

APR 10 2019

COUNTY
CODE
ENFORCEMENT

LAND DEVELOPMENT REGULATION (LDR) AMENDMENT APPLICATION

ASSIGNED FILE NUMBER: LDRA- 19-07-01
2017110127-84336

APPLICANT: (PLEASE PRINT)

AGENT: (PLEASE PRINT)

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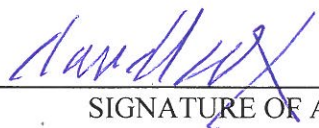
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SIGNATURE OF APPLICANT OR AGENT

I. (PROJECT/REQUEST DESCRIPTION)

CHAPTER(S)/SECTION(S) OF LAND DEVELOPMENT REGULATIONS PROPOSED FOR
AMENDMENT: Section 932.07(3)(a)3

II. PURPOSE OF REQUEST: (attached additional sheets if necessary)

Amendment requested is to allow greater flexibility in size of boat shelters, provided there is no adverse impact on light sensitive submerged aquatic vegetation. This modification will make County regulations more consistent with state (FDEP) and federal (USACE) agency requirements. By doing so, inter-governmental coordination and enforcement will be enhanced. See attachment for suggested amendment language.

1801 27th Street, Vero Beach FL 32960

III. JUSTIFICATION FOR REQUEST: (attach additional sheets if necessary)

~~Section 932.07(3)(a)3 is not consistent with Chapter 258.42, F.S. and current FDEP and USACE dock permitting requirements. As written, this section prohibits covering of boats longer than approximately 26 feet, a limitation of riparian rights not supported by state or federal requirements.~~

The applicant is encouraged to seek a pre-application conference with the Community Development Department staff in order to resolve or avoid problems related with the LDR text amendment proposal.

IV. A check or money order made payable to Indian River County, or cash in the amount of \$1,500.00 must accompany this application.

Section 932.07. - Piers, docks and boatslips.

- (1) *Restrictions upon regularly moored watercraft; maintenance.* Watercraft shall not be regularly moored along any shore without consent of the riparian land owner. Regularly moored watercraft shall not be used as live-aboard vessels, offices or commercial enterprises except in commercial marinas with approval and facilities for that purpose. Regularly moored watercraft shall be kept in seaworthy condition when not in a permitted repair area. The mooring of live-aboard vessels (as defined in Chapter 901) in commercial marinas shall be limited to those boat slips designated for live-aboard vessels use on an approved site plan meeting the provisions described in section 971.35(3).
- (2) *Location of boatslips.* Boatslips shall be permitted only as a wet storage area adjacent to a dock, marina, boat livery, or boat yard. Boat slips shall not encroach upon a riparian side yard setback as determined by the applicable zoning side yard setback of the zoning district in which the project is located, as extended waterward from the adjacent upland. No portion of a watercraft moored at such boatslip shall project into the extended riparian side yard setback, unless necessary to allow the utilization of riparian rights.
- (3) *Projection of waterfront structures.*
 - (a) *Unwalled shelters.* Unwalled shelters may be erected over boatslips associated with docks or over the terminal platform associated with private observation/fishing piers and public piers; however, no part of such shelter may be erected beyond the shoreline unless the following conditions are met:
 1. The applicant shall provide a detailed inventory of sea grasses and submerged aquatic vegetation in the area to reviewing county staff;
 2. The applicant must demonstrate that the unwalled shelter does not adversely impact light-sensitive aquatic resources such as sea grasses;
 3. The combined total surface area of the unwalled shelter and the terminal platform of the associated dock, private observation/fishing pier, or public pier shall not exceed Florida Department of Environmental Protection (FDEP) size limitations where such structures are located in an aquatic preserve, provided that in no case, however, shall the ~~surface area covered by an unwalled shelter exceed four hundred (400) square feet on a dock extend more than 1 foot beyond the footprint of the lift and the boat stored at the lift. Such shelters are not included in the square-footage calculation of a terminal platform. Unwalled shelters on a private observation/fishing pier shall not exceed or~~ one hundred sixty (160) square feet ~~on a private observation/fishing pier~~; and
 4. The height of the unwalled shelter shall not exceed twenty (20) feet above the mean high water line.
 - (b) *Extension of docks, public piers, and private observation/fishing piers in waterways; generally.*
 1. Docks, including tie-off piles, mooring or dolphin poles, and public piers shall not project outward from the shore more than twenty-five (25) percent of the width of the waterway at a point where they are located. The outward projection of a dock and associated structures shall be measured from the water's edge at mean low tide. The location, dimensions, and structural character of all structures shall be in conformity with applicable federal and state jurisdictional agency regulations.
 2. Private observation/fishing piers shall not project outward from the shore more twenty-five (25) percent of the width of the waterway at a point where the fishing pier is located, or 35' beyond the shoreline, whichever is less. The outward projection of an observation/fishing pier shall be measured from the water's edge at mean low tide. The location, dimensions, and structural character of all structures shall be in conformity with applicable federal and state jurisdictional agency regulations.

- (c) *[Exceptions.]* Application of paragraphs in "b" above shall not result in a unobstructed waterway of less than twenty-five (25) feet in width (twelve and one-half (12 ½) feet either side of the waterway centerline).
- (4) *Riparian side yard setback encroachment prohibited.* No dock, pier, boat shelter or other waterfront structure may encroach on a required riparian side yard setback as extended waterward for the zoning district in which the project is located, unless such an encroachment is necessary for the utilization of riparian rights. Notwithstanding, an applicant shall have an opportunity to apply for an administrative approval to construct a water front structure within a riparian side yard setback, under the following circumstances.
- (a) *Shared facilities.* Adjoining property owners desiring to share dock/boat slip facilities may apply for administrative approval pursuant to the provisions of Chapter 914. The applicants shall provide a detailed plan showing the dock location and configuration and all aquatic and shoreline vegetation. If approved, shared facilities may allow for up to four (4) or less boat slips without being considered multi-slip facilities. The applicant(s) shall also provide written confirmation of a recorded access easement which verifies joint access to the proposed structure. Adjoining property owners sharing dock boat/slip facilities shall not be permitted to construct additional, separate dock/boat slip facilities prior to the removal of the existing structure. Encroachment of the shared facility may only occur with regards to the adjoining property owner's shared lot lines.
- (b) *Hardships.* In cases where lot configurations may create a hardship as applied to riparian side yard setback encroachment of single-family dock/boat slips, the applicant may apply for administrative approval pursuant to the provisions of Chapter 914. The applicant shall provide a detailed plan indicating the nature of the hardship as well as the proposed dock location, specifications and any aquatic or shoreline vegetation. County staff shall notify any affected adjacent property owner, as applicable, of the pending application. In all cases, the proposed encroachment shall be the minimum necessary to allow for the desired use.
- (c) *Environmental constraints.* In cases where environmental conditional on a subject property are such that the location of a dock or other waterfront structure within a riparian side yard setback would afford the best protection of on-site natural resources, an applicant may apply for and be granted an administrative approval pursuant to the provisions of Chapter 914. Natural resources that warrant riparian side yard setback encroachment consideration for protection purposes include mangroves and submerged aquatic vegetation.
- (5) *Environmental impact considerations.* Piers, docks, boat shelters, and other waterfront structures shall be located in order to minimize negative impacts on shoreline vegetation and marine grassbeds, as applicable. On riparian property where the location of a waterfront structure over or in the vicinity of light-sensitive aquatic vegetation (such as sea grasses) is unavoidable, such structure (or portion thereof) shall be constructed a minimum of five (5) feet above the mean high water level where said aquatic vegetation exists or could potentially exist, as determined by county environmental planning staff. Said determination shall be based on staff review of seagrass inventory information and site specific conditions.
- (6) *Design and construction characteristics of private observation/fishing piers.* All private observation/fishing piers shall be constructed to the following design characteristics:
- (a) The main access pier shall not exceed four (4) feet in width.
- (b) The terminal platform shall not exceed 160 square feet in area and shall not be used for docking a boat.
- (c) The water depth at the outermost projection of the private observation/fishing pier shall not exceed two feet mean high water (MHW).
- (d) Handrailing, built to Southern Building Code standards, shall be installed around that portion of the perimeter, of the observation/fishing pier, that extends waterward of the mean high water line.

- (e) That portion of the fishing pier that extends waterward of the mean high water line shall be elevated at least five feet above the mean high water line, as measured from the top of the decking material. This elevation shall apply to both the main access pier as well as the terminal platform. The purpose of the elevation is to reduce or eliminate the potential for mooring of boats at the observation/fishing pier.
 - (f) "No Mooring" signs shall be installed on opposite sides of the main access pier and on the end of the terminal platform facing waterward (i.e., three signs in total). Lettering shall be no less than four (4) inches high and no greater than six (6) inches high.
- (7) *Prohibition of private observation/fishing piers in the Pelican Island National Wildlife Refuge.* No private fishing pier shall be permitted, authorized, or built within the Pelican Island National Wildlife Refuge.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 91-23, § 12, 5-15-91; Ord. No. 91-48, § 52, 12-4-91; Ord. No. 92-11, § 13, 4-22-92; Ord. No. 96-6, § 20, 2-27-96; Ord. No. 99-26, § 3, 9-28-99)