

TOWN OF CINCO BAYOU
PLANNING AND ZONING MEETING MINUTES

7 September 2000

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Mayor Drabczuk called the special Town Council meeting to order immediately following the Public Hearing.

Still present: Mayor Drabczuk
Councilwoman Carroll (absent)
Councilman Kendrick
Councilman Skelly (absent)
Councilman Frucci
Mayor Pro Tem Payne

A quorum was present. ALSO PRESENT: Town Manager/Clerk Nell Webb, Assistant Monika Gillette, Town Engineer Mark Schaeffer, Town Attorney Michelle Anchors, K.M. Salem, Paul Hartzog, Dock Bryant, Greg Siebenaler, and Perry and Anna Kirsch.

SPECIAL BUSINESS

Action Items:

1. Town Engineer Mark Schaeffer stated that two applications for docks were submitted to him for review. The first one to be considered was a request from Decks 'N Such on behalf of Dock Bryant of 57 Yacht Club Drive. He stated that approval should be granted contingent on the five conditions outlined in his report. He pointed out that the second requirement was outlined in the Town's Land Development Code (Art. 62-124(12)) and that it had not been enforced since its passing in 1991. He also stated that the code could be enforced in two ways. First by the applicant providing off setting mitigating measures such as planting sea grass, replacing Creosol timber for more environmentally friendly timber or wrapping pilings, etc. The other measure was for the town to collect 25 percent of the cost of the pier and set up an escrow account with fees collected to benefit the waters surrounding Cinco Bayou.

Paul Hartzog, owner of Decks 'N Such, introduced himself, gave his credentials and addressed the Council. He stated that he was involved with the building of several docks in Cinco Bayou and that this code was never enforced since 1996. He also stated that while Destin has a similar requirement, it was for a different situation. He stated that the harbor needed a pump station to flush the water and that the fees collected went towards that. He stated that Cinco Bayou did not have the same problem and went on further to say that Cinco Bayou did not have a plan in place to utilize fees if they were collected. Town Manager/Clerk Nell Webb clarified that the code had been in effect since 1991 and although it was not verbalized, the entire code was sent to both dock builders, thereby notifying them of the code.

Town Engineer Mark Schaeffer suggested that mitigating factors be considered toward the 25 percent net positive environmental benefit. He stated that the dock is a replacement and that Creosol pilings were being removed which helped meet the requirements. Town Manager/Clerk Webb stated that the code had been overlooked in the past and that it was not intentionally overlooked, but since the Town Engineer did identify it, it was the responsibility of the Town Engineer and the Town Manager/Clerk

to bring it to the Council's attention. Councilman Kendrick asked if the requirement stemmed from state requirements and if the Town would be penalized if they were waived.

Councilman Kendrick made a motion to grant the permit for \$10 if the other four requirements, including a hold harmless agreement with the Town, were met and that Decks 'N Such would re-anchor the "No Wake" buoy as a offsetting mitigating measure towards the 25 percent net positive environmental benefit. Councilman Frucci seconded the motion. During discussion, Mr. Hartzog said that he would not tie doing the Town's job of re-anchoring the buoy to getting a permit. Mr. Frucci stated that he agreed with Mr. Hartzog about the validity of the code and questioned how to measure a 25 percent net positive benefit. He stated that he felt the Town had a bad rule and asked the attorney what options there were. Attorney Anchors stated that consideration from the town manager and engineer be made to determine alternative in-kind measures to satisfy both the code and the client. Town Engineer Schaeffer stated that the code had a purpose and that technology has a role in minimizing environmental impact such as wrapping poles and installing boatlifts. Mayor Drabczuk stated that the ruling made this evening would set a precedent and that not only the two docks were being considered, but docks built in the future. Mayor Drabczuk asked Councilman Kendrick if his motion stood with a friendly gesture removing the re-anchoring of the buoy by Decks 'N Such. Councilman Kendrick stated that the re-anchoring of the buoy was merely a joke and that the permit should be granted. The motion passed unanimously.

Mayor Drabczuk stated that the council needs to reevaluate all the Town's ordinances to keep future conflicts such as this one from happening again.

2. Town Engineer Schaeffer stated that the second dock plan submitted by Provencher Piers, Inc. on behalf of Greg Siebenaler, needed a exception of 10 feet. He stated according to town code (Art. 62-124(17)) the length of pier could only be 50 feet, the same as the lot wide at the Mean Height Water and the application requested a 60-foot dock. Mr. Siebenaler and his representative from Provencher Piers, Inc. addressed the Council and stated the adjacent pier was 25 foot longer and asked that the exception be granted, otherwise they would need to dredge to be able to bring in his boat.

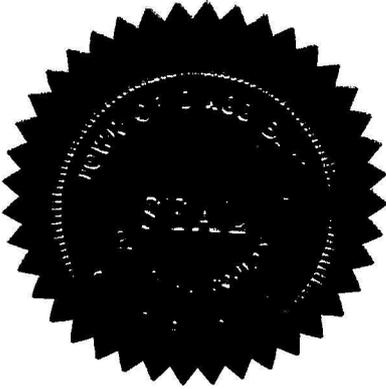
Town Engineer Schaeffer and his associate K.M. Salem addressed the Council to say that the exception could be made if the dock builder can prove the longer dock would not create a navigational hazard. Mayor Drabczuk asked if what they were requesting was an exception or a variance. Attorney Anchors replied that it was an exception and was up to the Council to accept or reject the proposal. Councilman Kendrick made a motion to grant a dock permit for \$10 with the 10-foot exception. Councilman Frucci seconded the motion. Perry Kirsch, a new resident who stated he will be applying for a dock permit in the future, approached the council and asked if these rulings would also apply to his dock. Mayor Drabczuk stated that his dock would be a separate matter that would need to be brought before the Planning and Zoning board and could not be considered at tonight's meeting. Town Manager/Clerk Webb brought up the fact that the net positive environmental code was not addressed for this dock. Councilman Frucci stated the addition of the boathouse (boatlift) and not dredging because the exception was granted was the mitigating factor satisfying the code. The motion passed unanimously.

Adjourn – There being no further business, the meeting adjourned at 6:50 p.m.

ATTEST:



Nell Webb
Town Manager/Clerk



Mayor Randall P. Drabczuk

REGULAR TOWN MEETING SIGN IN SHEET

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