



City Council Staff Report

Meeting Date: August 17, 2020

TO: Planning Board

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

DATE: August 6, 2020

RE: Proposed changes to Sec. 30-793 regarding Seawall Manufacturing and Staging on Marco Island.

APPLICANT:

City of Marco Island

PROJECT DESCRIPTION:

City Council initiated change based on comments from residents and numerous violations regarding the need to address concrete seawall panels fabricated on residential lots.

PLANNING BOARD ACTION:

At the June 5, 2020 Planning Board meeting, the Planning Board approved 5-2, making changes to Section 30-793 based on the Planning Board's discussion and concerns, eliminating seawall manufacturing from the City of Marco Island

STAFF ANALYSIS/DISCUSSION:

Currently, the City of Marco Island Land Development Code (LDC) allows manufacturing of concrete seawall panels and boat docks on residential lots for a maximum of 100 consecutive days. The lot can be used again for seawall/boat dock manufacturing 365 day after the expiration of the permit.

The manufactured product is not required to be used on the permitted lot for which the fabrication occurs, and may be used on other lots requiring seawall replacement/construction.

After a violation is determined by a resident or City staff, and once a citation is issued by Code Enforcement, the contractor has 10 days to become compliant without any penalty (either receive a permit or exit the property), providing no deterrent to follow the LDC. Furthermore, any pre-inspections for endangered species are pointless because the property has already been compromised to where any sign of wildlife has been destroyed.

Through research by staff, these panels can be and are fabricated off site, a procedure used by some Marco Island contractors, causing no residential property disruption.



Ironically, the City of Marco Island does not allow manufacturing on the Island except for this use, 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, causing complaints.

The 2019 adopted Strategic Plan, Principal 3 of Marco Islands vision, establishes well-maintained residential neighborhoods and positive curb appeal as a desire for this community. This change to the Ordinance would bring us closer to this vision.

The following amendments proposed are to address this issue.

Proposed

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 city manager or designee in writing 30 days prior to the

expiration of the temporary use permit. Marine construction activities (seawall and boat dock construction, demolition, replacement, and repair), on a vacant lot shall only be performed up to 100 consecutive days while an associated permit(s) is active. More than one permitted marine construction activity may be staged at the vacant lot concurrently. Upon completion of the use and prior to the expiration of the approved activity, the contractor shall restore the lot to pre-use condition. Any vacant lot so used shall not be used for marine activity 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 a seawall at the subject vacant lot.

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

h. Other on-site uses similar to the foregoing uses and determined to meet the intent of this article. Manufacture or fabrication of seawalls or seawall panels is not permitted.

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 within 300 feet of the site, 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 construction equipment, materials and vehicles used in the construction process of the permitted structure may be staged. However, no overnight parking of any vehicles is allowed; 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.~~ Manufacture or fabrication of seawalls or seawall panels is not permitted.

j. Receipt of equipment, materials or supplies for immediate redeployment to actively permitted construction sites, not to exceed ten (10) calendar days.

k. Any type of demolition material shall be either removed from the lot or placed in a dumpster within five days. Demolition activity may not occur outside the hours of 8:00 a.m. to 5:00 p.m., Monday through Saturday.

l. Failure to comply with the provisions of this section shall constitute a violation of this code. 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 the 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. Future permits shall not be issued to the contractor until all fees, fines, and costs have been paid in full.

m. Special exceptions: The contractor may seek an administrative extension beyond the permit 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.

~~(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.~~

~~c.—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.~~

STAFF RECOMMENDATION:

Approve the changes presented.

Daniel J. Smith, AICP

Director of Community Affairs