

PUTNAM COUNTY BOARD OF COMMISSIONERS



117 Putnam Drive, Suite A ♦ Eatonton, GA 31024

Called Meeting Agenda

Monday, January 11, 2021 ♦ 3:00 PM

Putnam County Administration Building – Room 203

Opening

1. Call to Order
2. Pledge of Allegiance (BS)

Regular Business Meeting

3. Appeal by 1054 Lake Oconee Parkway LLC dba/Anchors Marina to the Fire Chief
Administrative Decision to require a fire suppression system at Anchors Marina (BW)

Closing

4. Adjournment

The Board of Commissioners reserves the right to continue the meeting to another time and place in the event the number of people in attendance at the meeting, including the Board of Commissioners, staff, and members of the public exceeds the legal limits. The meeting cannot be closed to the public except by a majority vote of a quorum present for the meeting. The board can vote to go into an executive session on a legally exempt matter during a public meeting even if not advertised or listed on the agenda. Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities are required to contact the ADA Compliance Officer, at least three business days in advance of the meeting at 706-485-2776 to allow the County to make reasonable accommodations for those persons.

File Attachments for Item:

3. Appeal by 1054 Lake Oconee Parkway LLC dba/Anchors Marina to the Fire Chief Administrative Decision to require a fire suppression system at Anchors Marina (BW)



Chief Thomas C McClain
Putnam County Fire Department
117 Putnam Drive
Suite A, Room 138
Eatonton Georgia 31024

T (706) 485-0469
F (706) 485-9793
tmclain@putnamcountyga.us

December 31, 2020

Mr. & Mrs. Josh Sprayberry
Anchors Marina
6350 Lake Oconee Parkway, Suite 110 PMB#33
Greensboro, GA 30642

RE: Anchors Marina, 1054 Lake Oconee Parkway, Eatonton, GA 31024

Mr. & Mrs. Sprayberry,

Fire protection for the above-mentioned property is required by building code and the code sets a minimum standard that must be met. As the Authority Having Jurisdiction, I am not prepared to accept less than the minimum requirements of the written code when it comes to life safety, regardless of the reasons. The alternatives presented to avoid meeting code requirements do little to address fire protection in the event a fire occurs. They would require someone to be present at the facility that would be willing and able to use the extinguishers. The fire extinguishers would do very little to address fires occurring in any rack storage above floor level. The code currently has no exceptions for less than an automatic fire extinguishing system.

After listening to statements that have been made, it becomes apparent that the requirement for an automatic fire extinguishing system was known and evaluated by the builder prior to being pointed out by the fire department. Therefore, the argument that the project is too far along to be required to meet code is invalid. The requirement appears to have been known much earlier and an attempt to avoid meeting code appears to have been attempted.

As far as the Fire Department is concerned, we are going to stick to protection levels that are required by the IBC chapter 9; Group S-1, 903.2.9: An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists: • A Group S-1 fire area exceeds 12,000 square feet, IFC chapter 32; section 3208.5.1 Fire Protection Buildings with extra-high-rack combustibile storage shall be protected with a specially engineered automatic sprinkler system. Extra-high-rack combustibile storage shall be provided with additional special fire protection, such as separation from other buildings and additional built-in fire protection features and fire department access, where required by the fire code official., and NFPA 303 chapter 6; section 6.2.2* Buildings Exceeding 5000 ft2 (465 m2). 6.2.2.1 Marina and boatyrd buildings in excess of 5000 ft2 (465 m2) in total area shall be protected by an approved automatic fire-extinguishing system unless otherwise permitted by 6.2.2.2. 6.2.2.2* Existing facilities shall not be required to be protected by an automatic fire-extinguishing system where acceptable to the authority having jurisdiction. Furthermore, if the building does not meet codes that are in place to protect life, the Fire Department does not support a temporary certificate of occupancy. The code is in place to protect life whenever the building is occupied. There is no temporary time frame where life safety does not need to be protected.

Thank you,

Thomas C. McClain
Fire Chief
Putnam County Fire Department

G. Douglas Dillard
404.665.1241

Email:
ddillard@dillardsellers.com

January 4, 2021

VIA E-MAIL: anelson@flemingnelson.com

Putnam County Board of Commissioners
c/o Adam Nelson, Esq.
Fleming & Nelson, LLP
631 Ronald Reagan Dr. # 102
Evans, Georgia 30809

**Re: Anchors Marina – 1054 Lake Oconee Parkway, Eatonton, GA
31024: Appeal of Fire Chief Administrative Decision**

Dear Chairman and Members of Board,

Please be advised that the undersigned represent 1054 Lake Oconee Parkway, LLC dba Anchors Marina. This letter serves as an appeal from the December 31, 2020 decision of Fire Chief Thomas C. McClain to **now** require installation of an automatic sprinkler system into the boat storage portion of the recently completed marina building and also to not grant issuance of a temporary certificate of occupancy pending resolution of the sprinkler system matter (hereafter "Decision").¹ This appeal is filed pursuant to Putnam County Code Sec. 32-15 entitled "Appeals of administrative decisions" which expressly provides that the decision of the fire chief may be appealed in writing to the Putnam County Board of Commissioners. Anchors Marina requests that the BOC reverse the Decision and order that the Fire Chief sign-off on the certificate of occupancy without requirement for an automatic sprinkler system.

On 18th day of May 2020, the appellant received a development/building permit develop and build a marina at the above location. The permit had no requirement that the applicant install an automatic sprinkler system for the marina. As construction progressed the County inspection department as well as the fire department, inspected at least eight (8) times during construction and up until December 21, 2020.

The property is currently developed to 99% of completion. No indication from Putnam County that the property needed a sprinkler system until receipt of a December

¹ Anchors Marina has a planned Lake Country Boat Show for January 23, 2021. Issuance of a certificate of occupancy will allow this show, which will be a financial benefit to the county, to occur.

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18, 2020 e-mail from the county attorney. By then, the building was substantially complete requiring retro-fitting of such system.

To require construction of an automatic sprinkler system at this stage of development will cost approximately \$400,000 of which \$100,000 to \$150,000 represents additional cost to install this late in the building process.

In the area of Lake Oconee there have been developed in Putnam County five marinas. None of these have been required to build a sprinkler system as is currently being required by Putnam County. The County code provision relied on by the County staff has not been enforced on any of the marinas developed in Putnam County since its adoption.

This will further provide notice to you that the requirement of developing a sprinkler system at this time causes \$500,000 to \$750,000 costs and damage to the applicant. Anchors Marina has conducted a water pressure test which found that there is not existing sufficient pressure to support an automatic sprinkler system. The fire hydrant next to the entrance drive on the south side has approximately 75 pounds of static pressure and approximately 50 pounds of residual pressure. The automatic fire sprinkler system required by the Fire Chief would require 100 pounds of static pressure to supply the demands of the system.

Violation of Anchor Marina's Civil Rights under 42 U.S.C. § 1983

Further this letter will put you on notice that our client will seek damages and attorneys' fees under §1983 USCA and the 5th and 14th Amendment of the United States and Georgia Constitution.

Anchor Marina has been intentionally treated differently from other marinas similarly situated in Putnam County and there is no rational basis for the difference in treatment. Of the other five marinas in Putnam County, not one has been required by Putnam County to install an automatic sprinkler system. While the Fire Chief points to various life-safety codes that allegedly require such system, such alleged requirement existed in these same codes at the time Putnam County permitted and issued certificates of occupancy for those marinas dating back to at least 2006. For example, the Fishtails Marina was permitted, built and issued final certificate of occupancy in approximately 2017 by Putnam County. This disparate treatment by Putnam County, embodied in the Decision by its Fire Chief²,

² The Fire Chief sets fire safety rules and policies, subject to state law, for Putnam County. Putnam County Code Sec. 32-11. Under the authority of the Fire Chief the county's fire

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runs afoul of Anchor Marina's 14th Amendment Equal Protection rights. *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000) (recognizing as judicial cognizable a "class-of-one" equal protection claim where property owner was required to grant a 33-foot water utility easement even though a 15-foot easement was required from every other property owner); *Griffin Industries, Inc. v. Irvin*, 496 F.3d 1189, 1199-1200 (11th Cir. 2007) (asserting class-of-one Equal Protection claim challenging allegedly more vigorous enforcement of environmental regulations than competitor). At best this disparate treatment appears to be lax plan review and field inspection. At worst, this disparate treatment appears to be vindictive and made with ill will or animus towards Anchor's Marina and its owners.³ Regardless, it is violation of law and must cease.

We hope that this matter can be amicably resolved, however it appears to us that you are selectively enforcing this ordinance which is not only unconstitutional, but arbitrary, capricious and an abuse of discretion under the Georgia and United States Constitution.

We request a hearing before the Board of Commissioners on Friday, January 8, 2021. Please advise.

Very truly yours,
Dillard Sellers



G. Douglas Dillard
Jeff Haymore

CC: Josh and Lauren Sprayberry

prevention bureau is established which is headed by a fire marshall appointed and supervised by the Fire Chief. Putnam County Code Sec. 32-12; Sec. 32-13(a).

³ As you will recall, Anchor's Marina experienced tremendous delay and cost due to litigation and the county's decision to invalidate the rezoning of the property and re-do the rezoning on account of county administrative error in the published notice for the rezoning.