

ITEM # 35

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: BOAT DOCK REGULATIONS ORDINANCE

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Donald Fisher **CONTACT:** Matthew West EXT. 7353

Agenda Date: <u>2/22/05</u> Regular <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/>
Public Hearing – 1:30 <input checked="" type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>

MOTION/RECOMMENDATION:

1. Adopt the proposed ordinance amending the Seminole County Land Development Code regarding boat dock regulations and authorize the Chairman to execute same.
2. Deny the proposed ordinance amending the Seminole County Land Development Code, regarding boat dock regulations.
3. Continue the public hearing to a time and date certain.

Unincorporated Seminole County

Matthew West, Planning Manager

BACKGROUND:

This is the second of two public hearings. If changes are requested, staff is seeking authorization to re-advertise and hold the required public hearings to consider the amended ordinance.

Per direction of the Board of County Commissioners at its meeting of January 11, 2005, staff redrafted and re-advertised public hearings for an ordinance which would clarify and create consistent language regarding boat docks throughout the Zoning Code. The ordinance also provides that boat docks shall be permitted as principal

Reviewed by: <u>KL</u> Co Atty: _____ DFS: _____ OTHER: _____ DCM: <u>AT</u> CM: <u>MB</u> File No. <u>ph130pdp03</u>
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uses in RC-1, A-1, A-3, A-5 and A-10. Finally the ordinance places a consistent height limitation for boathouses in all zoning categories. The revised ordinance has increased the height of boat houses to 15 feet with height being measured the same as other structures.

LAND PLANNING AGENCY RECOMMENDATION:

On December 1, 2004, the Land Planning Agency recommended approval (6 to 1) of the attached ordinance subject to two changes which are; 1) increasing the maximum height of boathouses from 10 feet to 15 feet and; 2) measuring the height of boathouses with pitched roofs the same way as any other building (to the mean height level between eaves and ridge for gable, hip and gambrel roofs). The majority of the members of the Land Planning Agency stated that raising the maximum boathouse height from 10 feet to 15 feet was reasonable based upon their understanding of the height of a typical boat and/or house boat from the keel to the top of the canopy. They also stated that it would be less confusing for the public if the boathouse height is measured the same way as the height of other buildings.

STAFF RECOMMENDATION:

Staff recommends approval of the attached Ordinance.

Attachments: Ordinance

O R D I N A N C E

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY SECTIONS 2.3, 30.102, 30.122, 30.162, 30.182, 30.202, 30.222, 30.1371; CREATING DEFINITIONS; CLARIFYING PERMITTED USES IN A-1, A-3, A-5, A-10, RC-1, R-1, R-1A, R-1AA, R-1AAA, R-1AAAA, R-1B, R-1BB AND R-2 ZONING CATEGORIES; CREATING BOAT DOCK AND BOATHOUSE REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, numerous navigable water bodies, including Lake Jessup, Lake Monroe and the St. John's River, are located in Seminole County; and

WHEREAS, many Seminole County residents live along the banks of its various water bodies; and

WHEREAS, many Seminole County residents and visitors use the water bodies of Seminole County for recreational purposes, including sailing, canoeing, kayaking, skiing, fishing, swimming and other activities; and

WHEREAS, the Board of Seminole County Commissioners deems it to be of great importance to balance the riparian rights of land owners to store and launch their watercraft with the general rights of Seminole County citizens and visitors to enjoy the natural beauty and recreational value of the County's rivers, lakes and ponds; and

WHEREAS, the Economic Impact Statement relating to this Ordinance has been prepared and made available for public review

in accordance with the requirements of the Seminole County Home Rule Charter; and

WHEREAS, the private property rights analysis relating to this Ordinance has been prepared and made available for public review in accordance with the requirements of the Seminole County Comprehensive Plan.

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

Section 1. Chapter 2, Section 2.3, Land Development Code of Seminole County is hereby amended to add the following definitions:

Sec. 2.3. Definitions.

Boathouse - A roofed structure used for the storage of watercraft and water vessels, including boats and boating equipment, which is located waterward of the mean high water line or seasonal high water line.

Boat Dock - Any structure, whether fixed or floating, secured on or by a piling, waterward of the mean high water line or seasonal high water line which is designed for or capable of being used to moor watercraft.

Section 2. Chapter 30, Part 6, Section 30.102(a), Land Development Code of Seminole County is hereby amended, and Section 30.102(m) is hereby created, to read as follows:

Sec. 30.102. Permitted uses. Within any property assigned the A-10, A-5 or A-3 Rural Zoning Classifications, no building, structure, land or water shall be developed, except for the following uses:

(a) Single family residences and uses accessory thereto, including one (1) guest house or cottage, ~~boat docks and~~ boathouses.

* * * *

(m) One (1) boat dock and one (1) associated boathouse per lot.

Section 3. Chapter 30, Part 7, Section 30.122, Land Development Code of Seminole County is hereby amended to read as follows:

Sec. 30.122. Permitted uses. Within the A-1 Agriculture Zoning Classification, no building, structure, land or water shall be used, unless otherwise permitted, except for ~~one (1) or more of~~ the following uses:

(q) Single-family dwelling and customary accessory uses including one (1) guesthouse or cottage, ~~docks and~~ boathouses.

* * * *

(u) One (1) boat dock and one (1) associated boathouse per lot.

Section 4. Chapter 30, Part 10, Section 30.162(c), Land Development Code of Seminole County is hereby amended to read as follows:

Sec. 30.162. Uses permitted. The following uses are permitted on property assigned the RC-1 zoning classification:

~~(c) Boathouses and docks used for the shelter and storage of boats~~ One (1) boat dock and one (1) associated boathouse per lot.

Section 5. Chapter 30, Part 11, Section 30.182, Land Development Code of Seminole County is hereby amended to read as follows:

Sec. 30.182. Uses permitted. Within any R-1, R-1B and R-1BB Single-Family Dwelling zoning classification, no building, structure, land, or water shall be used, except for ~~one (1) or more of~~ the following uses:

* * * * *

(d) One (1) boat dock and one (1) associated boathouse per lot when accessory and incidental to the principal dwelling.

Section 6. Chapter 30, Part 12, Section 30.202, Land Development Code of Seminole County is hereby amended to read as follows:

Sec. 30.202. Uses permitted. Within any R-1AAAA, R-1AAA, R-1AA, and R-1A Single Family Dwelling zoning classification, no

building, structure, land, or water shall be used except for ~~one~~
~~(1) or more of~~ the following uses:

~~(b) Boathouses and boat docks as accessory uses, providing
the roof of said boathouse does not exceed ten (10) feet above
the mean high water line~~ One (1) boat dock and one (1) boathouse
per lot when accessory and incidental to the principal dwelling.

Section 7. Chapter 30, Part 13, Section 30.222, Land
Development Code of Seminole County is hereby amended to read as
follows:

Sec. 30.222. Uses permitted. Within an R-2 One- and Two-Family
Dwelling zoning classification, no building, structure, land, or
water shall be ~~used~~ permitted except for ~~one (1) or more of~~ the
following uses:

* * * *

(d) One (1) boat dock and one (1) associated boathouse per
lot when accessory and incidental to the principal dwelling.

Section 8. Chapter 30, Part 70, Section 30.1371, Land
Development Code of Seminole County is hereby created to read as
follows:

Sec. 30.1371. Boat Dock Regulations.

(a) Where boat docks or boathouses are a permitted use the
following requirements must be met prior to issuance of any
applicable permit:

(1) The lot upon which the structure will be developed must have a minimum thirty feet (30') of frontage on the subject water body.

(2) The lot upon which the structure will be developed must be a legal lot of record, and must meet minimum lot size requirements.

(3) The lot upon which the structure is located must have adequate off-street parking for at least two (2) vehicles.

(4) The applicant must demonstrate compliance with all local, State and federal regulations and permit requirements.

(b) No boat dock or boathouse may be rented or leased.

(c) A boathouse may not be higher than fifteen (15) feet above the elevation of the mean high waterline, in accordance with the definition of "building, height of" in Chapter 2, Section 2.3 of the Seminole County Land Development Code. The Board of County Commissioners may permit a taller boathouse upon a determination that the view of the water body from neighboring properties will not be adversely affected.

Section 9. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become, and be made a part of the Seminole County Land Development Code. The word "Ordinance" may be changed to section, article, or other appropriate word or phrase

and the sections of this Ordinance may be assigned new numbering or lettering to accomplish such intention; providing, however, that Sections 9, 10, and 11 shall not be codified.

Section 10. 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 effect the validity of the remaining portions of this Ordinance.

Section 11. Effective Date. This Ordinance shall take effective upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

ENACTED this _____ day of _____, 2005.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE,
Clerk of the Board of
County Commissioners of
Seminole County, Florida

By: _____
CARLTON HENLEY, Chairman

ECONOMIC IMPACT STATEMENT
FOR THE
"Boat Dock Ordinance-- 2004"
AMENDMENT TO THE LAND DEVELOPMENT CODE OF SEMINOLE
COUNTY, FLORIDA, 2004

Describe Project/Proposal

- The County is proposing to amend the Land Development Code of Seminole County which affects the regulations pertaining to boat docks in residential and agricultural zoning districts. The amendments are proposed to correct the existing regulations because they are inconsistent between zoning districts. Also, the amendments will permit boat docks as principal permitted uses in the agricultural zoning districts.

Describe the Direct Economic Impact of the Project/Proposal upon the Operation of the County

- There will be no additional economic impact to the County. The ordinance will permit the construction of boat docks before the construction of a single family home. The ordinance will protect lakefront property values by creating consistent regulations across all residential and agricultural zoning districts.

Describe the Direct Economic Impact of the Project/Proposal upon the Property Owners/Tax Payers/Citizens who are Expected to be Affected

- This ordinance is revenue neutral since it does not raise the cost of building a dock or increase any fees.
- The ordinance does not have any additional economic impacts on the taxpayer since boat docks are required to be permitted despite this ordinance.
- There is no economic impact to the property owner since the regulations do not increase the costs to construct a dock.

Identify Any Potential Indirect Economic Impacts, Positive or Negative Which Might Occur as a Result of the Project/Proposal

- The requested modifications will allow property owners to build a dock and utilize their property in the agricultural districts without having to build a house first. In this respect, the ordinance will have a positive impact since

lakefront property owners will be able to enjoy their property without having the costs of building a house.

This document was prepared by the Planning Division representing the Seminole County Planning and Development Department.

Revised 10/4/04

PRIVATE PROPERTY RIGHTS ANALYSIS
FOR THE
“Boat Dock Ordinance – 2004”
AMENDMENT TO THE LAND DEVELOPMENT CODE OF SEMINOLE
COUNTY, FLORIDA, 2004

Amendment to the Land Development Code of Seminole County

- The County is proposing to amend the Land Development Code of Seminole County which affects the regulations pertaining to boat docks in residential and agricultural zoning districts. The amendments are proposed to correct the existing regulations because they are inconsistent between zoning districts. Also, the amendments will permit boat docks as principal permitted uses in the agricultural zoning districts.

Zoning Standards

- This proposed Ordinance change incorporates minor changes or alterations of the boat dock regulations so that they are consistent throughout the agricultural and residential zoning districts. This proposed Ordinance does not change the actual zoning map designation of a lot, parcel or parcels of land.
- The proposed Ordinance change provides for consistency definitions, regulations and interpretations of boat dock regulations.
- Development regulations regarding boat docks may be more easily understood, enabling improved planning for property owners and contractors for the future use of their property.

Estimated Economic Impact on Individuals, Businesses or Government

Advantages:

- With this proposed Ordinance, local government may experience a slight increase of revenues by providing by allowing boat docks to be constructed prior to the construction of a single family home. Therefore some vacant agricultural property may have a dock constructed sooner.
- Local government may experience reduced operating costs as a result of fewer appeals of the Planning Manager's interpretations.

Disadvantages:

- Some proposed boat docks may exceed the regulations contained in the ordinance, but it is unlikely that most will. In any event, a variance process is in place already.

Anticipated New, Increased, or Decreased Revenues

- With this proposed Ordinance, local government may experience increased revenues by permitting boat docks on vacant agricultural property.

Estimated Impact upon Competition and the Open Market for Employment

- There is no negative or positive impact upon competition and the open market for employment anticipated as a result of the proposed Ordinance.

Data and Method Used in Determining Analysis

- The proposed Ordinance was also reviewed by County staff after consulting with the Property Appraisers Office.

Mrs. Elise Brough stated that she wanted a wall along the road that abuts Dunhill subdivision so that the children from the new subdivision do not cut through the Dunhill properties and use the Dunhill facilities.

Jim Cooper stated that he had developed Dunhill for the DL Mason Company in the 1980's. It is Mr. Cooper's recollection that when Phase II of Dunhill was developed, a wall was to be put in by that developer. There is a large buffer there now. He does not believe a wall is necessary and does not want to build a wall.

Commissioner Peltz made a motion to recommend approval of the request for a Large Scale Land Use Amendment from LDR (Low Density Residential) to MDR (Medium Density Residential); and Rezone from A-1 (Agriculture District) to R-3A (Multiple-Family Dwelling District).

Commissioner Dorworth seconded the motion.

There was no discussion.

The motion passed unanimously.

C. An Ordinance Amending the Land Development Code of Seminole County Sections 2.3, 30.102, 30.122, 30.162, 30.182, 30.202, 30.222, 30.1371; creating definitions; clarifying Permitted Uses in A-1, A-3, A-5, A-10, RC-1, R-1, R-1A, R-1AA, R-1AAA, R-1AAAA, R-1B, R-1BB, and R-2 Zoning categories; creating boat dock and boathouse regulations; providing for severability; providing for codification; and providing for an effective date.

Countywide
Matt West, Planning Manager

Mr. West stated that this ordinance was initiated at the request of the Board of County Commissioners and the Board of Adjustment. It came after a situation arose on a lot zoned A-5 (Agriculture) was purchased on Lake Mills. The property owner wished to put a dock in prior to the building of the house on the lot. The Land Development Code states that the principal structure must be built first, before the accessory structure. Mr. West was directed to draft an ordinance which allows placement of a dock in certain zoning categories prior to the building of the house. A discussion has developed concerning the allowable elevation of a boathouse. Currently it is 10 feet above the mean high water line. This becomes a general policy question. Ten feet is not a lot if you want to lift your boat out of the water and have equipment. On dry land the maximum building height is 35 feet. Having researched the height issue, it was determined that the limitation was to keep the height from being excessive: 2 or 3 stories, thus blocking the view of neighbors. The current ten feet maximum may be too low. Perhaps the building height could be changed. Lake height varies with weather conditions.

Commissioner Bates asked if Mr. West had recommendations.

Mr. West said that perhaps the boathouse could be limited to one story, which would disallow the building of a "monster structure" which could be an obstruction to neighbors. The boat house is basically to house and protect the boat and equipment. Another thing is that the standard code requires that enclosed boat houses shall be approved by the Board of County Commissioners.

Commissioner Peltz asked for a refinement of the recommendations. Was the 10 foot height still good?

Mr. West said that the structures could be limited to one story, with the building height being an average, with the pitched roof, as on dry land figured into the equation from the peak and the eave.

Mr. Eismann said that ten feet is not enough. If you have a pontoon boat, ten feet would not be enough. At least fifteen feet clearance is needed. With a winch, perhaps 20 feet is needed. The structure could be limited to one story, not to exceed 20 feet.

Mr. Tucker asked if there was a primary structure on a lake now, and the owner came in for permit for a boathouse, what is the allowed height currently?

Mr. West stated that in the R-1, R-1A and other residential categories, if the boathouse were to be enclosed, it would go to the Board of County Commissioners. If it exceeded 10 feet in height, it would go to the Board of Adjustment for a variance.

Commissioner Tucker stated that having the Board of Adjustment handle the variances on boathouses, the public input allows the neighbors to have a forum on what was allowable.

Mr. West stated that it could be difficult to define what a story is comprised of. Height limitation could lead to someone using, for example, a 35 foot limitation, to put in a dwelling unit on the boathouse.

Commissioner Harris asked when this issue came up most recently.

Mr. West said it was not common, and that the last time a case came to the Board of Adjustment was perhaps 3 years ago.

Commissioner Harris agreed with Commissioner Eismann that 10 feet was not enough, but perhaps an average using the peak and an equation is good, but on the other hand, 15 feet with the variation in lake height may be better depending where you set the floor. If the roofline is defined at the average between the peak

and the eve, that is what should be done here as well. Whatever is done, it must be defined consistently.

Commissioner Tucker said that if 15 feet is used, with the variation in lake height, a 19 foot structure could go in without consideration of a neighbor. If the peak is put in at 15 feet by code, taking away the input of the neighbors at a hearing, it is not good.

Commissioner Harris said that we should be consistent. 10 feet will not work with most of today's boats. If the boathouse were not enclosed, perhaps you could go with a flat roof to limit height.

Commissioner Tucker said that where the average is 10, the peak would be higher.

Commissioner Eismann asked how much higher than 10 feet the peak could be with the 10 foot height limitation.

Commissioner Hattaway wondered if a pontoon boat could fit in such a structure.

Commissioner Tucker pointed out that the purpose of this ordinance is to allow the accessory structure to go in before the principal structure. Height is a side issue. Height should be consistent with the Board of Adjustment standards.

Commissioners Dorworth and Hattaway agreed with Commissioner Tucker.

Commissioner Harris stated that 15 feet was not unreasonable, because it limits you to one story.

Commissioner Tucker said that the height could be an issue with neighbors.

Commissioner Tucker made a motion to recommend approval of the ordinance with the height issue being worded consistently with the definition of building heights in other parts of the code.

The motion died for lack of a second.

Commissioner Eismann pointed out that this was a public hearing and that there had not been public input.

Robin Davis said that ski boat towers were 9.5 feet from top to keel. He asked for a minimum height of 15 feet.

Commissioner Hattaway agreed. She asked why PUD (Planned Unit Development) zoning was not included in the allowable zoning list.

Mr. West said that such inclusions were negotiated in the forming of the PUD. Sometimes docks are not allowed, as with Banana Lake.

Commissioner Eismann made a motion to recommend approval of the ordinance with the amendment of height limitation to be an average of 15 feet above the mean high water line.

Commissioner Bates seconded the motion.

The motion passed with a vote of 6 to 1. Commissioner Tucker voted "no."

Planning Manager's Report:

Matt West reported that as of 5 P.M. today there had been no ruling on the Winter Springs litigation concerning the Charter Amendment.

There will be a joint work session between the Board of County Commissioners and the Seminole County School Board on December 13. Topics for discussion include the issues of overcrowded schools and the conversion of non-residential uses to residential uses.

The January 5, 2005 LPA/P&Z meeting is anticipated to be a long one with a full agenda which includes several large scale land use amendments.

There being no further business, the meeting adjourned at 7:45 P.M.

Respectfully submitted,

Candace Lindlaw-Hudson
Senior Staff Assistant