

## **Cape Coral Planning & Zoning Commission**



### **AGENDA**

Wednesday, November 6, 2019

9:00 AM

Council Chambers

**1. CALL TO ORDER**

A. Chair Read

**2. MOMENT OF SILENCE**

**3. PLEDGE OF ALLEGIANCE**

**4. ROLL CALL**

A. Bennie, Marker, Marmo, Peterson, Ranfranz, Read, Slapper and Alternates Bashaw and O'Conner

**5. APPROVAL OF MINUTES**

A. Approval of Minutes - October 2, 2019 meeting

**6. BUSINESS**

**7. PLANNING AND ZONING COMMISSION PUBLIC HEARING**

A. Ordinance 51-19

**WHAT THE ORDINANCE ACCOMPLISHES:**

**AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND DEVELOPMENT CODE, ARTICLE 5, "DEVELOPMENT STANDARDS", CHAPTER 4, "MARINE IMPROVEMENTS", SECTION 5.4.7., "BOATHOUSES AND CANOPIES", AND 5.4.8., "BULKHEADS, SEAWALLS, AND RETAINING WALLS"; AND CREATING SECTIONS 5.4.9., "DECORATIVE HANDRAILS", AND 5.4.10.,**

**“CONSTRUCTION STANDARDS”, PERTAINING TO MARINE  
IMPROVEMENTS; PROVIDING SEVERABILITY AND AN  
EFFECTIVE DATE.**

**8. CITIZENS INPUT**

**9. STAFF UPDATES**

**10. OTHER BUSINESS**

**11. MEMBER COMMENTS**

**12. DATE AND TIME OF NEXT MEETING**

A. Wednesday, December 4, 2019, at 9:00 a.m. in Council Chambers

**13. ADJOURNMENT**

In accordance with the Americans with Disabilities Act and Florida Statutes 286.26, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance, if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance.

If a person decides to appeal any decision made by the Board/Commission/Committee with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

**Item Number: 1.A.**  
**Meeting Date: 11/6/2019**  
**Item Type: CALL TO ORDER**

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Chair Read

**REQUESTED ACTION:**

**STRATEGIC PLAN INFO:**

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
  - If Yes, Priority Goals Supported are listed below.
  - If No, will it harm the intent or success of the Strategic Plan?

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**  
WHAT THE ORDINANCE ACCOMPLISHES:

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**

<b>Item Number:</b>	<b>4.A.</b>
<b>Meeting Date:</b>	<b>11/6/2019</b>
<b>Item Type:</b>	<b>ROLL CALL</b>

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Bennie, Marker, Marmo, Peterson, Ranfranz, Read, Slapper and Alternates Bashaw and O'Conner

**REQUESTED ACTION:**

**STRATEGIC PLAN INFO:**

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
  - If Yes, Priority Goals Supported are listed below.
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**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**  
WHAT THE ORDINANCE ACCOMPLISHES:

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division-    Department-

**SOURCE OF ADDITIONAL INFORMATION:**

<b>Item Number:</b>	<b>5.A.</b>
<b>Meeting Date:</b>	<b>11/6/2019</b>
<b>Item Type:</b>	<b>APPROVAL OF MINUTES</b>

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Approval of Minutes - October 2, 2019 meeting

**REQUESTED ACTION:**

**STRATEGIC PLAN INFO:**

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
  - If Yes, Priority Goals Supported are listed below.
  - If No, will it harm the intent or success of the Strategic Plan?

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
<input type="checkbox"/> Approval of Minutes - October 2, 2019 meeting	Backup Material

**MINUTES OF THE REGULAR MEETING OF  
THE CITY OF CAPE CORAL  
PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY**

**WEDNESDAY, October 2, 2019**

**COUNCIL CHAMBERS**

**9:00 A.M.**

Chair Read called the meeting to order at 9:00 a.m.

A moment of silence was observed.

Pledge of Allegiance.

ROLL CALL: Marker, Peterson, Ranfranz, Read, and Slapper, Alternate Bashaw and O'Connor were present. Marmo was excused. Bennie arrived at 9:05 a.m.

ALSO PRESENT: Brian Bartos, Assistant City Attorney  
John Naclerio, Assistant City Attorney  
Wyatt Daltry, Planning Team Coordinator  
Robert Pederson, Planning Manager  
Ricardo Noguera, Economic Development Manager  
Katherine Woellner, Planner

**APPROVAL OF MINUTES**

May 1, 2019 Regular Meeting Minutes

***Vice Chair Peterson moved, seconded by Commissioner Slapper to approve the minutes of the regular meeting held on May 1, 2019 as presented.***

***Commission polled as follows: Marker, Peterson, Ranfranz, Read, Slapper, Alternates Bashaw, and O'Connor voted "aye." "All "ayes." Motion carried 7-0.***

**APPROVAL OF MINUTES**

June 5, 2019 Regular Meeting Minutes

***Vice Chair Peterson moved, seconded by Commissioner O'Connor to approve the minutes of the regular meeting held on June 9, 2019 as presented.***

***Commission polled as follows: Marker, Peterson, Ranfranz, Read, Slapper, Alternates Bashaw, and O'Connor voted "aye." All "ayes." Motion carried 7-0.***

**BUSINESS  
PLANNING AND ZONING 2020 SCHEDULE FOR APPROVAL**

***Vice Chair Peterson moved, seconded by Commissioner Marker to approve the Schedule for 2020 Planning and Zoning Meetings as presented.***

***Commission polled as follows: Marker, Peterson, Ranfranz, Read, Slapper and Alternates Bashaw, and O'Connor voted "aye." All "ayes." Motion carried 7-0.***

## **PUBLIC HEARING**

Public hearing opened.

No speakers.

Public hearing closed.

## **STAFF UPDATES**

Planning Manager, Pederson noted that they have now implemented the New LDC, and the complete code had been adopted in all thirteen chapters. Staff is continuing to make corrections as needed. He introduced the Economic Development Office Manager Ricardo Noguera and Planner, Katherine Woellner to the Commissioners.

Commissioner Bennie arrived at 9:05 a.m.

## **OTHER BUSINESS**

### **Planning and Economic Development**

Economic Development Manager Noguera introduced himself to the Commissioners. He shared what staff's goal is here in Cape Coral to shed light on what is affecting economic development with recommendations to advance them. He noted 5 reasons why these proposals are coming forward. 1. Jobs. 2. Attract and grow Industries Technology, Office and light Industrial Properties. 3. Reduce commute over the Bridges. 4. Commercial and Industrial. 5. Utilize undeveloped Land, most of the land is devoted to single family residential. The Industrial Land is lacking infrastructure.

Mr. Noguera presented a power point with the following:

- Public Storage Facilities in Cape Coral  
Public Storage Facilities: How Many Current and Planned Facilities are in the City?  
Total:35, Current: 26, Planned: 9
- Concerns About Public Storage Facilities  
Far Less property tax revenue generated for the City, Fewer permanent jobs created, consuming most attractive commercial sites which could be reserved for office and retail, Competing with commercial development for valuable properties along Pine Island Rd., Industrial Parks and commercial corridors.
- If Demand Supports More Facilities Concentrate on North-South Corridors:  
Pine Island Rd., North-South Commercial Corridors, Several Sites Available.
- Public Storage Facility Under Construction on Skyline Blvd
- Del Prado Blvd Public Storage Facility

- New Public Storage Facility Coming Soon on Chiquita
- Recommendations: Pine Island Road. No future facilities to front on Pine Island Road. Do not occupy more than 5 acres or 30% of the developable land for a given site; North-South Corridors. Promote establishment of new facilities along undeveloped sites along north-south corridors such as Chiquita, Santa Barbara and Skyline from Pine Island Road to Cape Coral Parkway; Improve Design and Landscape Features. Establish design guidelines to include building and exterior design features with windows and landscaping features to ensure new facilities do not negatively impact adjacent residential districts.

Mr. Noguera explained that there are locations that are not appropriate to have Storage Facilities. He expressed the need to have a design standard, possibly more windows. He mentioned prohibition of storage uses in the Commercial Corridor Zoning District.

Vice Chair Peterson agreed with Mr. Noguera. He expressed concern about people that are against having this built in their neighborhood. This could discourage contractors to build in Cape Coral. What can we do different to make this more attractive?

Mr. Noguera explained this is a work in progress and people will complain about the permit process, staff is trying to improve the permit process. They are focused on recruiting Office and Technology Companies into our City. Staff is proactive about going after companies to build in our City and create jobs. One of the challenges with Industrial parks is that they are built out; the vacancy rate is 2%. The buildings are antiquated, and the City does not have the infrastructure to attract Industry. He noted sites that lack public utilities. Staff had applied for a State Grant in the amount of \$4 million for infrastructure improvements.

Commissioner Bashaw inquired about the permits that are in place and whether this would create a problem for the developers.

Mr. Noguera stated he would like to refer to the Assistant City Attorney regarding this question. He explained the permits in place would be grandfathered in.

Commissioner Bashaw questioned whether there were any property owners that have rights to build self-storage at this time.

Assistant City Attorney Bartos agreed that the permits that are in place will be grandfathered in. He explained that the Storage Facilities cannot be abutting on to Pine Island Road. This would diminish the opportunity, we are not totally prohibiting the Use.

Commissioner Bashaw inquired about outdoor screen storage use and whether this would apply.

Mr. Pederson noted outdoor screen storage is a conditional use. This would need to be regulated so it's not right upon the frontage.



Commissioner Bashaw inquired about permitted uses in the Commercial Corridor Zoning District for the Assistant Living Facility, whether this will be restricted.

Mr. Noguera stated this will be answered in the next part of my presentation.

Mr. Pederson noted that the Assistant Living Facility is completely different than Multifamily Use. There is no desire to limit Assistant Living Facilities.

Mr. Noguera noted that he is trying to protect Pine Island Road, for the City to have an employment base.

Commissioner Bennie inquired about why there are so many storage units.

Mr. Pederson noted here in Florida there are many reasons for storage since there are no basement, or attics.

Commissioner Slapper agreed that Pine Island Road should be protected.

Chair Read noted there is a large parcel on Andalusia and Pine Island Road, and it has no infrastructure. That is why no developer will build on it. He explained the reason why there is no business in some of this area on Chiquita and Skyline is because they have not done a traffic count since 2011. There needs to be a 25,000-traffic count, then the City will see national development. This City is growing rapidly. He expressed the need to put Utilities throughout the City non-stop.

Mr. Noguera noted that this region is a retirement area; however, we need jobs for millennials. We need jobs for people under the age of 40 to keep them here.

Mr. Noguera presented a power point with the following:

- Multifamily Development Opportunities in The City of Cape Coral
- Siting criteria for Multifamily residential uses in the Commercial Corridor Zoning district.
- Why Do We Need Multifamily Development in the Cape?
- Why Limit Multifamily Development Along Pine Island Rd.
- Most Suitable Places to develop Multifamily development
- Site Skyline Multifamily
- Recommendations: Pine Island Rd. No New Multifamily Development fronting the roadway and only occupying a maximum of 30% of sites with less than 15 acres; Pine Island Rd. For sites exceeding 15 acres, no more than 20% of total developable land to be devoted to Multifamily development. or a maximum of 7 acres;
- Promote Multifamily development along Skyline, Chiquita & Santa Barbara with attractive landscaping design requirements, incentives with deferral of impact fees and heights between 50-60 feet stories;

- Del Prado Blvd. Consider allowing dysfunctional commercial centers to be redeveloped to support Multifamily development. Will strengthen existing commercial base while bringing bus riders to a public transit corridor & closer to employment hubs;
- Promote use of attractive transit alternatives. Give incentives to developers for use of bikes, electric vehicles, golf carts or shuttle services to shopping centers, employment centers and Downtown Fort Myers, etc.

Discussion held regarding:

- Providing services for Police and Fire is costly
- Utilize Land more efficiently
- Eliminate Multifamily on Pine Island Rd
- Public Transportation
- Increase density in the South Cape
- Offer incentives
- Study that was done still in effect
- Difficult position the City is in currently
- Pine Island Road will be for employment
- No Office Park in this City
- Academic Village

Commissioner O'Connor questioned restricting development on Pine Island Road and whether this would be allowed.

Mr. Noguera noted that the City is in a difficult position currently, if the City allows this to continue. He explained there will be fewer and fewer sites to build Commercial. There needs to be a policy in place to build our tax base and create jobs along Pine Island Road. There are not enough jobs in our City. He is suggesting that the public storage not be built on Pine Island Road

Vice Chair Peterson noted that promoting Multifamily to build 50 to 60 feet this has not been permitted in the past.

Mr. Pederson responded that the applicant prior to this requested to have it built higher than what was allowed and withdrew the application.

Commissioner Bashaw inquired about the issue regarding Commercial revenue and residential housing in general. There needs to be a discussion because there are a lot of moving pieces. More discussion would be needed, he suggested having some workshops. There is a lot of knowledge on the dais that could help solve the housing issue.

Chair Read questioned whether anyone currently has addressed the development on Pine Island Road, the property located near the German American Club.

Mr. Pederson noted that the builder is having challenges with this site. That site needs to be rezoned. The owners have been pursuing options.

Commissioner Slapper agreed with Commissioner Bashaw. He would like to have a workshop to discuss the issues regarding the housing.

Mr. Noguera noted that once a building is built it will be there at least 30 years. This is very important to address the issues now. If you do not plan properly then our City will have urban sprawl. Our City needs to approach the planning strategically.

Mr. Noguera presented a power point with the following:

- Proposal to establish a no parking requirement in the South Cape
- South Cape Creating A Vibrant & Walkable District:
- City Staff are exploring the potential to establish a “No Parking Requirement” for new and expanding businesses in the South Cape as well as new construction of commercial spaces and new mixed-use or multifamily developments.
- Why Consider a No Parking Requirement? Walkability. Encourages patrons to walk, window shop, patronize and attract more customers to the District;
- A More Vibrant District. Without a parking requirement, the area has potential to attract a variety of retail, office and restaurants to fill vacant spaces along Lafayette, Miramar, Cape Coral Pkwy & Southeast 47th Terrace & Lane;
- Parking. Parking should not be the driving force for a Downtown, especially one which desires to attract rooftops (housing) and not be dependent on customers parking in front of shops (suburban model);
- Goals of New Program: Place responsibility on businesses and developers to determine whether to build parking or not rather than the City; Encourage new and expanding business opportunities in the South Cape; Incentivize a more robust and pedestrian friendly environment for businesses Incentivize new construction from office to mixed-use and multifamily development
- Next Steps: This is an informational item. May return in November formal recommendation Presentation to Planning & Zoning Board & CRA Board on October 2, 2019 Presentation to City Council. If approved, Establish new City Code requirements with a goal for and effective date in Spring 2020.

Planner Woellner presented a power point with the following:

- Table 1. Examples of Parking Deregulation 5 Cities in Florida
- Table 2. Examples of Reduced Parking Requirements” Address parking throughout the State of Florida map
- City: Fernandina Beach; Population 12,292, Downtown/CRA
- City: Orlando; Population 280,257, Downtown by Use
- Fort Lauderdale: Population 180,072, Activity Centers
- Clearwater: Population 115,513, Downtown by Use
- West Palm Beach: Population 110,222 OBD District
- City: Tampa: Population 385,430

- City: Punta Gorda: Population 19,761
- Parking garages
- Activity Centers
- Short term leasing options

Mr. Noguera noted this is informational only, staff is depending on the presentation to go before Council at the COW meeting. Staff may return to P&Z with recommendations. If approved, staff could work on amendments, and this could go into effect as early as 2020.

Council Liaison Gunter inquired whether there was an increase in economic development that the City had before and after the change. This data would be good to know.

Ms. Woellner explained that the developer will have to supply parking in some areas. She discussed the variety of parking that is permissible throughout the Cities in Florida. This is an overview of deregulating parking and the results have been good.

Vice Chair Peterson questioned whether the City has considered a City owned parking garage.

Mr. Noguera explained that staff has been working with a parking consultant for a recommendation to determine the location and size for a parking garage.

Mr. Pederson noted that any parking lot done has an ADA requirement.

Commissioner Bashaw discussed whether the requirement for off-street parking should be done away with. Even though the average age is in the 40's in Cape Coral, we have a lot of retirees that do not want to walk a long distance.

Mr. Pederson explained that the options are limited in the downtown Cape area for parking. Staff is bringing this up to have a policy discussion.

Commissioner Ranfranz stated he appreciated the work that had been done between Economic development and the Department of Community Development. He would like to see more conversation on this topic.

Commissioner Bennie questioned if the parking deregulation would only be focused on the South Cape.

Mr. Pederson noted this is to promote economic growth downtown, to make redevelopment downtown more attractive.

Commissioner Bennie questioned whether there had been a discussion about connecting to I-75 to the City of Cape Coral.

Mr. Noguera responded that this had been discussed, and it is hopefully about 5 years away.

Council Liaison Gunter noted in the CRA 5-year CIP (Capital Improvement Project), there is a parking garage scheduled to be built in 2023. The obstacle that we face as a City is not having infrastructure in place, if it is not available, the builder will go somewhere else. Staff must identify the properties to make sure when the road map is designed for future UEP's that it is designed and identified properly. The City needs to increase commercial growth. The City must be proactive looking at the infrastructure issue.

Discussion held regarding the proposed City parking garage.

Chair Read explained that the rent crashed so no development is taking place for professional development and Commercial retail. The rent has not recovered. He noted the need to look at the parking deregulation. As the economy grows so will the growth of development

#### **Citizens input**

Bruce Bomander spoke about the parking situation in the downtown Cape Coral and the need for improvement.

#### **Staff updates**

None

Council Liaison Gunter explained that the CRA is working on a design for the garage, construction slated to begin in October 2021, and construction is to be completed in September 2023.

CRA Coordinator Hall stated the estimation was based on 400 parking spaces.

Commissioner Bennie commented on died and dying shopping centers and that emphasis should be followed through for development.

#### **Other Business**

None

#### **DATE AND TIME OF NEXT**

Regular meeting scheduled for Wednesday, November 6, 2019 at 9:00 a.m. in Council Chambers.

#### **ADJOURNMENT**

There being no further business, the meeting adjourned at 10:45 a.m.

Submitted by,

Patricia Sorrels  
Recording Secretary

<b>Item Number:</b>	7.A.
<b>Meeting Date:</b>	11/6/2019
<b>Item Type:</b>	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL



**TITLE:**

Ordinance 51-19

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
  - If Yes, Priority Goals Supported are listed below.
  - If No, will it harm the intent or success of the Strategic Plan? No

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

WHAT THE ORDINANCE ACCOMPLISHES:

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND DEVELOPMENT CODE, ARTICLE 5, "DEVELOPMENT STANDARDS", CHAPTER 4, "MARINE IMPROVEMENTS", SECTION 5.4.7., "BOATHOUSES AND CANOPIES", AND 5.4.8., "BULKHEADS, SEAWALLS, AND RETAINING WALLS"; AND CREATING SECTIONS 5.4.9., "DECORATIVE HANDRAILS", AND 5.4.10., "CONSTRUCTION STANDARDS", PERTAINING TO MARINE IMPROVEMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

**LEGAL REVIEW:**

**EXHIBITS:**

Ordinance 51-19  
Marine Improvement Ordinance Memo  
Marine Improvement Ordinance summary

**PREPARED BY:**

Division- Department- City  
Attorney

**SOURCE OF ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

Description	Type
▣ Ordinance 51-19	Ordinance
▣ Marine Improvements Ordinance Memo	Backup Material
▣ Marine Ordinance Summary	Backup Material

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND DEVELOPMENT CODE, ARTICLE 5, "DEVELOPMENT STANDARDS", CHAPTER 4, "MARINE IMPROVEMENTS", SECTION 5.4.7., "BOATHOUSES AND CANOPIES", AND 5.4.8., "BULKHEADS, SEAWALLS, AND RETAINING WALLS"; AND CREATING SECTIONS 5.4.9., "DECORATIVE HANDRAILS", AND 5.4.10., "CONSTRUCTION STANDARDS", PERTAINING TO MARINE IMPROVEMENTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Land Development Code, Article 5, Chapter 4, Section 5.4.7., is hereby amended to read as follows:

**Section. 5.4.7. Boathouses and canopies**

- A. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.2.10. of this article. Boat canopies are permitted to be erected or installed on marine improvements for the purpose of protecting a vessel from the elements only in accordance with the following:
- ~~B1.~~ The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material. Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or supports. No shutter roll-up design shall be permitted.
  - ~~C2.~~ The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind load of 70 mph or greater.
  - ~~D3.~~ The boat canopy shall not extend horizontally more than 30 inches over or beyond any dock to which the canopy is attached, except to the rear of a boat slip where it may extend up to 48 inches past the end of the structure. Canopies attached to marine improvements that are built to the maximum projection, may extend up to 30 inches beyond the structure.
  - ~~E4.~~ No boat canopy shall exceed 40 feet in length or 18 feet in width.
  - ~~F5.~~ Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy, canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall be the responsibility of the owner of the waterfront parcel to remove the offending structure.
  - ~~G6.~~ Only one canopy may be permitted per parcel.
  - ~~H7.~~ No boat canopy, when measured at its highest point, shall extend more than 14 feet above the seawall cap, or if no seawall exists, above the decking of the marine improvement.
  - 8. The boat canopy shall be attached to the boat canopy side supports or frames so that at least 75% of the area of each side of the boat canopy structure is left open and uncovered.

SECTION 2. The City of Cape Coral Land Development Code, Article 5, Chapter 4, Section 5.4.8., is hereby amended to read as follows:



#### **Section. 5.4.8. Bulkheads, seawalls, and retaining walls.**

- A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of water within or bordering the boundaries of the city is required to have constructed on it, at the owner's expense, a seawall bulkheading the entire frontage exposed to contact with the water. Seawalls shall be structurally maintained at owner's expense so as not to cause a nuisance or hazard to safety.
- B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to frontage on any freshwater or non-tidal canal or other body of water within or bordering the boundaries of the city are required to have constructed on it, at the owner's expense, a seawall bulkheading the entire frontage exposed to contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner's expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public or private golf course or public park.
- C. ~~Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water management system lake construction under jurisdiction of SFWMD, shall be in compliance with SFWMD criteria.~~

~~Single family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration trench adjacent to and along the entire length of the bulkhead.~~

SECTION 3. The City of Cape Coral Land Development Code, Article 5, Chapter 4, Section 5.4.9., is hereby created to read as follows:

#### **Section. 5.4.9. Decorative handrails.**

- A. Handrails shall not exceed 42 inches in height (as measured from the deck of the structure). Pilings or posts used to support handrails may exceed 42 inches in height in accordance with § 3-16-8.G. 5.4.10.G. A minimum distance of 30 inches must be maintained between pilings or posts used to support handrails.
- B. Interior handrail members (pickets, balusters, and rungs) must be parallel to each other and may not intersect. A minimum of four inches of open space must be maintained between interior handrail members. The actual dimensions of any handrail member shall not exceed two inches by six inches. Alternative handrail designs may be approved at the discretion of the Building Official, upon finding the alternate design meets the intent of this section.

SECTION 4. The City of Cape Coral Land Development Code, Article 5, Chapter 4, Section 5.4.10., is hereby created to read as follows:

#### **Section. 5.4.10. Construction standards.**

- A. All wooden pilings used in connection with marine improvements subject to the terms of this section shall be made of pressure treated wood. Such pilings shall conform to the specifications contained in ASTM (American Society for Testing of Material) D25-88 and shall be treated with preservatives meeting standards of AWWA (American Wood Preservers Association) Standard P-5. The minimum retention of preservative for such wooden pilings shall be two and one-half pounds per cubic foot (p.c.f.) of CCA in the zone zero to one and one-half inches from the surface of the piling and one and one-half pounds per cubic foot (p.c.f.) in the zone one and one-half to two inches from the surface of the piling.
- B. All pilings made of precast concrete and used in connection with marine improvements subject to the terms of this section shall have a minimum concrete strength of 3,000 pounds per square inch (psi) at 28 days and shall be at least eight inches square in cross section.
- C. All non-prestressed concrete pilings shall have at least four #5 epoxy-coated steel reinforcing bars the entire length of the piling and have at least two inches of concrete cover.

- D. All wooden pilings used for the support of a marine improvement or as framing for a marine improvement shall have a minimum classification of eight-inch butt diameter.
- E. All wooden pilings used for support of boat lifts or other structures supporting marine vessels shall conform to the specifications of the manufacturer of the boat lift or of such other structure supported by such wooden piling(s). However, in no event shall any wooden pilings used for support of boat lifts or other structures supporting marine vessels be less than eight inches in butt diameter.
- F. All wood that is located below mean high water or that is in contact with the water in any way shall be treated to two and one-half per cubic foot (p.c.f.) CCA. All wood that is located above mean high water shall be treated to four-tenths per cubic foot (p.c.f.) CCA, except that decking may be treated to a minimum of twenty-five-one-hundredths per cubic foot (p.c.f.) CCA.
- G. The elevation of pilings shall not exceed ten feet above the seawall cap or, if no seawall exists, 13 feet above mean water level.
- H. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall cap, or if no seawall exists, five feet above mean water level. For marine improvements located in the Caloosahatchee River, and for marine improvements, located in canals, within 300 feet of the platted shoreline of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall cap, or if no seawall exists, seven feet above mean water level.
- I. All pilings and/or mooring posts shall be offset a minimum of two and one-half feet from any storm drain outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center of the piling or mooring post.
- J. The minimum nominal dimensions of stringers and headers shall be two inches by eight inches. Stringers shall be supported by through bolts to pilings or by headers through-bolted to pilings with machine bolts or carriage bolts. Such machine bolts or carriage bolts shall have a diameter of not less than one-half inch. Machine bolts also shall have a suitable washer under both head and nut while carriage bolts shall have a suitable washer under the nut only. Headers shall be used below center stringers for support.
- K. Cross-bracing shall be either through-bolted with machine bolts or carriage bolts with a minimum diameter of one-half inch or fastened with lag bolts with a minimum diameter of one-half inch and a minimum length of six inches used in conjunction with a suitable washer under the head only.
- L. All fasteners shall be either stainless steel or hot dipped galvanized steel or of a substance which, in terms of corrosion-resistance, is at least equal to stainless steel or hot dipped galvanized steel. The Building Official shall determine whether a proposed fastener is equivalent to either stainless steel or hot dipped galvanized steel in terms of corrosion-resistance.
- M. All manufactured, re-manufactured, or modified boat lifting devices and associated material or structural supplements shall be certified by a Florida registered professional engineer. The capacity of the boat lift shall be affixed to the lift by the manufacturer and shall be affixed in a position located as close as practicable to the lift controls.
- N. Except as otherwise provided herein, all pilings within six feet of the seawall face shall be driven a minimum of four feet into the submerged bottom of the waterway. Except as otherwise provided herein, pilings more than six feet from the seawall face shall be driven a minimum of six feet into the submerged bottom of the waterway. If pilings cannot be set to the depth provided herein, then the use and installation of cross bracing and/or tie backs shall be required to ensure the structural integrity of the structure. All pilings, whether wooden or concrete, shall be installed using equipment that is suitable to accomplish the task effectively. However, all freestanding mooring posts or other pilings shall be driven a minimum of eight feet into the submerged bottom of the waterway.
- O. Pilings shall be spaced in relation to stringer lumber size. However, when a single stringer of nominal dimensions less than or equal to two inches by eight inches is used, the space between any two consecutive pilings shall not exceed ten feet and eight inches (or 128



inches) when measured from the center of one piling to the center of the next consecutive piling. Any stringer splices shall occur within three feet of pilings. Scabs shall be not less than six feet in length and shall overlap the splice by not less than three feet and, if possible, bolted to the piling. Scabs shall not be used past the next to last piling in a row of pilings. Scabs shall be fastened using not less than six 20 penny, hot dipped galvanized steel nails per side. Stringers used for decking shall be spaced not more than 30 inches apart when measured from the center of one stringer to the center of the next consecutive stringer.

- P. The minimum nominal thickness of all wooden decking shall be two inches. Decking shall be either nailed into place by means of not less than 12d nails or screwed into place by means of not less than three-inch screws. The fastener pattern for all wooden decking shall be arranged so as not to cause a continuous split in excess of 18 inches in length. Spacing between wooden decking shall not exceed one-half inch on docks projecting into canals or one inch on docks projecting into the Caloosahatchee River at the time of installation.
- Q. Crossbracing shall be provided on every two closest adjacent pilings where water depth is more than eight feet from mean high water. Such cross bracing shall be oriented between 30 degrees and 45 degrees to the vertical. The actual dimension of any crossbracing shall be not less than two inches by six inches.
- R. All docks permitted under this section that project from a parcel with a seawall shall have a ladder extending from the dock into the waterway. No ladder extending from a dock into a waterway shall be made of wood.
1. If one or more metal ladders are used in conjunction with a marine improvement, such ladders shall be made of stainless steel, anodized aluminum, or an equally corrosion-resistant material to be approved by the Building Official.
  2. If one or more plastic ladders are used in conjunction with a marine improvement, such ladders shall be constructed of a stabilized polymer plastic material resistant to degradation when exposed to the daily stress of sunlight, heat, and water.
  3. If a non-extendable ladder is used in conjunction with a marine improvement, such ladder shall be required to either be located so as to reach at least three feet under the surface of the water at low tide or to the bottom of the waterway, whichever is less.
  4. If an extendable ladder is used in conjunction with a marine improvement, such ladder shall be required to have the ability to extend to a point at least three feet under the surface of the water at low tide or so as to reach to the bottom of the waterway, whichever is less. Extendable ladders shall be of a type that is capable of being pulled down by a person in the water without the use of tools.
- S. Amber reflectors or amber reflective material with at least four square inches of reflective surface shall be placed on all freestanding mooring posts or other freestanding pilings as well as on the outside end pilings of all docks which project into a waterway. For purposes of this section, marine improvements which are "U"-shaped, "V"-shaped, "J"-shaped, or which otherwise have more than one section of the marine improvement projecting into the waterway shall have such reflectors or reflective material located on the outside end pilings of each section of the marine improvement which projects into the waterway. Such reflectors shall be located so as to be visible to vessels approaching in the waterway from any direction.
- T. This section shall control the regulation, construction, and maintenance of marine improvements within the City of Cape Coral. If any part of this section conflicts with any other codes adopted by the city, the most restrictive provision shall apply. Furthermore, all such marine improvements shall conform to all requirements of the National Fire Code, this section, and other applicable law.

SECTION 5. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 6. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
JOE COVIELLO, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	DISTRICT 5	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
KIMBERLY BRUNS  
CITY CLERK

APPROVED AS TO FORM:




\_\_\_\_\_  
JOHN E. NACLERIO, III  
ASSISTANT CITY ATTORNEY  
ord/Marine Improvements  
10/15/19

**MEMORANDUM**

CITY OF CAPE CORAL  
COMMUNITY DEVELOPMENT DEPARTMENT

TO: Planning and Zoning Commission

FROM: Robert H. Pederson, Planning Manager 

DATE: October 17, 2019

SUBJECT: Marine Improvement Ordinance, Ordinance 51-19

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**Marine Improvement Ordinance**

Staff will present and discuss Ordinance 51-19 at the November 6, 2019 public meeting. The purpose of this ordinance is to re-establish four sections of the marine improvement regulations, most of which were in the former Land Use and Development Regulations but were inadvertently omitted during the transition to the Land Development Code.

This ordinance is proposed for adoption at the November 18, 2019 Council meeting.

As always, should you have any questions, please feel free to Wyatt Daltry at (239) 573-3160 or Mike Struve at (239) 242-3255.

## Planning Division Staff Summary – Marine Improvement Ord. (ORD 51-19)

**Review Date:** October 21, 2019

**Prepared by:** Wyatt Daltry, AICP, Planning Team Coordinator

### Background

The purpose of this ordinance is to re-establish four sections of the marine improvement regulations, most of which were in the former Land Use and Development Regulations but were inadvertently omitted during the transition to the Land Development Code, which was adopted August 5, 2019.

### Proposal

Sections 5.4.7 through 5.4.10 are proposed to be revised or adopted into the Marine Improvement section of the Land Development Code. These sections include boat canopies; bulkheads, seawalls, and retaining walls; decorative handrails; and construction standards. A brief discussion of each section will be evaluated in the next section.

### Evaluation of Proposed Language

#### *Section. 5.4.7. Boat canopies*

This section currently exists in the Land Development Code but is titled “Boathouses and Canopies.” As boathouses are not permitted in Cape Coral, changing the title was necessary. Additional changes to this section included a numbering change (from “B” to “2”), and the insertion of section 5.4.7.A.8, which states:

“8. The boat canopy shall be attached to the boat canopy side supports or frames so that at least 75% of the area of each side of the boat canopy structure is left open and uncovered.”

The above section is omitted language from the former Land Use and Development Regulations and is central to maintaining unimpeded canal views.

#### *Section. 5.4.8. Bulkheads, seawalls, and retaining walls.*

This section also currently exists in the Land Development Code. Changes to this section include former language that was omitted which clearly indicate the owner’s responsibility to construct and maintain seawalls.

“A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of water within or bordering the boundaries of the city is required to have constructed on it, at the owner's expense, a seawall bulkheading the entire frontage exposed to contact with the water. Seawalls shall be structurally maintained at owner's expense so as not to cause a nuisance or hazard to safety.”

B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to frontage on any freshwater or non-tidal canal or other body of water within or bordering the boundaries of the city are required to have constructed on it, at the owner's expense, a seawall bulkheading the entire frontage exposed to contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner's expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public or private golf course or public park."

Lastly, the City proposes to delete existing language from this section.

~~"C. Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water management system lake construction under jurisdiction of SFWMD, shall be in compliance with SFWMD criteria.~~

~~Single family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration trench adjacent to and along the entire length of the bulkhead."~~

#### **Former Land Use and Development Regulation language**

The following two sections were in the Land Use and Development Regulations but were omitted during the transition to the Land Development Code.

##### *Section. 5.4.9. Decorative handrails.*

This section provides construction and height standards for decorative handrails, which cannot exceed 42 inches in height, as measured from the deck of the structure.

##### *Section. 5.4.10. Construction standards.*

This section provides construction standards for marine improvements, notably dock pilings and decking.

Contact Information:

Wyatt Daltry, AICP, CFM  
Planning Team Coordinator

[wdaltry@capecoral.net](mailto:wdaltry@capecoral.net)  
(239) 573-3160 (phone)

<b>Item Number:</b>	<b>12.A.</b>
<b>Meeting Date:</b>	<b>11/6/2019</b>
<b>Item Type:</b>	<b>DATE AND TIME OF NEXT MEETING</b>

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Wednesday, December 4, 2019, at 9:00 a.m. in Council Chambers

**REQUESTED ACTION:**

**STRATEGIC PLAN INFO:**

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

WHAT THE ORDINANCE ACCOMPLISHES:

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**