELOPMENT AGREEMENT TO FLAGLER COUNTY ORDINANCE NO. 2007-16, AS AMENDED BY FLAGLER COUNTY ORDINANCE NO. 2012-01, ORDINANCE NO. 2016-06, ORDINANCE NO. 2018-16, ORDINANCE NO. 2019-07; AND ORDINANCE NO. 2021-03; AMENDING THE SUPPLEMENTAL PUD DEVELOPMENT AGREEMENT TO PROVIDE SPECIFIC DEVELOPMENT STANDARDS FOR UNIT 16; PROVIDING FOR FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion By: Mr. Langelo

Discussion: None

Motion 2nd by: Mr. Boyd

Vote: Carried unanimously

4. **Application #3257** – Continued from July 13, 2021 meeting - **DETERMINATION OF USE IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT** - request for determination of use for marina at 5658 North Oceanshore Boulevard on Parcel Number: 40-10-21-3150-00000-0420; 4.26 +/- acres. Owner: Hammock Harbour, LLC / Applicant: Bob Million. *DETUSE-000466-2021* (PDB)

Board Member Disclosures: None

Staff Presentation: Adam Mengel, Growth Management Director provided clarification for the Planning and Development Board of the request before them.

Assistant County Attorney Moylan provided the distinction between legislative and quasi-judicial items for the Planning and Development Board.

Mr. Langelo spoke to the request before the Planning and Development Board, Section 4493 Marinas. Warehouse to him is an industrial type of use, the logistics involve the use of trucks bringing items in and taking them away. He described that the Marina should be a Special Exception in the C-2 District, this would require the Planning and Development Board to look at the use and the surrounding area for the appropriateness of the use. The marina type use and associated uses already happen in the A1A Corridor at Bings Landing.

Mr. Corbett described that to him Marinas would be similar to the other uses listed in the general commercial areas.

Mr. Goodman expressed that he differed with Mr. Langello's description of a warehouse. He conceded that the Marina as a Special Exception coming before the Planning and Development Board each time might work.

Motion: Mr. Langello moved to determine that the use is similar to the C-2 District based on the definition of a marina in the SIC manual and not prohibited based on the definition of a warehouse in the NAICS manual and it is appropriate to the area. Seconded by Mr. Boyd.

Public Comment:

Bob Million for Hammock Harbour, offered that he believed that the marina is an approved use already as boat service establishment or commercial recreation. He offered that Bings Landing is public recreational use, one of the permitted uses in the Scenic A1A Corridor is commercial recreational use. Both are open to the public and both recreational uses. The Manatee Protection cites where marinas should go. He continued discussion regarding the definition of marina and warehouse and their inclusion in federal, state, and local codes.

Dennis Bayer, counsel for Hammock Civic Association. Commented that the agenda is unclear about legislative or quasi-judicial item. He expressed the concern spot zoning, questioned standing for representation of all owners of C-2 Property, he encouraged the County to finish the proposed ordinance on marinas. Supported the use as a special exception.

Kathy Viehe, 5676 N. Oceanshore Boulevard, spoke in opposition to the marina use being similar to those uses permitted in the C-2 District.

Dr. Lynn Rosewater, 200 Ocean Crest Drive, Unit 815, spoke about a marina in Sebastian inlet, 8685 US Highway 1 in Micco, Florida and how the property appraiser assesses the structure.

Jody Bollinger, 5648 N. Oceanshore Boulevard spoke about properties currently zoned C-2 along the Matanzas River and in opposition to the marina use being similar to those uses permitted in the C-2 District.

Dennis Clark, 5784 N. Oceanshore Boulevard spoke in opposition to the marina use being similar to those uses permitted in the C-2 District and referred to letters by Thad Crowe and Walter Fufidio.

Robin Polletta, 4159 Sanora Lane, Ormond Beach spoke in opposition to the marina use being similar to those uses permitted in the C-2 District.

Jan Cullinane, 27 Ocean Ridge Boulevard South spoke about definition of warehouse and boat storage.

Jan Sullivan, 35 Nantucket Drive handed the Board members reference material from the SIC manual. She spoke about the two SIC and NAICS reference manuals; she referred to the information from the SIC, major group 79, etc.

Roger Cullinane, 27 Ocean Ridge Boulevard South referred to writing by FlaglerLive.com objected to warehouse use.

Mr. Million spoke in rebuttal to the public comments, he supported that the use is a Commercial recreational use and not needing a change. With regard to the appraiser class code that was commented on, one has nothing to do with the other.

Board Discussion:

Mr. Langello maintained that the use is appropriate in the C-2 District and does not think that it is a warehouse. He maintained that the motion that he made is appropriate.

Mr. Moylan offered clarifications on the comments received on the item; those comments referring to warehouse were clearly referring to Mr. Million's specific application and that is not what the Board is deciding this evening. Following up on Mr. Bayer's comments about the agenda being unclear, Mr. Moylan offered that the item is a legislative act and not quasi-judicial. With regard to Mr. Million having standing to request the item before the Board. Mr. Moylan explained that the request is allowed and it is applied for by submittal of a use determination, any constituent can submit the application. With regard to the properties currently zoned C-2 and their locations near the water, he reminded that properties can be rezoned and the decision made this evening could last for generations.

Vote: Motion carried with vote of 4 to 1 with Mr. Goodman dissenting.

6. Discussion.

a. Marinas (discussion only for proposed amendment to Flagler County Land Development Code)

Mr. Mengel offered that the proposed amendment to the Land Development Code has been given to the Board in a double underline format for the new text for a proposed marina amendment within the Code. He guided the Board through the packet provided.

Mr. Langello offered to bring the document back to the Planning and Development Board as a proposed ordinance.

By consensus of the Planning and Development Board, staff will advertise the proposed ordinance for review and recommendation at the next regularly scheduled meeting.

Jody Bollinger 5648 N. Oeanshore Boulevard offered that there should be enhanced landscaping requirements for proposed marinas, standards for forklift operations, perhaps a residential sound package, requested to enhanced setbacks when adjacent to residential properties. She also asked that marinas be prohibited in national estuarine research reserve areas in Flagler County.

Dennis Clark, from Scenic A1A PRIDE suggested that there be a review of the proposed ordinance at the next Scenic A1A PRIDE meeting. He commented that the HCA submitted some recommendations that included safety features, environmental considerations, noise, boat washing and oil changes.

Bob Million, 17 S. Waterview Drive, commented that this is a good start. Most LDCs define marinas different than boat yards, he commented on the parking ratio and overnight use as Airbnb.

Greg Blosé, President and CEO of the Palm Coast-Flagler Regional Chamber commended the staff for putting the document together and advised that the Chamber supports the proposed.

Kathy Viehe 5676 N. Oceanshore Boulevard stated that she was disappointed that the HCA recommendations did not make it into the draft.

Danielle Anderson, Friends of A1A Scenic and Historic Coastal Byway Program Administrator wanted to remind all to be cognizant of the Scenic overlay and try to keep the protections in tact; that is what makes it an All American Road and makes the community special.

William Jordan 5572 N. Oceanshore Boulevard encouraged the Board to look at the entire picture, he specifically mentioned the width of the Intracoastal waterway, encouraged adequate buffers, and considerations for noise and the dry stack.

Mr. Goodman offered ideas to be included in the regulations for marinas, distances from residential, screening or fencing, height, ratio of wet slips vs dry storage, parking ratio, boat basin, driveway spacing, width, maximum size of boats stored, hours of operations, industrial setting vs residential, off-street parking, acreage requirement, auxiliary uses, amount of frontage on body of water, length of ramp or sling, sprinkled and safety, and gas tanks.

Mr. Langello commented that he appreciated the comments from the public. He thought that screening should be considered. He offered that the hours of operation would be likely related to the tier that the marina is. The fire code will be applicable regardless, whether it is in the zoning requirements or not. The size of the use will be determined by the other applicable regulations.

7. Staff Comments: None

8. Board Comments:

Mr. Langello asked if Mr. Mengel was familiar with the new state law that requires an element regarding property rights.

9. Public Comments: None

10. Adjournment: Motion to adjourn

Motion by: Mr. Boyd

Motion 2nd by: Mr. Corbett

Meeting adjourned at 8:20 p.m.

**FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD REGULAR
MEETING**

Flagler County Government Services Building,
1769 East Moody Blvd., Board Chambers, Bunnell, FL

MEETING MINUTES
Tuesday, July 13, 2021 at 6:00 PM

ADOPTED AUGUST 10, 2021

1. **Roll Call:** The meeting was called to order by the Chair and a quorum was present.

Members Present: Michael Boyd, Jack Corbett, Timothy Conner, Mike Goodman, Mark Langelo, Anthony Lombardo, Fernando Melendez,

Staff Present: Adam Mengel, Growth Management Director, Chuck Merenda, Assistant Director, Gina Lemon, Planner

Board Counsel: Sean Moylan, Assistant County Attorney

2. Pledge to the Flag.

3. Approval of: June 8, 2021 regular meeting minutes.

Motion: Motion to Approve June 8, 2021 regular meeting minutes.

Motion By: Mr. Boyd

Motion 2nd by: Mr. Langelo

Vote: Motion carried unanimously.

4. CONTINUED FROM MAY 11, 2021 MEETING

Quasi-judicial requiring disclosure of ex parte communication:

Application #3257 – **DETERMINATION OF USE IN THE C-2 (GENERAL COMMERCIAL AND SHOPPING CENTER) DISTRICT** – request for determination of use for marina at 5658 North Oceanshore Boulevard on Parcel Number: 40-10-31-3150-00000-0420; 4.26+/- acres. Owner: Hammock Harbour, LLC/Applicant: Bob Million.

Project #DETUSE-000466-2021

(TRC, PDB)

Board Member Disclosures: None

Staff Presentation: by Adam Mengel, Growth Management Director

Public Comment:

Dennis Bayer, 109 6th Street South, Flagler Beach spoke on behalf of Hammock Civic Association – questioned procedure.

Bob Million, applicant representative for Hammock Harbour, expressed frustration on delay with determination.

Mr. Goodman questioned the size of the warehouse/marina in St. Augustine. Discussion continued about size of parcel and improvements on parcel in St. Augustine.

Jody Bollinger, 5648 N. Oceanshore Boulevard, the residences that were constructed within 175' of St. Augustine Ship Yard have been constructed within the last year.

Jim Buckley, 2891 John Anderson Drive, Ormond Beach, owner of 5658 N. Oceanshore Blvd. Described his personal experience in marinas in the San Sabastian River area. Expressed that there have been untruths expressed about his intentions for the subject property.

Scott Sowers, S. E. Cline Construction, spoke in support of adding marina uses in the Flagler County Land Development Code.

John Dougherty, Pamela Parkway, spoke in support of adding dry stack storage in the Flagler County Land Development Code. Alleviate a lot of pressure, provide jobs, and add tax revenue.

John Russell, 5652 N. Oceanshore Boulevard spoke in opposition to the dry boat storage use to be allowed at 5658 N. Oceanshore Boulevard.

Janet Sullivan, Hammock resident spoke in opposition to the dry stack storage use.

Applicant Rebuttal: Mr. Million provided statistical information on the zoning that aligns with N. Oceanshore Boulevard.

Board Discussion:

Mr. Langello thanked the public for their statements and explained the item before them and clarified that the request is not parcel specific.

Motion: Motion to continue Application #3257 to August 10, 2021.

Motion By: Mr. Langello

Motion 2nd by: Mr. Conner

Discussion: Mr. Goodman sought clarification of the request before the Planning and Development Board.

Vote: Carried unanimously.

5. Discussion:

c. **Marinas (LDC Article III)**

Staff Presentation: by Adam Mengel, Growth Management Director.

Public Comment:

Kathy Viehe, 5676 N. Oceanshore Boulevard and Board Member of Hammock Community Association, referred to document prepared by HCA at page 2 of 4, Tier 3 should have more than one tier. Continued to speak as the proposed criteria is specific to a parcel. Commended the City of Palm Coast marina ordinance.

Jody Bollinger, 5648 N. Oceanshore Boulevard referred to lack of protections for Scenic Corridor, dry stack boat storage is a warehouse, allow in C-2 but not in corridor, address use of forklift when adjacent to residential district. Site plan for marina should be reviewed not only by TRC but also Planning and Development Board, regardless of parcel size. All other agency permits issued prior to commencement of construction. For fuel containment, require compliance with NFP38. Flagler County Comprehensive Plan, E.1.7.5 requires marinas to

provide pump out facilities or contracted pump out services, new or expanded marinas must shall not be located in Class II waters or aquatic preserves.

Dennis Bayer, 109 6th Street South, Flagler Beach, requested that clarification be provided on Tier 1 and each residential lot; questioned if the percentage noted in Tier 2 includes submerged land leases; Tier 3 needs a more defined site plan, and it should go to the Planning and Development Board, provide better definition of limited repair facilities; break Tier 3 into two tiers, include hours of operations and safety considerations.

Bob Million, 17 S. Waterview, Palm Coast. Explained that he has designed marinas associated with and without homes, explained that other jurisdictions require parking based on the type of slip.

William Jorden, 5572 N. Oceanshore Boulevard, spoke with concern for the Scenic A1A Corridor and the proposed regulations.

Greg Blosé, President and CEO of the Palm Coast Flagler Regional Chamber, spoke in support of criteria. Expressed that when he discussed the issue with members of the community he found that there is a demand for this use in the community.

Board Discussion:

Mr. Conner questioned Tier 1, appears that 10% or 1 acre whichever is greater, should this be whichever is less? Mr. Mengel responded that based on the discussion, the change will be one slip for each dwelling unit, the language will be worked on.

Mr. Conner questioned the parking and if Mr. Mengel had run the calculations to see how many boat berths could be achieved on one acre with the required parking. Mr. Mengel responded that typically about 240 square feet is required for parking plus drive aisle, he has not run the math yet.

Mr. Goodman suggested including the frontage on the water with the associated Tiers.

Mr. Langello suggested differentiating between dry and wet slips on Tier 3. Parking should not be required based on the peak use of the business. Forklifts with residential packages, lights instead of noise. Remove references to elements that are outside of zoning. Sewer pump out, should be mandatory in Tier 3. Multiple slips on an acre, maybe include use of the owner. Limited repair functions should be looked at. Hours of operation, not sure if that should be regulated. The idea that these are in C-2 or I districts.

Mr. Mengel advised that setbacks in Tier 3 would be according to the zoning district.

Mr. Goodman questioned setbacks and buffers. Mr. Mengel explained that the buffer requirements and the uncomplimentary buffer requirements of the LDC, Article V will be

in place. Staff read the setbacks abutting residentially classified properties from the C-2 dimensional requirements to answer the question.

a. Planning and Development Board membership requirements (LDC Article II)

Staff Presentation: by Adam Mengel, Growth Management Director.

Mr. Langelo explained that there has been a request from the Planning and Development Board to make changes to the LDC text, at least a couple of years ago. Make the criteria not quite so restrictive.

Mr. Boyd spoke about his experience on the Long Range Planning Board. He was not understanding why someone living in Palm Coast would want to sit on the Flagler County Planning and Development Board; Palm Coast would not ask west side County residents to sit on their board and he agrees with that. He felt if the vacancies were advertised well, and others spoke it up you would have applicants.

Mr. Corbett and Mr. Lombardo each indicated that the homestead should be dropped from the requirement.

Mr. Conner felt that there was value in the selection zones because Flagler County has unique niches. He felt that members should also be required to be a landowner.

Mr. Moylan advised that the requirement of being an elector is common to all advisory boards, as far as he is aware. This means that you are at least 18, a United States citizen, a permanent resident and your civil rights have not been taken away.

Mr. Mengel advised that the reason for him asking for the discussion is to create a larger pool of applicants. Creating a quadrant area and 3 at-large representatives all from unincorporated area.

Board members by consensus agreed to remove the homestead requirement and selection from quadrants such as 2 members being west of U S Highway 1, 2 members east of U S Highway 1 north of State Road 100 and 1 east of U S Highway 1 south of State Road 100 and 2 at-large, whenever possible.

b. A1A Scenic Corridor Overlay (LDC Article III)

Mr. Goodman offered a motion to postpone discussion to another date.

Langelo agrees.

Staff offered to allow Mr. Dennis Clark to present his information.

Dennis Clark, Chair Scenic A1A PRIDE Committee, he expected the changes to go into the re-write of the Land Development Code and not as a separate amendment. He provided history of the A1A Scenic Corridor Overlay and expressed concerns identified as shortcomings of the Land Development Code.

Mr. Mengel explained that the County no longer has a consultant working on the re-write of the Land Development Code. He identified his anticipated timing for the amendments to the Land Development Code. He is attempting to complete the impact fees, then update of the Comprehensive Plan, followed by re-write of the Land Development Code.

6. **Staff Comments:** None
7. **Board Comments:** None
8. **Public Comments:** Jody Bollinger referred to Mr. Langelo's question of how many industrial parcels are on the intracoastal? Ms. Bollinger questioned how many C-2 parcels are on the intracoastal.
9. **Adjournment: Motion to adjourn**
Motion by: Mr. Langelo
Motion 2nd by: Mr. Boyd
Meeting adjourned at 9:14 p.m.

NOTICE OF ADOPTION OF AMENDMENT TO THE FLAGLER COUNTY LAND DEVELOPMENT CODE

Pursuant to Chapter 125.66, Florida Statutes, the Flagler County Board of County Commissioners hereby gives notice of a proposal to adopt an Ordinance affecting the actual list of permitted, conditional, or prohibited uses within the unincorporated area of Flagler County and titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING THE FLAGLER COUNTY CODE OF ORDINANCES, TO AMEND ARTICLE III, ZONING DISTRICT REGULATIONS, OF APPENDIX C, LAND DEVELOPMENT CODE; TO ADOPT STANDARDS AND REQUIREMENTS FOR MARINAS, TO PROVIDE FOR ZONING DISTRICTS WITHIN WHICH MARINAS MAY BE LOCATED, AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

A public hearing on the ordinance will be held in the location listed below at the date and time provided:

PLANNING AND DEVELOPMENT BOARD – September 14, 2021 at 6:00 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, 32110

BOARD OF COUNTY COMMISSIONERS – First Reading – October 4, 2021 at 9:30 a.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, 32110

BOARD OF COUNTY COMMISSIONERS – Second Reading and Adoption – October 18, 2021 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida, 32110.

All interested persons are urged to attend the public hearing and be heard. Anyone wishing to express their opinion may attend, telephone 386-313-4009 or write to: Flagler County Planning and Zoning Department, 1769 E. Moody Blvd, Building 2, Bunnell, FL 32110 or email to planningdept@flaglercounty.gov. Copies of the proposed ordinance, supporting data and analysis, staff reports and other pertinent information are available for review at the Flagler County Planning and Zoning Department, 1769 East Moody Boulevard, Building 2, Bunnell, Florida 32110, Monday through Friday (except holidays) from 8:00 a.m. to 4:30 p.m.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON WILL NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE COUNTY ADMINISTRATION AT (386) 313-4001 AT LEAST 48 HOURS PRIOR TO THE MEETING.

From: [Bob Million](#)
To: [Adam Mengel, AICP, LEED AP BD+C](#); [Heidi Petito](#); [Jorge Salinas](#); [Andy Dance](#); [Gregory Hansen](#); [David Sullivan](#); [Joseph Mullins](#); [Donald O'Brien](#)
Subject: Proposed Marina LDC Amendment
Date: Monday, September 27, 2021 10:15:09 AM
Attachments: [Review of proposed Code Amendment.docx](#)

This email originated outside the Flagler County email system. DO NOT click any links or open any attachments unless you know the sender and know the content is safe.

It is my request that each of you will review the attached information prior to the October 4th BOCC meeting.

My comments document specific language in the proposed Code Amendment which should be restated prior to BOCC consideration. Proposed changes are applicable to all future marina development in the County. Comments and recommended changes are based on my experience and have limited, or no effect on my proposed Hammock Harbour development. Marina land use was for Hammock Harbour was specifically approved by the PDB on September 14.

It is my opinion that the proposed Code Amendment fails to address critical components of marina use and provided a basis for ongoing litigation.

I am available to discuss my recommendations, and provide additional information.

Respectfully

Bob Million

Sent from [Mail](#) for Windows

Proposed Marina Land Development Code Amendment

General Concern about the Procedure

The September 14, 2021 Planning and Development Board (PDB) approved a motion forwarding to the Board of County Commissioners, a proposed Land Development Code (LDC) amendment to define marinas. The motion included recommending marinas be permitted as a special exception in the C-2 district. The PDB recommendation for special exception was made at the request of an attorney representing Hammock Community Association (HCA). No supporting evidence was presented substantiating marina use creates excessive or greater impact to the neighboring properties than other principal permitted uses, including: restaurant, hotel, hospital, bar, bus depot, theater, day care center, retail sales. **HCA's entire argument relies upon emotional assumptions.** Two years of public hearings, appeals and litigation failed to produce any factual evidence that marina use will negatively impact the community.

Any requirement for permitting use by special exception should be fact based and uniformly applicable to all land uses. Parking, odor, sound level, lot coverage and other development requirements are defined in the LDC. Arbitrary decisions requiring an additional level of review invite conflict and create opportunity for extended litigation.

Background

Something as simple as, confirming that marinas have been, a permitted land use in Flagler County has been ongoing more than 2-years. The application for marina development at 5658 N Oceanshore Blvd exposed inconsistencies in approval of previous marina developments and highlighted ambiguities in the County Land Development Code (LDC).

The LDC clearly prohibits specific land use and regulates permitted land use within zoning districts. Without a specific amendment, the LDC has no provision to “create” a new land use. Planned Unit Developments (PUD) are allowed to aggregate land uses. **MARINAS ARE NOT A PROHIBITED USE** and have been approved in Flagler County, for 40+ years.

Planned Unit Developments, C-2 General Commercial district and Public Lands district ALL allow **public and/or recreational** uses. “**Public recreational use**” is funded by tax dollars, “**commercial recreational use**”; open to the public, is funded by the private investment.

The only possible basis for County approval of previously permitted marina use in any zoning

district is “public” or “recreational” use.

C-2 **“General Commercial”** within the A1A Scenic Corridor Overlay District allows marina use under Section 3.03.17.B.23 (f) **Boat service establishments**, and/or (x) **“Commercial recreational uses”**.

Bings Landing, public land within the A1A Scenic Corridor Overlay District, allows marina use under Section 3.03.19 B. 1. **“public recreational uses”**.

Yacht Harbor Village, a PUD within the A1A Scenic Corridor Overlay District, was permitted with the 212 slip Hammock Beach Marina under Section 3.03.20.B.6 **“public uses”** or 3.03.20.B.14 **“recreational and open space”**.

Ultimately, the application for Land Use Determination filed by the owners of 5658 N Oceanshore Blvd. forced the Planning Department to formally address the following issues:

Provide definitions for marina related structures.

Clarify issues not clearly regulated in the current LDC.

Define marina off street parking requirements.

Define specific zoning districts allowing marina use.

The proposed amendment does not create a new land use, it further defines marina use previously permitted in Flagler County.

Properly defining marina land use should consider solutions developed by similar Florida LDC’s, define terms used, assure compliance with state and national guidelines, and establish regulations consistent with marina land use.

The proposed amendment fails to meet these minimum criteria.

**Specific Concerns regarding the Planning Director's decisions
relating to Amending the LDC to include Marinas**

The proposed amendment language is inconsistent with established national, state, and local regulations.

2016 Flagler County Manatee Protection Program

SIC and NAISC

Florida Statutes

Florida Administrative Code

FDEP, USACOE, SJRWMD

At the 5-11-21 PBD meeting the decision on application #3257, a request for land use determination was tabled after the Planning Director and PDB Members discussed scheduling a special meeting or workshop to allow public input for a marina amendment to the LDC. (2.05 – 2.09 minutes into meeting video). No special meeting or workshop was scheduled.

Specifically: Creating a code amendment outside of a workshop format results in debating proposed code amendment within 3-minute soundbites in a public hearing without opportunity for rebuttal or fact check. Public testimony is confusing and leads to an emotional decision.

After numerous examples were provided, the common practice of differentiating between “marina” and “boat yard” was ignored. The proposed code fails to address this issue.

Specifically: Defining minor repair and services allowed within “marina use” and limiting major repair and boat building to “boatyards” eliminates ambiguities about odor, noise, and other industrial uses. (Suggested change. Add boatyard use as defined in the 2016 Flagler County Manatee Protection Plan).

After numerous examples were provided, the common practice of basing parking requirements on the “use” of marina boat slips was ignored. Multiple speakers at public hearings repeatedly voiced concern about proposed parking requirements.

Specifically: Tier 2 and Tier 3 marinas allow docking for commercial fishing charter and requires only 1 parking space for each slip. Clearly inadequate.

Tier 1 marina, intended to be used by residents of a development allow 25 watercraft (slips). Does each slip require a parking space? Or does the parking provided within the development satisfy marina parking requirement? Including

use by nonprofit organizations further confuses the difference between Tier 1, Tier 2 and Tier 3 marinas

The proposed amendment language is inconsistent with established national, state, and local regulations.

2016 Flagler County Manatee Protection Program

SIC and NAISC

Florida Statutes

Florida Administrative Code

FDEP, USACOE, SJRWMD

The proposed amendment omits, or modifies definitions included in the 2016 Flagler County Manatee Protection Plan.

3.08.02 PROPOSED DEFINITIONS

Marina: Any structure or combination of structures, other than a single residential dock or slip, located on or over the water surface of navigable waters, or on land adjacent to navigable waters, and which is designed or used for the overnight mooring or storage of watercraft. Marinas are classified into the following subcategories: ***(The proposed definition of “marina” omits language permitting or limiting typical marina services.)***

- a. **Tier 1** — A Tier 1 marina consists of wet docks/slips and/or dry boat storage for three watercraft, but not more than 25 watercraft, that is intended to be used for private recreational or leisure purposes by persons or groups of persons who are residents of a development, or a nonprofit organization. ***(Suggested change. See Residential Multi-Family Dock and/or Marina, Residential below)***
- b. **Tier 2** — A Tier 2 marina is any facility or structure which serves as an accessory facility to other adjacent rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, charter, shipping, or sales. ***(Suggested change. Incorporate into Marina, Commercial. See below.)***
- c. **Tier 3** — A Tier 3 marina is any facility or structure that is used for business or income-producing purposes as a principal use or structure, through rental or any other means,

the services of which are open to the general public for a fee. ***(Suggested change. See Marina, Commercial. See below. Add “boatyard” use in Industrial districts.)***

Slip: An area of the water column above sovereign submerged lands specifically set aside for a boatlift, or the mooring of a single vessel associated with a docking facility. ***(Definition excludes dry boat slips and limits “area” to “sovereign lands”. A more accurate definition is incorporated into the 2016 Flagler County Manatee Protection Plan.)***

Definitions included in the 2016 Flagler County Manatee Protection Plan.

Residential Multi-family Dock - a Boat Facility on a common riparian parcel that is intended to be used for private recreational or leisure purposes by persons or groups of persons with real property interest. Upland developments that may have a residential multi-family dock may include a duplex, a condominium, single-family residences (attached or detached), or a development such as a single-family or mobile home subdivision.

Marina, Residential - a watercraft complex containing five (5) or more wet slips located on a waterway used primarily for recreational purposes, and where vessel mooring is clustered in a common area, rather than docks located behind individual residences. No sales, fueling or repair facilities shall be associated with these marinas. A private residential marina contains wet slips and/or dry slips used only as accessory to a principal multi-family development use. A public/private residential marina has a portion of its wet slips and/or dry slips designated for rental by the general public, with the remaining wet slips and/or dry slips used accessory to a principal multi-family development use.

Marina, Commercial - a commercial watercraft complex on and/or adjacent to a waterway which provides services available to the general public including but not limited to: rental of wet slips or dry storage space and associated boat lifting and/or launching, boat rentals, sale of marine fuel and lubricants, wastewater pump-out facilities, sale of fishing bait and equipment, and/or charter boat operations. Additional services may include the construction, reconstruction, repair, or maintenance of boats, marine engines and/or marine equipment; sale or lease of watercraft and seafood processing.

Dry Storage Facility - an upland structure, parking lot, or space used specifically for storing watercraft. Such as, but not limited to, in/out boat storage, boat repair, boat sales, or long term dry storage lots or facilities. For the purposes of this plan, a dry storage facility is considered a Boat Facility or part of a Boat

Facility if the dry storage facility has the capability of launching vessels into adjacent waters or water access is provided adjacent to, or in close proximity to the facility.

Boat Yard - *a boat facility (wet or dry slips) used only for boat repair and/or boat building.*

Boat Facility - *a public or private structure or operation where boats are moored and/or launched from wet or dry boat slips, including commercial, recreational, private, and residential marinas and boat ramps. For the purpose of this plan, facilities and operations with less than five (5) wet slips are not considered boat facilities.*

Boat Slip - *a boat slip is a space, mooring, or parking space which can accommodate one boat or vessel in the water or on land (examples include, lifts, trailers, anchorage, beached or blocked, hoist, floating platforms, davits). For the purposes of this plan, a boat trailer parking space is a boat slip. Temporary slips that do not contribute to boat traffic, such as courtesy slips for boat ramps and dry storage facilities, are exempt from the Boat Facility Siting Strategy.*

3.06.04 Parking requirements for all districts, of Section 3.06.00, Special Provisions Other, to read as follows

A. Off-street parking space requirements.

20. Boat ramp: For commercial boat ramps, twenty (20) spaces for each boat ramp lane, with total provided parking to provide at least forty percent (40%) of the spaces to accommodate vehicles with attached boat trailers.

21. Pier: For commercial piers, one (1) space for each fifty (50) linear feet of pier or terminal platform over water (not including any portion over dry land).

22. Marina: One (1) space for each wet slip; one (1) space for every four (4) boat berths (dry boat storage spaces). Structures authorized only for fishing or observation, are not considered slips. ***(Suggested change. See below)***

The proposed Amendment does not correlate boat slip use to required off-street parking.

To assure that all marinas provide adequate parking for visitors, marina parking should be specifically based on the boat slip plan submitted for approval. Any change from the approved site plan which modifies the type of slip or increases the number of each type of slip must be approved by the Planning Director.

Minimum aggregate parking for marina use

1 parking space per employee plus,

1 parking space per 2 wet slips plus,

1 parking space per each liveaboard slip plus,

1 parking space per 6 dry slips plus,

1 parking space per 2 passengers + 1 per each crew member for commercial vessels, based on the total number of passengers allowed.

Parking for ancillary uses, ie; restaurant, office, commercial are in addition to parking required by marina operations and should be based on current LDC for that specific use.

3.06.10.6 Minimum dimensional requirements of the zoning district within which the lot or parcel is located shall apply to the placement and construction of any dock, boathouse, or pier, unless specifically superseded by this section. For purposes of determining conformance with minimum setback requirements, the dock, boathouse, or pier shall observe a minimum side yard setback that follows the waterward projection of the side lot line into the adjoining canal or waterbody.

The proposed Amendment contradicts Florida Administrative Code.

*FAC Rule 21018-.004(3)(d) Except as provided herein, all structures, including mooring pilings, breakwaters, jetties and groins, and activities **must be set back a minimum of 25 feet inside the applicant's riparian rights lines.** Marginal docks, however, must be set back a minimum of 10 feet. Exceptions to the setbacks are: private residential single-family docks or piers associated with a parcel that has a shoreline frontage of less than 65 feet, where portions of such structures are located between riparian lines less than 65 feet apart, or where such structure is shared by two adjacent single-family parcels; utility lines; bulkheads, seawalls, riprap or similar shoreline protection structures located along the shoreline; structures and activities previously authorized by the Board; structures and activities built or occurring prior to any requirement for Board authorization; when a letter of concurrence is obtained from the affected adjacent upland riparian owner; when the Board determines that locating any portion of the structure or activity within the setback area is necessary to avoid or minimize adverse impacts to natural resources; or when the Board determines that the activities are in the public interest.*

Riparian Rights - those rights incident to lands bordering upon navigable waters, as recognized by the courts and common law (Ch. 18-21.003(53), FAC).

3.06.10.C.2.e. New marinas shall participate in the Florida Department of Environmental Protection (FDEP) Clean Marina Program.

The FDEP Clean Marina Program is a voluntary participation plan applicable to docking facilities with more than 10 boat slips.

3.06.10.C.2.h New or expanded marinas that provide fueling services shall be designed to contain spills from on land equipment and be prepared to contain spills in the water.

Fueling service is not specifically permitted in the proposed Amendment

3.06.10.D. Relationship to Manatee Protection Plan. New docks, boathouses, piers, boat ramps, and marinas consisting of five (5) or more slips, or expansion of an existing dock, boathouse, pier, boat ramp, or marina into a facility with five (5) Additions appear as underlined text, deletions as strikethrough 7 or more slips, shall comply with the Boat Facility Siting recommendations as provided in the Manatee Protection Plan.

The proposed Amendment does not prohibit construction of a marina with less than 5 slips, in the Conservation Zone Category as defined in the 2016 MPP.

3.03.00 Use by District

RESIDENTIAL

Tier 1 Marinas are permitted as **special exceptions** in R-1b, R-1c, R-1 d, R-2, R-3, R-3b, MH-1, MH-2, MH-3, R/C

PUD

Tier 1 Marinas are permitted in NRC-PUD and MUL- PUD as a **principal use**.

Tier 1 and Tier 2 Marinas are permitted in MUH-PUD and CHI-PUD as a **principal use**.

Tier 1, Tier 2 and Tier 3 are permitted in NRC-PUD 3.03.20.1

COMMERCIAL

Tier 1 Marinas are permitted as a special exception in R/C and a **principal use C-2. (9-14-21 PDB recommended a modification to use by special exception in C-2 district)**

Tier 2 and Tier 3 Marinas are permitted as a principal use in C-2 general commercial, PUD, **(9-14-21 PDB recommended a modification to use by special exception in C-2 district)**

INDUSTRIAL

Tier 3 are permitted as a **principal use** in I-PUD

Marinas are NOT a listed as a principal use in 3.03.18 Industrial District

(A) Our viewpoint is still, and has always been, that dry boat storage structures do not belong in the Hammock. If commercial warehouses are prohibited by the SCO, how can you justify permitting a dry boat storage structure, which is obviously a warehouse. The SCO was added to the LDC to prohibit that type of hulking, out-of-character structure from being built.

(B) Request the following recommendations be given the upmost consideration for inclusion in the marina amendment. These recommendations pertain to dry boat storage structures when adjacent to residential property.

- (1) Forklifts shall either be electric or include a residential sound package.
- (2) Forklifts shall not operate prior to 8am or after 6pm.
- (3) A 50 foot wide vegetative landscape buffer shall be required along side property lines. A visual screen shall be placed within the buffer and shall run the entire length of the adjacent property line. It shall include a fence with a minimum height of 8 feet and an opaque vegetative screen with the same minimum height to act as noise abatement.

(C) Request the following recommendations be given the upmost consideration for inclusion in the marina amendment.

- (1) Boat washing or other chemicals must be contained on site and properly disposed of in keeping with the SJRWMD and Florida DEP requirements.
- (2) All required permits and approvals from government agencies having jurisdiction over a marina development are a prerequisite to the issuance of a development order. (City of Panama LDC.)
- (3) Parking ratio of 1 parking space for every 3 wet or dry slips. (City of Palm Coast LDC, Indian River County LDC, Miami-Dade County LDC, Palm Beach County LDC, Volusia County LDC.)
- (4) Ancillary uses must use parking ratios associated to their specific use.

Building Use/Card and Zoning for Indoor Stack Storage

Name of Facility	County	Property Appraiser Building Use/Building Card	Zoning
Cat's Paw Marina 220 Boat Nix Rd. St. Augustine, FL	St. John's	Building use: Warehouse/Storage	PUD (City of St. Augustine)
St. Augustine Shipyard 117 Dockside Drive St. Augustine, FL	St. John's	Building use: Warehousing/Flex space	PUD (City of St. Augustine)
Palm Cove Marina 14603 Beach Blvd. Jacksonville, FL	Duval City of Jacksonville	Building type: 4807 – WHSE Prefab	PUD (City of Jacksonville)
Lakeshore Marine Center 3326 Lake Shore Blvd. Jacksonville, FL	Duval City of Jacksonville	Building type: 4807 – WHSE Prefab	IW – Water Dependent Industries
Blue Points Marina 726 Scallop Drive Cape Canaveral, FL	Brevard	Building Use: 4800 – Warehousing, Distribution and Trucking Terminal, Van & Storage Warehousing	Port Authority
Sebastian Inlet Marina 8685 US-1 Micco, FL	Brevard	Building Use: 4800 – Warehousing, Distribution and Trucking Terminal, Van & Storage Warehousing	Brevard County BU-2 Retail, warehousing and wholesale commercial
Loggerhead Marina 721 Ballough Rd. Daytona Beach, FL	Volusia	Buildings – commercial Card #3: Interior finish – 48C Warehouse	MI – Local Industry (City of Daytona Beach)
Thunderboat Marine Service Ctr 1451 Old Griffin Road Dania Beach, FL	Broward	Building card: Floors – conc WHSE; Plumbing – plain WHSE Electric: average WHSE	MA – Marine (City of Dania Beach)
Marker 1 Marina 343 Causeway Blvd. Dunedin, FL	Pinellas	Building type: Building #4 – Warehouse	TF – Tourist Facility (City of Dunedin)
Jupiter Marina 3238 Casseekey Island Rd. Jupiter, FL	Palm Beach	Structural Details: Building #2: Warehouse/Storage	RM – Residential Multifamily
Southern Marina Hi Lift 2890 NE 187th St. Aventura, FL	Miami-Dade	Building Card: Type – 0070 Industrial	Primary Zone: Industrial (shown on map)
Duck Key Marina 1254 Greenbriar Rd. Duck Key, FL	Monroe	Commercial Buildings: Warehouse/MarinaC/48C	DR – Destination Resort
Four Winds Marina 16501 Stringfellow Rd. Bokeelia, FL	Lee	Building #5: Model Type 6 – Warehouse/Industrial	CM – Marine Commercial

Submitted by Jody Bollinger
September 14, 2021

C-2 Properties along ICW in unincorporated Flagler County

Property Owner	Acres	Feet on ICW	Future Land Use	Comments	Adjacent Zoning
Delores & Jerrald Schatz 5964 N. Ocean Shore Blvd	1.79	300	Mixed use: Low intensity Mixed use: High intensity	Single family home on property. Part of former Delores Motel site.	North: PUD South: RR/RC East: PUD, RC
Flagler County Board of County Commissioners 5862 N. Ocean Shore Blvd	7.449	600	Recreation & Open Space	Bing's Landing	
Hammock Harbour LLC 5658 N. Ocean Shore Blvd	4.26	300	Residential: Low Density/Rural Estate Mixed Use: Low intensity		North: RR/RC South: RR/RC
Hammock Beach Jose Park 5522 N. Ocean Shore Blvd, Lots 59-62; 5478 N. Ocean Shore Blvd, Lots 65-66	5522: 6.67 5478: 4.597	5522: 400 5478: 200	Residential: High Density Mixed Use: High intensity	Lots 57,58 63,64,67 are currently zoned RR/RC. Total acreage for Hammock Beach Jose Park is around 16 acres. Site of former proposed PUD (2005)	5522 North: RR/RC South: RR/RC 5478 North: RR/RC South: RR/RC East: C-2
Richard & Jacqueline Hamilton 4430 N. Ocean Shore Blvd 4400 N. Ocean Shore Blvd	3 Two adjacent parcels	266 Two parcels	Commercial: High intensity	Three acre parcel to the east of the 2 adjacent parcels is also owned by Richard Hamilton. It adjoins A1A.	North of 4430: RR South of 4400: RR/RC East: C-2

PDB Meeting 9-14-21, Proposed Marina Amendment

Planning and Development Board Member, Mr. Goodman provided a letter to be included as part of this meeting record which lists his “biggest concern is the risk of fire”. Attached to his letter is a document titled Chapter 94 Fire Protection for Covered Boat Moorage.

This document has no relevance to the proposed Flagler County LDC amendment. It is applicable, in Seattle, to: “a pier system of floating or fixed accessways to which vessels on the water may be secured and is covered by a roof”.

Fire suppression for marinas is governed by NFPA 303 and NFPA 13 Chapter 12. All requirements must be incorporated into marina construction permits.



Example of Covered Mooring



Example of Covered Mooring

Other concerns cited by Mr. Goodman; odor, business hours, noise, traffic creating a nuisance are more applicable to restaurant development. If such issues are determined to be a limiting factor in land use decisions, criteria must be uniformly applied.

Submitted by Bob Million
September 14, 2021

Recommended changes to the proposed Marina Code

- A. **Revise marina parking regulations based on slip use. Example: Tier 2 Marina allows commercial fishing, charter, shipping, or sales. Proposed parking is 1 space for each wet slip. Obviously inadequate for commercial fishing or charter.**
- B. **Remove Section 3.06.10.A.6 or revise language regulating side yard setback for docks.**
- C. **All boat service is excluded from the proposed amendment but could be allowed by the Planning and Development Board. Taken literally, this would require PDB to approve washing a boat.**
- D. **Revise proposed Marina Code definitions inconsistent with established definitions incorporated in the 2016 Manatee Protection Plan.**

A. Parking

Parking Requirement for Developments which include Commercial/Recreational Marina Use: Marinas may provide multiple types of boat slips. To assure that all marinas provide adequate parking for visitors, marina parking should be specifically based on the boat slip plan submitted for approval. Any change from the approved site plan which modifies the type of slip or increases the number of each type of slip must be approved by the Planning Director.

Minimum aggregate parking for marina use

- 1 parking space per employee plus,
- 1 parking space per 2 wet slips plus,
- 1 parking space per each liveaboard slip plus,
- 1 parking space per 6 dry slips plus,
- 1 parking space per 2 passengers + 1 per each crew member for commercial vessels, based on the total number of passengers allowed.

Parking for ancillary uses, ie; restaurant, office, commercial are in addition to parking required by marina operations and should be based on current LDC for that specific use.

Submitted by Bob Million September 14, 2021
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B. Side Setback for Docks

3.06.10.A.6 does not define if side yard setback for docks is based on “structure” or “landscape buffer”. Either way this requirement may conflict with established State guidelines

Florida property on sovereign lands FDEP requires a 25’ riparian setback from the property line, applicable to all parcels 65’ or wider., This is a “view corridor” and “navigation” issue and should be consistent for all docks within all zoning districts.

C. Allowed Service

Most LDC’s specify and limit the type of service that can be performed in a marina and exclude activities typically performed by boatyards. For example:

- i) minor watercraft repair services such as lubrication and tune ups, not involving removal of inboard or outboard engines from the watercraft.
- ii) watercraft cleaning services,
- iii) refueling of watercraft
- iv) No boat manufacturing or major reconstruction is permitted.

The type of repair is further limited by defining “boatyard” the type of repair that is done by “boatyards”.

Boatyard/Industrial Marina: A premise or site used as an industrial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, or maintenance and accessory sale of boats, marine engines, or marine equipment,
SIC 3732, NAISC 33612

Parking Requirements for Boatyard/Industrial Marina shall be made by the Planning Director based on the site plan submitted. Any change from the approved site plan which modifies the type of slip or increases the number of employees must be approved by the Planning Director.

D. Definitions

The 2016 Flagler County Manatee Protection Plan includes definitions of marina, boat slip, boatyard, dry storage facility and other terms used in the proposed amendment. Definitions in this amendment should be consistent.

2016 Flagler County Manatee Protection Plan Definitions

Boat – See definition of “Vessel”.

Boat Facility - a public or private structure or operation where boats are moored and/or launched from wet or dry boat slips, including commercial, recreational, private, and residential marinas and boat ramps. For the purpose of this plan, facilities and operations with less than five (5) wet slips are not considered boat facilities.

Boat Ramp - a sloped natural surface, or man-made improvement to a shoreline area that facilitates the launching and landing of boats into a water body.

Boat Slip - a boat slip is a space, mooring, or parking space which can accommodate one boat or vessel in the water or on land (examples include, lifts, trailers, anchorage, beached or blocked, hoist, floating platforms, davits). For the purposes of this plan, a boat trailer parking space is a boat slip. Temporary slips that do not contribute to boat traffic, such as courtesy slips for boat ramps and dry storage facilities, are exempt from the Boat Facility Siting Strategy. Structures authorized only for fishing or observation, are not considered slips.

Boat Yard - a boat facility (wet or dry slips) used only for boat repair and/or boat building.

Dry Storage Facility - an upland structure, parking lot, or space used specifically for storing watercraft. Such as, but not limited to, in/out boat storage, boat repair, boat sales, or long term dry storage lots or facilities. For the purposes of this plan, a dry storage facility is considered a Boat Facility or part of a Boat Facility if the dry storage facility has the capability of launching vessels into adjacent waters or water access is provided adjacent to, or in close proximity to the facility.

Marina, Commercial - a commercial watercraft complex on and/or adjacent to a waterway which provides services available to the general public including but not limited to: rental of wet slips or dry storage space and associated boat lifting and/or launching, boat rentals, sale of marine fuel and lubricants, wastewater pump-out facilities, sale of fishing bait and equipment, and/or charter boat operations. Additional services may include the construction, reconstruction, repair, or maintenance of boats, marine engines and/or marine equipment; sale or lease of watercraft and seafood processing.

Marina, Residential - a watercraft complex containing five (5) or more wet slips located on a waterway used primarily for recreational purposes, and where vessel mooring is clustered in a common area, rather than docks located behind individual residences. No sales, fueling or repair facilities shall be associated with these marinas. A private residential marina contains wet slips and/or dry slips used only as accessory to a

principal multi-family development use. A public/private residential marina has a portion of its wet slips and/or dry slips designated for rental by the general public, with the remaining wet slips and/or dry slips used accessory to a principal multi-family development use.

Residential Multi-family Dock - a Boat Facility on a common riparian parcel that is intended to be used for private recreational or leisure purposes by persons or groups of persons with real property interest. Upland developments that may have a residential multi-family dock may include a duplex, a condominium, single-family residences

Single-Family Dock - a Boat Facility used for private recreational or leisure purposes that is located on a single-family riparian parcel or that is shared by two adjacent singlefamily riparian owners if located on their common riparian property line. The Boat Facility may contain wet slips and/or dry slips, and provide mooring for the sole recreational use of the residents of a detached single-family home, adjacent to a coastal water body. Residential Single-family docks with four (4) or less slips are exempt from the Boat Facility Siting Strategy, but must conform with all applicable federal, state and local regulations in place at the time of permit application.

Transient Slips - For the purposes of this plan, a slip that is used generally less than one day (but may include overnight or multiple-day use) and contributes to boat traffic. Examples include, but are not limited to: slips at non-fee public facilities (e.g., public parks, etc.), slips at facilities used for water-dependent public transportation (e.g., water taxis), and slips designated day-use slips at restaurants and hotels. Transient slips are counted when calculating slip densities.

Vessel (or boat or watercraft) - a vehicle designed for operation in the water that is propelled by sails or one or more electric, jet or internal combustion engine(s). These terms may refer to any size vessel including a personal watercraft, airboats, freighters or cruise ships, etc. For purposes of this plan, the word "boat" does not include humanpowered vessels, such as canoes or kayaks.

Watercraft Access – a location that provides boat access into the waterways of Flagler County such as docks, piers, marinas, boat ramps and associated trailer parking spaces, boat slips, boat lifts, floats, floating docks, pilings, boat davits, dry storage, etc.

From: [Dennis Clark](#)
To: [Adam Mengel, AICP, LEED AP BD+C](#); [Sean S. Moylan](#)
Cc: [Gina Lemon](#); [Anne Wilson](#); [Carol Scott](#); [Gregory Hansen](#); [Danielle Anderson](#); [Donna Richardson-Drevniok](#); [Frank Carelli](#); [Jan Sullivan](#); [Lynne Rosewater](#); [Marge Rooyakkers](#); [Richard Hamilton](#)
Subject: A1A PRIDE recommendations for Marina Amendment
Date: Monday, August 30, 2021 5:55:29 AM
Attachments: [Marina Amendment - A1A-HCA Recommended 2021-08-27.pdf](#)

This email originated outside the Flagler County email system. DO NOT click any links or open any attachments unless you know the sender and know the content is safe.

Mr Mengel and Mr Moylan,

Please see the attached recommendations, originally from the Hammock Community Association, as modified and endorsed by Scenic A1A PRIDE on 8/27/21.

We would like to see this presented to the Planning & Development Board as part of the advertised Marina amendment to the Flagler County Land Development Code (FDLDC). Scenic A1A PRIDE is obligated to review any FCLDC changes that would affect the Scenic Corridor Overlay and the Scenic Byway.

Best regards,
Dennis Clark, Chair
Scenic A1A PRIDE

DRAFT - PROPOSED AMENDMENT - MARINA
FLAGLER COUNTY CODE OF ORDINANCES
APPENDIX C - LAND DEVELOPMENT CODE
ARTICLE III. - ZONING DISTRICT REGULATIONS

ABBREVIATED VERSION OF 8/10/21 DRAFT Reviewed by SCENIC A1A PRIDE on 8/27/21

Flagler County additions are in underline format

A1A/HCA recommended additions are in blue underline format. Deletions in ~~red strikethrough~~.

3.03.00. USE AND OTHER REQUIREMENTS BY DISTRICT

3.03.xx. R-1, R-1b, R-1c, R-1d, R-2, R-3, R-3b, MH-1, MH-2, MH-3, R/C

C. Permitted special exceptions.

x. Tier 1 Marina.

3.03.17. C-2—General commercial and shopping center district.

A. **Purpose and intent.** The purpose and intent of the C-2, general commercial and shopping center district is to provide commercial uses where compatible business establishments will be planned, organized and grouped in a unified arrangement. Such uses should be designed of sufficient dimension to satisfy all off-street parking needs, and be located along major arterial streets, where the traffic generated can be accompanied in a manner consistent with the public health, safety, and welfare. It is intended that such commercial areas will be located around the interchange of I-95 and Palm Coast Parkway, I-95 and SR 100, I-95 and U.S.1, along arterial roads and other suitable areas when consistent with the Flagler County Comprehensive Plan.

C. Permitted special exceptions.

13. Tier 2 and Tier 3 Marinas. (listed as a special exception per 8/10/21 PDB decision)

Da. Dimensional requirements in the AIA Scenic Corridor:

1. Shopping centers.
 - (c) Maximum building height: Forty (feet) but not more than three (3) stories. Maximum single building area footprint: 30,000 square feet (Publix is 29,125).
2. General commercial (see additional requirements for Marinas in section 3.06.10)
 - (a) Maximum lot size: Five (5) acres except for lots zoned C-2 on the effective date of this section.
 - (b) Minimum perimeter setback requirements for structures:
 - Front yard: A minimum of twenty-five (25) feet for properties with a lot depth of one hundred (100) feet or less, and for properties with a lot depth greater than one hundred (100) feet, a minimum of twenty-five (25) percent of the lot depth, up to forty (40) feet.
 - Rear yard: Fifty (50) feet.
 - Side yard: Interior lot: Fifty (50) feet, when adjacent to residential zoning districts or uses; ten (10) feet when adjacent to nonresidential zoning districts or uses.
 - (c) Maximum building height: Forty (40) feet and no more than three (3) stories. Maximum single building area footprint: 30,000 square feet (Publix is 29,125).

3.03.18. I—Industrial district.

A. Permitted principal uses and structures.

1. Any industrial, office, commercial or related use or structure, provided applicable county standards are met.

3.03.20. PUD—Planned unit development

20. Tier 1, Tier 2, and Tier 3 Marinas.

3.03.20.1. NRC-PUD—New rural communities-planned unit development.

8. Tier 1 Marina.

3.03.20.2. MUL-PUD—Mixed use, low intensity—Planned unit development.

17. Tier 1 and Tier 2 Marinas.

3.03.20.3. MUH-PUD—Mixed use, high intensity—Planned unit development.

18. Tier 1 and Tier 2 Marinas.

3.03.20.4. CHI-PUD—Commercial high intensity—Planned unit development.

2. Tier 1, Tier 2, and Tier 3 Marinas.

3.03.20.5. I-PUD—Industrial—Planned unit development.

2. **Tier 3 Marina.**

3.06.04. Parking requirements for all districts.

A. Off-street parking space requirements.

1. Boat ramp: For commercial boat ramps, twenty (20) spaces for each boat ramp lane, with total provided parking to provide at least forty percent (40%) of the spaces to accommodate vehicles with attached boat trailers.
2. Pier: For commercial piers, one (1) space for each fifty (50) linear feet of pier or terminal platform over water (not including any portion over dry land).
3. **Marina:** ~~One (1) space for each wet slip; one (1) space for every four (4) boat berths (dry boat storage spaces).~~ One (1) parking space per three (3) wet or dry slips. (ref City of Palm Coast LDC, Indian River Co. LDC, Miami-Dade Co. LDC, Palm Beach Co. LDC, Volusia Co. LDC), plus one space for each employee.
 - a. Two spaces for every commercial charter boat berth are required.
 - b. No off-street parking or loading shall be located within fifty (50) feet of a property lot line abutting a residential district. (Indian River Co. LDC)
 - c. Ancillary uses must use parking ratios associated to their specific use (i.e., restaurant, retail, etc.).
 - d. Parking must be sufficient to prevent holiday overflow onto the right-of-way and recirculating traffic hunting for parking spaces.

3.06.00. SPECIAL PROVISIONS OTHER

3.06.10. Boating facilities—Docks, boathouses, and piers, boat ramps, and marinas.

C. **Marinas.**

1. Marinas shall be classified into the following subcategories:
 - a. **Tier 1:** A Tier 1 Marina consists of wet docks/slips and/or dry boat storage for at least three (3) watercraft, but not to exceed one wet dock/slip per residential lot or dwelling unit, that is intended to be used for private (non-commercial) recreational or leisure purposes by persons or groups of persons who are residents of a development, or a nonprofit organization. A marina with four day-use docks/slips shall be considered a noncommercial marina, and no more than four day-use docks/slips will be permitted as part of a Tier 1 Marina.
 - b. **Tier 2:** A Tier 2 Marina is any facility or structure which serves as an accessory facility to other adjacent rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, charter, shipping, or sales. A Tier 2 Marina may include wet docks/slips and/or dry boat storage and, as a commercial accessory use, shall be open to the general public.
 - c. **Tier 3:** A Tier 3 Marina is any facility or structure that is used for business or income-producing purposes as a principal use or structure, through rental or any other means, the services of which are open to the general public for a fee. A Tier 3 Marina consists of wet docks/slips and/or dry boat storage, and may include ancillary uses such as ship stores (including sales of convenience items), bait and tackle shops, food and beverage sales, and similar uses as determined by the Planning and Development Board.

2. Marina development standards.

- a. The parcel proposed for development has direct access to navigable waters.
- b. Any landside marina development — all parking, dry storage, and non-water dependent facilities —shall be built on existing uplands and shall not be built on functioning wetlands.
- c. All outside storage areas shall be screened from adjacent uses and properties by an opaque wall, fence or plant material meeting the requirements of Article V-, with additional requirements as specified in this section.
- d. The parcel proposed for development shall be separated from any established residential use or residentially zoned property by an uncomplimentary land use buffer meeting the requirements of Article V-, with additional requirements as specified in this section.
- e. Any dry boat storage structures shall meet the following additional requirements:
 1. Dry boat storage shall be constructed consistent with uniform building code wind load standards and include interior sprinkler systems or equivalent fire suppression systems.
 2. Dry boat storage shall be contained within fully enclosed buildings, ~~not including the space needed for forklifts to load the racks.~~
- f. Flagler County Comprehensive Plan Policy E.1.7.5 shall be followed, including:
 1. New marinas shall participate in the Florida Department of Environmental Protection (FDEP) Clean Marina program.
 2. New or expanded marinas shall develop hurricane preparation and response plans which describe measures to be taken concerning damage to marina sites, neighboring properties, and the environment. The plans shall be subject to review and approval by the County's Director of Emergency Management and the Planning Director.
 3. New or expanded marinas that provide fueling services shall be designed to contain spills from on land equipment and be prepared to contain spills in the water. A fuel management/spill contingency plan is required to be developed prior to the operation of the marina fueling facility. All fueling staff are to be trained on the plan and response and containment drills should be held not less than annually.
 - i. An above ground gas tank shall not exceed 1,000 gallons when adjacent to residential districts. Fueling must be done according to DEP standards and not within 250 feet of any residential district. (ref. Martin County sec 3.79)
 - ii. Above ground gasoline storage tanks shall follow the code requirements from the most recent version of NFPA 30A, "Motor Fuel Dispensing Facilities and Repair Garages."
 4. New or expanded dry boat storage facilities shall be encouraged as compared to wet slip docking facilities.
 5. New or expanded marinas shall not be located in aquatic preserves, Class II waters, ~~or Outstanding Florida Waters,~~ or National Estuarine Research Reserves (coastal sites designated to protect and study estuarine systems).
 6. Marinas and multislip docking facilities must provide vehicular parking and sewage pump-out facilities or contracted pump-out service. Overnight use requires on-shore sanitary facilities. This criterion (also applies to expanded facilities).
- g. Wet slips must be located within a protective cove, a no-wake zone, or at least 500 feet from a navigable channel (excluding boat lifts).

h. When adjacent to residential zoning districts:

1. Industrial equipment must not be used within 200 feet of adjacent residential zoning.
2. Forklifts used inside or outside must include the residential sound package.
3. If industrial equipment is used outside, fifty feet of noise buffering vegetation must be provided adjacent to residential uses. This buffer must remain in its natural state and not be used for parking, roadway, storm water retention, or other uses.
4. Industrial equipment must not be used prior to 8:00 AM or after 6:00 PM.
5. In addition to the sound buffer, an eight-foot wall or fence must be installed.
6. Side setbacks must be at least one hundred (100) feet (Palm Coast 4.16.05, Indian River County 071.35, Martin County 3.79, City of Dania Beach Ch23:110-170).

i. Environmental

1. Boat washing or other chemicals must be contained on site and disposed of properly in keeping with the St. Johns River Water Management District (SJRWMD) and Florida DEP requirements.
2. No Boat Repair, Oil Changes, etc. on the site.

j. Other permits or approvals: All required permits and approvals from government agencies having jurisdiction over a marina development are a prerequisite to the issuance of a development order by the County Planning Board. (City of Panama LDC)

k. Dredging: Site locations shall have a minimum average water depth of four (4) feet as measured at mean low water. All marina access shall be through existing channels or through areas of greater than four-foot water depth. The dredging of new channels to provide marine access to a site is prohibited. All dredging activities must first obtain all necessary permits/reviews from the Army Corps of Engineers, FDNR, FDER, St. John's Water Management District and/or any other agency with applicable jurisdiction. (Indian River Co. LDC)

l. Within the Scenic Corridor Overlay:

1. Development shall be compatible with adjacent land uses. Some elements affecting compatibility include height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access, parking impacts, landscaping, lighting, noise, odor, architecture and public hazards. (ref. City of Palm Coast LDC)
2. A traffic study must be conducted showing no discernable impact to the Scenic Corridor and demonstrate that the neighborhood will not be adversely affected (i.e., no more than ten vehicles per hour at busiest times in residential areas)
3. Deceleration and left turn lanes are not permitted due to widening the Scenic Corridor.
4. Dry boat berths shall not exceed a ratio of 25 per acre of land (most are less than 15 per acre).
5. Sales, repairs, and rentals of motorized watercraft are prohibited.
6. Daytime or overnight trailer parking is prohibited.

D. Relationship to Manatee Protection Plan. New docks, boathouses, piers, boat ramps, and marinas consisting of five (5) or more slips, or expansion of an existing dock, boathouse, pier, boat ramp, or marina into a facility with five (5) or more slips, shall comply with the Boat Facility Siting recommendations as provided in the Manatee Protection Plan.

3.08.00. DEFINITION OF TERMS

3.08.02. Specific definitions of certain terms used in this article.

Dock: A fixed or floating structure, including access walkways, terminal platforms, catwalks, mooring pilings, lifts, davits and other associated water-dependent structures, used for mooring and accessing vessels.

Marina: Any structure or combination of structures, other than a single residential dock or slip, located on or over the water surface of navigable waters, or on land adjacent to navigable waters, and which is designed or used for the mooring or storage of watercraft. Marinas are classified into the following subcategories:

- a. **Tier 1**—A Tier 1 marina consists of wet docks/slips and/or dry boat storage for three watercraft, but not more than 25 watercraft, that is intended to be used for private recreational or leisure purposes by persons or groups of persons who are residents of a development, or a nonprofit organization.
- b. **Tier 2**—A Tier 2 marina is any facility or structure which serves as an accessory facility to other adjacent rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, charter, shipping, or sales. [Only the principle uses in the zoning district are allowed.](#)
- c. **Tier 3**—A Tier 3 marina is any facility or structure that is used for business or income-producing purposes as a principal use or structure, through rental or any other means, the services of which are open to the general public for a fee.

Motorboat: A vessel equipped with machinery for propulsion, irrespective of whether the propulsion machinery is in actual operation.

Personal watercraft: A vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Pier: A fixed or floating structure used primarily for fishing or swimming and not designed or used for mooring or accessing vessels.

Slip: An area of the water column above sovereign submerged lands specifically set aside for a boatlift or the mooring of a single vessel associated with a docking facility.

Vessel: Is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Watercraft: [Vehicles used in and on water, including boats, ships, hovercraft, and submarines. Watercraft usually have a propulsive capability \(whether by sail, oar, paddle, or engine\). \(ref. Wikipedia\)](#)

Wet slip: See Slip.

9/3/21

Members of the Board:

I will not be present at the next Planning Board meeting and wanted to make sure you had my thoughts and input on the marina amendments to the Land Development Code. I think we are on the right track with the tiered approach because it recognizes that marinas are not one size fits all. In my opinion, however, the work is not finished. More thought is required before a recommendation is made to the Commission. I am mostly concerned about the criteria for siting marinas, especially Tier 2 and 3 marinas to ensure they are compatible with surrounding uses. I also think it would be irresponsible to adopt any revision to the code allowing dry boat storage without a thorough review and consideration of the standard fire code and additional requirements that may be needed to address this significant risk.

There are several different types of marinas. Some are small and serve residential uses or are accessory to commercial uses such as restaurants. These are suitable for areas adjacent to residential uses. Other marinas are more industrial in their character and should be separated from residential areas. Any marina that is providing more than nominal covered storage should be completely separate from residential uses and should not be allowed in sensitive areas like the Hammock.

I do not think the current language for the Tier 2 and Tier 3 types of marinas contains enough guidance to protect surrounding residential uses. For example, I do not think it is appropriate to allow these types of marinas in areas with where commercial and residential uses are in close proximity. The Hammock has areas where the C-2 zoning district is located right next to existing residential improvements and land suitable for residential development. But the proposed revision does not limit hours of operation for a marina. The intensity of a marina, especially one that provides dry boat storage, is simply not compatible with adjacent residential uses. The noise and odors and increase in traffic will at best be a nuisance to surrounding residences. For those reasons I think these types of marinas should be added to the list of prohibited uses for the A1A Scenic Corridor Overlay. More generally, they should be allowed only as a special exception use only permitted within a reasonable distance from residential uses. A separation of at least a quarter mile would be appropriate.

The proposed revision is silent on too many issues to safely allow marinas. Marinas are not limited to secure boat basins. No ratio is required between empty slips and the number of rocks for dry storage. This has the potential to create unsafe conditions for vessels moving in and out of the marina. Staff should take a closer look at the proposed parking ratios to make sure they will not result in a parking shortage on busy days. A sewage pump out should be required at all marinas and septic tanks should be prohibited to maintain water quality standards. The County may also want to adopt some or all of the features of the FDEP's Clean Marina Program into the code changes. All of these should be discussed and made part of our recommendation to the Commission.

My biggest concern is the risk of fire. I do not think it is prudent to recommend any change to the code until this is thoroughly researched. This should start with a presentation by staff of the Fire Protection Standard for Marinas and Boatyards set forth in NFPA 303 and other relevant sources. A dry boat storage facility is essentially a fuel depot, with boats stored with fuel in their tanks. This poses a significant risk for a major fire. Sprinkler systems, standpipes, and melt away skylights that will allow heat and smoke to escape in a fire should be required. I would also require a large enough setback to

allow a ladder truck to access all sides of any dry storage building. We need to make sure dry storage facilities and marinas are safe for the public and our first responders.

Thank you for considering my concerns in my absence.

A handwritten signature in blue ink, consisting of a stylized name followed by a horizontal line.

Please mention it at the meeting and
make this part of the Record

Please see attached Fire Protection for
covered boat storage. Thank you

A handwritten signature in blue ink, identical to the one above, consisting of a stylized name followed by a horizontal line.

CHAPTER 94

FIRE PROTECTION FOR COVERED BOAT MOORAGE

Note: Chapter 94 is entirely Seattle amendments to the *International Fire Code* and is not underlined.

Chapter 94 Point of Information

The requirements of this chapter originated in City of Seattle Ordinance 121773, effective May 18, 2005. The requirements of this ordinance apply to all covered moorage marina facilities in existence on the effective date of May 18, 2005.

SECTION 9401 GENERAL

9401.1 Scope. This chapter applies to covered portions of all marinas with covered boat moorage in existence at the time of its adoption.

Exceptions:

1. *Approved* designated facilities and shipyards in accordance with Administrative Rule 26.02.04, *Designated Hot Work Facilities and Shipyards*.
2. Boathouses.

9401.2 Intent. This Chapter is intended to promote the health, safety and welfare of life and property from fire at covered boat moorage.

9401.3 Modifications. The retroactive requirements of this chapter may be modified if their application clearly would be impractical for economic or physical reasons in the judgment of the *fire code official*, and only if it is clearly evident that a reasonable degree of safety is provided.

9401.4 Signage. Conspicuous signage shall be located at the fire apparatus access road termination point and the shore end of piers, wharves and floats. Signage shall indicate the address, directions and maps if required by the *fire code official*. For those structures that are designed to support vehicles, signage shall indicate the weight limit. Numbers and letters shall be easily legible and have high contrast with the color of the sign background. Numbers and letters shall not be less than 5 inches (127 mm) in height and shall have a minimum stroke of 0.5 inches (12.7 mm).

9401.5 Smoking Restrictions. Smoking is prohibited in all areas where fuels and other flammable and combustible liquids and gases are stored or dispensed, in battery rooms, and in other such locations as management or the *fire code official* designate. "No Smoking" signs shall be conspicuously posted.

9401.6 Transmittal of Fire Emergency. All marinas and boatyards shall have a means to notify the fire department rapidly in the event of an emergency. If a telephone is used for this purpose, it shall be available for use at all times and shall not require the use of a coin. The street address of the facility and the emergency telephone number(s) shall be displayed prominently on a sign at the telephone.

9401.7 Labeling electrical shutoffs. Electrical transformers, control panels, and breaker panels shall be readily accessible,

clearly labeled and indicate the areas they service. See also SFC 605.3.

9401.8 Fire extinguishers. One portable fire extinguisher having a minimum rating of 2A 20-BC shall be provided within 75 feet (22,860 mm) of all portions of piers, wharves, and floats, or at each required hose station. Additional fire extinguishers, suitable for the hazards involved, shall be provided and maintained in accordance with SFC 906 and NFPA Standard 10.

SECTION 9402 DEFINITIONS

9402.1 Definitions. The following words and terms shall, for the purposes of this chapter, have the meanings shown here.

BERTH is the water space to be occupied by a boat or other vessel alongside or between bulkheads, piers, piles, fixed and floating docks, or any similar access structure. (See also definition for Slip.)

BOATHOUSE is an independently floating structure designed to be moored to a main float system to enclose and protect a vessel or vessels. A boathouse is capable of being moved on water, but is typically moored to a float system for long periods of time.

COVERED BOAT MOORAGE is a pier or system of floating or fixed accessways to which vessels on water may be secured and is covered by a roof.

DRAFT CURTAIN. A structure arranged to limit the spread of smoke and heat along the underside of the ceiling or roof.

FIRE PARTITION is a vertical assembly of materials designed to restrict the spread of fire in which openings are protected.

FLOAT is a floating structure normally used as a point of transfer for passengers and goods, or both, for mooring purposes.

GRAVITY-OPERATED DROP OUT VENTS. Automatic smoke and heat vents containing heat-sensitive glazing designed to shrink and drop out of the vent opening when exposed to fire.

MARINA is any portion of the ocean or inland water, either naturally or artificially protected, for the mooring, servicing, or safety of vessels and includes artificially protected works, the public or private lands ashore, and structures or facilities

FIRE PROTECTION FOR COVERED BOAT MOORAGE

provided within the enclosed body of water and ashore for the mooring or servicing of vessels or the servicing of their crews or passengers.

MARINE MOTOR FUEL-DISPENSING FACILITY.

That portion of property where flammable or combustible liquids or gases used as fuel for watercraft are stored and dispensed from fixed equipment on shore, piers, wharves, floats, or barges into the fuel tanks of watercraft and includes all other facilities used in connection therewith.

PIER is a structure, usually of greater length than width, of timber, stone, concrete or other material, having a deck and projecting from the shore into waters so that vessels may be moored alongside for loading, unloading, storage, repairs or commercial uses.

SLIP is a berthing space between or adjacent to piers, wharves, or docks; the water areas associated with boat moorage. (See also definition for Berth.)

WHARF OR QUAY is a structure of timber, stone, concrete or other material having a platform built along and parallel to waters so that vessels may be moored alongside for loading, unloading, storage, repairs or commercial uses.

SECTION 9403 PLANS AND APPROVALS

9403.1 Plans. Plans for marina fire-protection shall be *approved* prior to installation. The work shall be subject to final inspection and approval after installation.

SECTION 9404 ACCESS AND WATER SUPPLY

9404.1 Fire apparatus access roads. Fire apparatus access roads shall be provided and so located as to provide fire department apparatus access to within 150 feet (45,720 mm) travel distance to the shore end of all marina piers, wharves, and floats. Fire apparatus access roads shall be in accordance with Appendix D of the 2003 Seattle Fire Code.

Exception: If *approved* by the *fire code official*, a Class I standpipe system may be installed on piers, wharves, or floats if conditions are such that providing fire department access lanes to within 150 feet (45,720 mm) to the shore end of the piers, wharves, and floats is not practical. Additional standpipe requirements are found in SFC 9405.1.

9404.2 Premises access. The fire department shall have access to fenced, gated, or locked grounds, piers, wharves or floats. Appropriate means of access (including keys and card-keys) shall be provided in an *approved* secured lock box (Knox Box) on the premises in an *approved* location. The fire department shall be notified immediately of any changes in the means of access.

9404.3 Fire hydrants. At least two fire hydrants shall be provided. One hydrant shall be located within 500 feet (152,400 mm) of the closest point of fire department apparatus access to the shore end of the marina piers, wharves or floats, or to the fire department connection (FDC) for those piers, wharves or floats that are equipped with standpipes. The sec-

ond fire hydrant shall be located within 1000 feet (304,800 mm) of the closest point of fire department apparatus access to the shore end of the marina piers, wharves, or floats, or to the FDC for those piers, wharves or floats that are equipped with standpipes.

Exception: The requirements for fire hydrants may be modified if alternate arrangements are *approved* by the *fire code official*.

9404.4 Water supply. All required hydrants shall be capable of delivering not less than 1,000 gpm at a minimum residual pressure of 20 psi each.

Exception: The requirements for water supply may be modified if alternate arrangements are *approved* by the *fire code official*.

SECTION 9405 FIRE PROTECTION EQUIPMENT

9405.1 Standpipe systems. A manual Class I standpipe system (or class III standpipe system if *approved* by the *fire code official*) in accordance with NFPA Standard 14 shall be provided for piers, wharves, and floats if the hose lay distance from the fire apparatus to the most remote accessible portion of the pier, wharf, or float exceeds 150 feet (45,720 mm). *Approved* plastic pipe may be used if installed underwater, or other *approved* method of protection from fire is provided. The standpipe piping shall be a minimum of 4 inches (102 mm), sized to provide a minimum of 500 gpm at 130 psi at the most remote hose connection, with a simultaneous flow of 500 gpm at the third most remote hose connection on the same pier while maintaining a maximum system pressure of 175 psi. Existing standpipe systems providing equivalent performance to the specification listed above may be acceptable if *approved* by the *fire code official*.

9405.1.1 Hose connections. Hose connections on required standpipes shall be provided at the water end of the pier, wharf, or float, and along the entire length of the pier, wharf, or float at spacing not to exceed 150 feet (45,720 mm) and as close as practical to the land end.

Exception: The hose connection at the land end of the pier, wharf or float may be omitted if a hose connection is located within 150 feet (45,720 mm) of the fire apparatus access road. Each hose connection shall consist of a valved 2 1/2-inch (64 mm) fire department hose outlet. Outlet caps shall have a predrilled 1/8-inch (3.2 mm) hole for pressure relief and be secured with a short length of chain or cable to prevent falling after removal. Listed equipment shall be used.

9405.2 Automatic sprinkler systems. Automatic sprinklers shall be provided for each separate covered boat moorage area exceeding 8,000 sq. ft. (743 m²) in projected roof area, excluding roof overhangs. A separate covered boat moorage area is one that has at least 16 feet uncovered horizontal separation from any part of any adjacent covered boat moorage area.

The sprinkler system shall be designed and installed in accordance with NFPA Standard 13 for Extra Hazard Group 2 occupancy.

Exception: Covered boat moorage already protected by an automatic sprinkler system is not required to be upgraded to Extra Hazard Group 2 criteria.

9405.2.1 Monitoring. Sprinkler systems shall be monitored by an *approved* central station.

9405.3 Smoke and heat vents: *Approved* automatic smoke and heat vents shall be provided in covered boat moorage areas exceeding 2,500 sq. ft. (232 m²) in area, excluding roof overhangs.

Exception: Smoke and heat vents are not required in areas protected by automatic sprinklers.

9405.3.1 Design and installation. If smoke and heat vents are required they shall be installed near the roof peak, evenly distributed and arranged so that at least one vent is over each covered berth. The effective vent area shall be calculated using a ratio of one square foot of vent to every 15 square feet of covered berth area (1:15). Each vent shall provide a minimum opening size of 4 ft. x 4 ft.

9405.3.1.1 Smoke and heat vents shall operate automatically by actuation of a heat-responsive device rated at between 100 degrees F (56 degrees C) and 220 degrees F (122 degrees C) above ambient.

Exception: Gravity-operated drop out vents.

9405.3.1.2 Gravity-operated drop out vents. Gravity operated dropout vents shall fully open within 5 minutes after the vent cavity is exposed to a simulated fire represented by a time-temperature gradient that reaches an air temperature of 500 degrees F (260 degrees C) within 5 minutes.

9405.4 Draft curtains. Draft curtains shall be provided in covered boat moorage areas exceeding 2,500 sq. ft. (232 m²) in area, excluding roof overhangs.

Exception: Draft curtains are not required in areas protected by automatic sprinklers.

9405.4.1 Draft curtain construction. Draft curtains shall be constructed of sheet metal, gypsum board or other *approved* materials that provide equivalent performance to resist the passage of smoke. Joints and connections shall be smoke tight.

9405.4.2 Draft curtain location and depth. The maximum area protected by draft curtains shall not exceed 2,000 sq. ft. (186 m²) or two slips or berths, whichever is smaller. Draft curtains shall not extend past the piling line. Draft curtains shall have a minimum depth of 2 feet (609 mm) below the lower edge of the roof and shall not extend closer than 8 feet (2438 mm) to the walking surface on the pier.

9405.5 Fire department connections. Standpipe and sprinkler systems shall be equipped with not less than one two-way 2 1/2-inch (64 mm) fire department connection (FDC), which shall be readily visible and located at the fire apparatus access road or other *approved* location. The FDC for class I standpipe systems may be located at the shore end of the pier, wharf, or float if the distance between the fire apparatus access road and FDC is less than 150 feet (45,720 mm). See also SFC 9404.3 Fire hydrants.

9405.6 Marina fire protection confidence testing. Standpipe and sprinkler systems shall be inspected and hydrostatically tested at least annually. Reports of inspections and tests shall be submitted to the Seattle Fire Department Confidence Testing Unit in accordance with Administrative Rule 9.02.07 *Confidence Test Requirements for Life Safety Systems*. Notwithstanding fire department inspections, maintenance and periodic testing are the owner's responsibility. All persons performing such work shall have a certificate from the fire department to perform such work. See Administrative Rule 9.01.07 *Certification for Installing, Maintaining and Testing Life Safety Systems and Equipment*.

9405.7 Moorage in intervening moorage space. Vessels moored in open spaces between covered moorage shall not exceed 7 feet (2,133.6 mm) from the top of the vessel superstructure to the waterline, unless protected by an *approved* fire partition.

SECTION 9406 EMERGENCY PLANS AND TRAINING

9406.1 Emergency plan. Owners or operators of piers, wharves, floats and marinas shall prepare and maintain a current emergency plan for the facility. The plan shall include procedures for fire department notification, fire evacuation, and include location of portable fire extinguishers and hose cabinets, sprinkler and standpipe system control valves, fire department connections and electrical disconnects.

9406.2 Signage. Signs, posters, or posted instructions shall be provided where practicable to remind the public of basic fire safety practices and to warn of unusual or extreme fire hazards. All boat owners at the marina shall be provided with written instructions for reporting fires and other emergencies and actions to be taken in the event of a fire.

9406.2 Point of Information

For examples of emergency plans, see information bulletins located at www.seattle.gov/fire titled Emergency Procedures for Public Occupancies and Fire Evacuation Planning.

9406.3 Employee training. Practice drills shall be held a minimum of twice a year.

9406.3.1 All employees shall know the location of fire-fighting equipment, and shall be instructed in the procedures for response to a fire or other emergency, response to a fire alarm, reporting a fire or other emergency to the proper authorities (and to designated facility employees), and in the employees' designated role(s) in emergency situations. See SFC 9406.

9406.3.2 All employees, including office personnel, shall be given training in the use of portable fire extinguishers.

9406.4 Fire department liaison. If requested by the Seattle Fire Department, management shall assist the fire department in pre-fire planning for the following:

- (1) Entries and access routes for equipment within the premises,

FIRE PROTECTION FOR COVERED BOAT MOORAGE

- (2) Location, construction, use, and accessibility of all buildings and all their subdivisions including basements, storage lockers, and other areas,
- (3) Location and extent of outside working areas,
- (4) Location and means of access to both dry and wet boat-storage areas,
- (5) Type and capacity of standpipes on piers and walkways, including all points where connection of hydrant or pumper supplies can be affected,
- (6) Types and capacities of facility equipment, including work or tow boats, portable pumps, pier-mounted hose cabinets, all portable fire extinguishers, and other equipment,
- (7) Voltages and capacities of electrical systems, and location of electrical disconnecting means.

- (c) The time limits for complying with the requirements of this Chapter are as follows:

Fire Extinguishers	1 year
Signage	1 year
Emergency Plan	1 year
Smoke and Heat Vents and Draft Curtains	7 years
Fire Hydrants	5 years
Standpipes	7 years
Sprinkler Systems	10 years

- (d) Marinas will not be deemed to be in violation of this Chapter until the time limits set forth in subsection (c) above have expired. Appeals to compliance with this section shall be in accordance with SFC 108.

SECTION 9407 OPERATIONAL HAZARDS

9407.1 The marina or boatyard operator shall post in a prominent location or provide to boat operators using a marina or boatyard for mooring, repair, servicing, or storage, a list of safe operating procedures containing the following:

- (1) Procedures for disposal of trash;
- (2) Location of nonsmoking areas;
- (3) Location of fire extinguishers and hoses;
- (4) Procedures for turning in a fire alarm; and
- (5) Fueling procedures.

9407.2 Fueling Operations. Fueling of floating marine craft with Class I fuels at other than a marine motor fuel-dispensing facility is prohibited. Fueling of floating marine craft with Class II or III fuels at other than a marine motor fuel-dispensing facility shall be in accordance with SFC 2210.4.

SECTION 9408 COMPLIANCE

9408.1 Compliance. All corrections that may be necessary to provide the minimum fire safety requirements established in this Chapter shall be completed by the owners as follows:

- (a) The *fire code official* shall develop a procedure for surveying marinas to effect compliance with this Chapter. The *fire code official* shall send written and signed notices to the owners of all non-complying marinas. Within 120 days of the date of notification by the *fire code official*, the owner shall submit to the *fire code official* a concept design and firm schedule for complying with the requirements of this chapter.
- (b) The *fire code official* shall review the concept design and firm schedule and respond in writing. The time schedule for compliance shall be measured from the date of the *fire code official's* response to the concept design and firm schedule for each marina, and shall not exceed the time limits set forth in subsection (c) of this section.

From: [Jody Bollinger](#)
To: [Adam Mengel, AICP, LEED AP BD+C](#)
Subject: marina amendment
Date: Thursday, July 22, 2021 2:09:34 PM
Attachments: [draft amend marina 51121.pdf](#)

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Mr. Mengel,
Attached is the marina amendment, presented at the Planning Board meeting on July 13, with comments and other items for your consideration.
Respectfully,
Jody Bollinger

Definitions:

Marina: Any structure or combination of structures, other than a single residential dock or slip, located on or over the water surface of navigable waters, or on land adjacent to navigable waters, and which is designed or used for the mooring or storage of watercraft. Marinas are classified into the following subcategories:

Comment: Define watercraft.

Tier 1: A Tier 1 marina consists of wet docks/slips and/or dry boat storage for at least three watercraft, but not more than 25 watercraft, that is intended to be used for private recreational or leisure purposes by persons or groups of persons who are residents of a development, or a nonprofit organization. A Tier 1 marina is intended to be noncommercial in nature. A marina with no more than five day-use docks/slips shall be considered a noncommercial marina, and no more than five day-use docks/slips will be permitted as part of a Tier 1 marina.

- Permitted in all residential and PUD zoning districts as a Special Exception.
- Dimensional requirements limiting the area of the Tier 1 marina to not more than ten percent (10%) of the total project area or one acre, whichever is greater.

Comments: "Tier 1 is intended to be noncommercial." Is it noncommercial or is it not? If a person wants to build a dock for two boats and a jet ski, would that person need a permit as a special exception to build the dock? If a dry stack storage is in a PUD in the A1A Scenic Corridor, do SCO restrictions apply?

Tier 2: A Tier 2 marina is any facility or structure which serves as an accessory facility to other adjacent rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, charter, shipping, or sales. A Tier 2 marina may include wet docks/slips and/or dry boat storage and, as a commercial accessory use, shall be open to the general public.

- Permitted as an accessory use or structure in commercial and industrial districts where the associated principal uses and structures are permitted.
- Dimensional requirements limiting the area of the Tier 2 marina to not more than twenty percent (20%) of the total project area devoted to the associated principal use or structure located on a conforming parcel within the commercial or industrial district.

Comments: Restaurants, hotels and motels are permitted uses in C-2. In what zoning districts are commercial fishing, charter, and shipping permitted as principal uses? Sales is a broad category. Boat sales is a prohibited use in the A1A Scenic Corridor; therefore, a tier 2 marina with boat sales as a principal use would not be permitted.

Tier 3: A Tier 3 marina is any facility or structure that is used for business or income-producing purposes as a principal use or structure, through rental or any other means, the services of which are open to the general public for a fee. A Tier 3 marina consists of wet docks/slips and/or dry boat storage, and may include sewer dump station, boat washing, fueling, and limited repair facilities. Ancillary uses may include ship stores (including sales of convenience items), bait and tackle shops, food and beverage sales, and similar uses as determined by the Planning Director.

Comments: Pump out stations shall be required according to the Comprehensive Plan. What criteria will the Planning Director use to determine whether an ancillary use is similar to those specifically listed?

- Permitted uses and structures in the C-2 and I Districts.
- Dimensional requirements as provided in the C-2 and I Districts.

Comment: Are prohibited uses and dimensional requirements in the A1A Scenic Corridor automatically included since the SCO takes precedence in case of conflict? If so, boat repairs should not be allowed in a marina in the A1A Scenic Corridor.

Question: Does the rest of this document apply to all three tiers or only tier 3?

Parking:

1 space per 3 boat berths (wet docks/slips or dry boat storage spaces) **Comment: This ratio seems appropriate.**

1 space per 200 s.f. of gross floor area for all other ancillary uses. **Comment: If a restaurant is included as an ancillary use, a 3,000 SF restaurant would need only 15 parking spaces, of which half would be used by employees. Ancillary parking should be the sum of the individual requirements for each use.**

Marina Development Standards:

A. The parcel proposed for development has direct access to water of at least four feet at all times. **Comment: What about dredging and filling? What permits are needed?**

B. All outside storage areas are screened from adjacent uses and properties by an opaque wall, fence or plant material meeting the requirements of Article V.

Comments: Outdoor storage is prohibited in the A1A Scenic Corridor, so this standard would apply to properties located outside the A1A Scenic Corridor. Is that a correct interpretation? An above-ground gasoline tank is outdoor storage for fuel, and, therefore, would be prohibited in the A1A Scenic Corridor. So this standard, which would require screening for an above ground storage tank, would apply to properties located outside the A1A Scenic Corridor. Is that a correct interpretation?

C. The parcel proposed for development shall be separated from any established residential use or residentially zoned property by an uncomplimentary land use buffer meeting the requirements of Article V.

Comment: This standard offers no protection for residential property other than what is already required by Article V. If added as a marina standard, the buffer requirements should be enhanced. For example, widen the buffer and specify that it should be vegetative.

Dry Boat Storage Development Standards:

Any dry boat storage structure shall meet the following additional requirements:

A. Dry boat storage shall be constructed consistent with uniform building code wind load standards, and include interior sprinkler systems or equivalent fire suppression systems.

Comment: Since sprinkler systems are addressed, fuel dispenser safety should be addressed. Site plans should be required to show the location of a fuel tank, and if it is above ground, it should show the fencing required by NFPA-30A.

B. Dry boat storage shall be contained within fully enclosed buildings, not including the space needed for forklifts to load the racks.

Comment: The space needed for the forklift to move around in order to load the boats onto the racks *is* inside the building, so why is it not included in the fully enclosed building?

Other items to consider:

1. If a charter boat is stored in a tier 2 or tier 3 marina, how will parking be addressed?
2. Are livelaboards allowed, and if so, in which tiers? What provisions must be made for them, such as showers, electricity, etc.?
3. Many dry stack facilities provide “daily” launch for customers even though they do not store their boats in the warehouse. Is “daily” launch going to be allowed in tier 2 and tier 3 marinas? If so, how will boat trailer parking be addressed?
4. Spill containment plan?
5. Water quality addressed?
6. According to the Comprehensive Plan, new marinas are not allowed in class II waters, Outstanding Florida Waters, or aquatic preserves. This should be included in the Land Development Code as a marina standard.
7. Waters south of the Flagler/St. John’s county line to the northernmost canal in Flagler County are part of the Guana Tolomato Matanzas National Estuarine Research Reserve. (GTMNERR) According to F.A.C. 62-302-700, Outstanding Florida Waters (OFWs) *generally* include waters within the following areas: (2)(e) National Estuarine Research Reserves. GTMNERR is not named specifically; however, Florida’s other two NERRs (Apalachicola and Rookery Bay) are named as OFWs. Flagler County, in order to protect the quality of water in its waterways, should consider not allowing marinas in the GTMNERR.

Adam Mengel, AICP, LEED AP BD+C

From: Bob Million <rbmillion@yahoo.com>
Sent: Thursday, July 22, 2021 2:23 PM
To: Adam Mengel, AICP, LEED AP BD+C; Sean S. Moylan
Subject: Marina LDC Amendment
Attachments: RECOMMENDED TEXT.docx

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Adam & Sean

Based on the information presented at the last PDB meeting, and questions proposed by PDB Members, I made an attempt to create language which defines the issues. See attached.

I kept your (3) Tier approach with slightly different definitions

Private Marina : Which would require a special exception and allow the Planning Director to review parking requirements (if any) based on the site plan. Private marinas are non-commercial for exclusive use by homeowners. Number of slips allowed would be based on the size of the development. The critical language in NON-COMMERCIAL USE. Permitted in PUD and residential districts.

Commercial/Recreational Marina: The typical Florida marina. Open to the public, fee for use, primary use for recreational vessels, limited commercial vessel use. Parking based on the type and quantity of boat slips + employee parking. Ancillary use based on current FLCDC. Permitted in C-2 and I districts. If possible there should be a requirement to meet "Clean Marina" standards.

Boatyard/Industrial Marina: Boatbuilding and repair. Painting, welding, engine overhaul, boat manufacturing. Permitted in the I district.

In simple terms

Private Marinas are restricted to residents within a development. No outside use. No commercial use.

Commercial/Recreational Marinas are the typical mixed use development with boat slips, limited commercial space (bait shop, tackle), restaurant or other food service, boat cleaning, limited minor repairs

Boatyard/Industrial Marinas can be anything from boat manufacturing to major repair ie. SeaRay / Boston Whaler

Several BPD Members questioned which "Tier" proposed at the last meeting would be applicable to the marina at Yacht Harbor Village. **Assuming it was proposed as a new development**, under my proposed text, the answer is either. The developer would select the use during the application process. "Private" if the use was limited to residents only, or Commercial/Recreational if the use was open to the public. Currently the marina is open to the public and would be defined as Commercial/Recreational. Under either definition, the marina has 209 boat slips accommodating boats up to 100' in length. Parking should adequate to provide space for the maximum number of daily visitors/users.

I would like to work with you to draft an amendment that is best for Flagler County.

Regards

Bob Million

Sent from [Mail](#) for Windows 10

RECOMMENDED AMENDMENT TEXT

Requested by: Bob Million

Definitions:

Pleasure vessel: Vessels used for sport or recreational purposes and do not operate for financial gain.

Personal watercraft: A vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Commercial Vessel: Any vessel (i.e. boat or ship) engaged in commercial trade or that carries passengers for hire.

Marina: Any structure or combination of structures, other than a single residential dock or slip, located on or over the water surface of navigable waters, or on land adjacent to navigable waters, and which is designed or used for the mooring or storage of pleasure vessels and personal watercraft. SIC 4493

Establishments primarily engaged in building or repairing boats and ships are classified as a Boatyard/Industrial Marina

Marinas are classified into the following subcategories:

Private Marina: Community docks serving residential subdivisions or condominiums, consisting of wet docks/slips and/or dry boat storage for pleasure vessels and personal watercraft. Use is restricted to non-commercial pleasure vessels and personal watercraft for use by persons who are residents of the development.

Fueling and repair facilities are prohibited.

- Permitted in all residential and PUD zoning districts as a Special Exception.
- Parking requirement for Private marinas shall be determined by the Planning Director, based on the site plan submitted.

Commercial/Recreational Marina: A facility or structure with a waterfront location, that is used for business or income-producing purposes through rental or any other means, the services of which are open to the public for a fee. Permitted uses include wet slips/docks, dry boat storage within a completely enclosed structure, refueling of watercraft, providing minor repair services for such craft, boat washing. Ancillary uses may include ship stores (including

sales of convenience items), bait and tackle shops, food and beverage sales, and similar uses as determined by the Planning Director.

Waste pump -out /sewer dump station is required.

Parking Requirement for Developments which include Commercial/Recreational Marina Use:

Marinas may provide multiple types of boat slips. To assure that all marinas provide adequate parking for visitors, marina parking should be specifically based on the boat slip plan submitted for approval. Any change from the approved site plan which modifies the type of slip or increases the number of each type of slip must be approved by the Planning Director.

Minimum aggregate parking for marina use

1 parking space per employee plus,

1 parking space per 2 wet slips plus,

1 parking space per each liveaboard slip plus,

1 parking space per 6 dry slips plus,

1 parking space per 2 passengers + 1 per each crew member for commercial vessels, based on the total number of passengers allowed.

Parking Requirement for Ancillary Use: Based on requirements for each specific use as defined in FCLDC: restaurant, retail, office, etc.

- Permitted uses and structures in the C-2 and I Districts.
- Dimensional requirements as provided in the C-2 and I Districts.

Boatyard/Industrial Marina: A premise or site used as an industrial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, or maintenance and accessory sale of boats, marine engines, or marine equipment,
SIC 3732

Parking Requirements for Boatyard/Industrial Marina shall be made by the Planning Director based on the site plan submitted. Any change from the approved site plan which modifies the type of slip or increases the number of employees must be approved by the Planning Director.

- Permitted uses and structures in the I Districts.
- Dimensional requirements as provided in the I Districts.

Marina Development Standards:

A. The parcel proposed for development has direct access to ~~water of at least four feet at all times.~~ Recommendation: All marinas will require a permit from SJRWMD and/or USACOE. Water depth, vessel navigation, is reviewed and permitted by those agencies. ~~Water depth is generally defined as a change from mean tide level.~~

B. All outside storage areas are screened from adjacent uses and properties by an opaque wall, fence or plant material meeting the requirements of Article V.

C. The parcel proposed for development shall be separated from any established residential use or residentially zoned property by an uncomplimentary land use buffer meeting the requirements of Article V.

Dry Boat Storage Development Standards:

Any dry boat storage structure shall meet the following additional requirements:

A. Dry boat storage shall be constructed consistent with uniform building code wind load standards, and include interior sprinkler systems or equivalent fire suppression systems.

B. Dry boat storage shall be contained within fully enclosed buildings, not including the space needed for forklifts to load the racks. Dry boat storage is limited to locations with direct access to navigable waterways.

A Planners Dictionary (American Planning Association, Planning Advisory Service)

Boat livery (See also marina; water-dependent use) - A commercial establishment providing boat hauling or launching facilities, rental of covered or uncovered boat slips or dock space or enclosed dry storage space, rental or sale of boats and boat motors, repair and maintenance of boats and boat motors, sale of marine fuel and lubricants, and as accessory service uses, on-shore restaurants, hotels, or motels, and sale of bait and fishing equipment. The term "boat livery" includes marinas but shall not be deemed to include boat yards. (Indian River County, Fla.)

Boat slip - A space designed for the mooring of a single watercraft. Such spaces may extend from a dock or shoreline but shall not be allowed to project from a pier. (Indian River County, Fla.)

~~Difference between a "dock" and "pier"??~~

Boat slip - An area of bank or shore where soil or other material is excavated to a level at or below the level of the waters of an adjacent lake, river, or stream, to allow the mooring or landing of marine transport within the excavated area. (Deschutes County, Ore.)

Boat slip - That area of the waterway contained within the tie-off pilings and a pier or bulkhead, covered or not. (Rock Hall, Md.)

Boat yard (See also port and harbor facilities; shipyard) - A premise or site used as an industrial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, or maintenance and accessory sale of boats, marine engines, or marine equipment, supplies, or services of all kinds including but not limited to rental of covered or uncovered boat slips, or dock space or enclosed dry storage space, lifting or launching services. The term boat yards shall include marinas and boat liveryes. (Indian River County, Fla.)

Marina (See also boat livery; moorage, commercial; port and harbor facilities; water-dependent use; waterfront, marineboat zone) - Waterfront establishments whose business is offering the sale or rental of boats and marine sporting equipment and the servicing, repair, or storage of same. Such establishments may also provide travelift services, slip rental, gasoline, sanitary pumpout service and food, drink and transient lodging accommodations. (Bayfield County, Wisc.)

Marina - A use of land involved in the operation of a marina including structures and activities normally integral to the operation of a marina, such as servicing, fueling, pumping-out, chartering, launching, and dry-storage of boats and boating equipment. (Clearwater, Fla.)

Marina - A dock or basin where slips, moorings and often supplies, repairs, and other services are available for craft. (Quincy, Mass.)

Marina - Any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other non-commercial boat docking and storage facilities. A marina may include boat sales, boat fuel sales, boat construction, boat repair, marine equipment sales, or promotional events, boat and jet ski rental, and other uses clearly incidental to watercraft activities. (Cecil County, Md.)

Marina - An establishment providing docking, moorage space, and related activities limited to the provisioning or minor repair of pleasure boats and yachts, and accessory facilities including but not limited to showers, toilets, and self-service laundries. (King County, Wash.)

Marina - A facility for secure mooring of boats, including facilities for storage and repair of boats and sale of boating supplies and fuel, for use by the owner or resident of the lot, and those other than the owner or resident of the lot, upon which the facility is located. (Virginia Beach, Va.)

Maritime activities (See also port and harbor facilities; water-dependent use) - Activities required for, supportive of, or commonly associated with the construction, repair, operation, storage, loading, and unloading of boats, waterfront dock and port facilities, marinas, navigation aids, boat fuel and equipment supply, ground-level parking incidental to such uses, and other activities the primary purpose of which is to facilitate maritime trade. (Portland, Maine)

Florida Statutes

“Marina” means a licensed commercial facility that provides secured public moorings or **dry storage for vessels on a leased basis**. A commercial establishment authorized by a licensed vessel manufacturer as a dealership is considered a marina for nonjudicial sale purposes. (Sec. 327.02(25), F.S.).

St. Johns County

Marina - Establishments used for the docking or storage of watercraft used for pleasure purposes or Limited Commercial Purposes including Charter fishing or sightseeing, minor watercraft repair services,

watercraft cleaning services, watercraft wet or dry berthing or storage, fueling, parking, sale of watercraft, retail, restaurant, motel, launching facilities and other customary accessory facilities. A watercraft pump-out facility is required. (Also see Marina, Community).

Marinas are a permitted use in the following Zoning Districts:

CHT Commercial, Highway and Tourist

CI Commercial, Intensive Commercial,

CHI Commercial, High Intensity CHI

CW Warehouse

IW Industrial, Warehousing

Dry Storage of Pleasure Watercraft - A commercial facility for removing from the water, watercraft used for recreation and pleasure purposes and storing such craft on land or above land or water on boat lifts.

Dry Storage of Pleasure Watercraft is a permitted use in the following Zoning Districts:

CI Commercial, Intensive Commercial,

CHI Commercial, High Intensity CHI

CW Warehouse

AD Airport Development

One space per two slips, plus **one space per five dry storage spaces**. Accessory commercial uses shall meet the parking requirements provided within the Code.

Volusia County

Marina: A boat dock or basin with facilities for berthing, securing, fueling and servicing various types of recreational watercraft. It may include the provision of supplies and storage. It does not include boat docks that are accessory to residential uses.

Parking:

Wet slip 1 per 3 slips

Dry storage 1 per 3 slips

Club house 4 per 1,000 sq. ft. of GFA

Additional requirements:

- a. Contain sufficient uplands to accommodate support facilities such as adequate parking, dry storage, work areas, stormwater management facilities and other nonwater dependent uses.
- b. Facilities shall be designed to maximize or improve water circulation patterns and shall not adversely affect existing circulation patterns.
- c. Any buffer zones established by FDEP's shellfish environmental assessment section shall be maintained and where necessary, enhanced or expanded.
- d. Prior to the operation of any new marina fueling facility or expansion of an existing facility, a fuel management/spill contingency plan shall be approved by the applicable governing authority. The plan shall describe methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a spill.
- e. In the event new boat slips are constructed, sewer pump-out service and facilities shall be available and accessible.

Brevard County

Marina means a facility or structure which provides mooring, docking, anchorage, fueling, repairs or other services for watercraft. Docks accessory to single-family uses are exempt from this definition.

(1) Residential/recreational marina means community docks serving subdivisions, condominiums or private organizations having three to 30 slips, inclusive. No fueling, wastewater pumpout or repair facilities are associated with these marinas.

(2) Commercial/recreational marina means facilities having greater than 30 slips or any marina which has fueling, wastewater pumpout or repair facilities serving recreational interests.

(3) Commercial/industrial marina means facilities serving largely commercial interests. Fueling facilities, repair, wastewater pumpout facilities and commercial sale of fish, including loading and shipping activities, are permitted within this category.

Live aboard – One (1) parking space per each boat slip

Wet Slips – One (1) parking space per three (3) wet slips

Dry Slips and Moorings – One (1) parking space for each four (4) moorings or dry slips for facilities up to fifty (50) slips; one (1) parking space per five (5) moorings or slips for facilities with over 50 moorings or dry slips.

Citrus County

Marina/Boat Facilities: Any facility used for the wet or dry storage, loading, unloading, and/or launching of boats, which is not provided for the sole use of residences of a residential land use adjacent to a coastal water body. Marina/boat facilities include, but are not limited to, commercial marinas, commercial docking structures, and public and private boat launching facilities/boat ramps
1 per 5 boat berths and 1 per 1,000 square feet of dry boat storage area plus 1 per employee

Collier County

Marina shall mean a non-residential boating facility, chiefly for recreational boating, located on navigable water frontage, and providing all or any combination of the following: boat slips or dockage, dry boat storage, small boat hauling or launching facilities, marine fuel and lubricants, marine supplies, bait and fishing equipment, restaurants, boat and boat motor sales, and rentals. Minor boat, rigging and motor repair which is incidental to the principal marina use is generally permitted, but no boat construction or reconstruction is permitted.

1 per 2 wet boat slips excluding those used for charter boats plus 1 per 5 dry boat storage spaces. Wet slips used for charter boats (including those for fishing, shelling, diving, and sightseeing purposes) are computed at 1 per 3 boat passengers based on the maximum number of passengers and charter boats used for dining are computed at 1 per 2 boat passengers based on the maximum number of passengers.

Lee County

Marina means a commercial or industrial water-dependent use located on property adjacent to water with direct access to a navigable channel. The primary function must be to provide commercial dockage, mooring, storage and service facilities for water craft and land-based facilities and activities necessary to support the water dependent use.

Dry Storage 1 space per 5 slips

Wet Slips 1 space per 2 slips

Live Aboard 3 spaces per 2 slips

St. Lucie County

Marina means any vessel docking facility which is used to conduct the business of providing services to vessels, such as, but not limited to, the fueling of vessels, the sale of marine supplies, or the rental of location for moorage or dockage.

Decision to be made by the Planning Director (Marina Parking Requirements - Section 706-00)

Ormond Beach

Marina means a small craft harbor complex designed and used for storing, fueling, berthing and

launching of private pleasure watercraft.

St Augustine

Marina means an establishment with a waterfront location for the refueling of watercraft, providing minor repair services for such craft, and providing storage of watercraft. A marina may include, as accessory uses, a restaurant, a snack bar, lounge, motel, boatel, launching facilities and other customary accessory facilities.

Marinas are Permitted in the following Zoning Districts

RGO Residential General Office / Mixed Use

CL-2 Commercial Low Intensity

CM-1 Commercial Medium Intensity

CM-2 Commercial

MUD-A Marina Use District

OL Open Lands

Boat rack-dry storage facility means a framework designed and used to store a multitude of boats out of the water for extended periods of time, generally featuring the stacking of boats in multiple levels of the framework.

Notwithstanding any provisions within any of the zoning district regulations, all new boat rack-dry storage facilities shall be within a completely enclosed building.

1 per 2 newly constructed wet boat slips, excluding those used for charter boats, plus 1 per 10 dry boat storage spaces. Each parking space provided to meet the marina's boat slip or dry storage parking requirements may also be credited towards meeting 100 square feet of the parking requirements for the marina or permitted marina-related activities, excluding restaurants, lounges/bars and private clubs. Uses not receiving credit from parking provided for boat slips or dry storage spaces shall provide parking at the normal rate for those uses as required within this Code.

Jacksonville

Commercial Marina means a licensed and permitted commercial facility that provides secured public moorings or dry storage for vessels on a leased basis.

One (1) parking space for each four (4) dry storage spaces. Two (2) spaces for three (3) wet slips.

Jacksonville Beach

Marina means an establishment with a waterfront for the purpose of storing watercraft and pleasure boats on land, in buildings, in slips or on boat lifts, including accessory facilities for purposes such as refueling, minor repair and launching.

One (1) space per four (4) wet berths plus one (1) space per six (6) dry storage spaces.

Flagler Beach

Marina—A waterfront facility providing one or more of the following: docking of boats, wet and/or dry storage of boats; sales of marine supplies and parts; and boat sales, rental, or charter; boat fueling, service and repair. The following water-enhanced uses are permitted to be conducted at a marina: restaurants, gift shops, ice cream shops, self-service laundries, water-taxi dockage, offices, bookstores, and other uses which are permitted in the tourist commercial district. A marina may contain one residential dwelling for a marina caretaker or owner.

New Smyrna Beach

Road impact fee definition: Marina shall mean a commercial or nonprofit boat basin with facilities for

the sale, construction, repair, launching, storing, berthing, securing, fueling or general servicing of marine craft of all types.

Marina. A marina is a commercial establishment with a waterfront location for docking pleasure boats or providing services to pleasure boats and the occupants thereof; including servicing and repair to boats; sale of fuel and supplies and providing for food and beverages as accessory uses. A hotel, motel, or similar use, with docking boats and provision of services thereto, shall not be considered a marina, nor shall boat docks accessory to a residential project where no boat related sales or services are rendered be considered a marina. (Such premises or site shall not include boat and/or motor manufacturing as an incidental use.)

Parking:

1 space/2 boat slips; and

1 space/5 dry storage slips; and

1 space/400 square feet retail area; and

1 space/3 restaurant seats

Palm Coast

Marina *facility*: Any structure or combination of structures, other than a single residential dock, located on or over the water surface of the navigable waters of the City, and is designed or used for the mooring of watercraft. Marina facilities are classified into the following subcategories.

(1) *Commercial* marina: Any facility or structure that is used for business or income producing purposes, through rental or any other means, the services of which are open to the general public, or which serves as an accessory facility to other rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, shipping, or sales.

(2) *Noncommercial* marina: A marina facility designed to moor three or more watercraft that is intended to be used for private recreational or leisure purposes by persons or groups of persons who are residents of a development, or a nonprofit organization. General public usage and/or access is and will be prohibited by deed restrictions, easements, or other legally binding documentation except that a de minimis number of watercraft slips, not to exceed five percent, may be subject to rental agreements to nonresidents of the development associated with the marina facility. A marina associated with and part of a development shall not be deemed a commercial marina if instruments of title, acceptable to the City, bind the developed property to the marina in a manner approved by the City. A marina facility with no more than five-day slips shall be considered a noncommercial marina.

Parking:

1 space per 3 boat berths (wet slip or dry storage)

	COM	COM	COM	OFC	OFC	IND	IND	PSP	P&G	MPD
Marinas	1	2	3	1	2	1	2			
Commercial	P	P	P	P	P	P	P	P	S	P

Naples

Marina means an establishment with a waterfront location designed to service watercraft. A marina may include such activities as refueling and lubrication of watercraft, covered or uncovered boat slips or dock space, dry storage of watercraft, charter and sightseeing boat dockage, boat and boat motor sales

or rentals, outfitting, maintenance and repair, including haul-out facilities, boat launching, retail sale of boating or fishing supplies and accessories, restaurants or refreshment facilities, laundry facilities or other customary accessory facilities. No boat manufacturing or major reconstruction is permitted. 0 spaces for dry boat storage and/or marine repair facilities. 1 parking space per 300 square feet of offices and retail sales area. 1 space per 10 dry slips. 1 space per 4 wet slips. 1 additional space for each slip which is assigned a live-aboard capacity.

Ponce Inlet

Marina. A licensed commercial facility which provides secured public moorings or dry storage for vessels on a leased basis. Marinas may also provide for the launching and fueling of boats together with accessory retail and service uses, including restaurants and boatels, and fishing boat and sport diving charters. Marinas do not include docks accessory to a land-based dwelling unit limited to the use of owners or occupants of that unit.

Boat Storage. A facility used primarily for the storage of boats, vessels, or any type of watercraft. Boat storage facilities use is under the WATER ENHANCED USES vs Marina which is under WATER DEPENDENT USES

1 space per 5 boat spaces for Boat storage facilities

Boat Storage:

1. Special exception standards

Boat storage facilities are permitted as special exceptions in the B-2 zoning district, but only in those areas not covered by the riverfront overlay district (ROD), if:

A. The parcel proposed for development has direct access to water of at least four feet at all times.

B. All outside storage areas are screened from adjacent uses and properties by an opaque wall, fence or plant material meeting the requirements of section 4.4. If said screening is to be comprised of plant material, it shall form a screen of at least 75 percent opacity at the time of installation.

C. The parcel proposed for development shall be separated from any established residential use or residentially zoned property by a buffer in accordance with section 4.10.3 of this code.

2. Dry boat storage facilities in B-2 and PWD zoning districts.

A. Dimensional, access, and development standards. The following standards shall apply to dry boat storage facilities (including storage structures, boats on trailers, and boat stands) as permitted above:

1. Dry boat storage is subject to the dimensional and access standards established in Table 3-2 below.

2. Dry boat storage shall be constructed consistent with uniform building code wind load standards, and include interior sprinkler systems or equivalent fire suppression systems.

3. Limited storage of boats on trailers or boat stands may be permitted as part of boat yard operations subject to site plan review and screening standards; however, multiple-level boat racks shall be contained within fully enclosed buildings, not including the space needed for forklifts to load the racks.

4. Any lawful boat storage facility in existence as of January 7, 2004, that could not be permitted or rebuilt thereafter because of zoning district requirements (other than dimensional requirements) shall be considered a permitted use and, accordingly, shall not be subject to this subsection and shall not be required to obtain special exception approval, unless the facility is proposed to be expanded beyond the building footprint that existed as of January 7, 2004.

From: [Jody Bollinger](#)
To: [Adam Mengel, AICP, LEED AP BD+C](#)
Subject: Marina codes from Florida counties and cities
Date: Thursday, July 22, 2021 2:43:58 PM
Attachments: [Marina land codes, v2.pdf](#)

This email originated outside the Flagler County email system. DO NOT click any links or open any attachments unless you know the sender and know the content is safe.

Mr. Mengel,

Attached is a document with marina codes from other counties and cities in Florida that HCA members used for reference.

We request that you share this document with the Planning Board members.

I also sent you an email with comments about the marina amendment presented to the Planning Board on July 13. I request that you share that document with Planning Board members also.

Respectfully,
Jody Bollinger

City of St. Augustine
Sec. 28-2 Definitions

Exterior storage means outdoor storage of fuel, raw materials, products and equipment. In the case of lumberyards, exterior storage includes all impervious materials stored outdoors. In the case of truck terminals, exterior storage includes all trucks, truck beds and truck trailers stored outdoors. In the case of boatyards or marinas, exterior storage includes all boats, machinery, equipment and materials stored outdoors or not in a completely enclosed building or structure.

Volusia County
Sec. 72-290

(9) Marinas. The following standards shall apply to marinas:

d. Prior to the operation of any new marina fueling facility or expansion of an existing facility, a fuel management/spill contingency plan shall be approved by the applicable governing authority. The plan shall describe methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a spill.

e. In the event new boat slips are constructed, sewer pump-out service and facilities shall be available and accessible.

City Of Key West
Section 82.41 No Discharge Zone

(a) For the purpose of this section, the term "vessel" means any boat, houseboat, charterboat, fishing boat, or floating structure, whether or not habitable.

(b) The jurisdictional waters of the city are declared to be a no discharge zone. It shall be unlawful for any person to discharge treated or untreated sewage into the jurisdictional waters of the city from any vessel, whether moored, docked, in transit, or otherwise located within these waters.

(c) Every marina in Key West shall install sanitary sewage pump-out facilities to serve every vessel and floating structure that docks at the marina. The marina proprietor shall require that the owner or operator of each vessel and floating structure both lock out the black water discharge pipe and use the pump-out facilities as a condition of dockage; all leases or other agreements for dockage shall include this pump-out requirement, as well as a statement that the jurisdictional waters of Key West are a no discharge zone.

Sec. 110-186 Marinas and Dock Facilities

Docks or marina improvements shall not be approved by the city until the applicant demonstrates compliance with all applicable federal and state laws and administrative rules as well as applicable policies of regional agencies. The plans shall comply with the following criteria:

(1) The plan shall indicate location of the site relative to all potentially impacted natural marine resources, including specific location and characteristics. New marinas shall not be allowed in or immediately adjacent to the following sensitive areas:

a. Aquatic preserves;

b. Class II waters approved by the state department of environmental protection for shellfish harvesting;

c. Outstanding Florida waters;

d. Marine sanctuaries;

e. Estuarine sanctuaries; and

f. Areas of essential manatee habitat, as determined by the state department of environmental protection.

(4) All new and expanded marinas shall provide a demonstration of compliance with state water quality standards by maintaining a water quality monitoring program approved by the state department of environmental protection.

(8) All new or expanded marinas must provide treatment of stormwater runoff from upland areas to the extent necessary to ensure that state water quality standards are met at the point of discharge to waters of the state. In addition, all requirements of the water management district and the state department of environmental protection shall be met.

(9) Boat maintenance activities in new or expanded marina facilities shall be located as far as possible from open waterbodies in order to reduce contamination of waterbodies by toxic substances common to boat maintenance. Runoff from boat maintenance must be collected and treated prior to discharge.

(10) Open wet slips will be preferred to covered wet slips in marina design to reduce shading of waterbodies which result in lowered biological productivity.

Monroe County

Sec. 118-15 Marina Siting Criteria

Siting criteria. The development of new marina facilities shall be located in areas where maximum physical advantages exist and where no unreasonable or excessive impacts are foreseen on marine resources. Proposed new marina facilities shall meet the following requirements:

(2) Adequacy of circulation and tidal flushing. The proposed marina site shall exhibit adequate circulation and tidal flushing. The waterway upon which the marina is proposed to be sited shall meet or exceed state water quality standards, and must currently have "Good" water quality as indicated in the County's most current canal inventory and assessment data (as applicable).

New marina development shall not adversely impact the quality of water during construction or use.

(3) Adequate water depth and access. There shall be a minimum of four (4) feet of water depth at MLW at the marina site (including the mooring slips, turning basin, and access channels), and the water depth shall be continuous to open water over a channel width of twenty (20) feet. Water depth shall be adequate for the proposed vessel use such that there be a minimum of one (1) foot clearance between the deepest draft of the vessel and the bottom at MLW. Greater water depths shall be required for those facilities proposed for accommodating vessels having greater than a three (3) foot draft. Sites shall not require dredging or filling to provide access.

118-15 Marina Pumpout Requirement

(a) New marinas. New marinas and marine facilities with ten slips or more, or one live-aboard slip, shall provide a fixed pumpout station.

City of Naples

Sec. 52-94 Marina Siting Requirements

(c.) All non-water-dependent marina facilities must be sited outside vital areas, in appropriately zoned areas. This includes fuel storage tanks, dry storage areas, restaurants, bait and tackle shops, ship chandlers, gazebos and all similar structures cited in the marina definition in section 44-8.

(d) All new marinas must provide adequate facilities, including parking, sewage pump-out facilities, potable water and appropriate shore power capable of servicing the potential mix of vessels and vessel users. Public uses shall be encouraged.

(e) A spill containment and cleanup contingency plan must be developed and implemented. Such a plan must address petroleum and other hazardous materials spills and discharges

resulting from vessel sinking, vessel fires, fuel transfer and dispensing accidents, storage tank overfilling or leaks, and similar events, as well as inspection and enforcement provisions.

(g) Preference will be given to marina development projects that are situated in or close to well-flushed deep channels or natural waterways. Development proposals for marinas that require extensive dredging to create and maintain entrance or flushing channels will be discouraged.

(i) All proposals for marina development must address maintenance of water quality. Naples Bay and the Moorings Bay system are class II waters, the Gordon River, the human-made residential canals, and the various tributaries of Naples Bay are class III waters, and Dollar Bay and the inland waterway to the south are in the Rookery Bay Aquatic Preserve and National Estuarine Research Reserve, which will eventually become Outstanding Florida Waters. Water quality criteria for these classes are set forth in F.A.C. ch. 62-302, and quality of Outstanding Florida Waters is discussed in F.A.C. 62-4.242. All proposals for marina development or redevelopment must present data establishing ambient water quality conditions, and a detailed description of a monitoring program designed to ensure applicable standards are maintained.

(l) All proposals for marina development shall include a manatee protection plan, which addresses, but is not necessarily limited to, the following issues:

- (1) Programs for education and public awareness.
- (2) Programs for posting and maintaining manatee and vessel speed control signs.

City of Panama

Sec. 105-13 Marinas

A. Public Purpose. The development and operation of marinas is an activity potentially detrimental to recreation, fish life, navigation, waterfront accessibility and aesthetic values shared by the public at large, and shall be properly managed according to the minimum standards of this section. The purpose of this section is to provide standards and criteria intended to minimize the potential detrimental effects caused by marina development.

C. Other permits or approvals. All required permits and approvals from government agencies having jurisdiction over a marina development are a prerequisite to the issuance of a development order by the city. Notwithstanding the above, the city may issue a letter of intent if such letter is necessary to obtain the required permits or approvals from other agencies provided the developer (or the applicant) has provided the city with reasonable assurances the other required permits or approvals can be obtained.

E. Location by land use.

All new marinas or marina expansions shall comply with the following criteria and standards:

- (1) The upland area must be of sufficient size to accommodate parking, utility and support facilities;
- (4) Demonstrate the capability to provide cleanup of oil spills within boundaries of the leased area;
- (5) Provide a hurricane mitigation and evacuation plan for residents of live-aboard vessels;
- (8) All marinas will provide pumpout facilities or holding tanks adequate to serve the anticipated volume of waste. Commercial marinas and those with live-aboard traffic must provide upland sewage facilities and shall prohibit inappropriate sewage pumpout;
- (9) Maintain water quality standards required by F.S. ch. 403;
- (10) Be located in areas having adequate water depth to accommodate the proposed boat use without disturbance of bottom habitats;
- (12) Be located in appropriate land use districts;
- (15) Prohibit the discharge from any boat or vessel of any oil, fuel, grease, paint, solvent, construction debris, or other similar substances.

City of Palm Coast

Sec. 4.16 Marinas

4.16.05

- A. 4. A marina facility site may be approved only when the applicant has demonstrated that the location has adequate depths to accommodate the proposed watercraft use. All marina facilities access shall be through existing channels or through areas greater than three feet in water depth at mean low water. If existing channel or through areas contain less than three feet of low mean water depth and dredging is required, the applicant must demonstrate that the initial dredging operations are necessary and measures were taken to avoid and minimize, to the extent practical, negative impacts to environmental resources of the City including, but not limited to, water quality, threatened and endangered species, fish, and wildlife habitat. The issuance of permits to the applicant from the Army Corps of Engineers and the St. Johns River Water Management District or Department of Environmental Protection shall satisfy the requirements of this provision.
- B. 4. Residentially designated property. No commercial marina building or structures, or marine service station, shall be located within 100 feet of a residential property line, unless otherwise specified within this section of the Code.

4.16.07

- C. 2. Fire suppression devices and other associated firefighting facilities shall be installed. Accommodations shall be made and approved by the Land Use Administrator to provide appropriate accessibility for firefighting response teams. Marina facilities shall be constructed in such a manner that would not increase the risk of fire to nearby residential dwellings or that would reasonably be deemed to cause an increase in fire insurance premiums of nearby structures.

4.16.08

- C. All commercial marina facilities shall provide for a dockmaster. All noncommercial marina facilities that include greater than 40 slips shall provide for a dockmaster. The purpose of the dockmaster is to oversee the proper usage of the facility and to ensure compliance with the applicable provisions and requirements of this section.

14.02 Glossary

Commercial marina. Any facility or structure that is used for business or income producing purposes, through rental or any other means, the services of which are open to the general public, or which serves as an accessory facility to other rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, shipping, or sales.

Flagler County

3.03.18 Industrial

A sound level measurement taken from the property line of the developed land use district receiving the sounds emanating from the industry may not exceed the following levels:

Receiving land use: Residential

7:00 am to before 10.00 pm 60 dBA

10.00 pm to before 7:00 am 55 dBA

3.01.01 Purpose

- A. 2. Providing a residential environment free of incompatible uses, safe from natural and manmade hazards.
7. Maintaining and improving the quality of life for all residents.

Pinellas County

Sec. 138-3312

- (a) Purpose. Marinas are intended to provide services and facilities to serve the boating community. Marinas should be subject to specific development standards to ensure land use compatibility, natural resource protection, and public safety.
- (c) a. When the marina use requires a Type 2 or 3 approval, the size, intensity, development configuration, and hours of operation may be limited as a condition of approval in order to address neighborhood compatibility concerns. Due to the variety of uses and associated impacts, specific standards shall be determined during this review.

Sec. 58-570 Dredge and Fill—Permit Required

- (a) No person shall undertake any dredging or filling in the waters of the county without first obtaining a permit from the county.
- (b) There shall be in no case any dredging seaward of a bulkhead line for the sole and primary purpose of providing fill for any area landward of a bulkhead line.

Hernando County

23.214 Permitting Requirements for Marinas

- (1) Development must be compatible with adjacent land uses.
- (11) Dredging to obtain navigable water depths in conjunction with new docks is prohibited.

Indian River County

Sec. 071.35 Marine Related Commercial Activity

- (3) Commercial Marinas (special exception)
- (c) 4. Site locations shall have a minimum average water depth of four (4) feet as measured at mean low water. All marina access shall be through existing channels or through areas of greater than four-foot water depth. The dredging of new channels to provide marine access to a site is prohibited. Maintenance dredging of existing channels shall be the minimum necessary and shall not exceed eight (8) feet in depth, as measured from mean low water. All dredging activities must first obtain all necessary permits/reviews from the Army Corps of Engineers, FDNR, FDER, St. John's Water Management District and/or any other agency with applicable jurisdiction.
8. No building or structure shall be located closer than one hundred (100) feet to any lot line which abuts property having a residential land use designation;
9. No off-street parking, loading or vehicular sales area shall be located within fifty (50) feet of a lot line abutting a residential district;
13. All commercial marinas shall be required to install and maintain, in working condition, sewage pump-out facilities in accordance with the following criteria:
- a. Pump-out facilities shall incorporate marina wide systems, portable/mobile systems, slipside systems or a combination of these and shall be approved and inspected by the environmental health department on a regular basis;
- b. Effluent shall be collected for forwarding to approved public facilities or directly deposited to approved public or private facilities. With county and appropriate state or federal approval, properly treated "gray water" may be utilized for landscape irrigation, provided this use does not endanger the health, safety or welfare of the population or the environment and its flora and fauna; and
- c. Pump-out facilities shall be located to provide unconstrained access to watercraft.

Sec. 901.03 Definitions

Marina—a watercraft complex on and/or adjacent to a waterway used primarily for recreation purposes, including the refueling of watercraft and providing for minor repair services for such craft, not involving removal of watercraft from the water or removal of inboard or outboard engines from the watercraft.

Dock, dry—an upland structure used for storing watercraft. A dry dock may be part of a boat livery or boat yard but shall not be permitted as part of a marina.

Industry, heavy—a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Warehouse—a building used primarily for the storage of goods and materials

Martin County

Sec. 3.79 Marina-commercial

B. Marinas shall provide sanitary pump out facilities if such are not available within one mile of the site.

C. No building or mechanical device associated with a commercial or industrial use, other than a fence, shall be located within 100 feet of any residential district.

D. Fuel dispensers shall be located at least 250 feet from any RE, RS, RM, MH, residential PUD or CATEGORY "B zoning district.

Escambia County

Article 3 Docks, Piers Marinas

Sec. 3.1 Design

(g) Permits for construction of docks and piers on right-of-way that has been dedicated to the public but not yet opened, maintained, or otherwise accepted by the county, shall be issued only upon authorization by the board of county commissioners. The board may authorize issuance of such permits after considering all relevant factors, including, but not limited to, the following:

2. Whether construction of the dock or pier would have an adverse impact on adjacent properties.

3.2 SRIA design standards (Santa Rosa Island Authority)

Persons contemplating construction of a dock, pier or any other structure or activity which is to be located on a tidal area (seaward or channelward of mean high water line) should contact the local office of the Florida State Department of Environmental Protection for information on procedures to follow in order to obtain the necessary permit(s) from the appropriate agency or agencies.

3-2.2 Marinas, docks, piers, boat basin(s), building(s), ramp(s), and/or other structures constructed adjacent to a commercial area which the lessee intends to operate as a principal business to provide complete facilities for boats must provide the following:

- (a) Fuel
- (b) Fresh water on docks, ice
- (c) Modern clean restrooms.
- (d) Electrical outlets on docks.
- (e) Garbage receptacles on docks.
- (f) Telephone outlets.
- (g) Ship's store.
- (h) Facilities for at least minor boat repairs and accessories.
- (i) Auto parking lot
- (j) Sanitary facilities for boats at dockside

The above are considered minimum requirements. Other features such as lounges, restaurants, motels, tide gauges, major repair facilities, late weather reports, quarters for ship's crew, swimming pools, etc., are highly desirable and should be considered in the overall ultimate development of a marina. Design of boat storage facilities should receive special attention to insure an attractive appearance that lends itself to the architectural style of adjacent buildings and proposed adjacent buildings.

Part III LDC Ch 3, Sec. 3-2.10 (Commercial district)

The commercial (Com) district establishes appropriate areas and land use regulations for general commercial activities, especially the retailing of commodities and services. The primary intent of the district is to allow more diverse and intense commercial uses than the neighborhood commercial allowed within the mixed-use districts. To maintain compatibility with surrounding uses, all commercial operations within the commercial district are limited to the confines of buildings and not allowed to produce undesirable effects on surrounding property.

City of Dania Beach

CH. 28, Sec. 110-170 Wet or Dry Stack Marina

(B) All buildings shall be set back a minimum distance of one hundred (100) feet from any lot line designated residential on the future land use plan map or zoning map.

CH. 28, Sec. 220-50 Special Height Restrictions for Certain Uses

(A) In the C-3 and C-4 districts, no wet- or dry-stack marina building or structure can exceed a height of thirty (30) feet.

City of Sarasota

Art. II, Div. 2, Sec. 11-201 Definitions

Warehousing: An operation from a structure, or part of a structure, for storing goods, wares, commodities and merchandise, whether for the owner thereof or for others, and whether it is a public or private warehousing operation, but excluding mini-warehouse self-storage centers.

City of Delray Beach

Sec. 96-41 Application for permit (Installation of Fuel Tanks)

Application shall show the following:

- (A) Name and address of the applicant.
- (B) Name and address of the owner of the premises.
- (C) The legal description of the premises and its street location.
- (D) The zoning district in which the property is located.
- (E) A sketch showing the exact proposed location of the tank upon or under the premises; also, the exact location of any other existing tanks upon or under the premises.
- (F) The size, type, construction, capacity, and purpose of the proposed tank or tanks and any other existing tanks.

Florida Administrative Code

62-302.700 Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters.

(1) It shall be the Department policy to afford the highest protection to Outstanding Florida Waters and Outstanding National Resource Waters. No degradation of water quality, other than that allowed in subsections 62-4.242(2) and (3), F.A.C., is to be permitted in Outstanding Florida Waters and Outstanding National Resource Waters, respectively, notwithstanding any other

Department rules that allow water quality lowering.

(2) A complete listing of Outstanding Florida Waters and Outstanding National Resource Waters is provided in subsections (9) and (10). Outstanding Florida Waters generally include the following surface waters (unless named as Outstanding National Resource Waters):

(e) Waters within National Seashores, National Marine Sanctuaries, National Estuarine Research Reserves, and certain National Monuments;

From: [Jody Bollinger](#)
To: [Adam Mengel, AICP, LEED AP BD+C](#)
Subject: C-2 properties
Date: Thursday, July 22, 2021 2:54:23 PM
Attachments: [C-2 Properties on ICW.pdf](#)

This email originated outside the Flagler County email system. DO NOT click any links or open any attachments unless you know the sender and know the content is safe.

Mr. Mengel,

As per my request at the Planning Board meeting on July 13 as to the location of C-2 properties along the Intracoastal, I am hoping that you can verify for me if this information is correct. The information was gleaned from the Flagler County property appraiser website, except for some of the comments.

Thank you.

Jody Bollinger

C-2 Properties along ICW in unincorporated Flagler County

Property Owner	Acres	Feet on ICW	Future Land Use	Comments	Adjacent Zoning
Delores & Jerrald Schatz 5964 N. Ocean Shore Blvd	1.79	300	Mixed use: Low intensity Mixed use: High Intensity	Single family home on property. Part of former Delores Motel site.	North: PUD South: RR/RC East: PUD, RC
Flagler County Board of County Commissioners 5862 N. Ocean Shore Blvd	7.449	600	Recreation & Open Space	Bing's Landing	
Hammock Harbour LLC 5658 N. Ocean Shore Blvd	4.26	300	Residential: Low Density/Rural Estate Mixed Use: Low Intensity		North: RR/RC South: RR/RC
Hammock Beach Jose Park 5522 N. Ocean Shore Blvd, Lots 59-62; 5478 N. Ocean Shore Blvd, Lots 65-66	5522: 6.67 5478: 4.597	5522: 400 5478: 200	Residential: High Density Mixed Use: High Intensity	Lots 57,58 63,64,67 are currently zoned RR/RC. Total acreage for Hammock Beach Jose Park is around 16 acres. Site of former proposed PUD (2005)	<u>5522</u> North: RR/RC South: RR/RC <u>5478</u> North: RR/RC South: RR/RC East: C-2
Richard & Jacqueline Hamilton 4430 N. Ocean Shore Blvd 4400 N. Ocean Shore Blvd	3 Two adjacent parcels	266 Two parcels	Commercial: High Intensity	Three acre parcel to the east of the 2 adjacent parcels is also owned by Richard Hamilton. It adjoins A1A.	North of 4430: RR South of 4400: RR/RC East: C-2

From: [Carl](#)
To: [Adam Mengel, AICP, LEED AP BD+C](#)
Subject: Proposed Marina Zoning in Un-Incorporated Flagler County
Date: Wednesday, August 4, 2021 10:09:35 AM

This email originated outside the Flagler County email system. DO NOT click any links or open any attachments unless you know the sender and know the content is safe.

Dear Mr. Mengel and Members of the Flagler County Planning Board,

As we try to establish zoning requirements for marinas in un-incorporated Flagler County, please consider the following items that were presented or discussed at the planning board meeting July 13, 2021.

1. Please take time to review and appropriately evaluate the information provided by the Hammock Community Association (HCA). A great deal of energy and effort was put forth trying to present solutions that would work for Flagler County. If not accepted, these recommendations deserve an explanation of why they were adopted. One Planning Board member questioned the 15 boat per acre limit for dry storage in that presentation. Mr. Buckley referenced the previous dry stack at 5478 N Oceanshore Blvd on a similar sized parcel. The 15 boat per acre proposed limit would allow for more than twice the storage than exists there.
2. Our county is diverse in many regards. Please write regulations that will continue to maintain the nature of the A1A Scenic Corridor, which previous administrations established. The Scenic A1A corridor was put in place with a specific intent to maintain the natural beauty of the area. When the Publix grocery store was built in 2004, the developer worked with the community and the county to create a property that fulfilled the commercial need yet was sensitive to the requirements of the Scenic A1A Corridor. Responsible development can occur.
(see Attachment 1-letter from HCA chairperson to County Planning Director) (Attachment 2-current Google Earth image of Publix at 5415 N Oceanshore Blvd, Palm Coast, FL, looking north along A1A).
3. The ordinance should address and have special considerations for marinas that are adjacent to residences.
4. Wakes are an issue on the Intracoastal. I was amazed by several of board members almost cavalier attitude about the topic. A majority of the Intracoastal Waterway through Flagler County is only 300-500 feet wide and not a "No Wake Zone". No one mentioned that less than 5 months ago, in the vicinity of where a new marina is being proposed, a young man fell off a jetski after hitting a "wave" and drown. The issue of wakes needs to be addressed, especially for marinas on the ICWW, a navigable waterway utilized by large commercial vessels.
5. I understand Mr. Connors premise that parking and other requirements will dictate the size of a marina but, I am not sure how his math works. He mentioned that with all the requirements, you can only put a 2000 square foot building on ½ acre lot, so that would lead me to believe you could only put a 20000 square foot building on a 5 acre lot. There is a proposed dry stack that would be more than 40000 square feet on less than 5 acres. I understand you can gain some leverage based upon the scale of a project but that is off by 100%. Either his math is in error or that principle is not appropriate for this application. There needs to be some mechanism in place to ensure the size and scope of a marina is in concert with the surrounding area especially when it is adjacent to residential zoned property. .

Thank you for your attention to this matter. My wife and I have purchased 4 different properties in the Hammock, have lived here full time for more than 6 years and have made this our home. We hope that zoning requirements for marinas in un-incorporated Flagler County can be developed that will allow

boaters access to facilities without compromising the natural beauty of our area and infringing upon the property rights of others.

Sincerely,
William Jorden
5572 N Oceanshore Blvd
Palm Coast, FL 32137

ATTACHMENT 1

May 13, 2004

Walter Fufidio

Planning Director

1200 E. Moody Blvd., #2

Bunnell, FL 32110

Re: Hammock Park

Grocery and Bank at A1A and 16th Road

Dear Mr. Fufidio:

This is to inform you that the Scenic A1A PRIDE voted unanimously to support the site plan and variances for Hammock Park. This is the proposed grocery and the bank on the corner of A1A and 16th Road. PRIDE has been working with the owner and builder to design the project to meet A1A scenic highway goals. We wish to

compliment Ms Myers and Continental Properties, respectively owner and builder, for their dedication in designing the site with the scenic highway objectives in mind.

The site design accomplished many important A1A goals. Highlights are as follows. The project has more of a pedestrian feel than an ordinary C-2 property. The grocery was sized down considerably from a typical 54,000 square feet building to less than 29,000 square feet. The grocery is a resort sized grocery with more amenities than a “big box” structure. The architectural style will be an Old Florida Key West look for both the grocery and the bank. Additionally, the grocery’s front and most attractive side is pulled to the A1A frontage. The result is that the layouts of the buidings do not convey the usual strip center look.

The site also has been intentionally designed to save tree canopy. An arborist studied the trees and identified the priority ones to save. The variance request for the setbacks is intended for this purpose. The variance meets the spirit of the A1A scenic highway goals. Additionally, a living wall is being used as a perimeter buffer instead of a built structure that can be unattractive.

The parking area also reflects this use of the native tree canopy. The parking area has a landscaped greenway corridor that connects the grocery and the bank through a tree lined promenade.

Provision also is made for re-routing the bike path into the canopy where it presently exists next to the A1A roadway toward the intersection. There also will be a connection from the bike path to the front door of the grocery. The internal walkways will be connected to the A1A bike path.

With the bike path connections and two main entrances from 16th Road and A1A, the site has the connectivity that was a key point of the A1A design charrette. The project in fact implements many of the design provisions in the pending A1A ordinance amendments that we have been working on with County staff.

Finally, the owner and the builder acknowledged at our last meeting the assistance they received from county planning and engineering in conceptual reviews of the project. They also credited county staff with offering many suggestions to improve the site layout. This was definitely a collaborative process that should be repeated for other projects in the corridor.

Please furnish our endorsement to the Planning Board and to appropriate TRC staff. Please also make this endorsement a part of the record. Thank you.

Sincerely,

Anne Wilson
Chair

ATTACHMENT 2

Current view of Publix at 5415 N Oceanshore Blvd, Palm Coast, FL looking north from A1A. Building is almost unnoticeable due to building design, placement on lot and foliage buffer.



Where should marinas be located?

Unincorporated Flagler County currently has one marina (Yacht Harbor Marina) where vessels are protected in a man-made basin. The shoreline along the Intracoastal Waterway in unincorporated Flagler County appears to have no natural coves or basins conducive to the construction of wet-slip marinas. The Intracoastal is very narrow in Flagler County—approximately only 300 feet wide. Because of this, construction of docks and piers into the Intracoastal to develop a wet slip marina seems unlikely. Given this, the process of adding “Marinas” to the Land Development Code seems to be aimed at developments for dry stack storage only, and specifically the one being considered in the Hammock. In dry stack storage, boats are stored in rack systems with the same density-storage philosophy as in the warehouse industry. The boats are moved with a Marina forklift, which operates mostly outside the building.

Dry stack storage does not belong in the Hammock. These should be located in areas that are compatible with the neighborhood, and with the size and location of buildings in the vicinity. Dry stack storage should not be located where they create an undesirable environment for adjacent residential land uses. Above-ground-storage gasoline tanks and forklifts operating outside the confines of the building are unsuitable when adjacent to residential land uses. A change in the Land Development code that allows dry stack storage will open the door for other developers to construct facilities that the Scenic Corridor Overlay was meant to prevent. The necessary size and related activities are in direct conflict with both the intent and specifics of the Scenic Corridor Overlay in the Land Development Code:

3.06.11. - A1A Scenic corridor overlay district

Purpose and applicability. The purpose of the A1A Scenic Corridor Overlay (SCO) district is to protect and enhance the natural and man-made environments of this unique and special portion of Flagler County, thereby preserving quality of life and property values within the corridor.

In other areas of Florida, dry stack storage is located in “Marine Commercial,” “Industrial Waterfront,” “Local Industry,” or “Retail, Warehousing” districts - none of which exist in Flagler County. This makes it difficult to imagine where these facilities could be constructed in Flagler County. Flagler County does have an “Industrial district” where Sea Ray boats were built and is now home to Boston Whaler, but available land near Boston Whaler is within the City of Palm Coast, not in unincorporated Flagler County.

At the end of March 2021, the County began talking about tiering Marinas, but in a review of more than 20 marina land development codes in Florida, only one was found that used this type tiering approach for marinas. Land development codes situate “marina dry stack storage” in areas that are compatible with the noise and activity present when large forklifts are used to move items in and out of a warehouse.

Compatibility

The characteristics of different uses or activities which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access, parking impacts, landscaping, lighting, noise, odor, architecture, and public hazards. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals maintaining the character of existing development. (City of Palm Coast)

Common Sense Approach to Marina/Dry Stack Storage (less than 5 acres)

- Marina/dry stack storage shall not be located within/along waters bordering the Guana Tolomato Matanzas Estuarine Research Reserve. (GTMNERR)
- Development shall be compatible with adjacent land uses
- Site plan must be approved by the Planning and Development Board to ensure compatibility.
- Florida Department of Environmental Protection, St. Johns River Water Management District, Army Corps of Engineers and any other required permits must be obtained before construction can begin.
- **Unless otherwise stated below, any development in the A1A Scenic Corridor Overlay (SCO) must comply with the standards of the SCO.**

Building

- Dry stack storage building shall hold no more than 15 boats per acre of land.

Setbacks

- No commercial marina building or other structures shall be located within 100 feet of a residential property line. (City of Palm Coast LDC, Martin Co. LDC, Indian River Co. LDC, City of Dania Beach LDC.)

Landscaping

- Landscaping should comply with the A1A Scenic Corridor Overlay guidelines so that the exterior that fronts a scenic roadway is compatible with the neighborhood and is camouflaged as much as possible (similar to the Publix in the Hammock).
- Natural canopy, understory and ground cover in buffer areas shall not be disturbed.

Fencing

- Fencing should be designed to attenuate sound and be compatible with the neighborhood.

Noise

- A single electric forklift, not to exceed 20 tons, shall not operate within a distance 200 feet from a residential property line.
- Electric forklifts, such as Wiggins Marina eBull, must use technology for quiet forklifts such as a residential sound package.
- Forklift will only operate between the hours of 8 AM to 6 PM.
- If a restaurant is included as part of dry stack storage development, outdoor music is prohibited.

- In addition to fencing as noted above, fifty feet of noise buffering vegetation must be provided adjacent to residential uses. This buffer must remain in its natural state and not be used for parking, roadway, storm water retention, or other uses.

Fuel Dispensers

- An above ground gas tank shall not exceed 1,000 gallons.
- Fueling must be done according to DEP standards and not within 250 feet of any residential district. (see Martin County sec 3.79)
- A 6-foot-high security fence shall be located at least 10 feet from the tank and a gate properly secured against unauthorized entry. To provide protection against vehicular collision, 4-inch diameter steel pipes filled with concrete set 3 feet deep in a concrete footing and spaced no more than 4 feet apart are required. (See NFPA 30A.)

Safety

- Facilities shall have primary and secondary ingress and egress access due to fire safety concerns. (All four sides of the building shall be accessible to fire apparatus.)
- Fire suppression devices and other associated firefighting facilities shall be installed. Accommodations shall be made and approved by the Land Use Administrator to provide appropriate accessibility for firefighting response teams. Marina facilities shall be constructed in such a manner that would not increase the risk of fire to nearby residential dwellings or that would reasonably be deemed to cause an increase in fire insurance premiums of nearby structures. (City of Palm Coast)

Lighting

- Lighting must meet all relevant Flagler County LDC requirements and every attempt should be made to contain lighting to the site only so as not to spill over to adjacent residential properties.

Parking

- Boaters often use more than one vehicle per boat when meeting at the marina. Attached is a table of codes from other communities with various parking calculations. Parking calculations must include usage by "members only" boat rentals, charter fishing services and clientele, and those that rent slips so that the parking requirements actually reflect actual usage.
- Sufficient parking must be provided on site to prevent vehicles from parking on the right-of-way on our National Scenic Byway and All-American Road, as they often do at Bing's Landing, especially on week-ends and holidays. Note: Bings Landing has become overcrowded due to many other functions being carried out at that location including boat rental, fishing charters, and eating at the restaurant. Parking that used to be available for boats and trailers is now being used for automobiles for the things noted above even though signs designate boat and trailer parking. There is no enforcement of the parking restrictions.
- No off-street parking or loading shall be located within fifty (50) feet of a property lot line abutting a residential district. (Indian River Co. LDC)
- Off-street parking requirements: 1 parking space per 3 wet or dry slips. (City of Palm Coast LDC, Indian River Co. LDC, Miami-Dade Co. LDC, Palm Beach Co. LDC, Volusia Co. LDC)

Traffic

- FDOT considers the A1A Scenic Highway a constrained highway which will never be widened. Additional concentrated traffic in this area can be dangerous for bikers and motorists. As part of the Site Plan, a traffic study must be provided to the TRC and Planning and Development Board to demonstrate that the neighborhood will not be adversely affected (i.e., no more than ten vehicles per hour at busiest times in residential areas)

Dredging

- Site locations shall have a minimum average water depth of four (4) feet as measured at mean low water. All marina access shall be through existing channels or through areas of greater than four-foot water depth. The dredging of new channels to provide marine access to a site is prohibited. All dredging activities must first obtain all necessary permits/reviews from the Army Corps of Engineers, FDNR, FDER, St. John's Water Management District and/or any other agency with applicable jurisdiction. (Indian River Co. LDC)

Environmental

- Boat washing or other chemicals must be contained on site and disposed of properly in keeping with the St. Johns River Water Management District (SJRWMD) and Florida DEP requirements.
- No Boat Repair, Oil Changes, etc. on the site.

Other permits or approvals

- All required permits and approvals from government agencies having jurisdiction over a marina development are a prerequisite to the issuance of a development order by the County Planning Board. (City of Panama LDC)

**Provided by the Hammock Community Association
June 7, 2021**

Parking requirements

MUNICIPALITY	CODE NUMBER	PARKING STANDARD
Brevard County	Section 62-3206	Marinas: Wet slips: 1 space per 3 wet slips Dry slips: 1 space per 4 dry slips for facilities up to 50 dry slips. 1 space per 5 dry slips for facilities with over 50 dry slips.
Broward County	Section 39-228	Marina, charter boat: 1.0 per boat slip (No standards for wet/dry slips)
City of Dania Beach	Chapter 28, Part 2 Art. 265.50	Dry Stack Marina: One-half (1/2) per boat storage space
City of Daytona Beach	Section 6.2 Table 6.2.C.1	Boat dry storage facility: 3.5 per 1,000 SF Marina: 0.5 per berth
City of Fort Myers	Chapter 134, Art. 3 Sec. 134.3.5	Marinas: 2 per 3 wet slips and 1 per 5 dry slips
City of Jupiter	Division 32 Sec. 27.2828	1 per wet slip or berth 1 per 4 dry storage bays
City of Palm Coast	Section 5.04	Marinas: 1 space per 3 boat berths—wet slip or dry storage
City of Sarasota	Art. VII, Div. 2, Sec. VII-204	Commercial marina, parking: 1 space/500 square feet of storage/repair area plus pleasure craft: one space for each 3 slips; and charter boats: one space for every three seats.
City of Sebastian	Chapter III, Art. XV Sec. 53-3-15.2	Marinas: One space for each 300 square feet of principal building, plus one parking space for each transient live-aboard vessel slip, one space for every 2 wet slips, and one space for every four dry slips
City of Venice	Art. V, Div. 2, Sec. 122-434	Marinas. commercial piers or docks: One space for every three boat slips or moorings
Hillsborough County	Section 6.05.02	Marinas: 1.0 per slip or berth (No standards for wet/dry slips.)
Indian River County	Section 954.05 (35)	Marinas: 1 space per 300 SF of principal building area plus 1 space per 3 boat storage spaces or slips and 1 space per boat slip designated live aboard vessel use.
Miami Dade County	Section 33-124 (k)(8)	Boats stored in racks shall be provided 1 parking space for each 3 boat racks

MUNICIPALITY	CODE NUMBER	PARKING STANDARD
Palm Beach County	Article 6, Chapter B Table 6.B.1.B, page 5	Marina: 1 space per 250 SF, plus 1 space per wet slip, plus 1 space per 3 dry slips
Pinellas County	Section 138.3602	Marinas: 0.30 stalls per berth (No standards for wet/dry slips)
St. John's County	Section 6.05.02 Table 6.17	Community marinas/marinas: 1space per 2 slips 1 space per 5 dry storage spaces
Volusia County	Section 72-286	Marina: Wet slips: 1 per 3 slips Dry storage: 1 per 3 slips

From: Thad Crowe <crowet6@gmail.com>

Sent: Monday, March 1, 2021 4:53 PM

To: Dennis Clark <denrclark@gmail.com>; Dennis Bayer <dennis@Bayerlegal.com>

Subject: Letter Re Boat Storage Zoning Text Change

March 1, 2021

RE: Proposed Allowance of Boat Storage as Permitted Use in C-2 Zoning

Dear Planning and Development Board Members and County Commissioners:

I resided in the Hammock for 15 years until 2015 and own property in Oceanside Acres off A1A. I am a professional planner with 33 years of experience including time as planning director for Clay County, Nassau County, and Palatka city. I had the pleasure of serving on this very planning board for nine years.

I would like to address the proposed Zoning Code change that would allow boat storage at 5658 North Oceanshore Boulevard. As I understand it after the County and the Applicant failed to allow for the boat storage use after the courts upheld the HCA's appeal of an administrative approval, the County then sought to allow the use by adding the use to the list of permissible uses in the C-2 zoning district.

In 2004 I worked as a volunteer with then-Planning Director Walter Fufidio and current County Attorney Al Hadeed to draft the A1A Scenic Corridor Overlay District Ordinance. The intent of the ordinance was to "protect and enhance the natural and man-made environments of this unique and special portion of Flagler County, thereby preserving quality of life and property values within the corridor." Along with design and development standards for enhanced landscaping and architecture, each zoning district in the corridor has a list of prohibited uses that were and are deemed to be out of character typically due to use intensity and industrial appearance. This list of prohibited uses includes, among others, boat sales and repair, outdoor storage excluding plant nurseries, mini-warehouses, and commercial warehousing. These are activities that are typically limited to industrial zoning due to the unsightly nature of the large storage buildings and fuel tanks.

There are many problems with this approach, the first one being that a zoning code text change should not be a "back-door" rezoning effort which could have unintended consequences in C-2 zoning districts across the County.

I urge the Board and Commission to deny this zoning code text change. It is not in keeping with the intent of the A1A Overlay to protect the natural environment and low-intensity built environment, and will negatively impact neighboring residences and the community as a whole.

Sincerely,
Thad Crowe

Walter Fufidio
AICP #2410
3 Whitehall Ct.
Flagler Beach, FL 32136

Dennis K. Bayer, Esq.
109 S. 6th Street
Flagler Beach, FL 32136-6613

May 4, 2021

RE: MARINA AS A PERMITTED USE IN C-2 SCENIC CORRIDOR OVERLAY

Dear Mr. Bayer,

Dennis Clark of the Hammock Community Association has contacted me regarding the scheduled Planning Board consideration of deeming *marina* as a use permitted by right in C-2 general commercial areas. Being the former Flagler County Director of Planning and Zoning and one of the principal authors of the A1A Scenic Corridor Overlay district adopted as policy by the Board of County Commissioners in August 2004, Mr. Clark solicited my opinion on this proposed action vis-à-vis the overlay district and a general planning perspective.

The A1A Scenic Corridor Overlay District was adopted because it was understood that the location and attractiveness of this corridor created positive cost benefit ratios for the taxing authorities, generated a significant tourism draw and its attendant economic benefits, and gives Flagler County a destination with a unique character. Hence the overlay district contains supplemental architectural, landscaping, access and use regulations designed to perpetuate the economic development potential of the corridor while providing for fiscally net positive new development, redevelopment and infill over the long haul.

Mr. Clark has briefed me on the events leading up to this pending Planning Board decision and I have studied Case No. 2019-CA-000766, a proposed amendment to the C-2 general commercial district allowing *indoor boat storage*, and site plan #3184 as submitted to the TRC on April 21, 2012. It is my professional opinion that this matter is improperly before the Planning Board for the following reasons.

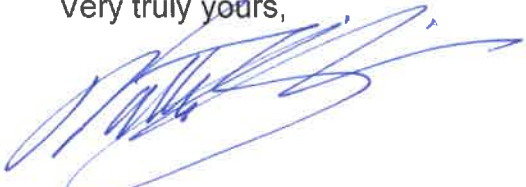
Section 3.03.17(B)(22) provides that "*In the C-2 **shopping center district...***" (emphasis mine) "*Other commercial uses of a nature similar to those listed may be permitted upon determination by the planning board that such uses are appropriate in the C-2 district. The standard industrial classification manual will be used as a reference for these determinations.*" The subject property is located in the C-2, **general commercial** district which uses are set forth at Section 3.03.17(B)(23). Therefore, the Planning Board would be determining a permitted use in shopping centers then extending said use to general commercial areas.

Even more salient is the need for the Planning Board to determine that a marina is similar in nature to those uses which are specifically listed in the C-2 district. I bring to the Board's attention subsection (1) wherein boat sales and service are specifically excluded as permitted uses. Furthermore, Establishments for sales or repair of motorized boats (excluding canoes and kayaks) are a specifically prohibited use in the C-2 Scenic Corridor Overlay district. The question becomes what permitted use is similar in nature to a marina?

The next issue is what constitutes a marina? SIC #4493 provides that these establishments rent boat slips and store boats along with ancillary uses. The site plan indicates 8-10 wet slips, to be shared with the proposed restaurant, along with a 250 boat storage warehouse building that clearly dominates the parcel. Based upon Sec. 3.08.02 LDC definition of accessory use, the wet slips are subordinate to the principal structure of the indoor boat storage warehouse.

In conclusion, it is my opinion that this is not a marina wherein wet slips are the principal use; there is no similar specifically permitted use in the C-2 district even if one were to deem this a marina; and boat sales, service and repair are specifically prohibited uses within both the C-2 and the A1A Scenic Corridor overlay districts. I give credit to the Applicant and his advisors for trying to circumvent their loss in circuit court as well as their need to comply with the overlay district regulations. However, I would strongly urge the Planning Board not to accept this attempt based upon the reasons cited herein and the importance of the A1A scenic corridor to the general welfare of unincorporated Flagler County.

Very truly yours,



Walter Fufidio

c.c. Dennis Clark, HCA

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
COUNTY ATTORNEY REPORT / AGENDA ITEM # 10b**

SUBJECT: Consider Hold Harmless Agreement for Dunes Restoration Project.

DATE OF MEETING: October 4, 2021

OVERVIEW/SUMMARY: In the pursuit of the Army Corps Project, property owners of the dune remnants within the Project area have expressed numerous questions which we have answered as completely as we could. To date we have secured the voluntary easements to 138 dune remnants covering 99.05% of Project's oceanfront length. There are two owners who have not signed easements, with one expressing reservations about the protections in the easement that also have been codified in our formal resolutions and ordinances. This owner's concern is that the promise of protections is made by current office holders and public officials, and they may be replaced. It is of course true that someday all the current commissioners and officials will be replaced by others that follow them. The successors may choose, he believes, not to honor the protections to the owner that are part of the easement document.

While explaining the permanence of the easement and its rights, and the reasons why the community will not allow anything less, he has witnessed local governments over his lifetime change the quiet beauty of the beach, overriding the interests of longtime residents. He has a healthy distrust of local governments.

For example, he asks, what assurance does the owner have that after the dune is restored, that the government will not then take the dune remnant property by eminent domain and sell it to private interests or use it as a parking lot or for new structures such as condominiums? What if the County assigns its easement (they are legally assignable) to a hostile power such as even Russia, or to a governmental entity that wants to plant sea grapes on the beach and obscure Flagler Beach's iconic view of the beach and ocean? He is rightly concerned about an uncertain future.

He bought his property for the view, owning the house across from the dune remnant. The property is within the South 2700 block of A1A. Despite pointing to the words of the legal documents and explaining the substantial investments made in the A1A National Scenic Byway in protecting the public's views, he is not convinced. He wants the assurance of the view for himself, his significant other, their children and grandchildren, to enjoy the beach. He has operated the house as a short-term vacation rental, residing permanently in Boca Raton. He enjoys his visits to the house in Flagler Beach as a getaway from the crowded areas of South Florida.

He said he was willing to sign a one-time permission to restore the dune remnant he owns but the Army Corps will not approve since there is a 50-year obligation to maintain and repair the beach.

While he has spoken to numerous officials, including the City Manager and Chair of Flagler Beach Commission, the Tax Collector, and the Property Appraiser, along with the County Attorney and County Engineer, he does not have the confidence to trust our representations for the long term. He wanted a hold harmless agreement that his ocean views would not be disrupted by the Project. To assure him the rights are permanent, we have taken our assurances related to these hypothetical scenarios and incorporated them into a hold harmless

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
COUNTY ATTORNEY REPORT / AGENDA ITEM # 10b**

agreement. The assurances are enforceable against the County, as always intended in any event.¹

To lend more credibility and permanence to the assurances, I suggested having each commissioner sign the agreement as representatives of the County government. Unanimous support and your signatures show backing for the principles of the Project.

FUNDING INFORMATION: Project fully funded by the US Army Corps of Engineers and the Florida Department of Transportation by grant agreements for 2.6 miles of dune restoration and by a permit from the US Department of the Interior allowing use of approximately 550,000 cubic yards of beach compatible sand from the offshore waters of the United States.

DEPARTMENT CONTACT: Al Hadeed, County Attorney

RECOMMENDATION: Approve Hold Harmless Agreement and as approved to form by the County Attorney and County Administrator with consent for minor revisions that do not change the intent of the assurances.

ATTACHMENTS:

1. Hold Harmless Agreement with Exhibits
2. Voluntary Easement for Property Owner

¹ These assurances are contained not only in the main easement, but its exhibits and in our educational materials on our web page for the public and in our mail outs to property owners.

HOLD HARMLESS AGREEMENT

Flagler County, a political subdivision of the State of Florida, with an address at 1769 E. Moody Boulevard, Building 2, Bunnell, Florida 32110 (the “County”), executes this Hold Harmless Agreement in favor of **Elke Vogel and Leonard Surles**, with an address at 2732 South Ocean Shore Boulevard, Flagler Beach, Florida 32136 (sometimes collectively referred to as “Owners”).

RECITALS

WHEREAS, Elke Vogel and Leonard Surles are the owners in fee simple as tenants in common of certain real property located in Flagler County, Florida, consisting of a beach dune, as more particularly described in Exhibit “A” (the “Dune Property”);

WHEREAS, the County has requested a Perpetual Beach Storm Damage Reduction Easement (“Easement”) over the Dune Property pursuant to the Flagler County, Florida Beach/Dune Restoration Project (“Project”);

WHEREAS, Ms. Vogel and Mr. Surles are concerned that their present view of the beach and ocean be preserved;

WHEREAS, Ms. Vogel’s and Mr. Surles’ ownership of the Dune Property includes a deed restriction at the time of their 2005 purchase that provides, “No building shall be erected East of Highway A1A that will mar the view of the ocean from said Highway property West thereof or from either direction on the beach;”

WHEREAS, the County shall honor the deed restriction in the Dune Easement, and it shall be incorporated into the Easement legal description;

WHEREAS, the County agrees to enter into this hold harmless agreement to be enforceable by the Owners that will protect their present view of the beach and ocean;

WHEREAS, the Owners are concerned that the Dune Property, across from their residential property which they own at 2732 South Ocean Shore Boulevard, not be used for any purpose under the Easement other than restoring, repairing, maintaining and renourishing the beach and their Dune Property over the life of the Easement;

WHEREAS, the County agrees that this enforceable hold harmless agreement will not allow any other use of the Dune Property other than as a beach dune as it is currently used by Ms. Vogel and Mr. Surles subject to the public’s limited right to make customary recreational use of the dry sand beach;

WHEREAS, the public’s limited right to customary recreational use of the beach is codified in the Flagler County Code and Flagler Beach City Code, and Ms. Vogel and Mr. Surles have had no objection to such limited public use of the dry sand beach and have no objection to such limited public use of the dry sand beach when the Dune Property and beach are restored and renourished;

WHEREAS, the public’s customary recreational use of the dry sand beach shall be as limited by Flagler County Code Section 7-1, attached and incorporated herein by reference;

WHEREAS, the County agrees to not allow the Easement to be used to permit any structures (other than a permitted dune walkover installed by the Owners) and not to allow any parking areas to be constructed on the Dune Property or take any action that would allow the conversion of the Dune Property to a private use other than its use by Ms. Vogel and Mr. Surles;

WHEREAS, the County agrees it will not allow or consent to any eminent domain of their Dune Property subsequent to its restoration under the Project;

WHEREAS, Ms. Vogel and Mr. Surles are uncertain that the County can or will abide by its promises in the Easement, including abiding by its Resolutions that are part of the Easement that formally confirm the County's assurances to all of the property owners in the Project;

WHEREAS, the Resolutions are attached hereto and incorporated herein by reference as Exhibit B and they shall be enforceable against the County as part of this hold harmless agreement;

WHEREAS, the County agrees to make the Resolutions part of the Easement for the Dune Property as it has for other property owners in the Project;

WHEREAS, Ms. Vogel and Mr. Surles also are in doubt about the effect of the Easement being assignable to another entity;

WHEREAS, the County agrees to make all of the above referenced rights and protections enforceable against any assignee of the County if any (the County is not contemplating an assignment); and

WHEREAS, regardless, the County obligates itself to make such rights and protections an express condition of any assignment if the County in fact makes any assignment of the Easement in the future.

NOW, THEREFORE, the County agrees as follows:

- I. The foregoing recitals are incorporated herein by this reference.
- II. Flagler County hereby makes the foregoing rights and protections binding obligations of the County, including those referenced in the exhibits hereto as if fully set forth herein. These rights and protections are enforceable against the County on a petition to the Flagler County Commission or in an action in the Circuit Court in and for Flagler County without the necessity of posting any bond for an injunction against the County.
- III. The foregoing rights and protections shall be enforceable by either Ms. Vogel or Mr. Surles or their families or heirs who become owners of the Dune Property.
- IV. The County's obligations hereunder are contingent upon the execution and delivery of the Easement and the associated federal waiver form by Ms. Vogel and Mr. Surles to the County.

IN WITNESS WHEREOF, the County has executed this Hold Harmless Agreement this ____ day of _____, 2021.

Flagler County
County Board of Commissioners
A Political Subdivision of the State of Florida

Donald T. O'Brien Jr., Chair
District 5

Joe Mullins
District 4

David Sullivan
District 3

Greg Hansen
District 2

Andy Dance
District 1

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Ms. Elke Vogel and Mr. Leonard Surles agree to the terms hereof and have executed this Hold Harmless Agreement this ___ day of _____, 2021.

Elke Vogel

State of Florida, County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Elke Vogel who is personally known to me or produced identification _____ (type of identification).

Signature – Notary Public

(SEAL)

Leonard Surles

State of Florida, County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Leonard Surles who is personally known to me or produced identification _____ (type of identification).

Signature – Notary Public

(SEAL)

EXHIBIT A

That parcel of land 50 feet in width lying Easterly of the A1A Highway and extending Easterly from the prolonged Northerly line of Lot 9, Block 4, intersection of the Easterly right of way line of A1A Highway to the water's edge; thence Southerly along the meanderings of the mean tide line to the intersection with the Southerly line prolonged of Lot 9, Block 4; thence Westerly to the intersection of Easterly right of way line of A1A SRD; thence Northerly along said right of way line to the Point of Beginning. Also known as land opposite to Lot 9, Block 4, Atlanta Beach Subdivision of Flagler Beach of record in Flagler County in Map Book 3, Page 24 and 24A. This is in reference to governmental survey of record in the Government Land Office. This land is subject to restrictions of record, if any. No building shall be erected East of Highway A1A that will mar the view of the ocean from said Highway property West thereof or from either direction on the beach.

Property Appraiser's Parcel Identification Number: 19-12-32-0150-00150-0180

RESOLUTION NO. 2020 - 11

**RESOLUTION OF THE FLAGLER COUNTY
BOARD OF COUNTY COMMISSIONERS
REGARDING EASEMENTS FOR THE ARMY
CORPS DUNE RESTORATION PROJECT**

WHEREAS, Flagler County is in the process of restoring the dunes in the City of Flagler Beach under the auspices of the Army Corps; and

WHEREAS, the dune restoration project involves obtaining permission from property owners adjoining the beach in the project area, roughly from South 6th Street to South 28th Street; and

WHEREAS, Flagler County is securing easements from property owners to accomplish the project; and

WHEREAS, the Army Corps project includes a 50-year maintenance program; and

WHEREAS, Flagler County is seeking voluntary easements for the purpose of not only restoring the dunes but maintaining, repairing, and renourishing them in the future; and

WHEREAS, it is the intent of Flagler County in partnership with other agencies to continue a program or programs of maintaining, repairing and renourishing the dunes in the Army Corps Project and will do so with governmental partners as appropriate; and

WHEREAS, in the event there is a termination of such programs, it is the sense of the Board of County Commissioners that it will terminate the easements of private property owners that have been procured for the purpose of access to their dunes for maintenance, repair, and renourishment; and

WHEREAS, it is the further sense of Flagler County that before terminating any such programs, the Board of County Commissioners will seek to assign the easements to another governmental entity or entities capable of continuing the carrying out of the programs.

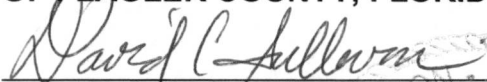
NOW THEREFORE, the Board of County Commissioners of Flagler County, Florida resolves as follows:

SECTION 1. Recitals and Findings. The Recitals set forth above are true and correct.

SECTION 2. Termination of Easements under Particular Circumstances. The Board of County Commissioners will terminate the easements obtained from private property owners for the Army Corps Dune Restoration Project should Flagler County terminate its programs for maintaining, repairing, or renourishing its beach dunes in the Army Corps Project or fails to find successor agencies that will continue to carry out such programs.

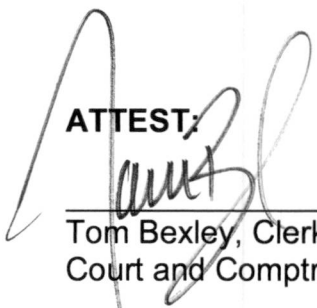
RESOLVED AND APPROVED THIS 16th day of March 2020.

**BOARD OF COUNTY
COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA**



David C. Sullivan, Chair

ATTEST:



Tom Bexley, Clerk of the Circuit
Court and Comptroller

APPROVED AS TO FORM:



Al Hadeed, County Attorney



RESOLUTION NO. 2020 - 71

RESOLUTION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING BEACH DUNE EASEMENTS, CODIFYING THE COUNTY'S ASSURANCES TO OWNERS OF BEACH DUNE REMNANTS IN THE JOINT PROJECT WITH UNITED STATES ARMY CORPS OF ENGINEERS AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.

WHEREAS, the Flagler County Board of County Commissioners ("County Commission") is undertaking a significant dune restoration and repair program for the entire coastline of the County; and

WHEREAS, the County Commission is presently addressing a 2.6-mile length of the beach within the municipal limits of the City of Flagler Beach; and

WHEREAS, the County Commission has entered into a Project Partnership Agreement with the United States Department of the Army, its Army Corps of Engineers ("Army Corps") and also entered into other agreements concerning the dune restoration for the 2.6-mile length of the beach; and

WHEREAS, the County Commission has closely coordinated its work with the Army Corps, the Florida Department of Transportation ("FDOT"), the Florida Department of Environmental Protection ("FDEP"), the City of Flagler Beach, and numerous other groups and interested organizations to secure funding and proceed with project implementation; and

WHEREAS, the County sought and continues to seek voluntary easements from the property owners of dune remnants on which the project is to be constructed; and

WHEREAS, the County widely disseminated information concerning the project to the general public but specifically for the benefit of the property owners; and

WHEREAS, such efforts included public meetings, a dedicated web page, extensive written materials, on site visits by professional staff for the benefit of owners, responding to all questions posed by owners and the interested public and doing so in coordination with the stakeholder agencies; and

WHEREAS, the County Commission provided assurances to owners from whom voluntary easements were sought about the project's impact and design; and

WHEREAS, such assurances were consistent with the plans and specifications of the project and with the public agency presentations and written materials provided to owners explaining the project; and

WHEREAS, such assurances were consistent with Florida and federal law and also were consistent with the partnership and grant agreements secured by the County; and

WHEREAS, to assure that all owners are treated equally as a class and to memorialize the County's assurances that it has issued from time to time during the pendency of the project, the County Commission intends this Resolution to codify its assurances in order that all owners providing easements may rely upon them uniformly.

NOW THEREFORE, the County Commission enacts this Resolution to codify its assurances to the owners who have executed or will execute voluntary easements.

Section 1. Assurances.

- A. Public Beach – The easement to allow restoration of the dunes will not alter the owner's rights in its dune remnant except to allow the project to proceed and to allow future maintenance, repairs, and renourishment of the dune remnant. The easement does not allow members of the public to traverse across the owner's property to reach the ocean beach. The public may utilize the toe of the dune, commonly called the dry sand beach, for customary public uses engaged in from time immemorial by the public, such as sunbathing, picnicking, shell collecting, and other existing customary uses, all as subject to the customary use ordinances enacted by the Flagler County Board of County Commissioners and the City of Flagler Beach. The public may use the toe of the dune and seaward of the toe of the dune to move north and south along the beach. The easement does not permit the public to make use of the dune proper except as authorized by the customary use ordinances and the public trust doctrine of Florida as construed and applied by the courts of Florida.
- B. Open Views and Vegetation Planting – The project will not impair existing views of the ocean beach from the owner's property. The design of the project is specifically to preserve the roadside views. Plantings to stabilize the dunes do not include sea grape and include native plantings common to Flagler Beach in the approved landscape plans. The plantings will stabilize the dunes and allow for sand capture while the dunes are subject to naturally occurring erosion. The plantings will enhance the environmental habitat of the beach area, including making conditions more conducive for shore birds, nesting sea turtles, and other animals that utilize the beach.
- C. Dune Walkovers – Owners of dune remnants may obtain permits for dune walkovers subject to compliance with applicable permitting standards and rules of the FDOT, FDEP and the City of Flagler Beach. Subject to such agency permit compliance, the County in its legal status as Grantee (the recipient of the easement rights) will allow owners to construct walkovers. Owners are required to maintain their walkovers in compliance with permitting standards. No other structures will be allowed unless permitted.

Section 2. Application.

- A. The foregoing assurances shall apply to all easements secured for the project.
- B. The County shall notify its public agency partners of this Resolution and post the Resolution in all public communications used by the County to convey information to the owners who have executed easements.

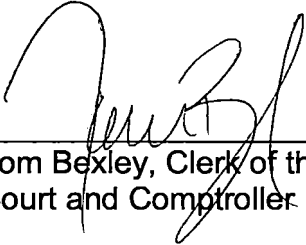
RESOLVED AND APPROVED THIS 5th day of October 2020.

**BOARD OF COUNTY
COMMISSIONERS OF FLAGLER
COUNTY, FLORIDA**



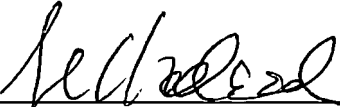
David C. Sullivan, Chair

ATTEST:



Tom Bexley, Clerk of the Circuit
Court and Comptroller

APPROVED AS TO FORM:



Al Hadeed, County Attorney

Sec. 7-1. - Customary use of the beach.

- (a) For purposes of this section, the term, "dry sand beach," shall mean the entirety of the dry sandy (in some cases rocky) areas of the Atlantic ocean beaches in Flagler County extending landward of the mean high water line to the easternmost seaward side of any sea wall, dune bluff, dune toe, rock revetment toe or any permanent dune vegetation.
- (b) Public access and use.
 - (1) The public's longstanding customary use of the Dry Sand Beach for recreational purposes is hereby recognized and protected. The public, individually and collectively, subject to the provisions herein, shall have the right of personal ingress and egress to, from and along the Dry Sand Beach from public approaches, public dune crossovers or from the wet sand beach, and the right to make customary recreational use of the Dry Sand Beach.
 - (2) It is prohibited for any person to obstruct or hinder the right of the public, individually and collectively, to enter or leave the Dry Sand Beach by way of any public approach, public dune crossover or from the wet sand beach to use lawfully any part of the Dry Sand Beach for customary recreational purposes. It is further prohibited for any person to display any non-governmentally authorized warning, in whatever form, in an attempt to prohibit or hinder public access to, or use of, the beach.
- (c) Limitations.
 - (1) This section does not authorize the access and use of privately owned areas of the dry sand beach after 10:00 p.m. and before sunrise, nor does it authorize any commercial use of the dry sand beach adjoining residential areas at any time. Any activities or uses prohibited in public beachfront parks are also prohibited in the dry sand beach.
 - (2) It shall be unlawful for any person to walk upon or otherwise traverse the dune areas of the dry sand beach except when utilizing designated crossovers.
 - (3) This section authorizes only the following activities by the public on the privately owned dry sand beach: swimming, fishing, hiking, jogging, bicycling, picnicking, shelling, surfing, sunbathing, kiting and building sand castles.
- (d) Exceptions.
 - (1) This section shall not apply to individuals authorized by federal, state, or local law to engage in activities otherwise prohibited herein, including, but not limited to, sea turtle patrol, other conservation entities when governmentally authorized, emergency responders, and those engaged in permitted dune restoration and flood control.
 - (2) Notwithstanding anything in this Section to the contrary, the county administrator, the emergency management chief, the sheriff, or their designees shall have the authority to temporarily close the entire beach or any portion thereof for use by the public during storms or other emergency situations.
- (e) Violations of the provisions herein shall be punishable as provided for in chapter 9 of this Code, provided however, that imposition of a penalty does not prevent the pursuit and issuance of injunctive relief.

This Instrument Prepared By:

Jay W. Livingston, Esq.
 Livingston & Sword, P.A.
 391 Palm Coast Parkway SW #1
 Palm Coast, Florida 32137

FILE NO. 19-1059

PERPETUAL BEACH STORM DAMAGE REDUCTION EASEMENT

GRANTOR: **Elke Vogel and Leonard Surles**
 2732 S. Oceanshore Blvd.
 Flagler Beach, Florida 32136

GRANTEE: **Flagler County, a political subdivision of the State of Florida**
 1769 E. Moody Boulevard, Building 2
 Bunnell, Florida 32110

DATE: _____, 2021

In consideration of the mutual benefits to be derived from the permitted uses described below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GRANTOR does hereby bargain, convey, and grant a perpetual and assignable easement and right-of-way in, on, over and across the land described in **EXHIBIT A**, attached hereto and made an part hereof (the "Easement Area"), for use by the GRANTEE, its representatives, agents, contractors, and assigns, to construct; preserve; patrol; operate; maintain; repair; rehabilitate; and replace; a public beach, a dune system and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic, renourishment and maintenance of the Flagler County, Florida, Beach/Dune Restoration Project (the "Project"), together with the right of public use and access; to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas; to trim, cut, fell and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the Easement Area.

Reserving, however to the GRANTOR, (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune overwalk structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the designated representatives of the GRANTEE and provided further that such structures are subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the Project; and further reserving to the GRANTOR, and (his)

(her) (its) (their) heirs, successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, railroads and pipelines.

IN WITNESS WHEREOF, GRANTOR has caused these presents to be executed on the date first above written.

Signed, sealed and delivered in the presence of: GRANTOR

By: _____

Elke Vogel

PrintName: _____

By: _____

Leonard Surles

PrintName: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization this ___ day of _____, 2021, by Elke Vogel, who is personally known to me or has produced _____ as identification.

(SEAL)

Signature of Notary Public

(Typed or printed name)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization this ___ day of _____, 2021, by Leonard Surles, who is personally known to me or has produced _____ as identification.

(SEAL)

Signature of Notary Public

(Typed or printed name)

EXHIBIT A

That parcel of land 50 feet in width lying Easterly of the A1A Highway and extending Easterly from the prolonged Northerly line of Lot 9, Block 4, intersection of the Easterly right of way line of A1A Highway to the water's edge; thence Southerly along the meanderings of the mean tide line to the intersection with the Southerly line prolonged of Lot 9, Block 4; thence Westerly to the intersection of Easterly right of way line of A1A SRD; thence Northerly along said right of way line to the Point of Beginning. Also known as land opposite to Lot 9, Block 4, Atlanta Beach Subdivision of Flagler Beach of record in Flagler County in Map Book 3, Page 24 and 24A. This is in reference to governmental survey of record in the Government Land Office. This land is subject to restrictions of record, if any. No building shall be erected East of Highway A1A that will mar the view of the ocean from said Highway property West thereof or from either direction on the beach.

Property Appraiser's Parcel Identification Number: 19-12-32-0150-00150-0180

EXHIBIT B (Composite)

Grantee acknowledges that Grantors of Easements have relied on the assurances of Grantee as provided in the attached Resolution 2020-11 and Resolution 2020-71.

RESOLUTION NO. 2020 - 11

**RESOLUTION OF THE FLAGLER COUNTY
BOARD OF COUNTY COMMISSIONERS
REGARDING EASEMENTS FOR THE ARMY
CORPS DUNE RESTORATION PROJECT**

WHEREAS, Flagler County is in the process of restoring the dunes in the City of Flagler Beach under the auspices of the Army Corps; and

WHEREAS, the dune restoration project involves obtaining permission from property owners adjoining the beach in the project area, roughly from South 6th Street to South 28th Street; and

WHEREAS, Flagler County is securing easements from property owners to accomplish the project; and

WHEREAS, the Army Corps project includes a 50-year maintenance program; and

WHEREAS, Flagler County is seeking voluntary easements for the purpose of not only restoring the dunes but maintaining, repairing, and renourishing them in the future; and

WHEREAS, it is the intent of Flagler County in partnership with other agencies to continue a program or programs of maintaining, repairing and renourishing the dunes in the Army Corps Project and will do so with governmental partners as appropriate; and

WHEREAS, in the event there is a termination of such programs, it is the sense of the Board of County Commissioners that it will terminate the easements of private property owners that have been procured for the purpose of access to their dunes for maintenance, repair, and renourishment; and

WHEREAS, it is the further sense of Flagler County that before terminating any such programs, the Board of County Commissioners will seek to assign the easements to another governmental entity or entities capable of continuing the carrying out of the programs.

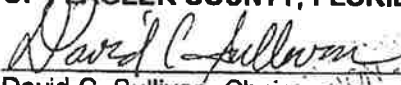
NOW THEREFORE, the Board of County Commissioners of Flagler County, Florida resolves as follows:

SECTION 1. Recitals and Findings. The Recitals set forth above are true and correct.

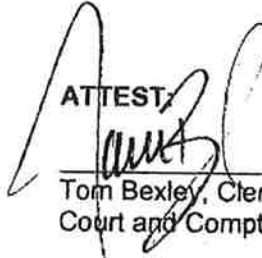
SECTION 2. Termination of Easements under Particular Circumstances. The Board of County Commissioners will terminate the easements obtained from private property owners for the Army Corps Dune Restoration Project should Flagler County terminate its programs for maintaining, repairing, or renourishing its beach dunes in the Army Corps Project or fails to find successor agencies that will continue to carry out such programs.

RESOLVED AND APPROVED THIS 16th day of March 2020.

**BOARD OF COUNTY
COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA**

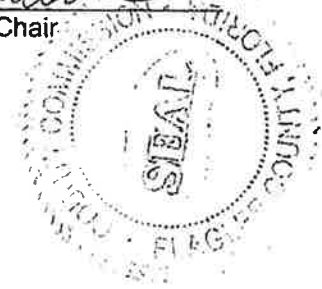

David C. Sullivan, Chair

ATTEST:


Tom Bexley, Clerk of the Circuit
Court and Comptroller

APPROVED AS TO FORM:


Al Hadeed, County Attorney



RESOLUTION NO. 2020 - 71

RESOLUTION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING BEACH DUNE EASEMENTS, CODIFYING THE COUNTY'S ASSURANCES TO OWNERS OF BEACH DUNE REMNANTS IN THE JOINT PROJECT WITH UNITED STATES ARMY CORPS OF ENGINEERS AND THE FLORIDA DEPARTMENT OF TRANSPORTATION.

WHEREAS, the Flagler County Board of County Commissioners ("County Commission") is undertaking a significant dune restoration and repair program for the entire coastline of the County; and

WHEREAS, the County Commission is presently addressing a 2.6-mile length of the beach within the municipal limits of the City of Flagler Beach; and

WHEREAS, the County Commission has entered into a Project Partnership Agreement with the United States Department of the Army, its Army Corps of Engineers ("Army Corps") and also entered into other agreements concerning the dune restoration for the 2.6-mile length of the beach; and

WHEREAS, the County Commission has closely coordinated its work with the Army Corps, the Florida Department of Transportation ("FDOT"), the Florida Department of Environmental Protection ("FDEP"), the City of Flagler Beach, and numerous other groups and interested organizations to secure funding and proceed with project implementation; and

WHEREAS, the County sought and continues to seek voluntary easements from the property owners of dune remnants on which the project is to be constructed; and

WHEREAS, the County widely disseminated information concerning the project to the general public but specifically for the benefit of the property owners; and

WHEREAS, such efforts included public meetings, a dedicated web page, extensive written materials, on site visits by professional staff for the benefit of owners, responding to all questions posed by owners and the interested public and doing so in coordination with the stakeholder agencies; and

WHEREAS, the County Commission provided assurances to owners from whom voluntary easements were sought about the project's impact and design; and

WHEREAS, such assurances were consistent with the plans and specifications of the project and with the public agency presentations and written materials provided to owners explaining the project; and

WHEREAS, such assurances were consistent with Florida and federal law and also were consistent with the partnership and grant agreements secured by the County; and

WHEREAS, to assure that all owners are treated equally as a class and to memorialize the County's assurances that it has issued from time to time during the pendency of the project, the County Commission intends this Resolution to codify its assurances in order that all owners providing easements may rely upon them uniformly.

NOW THEREFORE, the County Commission enacts this Resolution to codify its assurances to the owners who have executed or will execute voluntary easements.

Section 1. Assurances.

- A. Public Beach – The easement to allow restoration of the dunes will not alter the owner's rights in its dune remnant except to allow the project to proceed and to allow future maintenance, repairs, and renourishment of the dune remnant. The easement does not allow members of the public to traverse across the owner's property to reach the ocean beach. The public may utilize the toe of the dune, commonly called the dry sand beach, for customary public uses engaged in from time immemorial by the public, such as sunbathing, picnicking, shell collecting, and other existing customary uses, all as subject to the customary use ordinances enacted by the Flagler County Board of County Commissioners and the City of Flagler Beach. The public may use the toe of the dune and seaward of the toe of the dune to move north and south along the beach. The easement does not permit the public to make use of the dune proper except as authorized by the customary use ordinances and the public trust doctrine of Florida as construed and applied by the courts of Florida.
- B. Open Views and Vegetation Planting – The project will not impair existing views of the ocean beach from the owner's property. The design of the project is specifically to preserve the roadside views. Plantings to stabilize the dunes do not include sea grape and include native plantings common to Flagler Beach in the approved landscape plans. The plantings will stabilize the dunes and allow for sand capture while the dunes are subject to naturally occurring erosion. The plantings will enhance the environmental habitat of the beach area, including making conditions more conducive for shore birds, nesting sea turtles, and other animals that utilize the beach.
- C. Dune Walkovers – Owners of dune remnants may obtain permits for dune walkovers subject to compliance with applicable permitting standards and rules of the FDOT, FDEP and the City of Flagler Beach. Subject to such agency permit compliance, the County in its legal status as Grantee (the recipient of the easement rights) will allow owners to construct walkovers. Owners are required to maintain their walkovers in compliance with permitting standards. No other structures will be allowed unless permitted.

Section 2. Application.

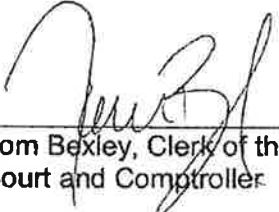
- A. The foregoing assurances shall apply to all easements secured for the project.
- B. The County shall notify its public agency partners of this Resolution and post the Resolution in all public communications used by the County to convey information to the owners who have executed easements.

RESOLVED AND APPROVED THIS 5th day of October 2020.

**BOARD OF COUNTY
COMMISSIONERS OF FLAGLER
COUNTY, FLORIDA**


David C. Sullivan, Chair

ATTEST:


Tom Bexley, Clerk of the Circuit
Court and Comptroller

APPROVED AS TO FORM:


Al Hadeed, County Attorney