

Explanation Narrative
to the
Application for an Amendment to Land Development Code

Petition # _____

Applicant/Property Owner: Martin H. Judd and Carol Anne Cienkus

1) Nature of the change and why requested:

The applicant was issued a City permit SEAW-17-01509 to construct a cut-in to their seawall at 672 Crescent Court Marco Island, FL (Lot 1, Block 361, Unit 11) after having obtained a DEP permit #0350072-001 for the same work. Seawalls slabs were poured and ready for installation when a stop work order was posted. Later the City staff said that the permit was issued in error and that the code needed to be amended to allow for these types of cut-in.

See attached Exhibit One from the City of Marco Island's Single Family Zoning Regulation brochure dated April 2009, showing at the top left, a waterfront "Shoulder Lot" which typically has a 10' cut-in, so that the waterfront property line is located 10' past the seawall into the canal providing additional mooring space for boat(s) and an overall protrusion of 35' from the seawall. A waterfront "Corner Lot" (shown at the top right) has its waterfront property line located on the seawall, limiting the protrusion for mooring a boat to 25' from the seawall.

This change is to allow waterfront corner lots owners to have cut-ins into their own lots to provide for a larger protrusion and a larger boat. Note that a survey of lots revealed that there are 126 similar lots on Marco, and of those 57 already have cut-in boat slips or slightly over 45% of the total. These cut-in boat slips were an option that the Deltona Corporation, the developer of the Island, allowed initial property owners to construct at the time seawalls were originally installed. 55% of the initial owners chose not to add cut-in boat slips at that time. On Marco Island, a waterfront community with water access, this code change is important as it will give the 55% of the remaining waterfront corner lot owners the advantages that both shoulder lot owners, and the 45% of the waterfront corner lot owners who have existing cut-in boat slips, now enjoy.

2) All portions of the LDC which may be affected:

Add in Section 30-10 a new definition for "Lot, corner waterfront" to define the type of lot shown on Exhibit One attached.

Add in Section 30-84 (7) a new conditional use allowed in residential single-family residential districts (RSF) to create cut-ins in waterfront corner lots.

3) All Comprehensive Plan policies which may be affected:

No Comprehensive Plan policies are affected. This change is similar in nature to Ordinance 17-02 which allowed for Nautical Garages, where the Planning Board found "...that the need and justification for this Ordinance is to permit improved boat docking opportunities for certain waterfront single-family residential dwellings." That Ordinance was found to be consistent with the Comprehensive Plan Objectives 1.7 & 1.8, and Policies 1.8.3.1, 1.8.3.2, 2.1.4, 2.2.1

4) Proposed Language for LDC text changes:

Section 30-10 Definitions

Lot, Corner Waterfront means a lot located on the water which is a corner lot located typically at the end of a canal, with one of its side lot lines partially abutting an adjacent lot and abutting a canal. A waterfront corner lot is distinguished from a shoulder lot in that it, unlike a shoulder lot, does not have a strip of land which is under water and which is used for the docking of a boat.

Section 30-84 Conditional Uses

(7) A seawall cut-in created in a waterfront corner lot meets the following requirements:

- a) The cut-in in the seawall does not extend into the side yard setbacks established for residential single-family waterfront homes pursuant to section 30-85(a) of this code.
- b) The cut-in extends no more than a twelve-foot (12') depth into the lot, which depth includes the construction of the cut-in's rear seawall.
- c) The cut-in complies with all federal and state requirements and permits, including, but not limited to the requirements and permits of the Florida Department of Environment Protection and the U.S. Army Corps of Engineers; provided that required federal and state permits need not be obtained prior to issuance of the conditional use but must be obtained before commencement of construction of the cut-in slip, as required by Florida law.
- d) The cut-in to comply with section 30-64 (3). Section 30-64(3) b. to also include navigable ingress and egress from adjacent waterway(s) and Section 30-64 (3) d. to include proximity to and location of the proposed cut-in to other docking facilities.