

**INDIAN RIVER COUNTY, FLORIDA
M E M O R A N D U M**

TO: Jason E. Brown, County Administrator

THROUGH: Stan Boling, AICP
Community Development Director

FROM: Roland M. DeBlois, AICP
Chief, Environmental Planning & Code Enforcement

DATE: June 21, 2019

SUBJECT: Consideration of a Request by Garrett Guidroz to Amend Land Development Regulation (LDR) Section 932.07, Piers, Docks and Boat Slips, by Revising a 400 Square Foot Footprint Restriction on Unwalled Boat Shelters to be Consistent with Florida Department of Environmental Protection (FDEP) and Other Jurisdictional Agency Requirements [LDRA-19-07-01 / 2017110127-84336]

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of July 2, 2019.

BACKGROUND

Since 1991, County Land Development Regulations (LDRs) have limited the size of unwalled boat shelters waterward of a shoreline to a surface area coverage (footprint) of 400 square feet or less. (Note: for purposes of the regulation, “shoreline” pertains primarily to the shoreline of the Indian River Lagoon, the St. Sebastian River, and other state waters, but also includes manmade canals and lakes.) Prior to 1991, County regulations did not address or allow such shelters waterward of a shoreline. The regulations were revised in 1991 based on a request by a dock owner to allow for such shelters over water, and also to make County regulations more consistent with other jurisdictional agency requirements at that time (see 5/15/91 County Commission Special Meeting Minutes, Attachment 2 to this report).

Recently, Garrett Guidroz, owner of a lot at 13380 North Indian River Drive, received Florida Department of Environmental Protection (FDEP) approval to modify an existing dock on his lot by constructing a 976 square foot unwalled shelter over two combined boatslips and lifts. Per current state requirements, FDEP now allows unwalled boat shelters in Indian River Lagoon aquatic preserves with roofs that “...[do] not overhang more than 1 foot beyond the footprint of the lift and the boat stored at the lift” (see Florida Statutes Section 258.42, Attachment 2). Per Florida Administrative Code Section 62-330.427 (see Attachment 3), such shelters, combined with an overall dock, must not exceed a total area of 2,000 square feet over surface waters. Mr. Guidroz’s proposed shelter, combined with the overall dock area (as proposed), satisfies the 2,000 square foot limit requirement.

In that the County’s 400 square foot limit on unwalled boat shelters is no longer consistent with state (and other jurisdictional agency) requirements, Mr. Guidroz, through his agent Dr. David Cox, has submitted an application to amend the County’s LDRs to reflect the current state requirements, and thus allow Mr. Guidroz’s proposed 976 square foot boat shelter (see application, Attachment 1). After the application was filed, staff met with the applicant’s agent regarding staff recommended revisions. More recently, after the Planning and Zoning Commission (PZC) considered the amendment request, staff again met with the

applicant's agent to address revisions resulting from the PZC discussion. The amendment now prepared addresses initial concerns expressed by staff and PZC members.

PLANNING & ZONING COMMISSION RECOMMENDATION

The PZC, at a public hearing held on May 9, 2019, voted 4 to 1 to recommend that the Board of County Commissioners adopt revisions to the current 400 square foot footprint restriction on unwalled boat shelters to be more consistent with state requirements, but did so with direction to staff to analyze possible solutions and revisions to the draft proposed ordinance to limit the overall size allowance of boat shelters to something that is "not obtrusive or unreasonably large" under certain dock/shelter scenarios that could occur close to the shore (see PZC minutes, Attachment 6).

Based on the direction of the PZC, staff has analyzed possible solutions and approaches to limiting unwalled boat shelters to a size and scale that would not be considered obtrusive or unreasonably large, and has coordinated with the applicant. The revised proposed ordinance addresses the PZC's direction/recommendation, as further explained herein.

The Board is now to consider the proposed LDR amendment and is to adopt, adopt with modifications, or deny the proposed amendment.

ANALYSIS

In 1991, when the County adopted its current 400 square foot unwalled shelter size limit, a main concern expressed at the time was that such a limit needed to be made consistent with state and other jurisdictional agency requirements. The 1991 staff report for the adoption also reflected a concern that a size limit be established in the code to prevent an abusive out-of-scale size in areas outside of aquatic preserves (e.g., in manmade canals).

If the County's LDRs are revised as requested, the County's LDRs will be more consistent with FDEP and other jurisdictional agency requirements. With regard to unwalled boat shelters outside of aquatic preserves, the County has other existing regulations in Section 932.07 (see Attachment 7), which limit dock projections into manmade canals to account for navigation and riparian rights. In addition, the County's current regulations limit the height of unwalled shelters so as not to exceed 20 feet above the mean high water line (MHWL), which serves to limit the size of boats under shelters. These existing regulations are not proposed to be changed and lend to deter the potential for "abusive size" of unwalled shelters in canals.

Despite those current restrictions that are not proposed to change, at its May hearing PZC members expressed concerns that there could still be potential for out-of-scale boat shelters in certain circumstances if not addressed with further revisions to the proposed amendment. In particular, although a 976 square foot boat shelter such as the one proposed by Mr. Guidroz at his waterfront would not be out-of-scale 200 feet off the shoreline along Indian River Drive, the same size shelter could be considered out-of-scale and inappropriate along the seawall of a 100-foot wide waterfront lot.

Proposed Revision to Address PZC Concern

To address the PZC's concerns, staff coordinated with the applicant's representative, Dr. David Cox. As a result, the proposed ordinance has been revised to allow unwalled boat shelters to exceed the current 400 square foot footprint but with a maximum set at 1,000 square feet, with an additional criterion that the shelter coverage cannot exceed 50% of the combined total surface area of the entire waterfront structure (e.g., over-water decking and dock) located waterward of the MHWL. As structured, the 50% criterion does not apply to shelters 400 square feet or less in area. By limiting the potential size of boat shelters (over 400 square feet) to

no more than 1,000 square feet and also limiting such shelters to no more than 50% of the overall dock area, the scale of the shelter will be regulated to deter abusive size.

With respect to environmental impacts, both the County and State have other existing regulations that require that unwallled shelter and other dock components be designed to minimize impacts to aquatic resources (such as avoiding or limiting the potential for blocking sunlight from reaching submerged aquatic vegetation).

Overall, staff's finding is that the proposed amendment, as revised, will make the County's unwallled boat shelter size limit more consistent with other jurisdictional agency requirements while deterring out-of-scale/abusive size shelters; will reasonably enhance but adequately regulate private riparian rights; and will result in minimal environmental impacts due to other existing County and State requirements that will continue to apply.

RECOMMENDATION

Staff recommends that the Board of County Commissioners adopt the proposed ordinance revising unwallled boat shelter size restrictions.

ATTACHMENTS

1. Application
2. Florida Statutes Section 258.42
3. Florida Administrative Code Section 62-330.427
4. Sketch of Proposed Guidroz Dock Modification
5. BCC 5/15/1991 Special Meeting Minutes
6. PZC 5/9/2019 Meeting Minutes
7. Draft Ordinance