



Planning Board Staff Report

Meeting Date: July 5, 2019

TO: Planning Board

FROM: Daniel J. Smith, AICP – Director of Community Affairs

DATE: June 27, 2019

RE: Discussion of proposed Land Development Code Amendments to remove seawall manufacturing from residentially zoned property (Sec. 30-793 - Construction temporary use permit) and to add to Heavy Commercial (C-5) as a Conditional Use (Sec. 30-264).

APPLICANT:

City of Marco Island

PROJECT DESCRIPTION:

Staff initiated change based on comments from City Council, Code Enforcement, and residents regarding the need to manufacture seawall panels on residential lots.

STAFF ANALYSIS/DISCUSSION:

The manufacturing of concrete seawalls on residentially zoned property has been controversial since working for the City of Marco Island is 2017. Ironically, the City of Marco Island does not allow manufacturing on the Island at all, even in the most intensive zoning district of Heavy Commercial (C-5). As the island becomes developed, these construction areas are getting closer and closer to homes.

The following amendments proposed are to provide for this need in a more appropriate zone.

Sec. 30-793. - Construction temporary use permit.

During the construction of any development for which a site development plan has been approved or a building permit issued, the developer may request a temporary use permit subject to the following:

- (1) The temporary use permit shall be granted initially for a period not to exceed 24 months in length and may be renewed annually based upon demonstration of need. A request for renewal shall be submitted to the ~~director city manager or designee~~ in writing 30 days prior to the expiration of the temporary use permit.
 - a. *Special exceptions.* ~~The g~~Government-owned and operated buildings may be extended beyond the 24-month time period providing the buildings are inspected on a yearly basis by both the City of Marco Island Fire Department and Building Services Department and the

associated inspection fee is paid by the property owner. Any recommended work identified by the departments shall be completed as ordered. If either inspection fails the temporary structure shall lose its certificate of occupancy, any property occupied with a revoked certificate of occupancy is subject to a \$500.00-per-day violation until the violation is corrected.

(2) Temporary construction and development permits shall be allowed for the following uses:

- a. Temporary offices to be used for construction and administrative functions within the development.
- b. Temporary offices to be used for sales functions, including sales offices, allowing for the sale, resale, or marketing of dwellings, structures, or property within the development in which it is located, or adjacent developments under the same control.
- c. On-site mobile home used as a temporary office or storage facility for persons engaged in the development of the site.
- d. On-site mobile radio and television equipment antennae.
- e. On-site temporary use of structures and equipment for the building of roads, public utilities, and government projects.
- f. Off-site temporary parking on property which is located contiguous to the subject development, ~~or on property subject to a permit issued pursuant to subparagraph i.~~, or would be contiguous except for a roadway that is not designated as a collector or arterial in the transportation element of the comprehensive plan, with written authorization of the property owner.
- g. In the case of redevelopment, in order to facilitate both construction activities and continued use of the premises, a temporary use permit may be issued for a tent structure with amenities, such as, seating, electricity, lighting, and air condition. This permit requires public hearings and review and recommendation from the planning advisory board and review and approval by the city council. Standards for approval shall be as set forth in subsection 30-792(a) of this Code.
- h. Other on-site uses similar to the foregoing uses and determined to meet the intent of this article.

~~i. Off-site staging no further than 150 feet from the building lot with written authorization from the property owner and proof of notification to adjoining property owners when, in the opinion of the building official, site constraints such as, but not limited to, an irregular shaped lot where building activity will take place indicates its appropriateness. In such case, only equipment, materials and vehicles used in the construction process of the permitted structure may be staged; any additional or unauthorized materials or lack of upkeep or reasonable maintenance shall result in revocation of the temporary use permit by the building official.~~

~~(3) In addition to the uses described above, a construction temporary use permit shall be obtained for the use of a vacant lot for the seawall manufacture, construction, repair and related boat dock construction activities on all vacant lots or parcels under the following conditions:~~

- ~~a. The contractor shall notify the city, as part of the building permit application process for seawall manufacture, construction, repair, and related boat dock construction activities, of its intentions to use a vacant lot for such purpose.~~
- ~~b. The contractor shall provide written permission from the property owner of the vacant lot. A copy shall be submitted to the city building services division and made a part of the temporary use permit application. The city shall require a signed document holding the city harmless from any claim by the property owner or the permit holder for any damage to the vacant lot or seawall. City staff shall provide notification to the property owner indicating any vacant lot utilized for seawall manufacture, construction, repair, and related boat dock construction activities may not be used again for an additional 365 days following expiration of the last~~

~~temporary use permit utilized for the subject vacant lot. In addition, city staff will provide notification of the proposed temporary use of the vacant lot to all property owners within a 300-foot radius of the subject vacant lot, together with other conditions of the permit as may be required by the city.~~

- ~~e. The contractor shall post the subject property with a permit board and all applicable permits including a copy of the temporary use permit.~~
- ~~d. Manufacture of precast seawall panels and related boat dock construction activities on a vacant lot shall only be performed for a maximum of 100 consecutive days while an associated repair permit is active. More than one permitted seawall repair or marine construction contract may be staged at the vacant lot concurrently. Upon completion of the use and prior to the expiration of the 100-day period, the contractor shall restore the lot to pre-use condition. Any vacant lot so used shall not be used for seawall manufacture, construction, repair, and related boat dock construction activities for an additional 365 days following issuance of the last associated certificate of completion or CO, with the exception of an emergency repair or replacement to the seawall at the subject vacant lot.~~
- ~~e. Failure to comply with the provisions of this subsection shall constitute a violation of this code. If a violation is found, code compliance staff shall provide a notice of violation to the violator and allow for up to ten business days to cure. If the violation is not corrected by the time specified for correction, a stop work order shall be issued by the City of Marco Island Building Services Department. Contractors in violation shall receive a revocation of applicable permit(s) and shall not be granted any additional permits for the period of time a violation exists. If the violation has not been cured within time specified in the notice of violation, starting the next day a fine of \$250.00 per day for a first violation and \$500.00 per day for a repeat violation shall be assessed until the violation is corrected. If a violation is not corrected within ten business days from the date of issuance of the notice of violation, the city or city's designee may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with all fines imposed pursuant to this section. Future permits shall not be issued to the contractor until all fees, fines, and costs have been paid in full. Assessed fines may be appealed to the code enforcement board. Repeat violation shall mean a violation of this code by a person who has been previously found to have violated the same provision of this code within five years prior to the violation, notwithstanding the violations occur at different locations.~~
- ~~f. Special exceptions: The contractor may seek an administrative extension beyond the 100-day period provided the city manager or designee is presented sufficient information justifying the contractor's need. Justification may include inclement weather, unavailability of materials or other unexpected conditions beyond the control of the contractor. Staff may provide a maximum 45-day extension provided the request is justified. Exceptions shall not be used to extend use of the vacant lot beyond 145 consecutive days.~~
- ~~g. The contractor shall provide a silt fence along the side yard property lines.~~
- ~~h. Any type of demolition material shall be either removed from the lot or placed in a dumpster within five days. Piling, decking, and boatlift equipment that will be later reused on that lot, shall be permitted to remain on site. Demolition, if by cutting, shall require a wet saw method, except for steel rebar. Demolition activity may not occur outside of the hours of 8:00 a.m. to 5:00 p.m., Monday through Saturday. Dumping or storage of any material not directly associated with current permitted job is expressly prohibited.~~
- ~~i. Manufactured seawalls shall not be stacked more than five feet in height.~~
- ~~j. The public works department shall determine whether temporary structures will be required to protect the swale area and proper stormwater conveyance.~~

~~k. Boat and barge repair shall not be allowed on vacant residentially zoned parcels. The use of any such boat, barge or vessel shall be subject to the specific requirements of Code section 54-111 and subsection 54-112(i).~~

~~l. Only equipment and vehicles directly associated with the permitted repairs will be allowed on the property, and only during an open permit.~~

~~(4)(3)~~ All construction temporary use requests shall require the submission of a conceptual plan which demonstrates that provisions will be made to adequately address the following:

- a. Parking.
- b. Landscape ~~ing~~ protection.
- c. Fire protection.
- d. Handicapped access.
- e. FEMA (floodplain management ordinance).

f. Wildlife/endangered species.

DIVISION 11. - HEAVY COMMERCIAL (C-5) DISTRICT

Sec. 30-264. - Conditional uses.

The following uses are permissible as conditional uses in the heavy commercial district (C-5), subject to the standards and procedures established in the land development code; uses permissible as conditional uses in the C-1, C-2, C-3 or C-4 commercial zoning districts shall also be permissible as conditional uses hereunder, unless listed as a permitted use in the C-5 district:

- (1) Agricultural services (veterinary services - 54194, pet care - 81291, both with outdoor kenneling).
 - (2) Amusement and recreation services, outdoor (racetracks - 711212, amusement and theme parks - 71311, golf courses and country clubs - 71391).
 - (3) Bottle clubs. (All establishments engaged in the retail sale of alcoholic beverages for on-premises consumption are subject to the locational requirements of the land development code).
 - (4) Child day care services, provided:
 - a. All areas and surfaces readily accessible to children shall be free of toxic substances and hazardous materials. This shall include all adjacent and abutting properties lying within 500 feet of the child-care center's nearest property line.
1. For purposes of this subsection, the following definitions shall apply:
- i. Hazardous materials: A material that has any of the following properties; ignitable, corrosive, reactive and/or toxic.
 - ii. Toxic substances: A substance that is, or is suspected to be, carcinogenic, mutagenic, teratogenic, or toxic to human beings.
- b. It shall not be located within 500 feet of the nearest property line of land uses encompassing wholesale storage of gasoline, liquefied petroleum, gas, oil, or other flammable liquids or gases.
 - c. It shall not be located on the same street customarily utilized by construction truck traffic from asphalt plants and excavation quarries.
 - d. It shall have a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet.
 - e. It shall provide a minimum usable open space of not less than 30 percent of the total square footage of the lot area.

- f. It shall provide that all open spaces to be used by children will be bounded by a fence of not less than five feet in height, to be constructed of wood, masonry or other approved material.
 - g. It shall provide a landscape buffer in accordance with the land development code.
 - h. It shall comply with the state department of health and rehabilitative services child day care standards, F.A.C. ch. 10M-12, effective March 11, 1986.
 - i. Where a child care center is proposed in conjunction with, and on the same parcel as, a facility which is a permitted use, the requirements set forth in subparagraphs a. through h. above, with the exceptions of [subparagraphs] d. and e., shall be used to provide the protections to children using the child care center intended by this section consistent with the development of the proposed permitted use.
- (5) Commercial fishing, hunting and trapping (fishing - 11411)
 - (6) Communications (radio and television broadcasting - 5131, cable networks and program distribution - 5132, telecommunications - 5133), with communications towers subject to the land development code.
 - (7) Fuel dealers (fuel dealers - 45431).
 - (8) Homeless shelters, as defined by this code.
 - (9) Increase in maximum building height from 35 feet up to 50 feet for those uses specifically permitted within the C-5 district only and up to 60 feet for the uses listed in subsection 30-242(16).
 - (10) Justice, public order and safety (correctional institutions - 92214, parole offices and probation offices - 92215).
 - (11) Local and suburban passenger transportation (bus and other motor vehicle transit systems - 485113, interurban and rural bus transportation - 48521, school and employee bus transportation - 48541, charter bus industry - 48551).
 - (12) Marina based open rack boat storage facilities located on navigable water frontage, pursuant to section 30-266.
 - (13) Permitted uses with less than 700 square feet of gross floor area in the principal structure.
 - (14) Recreational vehicle dealers (Group 44121).
 - (15) Soup kitchens, as defined by this code.
 - (16) Transfer stations (solid waste collection - 562111 [local refuse collection and transportation only]).
 - (17) Reserved.
 - (18) Reserved.
 - (19) Truck, utility trailer, and RV rental and leasing, outdoor display permitted (Group 53212).

(20) Manufacturing –Seawall panels

STAFF RECOMMENDATION:

Staff recommends the Planning Board prohibit manufacturing of any kind in residential districts and allow for this use and need as a conditional use in the C-5 district.

Daniel J. Smith, AICP

Director of Community Affairs