



TOWN OF HIGHLAND BEACH TOWN COMMISSION MEETING AGENDA

Tuesday, January 21, 2025 AT 1:30 PM

TOWN HALL COMMISSION CHAMBERS, 3614 S. OCEAN
BLVD., HIGHLAND BEACH, FL

Town Commission

Natasha Moore
David Stern
Evalyn David
Donald Peters
Judith M. Goldberg

Mayor
Vice Mayor
Commissioner
Commissioner
Commissioner

Marshall Labadie
Lanelda Gaskins
Leonard G. Rubin

Town Manager
Town Clerk
Town Attorney

-
1. **CALL TO ORDER**
 2. **ROLL CALL**
 3. **PLEDGE OF ALLEGIANCE**
 4. **INVOCATION**

None.

5. **APPROVAL OF THE AGENDA**
6. **PRESENTATIONS / PROCLAMATIONS**

None.

7. **PUBLIC COMMENTS**

Public Comments will be limited to five (5) minutes per speaker.

8. ORDINANCES (Public Comments will be limited to three (3) minutes per speaker per item after Commission initial discussion.)

A. Ordinance No. 2025-001 / Amending the Town Zoning Code (Chapter 30) relating to Home-based Businesses (Second Reading/Public Hearing)

An Ordinance of the Town Commission of the Town of Highland Beach, Florida, amending Section 30-67, "Uses Permitted, Special Exception, and Prohibited Uses," and Section 30-131, "Definitions of Terms," of Chapter 30, "Zoning Code," of the town code of ordinances to rename the existing home occupation use to "Home-Based Businesses" and modify the regulations to ensure consistency with state law, providing for the repeal of all ordinances in conflict; providing for severability and codification; and providing for an effective date (First Reading was December 17, 2024).

B. Ordinance No. 2025-002 / Amendment to the Accessory Marine Facilities (AMF) and seawall regulations (Second Reading/Public Hearing)

An Ordinance of the Town Commission of the Town of Highland Beach, Florida, amending Chapter 6, "Buildings and Structures," of the town code of ordinances by amending Section 6-128, "approval required for bulkheads, seawalls, retaining walls; required notification of abutting property owners," to provide a maximum seawall cap and docket width; amending Chapter 30, "Zoning," by amending Section 30-68, "Supplemental District Regulations," to provide a maximum height for boat lifts, a maximum extension for accessory marine facilities into canals and lakes, a maximum seawall cap and dock width, and ladder regulations and amending Section 30-131, "Definition of Terms," to provide definitions that pertain to accessory marine facilities; providing for the repeal of all ordinances in conflict; providing for severability and codification; and providing for an effective (First Reading was December 17, 2024).

9. CONSENT AGENDA (These are items that the Commission typically does not need to discuss individually, and which are voted on as a group.) Public Comments will be limited to three (3) minutes per speaker per item after Commission initial discussion.

A. Approval and authorization for the purchase and installation of VTScada Software by Control System Design, Inc. in an amount not to exceed \$87,695.00 for the Water Treatment Plant – Fiscal Year 2025 Planned and Approved Project.

B. Town staff is seeking authorization of a budget amendment in the amount of \$155,871.78 for emergency generator repairs by Pantropic Power.

10. UNFINISHED BUSINESS (Public Comments will be limited to three (3) minutes per speaker per item after Town Commission initial discussion.)

- A. Florida Department of Transportation (FDOT) RRR Project Update
- B. Sanitary Sewer Lining Rehabilitation Project Update

11. NEW BUSINESS (Public Comments will be limited to three (3) minutes per speaker per item after Town Commission initial discussion.)

A. Resolution No. 2025-001

A Resolution of the Town Commission of the Town of Highland Beach, Florida, approving and adopting the 2024 Revised Palm Beach County Local Mitigation Strategy Plan; and providing for an effective date.

B. Resolution No. 2025-002

A Resolution of the Town Commission of the Town of Highland Beach, Florida, providing for the permanent retention of all public records relating to Building Permits and Land Development Applications and Approvals; providing for conflicts; providing for severability; and providing for an effective date.

C. Resolution No. 2025-003

A Resolution of the Town Commission of the Town of Highland Beach, Florida, designing the Palm Beach County Canvassing Board as the Town's Canvassing Board for the March 2025 General Municipal Election; providing for conflicts; and providing for an effective date.

D. Regulation of Floating Vessel Platform and Floating Boat Lifts Legal Opinion by Attorney Rubin

12. TOWN COMMISSION COMMENTS

Commissioner Judith M. Goldberg

Commissioner Donald Peters

Commissioner Evalyn David

Vice Mayor David Stern

Mayor Natasha Moore

13. TOWN ATTORNEY'S REPORT

14. TOWN MANAGER'S REPORT

15. ANNOUNCEMENTS**Board Vacancies**

Board of Adjustment and Appeals Board	One (1) vacancy for a three-year term
Code Enforcement Board	One (1) for a three-year term and One (1) vacancy for an unexpired ending May 30, 2025

Meetings and Events

January 29, 2025 Regular Meeting	11:00 A.M.	Natural Resources Preservation Advisory Board
February 04, 2025	1:30 P.M.	Town Commission Meeting
February 05, 2025 Regular Meeting	11:00 A.M.	Natural Resources Preservation Advisory Board

Board Action Report

None.

16. ADJOURNMENT

NOTE: Any person, firm or corporation decides to appeal any decision made by the Town Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record including testimony and evidence upon which the appeal is to be based. (State Law requires the above Notice. Any person desiring a verbatim transcript shall have the responsibility, at his/her own cost, to arrange for the transcript.) The Town neither provides nor prepares such record.

In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall 561-278-4548 within a reasonable time prior to this meeting in order to request such assistance.

File Attachments for Item:

A. Ordinance No. 2025-001 / Amending the Town Zoning Code (Chapter 30) relating to Home-based Businesses (Second Reading/Public Hearing)

An Ordinance of the Town Commission of the Town of Highland Beach, Florida, amending Section 30-67, "Uses Permitted, Special Exception, and Prohibited Uses," and Section 30-131, "Definitions of Terms," of Chapter 30, "Zoning Code," of the town code of ordinances to rename the existing home occupation use to "Home-Based Businesses" and modify the regulations to ensure consistency with state law, providing for the repeal of all ordinances in conflict; providing for severability and codification; and providing for an effective date (First Reading was December 17, 2024).



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission

MEETING DATE *January 21, 2025*

SUBMITTED BY: Lanelda Gaskins, Town Clerk's Office

SUBJECT: Ordinance No. 2025-001 / Amending the Town Zoning Code (Chapter 30) relating to Home-based Businesses (Second Reading/Public Hearing)

An Ordinance of the Town Commission of the Town of Highland Beach, Florida, amending Section 30-67, "Uses Permitted, Special Exception, and Prohibited Uses," and Section 30-131, "Definitions of Terms," of Chapter 30, "Zoning Code," of the town code of ordinances to rename the existing home occupation use to "Home-Based Businesses" and modify the regulations to ensure consistency with state law, providing for the repeal of all ordinances in conflict; providing for severability and codification; and providing for an effective date (First Reading was December 17, 2024).

SUMMARY:

At the December 17, 2024 Town Commission meeting, the Commission considered on first reading the proposed ordinance amending Section 30-67, "Uses Permitted, Special Exception, and Prohibited Uses," and Section 30-131, "Definitions of Terms," of Chapter 30, "Zoning Code," of the town code of ordinances to rename the existing home occupation use to "Home-Based Businesses" and modify the regulations to ensure consistency with state law. A motion was made a seconded by Commissioner David and Vice Mayor Stern to approve the proposed ordinance, which passed unanimously on a 4 to 0 vote.

Ordinance No. 2025-001 was advertised in accordance with Florida Statutes on January 11, 2025. Therefore, Ordinance No. 2025-001 is before the Town Commission for adoption on second/final reading.

FISCAL IMPACT:

None.

ATTACHMENTS:

Ordinance No. 2025-001 and Legal Advertisement Affidavit

Staff Memorandum of the December 17, 2024 Town Commission Meeting and supporting documents

RECOMMENDATION:

Adopt Ordinance No. 2025-001 on second/final reading.



**TOWN OF HIGHLAND BEACH
ORDINANCE NO. 2025-001**

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AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING SECTION 30-67, “USES PERMITTED, SPECIAL EXCEPTION, AND PROHIBITED USES,” AND SECTION 30-131, “DEFINITIONS OF TERMS,” OF CHAPTER 30, “ZONING CODE,” OF THE TOWN CODE OF ORDINANCES TO RENAME THE EXISTING HOME OCCUPATION USE TO “HOME-BASED BUSINESSES” AND MODIFY THE REGULATIONS TO ENSURE CONSISTENCY WITH STATE LAW; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, through the enactment of Chapter 2021-202, Laws of Florida, the Florida Legislature adopted Section 559.955, Florida Statutes, restricting the ability of local governments to regulate home-based businesses; and

WHEREAS, Section 559.955, Florida Statutes, specifically prohibits local governments from enacting or enforcing any ordinance, regulation, or policy in violation of the restrictions set forth therein and allows any adversely affected current or prospective home-based business to file suit against the Town for a violation of the state-mandated restrictions and awards attorney’s fees and costs to the prevailing party in any such action; and

WHEREAS, the Town Commission wishes to revise its restrictions applicable to home occupations (renamed home-based businesses) to comply with the provisions of Section 599.955, Florida Statutes; and

WHEREAS, the Town Commission determines that the adoption of this Ordinance benefits the health, safety, and welfare of the residents of the Town of Highland Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2. The Town Commission hereby amends Article IV, “Zoning Districts,” and Article VIII, “Definitions,” of Chapter 30, “Zoning Code,” of the Town Code of Ordinances as follows (additional is underlined and deleted is ~~stricken through~~):

Sec. 30-67. – Uses permitted, special exception, and prohibited uses.

(b) Uses not listed. Unless otherwise provided by this chapter, uses not listed in Table 30-4 are prohibited in the Town of Highland Beach.

Table 30-4

Permitted Uses

Legend

SP = Site Plan Approval Required			X = Prohibited					
SE = Special Exception Town Commission Approval Required			P = Permitted					
SEP = Special Exception Planning Board Approval Required								
USE CATEGORY	RE	RS	RML	RMM	RMH	RPUD	GSD	Additional Standards (See Notes)
RESIDENTIAL								
Dwelling, Single-family, Detached	SP	SP	SP	SP	SP	SP	X	
Dwelling, Single-family, Attached	X	X	SP	SP	SP	SP	X	
Dwelling, Single-Family, Zero Lot Line	X	X	SE	SE	SE	SE	X	(1)
Dwelling, Multiple-Family	X	X	SP	SP	SP	SP	X	
Dwelling, Patio or Villa	X	X	SP	SP	SP	SP	X	
Dwelling, Three-Family (Triplex)	X	X	SP	SP	SP	SP	X	
Dwelling, Townhouse	X	X	SP	SP	SP	SP	X	
Dwelling, Two-Family (Duplex)	X	X	SP	SP	SP	SP	X	
Dwelling, Mobile Home	X	X	X	X	X	X	X	
Accessory Dwellings	P	P	P	P	P	P	P	(2)
Guardhouse, Residential	P	P	P	P	P	P	X	(3)
<u>Home-based Businesses Occupation</u>	P	P	P	P	P	P	X	(4)
Timeshare Residence	X	X	X	X	X	X	X	
Accessory Uses	P	P	P	P	P	P	P	

(4) Home-based businesses occupations. A business that operates from a residential property is permitted. A business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following standards:

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- a. Employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two (2) employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees who do not work at the residential dwelling.
- b. Parking for the home-based business must comply with the provisions of article IV, Chapter 30 of the Town code. Additionally, the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted, and vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence.
- c. Parking or storage of heavy equipment at the home-based business shall not be visible from the street or neighboring property. For the purposes of this subsection, “heavy equipment” means commercial, industrial, or agricultural vehicles, equipment, or machinery.
- d. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood. As viewed from the street, the use of the residential dwelling shall be consistent with the uses of the residential areas that surround the property.
- e. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.
- f. The activities of the home-based business shall be secondary to the property’s use as a residential dwelling.
- g. To that extent not inconsistent with the requirements of this section, all business uses and activities must comply with all Town code standards and requirements, including the applicable noise regulations, and with the standards for permitted uses and structures for the zoning district in which the home-based business exists. All signs shall comply with the regulations applicable to residential properties set forth in Chapter 23 of this Code.
- h. All business activities shall comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids.
- i. Transient accommodations are not permitted as a home-based business except as expressly provided elsewhere in the Town code.

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2 Home occupation means a commercial or business use performed in a residential dwelling by a
3 resident or family member. A home occupation use shall comply with the standards listed below:
4

- 5 a. ~~Only resident family members or residents of the dwelling unit shall be engaged in the~~
6 ~~occupation.~~
7
- 8 b. ~~Provision of services to clients within a dwelling is prohibited.~~
9
- 10 c. ~~The use of the premises for the home occupation shall be clearly incidental and~~
11 ~~subordinate to its use for residential purposes by its occupants. The use shall not change~~
12 ~~the residential character of the premises.~~
13
- 14 d. ~~There shall be no change in the outside appearance of the building or premises, or other~~
15 ~~visible evidence of the conduct of the home occupation.~~
16
- 17 e. ~~Home occupations shall not be conducted in any accessory building or structure, or any~~
18 ~~open porch, garage, or carport.~~
19
- 20 f. ~~Home occupation shall not occupy more than fifteen (15) percent of the floor area of the~~
21 ~~dwelling unit or accessory dwelling. Home occupations shall not be conducted within any~~
22 ~~open porch, attached garage, or similar space not suited or intended for occupancy as~~
23 ~~living quarters.~~
24
- 25 g. ~~Traffic shall not be generated by the home occupation in greater volumes than would~~
26 ~~normally be expected in a residential neighborhood.~~
27
- 28 h. ~~Vehicle parking shall be located on the lot or premise of the home occupation.~~
29
- 30 i. ~~Equipment or processes which create noise, vibration, glare, fumes, odors, or electrical~~
31 ~~interference detectable to the normal senses at any lot line shall not be used in the home~~
32 ~~occupation. In addition, equipment or processes shall not be used which create any~~
33 ~~interference for neighboring properties in receiving radio, television, or other wireless~~
34 ~~devices, or which cause fluctuations in electrical service to such properties.~~
35
- 36 j. ~~Private instructions or other lessons shall be limited to not more than one person and shall~~
37 ~~be limited to academic, artistic, and musical subjects.~~
38
- 39 k. ~~Manufacture or fabrication of articles such as are commonly classified under the terms of~~
40 ~~arts and handicrafts may be deemed a home occupation, subject to the other terms and~~
41 ~~conditions of this definition.~~
42
- 43 l. ~~On premises sales of stock, supplies, or products is prohibited.~~
44
- 45 m. ~~On premises use or storage of hazardous materials is prohibited.~~
46

1 ~~n. On premises signs or other advertising of home occupations is prohibited.~~

2
3 ~~o. Employees, other than family members or residents of the dwelling, are prohibited.~~

4
5 ~~p. Owners or operators of home occupations may obtain an occupational license from Palm~~
6 ~~Beach County.~~

7
8 **Sec. 30-131. – Definition of terms.**

9 For the purposes of this chapter, the definitions provided below shall apply. In the event of a
10 conflict between the definitions provided in this section, and a definition provided in another
11 section, then the definition provided in the other section shall prevail. In case of a conflict with
12 the building, life/safety, or similar code, the more stringent definition will apply.

13 ***

14 ~~Home-based business occupation~~ means a professional, occupational, trade, or business use, as
15 ~~those terms are defined in Section 15-1, that operates, in whole or in part, from performed in a~~
16 ~~residential dwelling, subject to the requirements of Section 30-67 by a resident or family~~
17 ~~member.~~

18 **Section 3. Severability.** The provisions of this Ordinance are declared to be severable and
19 if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be
20 invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
21 sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the
22 legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

23 **Section 4. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict
24 herewith are hereby repealed to the extent of such conflict.

25 **Section 5. Codification.** Section 2 of the Ordinance may be made a part of the Town
26 Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word
27 “ordinance” may be changed to “section,” “division,” or any other appropriate word.

28 **Section 6. Effective Date.** This Ordinance shall be effective immediately upon adoption
29 at second reading.

30 The foregoing Ordinance was moved by Commissioner David, seconded by Vice Mayor Stern
31 and upon being put to the vote, the vote was as follows:

	YES	NO
32		
33		
34	X	
35	X	
36	X	

Ordinance No. 2025-001

1 Commissioner Judith Goldberg Absent
2 Commissioner Donald Peters X

3
4 PASSED on first reading at the Regular Commission meeting held on this 17th day of December,
5 2024.

6
7 The foregoing Ordinance was moved by _____, seconded by
8 _____ and upon being put to the vote, the vote was as follows:

9
10 YES NO

11 Mayor Natasha Moore
12 Vice Mayor David Stern
13 Commissioner Evalyn David
14 Commissioner Judith Goldberg
15 Commissioner Donald Peters
16

17 PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held
18 on this 21st day of January, 2025.

19
20 ATTEST:

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22
23 _____
Natasha Moore, Mayor

24 By: _____
25 Lanelda Gaskins, MMC
26 Town Clerk
27

28 APPROVED AS TO FORM AND LEGALITY:

29
30
31
32 By: _____
33 Leonard G. Rubin, Town Attorney

Sold To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach,FL 33487

Bill To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach,FL 33487

Published Daily

Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

State Of Florida

County Of Orange

Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized representative of the SUN- SENTINEL,
a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the
attached copy of advertisement, being a Legal Notice in:

The matter of 11720-Notice of Public Meeting .
Was published in said newspaper by print in the issues of, and by publication on the
newspaper’s website, if authorized on Jan 11, 2025
ORDINANCE NO. 2025-001 & 2025-002
Affiant further says that the newspaper complies with all legal requirements for
publication in Chapter 50, Florida Statutes.

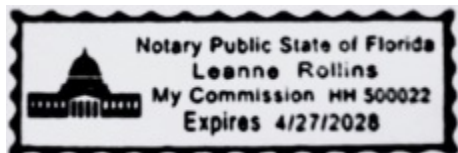


Signature of Affiant

Sworn to and subscribed before me this: January 13, 2025.



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

Affidavit Delivery Method: E-Mail
Affidavit Email Address: lgaskins@highlandbeach.us
7747756

TOWN OF HIGHLAND BEACH

NOTICE OF PUBLIC HEARING

YOU ARE HEREBY NOTIFIED that the Town Commission of the Town of Highland Beach will conduct a Public Hearing on Tuesday, January 21, 2025, at 1:30 PM in the Town of Highland Beach, Town Commission Chambers located at 3614 South Ocean Boulevard, Highland Beach, Florida to consider the following:

ORDINANCE NO. 2025-001

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING SECTION 30-67, "USES PERMITTED, SPECIAL EXCEPTION, AND PROHIBITED USES," AND SECTION 30-131, "DEFINITIONS OF TERMS" OF CHAPTER 30, "ZONING CODE," OF THE TOWN CODE OF ORDINANCES TO RE-NAME THE EXISTING HOME OCCUPATION USE TO "HOME-BASED BUSINESSES" AND MODIFY THE REGULATIONS TO ENSURE CONSISTENCY WITH STATE LAW, PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 2025-002

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 6, "BUILDINGS AND STRUCTURES," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6-128, "APPROVAL REQUIRED FOR BULKHEADS, SEAWALLS, RETAINING WALLS; REQUIRED NOTIFICATION OF ABUTTING PROPERTY OWNERS," TO PROVIDE A MAXIMUM SEAWALL CAP AND DOCKET WIDTH; AMENDING CHAPTER 30, "ZONING," BY AMENDING SECTION 30-68, "SUPPLEMENTAL DISTRICT REGULATIONS," TO PROVIDE A MAXIMUM HEIGHT FOR BOAT LIFTS, A MAXIMUM EXTENSION FOR ACCESSORY MARINE FACILITIES INTO CANALS AND LAKES, A MAXIMUM SEAWALL CAP AND DOCK WIDTH, AND LADDER REGULATIONS AND AMENDING SECTION 30-131, "DEFINITION OF TERMS," TO PROVIDE DEFINITIONS THAT PERTAIN TO ACCESSORY MARINE FACILITIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE.

Copies of the ordinances will be available for inspection in the Town Clerk's Office, Monday through Friday, during normal business hours 8:30 A.M. to 4:30 P.M. and on the Town's webpage at <https://highlandbeach-fl.municodemeetings.com/> no later than Friday, January 17, 2025.

Any person that decides to appeal any decision made by the Town Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the

SUN-SENTINEL

proceeding is made, which includes the testimony and evidence upon which the appeal is based. The Town of Highland Beach does not provide such a record.

In accordance with the Americans with Disabilities Act, persons who need special accommodation to attend or participate in this meeting should contact the Town Clerk's Office at (561) 278-4548 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771.

For additional information, please contact the Town Planner at (561) 278-4540.

Lanelda Gaskins, MMC
Town Clerk
1/11/2024 7747756

Order # - 7747756



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission

MEETING DATE December 17, 2024

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: Proposed amendment to the Town's Zoning Code (Chapter 30) relating to home-based businesses

SUMMARY:

The proposed amendment to the Town's Zoning Code (Chapter 30) will bring regulations governing home-based business into compliance with S. 559.955, Florida Statute, which restricts the power of municipal governments to regulate home-based businesses. Note that this home-based business amendment to the Zoning Code is an initiative on the Town's Strategic Priorities Plan.

House Bill 403 which became effective July 1, 2021, prohibits local governments from licensing or otherwise regulating a home-based business. The proposed changes are detailed in the Ordinance (attached). Currently, Section 30-67(b) of the Town Code permits home occupations in all zoning districts with the exception of the Government Services District (GSD).

At the October 15, 2024 Town Commission meeting, the Commission considered an introduction to the amendment relating to home-based businesses. Consensus from the Commission was to add to the Ordinance, a cross-reference to the Town Sign Code (Chapter 23). The latter cross-reference was added to the Ordinance. The Commission made a motion to send the Amendment to the Planning Board for a recommendation (motion carried 5-0). At the November 14, 2024 Planning Board meeting, the Board moved to recommend approval of the proposed amendment to the Town Commission (motion carried 7-0).

Pursuant to Section 30-44 (Zoning Code text amendments) of the Town Code, the proposed amendment to the Zoning Code is consistent with the Town's Comprehensive Plan and Zoning Code. In addition, Section 30-44(c) requires that the Planning Board provide a recommendation to the Town Commission on Zoning Code text amendments.

Effective October 1, 2023, Section 166.041(4), Florida Statutes requires that before the enactment of a proposed ordinance, the governing body of a municipality shall prepare or cause to be prepared a Business Impact Estimate (BIE). According to Section 166.041(4)(c) F.S., such BIE is not required given the ordinance will bring Zoning Code regulations into compliance with State law.

FISCAL IMPACT:

None.

ATTACHMENTS:

Ordinance.

Section 559.955 Florida Statutes.

RECOMMENDATION:

At the discretion of the Town Commission.

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**TOWN OF HIGHLAND BEACH
ORDINANCE NO**

AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING SECTION 30-67, “USES PERMITTED, SPECIAL EXCEPTION, AND PROHIBITED USES,” AND SECTION 30-131, “DEFINITIONS OF TERMS,” OF CHAPTER 30, “ZONING CODE,” OF THE TOWN CODE OF ORDINANCES TO RENAME THE EXISTING HOME OCCUPATION USE TO “HOME-BASED BUSINESSES” AND MODIFY THE REGULATIONS TO ENSURE CONSISTENCY WITH STATE LAW; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, through the enactment of Chapter 2021-202, Laws of Florida, the Florida Legislature adopted Section 559.955, Florida Statutes, restricting the ability of local governments to regulate home-based businesses; and

WHEREAS, Section 559.955, Florida Statutes, specifically prohibits local governments from enacting or enforcing any ordinance, regulation, or policy in violation of the restrictions set forth therein and allows any adversely affected current or prospective home-based business to file suit against the Town for a violation of the state-mandated restrictions and awards attorney’s fees and costs to the prevailing party in any such action; and

WHEREAS, the Town Commission wishes to revise its restrictions applicable to home occupations (renamed home-based businesses) to comply with the provisions of Section 599.955, Florida Statutes; and

WHEREAS, the Town Commission determines that the adoption of this Ordinance benefits the health, safety, and welfare of the residents of the Town of Highland Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2. The Town Commission hereby amends Article IV, “Zoning Districts,” and Article VIII, “Definitions,” of Chapter 30, “Zoning Code,” of the Town Code of Ordinances as follows (additional is underlined and deleted is ~~stricken through~~):

Sec. 30-67. – Uses permitted, special exception, and prohibited uses.

(b) Uses not listed. Unless otherwise provided by this chapter, uses not listed in Table 30-4 are prohibited in the Town of Highland Beach.

**Table 30-4
Permitted Uses
Legend**

SP = Site Plan Approval Required			X = Prohibited					
SE = Special Exception Town Commission Approval Required			P = Permitted					
SEP = Special Exception Planning Board Approval Required								
USE CATEGORY	RE	RS	RML	RMM	RMH	RPUD	GSD	Additional Standards (See Notes)
RESIDENTIAL								
Dwelling, Single-family, Detached	SP	SP	SP	SP	SP	SP	X	
Dwelling, Single-family, Attached	X	X	SP	SP	SP	SP	X	
Dwelling, Single-Family, Zero Lot Line	X	X	SE	SE	SE	SE	X	(1)
Dwelling, Multiple-Family	X	X	SP	SP	SP	SP	X	
Dwelling, Patio or Villa	X	X	SP	SP	SP	SP	X	
Dwelling, Three-Family (Triplex)	X	X	SP	SP	SP	SP	X	
Dwelling, Townhouse	X	X	SP	SP	SP	SP	X	
Dwelling, Two-Family (Duplex)	X	X	SP	SP	SP	SP	X	
Dwelling, Mobile Home	X	X	X	X	X	X	X	
Accessory Dwellings	P	P	P	P	P	P	P	(2)
Guardhouse, Residential	P	P	P	P	P	P	X	(3)
<u>Home-based Businesses Occupation</u>	P	P	P	P	P	P	X	(4)
Timeshare Residence	X	X	X	X	X	X	X	
Accessory Uses	P	P	P	P	P	P	P	

(4) Home-based businesses occupations. A business that operates from a residential property is permitted. A business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following standards:

- 1
2 a. Employees of the business who work at the residential dwelling must also reside
3 in the residential dwelling, except that up to a total of two (2) employees or
4 independent contractors who do not reside at the residential dwelling may work at
5 the business. The business may have additional remote employees who do not
6 work at the residential dwelling.
7
8 b. Parking for the home-based business must comply with the provisions of article
9 IV, Chapter 30 of the Town code. Additionally, the need for parking generated by
10 the business may not be greater in volume than would normally be expected at a
11 similar residence where no business is conducted, and vehicles and trailers used in
12 connection with the business must be parked in legal parking spaces that are not
13 located within the right-of-way, on or over a sidewalk, or on any unimproved
14 surfaces at the residence.
15
16 c. Parking or storage of heavy equipment at the home-based business shall not be
17 visible from the street or neighboring property. For the purposes of this
18 subsection, “heavy equipment” means commercial, industrial, or agricultural
19 vehicles, equipment, or machinery.
20
21 d. External modifications made to a residential dwelling to accommodate a home-
22 based business must conform to the residential character and architectural
23 aesthetics of the neighborhood. As viewed from the street, the use of the
24 residential dwelling shall be consistent with the uses of the residential areas that
25 surround the property.
26
27 e. The home-based business may not conduct retail transactions at a structure other
28 than the residential dwelling; however, incidental business uses and activities may
29 be conducted at the residential property.
30
31 f. The activities of the home-based business shall be secondary to the property’s use
32 as a residential dwelling.
33
34 g. To that extent not inconsistent with the requirements of this section, all business
35 uses and activities must comply with all Town code standards and requirements,
36 including the applicable noise regulations, and with the standards for permitted
37 uses and structures for the zoning district in which the home-based business exists.
38 All signs shall comply with the regulations applicable to residential properties set
39 forth in Chapter 23 of this Code.
40
41 h. All business activities shall comply with any relevant local, state, and federal
42 regulations with respect to the use, storage, or disposal of any corrosive,
43 combustible, or other hazardous or flammable materials or liquids.
44
45 i. Transient accommodations are not permitted as a home-based business except as
46 expressly provided elsewhere in the Town code.

1
2 Home occupation means a commercial or business use performed in a residential dwelling by a
3 resident or family member. A home occupation use shall comply with the standards listed below:
4

- 5 a. ~~Only resident family members or residents of the dwelling unit shall be engaged in the~~
6 ~~occupation.~~
7
- 8 b. ~~Provision of services to clients within a dwelling is prohibited.~~
9
- 10 c. ~~The use of the premises for the home occupation shall be clearly incidental and~~
11 ~~subordinate to its use for residential purposes by its occupants. The use shall not change~~
12 ~~the residential character of the premises.~~
13
- 14 d. ~~There shall be no change in the outside appearance of the building or premises, or other~~
15 ~~visible evidence of the conduct of the home occupation.~~
16
- 17 e. ~~Home occupations shall not be conducted in any accessory building or structure, or any~~
18 ~~open porch, garage, or carport.~~
19
- 20 f. ~~Home occupation shall not occupy more than fifteen (15) percent of the floor area of the~~
21 ~~dwelling unit or accessory dwelling. Home occupations shall not be conducted within any~~
22 ~~open porch, attached garage, or similar space not suited or intended for occupancy as~~
23 ~~living quarters.~~
24
- 25 g. ~~Traffic shall not be generated by the home occupation in greater volumes than would~~
26 ~~normally be expected in a residential neighborhood.~~
27
- 28 h. ~~Vehicle parking shall be located on the lot or premise of the home occupation.~~
29
- 30 i. ~~Equipment or processes which create noise, vibration, glare, fumes, odors, or electrical~~
31 ~~interference detectable to the normal senses at any lot line shall not be used in the home~~
32 ~~occupation. In addition, equipment or processes shall not be used which create any~~
33 ~~interference for neighboring properties in receiving radio, television, or other wireless~~
34 ~~devices, or which cause fluctuations in electrical service to such properties.~~
35
- 36 j. ~~Private instructions or other lessons shall be limited to not more than one person and shall~~
37 ~~be limited to academic, artistic, and musical subjects.~~
38
- 39 k. ~~Manufacture or fabrication of articles such as are commonly classified under the terms of~~
40 ~~arts and handicrafts may be deemed a home occupation, subject to the other terms and~~
41 ~~conditions of this definition.~~
42
- 43 l. ~~On premises sales of stock, supplies, or products is prohibited.~~
44
- 45 m. ~~On premises use or storage of hazardous materials is prohibited.~~
46

1 ~~n. On premises signs or other advertising of home occupations is prohibited.~~

2
3 ~~o. Employees, other than family members or residents of the dwelling, are prohibited.~~

4
5 ~~p. Owners or operators of home occupations may obtain an occupational license from Palm~~
6 ~~Beach County.~~

7
8 **Sec. 30-131. – Definition of terms.**

9 For the purposes of this chapter, the definitions provided below shall apply. In the event of a
10 conflict between the definitions provided in this section, and a definition provided in another
11 section, then the definition provided in the other section shall prevail. In case of a conflict with
12 the building, life/safety, or similar code, the more stringent definition will apply.

13 ***

14 ~~Home-based business occupation~~ means a professional, occupational, trade, or business use, as
15 ~~those terms are defined in Section 15-1, that operates, in whole or in part, from performed in a~~
16 ~~residential dwelling, subject to the requirements of Section 30-67 by a resident or family~~
17 ~~member.~~

18 **Section 3. Severability.** The provisions of this Ordinance are declared to be severable and
19 if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be
20 invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
21 sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the
22 legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

23 **Section 4. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict
24 herewith are hereby repealed to the extent of such conflict.

25 **Section 5. Codification.** Section 2 of the Ordinance may be made a part of the Town
26 Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word
27 “ordinance” may be changed to “section,” “division,” or any other appropriate word.

28 **Section 6. Effective Date.** This Ordinance shall be effective immediately upon adoption
29 at second reading.

30 The foregoing Ordinance was moved by _____, seconded by
31 _____ and upon being put to the vote, the vote was as follows:

32
33
34
35
36

	YES	NO
Mayor Natasha Moore	_____	_____
Vice Mayor David Stern	_____	_____

1 Commissioner Evalyn David _____
2 Commissioner Judith Goldberg _____
3 Commissioner Don Peters _____
4

5 PASSED on first reading at the Regular Commission meeting held on this _____ day of
6 _____, 2024.

7
8 The foregoing Ordinance was moved by _____, seconded by
9 _____ and upon being put to the vote, the vote was as follows:

	YES	NO
10		
11		
12 Mayor Natasha Moore	_____	_____
13 Vice Mayor David Stern	_____	_____
14 Commissioner Evalyn David	_____	_____
15 Commissioner Judith Goldberg	_____	_____
16 Commissioner Don Peters	_____	_____
17		

18 PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held
19 on this _____ day of _____, 2024.

20
21 ATTEST:

22
23 By: _____
24 Lanelda Gaskins, MMC
25 Town Clerk
26

27 APPROVED AS TO FORM AND LEGALITY:

28
29 By: _____
30 Leonard G. Rubin, Town Attorney

Select Year:

The 2023 Florida Statutes (including Special Session C)

[Title XXXIII](#)

REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS

[Chapter 559](#)

REGULATION OF TRADE, COMMERCE, AND INVESTMENTS, GENERALLY

[View Entire Chapter](#)

559.955 Home-based businesses; local government restrictions.—

- (1) Local governments may not enact or enforce any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in violation of this section.
- (2) A home-based business that operates from a residential property as provided in subsection (3):
 - (a) May operate in an area zoned for residential use.
 - (b) May not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government’s jurisdiction, except as otherwise provided in this section.
 - (c) Is only subject to applicable business taxes under chapter 205 in the county and municipality in which the home-based business is located.
- (3) For purposes of this section, a business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following criteria:
 - (a) The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.
 - (b) Parking related to the business activities of the home-based business complies with local zoning requirements and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Local governments may regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street or neighboring property. For purposes of this paragraph, the term “heavy equipment” means commercial, industrial, or agricultural vehicles, equipment, or machinery.
 - (c) As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.
 - (d) The activities of the home-based business are secondary to the primary use of the property as a residential dwelling.

(e) The business activities comply with any relevant local or state regulations with respect to signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Any local regulations on a business with respect to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors may not be more stringent than those that apply to a residence where no business is conducted.

(f) All business activities comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted.

(4) Any adversely affected current or prospective home-based business owner may challenge any local government action in violation of this section. The prevailing party in a challenge may recover reasonable attorney fees and costs incurred in challenging or defending the action, including reasonable appellate attorney fees and costs.

(5) The application of this section does not supersede:

(a) Any current or future declaration or declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration or declaration of covenant adopted pursuant to chapter 720.

(b) Local laws, ordinances, or regulations related to transient public lodging establishments, as defined in s. [509.013\(4\)\(a\)1.](#), that are not otherwise preempted under chapter 509.

History.—s. 1, ch. 2021-202.

Sold To:

Town of Highland Beach Florida - CU00661788
3614 S Ocean Blvd
Highland Beach FL 33487,FL 33487-3393

Bill To:

Town of Highland Beach Florida - CU00661788
3614 S Ocean Blvd
Highland Beach FL 33487,FL 33487-3393

Published Daily

Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

State Of Florida

County Of Orange

Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized representative of the SUN- SENTINEL,
a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the
attached copy of advertisement, being a Legal Notice in:

The matter of 11720-Notice of Public Meeting .
Was published in said newspaper by print in the issues of, and by publication on the
newspaper’s website, if authorized on Sep 30, 2024
SSC_Notice of Public Meeting
Affiant further says that the newspaper complies with all legal requirements for
publication in Chapter 50, Florida Statutes.

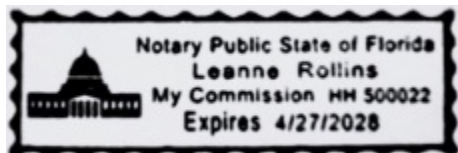


Signature of Affiant

Sworn to and subscribed before me this: September 30, 2024.



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

Affidavit Delivery Method: E-Mail
Affidavit Email Address: jdehart@highlandbeach.us
7701118

**TOWN OF HIGHLAND BEACH
NOTICE OF PUBLIC HEARING**

YOU ARE HEREBY NOTIFIED that the Planning Board of the Town of Highland Beach will conduct a Public Hearing on Thursday, October 10, 2024 at 9:30 AM in the Commission Chambers at Town Hall, 3614 South Ocean Boulevard, Highland Beach, Florida to consider the following:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 6, "BUILDINGS AND STRUCTURES," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6-128, "APPROVAL REQUIRED FOR BULKHEADS, SEAWALLS, RETAINING WALLS; REQUIRED NOTIFICATION OF ABUTTING PROPERTY OWNERS," TO PROVIDE A MAXIMUM SEAWALL CAP AND DOCK WIDTH; AMENDING CHAPTER 30, "ZONING," BY AMENDING SECTION 30-68, "SUPPLEMENTAL DISTRICT REGULATIONS," TO PROVIDE A MAXIMUM HEIGHT FOR BOAT LIFTS, A MAXIMUM EXTENSION FOR ACCESSORY MARINE FACILITIES INTO CANALS AND LAKES, A MAXIMUM SEAWALL CAP AND DOCK WIDTH, AND LADDER REGULATIONS AND AMENDING SECTION 30-131, "DEFINITION OF TERMS," TO PROVIDE DEFINITIONS THAT PERTAIN TO ACCESSORY MARINE FACILITIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed Ordinance is available for inspection in the Town Clerk's Office at Town Hall, Monday through Friday during normal business hours of 8:30 a.m. to 4:30 p.m.

Any person that decides to appeal any decision made by the Planning Board with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is based. The Town of Highland Beach does not provide such a record.

In accordance with the Americans with Disabilities Act, persons who need special accommodation to attend or participate in this meeting should contact the Town Clerk's Office at (561) 278-4548 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771.

For additional information, please contact the Town Planner at (561) 278-4540.

TOWN OF HIGHLAND BEACH, BUILDING
DEPARTMENT
09/30/2024 7701118

File Attachments for Item:

B. Ordinance No. 2025-002 / Amendment to the Accessory Marine Facilities (AMF) and seawall regulations (Second Reading/Public Hearing)

An Ordinance of the Town Commission of the Town of Highland Beach, Florida, amending Chapter 6, "Buildings and Structures," of the town code of ordinances by amending Section 6-128, "approval required for bulkheads, seawalls, retaining walls; required notification of abutting property owners," to provide a maximum seawall cap and docket width; amending Chapter 30, "Zoning," by amending Section 30-68, "Supplemental District Regulations," to provide a maximum height for boat lifts, a maximum extension for accessory marine facilities into canals and lakes, a maximum seawall cap and dock width, and ladder regulations and amending Section 30-131, "Definition of Terms," to provide definitions that pertain to accessory marine facilities; providing for the repeal of all ordinances in conflict; providing for severability and codification; and providing for an effective (First Reading was December 17, 2024).



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission

MEETING DATE *January 21, 2025*

SUBMITTED BY: Lanelda Gaskins, Town Clerk's Office

SUBJECT: Ordinance No. 2025-002 / Amendment to the Accessory Marine Facilities (AMF) and seawall regulations (Second Reading/Public Hearing)

An Ordinance of the Town Commission of the Town of Highland Beach, Florida, amending Chapter 6, "Buildings and Structures," of the town code of ordinances by amending Section 6-128, "approval required for bulkheads, seawalls, retaining walls; required notification of abutting property owners," to provide a maximum seawall cap and docket width; amending Chapter 30, "Zoning," by amending Section 30-68, "Supplemental District Regulations," to provide a maximum height for boat lifts, a maximum extension for accessory marine facilities into canals and lakes, a maximum seawall cap and dock width, and ladder regulations and amending Section 30-131, "Definition of Terms," to provide definitions that pertain to accessory marine facilities; providing for the repeal of all ordinances in conflict; providing for severability and codification; and providing for an effective (First Reading was December 17, 2024).

SUMMARY:

At the December 17, 2024 Town Commission meeting, the Commission considered on first reading the proposed ordinance amending Chapter 6, "Buildings and Structures," of the town code of ordinances by amending Section 6-128, "approval required for bulkheads, seawalls, retaining walls; required notification of abutting property owners," to provide a maximum seawall cap and docket width; amending Chapter 30, "Zoning," by amending Section 30-68, "Supplemental District Regulations," to provide a maximum height for boat lifts, a maximum extension for accessory marine facilities into canals and lakes, a maximum seawall cap and dock width, and ladder regulations and amending Section 30-131, "Definition of Terms," to provide definitions that pertain to accessory marine facilities. A motion was made a seconded by Commissioner David and Vice Mayor Stern to approve an ordinance of the Town Commission of the Town of Highland Beach, Florida amending Chapter 6, "Buildings and Structures," of the town code of ordinances by amending Section 6-128, "approval required for bulkheads, seawalls, retaining walls; required notification of abutting property owners", which passed unanimously 4 to 0.

Ordinance No. 2025-002 was advertised in accordance with Florida Statutes on January 11, 2025. Therefore, Ordinance No. 2025-002 is before the Town Commission for adoption on second/final reading.

FISCAL IMPACT:

None.

ATTACHMENTS:

Ordinance No. 2025-002 and Legal Advertisement Affidavit

Staff Memorandum of the December 17, 2024 Town Commission Meeting and supporting documents

RECOMMENDATION:

Adopt Ordinance No. 2025-002 on second/final reading.



**TOWN OF HIGHLAND BEACH
ORDINANCE NO. 2025-002**

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AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 6, “BUILDINGS AND STRUCTURES,” OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6-128, “APPROVAL REQUIRED FOR BULKHEADS, SEAWALLS, RETAINING WALLS; REQUIRED NOTIFICATION OF ABUTTING PROPERTY OWNERS,” TO PROVIDE A MAXIMUM SEAWALL CAP AND DOCK WIDTH; AMENDING CHAPTER 30, “ZONING,” BY AMENDING SECTION 30-68, “SUPPLEMENTAL DISTRICT REGULATIONS,” TO PROVIDE A MAXIMUM HEIGHT FOR BOAT LIFTS, A MAXIMUM EXTENSION FOR ACCESSORY MARINE FACILITIES INTO CANALS AND LAKES, A MAXIMUM SEAWALL CAP AND DOCK WIDTH, AND LADDER REGULATIONS AND AMENDING SECTION 30-131, “DEFINITION OF TERMS,” TO PROVIDE DEFINITIONS THAT PERTAIN TO ACCESSORY MARINE FACILITIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, on November 17, 2020, the Town Commission authorized Vice-Mayor Greg Babij to sponsor a review and propose any amendment(s) to the accessory marine structure ordinance provisions; and

WHEREAS, on March 15, 2022, the Town Commission considered an introduction to proposed amendment concepts regarding the accessory marine facility provisions of the Town Code; and

WHEREAS, on April 19, 2022, the Town Commission provided direction in establishing a process for review of the amendment concepts; and

WHEREAS, on June 21, 2022 and August 16, 2022, the Town Commission considered a discussion on a review timeline for the proposed amendment concepts and agreed to hold three (3) evening meetings at the Town Library in an effort to engage input from residents; and

1 **WHEREAS**, on December 5, 7, and 13, 2022, Public Input Meetings were held on the
2 proposed amendment concepts to the accessory marine facility and seawall regulations of the Town
3 Code of Ordinances; and

4 **WHEREAS**, on February 7, 2023, the Town Commission agreed to have the Planning Board
5 review the proposed amendment concepts and provide their recommendations to the Town
6 Commission; and

7 **WHEREAS**, on September 21 and October 12, 2023, the Planning Board provided their
8 recommendations on the proposed amendment concepts to the Town Commission; and

9 **WHEREAS**, on April 2, 2024, the Town Commission agreed to move forward with five (5)
10 of the seven (7) amendment concepts, and directed staff to draft an Ordinance accordingly; and

11 **WHEREAS**, the Town Commission of the Town of Highland Beach has determined that the
12 amendment to the Code of Ordinances is in the best interest of the Town of Highland Beach;
13

14 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
15 **TOWN OF HIGHLAND BEACH, FLORIDA that:**

16 **SECTION 1.** The foregoing facts and recitations contained in the preamble to this
17 Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

18 **SECTION 2.** The Town Commission hereby amends Chapter 6 “Buildings and Structures,”
19 Article V “Seawalls; Bulkheads; Retaining Walls,” Section 6-128 “Approval required for bulkheads,
20 seawalls, retaining walls; required notification of abutting property owners” to read as follows
21 (additional language underlined and deleted language ~~stricken through~~):

22 **Sec. 6-128. - Approval required for bulkheads, seawalls, retaining walls; required**
23 **notification of abutting property owners.**

24 (a) No bulkhead, seawall, or retaining wall shall be erected or constructed in any water,
25 canal or lake, or on land abutting thereon, within the limits of the town, unless plans and specifications
26 have been submitted to and approved by all federal, state and county agencies with jurisdiction over
27 such construction activities, the planning board and the town consulting engineer, with a copy of such
28 plans and specifications being filed with the town. The planning board shall review applications under
29 this section as special exceptions.

30 (b) All seawalls west of State Road A1A shall be at base flood elevation (BFE) or higher
31 as provided by the FEMA FIRM maps. The maximum combined seawall cap and dock width shall

1 not exceed eight (8) feet as provided in Section 30-68(g)(6)b. All seawalls on the Intracoastal
2 Waterway and the Atlantic Ocean shall, at the discretion of the town engineer, have rip rap at the base
3 to dissipate the wave energy and to protect the berm.

4 **SECTION 3.** The Town Commission hereby amends Chapter 30 "Zoning Code," Article IV
5 "Zoning Districts," Section 30-68 "Supplemental district regulations" to read as follows (additional
6 language underlined and deleted language ~~stricken through~~):

7 **Sec. 30-68. – Supplemental district regulations.**

8 ***

9 (g) *Accessory marine facilities:*

10 (1) *Accessory use.* Accessory marine facilities, including docks, piers, launching
11 facilities, boat basins, freestanding pilings and lifting and mooring devices, are permitted as accessory
12 uses in all residential zoning districts. Accessory marine facilities shall be reviewed as special
13 exceptions by the planning board which shall be the final authority on all applications unless the
14 accessory marine facility is part of a site plan submittal or other application requiring town
15 commission approval as provided for in section 30-36.

16 a. Accessory marine facilities shall not be used for commercial purposes.

17 b. Accessory marine facilities shall be used only by residents or their guests, and shall
18 not be rented or leased to nonresidents or any other person other than owners or residents of the
19 principal dwelling or dwellings. For the purpose of this section, the term guest shall mean a person or
20 persons residing in a dwelling unit for a limited period of time, not to exceed a period of sixty (60)
21 days within one calendar year, at the invitation of the owner or resident of the dwelling.

22 c. Accessory marine facilities shall not be a hazard to navigation.

23 (2) *Boat basins.* Boat basins are allowed in all zoning districts and reviewed by a special
24 exception, subject to the additional standards listed below:

25 a. The edge of any improvements associated with a boat basin shall be located at least
26 twenty-five (25) feet from side property lines.

27 b. The total length of improvements associated with a boat basin shall not exceed one-
28 third (33.3%) of the length of the property line in which the basin is located.

29 c. Not more than twenty-five (25) percent of any boat moored in a boat basin may extend
30 waterward of property line in which the basin is located.

1 d. The town, at the expense of the applicant, may utilize appropriate marine, engineering,
2 construction, and related professionals to review all aspects of such application. Such professionals
3 shall be utilized to ensure compliance with the requirements herein, to ensure a proposed basin will
4 not be a hazard to navigation, and to ensure a proposed boat basin will not pose a potential hazard,
5 via erosion or other action, to the stability of neighboring properties.

6 (3) *Lifting devices.* The installation of lifting devices or other means of securing boats
7 (but not a boat dock) is allowed in all zoning districts. The maximum height for lifting devices shall
8 be at base flood elevation (BFE), as provided by the FEMA FIRM maps, plus eight (8) feet. Lifting
9 device height shall be measured to the top of the lift structure including mechanical equipment. In
10 addition to the requirements for a special exception, the planning board must also find that the lifting
11 device will provide adequate protection of neighboring property and that there is no infringement of
12 standard navigational practices.

13 (4) *Boats and setbacks.* When moored, any portion of a boat shall not extend beyond any
14 property line, as extended waterward.

15 (5) *Enclosures.* Accessory marine facilities shall not be enclosed with walls, roofs, or any
16 other structures or improvements.

17 (6) *Installation.* Accessory marine facilities shall comply with the installation standards
18 listed below:

19 a. In waterways ~~not~~ regulated by the U.S. Army Corps of Engineers or other
20 governmental regulatory agency, docks and mooring facilities structures shall not extend into the
21 water more than twenty-five feet (25') or twenty-five percent (25%) of the waterway width,
22 whichever is less (excludes docks and mooring facilities located along the Intracoastal Waterway),
23 measured from the wet face of the seawall or bulkhead ~~not extend into any waterway more than five~~
24 ~~(5) feet.~~

25 b. ~~In waterways regulated by the U.S. Army Corps of Engineers,~~ The maximum
26 combined seawall cap and dock width shall not exceed eight (8) feet. ~~docks and mooring structures~~
27 ~~may extend to that distance allowed by said agency.~~

28 c. Measurement of the width or length of a dock, as applicable, shall be made from the
29 property line.

30 d. Marine facilities shall comply with the side yard setbacks listed below.

1 1. Single-family zoning districts: Twenty-five (25) feet; provided, however, the side yard
2 setback shall be fifteen (15) feet for any single-family lot with a lot width of fifty (50) feet or more
3 but less than seventy (70) feet. For those lots with less than fifty (50) feet abutting the water, the
4 planning board may grant a special exception for the installation of a seawall mounted davit type
5 lifting device (but not a dock structure) after being satisfied as to the protection of neighboring
6 property and no infringement of standard navigation practices.

7 2. Multifamily zoning districts: Five (5) feet, measured from the perimeter property
8 lines. In multifamily residential zoning districts, marine facilities shall be exempt from side yard
9 setback requirements for all interior lot lines.

10 (7) *Perpendicular docking.* Unless otherwise provided herein, boats shall not be moored
11 or docked perpendicular to the property at which they are located.

12 a. A boat moored at the landward end of a canal constructed for boat docking purposes
13 may be moored perpendicular to the property line, provided such mooring does not impede the
14 navigation of adjacent property owners.

15 b. A boat moored in the Intracoastal Waterway may be moored perpendicular to the
16 property line, subject to approval by the U.S. Army Corps of Engineers.

17 c. A request for perpendicular docking of a boat in a canal shall be considered as a special
18 exception by the planning board. Applications for development order approval of perpendicular
19 docking of boats shall be subject to all standards applicable to a special exception request, and the
20 additional criteria contained herein:

21 1. Location of docks, docked boats, and relation to side setbacks shall be established by
22 the waterward extension of property lines.

23 2. Perpendicular docking of boats shall not interfere with navigation of other boats
24 within the affected canal, and will not be a hazard to navigation.

25 3. Perpendicular docking of boats shall comply with all setbacks required for accessory
26 marine facilities.

27 4. Docks or accessory mooring facilities approved by the planning board for
28 perpendicular docking of boats may exceed the maximum extension into a waterway allowed for
29 accessory marine facilities.

30 5. The building official or designee, or planning board may request evidence, prepared
31 by a recognized marine expert, demonstrating the following:

1 i. Proposed perpendicular docking and related accessory marine facilities will not
2 reasonably deny or otherwise limit the ability of abutting or adjacent property owners to construct
3 accessory marine facilities;

4 ii. Proposed perpendicular docking and related accessory marine facilities will not
5 reasonably deny or otherwise limit the normal ability of abutting or adjacent property owners to moor,
6 maneuver, use or otherwise move a boat; and

7 iii. Proposed perpendicular docking and related accessory marine facilities will not deny
8 reasonable visual access of abutting property owners to public waterways.

9 (8) Ladders are permitted on docks, seawalls, finger piers or other mooring facilities.

10 (h) *Dolphins, freestanding pilings, boat lifts, docks, and moorings:*

11 (1) Installation. In order to be installed, dolphins, freestanding pilings, boat lifts, docks,
12 and moorings (collectively "mooring facilities") shall comply with all standards listed below:

13 a. The installation shall be subject to special exception approval by the planning board
14 at an advertised public hearing.

15 b. The mooring facilities will be located in a canal or waterway at least eighty (80) feet
16 in width.

17 c. The mooring facilities will not create a hazardous interference with navigation,
18 endanger life or property, or deny the public reasonable visual access to public waterways.

19 d. Construction of all mooring facilities shall require a building permit.

20 (2) Public notice. In addition to the requirements of section 30-46, written notice must be
21 provided by first class mail to owners of property abutting the canal and located within five hundred
22 (500) feet, as measured from both property lines along the canal bank, of the property in question.

23 (3) Documentation. The building official or designee, or planning board may, in the
24 exercise of their discretion, request evidence, prepared by a recognized marine expert, demonstrating
25 the proposed mooring facilities will not be a hazard to navigation and will not deny reasonable visual
26 access to public waterways.

27 (4) Adjacent property. Installation of the mooring facilities shall not cause a hazardous
28 interference with navigation, endanger life or property, or deny the adjacent property owners or public
29 reasonable visual access to the public waterway.

30 (5) Navigation. Installation of such mooring facilities shall not infringe upon standard
31 navigational practices that are or may be used by abutting property owners.

1 (6) Floating docks. Floating docks are permitted, subject to conformance with all zoning
2 code requirements herein and compliance with all applicable building codes.

3 ***

4 **SECTION 4.** The Town Commission hereby amends Chapter 30 "Zoning Code," Article
5 VIII "Definitions," Section 30-131 "Definitions of terms" to read as follows (additional language
6 underlined and deleted language stricken through):

7 **Sec. 30-131. – Definitions of terms.**

8 ***

9 *Boat lifts* means the bottom of the keel of any boat shall not be hoisted greater than one foot
10 above the existing ~~minimum~~ seawall elevation. In no case shall the lift be higher than the
11 superstructure of the boat when lifted except for personal watercraft including jet skis.

12 *Dolphin pilings* means that the dolphin piling shall be marine grade wood pilings with a
13 minimum butt diameter of twelve (12) inches. Concrete pile is prohibited. Dolphin pilings shall not
14 extend into the water more than ~~A maximum of~~ twenty-five (25') feet or twenty-five percent (25%)
15 ~~thirty (30) percent~~ of the waterway canal width, whichever is less (excluding such pilings located
16 along the Intracoastal Waterway), ~~shall be allowed~~, measured from the wet face of the seawall or
17 bulkhead property line. Setback shall be no further than the primary structures side yard setback. The
18 minimum height shall be six (6) feet above mean high water (MHW) and the maximum shall be eight
19 (8) feet above MHW. All pilings shall have a reflective tape no more than two (2) inches below the
20 top of the piling and should be four (4) inches in width of the complete circumference.

21 ***

22 **SECTION 5. Severability.** The provisions of this Ordinance are declared to be severable
23 and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be
24 invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
25 sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative
26 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

27 **SECTION 6. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict
28 herewith are hereby repealed to the extent of such conflict.

29 **SECTION 7. Codification.** Section 2 of the Ordinance shall be made a part of the Town
30 Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word
31 "ordinance" may be changed to "section," "division," or any other appropriate word.

1 **SECTION 8. Effective Date.** This Ordinance shall be effective immediately upon adoption
2 at second reading and shall only apply prospectively.

3 The forgoing Ordinance was moved by Commissioner David, seconded by Commissioner Peters and
4 upon being put to the vote, the vote was as follows:

5			
6	VOTES:	YES	NO
7	Mayor Natasha Moore	X	
8	Vice Mayor David Stern	X	
9	Commissioner Evalyn David	X	
10	Commissioner Donald Peters	X	
11	Commissioner Judith M. Goldberg	X	

12
13 PASSED on first reading at the Regular Commission meeting held on this 17th day of December,
14 2024.

15
16 The forgoing Ordinance was moved by _____, seconded
17 by _____ and upon being put to the vote, the vote was as
18 follows:

19			
20	VOTES:	YES	NO
21	Mayor Natasha Moore		
22	Vice Mayor David Stern		
23	Commissioner Evalyn David		
24	Commissioner Donald Peters		
25	Commissioner Judith M. Goldberg		

26
27 PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on
28 the 21st day of January, 2025.

29
30
31
32 _____
Natasha Moore, Mayor

33 ATTEST:

34 **REVIEWED FOR LEGAL SUFFICIENCY**

35 _____
36 Lanelda Gaskins, MMC
37 Town Clerk

Leonard G. Rubin, Town Attorney
Town of Highland Beach

Sold To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach,FL 33487

Bill To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach,FL 33487

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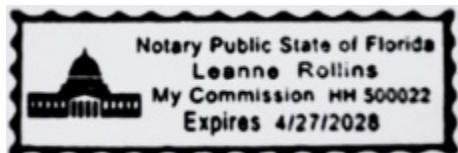
Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized representative of the SUN- SENTINEL,
a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the
attached copy of advertisement, being a Legal Notice in:

The matter of 11720-Notice of Public Meeting .
Was published in said newspaper by print in the issues of, and by publication on the
newspaper’s website, if authorized on Jan 11, 2025
ORDINANCE NO. 2025-001 & 2025-002
Affiant further says that the newspaper complies with all legal requirements for
publication in Chapter 50, Florida Statutes.

Signature of Affiant

Sworn to and subscribed before me this: January 13, 2025.

Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

Affidavit Delivery Method: E-Mail
Affidavit Email Address: lgaskins@highlandbeach.us
7747756

TOWN OF HIGHLAND BEACH

NOTICE OF PUBLIC HEARING

YOU ARE HEREBY NOTIFIED that the Town Commission of the Town of Highland Beach will conduct a Public Hearing on Tuesday, January 21, 2025, at 1:30 PM in the Town of Highland Beach, Town Commission Chambers located at 3614 South Ocean Boulevard, Highland Beach, Florida to consider the following:

ORDINANCE NO. 2025-001

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING SECTION 30-67, "USES PERMITTED, SPECIAL EXCEPTION, AND PROHIBITED USES," AND SECTION 30-131, "DEFINITIONS OF TERMS" OF CHAPTER 30, "ZONING CODE," OF THE TOWN CODE OF ORDINANCES TO RE-NAME THE EXISTING HOME OCCUPATION USE TO "HOME-BASED BUSINESSES" AND MODIFY THE REGULATIONS TO ENSURE CONSISTENCY WITH STATE LAW, PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 2025-002

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 6, "BUILDINGS AND STRUCTURES," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6-128, "APPROVAL REQUIRED FOR BULKHEADS, SEAWALLS, RETAINING WALLS; REQUIRED NOTIFICATION OF ABUTTING PROPERTY OWNERS," TO PROVIDE A MAXIMUM SEAWALL CAP AND DOCKET WIDTH; AMENDING CHAPTER 30, "ZONING," BY AMENDING SECTION 30-68, "SUPPLEMENTAL DISTRICT REGULATIONS," TO PROVIDE A MAXIMUM HEIGHT FOR BOAT LIFTS, A MAXIMUM EXTENSION FOR ACCESSORY MARINE FACILITIES INTO CANALS AND LAKES, A MAXIMUM SEAWALL CAP AND DOCK WIDTH, AND LADDER REGULATIONS AND AMENDING SECTION 30-131, "DEFINITION OF TERMS," TO PROVIDE DEFINITIONS THAT PERTAIN TO ACCESSORY MARINE FACILITIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE.

Copies of the ordinances will be available for inspection in the Town Clerk's Office, Monday through Friday, during normal business hours 8:30 A.M. to 4:30 P.M. and on the Town's webpage at <https://highlandbeach-fl.municodemeetings.com/> no later than Friday, January 17, 2025.

Any person that decides to appeal any decision made by the Town Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the

SUN-SENTINEL

proceeding is made, which includes the testimony and evidence upon which the appeal is based. The Town of Highland Beach does not provide such a record.

In accordance with the Americans with Disabilities Act, persons who need special accommodation to attend or participate in this meeting should contact the Town Clerk's Office at (561) 278-4548 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771.

For additional information, please contact the Town Planner at (561) 278-4540.

Lanelda Gaskins, MMC
Town Clerk
1/11/2024 7747756

Order # - 7747756



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission

MEETING DATE: December 17, 2024

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: Proposed amendment to the Town Code of Ordinances regarding Accessory Marine Facilities (AMF) and seawall regulations.

SUMMARY:

At the April 2, 2024 Town Commission meeting, the Commission considered a discussion item on the proposed amendment concepts to the AMF and seawall regulations of the Town Code of Ordinances (“Town Code”). Consensus from the Town Commission was to proceed with amendment concept numbers 1 through 4, and 6 while a “no action” option was provided for concept numbers 5 and 7 (see table below). The Commission directed staff to draft an Ordinance on the selected amendment concepts.

At the September 17, 2024 Town Commission meeting, the Commission discussed a draft Ordinance and made a motion to send the Ordinance (as amended) to the Planning Board that encompasses approved concepts one (1) through four (4) and asked that the Board discuss and provide more detailed information regarding ladders to include timing, placement, and whether they should be mandatory or voluntary (Motion carried 5-0). Pursuant to Section 30-44(c) of the Town Code, the Planning Board shall provide a recommendation to the Town Commission on Zoning Code text amendments.

PROPOSED AMENDMENT CONCEPT	PLANNING BOARD (“Board”) RECOMMENDATION	TOWN COMMISSION (4-2-24)
1. Maximum height for AMFs: Base Flood Elevation (BFE) plus 7 feet.	Maximum height for AMFs: BFE plus 8 feet.	Agree with Board recommendation, include definition of “top of boat lift.”
2. Exempt personal watercraft (PWC) lifts from the requirement that “in no case shall the lift be higher than the superstructure of the boat when lifted” OR remove requirement.	Exempt personal watercraft (PWC) lifts from the requirement that “in no case shall the lift be higher than the superstructure of the boat when lifted.”	Agree with Board recommendation.
3. Maximum seawall cap width = 3 feet; maximum seawall cap plus dock width = 8 feet.	Maximum seawall cap plus dock width at eight (8) feet.	Agree with Board recommendation.

PROPOSED AMENDMENT CONCEPT	PLANNING BOARD (“Board”) RECOMMENDATION	TOWN COMMISSION (4-2-24)
4. Encroachment into water at 25 feet or 25% of waterway width, whichever is less (measured from the shortest distance adjacent to property line).	Encroachment into water for AMFs at 25 feet or 25 percent of the waterway width, whichever is less, (excludes AMFs along the Intracoastal Waterway) to be measured from <i>wetface of seawall or bulkhead</i> .	Agree with Board recommendation.
5. 10 foot side setback for all zoning districts. For lots < 100 feet in width, setback is 10% of width; however, setback cannot be less than 5 feet.	No side setback for docks Townwide. A minimum 10-foot side setback for all other AMFs Town wide (For lots less than 100 feet in width, setback is 10% of width, setback cannot be less than 5 feet). Such recommendation does not apply to floating vessel platforms which are regulated by Florida Statute.	No action.
6. Require a ladder for every 50 feet of dock.	Provide one (1) ladder for each 100 feet abutting waterway, canal or lake, for properties less than 100 feet, provide one ladder. The ladder shall be either adjustable or fixed and shall extend into the water at mean low tide. Ladder requirement would be triggered as part of a special exception request.	Provide two (2) versions of amendment to include a ladder “requirement” verses a ladder “encouragement.” In addition, exempt single-family residences located on the Intracoastal Waterway from any ladder provision.
7. Maximum seawall height (additional concept, not included in initial proposal)	Maximum seawall height: BFE plus one (1) foot.	No action.

A ladder provision that “encourages” the use of marine-related ladders has been incorporated into the Ordinance as follows:

Section 30-68(g)(8): Ladders are permitted on docks, seawalls, finger piers or other mooring facilities.

A proposed ladder “requirement” which was previously considered by the Town Commission at their September 17, 2024 meeting is provided below and is based on the Planning Board’s initial recommendation. For reference purposes, a table of other municipal regulations pertaining to marine-related ladders is attached.

Section 30-68(g)(8):

All properties, with the exception of single-family residences (located within a single-family zoning district) that abut the Intracoastal Waterway, shall provide one (1) ladder for each 100 feet abutting waterway, canal or lake. For properties less than 100 feet, provide one

ladder. Such ladder requirements shall coincide with a request for special exception. The ladder shall be either adjustable or fixed and shall extend into the water at mean low waterline.

The proposed Ordinance also contains non-substantive housekeeping changes including the addition of “designee” where particular Town staff duties are referenced. Rather than referencing each specific staff member that may exert such duties, a general reference to “designee” is more efficient.

Effective October 1, 2023, Section 166.041(4), Florida Statutes requires that before the enactment of a proposed ordinance, the governing body of a municipality shall prepare or cause to be prepared a Business Impact Estimate (see attached).

PLANNING BOARD RECOMMENDATION:

At the November 14, 2024 Planning Board meeting, the Board moved to recommend approval of the proposed amendment to the Town Commission (motion carried 7-0).

HISTORY:

A brief history on hearings held and other related matters pertaining to the proposed amendments to the accessory marine facility and seawall regulations are provided below:

November 17, 2020 - Town Commission authorized Vice-Mayor Greg Babij to sponsor the review and propose any amendment(s) to the accessory marine structure ordinance provisions (motion carried 5-0).

March 15, 2022 – Town Commission considers introduction to proposed amendment concepts regarding the AMF provisions of the Town Code. Commission consensus was to establish a process for review of such amendment concepts to include public participation and review by the Planning Board.

April 19, 2022 – Town Commission provides direction in establishing a process for review of amendment concepts as follows:

1. Requests that the Planning Board watch the April 19, 2022 Town Commission discussion on such item (Number 10D).
2. Requests that the Planning Board physically observe the various canal/lot widths and existing AMFs including boat lifts located within the Town.
3. Create maps of the various waterway widths (including canal and lakes).
4. Once Board site observations are complete, staff is to send out notices to all waterfront property owners (west of State Road A1A) prior to the Planning Board meeting where the Board will discuss proposed amendment concepts as provided to the Town Commission on March 15, 2022.

May 12, 2022 – Planning Board considers the April 19, 2022 direction provided by the Town Commission regarding Board review process for proposed amendments to the AMF regulations of the Town Code.

May 23-27, 2022 – Planning Board participates in individual site observations of the Town waterways via the Police Department’s Marine Patrol Unit (for those Board members who

do not have access to a boat). Note five (5) of the seven (7) Board members conducted their observations on the Marine Patrol Unit vessel.

June 21, 2022 – Town Commission considers a discussion on a “review timeline” for proposed amendment concepts. Consensus from the Commission was to hold neighborhood meetings at the Town library in an effort to engage input from residents on the proposed changes, and that such meetings commence in October or November upon return of seasonal residents.

August 16, 2022 - Town Commission considers a discussion on a “review timeline” for proposed amendment concepts. Consensus from the Commission is to hold three (3) evening meetings in early November 2022.

December 5, 7, 13, 2022 – Public Input Meetings regarding proposed changes (“amendment concepts”) to the AMF and seawall regulations of the Town Code of Ordinances were held at the Town Library.

February 7, 2023 – Town Commission discussion on December 2022 Public Input Meetings to include summary and next steps.

February 23, 2023 - At the request of the Bel Lido HOA president, staff presented the proposed amendment concepts at the Bel Lido HOA meeting.

June 6, 2023 – At the request of the Town Commission, an update on the Planning Board’s ongoing discussion of the amendments concepts was provided to the Commission.

June – July 2023 - At the request of the Planning Board, an additional round of individual Board member site observations of the Town waterways was conducted via the Police Department’s Marine Patrol Unit. Note five (5) of the seven (7) Board members participated.

September 21, 2023 and October 12, 2023 – The Planning Board approved recommendations on the proposed amendment concepts. *For Amendment Concept No. 1, motion carried 5-2 (October 12, 2023), and for Amendment Concepts 2-7 motion carried 6-0 (September 21, 2023).*

November 7, 2023 – The Planning Board’s recommendations were presented to the Town Commission by the Planning Board Chairperson, Eric Goldenberg.

ATTACHMENTS:

Ordinance.

Business Impact Estimate

Other municipal regulations pertaining to marine-related ladders.

Draft report from Greg Babij.

ATM report, 2/11/2022.

Public Comment.

RECOMMENDATION:

At the discretion of the Town Commission.

ORDINANCE NO. 2024-

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 6, "BUILDINGS AND STRUCTURES," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6-128, "APPROVAL REQUIRED FOR BULKHEADS, SEAWALLS, RETAINING WALLS; REQUIRED NOTIFICATION OF ABUTTING PROPERTY OWNERS," TO PROVIDE A MAXIMUM SEAWALL CAP AND DOCK WIDTH; AMENDING CHAPTER 30, "ZONING," BY AMENDING SECTION 30-68, "SUPPLEMENTAL DISTRICT REGULATIONS," TO PROVIDE A MAXIMUM HEIGHT FOR BOAT LIFTS, A MAXIMUM EXTENSION FOR ACCESSORY MARINE FACILITIES INTO CANALS AND LAKES, A MAXIMUM SEAWALL CAP AND DOCK WIDTH, AND LADDER REGULATIONS AND AMENDING SECTION 30-131, "DEFINITION OF TERMS," TO PROVIDE DEFINITIONS THAT PERTAIN TO ACCESSORY MARINE FACILITIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, on November 17, 2020, the Town Commission authorized Vice-Mayor Greg Babij to sponsor a review and propose any amendment(s) to the accessory marine structure ordinance provisions; and

WHEREAS, on March 15, 2022, the Town Commission considered an introduction to proposed amendment concepts regarding the accessory marine facility provisions of the Town Code; and

WHEREAS, on April 19, 2022, the Town Commission provided direction in establishing a process for review of the amendment concepts; and

WHEREAS, on June 21, 2022 and August 16, 2022, the Town Commission considered a discussion on a review timeline for the proposed amendment concepts and agreed to hold three (3) evening meetings at the Town Library in an effort to engage input from residents; and

WHEREAS, on December 5, 7, and 13, 2022, Public Input Meetings were held on the proposed amendment concepts to the accessory marine facility and seawall regulations of the Town Code of Ordinances; and

WHEREAS, on February 7, 2023, the Town Commission agreed to have the Planning Board review the proposed amendment concepts and provide their recommendations to the Town Commission; and

WHEREAS, on September 21 and October 12, 2023, the Planning Board provided their recommendations on the proposed amendment concepts to the Town Commission; and

WHEREAS, on April 2, 2024, the Town Commission agreed to move forward with five (5) of the seven (7) amendment concepts, and directed staff to draft an Ordinance accordingly; and

WHEREAS, the Town Commission of the Town of Highland Beach has determined that the amendment to the Code of Ordinances is in the best interest of the Town of Highland Beach;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA that:

SECTION 1. The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

SECTION 2. The Town Commission hereby amends Chapter 6 “Buildings and Structures,” Article V “Seawalls; Bulkheads; Retaining Walls,” Section 6-128 “Approval required for bulkheads, seawalls, retaining walls; required notification of abutting property owners” to read as follows (additional language underlined and deleted language ~~stricken through~~):

Sec. 6-128. - Approval required for bulkheads, seawalls, retaining walls; required notification of abutting property owners.

(a) No bulkhead, seawall, or retaining wall shall be erected or constructed in any water, canal or lake, or on land abutting thereon, within the limits of the town, unless plans and specifications have been submitted to and approved by all federal, state and county agencies with jurisdiction over such construction activities, the planning board and the town consulting engineer, with a copy of such plans and specifications being filed with the town. The planning board shall review applications under this section as special exceptions.

(b) All seawalls west of State Road A1A shall be at base flood elevation (BFE) or higher as provided by the FEMA FIRM maps. The maximum combined seawall cap and dock width shall

not exceed eight (8) feet as provided in Section 30-68(g)(6)b. All seawalls on the Intracoastal Waterway and the Atlantic Ocean shall, at the discretion of the town engineer, have rip rap at the base to dissipate the wave energy and to protect the berm.

SECTION 3. The Town Commission hereby amends Chapter 30 "Zoning Code," Article IV "Zoning Districts," Section 30-68 "Supplemental district regulations" to read as follows (additional language underlined and deleted language ~~stricken through~~):

Sec. 30-68. – Supplemental district regulations.

(g) *Accessory marine facilities:*

(1) *Accessory use.* Accessory marine facilities, including docks, piers, launching facilities, boat basins, freestanding pilings and lifting and mooring devices, are permitted as accessory uses in all residential zoning districts. Accessory marine facilities shall be reviewed as special exceptions by the planning board which shall be the final authority on all applications unless the accessory marine facility is part of a site plan submittal or other application requiring town commission approval as provided for in section 30-36.

a. Accessory marine facilities shall not be used for commercial purposes.

b. Accessory marine facilities shall be used only by residents or their guests, and shall not be rented or leased to nonresidents or any other person other than owners or residents of the principal dwelling or dwellings. For the purpose of this section, the term guest shall mean a person or persons residing in a dwelling unit for a limited period of time, not to exceed a period of sixty (60) days within one calendar year, at the invitation of the owner or resident of the dwelling.

c. Accessory marine facilities shall not be a hazard to navigation.

(2) *Boat basins.* Boat basins are allowed in all zoning districts and reviewed by a special exception, subject to the additional standards listed below:

a. The edge of any improvements associated with a boat basin shall be located at least twenty-five (25) feet from side property lines.

b. The total length of improvements associated with a boat basin shall not exceed one-third (33.3%) of the length of the property line in which the basin is located.

c. Not more than twenty-five (25) percent of any boat moored in a boat basin may extend waterward of property line in which the basin is located.

d. The town, at the expense of the applicant, may utilize appropriate marine, engineering, construction, and related professionals to review all aspects of such application. Such professionals shall be utilized to ensure compliance with the requirements herein, to ensure a proposed basin will not be a hazard to navigation, and to ensure a proposed boat basin will not pose a potential hazard, via erosion or other action, to the stability of neighboring properties.

(3) *Lifting devices.* The installation of lifting devices or other means of securing boats (but not a boat dock) is allowed in all zoning districts. The maximum height for lifting devices shall be at base flood elevation (BFE), as provided by the FEMA FIRM maps, plus eight (8) feet. Lifting device height shall be measured to the top of the lift structure including mechanical equipment. In addition to the requirements for a special exception, the planning board must also find that the lifting device will provide adequate protection of neighboring property and that there is no infringement of standard navigational practices.

(4) *Boats and setbacks.* When moored, any portion of a boat shall not extend beyond any property line, as extended waterward.

(5) *Enclosures.* Accessory marine facilities shall not be enclosed with walls, roofs, or any other structures or improvements.

(6) *Installation.* Accessory marine facilities shall comply with the installation standards listed below:

a. In waterways ~~not~~ regulated by the U.S. Army Corps of Engineers or other governmental regulatory agency, docks and mooring facilities structures shall not extend into the water more than twenty-five feet (25') or twenty-five percent (25%) of the waterway width, whichever is less (excludes docks and mooring facilities located along the Intracoastal Waterway), measured from the wet face of the seawall or bulkhead ~~not extend into any waterway more than five (5) feet.~~

b. ~~In waterways regulated by the U.S. Army Corps of Engineers,~~ The maximum combined seawall cap and dock width shall not exceed eight (8) feet. ~~docks and mooring structures may extend to that distance allowed by said agency.~~

c. Measurement of the width or length of a dock, as applicable, shall be made from the property line.

d. Marine facilities shall comply with the side yard setbacks listed below.

1. Single-family zoning districts: Twenty-five (25) feet; provided, however, the side yard setback shall be fifteen (15) feet for any single-family lot with a lot width of fifty (50) feet or more but less than seventy (70) feet. For those lots with less than fifty (50) feet abutting the water, the planning board may grant a special exception for the installation of a seawall mounted davit type lifting device (but not a dock structure) after being satisfied as to the protection of neighboring property and no infringement of standard navigation practices.

2. Multifamily zoning districts: Five (5) feet, measured from the perimeter property lines. In multifamily residential zoning districts, marine facilities shall be exempt from side yard setback requirements for all interior lot lines.

(7) *Perpendicular docking.* Unless otherwise provided herein, boats shall not be moored or docked perpendicular to the property at which they are located.

a. A boat moored at the landward end of a canal constructed for boat docking purposes may be moored perpendicular to the property line, provided such mooring does not impede the navigation of adjacent property owners.

b. A boat moored in the Intracoastal Waterway may be moored perpendicular to the property line, subject to approval by the U.S. Army Corps of Engineers.

c. A request for perpendicular docking of a boat in a canal shall be considered as a special exception by the planning board. Applications for development order approval of perpendicular docking of boats shall be subject to all standards applicable to a special exception request, and the additional criteria contained herein:

1. Location of docks, docked boats, and relation to side setbacks shall be established by the waterward extension of property lines.

2. Perpendicular docking of boats shall not interfere with navigation of other boats within the affected canal, and will not be a hazard to navigation.

3. Perpendicular docking of boats shall comply with all setbacks required for accessory marine facilities.

4. Docks or accessory mooring facilities approved by the planning board for perpendicular docking of boats may exceed the maximum extension into a waterway allowed for accessory marine facilities.

5. The building official or designee, or planning board may request evidence, prepared by a recognized marine expert, demonstrating the following:

i. Proposed perpendicular docking and related accessory marine facilities will not reasonably deny or otherwise limit the ability of abutting or adjacent property owners to construct accessory marine facilities;

ii. Proposed perpendicular docking and related accessory marine facilities will not reasonably deny or otherwise limit the normal ability of abutting or adjacent property owners to moor, maneuver, use or otherwise move a boat; and

iii. Proposed perpendicular docking and related accessory marine facilities will not deny reasonable visual access of abutting property owners to public waterways.

(8) Ladders are permitted on docks, seawalls, finger piers or other mooring facilities.

(h) *Dolphins, freestanding pilings, boat lifts, docks, and moorings:*

(1) Installation. In order to be installed, dolphins, freestanding pilings, boat lifts, docks, and moorings (collectively "mooring facilities") shall comply with all standards listed below:

a. The installation shall be subject to special exception approval by the planning board at an advertised public hearing.

b. The mooring facilities will be located in a canal or waterway at least eighty (80) feet in width.

c. The mooring facilities will not create a hazardous interference with navigation, endanger life or property, or deny the public reasonable visual access to public waterways.

d. Construction of all mooring facilities shall require a building permit.

(2) Public notice. In addition to the requirements of section 30-46, written notice must be provided by first class mail to owners of property abutting the canal and located within five hundred (500) feet, as measured from both property lines along the canal bank, of the property in question.

(3) Documentation. The building official or designee, or planning board may, in the exercise of their discretion, request evidence, prepared by a recognized marine expert, demonstrating the proposed mooring facilities will not be a hazard to navigation and will not deny reasonable visual access to public waterways.

(4) Adjacent property. Installation of the mooring facilities shall not cause a hazardous interference with navigation, endanger life or property, or deny the adjacent property owners or public reasonable visual access to the public waterway.

(5) Navigation. Installation of such mooring facilities shall not infringe upon standard navigational practices that are or may be used by abutting property owners.

(6) Floating docks. Floating docks are permitted, subject to conformance with all zoning code requirements herein and compliance with all applicable building codes.

SECTION 4. The Town Commission hereby amends Chapter 30 "Zoning Code," Article VIII "Definitions," Section 30-131 "Definitions of terms" to read as follows (additional language underlined and deleted language stricken through):

Sec. 30-131. – Definitions of terms.

Boat lifts means the bottom of the keel of any boat shall not be hoisted greater than one foot above the existing ~~minimum~~ seawall elevation. In no case shall the lift be higher than the superstructure of the boat when lifted except for personal watercraft including jet skis.

Dolphin pilings means that the dolphin piling shall be marine grade wood pilings with a minimum butt diameter of twelve (12) inches. Concrete pile is prohibited. Dolphin pilings shall not extend into the water more than ~~A maximum of~~ twenty-five (25') feet or twenty-five percent (25%) ~~thirty (30) percent~~ of the waterway canal width, whichever is less (excluding such pilings located along the Intracoastal Waterway), ~~shall be allowed~~, measured from the wet face of the seawall or bulkhead property line. Setback shall be no further than the primary structures side yard setback. The minimum height shall be six (6) feet above mean high water (MHW) and the maximum shall be eight (8) feet above MHW. All pilings shall have a reflective tape no more than two (2) inches below the top of the piling and should be four (4) inches in width of the complete circumference.

SECTION 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. Codification. Section 2 of the Ordinance shall be made a part of the Town Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "division," or any other appropriate word.

SECTION 8. Effective Date. This Ordinance shall be effective immediately upon adoption at second reading and shall only apply prospectively.

The forgoing Ordinance was moved by _____, seconded by _____ and upon being put to the vote, the vote was as follows:

VOTES:	YES	NO
Mayor Natasha Moore	_____	_____
Vice Mayor David Stern	_____	_____
Commissioner Evalyn David	_____	_____
Commissioner Donald Peters	_____	_____
Commissioner Judith M. Goldberg	_____	_____

PASSED on first reading at the Regular Commission meeting held on this ____ day of _____, 2024.

The forgoing Ordinance was moved by _____, seconded by _____ and upon being put to the vote, the vote was as follows:

VOTES:	YES	NO
Mayor Natasha Moore	_____	_____
Vice Mayor David Stern	_____	_____
Commissioner Evalyn David	_____	_____
Commissioner Donald Peters	_____	_____
Commissioner Judith M. Goldberg	_____	_____

PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on the ____ day of _____, 2024.

Natasha Moore, Mayor

ATTEST:

REVIEWED FOR LEGAL SUFFICIENCY

Lanelda Gaskins, MMC
Town Clerk

Leonard G. Rubin, Town Attorney
Town of Highland Beach

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 6, "BUILDINGS AND STRUCTURES," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6-128, "APPROVAL REQUIRED FOR BULKHEADS, SEAWALLS, RETAINING WALLS; REQUIRED NOTIFICATION OF ABUTTING PROPERTY OWNERS," TO PROVIDE A MAXIMUM SEAWALL CAP AND DOCK WIDTH; AMENDING CHAPTER 30, "ZONING," BY AMENDING SECTION 30-68, "SUPPLEMENTAL DISTRICT REGULATIONS," TO PROVIDE A MAXIMUM HEIGHT FOR BOAT LIFTS, A MAXIMUM EXTENSION FOR ACCESSORY MARINE FACILITIES INTO CANALS AND LAKES, A MAXIMUM SEAWALL CAP AND DOCK WIDTH, AND LADDER REGULATIONS AND AMENDING SECTION 30-131, "DEFINITION OF TERMS," TO PROVIDE DEFINITIONS THAT PERTAIN TO ACCESSORY MARINE FACILITIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town is of the view that a business impact estimate is not required by state law¹ for the proposed Ordinance, but the Town is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed Ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Development orders and development permits, as those terms are defined in s. 163.3164, and development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;

¹ See Section 166.041(4)(c), Florida Statutes.

- b. Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the municipality.
- c. Sections 190.005 and 190.046;
- d. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- e. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Town hereby publishes the following information:

1. Summary of the proposed ordinance including a statement of the public purpose to be served, such as serving the public health, safety, morals and welfare of the municipality. This Town-initiated Ordinance provides amendments to the accessory marine facility and seawall regulations of the Town Code of Ordinances. On November 17, 2020, the Town Commission of the Town Highland Beach authorized a review and proposal of any amendments to the accessory marine structure provisions in the Town Code of Ordinances. On March 15, 2022, the Town Commission considered an introduction to proposed amendment concepts that provide “clarity” on existing accessory marine facility regulations. Subsequently, three (3) public input meetings were held on December 5th, 7th, and 13th, 2022. In September and October of 2023, the Town’s Planning Board (Local Planning Agency) provided their recommendations on the proposed amendment concepts to the Town Commission. On April 2, 2024 the Town Commission agreed to proceed with five (5) of the seven (7) amendment concepts, and requested that staff provide an Ordinance.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, if any:

(a) An estimate of direct compliance costs that businesses may reasonably incur if the Ordinance is enacted;

(b) Identification of any new charge or fee on businesses, or for which businesses will be financially responsible; and

(c) An estimate of the Town’s regulatory costs, including estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs.

The Ordinance will have no direct economic impact on the one (1) existing private, for-profit business in the Town.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

The Town has one (1) existing private business (Delray Sands Resort).

4. Additional information the governing body deems useful (if any):

MARINE LADDER REGULATIONS

MUNICIPALITY	CODE REGULATION
Boca Raton	For docks, provide at least 1 ladder extending from dock surface to 2 feet below mean low water. For docks in excess of 50 ft in length, 2 ladders shall be provided.
Manalapan	Ladders are permitted on docks.
Gulf Stream	For docks in single-family residential district, ancillary structures such as swim ladders are permitted
Delray Beach	<p>For a dock, at least one ladder extending from the dock surface to two feet below the mean low waterline.</p> <p>For finger piers and docking facilities for 2 or more boats, at least 1 ladder for each 50 feet of finger pier length or major fraction (over 50%) thereof, extending from the dock surface to 2 ft below the mean low waterline. Where 2 finger piers or more are on the same property, at least 1 ladder shall be provided for each finger pier.</p> <p>For a dock, or combination of docks serving the same property and exceeding 50 ft in aggregate length, at least one ladder for each 50 feet of dock length or major fraction (over 50%) thereof extending from the dock surface to two feet below the mean low waterline. Where two or more docks serve the same property, at least one ladder shall be provided for each dock.</p>
Lighthouse Point	All docks shall be provided with safety ladders from the dock or pier to the low-water mark of the canal.

-Note, Juno Beach and Jupiter have no code provisions specific to marine ladders.

Abstract:

The existing marine accessory ordinances lack some detail and it is recommended they are enhanced to provide clarity on topics that have been a source of ambiguity and contention. Items like maximum allowable height of marine accessories, ambiguity around jetski lifts vs. boat lifts, and the process of dealing with marine accessories in where there is a discontinuity in the waterway (i.e corner lots, end of canals) have all been points of contention between residents and the Building Department, due to lack of detail.

Additionally, this is an opportune time to consider revising certain other components of the current ordinances to address anticipated future conflicts or in some cases better conform with code used by surrounding towns.

While reviewing the recommended changes, it may be beneficial to envision the concept of a 3-dimensional box that sits on the rear property line of any waterfront lot. Marine accessories must completely fit within the box to be permissible. Otherwise, they would be required to go through the process of obtaining a variance.

Summary of Recommendations

**1) Define a Maximum Allowable Height of Marine Accessories:
Recommended Maximum Height: Base Flood Elevation plus 7 feet.**

There have been multiple debates around what is an acceptable height of boat lifts. The current codes only state that a boat lift shall not be higher than the superstructure of the boat when lifted, but is silent on how high up in the air the combined boat lift and boat can be. This leaves open the potential for installing boatlifts on top of excessively high pilings, as long as the boat lift is fully retracted so the boat will be higher than the lift itself.

It is recommended that the “height” of the 3 dimensional box behind any waterfront property be Base Flood Elevation plus 7 feet. Referencing Base Flood Elevation allows the ordinance to be dynamic with sea level rise, as it is a reference datum that has been occasionally revised higher by the US Government in conjunction with the sea level. Pilings, and also the boat lift components must not be higher than this recommended maximum allowable height.

2) Amend existing language related to Jetski (Personal Watercraft) Lifts

The current codes are excessively onerous for jetski lifts, relative to boat lifts. As Section 30-131 is written, the bottom of the keel of any boat shall not be hoisted greater than one foot above the minimum seawall elevation, and in no case shall the lift be higher than the superstructure of the boat when lifted.

Because of the low vertical profile of a jetski (3 feet) relative to the vertical profile of a boat lift (7 feet), a boat lift can be installed to hold a boat, but the boat lift would not be permissible if it is used to instead lift a jetski.

It is recommended the current code be amended by either by removing the section that states *in no case shall the lift be higher than the superstructure of the boat when lifted*, or simply exempt jet skis (personal watercraft) from this code.

**3) Define a maximum width of a seawall cap and also a maximum width of a dock out into the water.
Recommended maximum new seawall cap width of 3 feet as measured from the property line
Recommended maximum dock plus seawall cap width of 8 feet as measured from the property line**

As properties are redeveloped and seawalls are replaced, there exists the potential for residents to look to “extend” their effective usable property out into the water by building a new seawall outside of the existing seawall. There is also the potential for properties to get extended by pouring excessively wide seawall caps on top of new seawalls and building excessively wide docks.

By limiting the maximum seawall cap width from the property line, and also the maximum distance the seawall cap plus dock can extend from the property line, the risk of one property owner effectively creating their own peninsula is minimized.

It is recommended that the waterside edge of any new seawall cap be limited to 3 feet from the property line, whether it is on top of a new wall, or is a cap raise on top of an existing wall.

Additionally, it is recommended that any new dock built is limited to a maximum distance of 8 feet out into the water as measured from the property line. This would allow for the outer edge of neighboring docks to all be limited to the same distance from the property line regardless of seawall cap size. For example, if a property has a 2 foot wide seawall cap, then that property would be allowed to have a 6 foot wide dock, and meet the maximum combined width of 8 feet. While if a neighboring property has a 3 foot wide seawall cap, they would be limited to a dock width of 5 feet.

Lastly it is recommended that language be added into the code to limit the installation of no more than 1 new seawall outside of the original property seawall that abuts the property line. This eliminates the risk that new seawalls are repeatedly installed on the waters edge side of existing seawalls, which would effectively create a man-made peninsula.

**4) Define a Maximum Distance that Marine Accessories can Extend into the Water
Recommended Maximum Distance: The lesser of 25 feet from the property line or 25% of the waterway width.**

This recommendation can be thought of as the perpendicular edge of the 3 dimensional box, as measured from the property line straight out into the water.

The town codes [Sec. 30-68(g)(6)a and b] simply defer to the Army Core of Engineers for approval of distance into water. It is recommended that the maximum distance be limited to the lesser of 25 feet or 25% of the width of the canal or waterway. Additionally, this distance will be measured from the shortest distance between the two properties in question.

This maximum distance of 25 feet is not an arbitrary value. It was chosen to allow residents to mix and

match combinations of seawall cap widths, dock widths and boat lift widths of reasonable size without having to obtain a variance.

The chart below shows the various widths of boatlifts ranging from small boats to very large boats. For illustration, a typical 40 ft powerboat may weigh 30,000 to 40,000 lbs., and that lift is 16 ft wide (center to center) which is 17 ft wide when measured to the outsides of all pilings.

This very standard lift size could be installed at any home that has also conformed to the recommended seawall cap and dock widths, and stay at the 25 ft maximum distance:

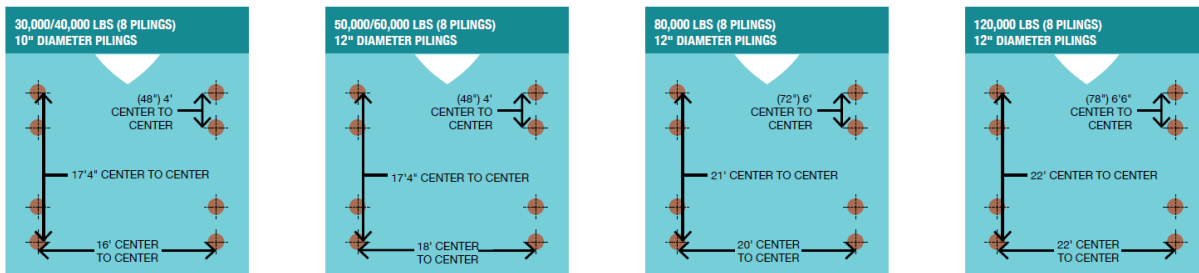
$$3 \text{ ft seawall cap} + 5 \text{ foot dock} + 17 \text{ foot boatlift} = 25 \text{ ft.}$$

On the larger end of the spectrum, a 120,000 lb boatlift could hold about the largest size boat an owner would probably want to be able to lift behind a residential property. That boatlift is 22 ft wide center to center, which would be 23 feet wide to the outsides of the pilings. This “mega lift” could still fit in a back yard, but it would have to be right up against a seawall cap, as there is no room for a dock. Early seawall caps were 2 feet wide, and newer caps are 2.5 feet to 3 feet wide. Also note this lift could be installed at a property that has a 3 foot new cap, by notching out 1 foot where the inside pilings are installed. And again this is an extreme outlier example.

A much more typical boat lift for very large boats would be a 50,000 or 60,000 or even possibly an 80,000 lb. lift and the widths there easily stay within the maximum 25 foot threshold with a 3 foot wide seawall cap.

I am not sure Highland Beach has ever had a request to install an 80,000 or 120,000 lb. boatlift, as those are a very rare size.

Piling Setting Dimensions for Yacht Lifts



5) Amend Side setbacks to utilize a smoothed definition instead of the complicated step function definition. Additionally apply the new definition to all property types.

The current town codes utilize a step function where the side setbacks jump at discrete intervals. For example, if a single family zoned property is 71 feet wide, the side setbacks are 25 feet on each side. Comparatively, if a single family zoned property is 69 feet wide, the side setbacks are 15 feet on each side. Additionally, there exists a different set of side setbacks for single family zoning vs multi-family zoning. Multi-family zoning has a zero foot setback.

It is recommended that the side setbacks be a smoothed function and are less for smaller properties so

as to enhance the ability to utilize the water frontage. It is also recommended that the same set of rules apply to all properties equally, regardless of zoning.

Recommendations for Side setbacks:

-For properties with waterline length of 100 feet or more: 10 foot side setback on either side. This setback matches surrounding towns such as Boca Raton, Hillsboro Beach, and Ocean Ridge.

-For properties with waterline length of less than 100 feet: the side setbacks are proposed to be 10% of property waterline length on either side, with a minimum setback of 5 feet, on either side.

Utilizing this framework, a 71 foot wide property would have side setbacks of 7.1 feet, and a 69 foot property would have side setbacks of 6.9 feet.

Lastly, it is recommended that the current code clarify that with measurements will be made based on the assumption that a lot line is extended beyond said property line on a line perpendicular to the seawall or bulkhead. This clarification will provide clarity when measurements are being made with properties that have lot lines that are not perpendicular to the seawall, such as pie shaped lots.

6) Require a Ladder for every 50 feet of dock.

This is simply a requirement in most surrounding towns and our code is silent.

7) Strengthen existing language on the approval process of marine accessories in areas where there is a discontinuity in the waterway by acknowledging that they are a “special case” and external expertise will be utilized.

The majority of conflicts are associated with areas where there is a discontinuity in the waterway such as an abrupt restriction in the waterway width, end of canals, or corner lots or lots that extend into a waterway. The current code is a bit nebulous around these more complicated properties, and in some cases boatlifts have previously been installed in locations where one property owner is inadvertently restricting or blocking an adjacent property owner of the ability to also install a boatlift.

This situation was discussed extensively with the Marine Consultant, and in his expert opinion, no code can be written to address every possible potential scenario within the town. His recommend course of action is to treat any property that has a small water frontage (perhaps less than 50 feet) or that has a discontinuity in the waterway as “a special case.” In these special cases, the standard procedure will be to consult with a marine expert who will make recommendations to the planning board on locations and maximum permissible sizes of marine accessories, with the intention of making sure all surrounding property owners are not having their ability to also utilize the waterway restricted. The code already allows for outside experts for review of development approval requests via Sec. 30-12. The recommended code change is simply to clarify to all parties that a consultation with a marine consultant along with a consultant recommendation to the planning board will be part of the approval process in these special cases.

The planning board can then decide what will be permitted. If a resident disagrees with the planning board’s approval, and feels that their access is being restricted as a result of a marine accessory installation, they can seek remedy through the court system.



A Geosyntec Company

2/11/22

Ingrid Allen
Town Planner
Town of Highland Beach
3614 S. Ocean Boulevard
Highland Beach, FL 33487

**Re: Accessory Marine Facility Code Amendments Relative to Boat Lifts
 Town of Highland Beach**

Ms. Allen,

This correspondence is provided as additional discussion and opinion regarding changes to Town of Highland Beach code relative to 'Accessory Marine Structures' and specifically boat lifts as defined within sec. 30-68 of municipal code. Items are discussed relative to potential changes to specific requirements of the current code.

1. Requirement for Accessory Marine Facilities to receive Planning Board approval

The requirement that all accessory marine facilities receive planning board approval (ref. Sec. 30-68 Supplemental district regulations (g)(3)) is not a common requirement within coastal communities. Boat lifts are generally allowed with restrictions without planning board approval. Board approval is typically reserved for sites with special and unique circumstance (see item 6. below) or for variance requests from the standard provisions defined in code. The requirements for lift installation are generally defined by code in terms of limitations to the location (setback) and overall size of the structure. These limitations meet the intent to minimize impacts to adjacent properties, allow for safe navigation and minimize impacts to view.

2. Requirement of setbacks for all zoning districts

Requirements for minimum setbacks for all zoning districts are a standard practice and are a key provision to meet the intent to minimize impacts to adjacent properties, allow for safe navigation and minimize visual impacts. The zero-foot setback for multi-family zoning within the Town's current code is anomalous and does not provide a sufficient setback to meet the intent. Required minimum setbacks for boatlifts and docks vary considerably by jurisdiction. The nominal width of lots within a municipality are generally relevant to this provision. Areas with larger lots tend to have larger setback requirements, while areas with smaller lots have lesser setback requirements to allow for reasonable use.

3. Limits to waterway encroachment

Limitations to the distance structures can encroach into a waterway are a standard practice and meet the intent to allow for safe navigation and minimize impacts to adjacent properties and views. Encroachment maximum distances on the order of 25 feet (relative to the waterway edge) are fairly common, though additional restrictions for narrow waterways are also common practice. In general, a fifty-foot effective fairway width is a common design standard for residential canals.

4. Limitations to pile maximum height

Limitations to maximum pile height is not a common practice but does meet the intent to minimize impacts to view. This approach also addresses a related issue relative to overall vessel size. Limitations to pile height restrict the ability to lift vessels beyond a certain size which addressed both issues of view and waterway navigability. In terms of maximum height, it should be defined relative to a fixed vertical datum. Pile heights generally on the order of 12 feet (NAVD 88) (which equates to something on the order of 8 feet above dock height) meet the lifting requirements for most vessels.

5. Limits to seawall cap and dock width

Limitations to Seawall cap and dock total width meets the intent to limit impacts to adjacent properties, waterway navigability and view. A total width of 8 feet (inclusive of the seawall cap and dock) is consistent with general practice.

6. Special and unique circumstances - Sewall discontinuities and corner lots

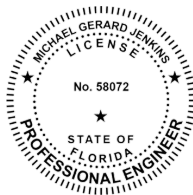
Regulation of boat lifts through minimum setbacks, size and height limitations are generally sufficient to meet the intent to minimize impacts to adjacent properties, allow for safe navigation and minimize impacts to view for waterways that are generally uniform in dimension adjacent to the regulated property. The majority of conflicts are associated with areas where there is a discontinuity in the waterway such as an abrupt restriction in the waterway width, corner lots or lots that extend into a waterway. Application of uniform code provisions to address these areas are problematic as each circumstance is unique and requires consideration of the specific current and intended use and access to the waterway. These issues are further complicated by the range of boat types, sizes and performance characteristics which may be germane to both the use and potential for impact to adjacent properties. Such instances likely warrant further consideration by the Planning Board.

Sincerely,

Applied Technology & Management, Inc.



Michael G. Jenkins, Ph.D., P.E.
Coastal Engineering Principal



**Michael
G Jenkins**

Digitally signed by
Michael G Jenkins
Date: 2022.02.24
09:00:36 -05'00'

Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

PUBLIC COMMENT

From: [Jaclyn Dehart](#)
To: [Ingrid Allen](#); [Eric Goldenberg \(gldnbrg@gmail.com\)](#); [Ilyne Mendelson \(msirm1@gmail.com\)](#); [Rbrown4314@gmail.com](#); [David Powell](#); [Jason Chudnofsky](#); [David Axelrod](#); [eve rosen](#)
Subject: FW: Public Comment for Planning Board 11/14/2024
Date: Tuesday, November 12, 2024 2:25:26 PM
Attachments: [image001.png](#)

Good afternoon All,

Please see the below email (public comment) that will be placed on the dais for Thursday's meeting. Thank you.



Best Regards,
Jaclyn DeHart
Deputy Town Clerk

Town of Highland Beach
3614 S. Ocean Boulevard
Highland Beach FL 33487
(561) 278-4548 Office
(561) 265-3582 Fax
www.highlandbeach.us

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Town of Highland Beach officials and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing. The views expressed in this message may not necessarily reflect those of the Town of Highland Beach.

From: Lanelda Gaskins <lgaskins@highlandbeach.us>
Sent: Tuesday, November 12, 2024 1:59 PM
To: maurengarrett@sbcglobal.net
Cc: tarrag@aol.com; Jaclyn Dehart <jdehart@highlandbeach.us>; Public Comments <publiccomments@highlandbeach.us>
Subject: RE: Public Comment for Planning Board 11/14/2024

Hello,

Your public comments were received for the November 14, 2024 Planning Board Regular Meeting.

Best Regards,
Lanelda Gaskins, MPA, MMC, FCRM
Town Clerk / Custodian of Public Records

Town of Highland Beach
3614 S. Ocean Boulevard



Highland Beach FL 33487
(561) 278-4548 Office
(561) 265-3582 Fax
www.highlandbeach.us

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From: maureengarrett@sbcglobal.net <maureengarrett@sbcglobal.net>

Sent: Tuesday, November 12, 2024 12:40 PM

To: Lanelda Gaskins <lgaskins@highlandbeach.us>

Cc: maureengarrett@sbcglobal.net; tarrag@aol.com

Subject: Public Comment for Planning Board 11/14/2024

Ms. Gaskins: Please submit this for public comment for the planning board scheduled 11/14/2024. If you would be so kind to confirm receipt. Thank you

In opposition to the following proposed amendment concepts

1. Increasing the seawall cap plus dock to 8 ft - there is no justification in support of this change and creates navigational hazards to adjacent property owners
2. Encroachment into water at 25 ft or 25% of waterway width - completely disregards the concept of blocking neighbors' ingress and egress specifically those with odd shaped/pie shaped/non-perpendicular property lines.
3. 10 feet set back - there is no justification in support of this change other than boaters wanting bigger boats; creates navigational hazards to adjacent property owners and completely disregards the concept of blocking neighbors' ingress and egress specifically those with odd shaped/pie shaped/non-perpendicular property lines.
4. ladders every 50 feet - creates an attractive nuisance (to children), increase criminal home invasion opportunity and concerns of liability for homeowners.

Ordinance 30-68 in its entirety fails to define terms within the ordinance and fails to consistently use the same terms throughout. For example: marine facilities vs. accessory marine facilities; mooring facilities vs. mooring devices vs. mooring structures and floating vessel platforms vs. floating docks. These terms undefined are confusing and misleading. Finally, the Ordinance needs "catch all" language giving the town authority to enforce "all marine structures."

The Garretts

Ingrid Allen

Subject: FW: Army Corps of Engineers

From: Ingrid Allen
Sent: Thursday, September 19, 2024 12:16 PM
To: Jeffrey <jeffreyfl@gmail.com>
Cc: Jeff Remas <bco@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; Greg Babij <gregbabij@yahoo.com>; Marshall Labadie <mlabadie@highlandbeach.us>
Subject: RE: Army Corps of Engineers

Jeffrey:

I will include, as part of public comment on the Ordinance, your suggested revision to Section 30-68(g)(6)a. provided below.



Sincerely,
Ingrid Allen
Town Planner

*Town of Highland Beach
3614 S. Ocean Boulevard
Highland Beach FL 33487
(561) 278-4540 Office (option 3)
(561) 278-2606 Fax
www.highlandbeach.us*

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Town of Highland Beach officials and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing. The views expressed in this message may not necessarily reflect those of the Town of Highland Beach.

From: Jeffrey <jeffreyfl@gmail.com>
Sent: Thursday, September 19, 2024 5:35 AM
To: Ingrid Allen <iallen@highlandbeach.us>
Cc: Jeff Remas <bco@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; Greg Babij <gregbabij@yahoo.com>; Marshall Labadie <mlabadie@highlandbeach.us>
Subject: Re: Army Corps of Engineers

Ingrid,
After re-reading the draft ordinance, I now understand that its adoption will address my concerns.

For clarity, I would like to suggest that in Section 6a of the draft, the term “all waterways” is used instead of “waterways regulated by the Army Corps.”

I have no further questions at this time. Once again great job by staff in preparing and presenting the new draft ordinance.

Thank you,
Jeffrey

From: [Ingrid Allen](#)
To: [Lanelda Gaskins](#)
Cc: [Jaclyn Dehart](#)
Subject: FW: Marine Accessory Ordinance
Date: Monday, September 16, 2024 9:48:45 AM
Attachments: [image001.png](#)

Public comment received for item 8A on the 9-17-24 TC agenda (see below).



Sincerely,
Ingrid Allen
Town Planner

Town of Highland Beach
3614 S. Ocean Boulevard
Highland Beach FL 33487
(561) 278-4540 Office (option 3)
(561) 278-2606 Fax
www.highlandbeach.us

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From: Jeffrey <jeffreyfl@gmail.com>
Sent: Sunday, September 15, 2024 12:03 AM
To: Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Donald Peters <sportsbarn1@aol.com>; Judith Goldberg <jgoldberg@judithgoldberg.com>; Marshall Labadie <mlabadie@highlandbeach.us>
Cc: Craig Hartmann <chartmann@highlandbeach.us>; Glenn Joseph <gjoseph@highlandbeach.us>; Jeff Remas <bco@highlandbeach.us>; Ingrid Allen <iallen@highlandbeach.us>; Pat Roman <proman@highlandbeach.us>; Rick Greenwald <Ragreenwald@bellsouth.net>
Subject: Marine Accessory Ordinance

Mayor, Vice Mayor, Commissioners, Town Manager,

I had the opportunity to watch the proceedings of the April Commission meeting on Marine Accessories, during which key issues were thoughtfully deliberated. I also reviewed our staff's draft ordinance prepared for Tuesday's meeting.

After observing the work of our town's commission and staff for almost two decades, the workflow and execution of this ordinance revision stand out as among the most exceptional I have witnessed.

I was particularly impressed by how our Commission was responsive to public sentiment or the absence of it. I especially appreciated the decision to discard the proposal to reduce side setbacks for Marine Accessories due to the lack of public support. This thoughtful decision reflects your genuine commitment to community collaboration.

I would like to express my sincere gratitude to our town staff, especially Jeff and Ingrid, and to our Commission for their outstanding work. This ordinance revision has undoubtedly been the best example of governance I have witnessed in our town.

I sincerely hope the process used for this ordinance revision will serve as the gold standard for developing and evaluating future ordinances.

Sincerely,
Jeffrey Kleiman
Highland Beach

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: 1096 Bel Lido: Marine Accessory Ordinances Perspective
Date: Tuesday, September 17, 2024 8:18:50 AM
Attachments: [Marine Accessory Ordinance letter to Commission 20240915.pdf](#)
[image001.png](#)

Print for Commission and record



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Christine Nessen <christine.nessen@gmail.com>
Sent: Monday, September 16, 2024 10:55 PM
To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Anders Nessen <a_nessen@hotmail.com>
Subject: 1096 Bel Lido: Marine Accessory Ordinances Perspective

Good evening, Commissioners & all,

Hope everyone is doing well. We are 15-year homeowners at 1096 Bel Lido Drive and next door neighbors to the Babijis.

We are also in favor of reconsidering the proposed restrictions on marine accessory ordinances.

Best regards,
Christine & Anders Nessen

Robert and Gloria Spahr
4225 Tranquility Dr.
Highland Beach, Fl 33487
Rspah50@gmail.com
Gastuart@hotmail.com

September 16, 2024

Board of Commissioners
Town of Highland Beach
3614 S. Ocean Blvd
Highland Beach, FL 33487

Dear Commissioners

The Spahr's have lived at 4225 Tranquility since 1991. Our house has evolved from a 2100 sq ft house to a two story 4200 sq ft house and our boats have grown from 26ft to 39ft and now 53ft. Most residences of Highland Beach and in particular Bel Lido Isle have evolved in the same fashion, larger houses with larger boat dock requirements. Our demographics have changed from a mostly retired population to now include a younger demographic of younger active family's. Our marine accessory ordinances need to reflect the new demographic accommodating active families' waterfront needs and desires.

We choose to live on Bel Lido Isle because of the wonderful access to Dockage and the Beach. As the families, houses and boats have grown in size the need for updated dockage setbacks, allowing larger docks, has grown as well. In my particular case my dock is too small, less safe for boarding and less safe for securing the vessel in a storm than it should be.

We agree with Mr. Babij, the proposed revisions are not acceptable and too restrictive. We attended the public meetings to discuss revisions and I recall only a couple residents on the North end of town that were not in favor of a less restrictive marine accessory and set back ordinances. Take notice that the Spahr's are in favor significantly reducing the side setbacks to 8 feet.

Robert and Gloria Spahr
4225 Tranquility Dr.
Highland Beach, Fl 33487
Rspah50@gmail.com
Gastuart@hotmail.com

At a very minimum, I strongly urge you to revisit the marine accessory ordinance issue with the planning board and seek their opinion on the revised ordinance in front of you at the next Commission meeting, as it has substantially changed from what the planning board previously reviewed and made recommendations on.

I would also encourage you to host an open discussion at a future Commission meeting on this Topic.

Thank you for your service and consideration of my position requesting less restrictive marine accessory regulations.

Sincerely



Robert and Gloria Spahr

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: Marine Accessory Regulations
Date: Tuesday, September 17, 2024 8:19:42 AM
Attachments: [image001.png](#)

Please print for Commission and record



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Mark Kabbes <mkabbes@seakay.us>
Sent: Monday, September 16, 2024 11:31 PM
To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>
Subject: Marine Accessory Regulations

Highland Beach Commissioners:

I was disappointed to hear that the commission is considering even more restrictive set backs for boats in our town. I felt 15' was too restrictive but still workable, the proposed new ordinances would severely limit people's options and enjoyment of their waterfront property. I believe that you would find an overwhelming majority of residents of single family homes with intercoastal or canal access would agree. Restricting peoples access and enjoyment to their own backyards is not going to be popular with waterfront residents. Please reconsider following the restrictions neighboring towns have adopted.

Sincerely,

Mark Kabbes
1001 Bel Air

Greg Babij
1092 Bel Lido Drive
Highland Beach, FL 33487

September 15, 2024

Board of Commissioners
Town of Highland Beach
3614 S. Ocean Blvd.
Highland Beach, FL 33487

Dear Commissioners:

For those of you unfamiliar, I am a waterfront resident of Highland Beach, and the former Vice Mayor of Highland Beach that worked for a year with the building department and the outside marine consultant on proposing changes to the town's marine accessory ordinances.

I received a copy of your proposed revisions to be discussed at the next Commission meeting and I am thoroughly disappointed. The proposed ordinance details are generally more restrictive rather than less restrictive, are very different than what was recommended by your planning board, and are far from what was proposed to the Commission after our initial working group concluded.

Many if not most of the younger residents (under age 65) live on the water because they have a desire to actively utilize it, not simply sit and observe it. They desire an active lifestyle that includes boats, paddle boards, jet skis and the best thing for the environment is to keep all of them out of the water when not in use.

While a number of waterfront residents have found the proposed ordinance frightening, I won't go through every component, and instead provide just a few examples to illustrate how sideways this has gone.

Side Setbacks:

At a recent Commission meeting, Mayor Moore commented that she hasn't heard any requests to decrease side setbacks. Please take this letter as notice that there are a significant number of waterfront residents that would in fact like to see a substantial decrease of side setbacks. A decrease of side setbacks is what was proposed by the original working group, and the following single family and multi-family waterfront residents desire less rather than more restrictive marine accessory rules including a decrease from the 25 ft side setbacks to something that is similar to the surrounding towns (ranging from as low as zero to a maximum of 15 ft).

Greg Stuart / Alisa Musa – 4403 Intracoastal Drive
Marthin DeBeer – 4307 Intracoastal Drive
Alan Goldstein – 4403 Intracoastal Drive
Sara Regnier – 1083 Bel Lido Drive
Roger Brown – (2 Properties) 4314 Tranquility Drive & 4315 Tranquility Drive

Mark Kabbes – 1001 Bel Air Drive
Eric Bernier – 4205 Intracoastal Drive
Robert Spahr – 4314 Tranquility Drive
Michael Duggan – 4314 Tranquility Drive
Eric & Brenda Berch – (2 lots combined) 4425 Tranquility Drive
Jeff Kleiman – 4321 Intracoastal Drive & 1084 Bel Lido Drive
Greg Babij – 1092 Bel Lido Drive

This is by no means an exhaustive list – simply a partial list to illustrate that there are a significant number of residences that would like the Commission to relax the marine accessory ordinances, to something that match the surrounding towns and certainly not make them any more restrictive.

Floating Vessel Platforms, Boat Lift Elevations & Basins:

You should be embracing this desire to preserve and protect the marine ecosystem, and not try to hamper it. Getting watercraft out of the water and on to a boat lift, floating vessel platform, seapen or other device is a very positive impact on the environment. This is the very stance that the State of Florida has taken, hence their ordinances that are designed to encourage the use of these items, along with minimal restrictions on property setbacks in some cases like floating vessel platforms.

Your only concern should be ensuring any marine accessory doesn't impede the ability to navigate the waterway, and there are already rules in place for that. Additionally, according to one of the marine attorneys I recently spoke to, the state law cannot be superseded by more restrictive rules from the local municipality. You should not in any way even consider any ordinances that are more restrictive than the state, especially when many of your waterfront residents are asking for the opposite (see above list).

Surrounding town regulations on floating vessel platforms, perpendicular docking and basins are all being successfully implemented and are fair to those on both sides of the issue. You should be embracing what is working well around us, as that is what many of your residents are asking for.

In terms of maximum height of boat keels, you should be in favor of allowing them to be lifted as high as the current maximum height of a seawall. If you do believe in rising tides, you should want boat owners to be able to lift them up to a level where they can be confident that they won't float off of the lift in a storm surge. If you are raising the allowable height of the seawall, allow lifting apparatus heights to increase accordingly.

Conclusion:

At a very minimum, I strongly urge you to revisit the marine accessory ordinance issue with the planning board and seek their opinion on the revised ordinance in front of you at the next Commission meeting, as it has substantially changed from what the planning board previously reviewed and made recommendations on.

I would also encourage you to host an open discussion at a future Commission meeting on this topic with me as a presenter if you are so inclined.

As always, I am available to speak to any commissioner or the commission as a body if you would like to investigate this matter further.

Regards,
Greg

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)
Date: Tuesday, September 17, 2024 8:19:15 AM
Attachments: [Marine Accessory Ordinance letter to Commission 20240915.pdf](#)
[image001.png](#)

Please print for Commission and record



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: greg4hb@yahoo.com <greg4hb@yahoo.com>
Sent: Monday, September 16, 2024 11:01 PM
To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Greg Babij <greg4hb@yahoo.com>; David Axelrod <daxelrod@gmail.com>; Jeffrey (via Google Docs) <jeffreyfl@gmail.com>; mdebeer@brightplan.com; Allan Goldstein <agoldstein@amgresources.com>; Eric.Berch@svcfinc.com; Brenda Berch <berchb827@gmail.com>; Christine Nessen <christine.nessen@gmail.com>; Robert Spahr <rspah50@gmail.com>; Roger Brown <roger3265@aol.com>; Greg Stuart <gstuart@frminc.com>; dwillens65@gmail.com
Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)

Dear Commissioners,

Apparently the content of my letter has made its way around the waterfront residents. As of tonight I have heard from owners of 24 waterfront properties that are strongly in support of making the town's marine ordinances wholly LESS restrictive. There is strong support for what was originally proposed by me after the marine accessory ordinance working group and even greater support for matching the least restrictive ordinances of surrounding towns for each of the various accessories such as docks, boat lifts, floating vessel platforms, perpendicular piers and boat limits.

I would expect you will be hearing a lot more from this group of residents soon.

Regards,
Greg

----- Forwarded Message -----

From: greg4hb@yahoo.com <greg4hb@yahoo.com>

To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>;
dstern@highlandbeach.us <dstern@highlandbeach.us>; edavid@highlandbeach.us
<edavid@highlandbeach.us>; jgoldberg@highlandbeach.us <jgoldberg@highlandbeach.us>;
dpeters@highlandbeach.us <dpeters@highlandbeach.us>; Craig Hartmann
<chartmann@highlandbeach.us>

Cc: Greg Babij <greg4hb@yahoo.com>; dzaxelrod@gmail.com <dzaxelrod@gmail.com>

Sent: Sunday, September 15, 2024 at 09:15:45 PM EDT

Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances

Marshall,

Can you please share my attached letter with all of the Commissioners and the Planning Board? I don't have all of their emails

Thanks,
Greg

January 4, 2023



COMMENT SHEET

David Willens

2362 South Ocean Blvd

dwillens65@gmail.com

NAME

ADDRESS

EMAIL ADDRESS

1. Maximum height for Accessory Marine Facilities (AMF) at Base Flood Elevation (BFE) plus 7 feet.

I support the proposed change.

2. Exempt personal watercraft (PWC) lifts from the requirement that "in no case shall the lift be higher than the superstructure of the boat when lifted" OR remove requirement.

I support the proposed change.

3. Maximum seawall cap width of 3 feet; maximum 8-foot width for seawall cap plus dock.

I support the proposed change.

4. **Encroachment of AMFs and seawalls into water at 25 feet or 25% of waterway width, whichever is less (measured from the shortest distance adjacent to property line).**

I support the proposed change, except that for properties located directly on the Intracoastal waterway, such encroachment distance should be allowed to a greater extent if and as approved and permitted by the Federal Army Corps of Engineers.

5. **10 foot side setback for all zoning districts. For lots less than 100 feet in width, setback is 10% of width; however, setback cannot be less than 5 feet.**

I emphatically support the proposed change. The foremost reason residents buy navigable waterfront properties is marine access/usage, including boating at their home. The current SFR code 25' setback is grossly inconsistent with and much more restrictive than every other local town: ex. Deerfield Beach-5 ft; Gulfstream-5 ft; Boca Raton and Delray-10ft. The code makes absolutely no sense when a SFR with 70' frontage can have a 40' dock vs a SFR with 80' only permits a 30' dock?

6. **Require a ladder for every 50 feet of dock.**

I think one ladder for every 100 feet of water frontage is sufficient and makes better sense conceptually and from a safety perspective to measure by water frontage rather than dock length.

7. **Maximum seawall height.**

I would propose to allow seawalls up to a maximum height equal to the then current base flood elevation.

Additional Comments:

~~The dock set back issue is the big issue in my opinion. I live directly on the intracoastal and my property frontage is 80 ft. limiting me to a 30 ft dock. The IC is extremely busy and there are no wake restrictions. Accordingly, without a longer dock and associated dock separating a water break design, it is impracticable to dock a boat at my home or even board or access a boat at most times due to boat traffic. A longer dock and water break (as the code amendment is proposed I would be entitled to a 64' dock) would allow a reasonable size vessel to dock within the protected area including to utilize a lift during busy TC use benefiting from reduced wave action at the lift. In fact, I have already obtained Army Corps of Engineers and DEP approval for same but the town Code prohibits my construction permit. This grossly unreasonable restrictive code therefore deprives me of the right to use my property for boating that any reasonable person would expect and materially reduces the value of my property.~~

If you prefer, you can email your comment sheet to iallen@highlandbeach.us
THANK YOU FOR YOUR INPUT...

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)
Date: Tuesday, September 17, 2024 8:21:24 AM
Attachments: [Town of Highland Beach - COMMENT SHEET PUBLIC INPUT MEETINGS. David Willens 2362 S Ocean Blvd 1-23-24.pdf](#)
[image001.png](#)

Please print for Commission and record...



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: David Willens <dwillens65@gmail.com>
Sent: Tuesday, September 17, 2024 8:09 AM
To: greg4hb@yahoo.com; Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Greg Babij <greg4hb@yahoo.com>; David Axelrod <daxelrod@gmail.com>; Jeffrey (via Google Docs) <jeffreyfl@gmail.com>; mdebeer@brightplan.com; Allan Goldstein <agoldstein@amgresources.com>; Eric Berch <berch@svcfinc.com>; Brenda Berch <berchb827@gmail.com>; Christine Nessen <christine.nessen@gmail.com>; Robert Spahr <rspah50@gmail.com>; Roger Brown <roger3265@aol.com>; Greg Stuart <gstuart@frminc.com>
Subject: Re: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)

Dear Commissioners,

I emphatically agree with and support the position advocated by Mr. Babij in his exhaustive efforts to date as well as his letter recently circulated and provided to the Commission respecting the proposed Code changes relating to accessory marine structures and the failure of the Commission to duly consider, respond to and respect the clearly expressed input and wishes of its constituent property owners in the Town of Highland Beach, including my own.

The Commission's review of the applicable Code provisions for accessory marine facilities has been ongoing now for nearly four years without any action to date, which is way too long to begin

with. The Commission's staff undertook a professional, thorough evaluation of the Code provisions and with direction of the Commission engaged an independent marine consultant to provide an independent professional evaluation of the affected waterways and related code provisions. Both did an excellent job in this regard. And, both the Commission's staff and its independent marine consultant provided the Commission detailed recommendations and proposed Code amendments to address the ostensibly overly restrictive and antiquated provisions governing accessory marine structures that do not fairly address the current development, conditions, sea water levels, technology, watercraft or comparable provisions commonly established by other South Florida communities. And yet, after this exhaustive and grossly delayed process, the Commission is still not listening to the professional recommendations advanced by its independent marine consultant, nor the Commission's own staff, nor the emphatic wishes of the Town residents who actually reside on the waterfront. For clarity, most of we residents, who each spent millions of dollars for our beautiful residences situated on deep, navigable waterfront here in Highland Beach, acquired these homes to avail ourselves of their deepwater access and use of the beautiful waterways and ocean for boating and other water activities. Our properties have by far the most property value and it is our taxes that support this town. The overly restrictive Code provisions for accessory marine facilities likely compromise such values and certainly the desirability of our waterfront properties.

Specific to my own concern is Section 30-68(g)(6)(d)(1)) of the Highland Beach Municipal Code which provides for grossly restrictive (excessive) side yard set-backs for docks at single family residences compared to every nearby community surveyed by my attorneys in their review of other similar local municipalities. Both the Commission staff and the marine consultant advocated significant reductions to these setbacks consistent with Mr. Babij recommendations, specifically recommending a reduction in the side yard set-backs to be 10% of a property's waterfront width. With all due respect, Mayor Moore's statement that I understand was made at a recent Commission meeting (referenced by Mr. Babij) that "she has never heard requests to decrease the side yard set backs" clearly affirms she has not read the record including prior feedback from residents. (For example, see attached my own public comment sheet provided to Commission at one of the relevant public hearings in 2022).

The failure of the Commission to undertake the proposed Code amendment without responding to the side yard set-back concerns (and any other unaddressed issues) of the waterfront property owners and the express recommendations of Commission staff and the Town' Commission's independent marine consultant feels dismissive, arbitrary and capricious.

Accordingly, I sincerely hope the Commission reconsiders its proposed Code amendment to respond to such expressed concerns and recommendations.

Respectfully,

David Willens, Esq,

David A. Willens

President, Willens Family Office

dwillens65@gmail.com
(561) 866-2757

From: greg4hb@yahoo.com <greg4hb@yahoo.com>

Date: Monday, September 16, 2024 at 11:01 PM

To: Marshall Labadie <mlabadie@highlandbeach.us>, Natasha Moore <nmoore@highlandbeach.us>, dstern@highlandbeach.us <dstern@highlandbeach.us>, edavid@highlandbeach.us <edavid@highlandbeach.us>, jgoldberg@highlandbeach.us <jgoldberg@highlandbeach.us>, dpeters@highlandbeach.us <dpeters@highlandbeach.us>, chartmann@highlandbeach.us <chartmann@highlandbeach.us>

Cc: Greg Babij <greg4hb@yahoo.com>, David Axelrod <daxelrod@gmail.com>, Jeffrey (via Google Docs) <jeffreyfl@gmail.com>, mdebeer@brightplan.com <mdebeer@brightplan.com>, Allan Goldstein <agoldstein@amgresources.com>, Eric.Berch@svcfinc.com <Eric.Berch@svcfinc.com>, Brenda Berch <berchb827@gmail.com>, Christine Nessen <christine.nessen@gmail.com>, Robert Spahr <rspah50@gmail.com>, Roger Brown <roger3265@aol.com>, Greg Stuart <gstuart@frminc.com>, dwillens65@gmail.com <dwillens65@gmail.com>

Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)

Dear Commissioners,

Apparently the content of my letter has made its way around the waterfront residents. As of tonight I have heard from owners of 24 waterfront properties that are strongly in support of making the town's marine ordinances wholly LESS restrictive. There is strong support for what was originally proposed by me after the marine accessory ordinance working group and even greater support for matching the least restrictive ordinances of surrounding towns for each of the various accessories such as docks, boat lifts, floating vessel platforms, perpendicular piers and boat limits.

I would expect you will be hearing a lot more from this group of residents soon.

Regards,
Greg

----- Forwarded Message -----

From: greg4hb@yahoo.com <greg4hb@yahoo.com>

To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; dstern@highlandbeach.us <dstern@highlandbeach.us>; edavid@highlandbeach.us <edavid@highlandbeach.us>; jgoldberg@highlandbeach.us <jgoldberg@highlandbeach.us>; dpeters@highlandbeach.us <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>

Cc: Greg Babij <greg4hb@yahoo.com>; dzaxelrod@gmail.com <dzaxelrod@gmail.com>

Sent: Sunday, September 15, 2024 at 09:15:45 PM EDT

Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances

Marshall,

Can you please share my attached letter with all of the Commissioners and the Planning Board? I don't have all of their emails

Thanks,
Greg

From: [Town of Highland Beach via Municode Portal](#)
To: [Public Comments](#)
Subject: Highland Beach Public Comment Submission
Date: Monday, September 16, 2024 3:51:23 PM

Submitted on Monday, September 16, 2024 - 3:51pm

Submitted by anonymous user: 74.124.47.10

Submitted values are:

Contact Information

Name Maureen Garrett
Email Address maureengarrett@sbcglobal.net
Telephone 7132543675

Meeting Date Tue, 09/17/2024
Meeting Type Town Commission
Public Comments

An email has been sent to Ms. DeHart and Ms. Gaskins attaching letters of concern for proposals to setbacks, perpendicular property line waterward with seawall rather than the current law to follow the upward property line (legally any change is a governmental taking of property), floating vessel platform violations pursuant to 403.318 including non-compliant applications, more than one dock per property owner, and combined depth of docks/platforms more than 5 feet waterward.

It is requested that the Commission please consider all issues, especially the corner lots that are effected by any/all of these proposed changes and incorporate all letters of concern.

The results of this submission may be viewed at:

<https://highlandbeach-fl.municodemeetings.com/node/2411/submission/771>

Town Commission Meeting 09.17.2024 PUBLIC COMMENT FOR ITEM 8.A

From: maureengarrett@sbcglobal.net
To: [Public Comments](#); [Lanelda Gaskins](#); [Jaclyn Dehart](#)
Cc: maureengarrett@sbcglobal.net; tarrag@aol.com
Subject: FW: 4307 Intracoastal Drive (Floating Vessel Platform)
Date: Monday, September 16, 2024 10:35:53 AM
Attachments: [Garrett reply ltr to Highland Beach 9.15.24.pdf](#)
[Exh A Memo \(1979\) re Amendment.pdf](#)
[Exh B Amendment.pdf](#)
[Exh C Bel Lido Pres ltr to Mayor \(1980\).pdf](#)
[Garrett Ltr to Highland Beach 7.15.24.pdf](#)
[Rubin Response Letter \(Floating Vessel Platform\).pdf](#)

Ms. DeHart

Per our conversation, please present this email with the attached Garrett letters and exhibits to the Commission for discussion at tomorrow's Town Commission Meeting.

If you would be so kind to confirm receipt of this email.

Thank you.

From: maureengarrett@sbcglobal.net <maureengarrett@sbcglobal.net>
Sent: Sunday, September 15, 2024 6:23 PM
To: 'Len Rubin' <len@torcivialaw.com>; 'Jeff Remas' <bco@highlandbeach.us>; 'Ingrid Allen' <iallen@highlandbeach.us>; 'Marshall Labadie' <mlabadie@highlandbeach.us>; aosowsky@highlandbeach.us; GRAS.TROY@flsenate.gov; Southeast.District@floridadep.gov
Cc: tarrag@aol.com; maureengarrett@sbcglobal.net
Subject: 4307 Intracoastal Drive (Floating Vessel Platform)

All

Attached please find the Garrett's reply letter along with exhibits A, B and C concerning issues as to 4307 Intracoastal Drive (Floating Vessel Platform).

For completeness, copies of Garrett's original letter dated 7/15/2024 and Attorney Rubin's response dated 8/19/2024 are attached.

We appreciate prompt attention to this matter by all Governmental Agencies.

Please contact either myself or my parents to arrange an inspection of the property and/or discuss these issues.

Eugene and Maureen home phone is 561-274-8769
Eugene's email is tarrag@aol.com
Maureen Garrett, daughter, phone number is 713-254-3675

Please confirm receipt. Thank you.

From: Len Rubin <len@torcivialaw.com>

Sent: Monday, August 19, 2024 2:35 PM

To: maureengarrett@sbcglobal.net; tarrag@aol.com

Cc: Jeff Remas <bco@highlandbeach.us>; Ingrid Allen <iallen@highlandbeach.us>; Marshall Labadie <mlabadie@highlandbeach.us>

Subject: 4307 Intracoastal Drive (Floating Vessel Platform)

Attached please find correspondence of same date.

Len Rubin
Town Attorney

Leonard G. Rubin, Esquire
Board Certified City County and Local
Government Attorney

**TORCIVIA, DONLON,
GODDEAU & RUBIN, P.A.**

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From: maureengarrett@sbcglobal.net maureengarrett@sbcglobal.net

Sent: Monday, July 15, 2024 10:13 PM

To: aosowsky@highlandbeach.us; bco@highlandbeach.us; iallen@highlandbeach.us

Cc: maureengarrett@sbcglobal.net; tarrag@aol.com

Subject: 4703 Intercoastal Drive, Highland Beach, FL 33487 property line and dock/floating vessel platform violations

Highland Beach Building Department personnel:

Per my conversation last week with Ms. Allen, I am the daughter to Eugene and Maureen Garrett at 1070 Bel Lido Drive in Highland Beach. As we discussed, the attached letter was prepared to assert several objections, issues and violations related to the dock/platform and seawall located at 4703 Intercoastal Drive, owned by Marthin De Beer.

Please contact either myself or my parents to arrange an inspection of the property and/or discuss these issues.

My phone number is 713-254-3675
Eugene and Maureen home phone is 561-274-8769
Eugene's email is tarrag@aol.com

Please confirm receipt. Thank you.

EUGENE GARRETT
MAUREEN GARRETT

1070 BEL LIDO DRIVE
HIGHLAND BEACH, FL. 33487

September 15, 2024

VIA EMAIL ONLY

Len Rubin, Town Attorney
len@torcivialaw.com
Northpoint Corporate Center
701 Northpoint Parkway, Suite 209
West Palm Beach, FL 33407

Gras, Troy
GRAS.TROY@flsenate.gov
Office of Senator Lori Berman
2300 High Ridge Road, Suite 161
Boynton Beach, FL 33426

Town Planner, Ingrid Allen
iallen@highlandbeach.us
Building Official, Jeff Remas
bco@highlandbeach.us
Code Compliance Officer, Adam Osowsky
aosowsky@highlandbeach.us
Marshall Labadie, Town Manager
mlabadie@highlandbeach.us
3614 S Ocean Blvd.
Highland Beach, FL 33487

Department of Environmental Protection
Southeast Branch
Southeast.District@floridadep.gov
3301 Gun Club Rd
MSC 7210-1
West Palm Beach, FL 33406

Re: 4703 Intercoastal Drive, Highland Beach, FL 33487 property line and dock/floating vessel platform violations

To All named individuals:

This letter is in reply to attorney Len Rubin's August 19th, 2024 letter in response to Garrett's letter dated July 15, 2024, herein incorporated by reference, presenting thirteen (13) issues and concerns related to violations of Highland Beach Town Ordinance, State of Florida statutes, property line violations, navigational hazards and illegal taking of property.

If any other Highland Beach Town Ordinance or state statute is relied upon in support or opposition to the various issues and concerns of the Garretts, please advise. Otherwise, the Garrett issues and concerns are supported by the following:

1. Florida Administrative Code 18-21.003 - Definitions
2. Florida Administrative Code 62-330-051 - Exempt Activities
3. Florida Administrative Code 62-330-427 - General Permit for Docks, Piers and Associated Structures
4. Florida Administrative Code 62-330.428 - General Permit for Floating Vessel Platforms and Floating Boat Lifts
5. Florida Statute Section 403.813 - Permits issued at district centers; exceptions
6. Highland Beach Zoning Code 30-67 - Uses permitted, special exception, and prohibited uses;
7. Highland Beach Zoning Code 30-68(g) - Supplemental district regulations, Accessory marine facilities; and
8. Florida Public Land and Property Code, Chapter 253

Mr. Rubin's response on behalf of the Town of Highland Beach fails to address multiple issues/concerns and furthermore, fails to enforce and recognize ordinances and state statutes under Town authority. Garrett's thirteen (13) issues and concerns are still at issue and are supplemented with this reply.

1. DE BEER'S FLOATING VESSEL PLATFORM IS NOT PERMITTED UNDER STATUTE, ORDINANCES AND LAWS OF FLORIDA

For all reasons stated by the Garretts, De Beer is not eligible for an exemption and is subject to consequence as to the filing of his application.

- a. De Beer already has an existing permitted dock (aka "stone concrete on seawall");
- b. De Beer is prohibited from adding a second structure violating the "one dock" law;
- c. De Beer is prohibited from violating the property line of neighbors;
- d. De Beer is in violation of setback laws;
- e. De Beer's floating vessel platform creates a navigation hazard to neighbors; and
- f. De Beer's structure (permitted dock aka "stone concrete on seawall" plus a floating vessel platform) extends in violation beyond 5 feet waterward

Based on the multiple violations, the De Beer floating vessel platform should be removed immediately.

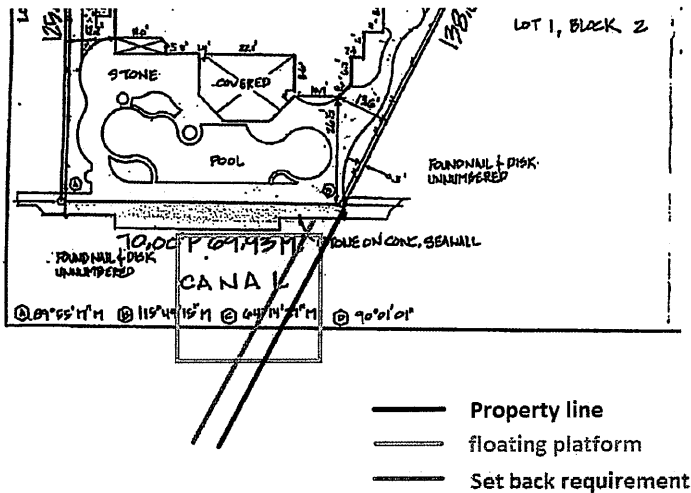
2. NONCOMPLIANCE STILL EXISTS AFTER DEADLINE TO CURE VIOLATION EXPIRES

While it appears from Mr. Rubin's letter that only one (1) violation will be enforced, specifically as to the size of De Beer's floating vessel platform for compliance of a 500 square feet limit, the De Beer's continue to be in violation after attempting to cure the defect.

To date, it appears that De Beer has made a modification to the floating vessel platform after receiving a violation notice from the Town Compliance Officer. However, De Beer simply removed a center portion/row of the platform's squares/rectangles, possibly reducing the size but making no adjustment to the northern edge of the platform which remains in violation of the property line setback and is still over the Garrett's waterward property line.

In addition, De Beer's floating vessel platform is now not centered on the De Beer's property but rather is northward leaning. De Beer simply shortened the platform from the center, reconnecting and generously giving himself larger ramp access on the southern side of the property line.

For illustration purposes, the floating vessel platform (in blue) is now positioned northward towards Garrett's property, attached waterward to an existing dock, extending beyond the setback requirement and crosses over the Garrett's waterward property line.



Mr. Rubin acknowledges authority in his response by stating “the Town Code merely regulates the placement of accessory marine structures”. Well, De Beer is in violation of the northward leaning placement of the floating vessel platform. Based on the Town’s legal representative representation, Garrett requests that immediate action take place to issue the removal of De Beer’s floating vessel platform

De Beer continues to also be in violation with storing coolers, surfboards, storage bins and other random items on the platform. This is a clear violation as previously mentioned in the July 15, 2024 letter referencing 403.813(1)(s)(1), however, not addressed in Rubin’s letter or the Town’s recent violation notice to De Beer.

3. THE FLOATING VESSEL PLATFORM EXEMPTION UNDER 403.813 WAS ONLY ENACTED IN JULY 2023 AND TOWN OF HIGHLAND BEACH AS AUTHORITY TO ENFORCE

The Floating Vessel Platform Exemption Application aka CS/CS/HB 847 was passed by the House on April 26, 2023 and by the Senate on May , 2023 with the Governor’s approval on May 25, 2023 with an effective date of July 1, 2023.

The Town of Highland Beach has not made any ordinance amendments/changes and/or issued permitting requirements for floating vessel platforms since the enactment of this statute (1 year ago). The Town of Highland Beach has chosen to rely on the state statute exemption requirements and not charge a fee or permit. This decision, however, does not relieve the Town from enforcing violations as provided per authority to enforce in the Zoning and Building Ordinance provisions and more specifically authorization under Chapter 253 of the Public Land and Property Code directly mentioned in 62-330.428 (3)(e) - **General Permit for Floating Vessel Platforms and Floating Boat Lifts.**

- (3) The platforms and lifts:
 - (e) Shall not be added to structures or located in areas where boat mooring is specifically prohibited under a permit issued under either Chapter 403, or Part IV of Chapter 373, F.S., or an authorization under Chapter 253 or 258, F.S.; and,

Chapter 253 give the Town authority to enforce, specifically

253.127 Enforcement.—The Board of Trustees of the Internal Improvement Trust Fund, the board of county commissioners or governing body of any municipality, or any aggrieved person, shall have the power to enforce the provisions of this law by appropriate suit in equity.

History.—s. 7, ch. 57-362; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

253.128 Enforcement; board or agency under special law.—In any county where the Legislature by special law or general law with local application has heretofore or hereafter transferred or delegated to any county board or agency other than the board of county commissioners or the governing body of any municipality powers and duties over the establishment of bulkhead line or lines, dredging permits, fill permits, seawall construction or any other powers of a like nature such agency shall have jurisdiction under this law in lieu of the board of county commissioners or the governing body of any municipality as the case may be.

History.—s. 8, ch. 57-362.

Thus, authority to enforce 62-330 and 403.813 is mandated to the Town of Highland Beach and any other governing body. If the Town of Highland Beach refused to enforce violations, the Garretts request that the Florida Department of Environmental Protection, the U.S. Coast Guard, Representatives of the State Senator office and House of Representatives and any other enforcer of the State Statutes take action to issue violations committed by De Beer per their application for exemptions of a floating vessel platform.

4. DEFINITIONS

Webster's Dictionary defines the noun "Dock" as "a place (such as a wharf or platform) for the loading or unloading of materials" and/or "a usually wooden pier used as a landing place or moorage for boats.

Interesting that the very definition includes the word "platform" which is the forefront of Garrett's concerns and issues related to De Beer's violations.

The terms "dock" or "floating vessel platform" are not specifically defined in any Florida Statute per se. However, there are several pertinent Codes, Florida case law and other Town Ordinances that consistently describe and incorporate such as "structures."

The Florida Administrative Code (FAC) is the official version of administrative rules of Florida. Section 18-21.003, defines the terms "Dock", "Marginal dock" and "Private residential single-family dock or pier" as follows:

(22) "Dock" means a fixed or floating structure, including access walkways, terminal platforms, catwalks, mooring pilings, lifts, davits and other associated water-dependent structures, used for mooring and accessing vessels.

(36) "Marginal dock" means a dock placed adjacent to and parallel with and no more than 10 feet waterward from the shoreline or seawall, bulkhead or revetment.

(51) “Private residential single-family dock or pier” means a dock or pier used for private recreational or leisure purposes that is located on a single-family riparian parcel or that is shared by two adjacent single-family riparian owners if located on their common riparian rights line.

Of note, as a child I was told never to use a term to define the same term. Ironically, the Florida Legislature above in these definitions has used the term “dock” to describe the very item which we seek an identification of. It’s clearly circular but perhaps because it is so simple we are complicating the issue.

As part of the exemption application signed by De Beer, Florida Administrative Code (FAC) 62-330-051(5), states that this entire section must be in compliance with 403.813(1)(s), F.S, specifically FAC 62-330-051(5)(f) subjects floating vessel platforms to comply. This FAC section also uses the term “associated structures” providing any dock and associated structure shall be the sole dock as measured along the shoreline.....one exempt dock allowed per parcel or lot.”

FAC 62-330.428 - **General Permit for Floating Vessel Platforms and Floating Boat Lifts** states that such structures are authorized ONLY if built in accordance with Section 403.813(1). Authorization under this section, similarly, provides restrictions as to a size limit, used solely for purposes of storing a vessel, shall not be added to structures and shall not extend more than 25 percent into the width of the waterway. See 62-330-428(3)(b), (d) and (e).

As mentioned, “dock” or “floating platform” is not defined within any Florida Statute, as it relates or uses the term in 403.813. However, several other statutes and codes incorporate the same definition and identify the type of “structure” inclusive of the description of a floating dock, floating vessel platform and floating lift. It is obvious, there is a consistent legislative intent for using the word “structure” when referring to any floating device among these statutes and codes.

Other Florida Statute statutes use the same language, specifically 192.001 defines “Floating structure” means a floating barge-like entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term “floating structure” includes, but is not limited to, each entity used as a residence, place of business, office, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform, dredge, dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term “vessel” provided in s. 327.02. Incidental movement upon water shall not, in and of itself, preclude an entity from classification as a floating structure. A floating structure is expressly included as a type of tangible personal property.

Florida Statute 327.02 defines

(10) “Floating structure” means a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term “floating structure” includes, but is not limited to, each entity used as a residence, place of business or office with public access, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform, dredge,

dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term "vessel" provided in this section. Incidental movement upon water or resting partially or entirely on the bottom shall not, in and of itself, preclude an entity from classification as a floating structure.

Other pertinent definitions include:

(39) "Vessel" is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Seawall is defined under 373.403

(17) "Seawall" means a manmade wall or encroachment, except riprap, which is made to break the force of waves and to protect the shore from erosion.

There are other Florida Ordinances that aid in the description and use of term structure, dock, and platform. There are several Florida Ordinances but to display one for example:

Edgewater Florida Ordinance defines:

Dock means any permanently fixed or floating structure extending from the upland into the water, capable of use for vessel mooring and other water-dependent recreational activities. The term "dock" also includes any floating structure, boat lift or mooring piling, detached from the land, capable of use for mooring vessels or for other water-dependent recreational activities. The term "dock" also includes any area adjacent to the dock designated for mooring purposes when a mooring feature, including but not limited to a piling or buoy anchored to the lake bottom, is utilized to moor a vessel of any type. This term excludes any vessel that is not permanently docked, moored, or anchored.

See

https://library.municode.com/fl/edgewood/codes/code_of_ordinances?nodeId=PTIICOR_CHI4BODOWA

See other town ordinances at <https://library.municode.com/fl>

5. NO CONFLICT EXISTS BETWEEN FLORIDA STATE STATUTE AND TOWN ORDINANCES TO JUSTIFY TOWN OFFICIALS THE REFUSAL TO ISSUE VIOLATIONS

a. "One Dock" Rule

The statement in Mr. Rubin's letter that "Neither the Town Code nor Section 403.813, Florida Statutes, prohibits installation of a floating vessel platform where a permitted docket already exists", is unfounded. This statement by Rubin is the exact opposite of what the statutes dictate. See 403.813(1)(s)(2) with the following excerpts:

- (1) A permit is not required..... for activities associated with the following types of projects; however, except as otherwise provided in this subsection,.....
 - (s) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

2. Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;

De Beer has an existing “original” dock on the property (labeled as “stone on concrete seawall” on De Beer survey). In fact, for years, De Beer parked his 75 ft boat on this existing dock. It cannot be clearer, the existing “original” dock aka “stone on concrete seawall” serves as a defined boat slip and docking structure and is attached to the bulkhead of the De Beer property. Thus, De Beer does not have an exempt “original” dock and he cannot be approved to have a second dock, lift, platform, or structure abutted onto the existing “original” dock on his property.

To further support the violation of having more than one dock, there are other references to the requirement that there must be “no other dock structure” which is repeated four (4) times just in paragraph 5, see 408.813(1)(s)(5) with the following excerpts:

1. “with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure”,
2. “Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations.
3.and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.
4. and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

Consistent with the “no other dock” rule, Florida Statute 62-330-427 blatantly restricts one dock per parcel of land. Excerpt states:

62-330.427 General Permit for Docks, Piers and Associated Structures.

(2) This general permit shall be subject to the following specific conditions:

(e) This general permit shall not authorize the construction or extension of more than one dock or pier per parcel of land or individual lot. For the purposes of this general permit, multi-family living complexes shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property;

Highland Beach Ordinance 30-68(g)(6) and (h)(6) read together are consistent with both 403.813 and 62-330-427. Ordinances are to be followed. Town Officials have the obligation and authority to enforce them. There is no inconsistency and there is no limited authority for Highland Beach not to enforce the “one dock” rule.

De Beer should be issued a notice to remove the floating vessel platform for violation of the “one dock” rule.

b. No structure shall extend 5 feet waterward

Floating docks and platforms are addressed in the Town Ordinance and are subject to the mandatory rule that docks shall not extend into any waterway more than 5 feet. See Sec 30-68(g) and (h).

Sec. 30-68. - Supplemental district regulations.

(g) *Accessory marine facilities:*

(4) *Boats and setbacks.* When moored, any portion of a boat shall not extend beyond any property line, as extended waterward.

(6) *Installation.* Accessory marine facilities shall comply with the installation standards listed below:

- a. In waterways not regulated by the U.S. Army Corps of Engineers, docks and mooring structures shall not extend into any waterway more than five (5) feet.

Sec 30-68 (h) addresses that this Ordinance applies to floating docks/platforms as stated in the following:

30-68(h)(6) *Floating docks.* Floating docks are permitted, subject to conformance with all zoning code requirements herein and compliance with all applicable building codes.

De Beer’s combined docks and platforms extend more than 5 feet and are in violation of the Town’s Ordinance. De Beer should be issued a notice to remove the floating vessel platform for violation of the 5 feet waterward rule.

c. Setbacks from property line

The Town ordinance is clear-as-day, in black and white, and no state statute conflicts with setback guidelines.

Town Ordinance **30-68 (g)(4)** clearly states:

(4) Boats and setbacks. When moored, any portion of a boat shall not extend beyond any property line, as extended waterward.

Town Ordinance **30-68 (g)(6)(c)** clearly states:

(g)(6) Installation. Marine Facilities shall comply with the installation standards listed below

- c. Measurement of the width or length of a dock, as applicable, shall be made from the property line

If the definition of “marine facilities” needs to be addressed than the Ordinance provides that in 30-68(g)(1) Accessory marine Facilities:

- (1) Accessory use. Accessory marine facilities, including docks, piers, launching facilities and lifting and mooring devices are permitted as an accessory use in all residential zoning districts

In addition, Webster’s dictionary defines “mooring” as a permanent structure to which a seaborne vessel (such as a boat or ship) may be secured.

There we see the word “structure” again as a consistent and uniform applicable reference to a floating device, platform or dock.

Garrett requests the enforcement of the setback for waterward structural devices/platforms/structures for property line violations by De Beer.

De Beer should be issued a notice to remove the floating vessel platform for violation of the “setback” rule.

d. Mandatory language

Words such as “shall” and “all” used in both 30-68(g) and (h) are mandatory and specifically address every activity, scenario and type of structure regarding boating/docks/mooring/associated structures that are applicable for the Town of Highland Beach to enforce additional violations to De Beer.

It is outrageously unjustified that the legal team and the building enforcement team of the Town of Highland Beach hold the position that they lack authority to enforce its own Town Ordinance and state statutes.

As an alternative, the Garretts request that the Florida Department of Environmental Protection, the U.S. Coast Guard, Representatives of the State Senator office and House of Representatives and any enforcer of the State Statute(s) take action to issue violations committed by De Beer per their application for exemptions for a floating vessel platform.

e. Not subject to more stringent permitting requirements

Section 403.813(s)(5) discusses that a qualified exemption may not be subject to more stringent permitting requirements.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. Local governments

may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section or address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. Local governments may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. Local governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

First De Beer is not a qualified applicant under the statute. He already has a dock – a dock that is attached to a bulkhead, the floating vessel platform adds a second structure in violation of the “one dock rule”, the structure is too large and positioned northward leaning to Garrett’s property, the two structures (dock plus floating vessel platform) cumulatively extend waterway beyond 5 feet, the structure is in violation of the setback ordinance and the structure is over the Garrett’s property line.

As Mr. Rubin contends “the Town has limited authority” and does not regulate for accessory marine structures or floating vessel platforms but the Florida statutes expressly give the Town authority as long as there are no more stringent permitting requirements. Thus, Garrett requests the Town and legal counsel readdress the 13 issues/concerns along with this supplement for a full and complete issuance of multiple violations to De Beer.

6. DE BEER AND THE TOWN MANAGEMENT FAILED TO OBTAIN U.S. COAST GUARD APPROVAL THAT THAT FLOATING VESSEL IS NOT A HAZARD

The U.S. COAST GUARD would be the proper authoritative body to address any navigational hazard of the De Beer’s floating vessel platform restrictions to the ingress/egress of the Garrett’s property for navigational purposes, as well as the floating vessel platform encroachment of property lines and riparian rights.

According to Town Ordinance 30-68 (g)(1)(c), Accessory Marine facilities shall not be a hazard to navigation.

De Beer did not obtain U.S. Coast Guard or any other governing hazardous navigation authority to determine the challenges with regards to the floating vessel's size, location placement, prevention of ingress and egress for surrounding properties/neighbors or property line violations.

The Town of Highland Beach and any other governmental authority is also under an obligation to prevent navigational hazards to residents and property owners. By failing to request the U.S. Coast Guard to survey for navigational hazards before permitting is unconscionable.

7. RELIANCE ON ANY ANTICIPATED FUTURE CHANGES OR PROPOSALS TO AMEND THE TOWN ORDINANCE IS PREMATURE AND NOT A DEFENSE TO NON-COMPLIANCE

The Town Ordinances as written have been approved and the enforcement of violations is mandatory. Any statements or reliance on anticipated future changes, proposals or amendments to the Town Ordinances are premature and not a defense to non-compliance of the current Ordinances. The Town Officials are entrusted with the duty to enforce such Ordinances in a prompt and efficient manner.

If the Town of Highland Beach or any governing agency "grandfathers" any individual, specifically De Beer, through an amendment to the Town Ordinance, the Garretts take the position that an illegal taking by government with regards to their property has occurred.

Thus, Garrett objects to any anticipated future changes and/or proposed amendments to Town Ordinances that negatively affect their property rights.

The Garretts request all violations of state statutes, codes and Ordinances to be strictly enforced and in an immediate timely frame.

8. ENVIRONMENTAL RESOURCE PERMITS (ERP)

According to 403.813, the Environmental Resource Permits (ERP) qualifies as an exemption only if the floating vessel platforms:

"Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners."

This one paragraph in the statute sums up the blatant violations of De Beer on more than one level....navigational hazard, infringement upon riparian rights of the adjacent property owner's and their property line.

Garrett requests that the governing authority of the ERP, immediately conduct an investigation into the violations of De Beer.

9. FEES NOT MANDATORY BUT ENFORCEMENT BY TOWN IS

Florida statute addresses the local government's prerogative to charge a fee for permitting or one-time registration as to floating vessel platforms.

Statute 403.813 gives authority to local government by stating:
Additionally, local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in s. 403.813, F.S., and to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in s. 403.813, F.S., or address subjects other than subjects addressed by the exemption criteria in this s. 403.813, F.S.

However, whether local government charges a fee or not is not an underlying factor as to the local government's authority and does not relieve the Town of Highland Beach from ensuring compliance with this state exemption criteria.

As it stands, the application and permitting appears to be a money maker for the state and/or potentially for the town with no intention of taking action against violators.

The Garrett's insist that the Town of Highland Beach pursue all avenues to address the noncompliance by De Beer under Florida Statute 403.813 and any other pertinent rules, statutes and ordinances.

10. DE BEER SHOULD PROVIDE HIS EXEMPTION IS VALID, NOT INSIST GARRETT'S DISPROVE HIS EXEMPTION

De Beer should have to prove his exemption is worthy of approval, otherwise, face violations for his obnoxious disregard for the laws.

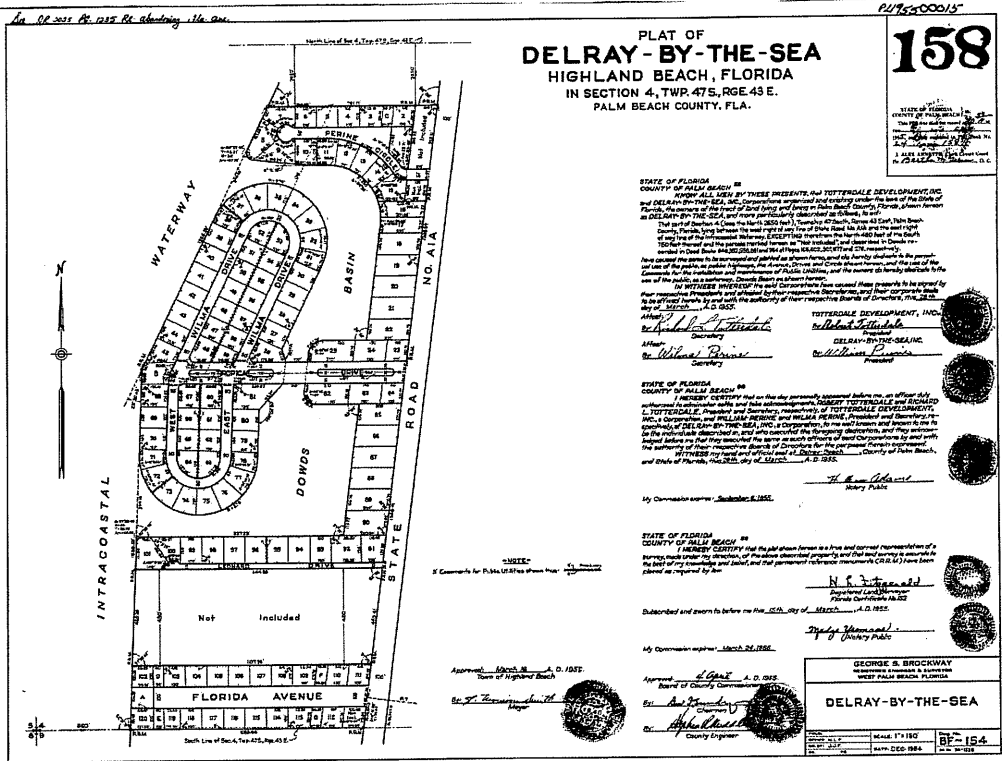
To date, De Beer faces no consequences for his violations while, Garrett, the innocent and affected property owner, suffers from the enjoyment of their property and has spent numerous hours researching, writing letters and consulting with various authoritative bodies to provide the legal basis of De Beer's violations and the reasons why limited actions are being taken.

Garrett requests the authoritative governmental agencies to take immediate action to investigate and issue multiple violations to De Beer.

11. HISTORY

The developers and founders of this town had a vision and with that vision they had an ideology that this beautiful waterfront town would remain an attraction and a benefit to all residents who are afforded the waterfront views.

In fact, Bel Lido was originally known as "Delray by the Sea" as seen in this March 1955 plat. That plat was vastly different from the plat we know today, established and replated in October 1957.



PLAT OF
DELRAY-BY-THE-SEA
 HIGHLAND BEACH, FLORIDA
 IN SECTION 4, TWP. 47 S., RGE. 43 E.
 PALM BEACH COUNTY, FLA.

PL 75-00015
158

STATE OF FLORIDA
 COUNTY OF PALM BEACH
 I HEREBY CERTIFY that the plat shown herein is a true and correct representation of a survey made under my direction, of the above described property and that said survey is in accordance with the provisions of the laws of this State relating to the subdivision of land.

Witness my hand and the seal of said County at Palm Beach, Florida, this 23rd day of March, A.D. 1955.

My Commission expires September 2, 1955.

STATE OF FLORIDA
 COUNTY OF PALM BEACH
 I HEREBY CERTIFY that the plat shown herein is a true and correct representation of a survey made under my direction, of the above described property and that said survey is in accordance with the provisions of the laws of this State relating to the subdivision of land.

Witness my hand and the seal of said County at Palm Beach, Florida, this 23rd day of March, A.D. 1955.

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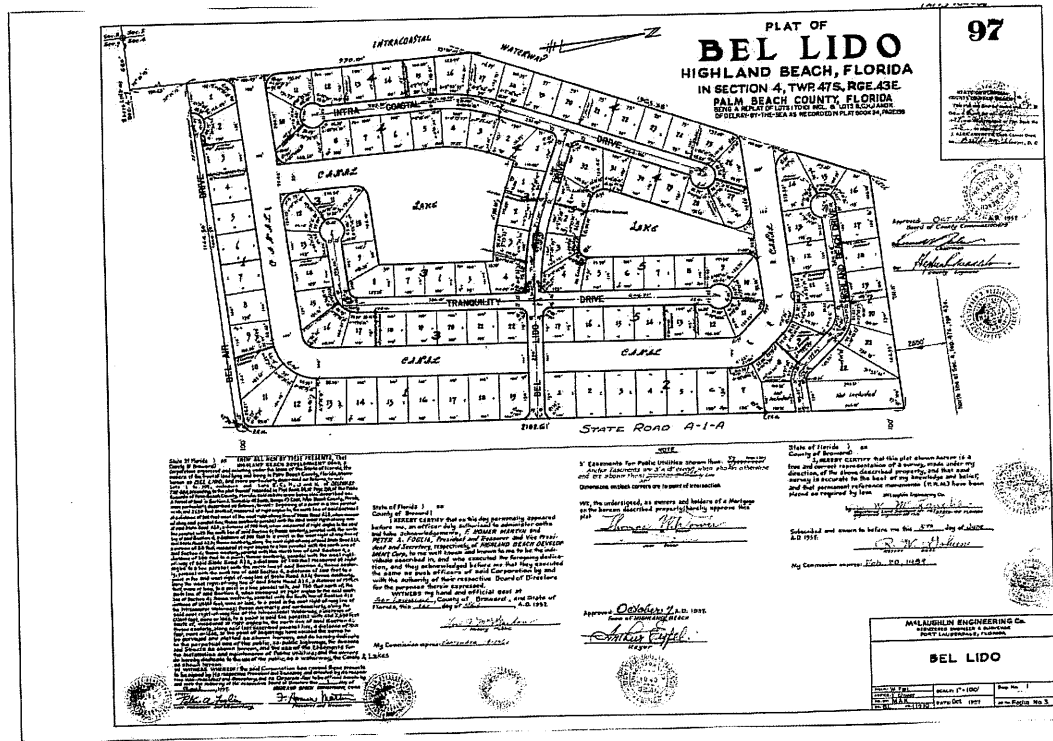
STATE OF FLORIDA
 COUNTY OF PALM BEACH
 I HEREBY CERTIFY that the plat shown herein is a true and correct representation of a survey made under my direction, of the above described property and that said survey is in accordance with the provisions of the laws of this State relating to the subdivision of land.

Witness my hand and the seal of said County at Palm Beach, Florida, this 23rd day of March, A.D. 1955.

My Commission expires September 2, 1955.

GEORGE S. BROCKWAY
 Licensed Professional Engineer
 1000 PALM BEACH BLVD.
DELRAY-BY-THE-SEA
 PLAT NO. 158
 DATE DEC 1954

Exhibit - "Delray by the Sea" Plat dated March 1955



PLAT OF
BEL LIDO
 HIGHLAND BEACH, FLORIDA
 IN SECTION 4, TWP. 47 S., RGE. 43 E.
 PALM BEACH COUNTY, FLORIDA
 BELLY-BY-THE-SEA AS REFERRED TO IN PLAT NO. 158

97

STATE OF FLORIDA
 COUNTY OF PALM BEACH
 I HEREBY CERTIFY that the plat shown herein is a true and correct representation of a survey made under my direction, of the above described property and that said survey is in accordance with the provisions of the laws of this State relating to the subdivision of land.

Witness my hand and the seal of said County at Palm Beach, Florida, this 23rd day of March, A.D. 1955.

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 COUNTY OF PALM BEACH
 I HEREBY CERTIFY that the plat shown herein is a true and correct representation of a survey made under my direction, of the above described property and that said survey is in accordance with the provisions of the laws of this State relating to the subdivision of land.

Witness my hand and the seal of said County at Palm Beach, Florida, this 23rd day of March, A.D. 1955.

My Commission expires September 2, 1955.

MULLIGAN ENGINEERING CO.
 1000 PALM BEACH BLVD.
BEL LIDO
 PLAT NO. 97
 DATE DEC 1954

Exhibit - Bel Lido plat April 1957

These two plats are shown side by side to applaud and give tribute to the early settlers of Highland Beach. Their vision to replat Bel Lido so that EVERY property owner would have waterfront property is commended. The replating gave interior lots access that was not originally platted. The developers knew then how valuable the waterfront view and access to water for recreational purposes would enrich the lives of those in this town for years and decades ahead of them.

The attached exhibits including A) Memo from Town Manger to Town Commission regarding zoning changes dated December 12, 1979 referencing B) Amendment to the Town of Highland Beach Zoning Code, Chapter 30, Section 5 and C) letter from Bel Lido Association President to Mayor Horton dated January 1980 outlines the history of the town's setbacks and the Bel Lido Property Owner Association's opposition to any changes to the 25 feet setback, especially as they affect the corner lots in the Bel Lido community. This letter addresses the same concerns over 40 years ago that the Garretts (and other corner lot owners in Bel Lido) face with the setback requirements, dock restriction and ingress/egress to their property.

Since 1979, there have been no changes to the 25 feet setback and a dock remains limited to 5 feet extended waterward.

Again, De Beer has an existing dock and now a second structure, the floating vessel platform, which is prohibited and combined is an extension beyond the 5 feet waterward limitation.

Thus, these Town Ordinances are not new. They have been in the books for years (actually decades). For the Town Officials to claim they have no authority to regulate is beyond comprehensible.

We therefore request the Town Compliance Officer, Town management and zoning committee, U.S. Coast Guard, Environmental Protection Agencies, Legislative representatives and any government agency with authority to enforce statutory violations to re-evaluate the application for various exemptions and permits related to the De Beer's floating vessel platform as well as the existing original dock, dock and seawall setback requirements, concrete seawall and gate over property line, upland and waterward property line for noncompliance based on supplemental concerns/issues asserted in this letter and incorporating the previous 13 issues concerns in the letter dated July 15, 2024.

Please feel free to contact us with any questions.

Respectfully,

Eugene and Maureen Garrett

cc: *[Handwritten name]*

Legend:--dashes mean deletions
underlining means proposed wording by Planning Commission
()parenthesis means wording suggested by Building Official and/or Town Manager

December 12, 1979

MEMO TO: Town Commission

FROM: Town Manager

Subject: Zoning Changes

The following are proposed changes to the Zoning Code, Chapter 30, recommended by the Planning Commission, the Building Official and the Town Manager. Prior to this memo, you have received a Letter of Transmittal from the Planning Commission which listed their recommendations as a result of their Public Hearing held on October 10, 1979. (Memo dated October 22 1979)

Section 4.1 (c) Page 30-5 Special exception uses Ess-
~~essential public-service-structures-and-others-as-permitted-by~~
this ordinance. None. *le*

ok Section 4.1 (d) Page 30-5 Site plan review requirements.
Not required. (Fran and I recommend that this section stay the same--there should be no site plan review for single family homes)

ok Section 4.1 (e) (9) Page 30-5 Maximum building height.
~~Thirty-five (35)~~ Thirty (30) feet above mean finished grade at building perimeter.

ok Section 4.1 (e) (11) Page 30-6 Parking. Two (2) parking spaces for each dwelling unit. Parking can be included as part of the first floor area;

d Section 5.3 (b) Page 30-22 Planning Commission recom-
mends deletion of entire paragraph because it is already cov-
ered in Section 5.12 (a), page 30-32.

?
Section 5.3 (c) Page 30-22 Reletter to 5.3 (b) Pools
and pool decks. Swimming pools without pool decks may be per-
mitted within ten (10) feet from edge of pool to rear or side
lot line. Swimming pools with pool decks may be permitted
within eight (8) feet from outside edge of pool deck to rear
or side lot line. The area of transition in elevation between
the pool-deck elevation and the elevation of the adjoining
property line shall be either a smooth grade sodded and main-
tained as lawn or landscaped so as to hide all structure from
views from adjoining property; (Fran to further advise you.)

k Section 5.3 (d) to become 5.3 (c) Spacing. No separate acces-
sory building structure shall be located within five (5) feet of
any other building structure; (Fran advises that the difference
between a building and a structure is a structure could be a
covered patio, a gazebo, a slat house, a garage or a pool struc-
ture, etc. A building has a roof, walls, a foundation and us-
ually is habitable.)

l Section 5.3 (e) Page 30-22 ^{RECOMMENDATION} Reletter to 5.3 (d) (Fran
suggests revising the twenty-five (25) feet from the property
line for length of a dock to five (5) feet from property lines.
~~My recommendation to use twelve (12) feet from each property
line which is the side yard setback for the dwelling.~~ Fran
further suggests that notices to property owners by the peti-
tioner be only to those within three-hundred (300) feet instead
of one thousand (1,000) feet of the property in question.)

if Section 5.9 (a) Page 30-24 General. Off-street parking
facilities shall be provided as required by this ordinance. For
the purposes of this ordinance, an off-street parking space shall
consist of a space adequate with minimum dimensions of twenty (20)
feet in length by ten (10) feet in width for parking a standard
size automobile with room for opening doors on both sides, to-
gether with properly related access to a public street and twen-
ty (20) feet backing space between rows of cars for maneuvering
room. Required off-street parking areas for three (3) or more
automobiles shall have individual spaces marked and shall be so
designed, maintained, and regulated that except in the case of
lots in RS districts not abutting SR AIA no parking or maneuver-
ing incidental to parking shall be on any public street or walk,
and so that any automobile may be parked and unparked without

ESG
AMENDMENT OF THE TOWN OF HIGHLAND BEACH ZONING CODE,
CHAPTER 30, SECTION 5

History

In December of 1979, the Town of Highland Beach Planning Commission and the Building Official recommended "revising the twenty-five (25) feet from the property line for ~~the~~ of a dock to five (5) feet from property lines." The then Town Manager recommended using "twelve (12) feet from each property line which is the side yard setback for the dwelling."

In January of 1980, the then president of The Bel Lido Property Owner's Association, Inc., wrote the then Mayor of Highland Beach and stated that "the Association [was] completely opposed to any reduction being made in the 25ft. setback" for docks. The president further stated:

The reason for our opposition is because there are a number of corner lots in the "Island" section of the Bel Lido sub-division which have minimal water frontage incapable of accommodating a dock structure and boats operating therefrom without serious interference and hazards with respect to the next door properties. Such minimal frontage consists usually of two wall set at right angles to each other with a combined length of 40ft or less."

He continued to state:

As a result of having such a short sea wall, the Town, with the full support of the majority of sub-division residents, has consistently over the years forbidden owners of these corner lots to construct docks, based on the following grounds:

The rationale for the 25ft. setback has not changed, namely that to allow docks nearer than this (a) would result in unacceptable navigational interference and safety risks.

~~navigation interference and safety risks~~
with neighboring property owners; (b) would
endanger life or property; or (c) would deny
the public reasonable visual access to public
waterways."

Chapter 30, Section 5, Zoning Code

As a result of the foregoing, the Town of Highland
Beach enacted the present wording of section 5 of Chapter 30 of
the Zoning Code. Section 5(d)(1), in pertinent part, reads:

No [uncovered noncommercial dock] shall
extend into any waterway more than five (5)
feet . . . in RS zoning districts, the side
setback shall be twenty-five (25) feet,
except for those lots with a rear lot line
(water line) between fifty (50) and seventy
(70) feet measured in a continuous straight
line where the side setback shall be fifteen
feet.

Section 5(d)(2), in pertinent part, reads:

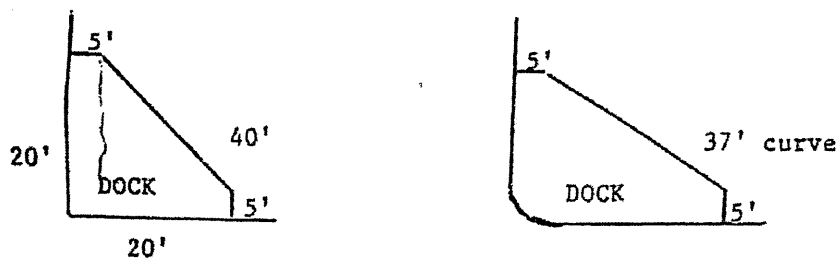
For those lots in RS zoning districts with
less than fifty (50) feet abutting the water,
the town commission may grant a special
exception . . . for the erection of lifting
devices or other means of securing boats (but
not a dock structure)

Amendment

We must decide what side setback we want to be
considered for the proposed amendment. The choices seem to be 5
feet, 8 feet, 10 feet, or 12 feet. Those side setbacks would
allow the following docks:

<u>Set back</u>	<u>40 ft. rear line</u>	<u>37 ft. rear line</u>
12 feet	16 foot dock	13 foot dock
10 feet	20 foot dock	17 foot dock
8 feet	24 foot dock	21 foot dock
5 feet	30 foot dock	27 foot dock

We must also consider that a resulting dock may extend into the waterway more than the five (5) feet allowed by the present section. That is because we probably want a dock to be shaped like a right triangle so a boat can dock parallel to the side opposite the right angle, for example:



Procedure

First, I suggest that we contact the U.S. Coast Guard (or the local Auxiliary) to determine if a dock "would result in unacceptable navigational interference and safety risks with neighboring property owners" or "would endanger life or property."

Second, I suggest that we contact our immediate next door neighbors and ask for approval of the proposed amendment.

Third, I suggest that we contact those neighbors who live within 1,000 feet of our properties and ask for approval of the proposed amendment.

Fourth, I suggest that we contact the Bel Lido Property Owners' Association and ask for approval of the proposed amendment.

Fifth, I suggest that we contact the city officials that live in Bel Lido and ask for approval and assistance to obtain the proposed amendment.

Lido Property Owner's Association, Inc.

47 7/1/69
B.L. Assoc.

4301 SOUTH OCEAN BLVD.

HIGHLAND BEACH, FLORIDA 33444

January 8, 1970

The Hon. Louis Y. Horton, Mayor
Town of Highland Beach
3614 South Ocean Blvd.
Highland Beach, Fla. 33431

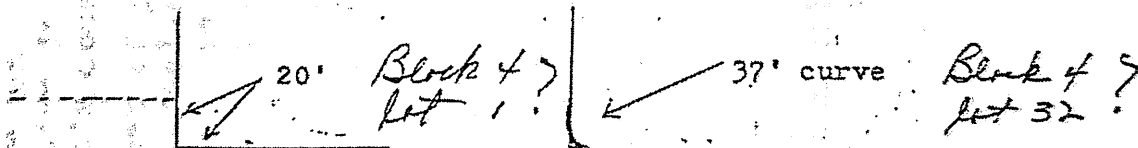
*was not received
recommender*

Dear Mayor Horton:

At a meeting of the Board of Directors of the Bel Lido Property Owners Association held yesterday, a great deal of opposition was voiced to recent suggestions made by the Town Manager and the Building Official that the side setbacks of dock structures be reduced. In Ch. 30 Sec. 5.3(e) this setback is currently 25ft but we understand that setbacks as low as 12ft. and even 5ft have been recommended as possible future amendments to the Zoning Law to be given consideration by the Planning Commission.

A motion was made and seconded that I should write a letter to inform the Town Commission that the Association is completely opposed to any reduction being made in the 25ft. setback. All ten members of the Board were present at this meeting and the motion passed unanimously. The Board is authorized in the by-laws to speak for the entire membership.

The reason for our opposition is because there are a number of corner lots in the "island" section of the Bel Lido sub-division which have minimal water frontage incapable of accommodating a dock structure and boats operating therefrom without serious interference and hazard with respect to the next door properties. Such minimal frontage consists usually of two walls set at right angles to each other with a combined length of 40ft or less. In some cases the angle has straight sides and in others it is curved. The following sketch illustrates the two types:



As a result of having such a short sea wall, the Town, with the full support of the majority of sub-division residents, has consistently over the years forbidden owners of these corner lots to construct docks, based on the following grounds:

They would be in violation of the zoning ordinance requiring a setback of 25ft from the next door property. This requirement incidentally has existed since Ordinance #150 was passed in August 1969.

The rationale for the 25ft. setback has not changed, namely that to allow docks nearer than this (a) would result in unacceptable navigational interference and safety risks with neighboring property owners; (b) would endanger life or property; or (c) would deny the public reasonable visual access to public waterways.

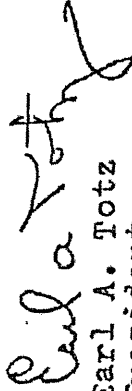
Since the Planning Commission has made no study or recommendation regarding a reduction in the dock setback line, it would seem appropriate that any such controversial amendment proposal would, as is customary, require to be

red back to the Planning Commission for public hearings on the subject
re any action is taken by the Town Commission. This would be in accord
ch procedures laid down in Chapter 163, Part II FS and Chapter 30,
section 12 of the Town's Code of Ordinances.

There have been a number of instances where real estate agents anxious to
conclude a sale for themselves and their clients have attempted to twist
the law this way and that to serve their own financial gain without regard
to the welfare or safety of the public and we are not at all in sympathy
with such tactics.

We would respectfully request that this whole question be referred back to
the Planning Commission for review.

Sincerely,


Earl A. Totz
President

cc All Commissioners
Chairman, Planning Commission

**EUGENE GARRETT
MAUREEN GARRETT**

1070 BEL LIDO DRIVE
HIGHLAND BEACH, FL. 33487

July 15, 2024

VIA EMAIL

Town Planner, Ingrid Allen

iallen@highlandbeach.us

Building Official, Jeff Remas

bco@highlandbeach.us

Code Compliance Officer, Adam Osowsky

aosowsky@highlandbeach.us

3614 S Ocean Blvd.

Highland Beach, FL 33487

Re: 4703 Intercoastal Drive, Highland Beach, FL 33487 property line and dock/floating vessel platform violations

To Highland Beach personnel, planning and management committee:

An application for an exemption to construct and install a residential floating vessel platform has been approved by the Town of Highland Beach and/or other governmental agencies at the address of 4703 Intercoastal Drive, Highland Beach, FL 33487, owned by Marthin De Beer.

For purposes of this letter,

- a. "Applicant" or "De Beer" refers to Marthin De Beer, owner and resident of 4703 Intercoastal Drive, Highland Beach, FL 33487
- b. "the application" or "application for exemption" refers to the Town of Highland Beach Residential Floating Vessel Platform/Floating Boat Lift Exemption Certification Application submitted by Marthin De Beer for the property at 4703 Intercoastal Drive, Highland Beach, FL 33487
- c. "the subject property" refers to 4703 Intercoastal Drive, Highland Beach, FL 33487
- d. "the neighbor's property", "neighboring property" or "Garretts' property" refers generally to an adjacent property or more specifically to 1070 Bel Lido Drive, Highland Beach, FL 33487 owned by Eugene and Maureen Garrett
- e. "the survey" refers or references the exhibit attached to the application for exemption
- f. "lake" and "water" used interchangeably, refers to the body of water behind the 1070 Bel Lido Drive and 4703 Intercoastal Drive
- g. "waterward" is defined as the direction of water or property line extended over water
- h. "upland" is defined as land or the dry area above sea level or land above water

This letter is to assert various objections to the application as an unauthorized and unconstitutional taking of the Garretts' property by the owner of the subject property and his attempts to entice the Town of Highland Beach and other governmental agencies to collude in the approval of his exemption requests.

A list of the objections asserted are as followed and are discussed in detail throughout this letter:

1. **THE APPLICATION, SPECIFICALLY PARAGRAPHS 1 THROUGH 4, ARE INCOMPLETE, MISLEADING AND VAGUE**
2. **APPLICANT HAS AN EXISTING DOCK**
3. **STATUTES DO NOT PERMIT MORE THAN ONE DOCK/PLATFORM PER SINGLE-FAMILY HOME**
4. **FLOATING DOCK/PLATFORM IS OVER THE PROPERTY LINE AND OVER THE SETBACK REQUIREMENTS**
5. **ANGLED PROPERTY LINES EXTEND WATERWARD TO ALLOW FOR INGRESS AND EGRESS ACCESS TO A CORNER LOT**
6. **THE EXTENSION OF A FLOATING DOCK/PLATFORM AT THE SUBJECT PROPERTY IS A VIOLATION OF RIPARIAN RIGHTS**
7. **DE BEER'S SEAWALL LENGTH IS 70 FEET**
8. **SEAWALL LENGTH DICTATES A MANDATORY 25 FEET SETBACK**
9. **DEPTH OF DOCK/PLATFORM EXCEEDS 5 FEET INTO WATERWAY**
10. **DE BEER IS IN VIOLATION OF THE SOLE PURPOSE OF A FLOATING**
11. **"STONE CONCRETE ON SEAWALL" AND SEAWALL FENCE ENCROACH ON GARRETT'S PROPERTY**
12. **UNCONSTITUTIONAL TAKING AND CONDEMNATION BY THE TOWN OF HIGHLAND BEACH AND/OR GOVERNING AGENCIES TO ALLOW EXEMPTIONS ON THE SUBJECT PROPERTY; and**
13. **VIOLATIONS ARE DEVALUING PROPERTY VALUE**

The discussion as to each objection with supporting authority, arguments and/or evidence follows:

1. **THE APPLICATION, SPECIFICALLY PARAGRAPHS 1 THROUGH 4, ARE INCOMPLETE, MISLEADING AND VAGUE**

In Paragraphs 1 of the application when asked to describe in general terms the proposed floating vessel platform and/or boat lift, the answer is vaguely "JetDock Brand. PVC Cubes and Stainless-Steel Hardware" and is silent on any construction methods. The application is also non-responsive to any of the other questions, paragraphs 2 through 4, including the location, dimensions, or a scaled drawing with details.

Hence the objection is that there are no references to size of the platform required by the application (including height, length, depth or weight), no diagram acknowledging the waterward property line, no acknowledgment of the effects on the neighboring property and no setback allocations indicated, The application does not fully provide enough information for the governing agency to allow or approve an exemption.

De Beer under oath asserts that the requested floating vessel platform qualifies as an exemption pursuant to 62-330-051(5)(f) FAC and complies with Section 403.813(1)(s), Florida Statutes. These statutes are inserted for your convenience.

62-330.051 Exempt Activities.

The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under Chapters 253 and 258, F.S., as applicable.

(5) Dock, Pier, Boat Ramp and Other Boating-related Work

(f) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts in accordance with section 403.813(1)(s), F.S.

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, and a local government may not require a person claiming this exception to provide further department verification, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, this subsection does not relieve an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(s) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

1. Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;

2. Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;

3. Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;

4. Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and

5. Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. Local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section or address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane

watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. Local governments may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. Local governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

De Beer provides no information in the application per 403-813 (5(s)(2), whether the structure is wholly contained within a (*his*) boat slip or does not exceed a combined total of 500 square feet or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt...or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure.”

Whether this property issue is Outstanding Florida Water or not, no measurements have been submitted with the application, no property lines have been discussed, no setbacks are considered, no explanation as to the method of attaching the platform has been provided per the requirement that the proposed floating platform is to be attached to a bulkhead on a parcel of land and no reference to the fact that De Beer already has an existing dock on the property have been provided in the application.

Without a complete application as to depth of the dock, De Beer’s application is in violation of Code 68(g)(6)(a): docks and mooring structures shall not extend into any waterway more than five (5) feet. This topic is discussed in paragraph 9 below.

Any exception requested by De Beer for a floating platform on the subject property absolutely causes significant adverse impacts to occur individually or cumulatively to the neighbor and other lake/waterfront property owners.

For these reasons, the application for exemption on its face is incomplete, misleading, and vague.

2. APPLICANT HAS AN EXISTING DOCK

The Applicant has an existing dock on the property and seeks to request an exemption for an additional dock that will layer onto the original dock, ultimately extending waterward, into the open water behind the subject and Garretts lot.

Applicant’s survey indicates “stone on concrete seawall.” The survey fails to give the dimensions of the “stone on concrete seawall” because this is a fully functioning dock with

bulkheads and pilings/piers constructed in the lake/water. Clearly the survey map shows a protruding section off the property seawall over the lake/water. Town permits for the original dock construction and a visual inspection of the “stone on concrete seawall” reveal the dock portion to include dredged pilings/piers and the basic mooring devices. Bottom line, there is a dock on the subject property and later in this letter we address the violations with regards to the original dock setbacks.

In fact, De Beer has docked his approximate 75 foot boat on his property for many years. It was not until the Town of Highland Beach Compliance Department enforced and determined non-compliance of a town ordinance that his boat was too big for the property and crossed the setback property line of the neighbors on both of his property lines. As a result, De Beer removed his boat, subject to periodic stints of parking the boat at the subject property to load/unload for voyages.

Per the Town of Highland Beach satellite mapping link at <https://highlandbeach.us/241/Maps>, De Beer’s boat is shown clearing docked and secured by cleats behind the subject property. Also visible is the boat’s bow extending across the neighboring property line and blocking the lake/water view of the Garretts corner lot.



De Beer cannot dispute that a current dock exists and he has submitted an application for a second dock/platform on the subject property. Hence, his application is in violation of the statutory requirements for a dock/platform and is not supported factually.

3. STATUTES DO NOT PERMIT MORE THAN ONE DOCK/PLATFORM PER SINGLE-FAMILY HOME

An exemption for a floating dock/platform, does not permit the applicant to attach a floating vessel platform onto an existing dock pursuant to **62-330.427**.

62-330.427 General Permit for Docks, Piers and Associated Structures.

(2) This general permit shall be subject to the following specific conditions:

(e) This general permit shall not authorize the construction or extension of more than one dock or pier per parcel of land or individual lot. For the purposes of this general permit, multi-family living complexes shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property;

De Beer attempts to confuse the permitting committee by claiming he does not have an existing dock. The owner prior to De Beer's purchasing of the subject property, installed the "stone on concrete seawall," as recorded in county and town records, and serves as proof of existing dock construction.

De Beer also fails to provide information in his application that the dock will be layered, extending waterward, out beyond the existing dock into the lake/water, like a towered "wedding cake." Not only is there one dock per home rule, but statutes and town ordinances limit the width and depth to 5 feet into the waterway. If De Beer is permitted to layer dock upon dock/platform, what prevents him from adding a 3rd dock/platform, a 4th dock/platform, and so on. See Ordinance Sec. 30-68 (6)(c), inserted below.

Thus, the exemption request is in violation as to one dock/platform per home, the waterward depth of 5 feet maximum, and the layering extension of the dock/platform into the lake/water.

4. FLOATING DOCK/PLATFORM IS OVER THE PROPERTY LINE AND OVER THE SETBACK REQUIREMENTS

In the same survey, the property line between the subject property and the Garretts' property is at an angle (facing inward toward the subject property on a waterward path). The degree of angle waterward on the seawall is approximately 63 degrees on the applicant's property side and approximately 37 degrees on the Garretts' side, noted on both the survey and Garretts' original sketch of survey dated 9/23/1987. The waterward property line is not perpendicular to the seawall as applicant wants to believe. While discussing the shared property line between De Beer and Garrett, the survey notes that the fence is -0.3 feet (equivalent to 3.6 inches) onto the Garretts' property, which the Garretts has never conveyed and disputes any adverse possession claims of this property.

The requested exemption for a second dock/platform is limited to the shoreline (aka seawall) and subject to perimeters within De Beer's property line with setback requirements (25 feet from the side property lines if property at seawall is 70 feet or over and reduced to 15 feet from the side property line if property at seawall is less than 70 feet). See Ordinance Sec. 30-68 (6)(d)(1), inserted below.

Thus, the dock/platform exemption request is in violation by being over the waterward property line and in violation of the setback requirements.

5. ANGLED PROPERTY LINES EXTEND WATERWARD TO ALLOW FOR INGRESS AND EGRESS ACCESS TO A CORNER LOT

The Garretts lot is situated at a corner (not unique as there are other corner lots in Highland Beach, FL, specifically Bel Lido). The waterward property line at an intentionally designed angle allows for ingress and egress access to the corner lot. The Garretts' survey, recorded in the property records, indicates a 20 foot property line along each of the two seawalls creating a 90

degree seawall. Without the shared property lines extending waterward, out into the center of the lake/water, at the same angle as positioned upland (63 degrees to 37 degrees), the corner lot would be blocked out, when the two adjacent properties intersect 20 feet from the seawall on each side. Said a different way, an intersecting line perpendicular off the seawall would box in and prevent the corner lot owner from ingress and egress access.

For visual purposes only, the image is from Garretts' survey, showing 20 feet seawall dimensions at the 90 degree corner. The enhanced orange lines demonstrate how a "perpendicular property line" off the seawall prevents the corner lot from having ingress and egress access to their property.

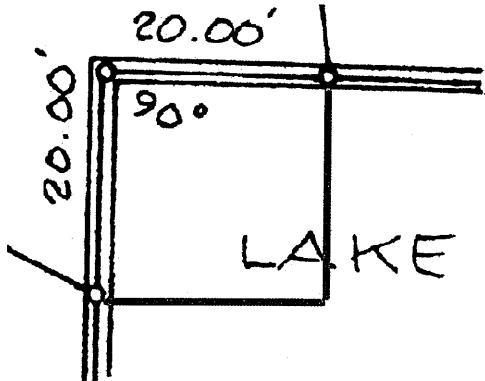


Image is for illustrating purposes only, not to scale or angle degree.

The solution is provided by state statutes, town ordinances and riparian right laws that protect a corner property owner situated like this, by affording the corner lot a "proportionate right" to access their property from the center of the lake/water and the landowner's intent to enjoy the waterfront view. Thus, property laws uphold that the property lines are extended waterward in a manner such as the inserted illustration portrays, not necessarily along the upland property direction, but rather towards the center of the lake/body of water.

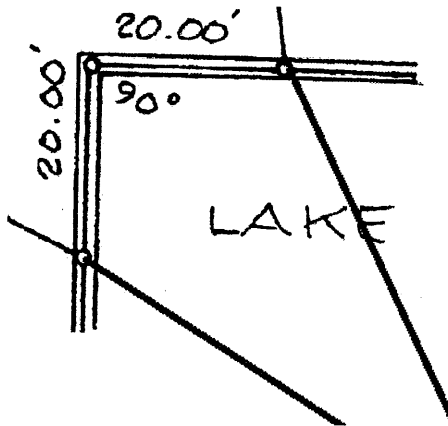


Image is for illustrating purposes only, not to scale or angle degree.

Thus, due to the Garretts' waterward property line, ingress and egress access requirement and riparian rights, the applicant's exemption request is in violation of state and town rules and property regulations.

6. THE EXTENSION OF A FLOATING DOCK/PLATFORM AT THE SUBJECT PROPERTY IS A VIOLATION OF RIPARIAN RIGHTS

Riparian rights in Florida (and other states) are those rights enjoyed by real property owners whose upland property extends to the normal high-water line on navigable waters. In other words, a property owner's land must immediately abut a body of water. Per Sec. 253.141 Florida Statutes, riparian rights include rights of ingress, egress, boating, bathing, fishing, and such others as defined by law. Additionally, in Florida, the right of an upland owner to an unobstructed view of adjoining waters has been recognized as a riparian right. *Hayes v. Bowman*, 91 So.2d 795 (Fla. 1957) ("An upland owner must in all cases be permitted a direct, unobstructed view... If the exercise of these rights is prevented, the upland owner is entitled to relief.").

Florida courts have further recognized over the years that the views associated with these properties are of value. The Florida Supreme Court held the following, "In many cases, doubtless, the riparian rights incident to ownership of the land were the principal if not the sole inducement leading to its purchase by one and the reason for the price paid by the seller." *Thiesen v. Gulf, F. & A. Ry. Co.*, 78 So. 491 (Fla. 1917). As the Supreme Court points out, and which is obvious to anyone living in Florida, a waterfront property's value is dependent on these riparian rights. If the view of a waterfront property were to be obstructed, it would follow that the property's value would diminish.

It is not uncommon for homeowners to seek to enforce their riparian rights when neighboring property owners along a body of water attempt to build docks extending off their property. This scenario gives rise to the question of whether the neighbor's new dock can obstruct their neighbor's waterfront view. The answer is most often no, the dock cannot obstruct the direct waterfront view of an adjacent property owner.

There is a case in Florida where a court found in favor of the dock owner who was obstructing the view of the waterfront property owner with riparian rights. However, what separates that case from similar scenarios as described above is that, in that specific case, the structure was already in place for years prior to the waterfront property owner purchasing the property. The court held that the property owner was aware of the issue upon purchasing and could not enforce his right to an unobstructed view years after purchasing the property. *City of Eustis v. Firster*, 113 So.2d 260, 261 (Fla 2nd DCA 1959).

The neighboring property value is diminished with each inch, foot, yard that the subject property layers a deck upon another deck, extending into the center of the lake/water and minimizing the view of the neighboring property, a violation of riparian rights.

It is important to understand there may be a difference from the waterward path of the upland property line compared to the riparian right line. The riparian right laws define and trump upward property lines to avoid obstruction suffered by a corner lot and are discussed later in this letter.

For visual purposes only we use the upward property line in the inserted image to show the "stone on concrete seawall" with the original dock and the second dock/platform extension. The red line is the setback at 15 feet (which is in violation of 25 feet for properties 70 feet or more), the blue square is the dock platform per the exemption request (not to scale) and the green line represents the property line (63 degrees/37 degrees) on its waterward path from the upland property angle into the lake/water.

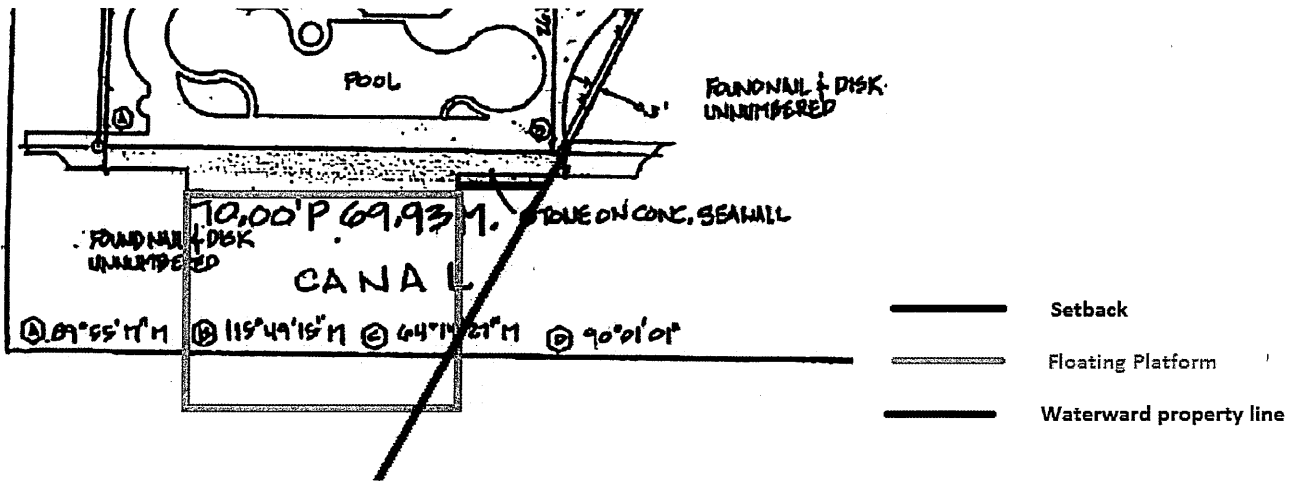


Image is for illustration purposes only, not to scale, angle degree, size, or placement of dock/platform.

The upland boundary in the direction of a waterward path is typically used but there is also the premises that the lake/water body must be equitably apportioned as if the waterfront owners were standing on the shore looking out over the body of water. The riparian right applicable to the square/rectangular lake, such as in this case, uses the method of a center point of the lake to determine apportionment to each property owner. As an illustration, the next inserted exhibit shows the actual lake/water at issue with the riparian view lines drawn. All lines meet at a focal point in the middle of the lake/water.

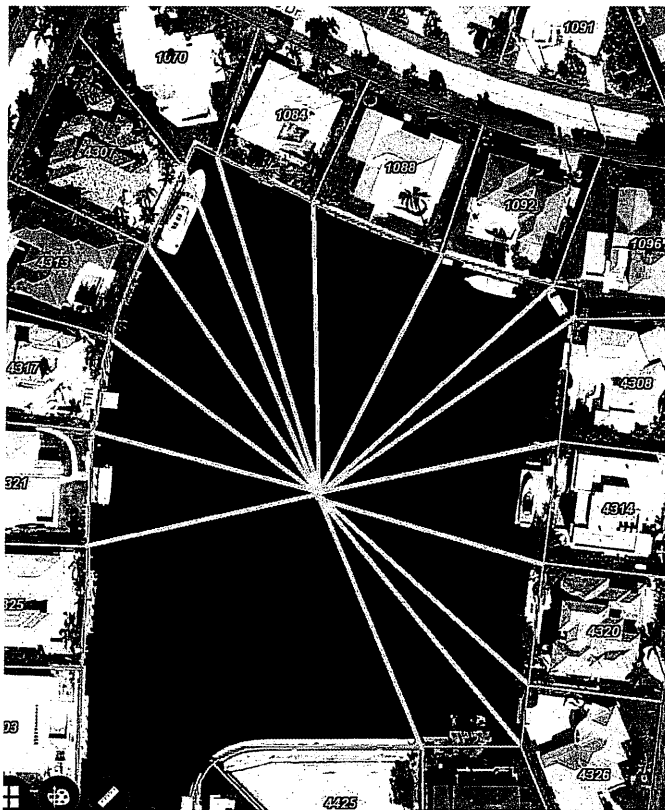


Image is for illustrating purposes only, not to scale, angle degree, size, or placement of riparian lines of view.

Note in this illustration other lots in the Bel Lido community on the same lake/water are considerate of their adjacent property owners. There is no other property owner that blocks their adjacent property riparian rights, per the illustrated map. Ironically, it appears that some homeowners in Bel Lido have actually gone above and beyond to adjust their docks, platforms, lifts and boats to intentionally avoid the violation of another's riparian rights. It is unfortunate that De Beer has not afforded the Garretts this same courtesy.

7. DE BEER'S SEAWALL LENGTH IS 70 FEET

As previously mentioned, a prior owner of the subject property filed an application for the original dock and that application is incorporated by reference to support the objections to the application for a floating dock/platform, a second dock on the property. Despite the Town of Highland Beach authorizing the permit for that original dock aka "stone on concrete seawall" submitted by the prior owner, there remains a violation as to the setback on both sides of the original dock.

First, the Garretts gave no permission or authorization, no conveyance and disputes any adverse possession claims for the setback violation as to the "stone on concrete seawall and original dock.

The town plat and De Beer's survey indicate the seawall measurement of 70 feet. It does not go un-noticed that De Beer's survey provides a favorable notation of 69.93M on the seawall. However, legally a plat map provides an indisputable legal description of the property. Plat maps can indicate a need for a survey if there is any question about a structure or feature of a neighboring property extending past its boundaries, known as an encroachment.

Off the seawall topic but another issue to address in the De Beer's survey, it notes an encroachment over the neighboring property by -0.3 feet (equivalent to 3.6 inches) along the upland property line. Again, the Garretts convey no right to this encroachment and dispute all adverse possession claims.

Back to differences of a plat vs. survey, generally, a survey shows the boundaries of a single lot, only. For any change to take place, a boundary adjustment plat involves making a survey of both properties which mutually share a boundary line. A survey of both properties provides the full picture and completeness of the entirety of a plat for determination of the property lines. To date, no boundary adjustment plat has been prepared or recorded in the property records and no survey of shared boundary lines has been conducted by any property owner or the governmental agency. Thus, a single survey cannot change the property line.

Via public access to the Highland Beach satellite map at <https://highlandbeach.us/241/Maps>, the measurement tool indicates the De Beer's seawall from end to end is 70 feet. See the inserted photo exhibiting the measurement from point to point (property line to property line), represented by the green spot with white dot at each point along the seawall.

In the Highland Beach satellite map the property lines/boundaries are reflected by the yellow lines.

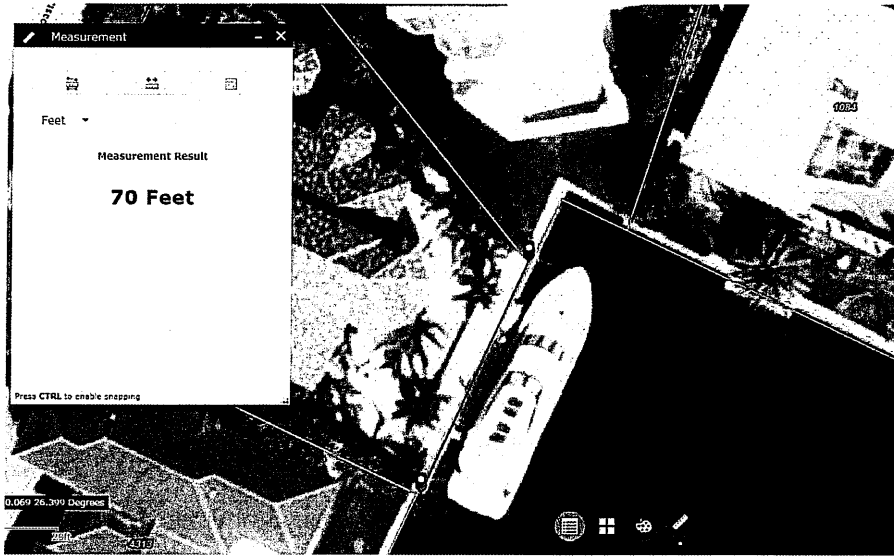
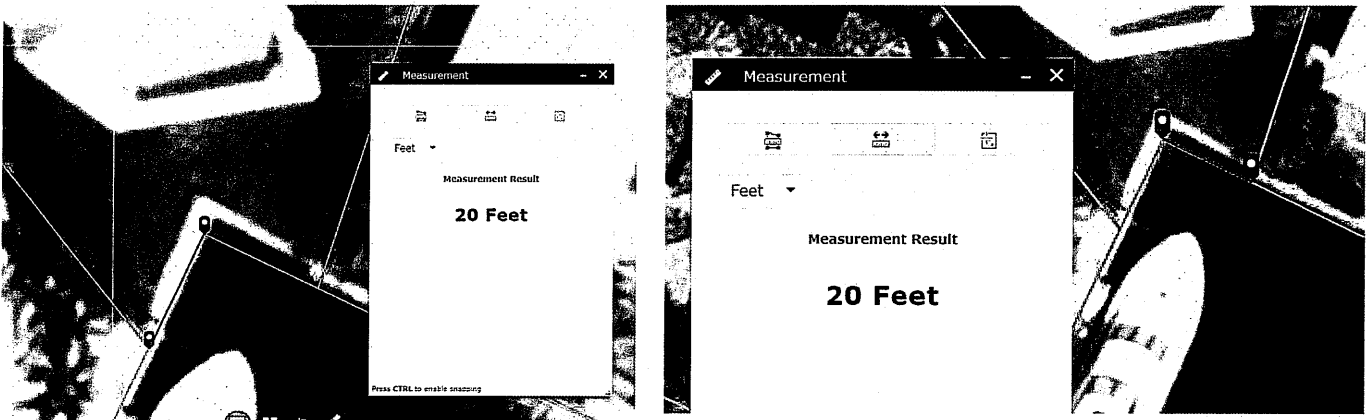


Image is for illustration purposes only

The corner lot seawall is plotted as 20 feet on one side and 20 feet on the other side. We see that consistently reflected on the Highland Beach satellite map measuring tool, with images below, represented by the green spot with white dot at each point along the seawall for each respective side, creating a 90 degree seawall.



Images measure 20 feet on the side by De Beer's property and 20 feet on the opposing adjacent property.

For additional confirmation, picture inserted below, the measurement from the corner property line point to the furthest property line point of the subject property, is 90 feet. It's now simple math: we know the neighbor's seawall from the corner property line to the shared property line is 20 feet (see 1070 Bel Lido plat/survey recorded in County property records), thus you take the 90 feet minus 20 feet and it results in the subject property seawall to be 70 feet.

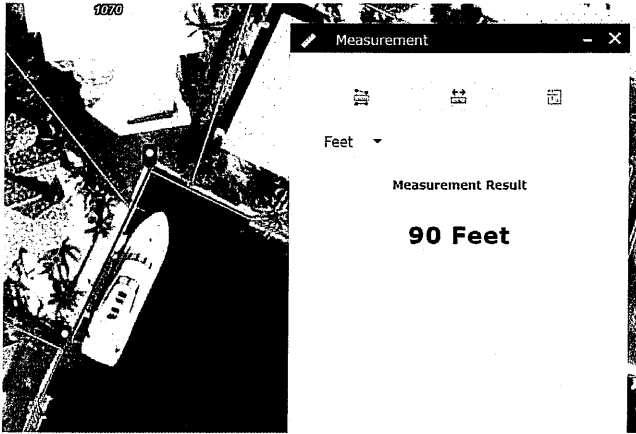


Image is for illustration purposes only, totaling 20 feet of the Garrett seawall plus 70 feet of the De Beer's seawall

It is clear from the plat, surveys and online satellite measuring tools, the De Beer's seawall is 70 feet.

8. SEAWALL LENGTH DICTATES A MANDATORY 25 FEET SETBACK

Currently the "stone on concrete seawall" extends from one end of the seawall to the other, crossing over the Garretts' property line and evidenced in the De Beer's survey with an overage of -0.3 feet (equivalent to 3.6 inches). Meanwhile, the existing dock, also illustrated in the survey, is in violation of the setback when the seawall measures at 70 feet. The Ordinance states if 70 feet or more, the setback requirement is 25 feet from the side property line. See Highland Beach Zoning Code Chapter 30, sections 68 with excerpt provided:

Sec. 30-68. - Supplemental district regulations.

(g) *Accessory marine facilities:*

(4) *Boats and setbacks.* When moored, any portion of a boat shall not extend beyond any property line, as extended waterward.

(6) *Installation.* Accessory marine facilities shall comply with the installation standards listed below:

a. In waterways not regulated by the U.S. Army Corps of Engineers, docks and mooring structures shall not extend into any waterway more than five (5) feet.

b. In waterways regulated by the U.S. Army Corps of Engineers, docks and mooring structures may extend to that distance allowed by said agency.

c. Measurement of the width or length of a dock, as applicable, shall be made from the property line.

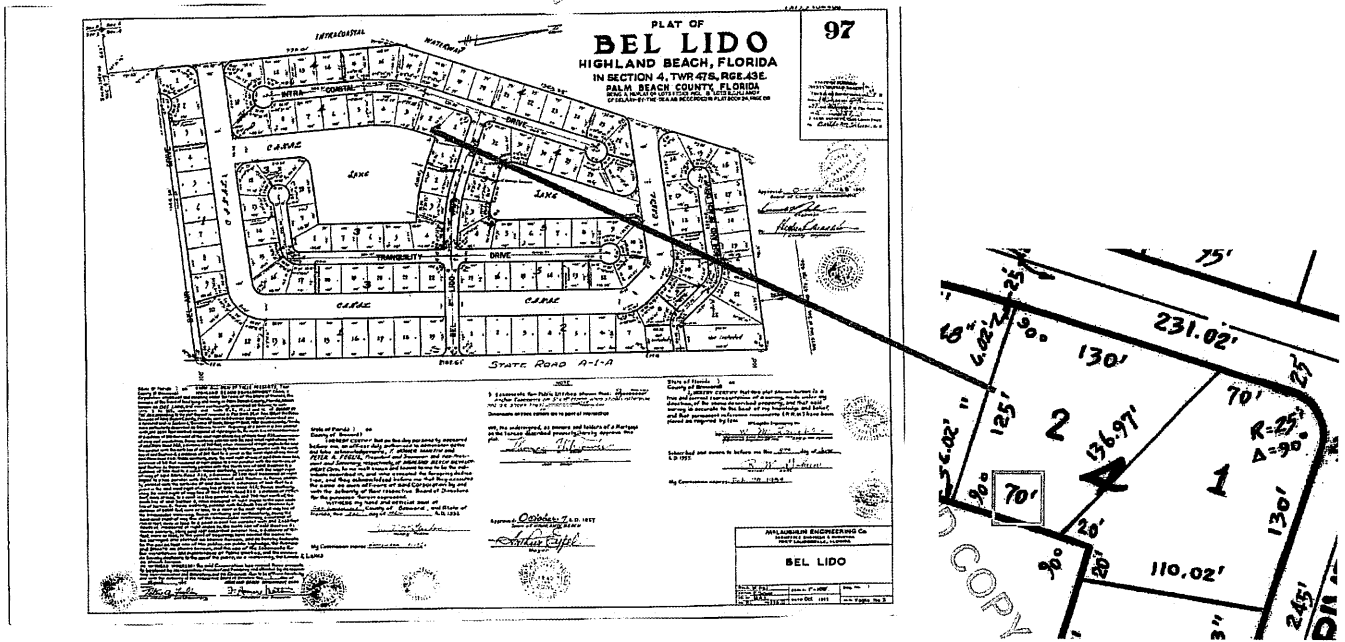
d. Marine facilities shall comply with the side yard setbacks listed below.

1. *Single-family zoning districts:* Twenty-five (25) feet; provided, however, the side yard setback shall be fifteen (15) feet for any single-family lot with a lot width of fifty (50) feet or more but less than seventy (70) feet. For those lots with less than fifty (50) feet abutting the water, the planning board may grant a special exception for the installation of a seawall mounted davit type lifting device (but not a dock structure) after being satisfied as to the protection of neighboring property and no infringement of standard navigation practices.

A strict reading and interpretation of the statutes above is a 25 feet setback is mandatory unless the property seawall measures less than 70 feet. De Beer's survey would like us to believe

that his property is 69.93M, however, De Beer cannot change the plat by obtaining an independent self-initiating survey. As stated above, a survey of both properties together is required to make an adjustment to the plat. This also means that the Town of Highland Beach cannot change the plat in a hearing or any other administrative proceeding without a survey of both properties which mutually share a boundary line.

Below is an official copy of the plat book 25, page 97 for Bel Lido with a second image of the zoomed in portion for the subject property and the Garretts' corner lot. The seawall measurement for De Beer is 70 feet. It is not less than 70 feet; it is 70 feet!



Official plat book 25, page 97 for Bel Lido with zoom on De Beer's property, highlighting 70 feet seawall measurement.

We've established the recorded measurement of 70 feet along the De Beer's waterfront seawall per the plat, confirmed with a notation on his survey, which triggers the mandatory 25 feet setback on the De Beer's property.

Over prior objections by the Garretts, the Town of Highland Beach permitted an unauthorized taking of their property when the Town permitted the "stone on concrete seawall" and existing dock to have a 15 feet setback. This exemption from the 25 feet setback unequivocally allowed for dock construction closer to Garretts' property and further restricts ingress and egress, as well as the enjoyment of the lake/water view. The Garretts have never and do not convey nor relinquish their statutory right under the provisions for the 25 feet setback requirements for De Beer's original dock and "stone on concrete seawall."

Not only does the original dock aka "stone on concrete seawall" completely disregards the ordinance setback requirement of 25 feet from the side property lines, measured according to Code section 30-68(6)(c) but the approximate 75 feet boat when moored to the original dock, extends over the neighbor's property line in violation of Code 30-68(g)(4).

On this issue, De Beer has a 70 feet seawall which by statute is a mandatory 25 feet setback. Anything short of 25 feet is a blatant and conscious indifference to Garretts' corner lot ingress and

egress, their future request for a dock, boatlift, or floating platform and the simple and most valuable reason is their view of the lake/water.

9. DEPTH OF DOCK/PLATFORM EXCEEDS 5 FEET INTO WATERWAY

De Beer's dock and platform separately and most certainly the layering of platform on top of dock violates Code 30-68(g)(6)(a): docks and mooring structures shall not extend into any waterway more than five (5) feet.

The fact that De Beer failed to include the depth of the dock and platform in his application is a red flag and the Town of Highland Beach should not have authorized a permit without investigating.

We object that the depth exceeds the allowable 5 feet into the waterway.

10. DE BEER IS IN VIOLATION OF THE SOLE PURPOSE OF A FLOATING DOCK

According to 403.813(1)(s)(1), floating vessel platforms or floating boat lifts, provide that such structure floats at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use.

The sole purpose to support a vessel does not mean to use the platform as a storage landing for items related to boating and mooring, like De Beers has done with coolers, surfboards, storage bins and other random items on the platform.

De Beer violates the statute's sole purpose of a floating dock.

11. "STONE CONCRETE ON SEAWALL" AND SEAWALL FENCE ENCROACH ON GARRETT'S PROPERTY

Not to repeat what has already been stated above but the entire De Beer's seawall is covered with a stone concrete. At the angled upland property line (63 degree/37 degree), the concrete on the seawall encroaches across Garretts' property line, in the shape of a triangle at an undetermined size, due to the perpendicular placed gate/fence on the seawall. The fence/gate is also in violation and encroaching over the property line.

Property lines are clear per the metes and bounds dividing two lots at the angle of which they are established upland. Property lines cannot be changed without a conveyance, a taking from government and/or determination of adverse possession. Once again, the Garretts' never have and do not convey this encroachment or any other encroachment and disputes all adverse possession claims related to the fence, gate, and seawall overage.

12. UNCONSTITUTIONAL TAKING AND CONDEMNATION BY THE TOWN OF HIGHLAND BEACH AND/OR GOVERNING AGENCIES TO ALLOW EXEMPTIONS ON THE SUBJECT PROPERTY

Finally, the Garretts allege that the permitting department of the Town of Highland Beach and any or all county government have and continue to collude with De Beer for an unconstitutional taking or condemnation of the Garretts' property rights.

13. VIOLATIONS ARE DEVALUING PROPERTY VALUE

De Beer's actions along with the Town of Highland Beach and any other government's collusion by granting multiple permits and exemptions is devaluing the Garretts' property and resale value. Future buyers are on notice of various encroachments to the fence line, gate and "stone concrete on seawall, the violation of the 25 feet setback for the original dock on a lot that is 70 feet long, the violation of a second dock/platform layered on top of the original dock protruding into the lake/water over 5 feet, the violation of the waterward property line with an extended dock/platform, lack of ingress and egress, and an obstruction of the riparian view at the corner lot, 1070 Bel Lido Drive.

All of the violations egregiously devalue the Garretts' property value and enjoyment of coastal views.

SUMMARY

It is repeatedly documented throughout various parts to the Highland Beach zoning code, state statutes and state laws emphasizing the following:

- location of docks, docked boats, and relation to side setbacks shall be established by the waterward extension of property lines.
- docking and related accessory marine facilities:
 - will not reasonably deny or otherwise limit the ability of abutting or adjacent property owners to construct accessory marine facilities;
 - will not reasonably deny or otherwise limit the normal ability of abutting or adjacent property owners to moor, maneuver, use or otherwise move a boat; and
 - will not deny reasonable visual access of abutting property owners to public waterways.

In summary, various statutes, town ordinances and state laws support the following:

- only one dock is allowed
- the exemption for a platform to layer onto an existing dock is not permitted
- the exemption request unreasonably interferes with riparian rights of the corner lot
- the plat indicates the seawall measurement on the subject property is 70 feet.
- Ordinance states a seawall of 70 feet is subject to a 25 feet setback
- the exemption request for a dock/platform as constructed is over the corner lot's waterward property line
- the "stone on concrete seawall" and seawall gate encroach on Garrett's property
- the existing dock is over the setback requirement of 25 feet from the side property line
- the dock/platform extends beyond 5 feet into the water
- storing personal items on a platform is not allowed as the sole purpose is to support a vessel out of the water
- blocking the ingress and egress of a corner lot's water access is not allowed
- blocking the riparian rights for a property's coastal view is not allowed; and
- a taking of another's property through collusion with government entities is unconstitutional

The governing authority and enforcer of the Town of Highland Beach Ordinances has to put a stop to De Beer's continued attempts and successes in violating the Garretts ownership and riparian rights. The Town of Highland Beach management committee is entrusted with the

unbiased obligation to enforce laws to protect all residents in Highland Beach. Unilaterally permitting exemptions that are clearly causing the Garretts to suffer is an act of unconstitutional condemnation.

De Beer's actions and the Town's collusion granting multiple permits and exemptions is devaluing the Garretts' property and resale value. Future buyers will be on notice of various encroachments to the fence line, gate and "stone concrete on seawall", violation of the 25 feet original dock setback, violation of a second dock layered on top of the original dock protruding into the lake/water, violation of the Garretts' waterward property line with an extended dock/platform and an obstructed riparian view.

De Beer is also causing emotional abuse toward the Garretts. We have owned this property since 1972. It is our dream home and a valuable asset to our two children. We are in our mid/late 80s and are being harassed by De Beer's actions and the multiple exemptions given by the Town's planning and management committee.

We therefore request the Town Enforcer, management committee and any government agency to re-evaluate the application for various exemptions and permits related to the De Beer's floating dock/platform request as well as the original dock, seawall setback, concrete seawall and gate overage, upland and waterward property line for non-compliance based on all reasons asserted in this letter.

Please feel free to contact us with any questions.

Respectfully,

Eugene and Maureen Garrett

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Susan M. Garrett
Elizabeth V. Lenihan*
Ruth A. Holmes
Ben Saver
Tanya M. Earley
Daniel Harrell, Of Counsel

August 19, 2024

Via first class and electronic mail (maureengarrett@sbcglobal.net and tarrag@aol.com)

Eugene and Maureen Garrett
1070 Bel Lido Drive
Highland Beach, FL 33487

Re: Town of Highland Beach/4307 Intracoastal Drive (Floating Vessel Platform)

Dear Mr. and Mrs. Garrett:

I am in receipt of your letter dated July 15, 2024, wherein you raise various concerns regarding the adjacent property located at 4307 Intracoastal Drive, specifically the size and placement of the floating vessel platform.

Pursuant to Section 403.813, Florida Statutes, the Town has limited regulatory authority over floating vessel platforms and generally relies on the "self-certification" of the property owner. However, because the floating vessel platform is associated with a dock with no defined boat slip, the size is limited to 500 square feet. The floating vessel platform at issue is over 880 square feet; consequently, the Town will initiate an enforcement action against the adjacent property owner. Neither the Town Code nor Section 403.813, Florida Statutes, prohibits installation of floating vessel platform where a permitted dock already exists.

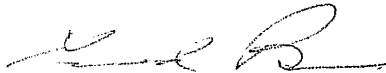
Please be advised, however, that the Town Code does not currently regulate setbacks for these types of accessory marine structures. As Town Staff has already informed you, the Town is currently considering numerous revisions to the Code requirements for accessory marine structures and will recommend that such regulations include a requirement that floating vessel platforms comply with the applicable side setback requirements. A proposed Ordinance will be presented to the Town Commission for its review and consideration.

Eugene and Maureen Garrett
August 19, 2024
Page 2

The Town recognizes that under Florida common law, the ownership of waterfront property generally conveys certain riparian (or littoral) rights, including, but not limited to, the right of ingress and egress and the construction of docks for boating. However, the Town Code merely regulates the placement of accessory marine structures and does not allocate riparian rights between or among adjacent property owners where extended side property lines conflict. The allocation of riparian rights is a civil matter that may require a judicial determination or declaration.

Should you have any additional questions relative to the foregoing, please do not hesitate to contact me.

Sincerely yours,



Leonard G. Rubin
Town Attorney

cc: Marshall Labadie, Town Manager
Jeff Remas, Town Building Official
Ingrid Allen, Town Planner

Town Commission Meeting 09.17.2024 Public Comment

From: Marshall Labadie
To: Jaclyn Dehart
Subject: FW: Side Setbacks - current is 25ft along waterfrontage - should it be reduced?
Date: Tuesday, September 17, 2024 11:37:54 AM
Attachments: Wiener Response Feb 23 2023.pdf
Babji Marine Accessory Ordinance letter to Commission 20240915.pdf
image001.png

This one too...thanks



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Natasha Moore <nmoore@highlandbeach.us>
Sent: Tuesday, September 17, 2024 11:30 AM
To: Marshall Labadie <mlabadie@highlandbeach.us>
Subject: Fw: Side Setbacks - current is 25ft along waterfrontage - should it be reduced?

FYI...

From: Jonathan Wiener <jwiener@me.com>
Sent: Tuesday, September 17, 2024 11:19 AM
To: Natasha Moore <nmoore@highlandbeach.us>
Cc: Mayde <berkshireflgirl@gmail.com>
Subject: Re: Side Setbacks - current is 25ft along waterfrontage - should it be reduced?

Thanks for your email.

Under the current rules, if an owner with 100 ft of water frontage wants a 50 foot dock and lift, they can have it. As you know, the beauty of Bel Lido has always been that we are not wall to wall living and have water views with the beach access. If an owner wants a variance, they can apply and the neighbors can get involved.

My wife and I do not wish to see any rules changed regarding setbacks. We understand that with rising water levels, that rules may need to change regarding seawall heights, etc.

Best Regards,

Mayde and Jonathan Wiener
4409 Intracoastal Drive

On Sep 17, 2024, at 10:34 AM, Natasha Moore <nmoore@highlandbeach.us>
wrote:

Good morning, Dr. Wiener.

The Town of Highland Beach is considering ordinance changes to accessory marine facilities. Back in February 2023, you indicated you were not in favor of reducing the current 25ft setbacks (see your response attached).

Attached is a letter from Greg Babij stating he is in favor of reduced setbacks. The Town of Highland Beach Planning Board is recommending no side setback for docks town wide and a minimum 10-foot side setback for all other accessory marine facilities town wide.

I know it's been a long time since this has been discussed. However, I'm trying to get an idea of what is the consensus among residents regarding the setbacks.

Has your opinion changed regarding setbacks? Or, is your opinion the same as what it was in February 2023?

Thank you for your consideration,

Natasha Moore
Mayor, Town of Highland Beach
561-352-6932



COMMENT SHEET

Jonathan Wiener, 4409 Intra Coastal Drive, Twier@me.com
 NAME ADDRESS EMAIL ADDRESS

1. Maximum height for Accessory Marine Facilities (AMF) at Base Flood Elevation (BFE) plus 7 feet.

Shed be 10 feet (water is rising)
 & at least 6 feet for new construction

Boat lifts shed only be allowed on Intra Coastal

2. Exempt personal watercraft (PWC) lifts from the requirement that "in no case shall the lift be higher than the superstructure of the boat when lifted" OR remove requirement.

No

They
 Block
 Views

3. Maximum seawall cap width of 3 feet; maximum 8-foot width for seawall cap plus dock.

Fine

4. Encroachment of AMFs and seawalls into water at 25 feet or 25% of waterway width, whichever is less (measured from the shortest distance adjacent to property line).

25 feet is way too much
encroachment on canals

5. 10 foot side setback for all zoning districts. For lots less than 100 feet in width, setback is 10% of width; however, setback cannot be less than 5 feet.

25 feet should remain in effect
No one should encroach on neighbor
without permission

6. Require a ladder for every 50 feet of dock.

Agree

7. Maximum seawall height.

10 feet

Additional Comments:

Jon Wiene
4409 Industrial Drive

If you prefer, you can email your comment sheet to allen@highlandbeach.us

THANK YOU FOR YOUR INPUT...

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances
Date: Tuesday, September 17, 2024 11:57:39 AM
Attachments: [Marine Accesory Letter to Commission 091624.pdf](#)
[image001.png](#)

This one as well....



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Marthin De Beer <mdebeer@brightplan.com>
Sent: Tuesday, September 17, 2024 11:41 AM
To: greg4hb@yahoo.com; Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Greg Babij <greg4hb@yahoo.com>; David Axelrod <daxelrod@gmail.com>; Jeffrey (via Google Docs) <jeffreyfl@gmail.com>; Marthin De Beer <mdebeer@brightplan.com>; Allan Goldstein <agoldstein@amgresources.com>; Eric Brenda Berch <Eric.Berch@svcfinc.com>; Brenda Berch <berchb827@gmail.com>; Christine Nessen <christine.nessen@gmail.com>; Robert Spahr <rspah50@gmail.com>; Roger Brown <roger3265@aol.com>; Greg Stuart <gstuart@frminc.com>; dwillens65@gmail.com
Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances

Dear Commissioners,

We fully support the views in Mr. Babij letter you received as this issue became known over the past 24 hours. Please find attached our letter and views re this matter attached.

Sincerely

Marthin De Beer
Founder & CEO
408-656-5171



mdebeer@brightplan.com

www.brightplan.com

MARTHIN AND KARIN DE BEER

4307 Intracoastal Dr, Highland Beach | 408-656-5171 | mdebeer@brightplan.com

September 17, 2024

Board of Commissioners
Town of Highland Beach
3614 S. Ocean Blvd
Highland Beach, FL 33487

Dear Board of Commissioners:

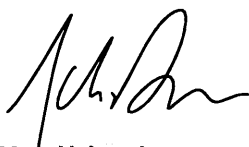
We have been boaters for more than 30 years on the west and east coasts and moved to Highland Beach in 2019 for the local boating we so enjoy here. We whole heartedly agree with Mr. Babij and others who reached out to us expressing significant concerns over the proposed changes. The result of these proposed changes will impede boaters ability to properly secure vessels for storms, thereby increasing liability for all residents, further contribute to rising insurance rates and cause an adverse impact on property values in Highland Beach.

We provided input to the town on the work Mr. Babji did a couple of years ago in favor of less restrictive marine accessory and set back ordinances and to better conform with the communities around us.

I strongly urge you to revisit the marine accessory ordinance issue with the planning board and seek their opinion, as it has substantially changed from the planning board's previously reviewed recommendations. If there is any doubt about the position of the larger boating community in Highland Beach, I would implore you to host an open discussion at a future Commission meeting on this topic.

Thank you for your service and consideration of our position requesting less restrictive marine accessory regulations.

Sincerely,



Marthin de Beer

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaelyn Dehart](#)
Subject: FW: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)
Date: Tuesday, September 17, 2024 11:58:13 AM
Attachments: [image001.png](#)

And this one....



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Brenda Berch <berchb827@gmail.com>
Sent: Tuesday, September 17, 2024 11:48 AM
To: greg4hb@yahoo.com
Cc: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>; David Axelrod <daxelrod@gmail.com>; Jeffrey (via Google Docs) <jeffreyfl@gmail.com>; mdebeer@brightplan.com; Allan Goldstein <agoldstein@amgresources.com>; Eric.Berch@svcfm.com; Christine Nessen <christine.nessen@gmail.com>; Robert Spahr <rspah50@gmail.com>; Roger Brown <roger3265@aol.com>; Greg Stuart <gstuart@frminc.com>; dwillens65@gmail.com
Subject: Re: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)

Dear Commissioners,

Please accept this email in full support of Mr. Babji's letter below.

We are some what surprised that this issue has only come to our attention within the last 24 hours and were not given enough time to share our views prior to the commissioners meeting to pass the new ordinances today.

Sincerely,
Eric and Brenda Berch

Sent from my iPhone

On Sep 16, 2024, at 11:01 PM, greg4hb@yahoo.com wrote:

Dear Commissioners,

Apparently the content of my letter has made its way around the waterfront residents. As of tonight I have heard from owners of 24 waterfront properties that are strongly in support of making the town's marine ordinances wholly LESS restrictive. There is strong support for what was originally proposed by me after the marine accessory ordinance working group and even greater support for matching the least restrictive ordinances of surrounding towns for each of the various accessories such as docks, boat lifts, floating vessel platforms, perpendicular piers and boat limits.

I would expect you will be hearing a lot more from this group of residents soon.

Regards,
Greg

----- Forwarded Message -----

From: greg4hb@yahoo.com <greg4hb@yahoo.com>
To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; dstern@highlandbeach.us <dstern@highlandbeach.us>; edavid@highlandbeach.us <edavid@highlandbeach.us>; jgoldberg@highlandbeach.us <jgoldberg@highlandbeach.us>; dpeters@highlandbeach.us <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Greg Babij <greg4hb@yahoo.com>; dzaxelrod@gmail.com <dzaxelrod@gmail.com>
Sent: Sunday, September 15, 2024 at 09:15:45 PM EDT
Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances

Marshall,

Can you please share my attached letter with all of the Commissioners and the Planning Board? I don't have all of their emails

Thanks,
Greg

<Marine Accessory Ordinance letter to Commission 20240915.pdf>

Sold To:

Town of Highland Beach Florida - CU00661788
3614 S Ocean Blvd
Highland Beach FL 33487,FL 33487-3393

Bill To:

Town of Highland Beach Florida - CU00661788
3614 S Ocean Blvd
Highland Beach FL 33487,FL 33487-3393

Published Daily

Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

State Of Florida
County Of Orange

Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized representative of the SUN- SENTINEL,
a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the
attached copy of advertisement, being a Legal Notice in:

The matter of 11720-Notice of Public Meeting .
Was published in said newspaper by print in the issues of, and by publication on the
newspaper’s website, if authorized on Sep 30, 2024
SSC_Notice of Public Meeting
Affiant further says that the newspaper complies with all legal requirements for
publication in Chapter 50, Florida Statutes.

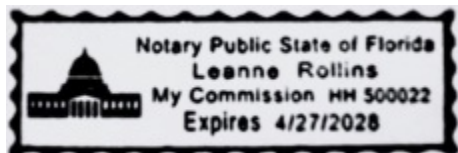


Signature of Affiant

Sworn to and subscribed before me this: September 30, 2024.



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

Affidavit Delivery Method: E-Mail
Affidavit Email Address: jdehart@highlandbeach.us
7701118

**TOWN OF HIGHLAND BEACH
NOTICE OF PUBLIC HEARING**

YOU ARE HEREBY NOTIFIED that the Planning Board of the Town of Highland Beach will conduct a Public Hearing on Thursday, October 10, 2024 at 9:30 AM in the Commission Chambers at Town Hall, 3614 South Ocean Boulevard, Highland Beach, Florida to consider the following:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 6, "BUILDINGS AND STRUCTURES," OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6-128, "APPROVAL REQUIRED FOR BULKHEADS, SEAWALLS, RETAINING WALLS; REQUIRED NOTIFICATION OF ABUTTING PROPERTY OWNERS," TO PROVIDE A MAXIMUM SEAWALL CAP AND DOCK WIDTH; AMENDING CHAPTER 30, "ZONING," BY AMENDING SECTION 30-68, "SUPPLEMENTAL DISTRICT REGULATIONS," TO PROVIDE A MAXIMUM HEIGHT FOR BOAT LIFTS, A MAXIMUM EXTENSION FOR ACCESSORY MARINE FACILITIES INTO CANALS AND LAKES, A MAXIMUM SEAWALL CAP AND DOCK WIDTH, AND LADDER REGULATIONS AND AMENDING SECTION 30-131, "DEFINITION OF TERMS," TO PROVIDE DEFINITIONS THAT PERTAIN TO ACCESSORY MARINE FACILITIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed Ordinance is available for inspection in the Town Clerk's Office at Town Hall, Monday through Friday during normal business hours of 8:30 a.m. to 4:30 p.m.

Any person that decides to appeal any decision made by the Planning Board with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is based. The Town of Highland Beach does not provide such a record.

In accordance with the Americans with Disabilities Act, persons who need special accommodation to attend or participate in this meeting should contact the Town Clerk's Office at (561) 278-4548 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771.

For additional information, please contact the Town Planner at (561) 278-4540.

TOWN OF HIGHLAND BEACH, BUILDING
DEPARTMENT
09/30/2024 7701118

File Attachments for Item:

A. Approval and authorization for the purchase and installation of VTScada Software by Control System Design, Inc. in an amount not to exceed \$87,695.00 for the Water Treatment Plant – Fiscal Year 2025 Planned and Approved Project.



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission Meeting
MEETING DATE: *January 21, 2025*
SUBMITTED BY: Pat Roman, Public Works Director
SUBJECT: VTScada purchase and installation

SUMMARY:

We are asking for authorization to use 2025 budget dollars on a planned and approved project for the purchase and installation of VTScada programming software to operate the Water Treatment Plant and all its components. The current SCADA system software is outdated and does not provide the ability to record all data needed for the required Monthly Operational Reports.

Control System Design proposes the Following:

VTScada 5k Dual Server Premium Package including: Two development runtime licenses, unlimited thin client licenses, and alarm notification.

Install Development/Runtime version: Create an application on the Town's existing iFix application and establish communication with all of the PLCs.

Install Client version of VTScada: Verify workstations are communicating with all PLCs and displaying data correctly. Configure redundancy and alarm callouts.

FISCAL IMPACT:

\$87,695.00 budgeted in the 2025 WTP Machinery and Equipment

ATTACHMENTS:

Control Systems Design VTScada purchase and installation quote

RECOMMENDATION:

Commission approval.

CONTROL SYSTEMS DESIGN, INC.

7282 55th Avenue East # 200 - Bradenton, FL. 34203
 Phone (941) 907-8815 Fax (941) 907-1285

VTScada Purchase and Installation Costs

	DESCRIPTION	HRS	LABOR
Toal Price Below is a Not to Exceed Cost for this Project Scope			
	VTScada 5K Dual Server Premium package including:		
1	Two development runtime licenses, unlimited thin client licenses, alarm notification, support plus for one year, 24/7 support for one year, training course credit of \$1000. Future annual support costs are \$4049.25.	4	\$ 28,295.00
2	Onsite, on a new customer computer, install a Development/Runtime version of VTScada and create an application based on the Town's existing iFix application and establish communication with all of the PLCs. This computer needs to be configured for remote access.	40	\$ 5,400.00
3	Remotely, develop a new VTScada database from the existing iFIX database via Trihedral conversion, followed by our verification of each tag and driver installation for item 2, necessary to read all data from the PLC. Begin building a display to match the data/control of an existing iFIX display to test, verify the database modifications, communication with the PLC, identify the use of various components of VTScada, and verify operations. Make any global corrections to the database found in this exercise for all remaining tags for such things as scan rate or other global settings. Review with Town staff for style and operations of this display, and once approved, continue the complete development of this software and continue building all remaining screens based on the Town's existing iFix application using these agreed upon methods in item 4.	80	\$ 10,800.00

	DESCRIPTION	HRS	LABOR
	Remotely, convert all remaining 37 iFIX displays and 53 historical trend displays to VTScada to duplicate the existing control system. During this effort, VTScada updates, or Changesets, will be loaded for our checkout of operation and review by Town staff for their approval of overall operation, one display at a time. Work will continue for conversion of all displays with the same update, review of operation by us and the Town to continue conversion of the remaining displays. Additionally as displays are completed, focus will also go to any aspects of		
4	historical data archival timing, specialized trend setups and reports to match what is there now and make any modifications as dictated by the Town. This effort is seen as a group effort for our conversion, checkout and Town approval in order to include them in the conversion and make any modifications necessary to match the existing operator's interface to the plant control. At any point in this process a site visit or visits may be necessary to implement a screen conversion or check on any existing iFIX scripting issues to assure a complete and operable conversion.	200	\$ 27,000.00
5	Onsite, Once the application has been completely developed, configure alarm callouts.	20	\$ 2,700.00
6	Onsite, On a new computer, install a second Development/Runtime version of VTScada and verify communication to all of the PLCs. Configure redundancy, test and verify correct operation and that all alarm callouts are working to email or text. Verify the system takes over as primary alarm callout on the event of a failover. This computer needs to be configured for remote access to allow ongoing edits to finalize the installation.	60	\$ 8,100.00
7	Onsite, install and test a Client version of VTScada on the computers that had runtime versions of iFIX. Verify the workstations are communicating with the VTScada servers providing all data correctly.	40	\$ 5,400.00
Total Cost - Not to exceed for the above scope of work:		444	\$ 87,695.00

File Attachments for Item:

B. Town staff is seeking authorization of a budget amendment in the amount of \$155,871.78 for emergency generator repairs by Pantropic Power.



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission Meeting
MEETING DATE *January 21, 2025*
SUBMITTED BY: Pat Roman, Public Works Director
SUBJECT: Service Repairs on Town Generator

SUMMARY:

We are seeking authorization for a budget amendment of \$155,871.78 for an emergency generator repair. The budget amendment will be funded from the Discretionary Sales Tax (DST) fund. This repair is essential to ensure the continued operation of the town complex during a catastrophic power outage. Pre-planned maintenance revealed that the generator sustained significant damage from external natural sources, rendering it unsuitable for reconstruction as originally planned.

Generator replacement, including removal, failure analysis, and installation of a new unit, will be performed. A 2-hour load bank test will be conducted after repairs are complete.

Generator Replacement: The old generator will be replaced with a re-manufactured new generator from the factory due to its irreparable condition offering a 5 year/2500hrs warranty.

Generator Installation: The new generator will be installed, including electrical connections, alignment, and load bank testing.

Enclosure Repairs: The enclosure will be repaired, including rust removal, painting, and roof replacement.

FISCAL IMPACT:

\$289,150.00 Total (Original Quote \$133,278.22 + \$155,871.78 New Unit)

ATTACHMENTS:

TOHB Replacement Quote

RECOMMENDATION:

Commission Approval



Estimate

Quotation No.....:12-27-2024ER
Service Call.....:
Quotation Date.....:12-27-2024
Customer No.....:

Expiry Date

Sold To:TOWN OF HIGHLAND BEACH
3614 S OCEAN BLVD
Highland Beach, FI 33487
Pat Roman

Ship To:
TOWN OF HIGHLAND BEACH
3614 S OCEAN BLVD
Highland Beach, FI 33487

Pantropic Power Contact	Phone No.	Division	Department
Ed Riveron	954-214-1277	EPG	Service

Model	Serial No.	ID No.	Customer Equipment No.	Service Meter
3516	ZAP00380			939 HOURS

The following is a formal estimate to perform service repairs on your Cat 3516 with serial number-ZAP00380 disconnect and remove the roof top from the enclosure. only the section where the generator will be lifted through the top. We will disconnect all the electrical connections from the breaker bus and all the cables from the control panel. We will use a 90-ton crane to lift the generator end. Once the generator is out, we will . to protect it from the rain. transport to pantropic for a failure analysis. Due to the condition of the old generator and consulting with Caterpillar , the old generator can not be fix and will have to be replace with a re-man new generator from factory. We will cut the old plates clean and remove the rust and apply anti rust primer and then paint the frame . Open new holes for the new generator and plates . Dog Housing extension fabrication and installation to fit the new generator,remove the all leads from new generator and make new cable extensions fabrication and installation to reach the breaker . laser align the new unit. Alignment of new unit and crankshaft deflection. We will use a 90-ton crane to lift the generator end and drop it in the frame and make all of the electrical connection from generator to the main breaker . Reconnect the EMCP panel and test for all alarms. Install the roof back to the enclosure and seal the top of the enclosure. Once the repairs are done we will perform a 2 hr load bank to test the generator set .
5 year warranty with 2500 hrs/ o deductible

NOTES:

Proman@highlandbeach.us
561-856-2963
Tax is not included

TOTAL: 289150

Approver's signature

[Signature area]

Pat Roman



Estimate

Quotation No.....:12-27-2024ER
Service Call.....:
Quotation Date.....:12-27-2024
Customer No.....:

Expiry Date:

Sold To:TOWN OF HIGHLAND BEACH
3614 S OCEAN BLVD
Highland Beach, FI 33487
Pat Roman

Ship To:
TOWN OF HIGHLAND BEACH
3614 S OCEAN BLVD
Highland Beach, FI 33487

Pantropic Power Contact	Phone No.	Division	Department
Ed Riveron	954-214-1277	EPG	Service

Model	Serial No.	ID No.	Customer Equipment No.	Service Meter
3516	ZAP00380			939 HOURS

We will use a 90-ton crane to drop off the generator end back in the enclosure. We will make all the electrical connections to the breaker bus and all the cables from the control panel to the generator end, Reinstall the roof of the enclosure back in its place re seal the enclosure. Start the generator and run it and make sure it does not have any problem and then perform a 2 hr load bank test

NOTES:

Proman@highlandbeach.us
561-856-2963
Tax is not included

TOTAL: 289150

Approver's signature

[Signature box]

Pat Roman

Per Customer request, Pantropic Power Inc. ("PANTROPIC") has estimated repairs on the equipment (includes all components, machines, or other miscellaneous items) listed herein. A repair description with labor and/or parts is stated herein. Upon disassembly of the equipment to be repaired, additional parts and labor may be necessary. If so, an estimate for additional repairs will be forwarded to Customer for approval. Note: by accepting this Estimate in writing, verbally, or by signing a corresponding "AUTHORIZATION FOR SERVICE WORK", Customer agrees to all terms and conditions set forth herein. **NOTE: TERMS AND CONDITIONS SET FORTH HEREIN PREVAIL OVER CUSTOMER PURCHASING TERMS.**

1. **Authority to Perform Repairs:** It is understood that, "upon receipt" of any item of equipment for repair, maintenance or other work, PANTROPIC may examine the item of equipment as to work which PANTROPIC may suggest to be performed in addition to whatever work, if any, might have been requested by customer. All work (requested by customer or suggested by PANTROPIC) to be noted on a form as supplied by PANTROPIC.
 - a. **Time and Material Work:** PANTROPIC will proceed with the work agreed upon as set forth herein.
 - b. **Firm Price:** If requested, a firm price in writing will be given to the customer for labor and/or parts to do a specific repair. Any agreed upon repair order not covered by a firm written proposal will be billed at current time and material prices.
 - c. **Unforeseen Problems or Additional Repairs:** **PLEASE BE ADVISED: UNFORESEEN ISSUES/PROBLEMS AND UNANTICIPATED CONDITIONS MAY CAUSE REPAIR PRICE TO INCREASE.** In the event that during the course of the work, additional repair work (due to continuous use, unknown problems, working conditions, dirty Equipment, waiting on Customer approved support, parts exchange cores that do not meet 100% core refund criteria, conditions out of PANTROPIC's control, and items found in need of repair or replacement during disassembly that are not covered herein) is found to be necessary pursuant to Pantropic's examination and inspection of the Machine, then in such event PANTROPIC will attempt to communicate with the Customer as to the additional repair work; provided, however, that in the event Pantropic is unable to communicate with the Customer, then Pantropic, at its sole discretion, shall have the absolute right to cease any and all repairs on the Equipment until such time as the additional repairs are discussed with the Customer. In the event the Customer consents to the additional repairs, PANTROPIC shall have the right to proceed with the repair of the same without further communication with the Customer and any and all additional repairs will be charged to the Customer at current time and material prices.
 - d. **Authority of Customer Personnel:** Unless Customer notifies PANTROPIC in writing, any Customer personnel communicating with PANTROPIC shall have the full authority to authorize repairs. All instructions to PANTROPIC by Customer regarding authority of Customer's personnel to bind (authorize repairs) Customer shall be in writing (via e-mail, courier, or U.S. Mail).
 - e. **Purchase Order:** In the event that a purchase order number is required by Customer, Customer shall provide such purchase order number within 10 business days of receiving a Proforma Invoice from PANTROPIC. If Customer fails to provide such purchase order number within such time period (10 business days of Proforma Invoice), PANTROPIC shall have the right to Invoice the Customer without a purchase order number, and Customer thereby additionally forfeits any rights to dispute such Invoice.
2. **Hold Harmless Agreement for Customer Participation in Service Work:** In the event Customer or Customers' personnel assists PANTROPIC personnel in performing service work, Customer agrees to hold harmless and fully indemnify PANTROPIC for injuries or damages to anyone arising out of Customer assisting PANTROPIC personnel in servicing or repairing Customer's equipment.
3. **Corporate Discount:** No additional corporate discounts may be applied to the above estimated price.
4. **Warranty:** PANTROPIC warrants the work performed to be free from defects in material and workmanship for a period of ninety days. PANTROPIC's obligation under this warranty shall be limited to the repair or replacement at PANTROPIC's premises of those new parts previously installed or labor previously performed demonstrated to be defective. **SUCH REMEDY SHALL CONSTITUTE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND CUSTOMER HEREBY AGREES THAT NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO CLAIMS FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, OR ANY CAUSE, LOSS, ACTION, CLAIM OR DAMAGE, INCLUDING LOSS OF TIME, WHATSOEVER, OR INJURY TO PERSON OR PROPERTY OR ANY OTHER CONSEQUENTIAL DAMAGE OR INCIDENTAL OR ECONOMIC LOSS) SHALL BE AVAILABLE TO CUSTOMER. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MECHANICALITY OR FITNESS FOR A PARTICULAR PURPOSE. SUBSTANDARD REPAIR WORK MAY BE PROVIDED UPON REQUEST OF CUSTOMER AND ACCORDING TO CUSTOMER'S INSTRUCTIONS BUT SUCH WORK WILL CARRY ABSOLUTELY NO WARRANTY WHATSOEVER. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT NO VERBAL CONTRACTS, AGREEMENTS OR WARRANTIES OTHER THAN WHAT IS SET FORTH HEREIN HAVE BEEN RECEIVED OR GIVEN.**
5. **Cores:** Customer assumes liability for Lost or Damaged Cores. All Core charges shall be the responsibility of the Customer. PANTROPIC assumes ownership of all take off items removed from Machine(s) not reinstalled during the repair process.
6. **Price Adjustments:** This proposal is based on current parts and labor pricing. Customer shall assume the price increases incurred.
7. **Miscellaneous:** This proposal is prepared with the most current information available to PANTROPIC.
 - a. The following charges are not included unless stated in this proposal: (State, local, indigent care, Environmental, taxes, freight, etc.) All prices are subject to all federal, state, local sales, use, excise and other taxes on the production, sale, use, or shipment of the goods sold, now or subsequently becoming effective, and if not included in the invoice for the goods, that amount may be invoiced later.
 - b. This is the entire agreement between the parties and may not be modified or amended except by a written document signed by the party against whom enforcement is sought.
8. **Risk of Loss:** All risk of loss and damage not covered by insurance (including any deductibles) shall be borne solely by owner of equipment.
9. **Severability:** Any provisions herein found to be prohibited by law shall be immediately ineffective to the extent of such prohibition without invalidating the rest of this agreement.
10. **Statutory lien:** Customer hereby waives its rights to possession under Fla. Stat. 713.74, and agrees that PANTROPIC is entitled to a possessory lien in connection with the equipment identified herein until it is paid in full for any and all parts, labor, and/or services.
11. **Choice of law, forum and expenses:** Customer shall pay PANTROPIC for reasonable costs, fees and expenses (including attorney's fees and court costs incurred through appellate levels and any post judgment expenses and interest incurred), incurred by PANTROPIC in the event of a controversy regarding this transaction, or in collecting monies due or to become due or incurred in replevying the equipment as a result of Customer ordering equipment and property from PANTROPIC or as a result of a breach by Customer of any of its obligations hereunder. In the event litigation arises, the right of trial by jury is waived by both parties and Customer agrees that the suit may be brought only in Miami-Dade or Broward County. These terms and conditions shall be governed and construed in accordance with the laws of the State of Florida.

File Attachments for Item:

A. Resolution No. 2025-001

A Resolution of the Town Commission of the Town of Highland Beach, Florida, approving and adopting the 2024 Revised Palm Beach County Local Mitigation Strategy Plan; and providing for an effective date.



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission Meeting

MEETING DATE *January 21st, 2025*

SUBMITTED BY: Glenn Joseph, Fire Chief

SUBJECT: **Resolution No. 2025-001**

A Resolution of the Town Commission of the Town of Highland Beach, Florida, approving and adopting the 2024 Revised Palm Beach County Local Mitigation Strategy Plan; and providing for an effective date.

SUMMARY:

The Federal Emergency Management Agency (FEMA) mandates that all Local Mitigation Strategy (LMS) programs revise their plans every five years to comply with federal guidelines outlined in the Disaster Mitigation Act of 2000. The revised Palm Beach County LMS was approved by the Florida Division of Emergency Management on August 6, 2024, and subsequently adopted by the County on September 17, 2024.

The adoption of the revised Palm Beach County LMS will ensure the town's participation in the Local Mitigation Strategy (LMS) Prioritized Project List (PPL). This participation allows the Town to remain eligible for future funding through various programs, including the Pre-Disaster Mitigation (PDM) Program, Public Assistance (PA), Flood Mitigation Assistance (FMA) Program, and Hazard Mitigation Grant Program (HMGP). Additionally, it enables the Town to receive reimbursements for costs incurred during Presidentially Declared Disasters for projects submitted to the LMS PPL for evaluation and ranking alongside other municipalities.

FISCAL IMPACT:

N/A

ATTACHMENTS:

Resolution No. 2025-001
Exhibit A - Resolution No. 2025-001

RECOMMENDATION:

Approval of Resolution No. 2025-001, for adopting the 2024 revised Palm Beach County Local Mitigation Strategy Plan.



**TOWN OF HIGHLAND BEACH
RESOLUTION NO. 2025-001**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, APPROVING AND ADOPTING THE 2024 REVISED PALM BEACH COUNTY LOCAL MITIGATION STRATEGY PLAN; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Palm Beach County is susceptible to a variety of natural, technological, and human-caused disasters, including but not limited to severe weather, hazardous materials incidents, nuclear power plant emergencies, communicable diseases, and domestic security incidents; as well as climate change impacts and sea level rise that causes increased inundation, shoreline erosion, flooding from severe weather events, and expedited loss of critical habitats; and

WHEREAS, the Disaster Mitigation Act of 2000 was enacted to establish a natural disaster hazard mitigation program to reduce the loss of life and property, human suffering, economic disruption, and disaster assistance costs resulting from disasters and to assist state, local, and tribal governments in implementing effective hazard mitigation measures to ensure the continuation of critical services and facilities after a natural disaster; and

WHEREAS, the Disaster Mitigation Act of 2000, as a condition for qualifying for and receiving future Federal mitigation assistance funding as well as reimbursement for Presidentially Declared Disasters, requires such governments to have Federal Emergency Management Agency approved hazard mitigation plans in place that identify the hazards that could impact their jurisdictions, identify actions and activities to mitigate the effects of those hazards, and establish a coordinated process to implement plans; and

WHEREAS, Palm Beach County's Local Mitigation Strategy, in coordination with governmental and non-governmental stakeholders having an interest in reducing the impact of disasters and with input from the private sector and other members of the public, developed the Palm Beach County Local Mitigation Strategy; and

WHEREAS, the 2024 Local Mitigation Strategy has been approved by the Florida Division of Emergency Management and the Federal Emergency Management Agency subject to adoption by the Palm Beach County Board of County Commissioners; and

WHEREAS, the Local Mitigation Strategy Steering Committee recommends form adoption of the 2024 Local Mitigation Strategy, including planned future enhancements described therein by the County and all participating municipalities.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

Section 2. The Town Commission of the Town of Highland Beach hereby approves and adopts the 2024 Revised Local Mitigation Strategy Plan (attached hereto as Exhibit A) in its entirety, as revised by the LMS Steering Committee as submitted to the Palm Beach County Board of County Commissioners, the Florida Division of Emergency Management and the Federal Emergency Management Agency.

Section 3. The Town Commission of the Town of Highland Beach authorizes the appropriate Town Officials to pursue available funding opportunities for implementation of proposed mitigation initiatives described in the Local Mitigation Strategy, and upon receipt of such funding or other necessary resources, seek to implement the actions in accordance with the mitigation strategies set out by the Local Mitigation Strategy.

Section 4. The Town Commission of the Town of Highland Beach will continue to support and participate in the Local Mitigation Strategy planning and implementation process as required by Federal Emergency Management agency, the Florida Division of Emergency Management, and the Palm Beach County Local Mitigation Strategy Steering Committee.

Section 5. The Town Commission of the Town of Highland Beach will consider incorporating climate change concerns, sea level rise and natural hazards into the local comprehensive plan and into future reviews of flood prevention regulations and zoning codes.

Section 6. The Town Commission of the Town of Highland Beach directs the Town Clerk to transmit an original of the executed Resolution to the Palm Beach County Division of Emergency Management, attention Local Mitigation Strategy Coordinator, for filing in the Office of the Clerk & Comptroller.

Section 7. This Resolution shall be effective immediately upon adoption.

DONE AND ADOPTED by the Town Commission of the Town of Highland Beach, Florida, this _____ day of _____ 2025.

Natasha Moore, Mayor

ATTEST:

**REVIEWED FOR LEGAL
SUFFICIENCY:**

Lanelda Gaskins, MMC
Town Clerk

Leonard G. Rubin, Town Attorney

VOTES:

YES NO

Mayor Natasha Moore
Vice Mayor David Stern
Commissioner Evalyn David
Commissioner Donald Peters
Commissioner Judith Goldberg

LMS2024 Revision Summary

The Local Mitigation Strategy

The Local Mitigation Strategy (LMS) is a living document that **develops** and **executes** an ongoing methodology for reducing a Palm Beach County's (PBC) vulnerability to identified natural, technological, and human caused hazards. The LMS **provides** the rational, managed basis for considering and prioritizing hazard-specific mitigation options, and for developing, and executing sound, cost-effective mitigation projects through the Prioritized Project List (PPL). The LMS **provides the basis for justifying the solicitation** and use of local, state, federal, and other funding sources to support hazard mitigation projects and initiatives.

The Purpose is Mitigation. The methodology is the LMS. The instrument is the PPL. The goal is Resilience.

LMS2024 – Why Do We Have an LMS

- Formally adopted in 1999, the LMS is a **statutory requirement** in accordance with the Disaster Mitigation Act of 2000, Title 44 of the Code of Federal Regulations, and Fla. Stat. § 252.3655 (2022).
- It allows communities to identify hazards and prioritize unfunded projects to mitigate those hazards when funding becomes available from local, state, and federal sources.
- It is required in order to receive financial assistance through Pre-Disaster Mitigation (PDM), Hazard Mitigation Grant Program (HMGP), and Flood Mitigation Assistance (FMA) funding from Federal Emergency Management Agency (FEMA) before and after a disaster strikes.
- It puts local communities in control of projects and funding priorities.

LMS2024 – Updates to LMS2020

- PBC commissioned a new threat hazard and identification risk assessment (THIRA) in 2021, used in the LMS2024, to illustrate our risks and determine the level of capability they need in order to address those risks.
- Historic events for natural hazards were added through 2023 and deleted if older than 10 years, unless they had significant impact to the County. In which case, they were left in the document.
- Recent years have shown increased vulnerabilities as modeling, and mapping capabilities improve, and as more information is gathered on potential impacts of climate change, and sea level rise. This LMS integrates updated information on storm surge and sea level rise and climate change into our hazards, mitigation measures, mapping and project list.
- Collaboration with the Office of Sustainability and participation in the Southeast Florida Regional Climate Change Compact has increased the number of planning stakeholders we are working with for assessments.
- Analyses of local flooding conditions as it relates to PBC communities
- Update of Agricultural Pests and Diseases with specifics on the citrus industry
- Updates in severities of Pandemic/Communicable Diseases (mosquito borne diseases)
- Improved project tracking system through creation of a WebEOC internet based board, and encouraged participants to track projects; illustrates all of the mitigation work being done in Palm Beach County

Adoption of LMS2024

Your jurisdiction must adopt the LMS2024 in order to be eligible for any mitigation funding in the future (HMGP, PDM, and/or FMA grants). Adoption of LMS2024 is paramount to your community remaining a viable stakeholder in mitigation research, identification, and prioritization. Our communities utilize the LMS to include mitigation in their development, and redevelopment projects through inclusion in their Master Plans and Capital Improvement plans. Communities are proactively including mitigation projects into their internal funding, and capital improvement budgets. LMS2024 is your comprehensive approach to effectively reduce the impact of current, and future hazards, and risk faced within Palm Beach County.

Failure to adopt LMS2024 will negate your community hazard mitigation plans as a condition for receiving certain types of non-emergency disaster assistance, including funding for mitigation projects.

File Attachments for Item:

B. Resolution No. 2025-002

A Resolution of the Town Commission of the Town of Highland Beach, Florida, providing for the permanent retention of all public records relating to Building Permits and Land Development Applications and Approvals; providing for conflicts; providing for severability; and providing for an effective date.



RESOLUTION NO. 2025-002

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, PROVIDING FOR THE PERMANENT RETENTION OF ALL PUBLIC RECORDS RELATING TO BUILDING PERMIT AND LAND DEVELOPMENT APPLICATIONS AND APPROVALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as a municipal corporation organized and existing under the laws of the State of Florida, the Town of Highland Beach is subject to Chapter 119, Florida Statutes, known as Florida's "Public Records Law;" and

WHEREAS, Section 119.021(2)(a), Florida Statutes, requires the State Division of Library and Information Services ("Division") of the Florida Department of State to adopt rules establishing retention schedules and a disposal process for public records; and

WHEREAS, Division has established General Records Schedule GS1-SL for state and local government agencies; and

WHEREAS, while Section 257.36(6), Florida Statutes, provides that a public record may be destroyed or otherwise disposed of only in accordance with the retention schedules established by the Division, the Town may retain records longer than otherwise required by the retention schedule; and

WHEREAS, technological advances in the electronic storage of records have made the retention of public records more convenient and less expensive; and

WHEREAS, notwithstanding the retention schedule established by the Division, the Town Commission wishes to provide for the permanent retention of all public records related to building permit and land development applications and approvals and determines that the adoption of this Resolution is in the best interests of the Town and its residents.

NOW, THEREFORE, BE IT RESOLVED, by the Town Commission of the Town of Highland Beach, Florida, that:

SECTION 1. The foregoing recitals are ratified as true and correct and are hereby incorporated herein.

SECTION 2. The Town Commission hereby determines that notwithstanding the retention schedule for municipal public records established by the Division of Library and Information Services of the Department of State as set forth in schedule GS1-SL, the Town shall

require the permanent retention of all public records relating to building permit and land development applications, including, but not limited to records relating to: architectural/building plans; building permits; certificates of occupancy and completion; comprehensive planning; final orders and supporting materials relating to the approval and denial of development orders entered by the Town Commission, the Planning Board, and the Board of Adjustment and Appeals; land development and planning project files for approved and denied/abandoned projects; subdivisions; and zoning variances.

SECTION 3. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed to the extent of such conflict.

SECTION 4. The Resolution shall take effect immediately upon adoption.

DONE AND ADOPTED by the Town Commission of the Town of Highland Beach, Florida, this 21st day of January, 2025.

Natasha Moore, Mayor

ATTEST:

**REVIEWED FOR LEGAL
SUFFICIENCY:**

Lanelda Gaskins, MMC
Town Clerk

Leonard G. Rubin, Town Attorney

VOTES:

YES NO

Mayor Natasha Moore

____ _

Vice Mayor David Stern

____ _

Commissioner Evalyn David

____ _

Commissioner Donald Peters

____ _

Commissioner Judith Goldberg

____ _

File Attachments for Item:

C. Resolution No. 2025-003

A Resolution of the Town Commission of the Town of Highland Beach, Florida, designing the Palm Beach County Canvassing Board as the Town's Canvassing Board for the March 2025 General Municipal Election; providing for conflicts; and providing for an effective date.



RESOLUTION NO. 2025-003

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, DESIGNATING THE PALM BEACH COUNTY CANVASSING BOARD AS THE TOWN'S CANVASSING BOARD FOR THE MARCH 2025 GENERAL MUNICIPAL ELECTION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article I, Section 1.06(7) of the Town of Highland Beach Charter provides that, when deemed in the best interest of the Town, the Town Commission may, by resolution, designate the Palm Beach County Canvassing Board to serve as the Town's Canvassing Board for Town elections; and

WHEREAS, at the March 11, 2025 general municipal election, the Town Commission is conducting a referendum election seeking voter approval for an expenditure of up to \$3,500,000 for two public safety projects pursuant to Section 2.01(30) of the Town Charter; and

WHEREAS, the Town Commission determines that designating the County Canvassing Board to serve as the Town's Canvassing Board for the March 2025 election in the best interest of the Town and serves a valid public purpose.

NOW, THEREFORE, BE IT RESOLVED, by the Town Commission of the Town of Highland Beach, Florida, that:

SECTION 1. The foregoing recitals are ratified as true and correct and are hereby incorporated herein.

SECTION 2. The Town Commission hereby delegates all canvassing duties, as defined by Florida Statutes and the Florida Administrative Code, for the March 11, 2025 election to the County Canvassing Board appointed by the Palm Beach County Commission and the Chief Judge of the Fifteenth Judicial Circuit. The Canvassing Board shall consist of the Supervisor of Elections; a county court judge, who shall serve as chair; and the chair of the Board of County Commissioners or their respective alternates or designees.

SECTION 3. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed to the extent of such conflict.

SECTION 4. The Resolution shall take effect immediately upon adoption.

DONE AND ADOPTED by the Town Commission of the Town of Highland Beach, Florida, this 21st day of January, 2025.

Natasha Moore, Mayor

ATTEST:

**REVIEWED FOR LEGAL
SUFFICIENCY:**

Lanelda Gaskins, MMC
Town Clerk

Leonard G. Rubin, Town Attorney

VOTES:

YES NO

Mayor Natasha Moore
Vice Mayor David Stern
Commissioner Evalyn David
Commissioner Donald Peters
Commissioner Judith Goldberg

File Attachments for Item:

D. Regulation of Floating Vessel Platform and Floating Boat Lifts Legal Opinion by Attorney Rubin

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Daniel Harrell, Of Counsel

*FLORIDA BAR BOARD CERTIFIED
CITY COUNTY AND LOCAL GOVERNMENT ATTORNEY

MEMORANDUM

TO: Mayor, Vice Mayor, and Town Commissioners

FROM: Leonard G. Rubin, Town Attorney 

CC: Marshall Labadie, Town Manager

DATE: January 21, 2025

RE: Regulation of Floating Vessel Platforms and Floating Boat Lifts

Question Presented:

As requested, this memorandum addresses whether the Town of Highland Beach can regulate floating vessel platforms and floating boat lifts pursuant to Section 403.813(1)(s), Florida Statutes. Specifically, the Commission requested an opinion regarding the Town's legal authority to impose a setback requirement for such floating structures from the side property line.

Short Answer:

The Town does appear to have the legal authority to impose a side setback requirement for floating vessel platforms and floating boatlifts that are attached to the bulkhead where there is no other docking structure. The Town's authority is less clear where there is an existing dock exempt from DEP permitting or a permitted dock with no defined boat slip. If the Town Commission were to impose such a regulation under these circumstances, any such regulation should be accompanied by sufficient justification and the required setback should be consistent with (or no more restrictive than) the existing setbacks for fixed or floating docks.

Legal Analysis:

The Florida Department of Environmental Protection (“DEP”) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through the issuance of environmental resource permits (“ERPs”). Section 403.813(1)(s), Florida Statutes, provides an exemption from ERP permitting for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts¹ that meet certain requirements. The justification for this exemption is that floating vessel platforms are typically made of lightweight materials that float and do not have posts or structures that disturb the sovereign submerged lands below.

Section 403.813(1)(s)1, Florida Statutes, provides that in order to qualify for this exemption, the floating vessel platform must:

- a. Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;
- b. Be wholly constructed within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
- c. Not be used for any commercial purpose or for mooring vessels that remain in the water when not in use, and not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;
- d. Be constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and
- e. Not be constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

The owner of a structure that qualifies for an exemption in accordance with the foregoing criteria is not required to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund, and, “with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, the structure may not be subject

¹ All references in this memorandum to floating vessel platforms shall also include floating boat lifts.

to any more stringent permitting requirements, registration requirements, or other regulation by any local government.” §403.813(1)(s)2, Fla. Stat. (emphasis added). However, for a floating vessel platform attached to a bulkhead on a parcel of land where there is no docking structure, “a local government may require the platform owner to obtain a permit or one-time registration of the floating vessel platform as necessary to ensure compliance with local ordinances, codes, or regulations.” §403.813(1)(s)2, Fla. Stat. While a permit may be required for floating vessel platforms attached to a bulkhead where there is no docking structure:

A local government may require only a one-time registration of all other floating vessel platforms where the platform owner self-certifies compliance with the exemption criteria in this section to ensure compliance with ordinances, codes, state-delegated or state-mandated plans or programs, or regulations relating to building or zoning, which may not be applied more stringently than, or inconsistent with, the exemption criteria in this section and address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

As set forth above, the statute makes a distinction between floating vessel platforms associated with an existing docking structure and those attached to a bulkhead on a parcel of land where there is no docking structure. A plain reading of the statute indicates that the Town may regulate floating vessel platforms that are attached to a bulkhead where there is no docking structure and may even require the property owner to obtain a permit. However, the Town’s ability to regulate floating vessel platforms associated with an existing dock or boat slip is much more limited. While, as set forth above, the statute states that floating vessel platforms associated with an existing dock “may not be subject to more stringent permitting requirements, registration requirements, or other regulation by any local government,” in authorizing a one-time registration of such structures, the statute does allow the Town to apply building or zoning regulations that: (1) are not more stringent than or inconsistent with the exemption criteria outlined above; and (2) address subjects not addressed by the exemption criteria in this section.

In AGO 2005-16, the Attorney General was asked whether Section 403.813(2)(s)², Florida Statutes preempts municipal authority to adopt and enforce land use and other related regulations concerning floating vessel platforms. The Attorney General recognized the constitutional home rule authority of municipalities and noted that Section 166.021(1), Florida Statutes, grants municipalities “the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.” The Attorney General noted that the term “express” as used in Section 166.021(1), Florida Statutes, has been construed to mean a reference that is distinctly stated and not left to inference. In

² While the version of the statute under review in that opinion was not identical the current statutory provision, the prior version also stated that structures qualifying for the exemption “shall not be subject to any more stringent regulation by any local government.”

reviewing Section 403.813(2)(s), Florida Statutes, the Attorney General concluded that neither the statutory language nor the legislative history clearly expressed the extent to which the Florida Legislature intended to preempt local regulation of floating vessel platforms and floating structures. Therefore, the Attorney General suggested that a definitive answer should be sought through the court system or amendatory legislation. Since the issuance of AGO 2005-16, there have been no reported court decisions addressing the regulatory authority of municipalities as it relates to Section 403.813(2)(s), Florida Statutes.

The regulation contemplated by the Town Commission relates to the placement of floating vessel platforms in relation to the side property line extended to reduce potential impacts of such structures on adjacent property owners and the adjacent waterway. While some have questioned the Town's ability to enact any regulations applicable to floating vessel platforms, the legislative history for the most recent amendment to Section 403.813(2)(s), Florida Statutes, specifically recognized "some exceptions" to the rule that such structures may not be subject to any more stringent permitting requirements, registration requirements, or other regulations. The question then becomes whether adoption of side setback requirement is inconsistent with the exemption criteria or addresses a subject not addressed by the exemption criteria. The argument against the Town's ability to enact a setback requirement centers upon whether the exemption criteria regulate the "location" of the floating vessel platform. While the placement of a floating vessel platform within a previously permitted boat slip would arguably regulate location, it does not appear that allowing such a structure "when associated with an exempt dock" or "associated with a permitted dock with no defined boat slip" is a "distinctly stated" preemption of all local regulation with respect to the location of floating vessel platforms as required under Florida law. Nevertheless, the express statutory language is somewhat contradictory and does lack clarity.

This office did contact Sherin Joseph, senior attorney with DEP, to confirm the Town's limited regulatory authority over floating vessel platforms. Ms. Joseph indicated that she was not aware of any express prohibition against a municipality imposing a side setback requirement for floating vessel platforms. She did caution, however, that a municipality may receive "push back" from the owners of floating vessel platforms if setback requirements are imposed. To that end, she advised that if the Town was considering imposing such setbacks, the Town should: (1) clearly state the justification for such setbacks, e.g., the setback is needed to address navigational concerns; and (2) impose setbacks that mirror the setbacks for fixed or floating docks for the sake of consistency.

As set forth in Section 30-68(g)(6) of the Town Code of Ordinances, the Town currently requires a setback of twenty-five (25) feet from the side property line for docks constructed in single-family zoning districts (with a reduction to fifteen (15) feet where the lot is less than fifty feet wide) and a setback of five (5) feet from perimeter property lines for docks constructed in multi-family zoning districts, with no setback requirement for interior lot lines. If the Town Commission adopts a side setback requirement for floating vessel platforms, the Commission should use these existing setback requirements as a guide.

In conclusion, based on the express statutory language, the Town can impose a side setback requirement for floating vessel platforms where there is no existing dock and the floating vessel platform will be attached directly to the bulkhead. The Town can also adopt regulations governing how the floating vessel platform will be affixed to the bulkhead and require a permit for their

installation. While the Town's legal authority to impose a setback requirement where there is an existing dock is not quite as clear, if the Town Commission does move forward with imposing a side setback requirement, any such regulation should be accompanied by sufficient justification and be no more stringent than the current Town Code requirements applicable to the installation of fixed or floating docks.

For informational purposes, I have attached a copy of an Ordinance adopted by the Village of North Palm Beach in 2018, where the Village imposed the same setback requirements for floating vessel platforms as are applicable to docks. To date, the Village's imposition of setback requirements for all floating vessel platforms has not been challenged.

Should you have questions or need additional information, please do not hesitate to contact me.

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 847 Vessel Regulations

SPONSOR(S): Infrastructure Strategies Committee and Water Quality, Supply & Treatment Subcommittee, Stark and others

TIED BILLS: IDEN./SIM. BILLS: CS/SB 1082

FINAL HOUSE FLOOR ACTION: 113 Y's 2 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/CS/HB 847 passed the House on April 26, 2023, and subsequently passed the Senate on May 2, 2023.

The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is the agency responsible for regulating boating in the state. This responsibility includes enforcing boating rules and regulations, and managing public water and access to the waters.

Boating-restricted areas, which restrict vessel speeds and traffic, may be established on the waters of the state for any purpose necessary to protect the safety of the public. The restrictions must be necessary due to boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately-owned submerged lands.

The Department of Environmental Protection (DEP) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, and any other activities that affect state waters. Current law provides exceptions from ERP permitting for certain types of projects. Generally, these permit exceptions restrict how the project is undertaken, provide size and location requirements, or provide for maintenance, repair, or replacement of existing structures. An exemption currently exists for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts that meet certain requirements.

The bill allows a municipality or county to adopt an ordinance that establishes a slow speed, minimum wake boating-restricted area, if the area is within 500 feet of a sewage pumpout station at any public or private nonresidential marina if the sewage pumpout station is within 100 feet of the marked channel of the Florida Intracoastal Waterway.

The bill revises the ERP permitting exemption for floating vessel platforms and floating boat lifts to specify local governments may only require a one-time registration for a floating vessel platform where the owner of such platform self-certifies compliance with the ERP exemption criteria to ensure compliance with ordinances, codes, state-delegated or state-mandated plans or programs, which may not be applied more stringently than, or inconsistent with, the ERP exemption criteria for certain floating vessel platforms.

The bill does not appear to have a fiscal impact on state or local government.

The bill was approved by the Governor on May 25, 2023, ch. 2023-151, L.O.F., and will become effective on July 1, 2023.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Senate.¹ Pursuant to its constitutional authority, FWC exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.²

FWC is also the agency responsible for regulating boating in the state. Through its Division of Law Enforcement, FWC manages the state's waterways to ensure boating safety for residents and visitors to the state.³ This responsibility includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public water and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁴

Boating Restricted Areas

Boating-restricted areas, which restrict vessel speeds and traffic, may be established on the waters of the state for any purpose necessary to protect the safety of the public.⁵ The restrictions must be necessary due to "boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately-owned submerged lands."⁶

Local governments are generally prohibited from regulating any vessel upon the Florida Intracoastal Waterway.⁷ However, local governments have been delegated authority to establish certain boating-restricted areas by ordinance, including in the portion of the Florida Intracoastal Waterway that is within their jurisdiction.⁸

A municipality or county may adopt an ordinance that establishes an idle speed, no wake boating-restricted area, if the area is:

- Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width or within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width.
- Within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width or within 300 feet of the

¹ Art. IV, s. 9, Fla. Const.

² *Id.*

³ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Mar. 22, 2023).

⁴ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Feb. 23, 2023). See s. 327.70(1) and (4), F.S.

⁵ S. 327.46(1), F.S.

⁶ *Id.*

⁷ S. 327.60(2)(c), F.S.; "Florida Intracoastal Waterway" means the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to Fort Myers; the St. Johns River, Jacksonville to Sanford; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to Anclote open bay section, using the Gulf of Mexico; the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and the Apalachicola, Chattahoochee, and Flint Rivers in Florida. S. 327.02(15), F.S.

⁸ S. 327.46(1)(b)-(c), F.S.

fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width.

- Inside or within 300 feet of any lock structure.⁹

A municipality or county may adopt an ordinance that establishes a slow speed, minimum wake boating-restricted area, if the area is:

- Within 300 feet of any bridge fender system.
- Within 300 feet of any bridge span presenting vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.
- On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.
- On a lake or pond of less than 10 acres in total surface area.
- Within the boundaries of a permitted public mooring field and a buffer around the mooring field of up to 100 feet.¹⁰

A municipality or county may adopt an ordinance that establishes a vessel-exclusion zone if the area is:

- Designated as a public bathing beach or swim area, except that such areas may not be created on waters that include any portion of the Florida Intracoastal Waterway or that are within 100 feet of the marked channel of the Florida Intracoastal Waterway.
- Within 300 feet of a dam, spillway, or flood control structure.¹¹

It is unlawful for any person to operate a vessel in a prohibited manner or to carry on any prohibited activity within a boating-restricted area which has been clearly marked by regulatory markers as an authorized restricted area.¹² These restrictions do not apply in the case of an emergency or to a law enforcement, firefighting, or rescue vessel owned or operated by a government entity.¹³

Pumpout stations

Pumpout stations are machines that pull sewage from the waste holding tank of a boat.¹⁴ There are public and private pumpout stations.¹⁵ It is important to have a sufficient supply of pumpout stations because a lack of such facilities for recreational boaters leads to sewage being dumped into waters.¹⁶ Raw or partially-treated boat sewage contains dangerous viruses and bacteria,¹⁷ and it is particularly important to prevent the spread of such sewage.¹⁸

The federal Clean Vessel Act was signed into law in 1992 and it prohibits individuals from discharging raw sewage from vessels into fresh water or coastal saltwater.¹⁹ The act established the Clean Vessel Act Grant Program, which is housed in the U.S. Fish and Wildlife Service and administered in Florida by the Department of Environmental Protection (DEP), to fund sewage disposal facilities.²⁰ Since 1994,

⁹ S. 327.46(1)(b)1., F.S.

¹⁰ S. 327.46 (1)(b)2., F.S.

¹¹ S. 327.46(1)(b)3., F.S.

¹² S. 327.46(3), F.S.

¹³ S. 327.46(4), F.S.

¹⁴ Michigan Pumpouts, *Pumpout FAQs*, <https://www.michiganseagrant.org/michiganpumpouts/frequently-asked-questions/> (last visited Apr. 14, 2023).

¹⁵ UF, IFAS Extension, *Florida Sea Grant Extension & Education Program* (last updated Oct. 27, 2022),

<https://flseagrant.ifas.ufl.edu/clean-boating/where-to-pumpout/> (last visited Apr. 16, 2023).

¹⁶ Department of Environmental Protection (DEP), *About the Clean Vessel Act* (last updated Aug. 5, 2022),

<https://floridadep.gov/rcp/cva/content/about-clean-vessel-act> (last visited Apr. 14, 2023).

¹⁷ Department of Ecology, State of Washington, *Pump Out, Don't Dump Out – Help Protect Puget Sound!* (May 19, 2021),

<https://ecology.wa.gov/Blog/Posts/May-2021/Pump-out-dont-dump-out-Help-protect-Puget-Sound> (last visited Apr. 14, 2023).

¹⁸ U.S. Environmental Protection Agency, *A Recreational Boater's Guide to Vessel Sewage*, p.3,

https://www.epa.gov/sites/default/files/2021-06/documents/a_recreational_boaters_guide_to_vessel_sewage.pdf.

¹⁹ DEP, *Clean Vessel Act Grant Program*, <https://floridadep.gov/RCP/CVA> (last visited Apr. 16, 2023).

²⁰ *Id.*

more than 570 pumpout stations have been installed across Florida with funding from the Clean Vessel Act Grant Program.²¹

Environmental Resource Permits

DEP regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, and any other activities that affect state waters.²² ERP applications are processed by either DEP or one of the state's water management districts (WMDs) in accordance with the division of responsibilities specified in operating agreements between DEP and the WMDs.²³

ERP Exceptions

Current law provides exceptions from ERP²⁴ permitting for certain types of projects.²⁵ Generally, these permit exceptions restrict how the project is undertaken, provide size and location requirements, or provide for maintenance, repair, or replacement of existing structures.²⁶ For example, state law provides exceptions from ERP permitting for the installation of overhead transmission lines with support structures that are not constructed in waters of the state and that do not create a navigational hazard; the installation and maintenance of certain boat ramps on artificial bodies of water where navigational access is provided; and the construction of private docks of 1,000 square feet or less of over-water surface area and seawalls in artificially created waterways when such construction will not violate existing water quality standards, impede navigation, or affect flood control.²⁷ These exceptions do not relieve an applicant from obtaining permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund (Board) or a WMD or from complying with local pollution control programs or other requirements of local governments.²⁸

ERP Exceptions for Docks

Included among the projects that are exempt from ERP permitting requirements is the installation and repair of mooring pilings and dolphins associated with private docking facilities or piers; the installation of private docks, piers, and recreational docking facilities; or the installation of piers and recreational docking facilities of local governmental entities when the entity's activities will not take place in any manatee habitat.²⁹ This exemption applies when the dock:

- Has 500 square feet or less of over-water surface area and is located in an area designated as an Outstanding Florida Water or has 1,000 square feet or less of over-water surface area and is not located in an area that is designated as an Outstanding Florida Water;
- Is constructed on or held in place by pilings or is a floating dock constructed so as not to involve filling or dredging other than that necessary to install the pilings;
- Does not substantially impede the flow of water or create a navigational hazard;
- Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and

²¹ DEP, *supra* note 16. (Each year, DEP may apply to the U.S. Fish and Wildlife Service for funding of up to 75% of all approved projects, with matching funds being supplied by the state, local governments, private businesses or associations.)

²² South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Mar. 1, 2023).

²³ DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Mar. 1, 2023).

²⁴ See chs. 373 and 403, F.S.

²⁵ S. 403.813(1), F.S.

²⁶ See s. 403.813(1)(a)-(v), F.S.; see also r. 62-330.051, F.A.C.

²⁷ *Id.*

²⁸ S. 403.813(1), F.S.

²⁹ S. 403.813(1)(b), F.S.

- Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case one exempt dock may be allowed per parcel or lot.³⁰

ERP Exceptions for Floating Structures

Additionally, there is an ERP permit exemption for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;
- Are wholly contained within a previously permitted boat slip or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt from ERP permitting or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners;
- Are constructed and used so as to minimize the adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and
- Are not constructed in areas specifically prohibited for boat mooring under conditions of an ERP permit or other form of authorization issued by a local government.³¹

Structures that meet this exemption criteria are typically made of lightweight materials that float and do not have posts or structures that disturb the sovereign submerged lands below.

Structures that qualify for this exemption are not required to obtain permission to use or occupy lands owned by the Board, and, with certain exceptions, may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government.³² Local governments may require either permitting or one-time registration of floating vessel platforms.³³

Effect of the Bill

The bill allows a municipality or county to adopt an ordinance that establishes a slow speed, minimum wake boating-restricted area if the area is within 500 feet of a sewage pumpout station at any public or private nonresidential marina if the sewage pumpout station is within 100 feet of the marked channel of the Intracoastal Waterway.

The bill revises the ERP permitting exemption for floating vessel platforms and floating boat lifts to specify local governments may only require a one-time registration for a floating vessel platform where the owner of such platform self-certifies compliance with the ERP exemption criteria to ensure compliance with ordinances, codes, state-delegated or state-mandated plans or programs, which may not be applied more stringently than, or inconsistent with, the ERP exemption criteria for certain floating vessel platforms.

³⁰ *Id.*

³¹ S. 403.813(1)(s), F.S.; Rule 62-330.428, F.A.C.

³² *Id.*

³³ S. 403.813(1)(s), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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CS/CS/HB 847

2023 Legislature

1
 2 An act relating to vessel regulations; amending s.
 3 327.46, F.S.; authorizing counties and municipalities
 4 to establish boating-restricted areas for certain
 5 sewage pumpout stations within a specified distance of
 6 the marked channel of the Florida Intracoastal
 7 Waterway; amending s. 403.813, F.S.; removing a
 8 provision authorizing local governments to require
 9 permitting for certain floating vessel platforms;
 10 revising conditions under which local governments may
 11 require one-time registrations of floating vessel
 12 platforms; making technical changes; reenacting s.
 13 327.41(2), F.S., relating to uniform waterway
 14 regulatory markers, to incorporate the amendment made
 15 to s. 327.46, F.S., in a reference thereto; providing
 16 an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraph (b) of subsection (1) of section
 21 327.46, Florida Statutes, is amended to read:

22 327.46 Boating-restricted areas.—

23 (1) Boating-restricted areas, including, but not limited
 24 to, restrictions of vessel speeds and vessel traffic, may be
 25 established on the waters of this state for any purpose

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CS/CS/HB 847

2023 Legislature

26 necessary to protect the safety of the public if such
 27 restrictions are necessary based on boating accidents,
 28 visibility, hazardous currents or water levels, vessel traffic
 29 congestion, or other navigational hazards or to protect
 30 seagrasses on privately owned submerged lands.

31 (b) Municipalities and counties may establish the
 32 following boating-restricted areas by ordinance, including,
 33 notwithstanding the prohibition in s. 327.60(2)(c), within the
 34 portion of the Florida Intracoastal Waterway within their
 35 jurisdiction:

36 1. An ordinance establishing an idle speed, no wake
 37 boating-restricted area, if the area is:

38 a. Within 500 feet of any boat ramp, hoist, marine
 39 railway, or other launching or landing facility available for
 40 use by the general boating public on waterways more than 300
 41 feet in width or within 300 feet of any boat ramp, hoist, marine
 42 railway, or other launching or landing facility available for
 43 use by the general boating public on waterways not exceeding 300
 44 feet in width.

45 b. Within 500 feet of fuel pumps or dispensers at any
 46 marine fueling facility that sells motor fuel to the general
 47 boating public on waterways more than 300 feet in width or
 48 within 300 feet of the fuel pumps or dispensers at any licensed
 49 terminal facility that sells motor fuel to the general boating
 50 public on waterways not exceeding 300 feet in width.

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CS/CS/HB 847

2023 Legislature

- 51 c. Inside or within 300 feet of any lock structure.
- 52 2. An ordinance establishing a slow speed, minimum wake
- 53 boating-restricted area if the area is:
- 54 a. Within 300 feet of any bridge fender system.
- 55 b. Within 300 feet of any bridge span presenting a
- 56 vertical clearance of less than 25 feet or a horizontal
- 57 clearance of less than 100 feet.
- 58 c. On a creek, stream, canal, or similar linear waterway
- 59 if the waterway is less than 75 feet in width from shoreline to
- 60 shoreline.
- 61 d. On a lake or pond of less than 10 acres in total
- 62 surface area.
- 63 e. Within the boundaries of a permitted public mooring
- 64 field and a buffer around the mooring field of up to 100 feet.
- 65 f. Within 500 feet of a sewage pumpout station at any
- 66 public or private nonresidential marina if the sewage pumpout
- 67 station is within 100 feet of the marked channel of the Florida
- 68 Intracoastal Waterway.
- 69 3. An ordinance establishing a vessel-exclusion zone if
- 70 the area is:
- 71 a. Designated as a public bathing beach or swim area,
- 72 except that such areas may not be created on waters that include
- 73 any portion of the Florida Intracoastal Waterway or that are
- 74 within 100 feet of the marked channel of the Florida
- 75 Intracoastal Waterway.

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CS/CS/HB 847

2023 Legislature

76 b. Within 300 feet of a dam, spillway, or flood control
77 structure.

78
79 Vessel exclusion zones created pursuant to this subparagraph
80 must be marked with uniform waterway markers permitted by the
81 commission in accordance with this chapter. Such zones may not
82 be marked by ropes.

83 Section 2. Paragraph (s) of subsection (1) of section
84 403.813, Florida Statutes, is amended to read:

85 403.813 Permits issued at district centers; exceptions.—

86 (1) A permit is not required under this chapter, chapter
87 373, chapter 61-691, Laws of Florida, or chapter 25214 or
88 chapter 25270, 1949, Laws of Florida, and a local government may
89 not require a person claiming this exception to provide further
90 department verification, for activities associated with the
91 following types of projects; however, except as otherwise
92 provided in this subsection, this subsection does not relieve an
93 applicant from any requirement to obtain permission to use or
94 occupy lands owned by the Board of Trustees of the Internal
95 Improvement Trust Fund or a water management district in its
96 governmental or proprietary capacity or from complying with
97 applicable local pollution control programs authorized under
98 this chapter or other requirements of county and municipal
99 governments:

100 (s) The construction, installation, operation, or

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CS/CS/HB 847

2023 Legislature

101 maintenance of floating vessel platforms or floating boat
 102 lifts., ~~provided that such structures:~~

103 1. To qualify for an exemption under this paragraph, the
 104 structure must:

105 a. Float at all times in the water for the sole purpose of
 106 supporting a vessel so that the vessel is out of the water when
 107 not in use;

108 b.2. ~~Be~~ Are wholly contained within a boat slip previously
 109 permitted under ss. 403.91-403.929, 1984 Supplement to the
 110 Florida Statutes 1983, as amended, or part IV of chapter 373, or
 111 ~~do~~ not exceed a combined total of 500 square feet, or 200 square
 112 feet in an Outstanding Florida Water, when associated with a
 113 dock that is exempt under this subsection or associated with a
 114 permitted dock with no defined boat slip or attached to a
 115 bulkhead on a parcel of land where there is no other docking
 116 structure;

117 c.3. ~~Not be~~ Are not used for any commercial purpose or for
 118 mooring vessels that remain in the water when not in use, and ~~do~~
 119 not substantially impede the flow of water, create a
 120 navigational hazard, or unreasonably infringe upon the riparian
 121 rights of adjacent property owners, as defined in s. 253.141;

122 d.4. ~~Be~~ Are constructed and used so as to minimize adverse
 123 impacts to submerged lands, wetlands, shellfish areas, aquatic
 124 plant and animal species, and other biological communities,
 125 including locating such structures in areas where seagrasses are

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2023 Legislature

126 | least dense adjacent to the dock or bulkhead; and
 127 | ~~e.5.~~ Are Not be constructed in areas specifically
 128 | prohibited for boat mooring under conditions of a permit issued
 129 | in accordance with ss. 403.91-403.929, 1984 Supplement to the
 130 | Florida Statutes 1983, as amended, or part IV of chapter 373, or
 131 | other form of authorization issued by a local government.
 132 | 2. The owner of a structure ~~Structures~~ that qualifies
 133 | ~~qualify~~ for an this exemption under this paragraph is not
 134 | required ~~are relieved from any requirement~~ to obtain permission
 135 | to use or occupy lands owned by the Board of Trustees of the
 136 | Internal Improvement Trust Fund, and, with the exception of
 137 | those structures attached to a bulkhead on a parcel of land
 138 | where there is no docking structure, the structure may not be
 139 | subject to any more stringent permitting requirements,
 140 | registration requirements, or other regulation by any local
 141 | government. For a floating vessel platform to be attached to a
 142 | bulkhead on a parcel of land where there is no docking
 143 | structure, a local government ~~governments~~ may require the
 144 | platform owner to obtain a permit ~~either permitting~~ or one-time
 145 | registration of the floating vessel platform ~~platforms to be~~
 146 | ~~attached to a bulkhead on a parcel of land where there is no~~
 147 | ~~other docking structure~~ as necessary to ensure compliance with
 148 | local ordinances, codes, or regulations. A local government
 149 | ~~governments~~ may require only a ~~either permitting or~~ one-time
 150 | registration of all other floating vessel platforms where the

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2023 Legislature

151 | platform owner self-certifies ~~as necessary to ensure~~ compliance
 152 | with the exemption criteria in this section, to ensure
 153 | compliance with ~~local~~ ordinances, codes, state-delegated or
 154 | state-mandated plans or programs, or regulations relating to
 155 | building or zoning, which may not be applied more stringently
 156 | ~~are no more stringent~~ than, or inconsistent with, the exemption
 157 | criteria in this section and ~~or~~ address subjects other than
 158 | subjects addressed by the exemption criteria in this section;
 159 | and to ensure proper installation, maintenance, and
 160 | precautionary or evacuation action following a tropical storm or
 161 | hurricane watch of a floating vessel platform or floating boat
 162 | lift that is proposed to be attached to a bulkhead or parcel of
 163 | land where there is no other docking structure.

164 | 3. The exemption provided in this paragraph ~~is shall be~~ in
 165 | addition to the exemption provided in paragraph (b). The
 166 | department shall adopt a general permit by rule for the
 167 | construction, installation, operation, or maintenance of those
 168 | floating vessel platforms or floating boat lifts that do not
 169 | qualify for the exemption provided in this paragraph but do not
 170 | cause significant adverse impacts to occur individually or
 171 | cumulatively. The issuance of such general permit constitutes
 172 | ~~shall also constitute~~ permission to use or occupy lands owned by
 173 | the Board of Trustees of the Internal Improvement Trust Fund. A
 174 | local government ~~governments~~ may not impose a more stringent
 175 | regulation, permitting requirement, registration requirement, or

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CS/CS/HB 847

2023 Legislature

176 other regulation covered by such general permit. A local
 177 government ~~governments~~ may require a structure owner to obtain
 178 either a permit ~~permitting~~ or one-time registration of floating
 179 vessel platforms as necessary to ensure compliance with the
 180 general permit in this section; to ensure compliance with local
 181 ordinances, codes, or regulations relating to building or zoning
 182 that are no more stringent than the general permit in this
 183 section; and to ensure proper installation and maintenance of a
 184 floating vessel platform or floating boat lift that is proposed
 185 to be attached to a bulkhead or parcel of land where there is no
 186 other docking structure.

187 Section 3. For the purpose of incorporating the amendment
 188 made by this act to section 327.46, Florida Statutes, in a
 189 reference thereto, subsection (2) of section 327.41, Florida
 190 Statutes, is reenacted to read:

191 327.41 Uniform waterway regulatory markers.—

192 (2) Any county or municipality which has been granted a
 193 boating-restricted area designation, by rule of the commission
 194 pursuant to s. 327.46(1)(a), for a portion of the Florida
 195 Intracoastal Waterway within its jurisdiction or which has
 196 adopted a boating-restricted area by ordinance pursuant to s.
 197 327.46(1)(b) or (c) or s. 379.2431(2)(p), or any other
 198 governmental entity which has legally established a boating-
 199 restricted area, may apply to the commission for permission to
 200 place regulatory markers within the boating-restricted area.

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CS/CS/HB 847

2023 Legislature

201 | Section 4. This act shall take effect July 1, 2023. |

Page 9 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0847-03-er

Municipal regulation of docking facilities

Number: AGO 2005-16

Date: March 21, 2005

Subject:
Municipal regulation of docking facilities

Ms. Patricia Saint Vil-Joseph
Interim North Miami City Attorney
776 Northeast 125th Street
Post Office Box 610850
North Miami, Florida 33261-0850

RE: MUNICIPALITIES – DEPARTMENT OF ENVIRONMENTAL PROTECTION – DOCKS – VESSELS – BOATS – PERMITS – authority of municipality to regulate docking facilities. s. 403.813, Fla. Stat.

Dear Ms. Saint Vil-Joseph:

As City Attorney for the City of North Miami, you have asked substantially the following question:

Does section 403.813(2)(s), Florida Statutes, preempt the authority of the City of North Miami to adopt and enforce land use and other related regulations concerning floating vessel platforms and floating boat lifts that are not themselves permitting requirements or conditions for exclusion from state or other permitting requirements?

The city asks whether it is precluded by the provisions of the statute from adopting and enforcing land use and other regulations addressing the appropriate zoning for a particular site or other circumstances relating to floating vessel platforms and floating boat lifts located within the jurisdiction of the municipality. This office has contacted the Department of Environmental Protection and the department has joined in the request for an opinion on this question.

Part V, Chapter 403, Florida Statutes, is the "Florida Environmental Reorganization Act of 1975." [1] In adopting these provisions, the Legislature recognized that structural reorganization is a continuing process and expressed its intent to "promote more efficient, effective, and economical operation of certain environmental agencies by transferring decisionmaking authority to environmental district centers[.]" [2]

Section 403.813, Florida Statutes, requires the Secretary of the Department of Environmental Protection to adopt procedural rules for a short-form application for and issuance at the district centers of permits for certain projects. Subsection (2) of the statute provides:

"A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, nothing in

this subsection relieves an applicant . . . from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments[.]"

Subsection 2(s), with which your request deals, provides that a permit is not required for

"[t]he construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

1. Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;
2. Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or, when associated with a dock that is exempt under this subsection or a permitted dock with no defined boat slip, do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water;
3. Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;
4. Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where no seagrasses exist if such areas are present adjacent to the dock; and
5. Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and shall not be subject to any more stringent regulation by any local government. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). . . ."

You have specifically asked whether the language in subsection 2(s), providing that structures qualifying for the exemption are not subject to any more stringent regulation by a local government, precludes the City of North Miami from regulating such structures.

Section 2(b), Article VIII, State Constitution, provides that:

"Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law."

The Supreme Court of Florida has stated that this constitutional provision "expressly grants to every municipality in this state authority to conduct municipal government, perform municipal functions, and render municipal services." [3] The only limitation on the power of municipalities

under this constitutional section is that such power must be exercised for a valid municipal purpose.[4] Thus, the Court has determined that statutes are only relevant to determine the limitations on municipal authority and cities need no further authorization from the Legislature to conduct municipal government.[5] Pursuant to section 166.021(1), Florida Statutes, municipalities are granted "the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law." The term "express" as it is used in section 166.021, Florida Statutes, has been construed to mean a reference that is distinctly stated and not left to inference.[6]

Generally, a municipality has civil and criminal jurisdiction over property within its corporate boundaries and may regulate and restrict certain activities reasonably calculated to protect the public health, safety, and welfare.[7] The power of municipalities to regulate in this area is, however, subject to the state's paramount power to regulate and control the use of its sovereign lands. To the extent that any such regulation is preempted by the state or is inconsistent with general law or with regulations adopted by the state, any municipal regulation would be invalid.[8] Thus, the specific language of section 403.813(2)(s), Florida Statutes, that "structures that qualify for this exemption . . . shall not be subject to any more stringent regulation by any local government" would control.

Part V, Chapter 403, Florida Statutes, the "Florida Environmental Reorganization Act of 1975," deals primarily with reorganizing the governmental structure involved in environmental permitting, setting standards for permitting and permitting requirements.[9] The declaration of policy expressed by the Legislature in adopting this statutory part provides that "it is the intent of the Legislature to promote more efficient, effective, and economical operation of certain environmental agencies by . . . delegating . . . permitting functions related to water quality." [10]

Section 403.813, Florida Statutes, regulates permits. The title of the statute is "[p]ermits issued at district centers; exceptions." Legislative history relating to the enactment of subsection (2) of the statute reflects the direction of the amendment: "providing an exemption from permitting requirements for specified types of floating vessel platforms or floating boat lifts[;]" but, more broadly, that the legislation "[limit] local government regulation of floating vessel platforms and floating boat lifts[.]" [11]

The statutory language and the legislative history for section 403.813, Florida Statutes, do not speak *clearly* to the type of regulation contemplated by the exception for floating structures. Section 403.813(2)(s), Florida Statutes, provides that these structures "shall not be subject to any more stringent regulation by any local government" and legislative history reflects the legislative intent to limit local governmental regulation of floating vessel platforms and floating boat lifts. It is simply not clear whether the Legislature intended to limit *all* local regulation of these structures or merely intended to limit *local permitting* authority and, in the absence of any evidence suggesting a particular result, this office is without authority to qualify or read into this statute an interpretation which would result in a construction that seems more equitable under circumstances presented by a particular factual situation. Such a construction is exclusively the prerogative of the Legislature.[12]

You may wish to seek a definitive answer to this question from a court or to contact your local

legislative delegation to request amendatory legislation clarifying this matter.

Sincerely,

Charlie Crist
Attorney General

CC/tgh

[1] See s. 403.801, Fla. Stat., providing the short title for the act.

[2] Section 403.802, Fla. Stat.

[3] *State v. City of Sunrise*, 354 So. 2d 1206, 1209 (Fla. 1978).

[4] *Id.*

[5] *Supra* n. 3 at 1209.

[6] See *Edwards v. State*, 422 So. 2d 84, 85 (Fla. 2nd DCA 1982); Op. Att'y Gen. Fla. 84-83 (1984). *Cf. Pierce v. Division of Retirement*, 410 So. 2d 669, 672 (Fla. 2nd DCA 1982).

[7] See 64 C.J.S. *Municipal Corporations* s. 1816; *Carter v. Town of Palm Beach*, 237 So. 2d 130 (Fla. 1970); Ops. Att'y Gen. Fla. 90-37 (1990), 85-47 (1985), 79-71 (1979), 77-139 (1977) and 60-139 (1960).

[8] See s. 166.021, Fla. Stat.; *City of Miami Beach v. Forte Towers, Inc.*, 305 So. 2d 764 (Fla. 1974); Ops. Att'y Gen. Fla. 78-141 (1978), 75-167 (1975), and 73-463 (1973).

[9] See s. 403.801, Fla. Stat., providing the short title for the act. *And see* s. 403.811, Fla. Stat., relating to dredge and fill permits; s. 403.812, Fla. Stat., providing for dredge and fill permits in storm water management systems; s. 403.813, Fla. Stat., providing for permits issued at district centers; s. 403.814, Fla. Stat., providing for general permits; and s. 403.816, Fla. Stat., relating to permits for maintenance dredging of deepwater ports and beach restoration projects.

[10] Section 403.802, Fla. Stat.

[11] See title, Chap. 2002-164, Laws of Florida, codifying CS/SB 508. *And see* title, SB 508: Relating to Environment/Detrimental Material, which provides that the bill "provides exemption from permitting requirements for specified types of floating vessel platforms or floating boat lifts; limits local government regulation of floating vessel platforms & floating boat lifts[.]"

[12] See Ops. Att'y Gen. Fla. 97-79 (1997), 93-24 (1994) and 81-10 (1981). *Cf. Chaffee v. Miami Transfer Company, Inc.*, 288 So. 2d 209 (Fla. 1974).

From: [Marshall Labadie](#)
To: [Commission](#)
Cc: [Jeff Remas](#); [Ingrid Allen](#); [Madison Noonan](#); [Skender Coma](#); [Lanelda Gaskins](#)
Subject: FW: FVPs additional info
Date: Friday, January 17, 2025 12:06:19 PM
Attachments: [Letter to City of Highlands Beach regarding FVP.pdf](#)
[Floating Vessel Platform Plan submitted.pdf](#)
[image001.png](#)

Please see additional information related to Floating Vessel Platforms from Mr. De Beer.



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

[Working to protect our 3 Miles of Paradise](#)

From: Marthin De Beer <mdebeer@brightplan.com>
Sent: Friday, January 17, 2025 11:59 AM
To: Marshall Labadie <mlabadie@highlandbeach.us>
Subject: FVPs additional info

Marshall,

I appreciate your time today. Please find attached the documents I had in the meeting, so you have it in digital form.

In addition to the letter to the town, you will find the answer I received from my attorney when I asked about the platforms:

In short – yes. Exempt FVPs and those with general permits are preempted from complying with local government setbacks. More detailed answer below as I suspect the additional details may become helpful for your discussions.

The statutory language in 403.813(1)(s), Florida Statutes reads as follows:

- For FVPs that are exempt (under 500 square feet and meet the other criteria) – “the structure may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government” and “A local government may require only a one-time registration of all other floating vessel platforms where the platform owner self-certifies compliance with the exemption criteria in this section to ensure compliance with ordinances, codes, state-delegated or state-mandated plans or programs, or regulations relating to building or zoning, which may not be applied more stringently than, or inconsistent with, the exemption criteria in this section and address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or

floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.”

- For FVPs that have a general permit such as yours there is similar statutory language – “A local government may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. A local government may require a structure owner to obtain either a permit or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.”

Kind regards,

Marthin





BrightPlan



Marthin De Beer
Founder & CEO

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STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.

Amelia Savage
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Tallahassee, FL 32301
Direct: (850) 354-7606
Email: asavage@stearnsweaver.com

October 11, 2024

Sent Via Electronic Mail

Town of Highland Beach
c/o Len Rubin
Len@TorciviaLaw.com

RE: Marthin De Beer – Floating Vessel Platform at 4307 Intracoastal Drive

Mr. Rubin,

My firm, Stearns Weaver Miller, represents Mr. and Mrs. De Beer regarding the floating vessel platform (FVP) at their residence, located at 4307 Intracoastal Drive. A residence has existed at this location since before 2000 according to publicly available aerials. Around 2007, construction of the existing house was undertaken and a dock was built along the seawall, in accordance with all applicable permits at the time. The De Beers purchased the residence in 2019 and have worked with Highland Beach and their neighbors regarding allowable docking for their vessel, adjusting as verbal permission that allowed their vessel to overhang the lot line was later revoked by the neighbors. The De Beers recently added the FVP next to their existing dock, as discussed in more detail below.

General Permit for FVPs

FVPs are environmentally beneficial as they secure vessels out of the water when tied to a dock. They keep bottom paints out of Florida's waters and reduce the possibility of pollution incidents. Floating vessel platforms are located where a boat would otherwise be authorized to dock and Florida law has recognized both a statutory permitting exemption and a general permitting process for these products for more than 20 years in subsection 403.813(1)(s), Florida Statutes (Fla. Stat.).

Subsection 403.813(1)(s), Fla. Stat., provides a statutory exemption for certain FVPs under 500 square feet, and also provides a general permit for FVPs which are larger than the statutory exemption, but which "do not cause significant adverse impacts to occur individually or cumulatively." s. 403.813(1)(s)3., Fla. Stat. For FVPs that qualify for the general permit, "[a] local government may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit." *Id.*

As the De Beers' FVP is larger than 500 square feet, it does not qualify for the statutory exemption. Thus, the De Beers applied to the Florida Department of Environmental Protection (FDEP) seeking confirmation that their FVP qualifies for the general permit, addressed in more

detail in Rule 62-330.428, *Florida Administrative Code*. FDEP processed the application, agreed that the De Beer FVP qualifies for the general permit, and issued a General Permit File No. 50-452830-001-EG on October 11, 2024. With confirmation that De Beer FVP qualifies for the general permit, the following language from subsection 403.813(1)(s)3., Florida Statutes, is applicable:

A local government may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. A local government may require a structure owner to obtain either a permit or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

Under the statutory language above, Highland Beach has the authority to require permitting or one-time registration of floating vessel platforms, but only as necessary to ensure the compliance with the general permit, to ensure compliance with local codes relating to building or zoning (which are no more stringent than the exemption criteria), or to ensure proper installation and maintenance where a FVP is proposed to be attached to a parcel where this is no other docking structure.

I am unaware of a Town permit application or registration form for a FVP that qualifies for the general permit, so in the spirit of cooperation, my client has completed the *Town of Highland Beach Residential Floating Vessel Platform/Floating Boat Lift Exemption Certification Application* as the closest applicable document. Note that I edited the certification to instead reference the general permit instead of the exemption. Supporting information that was also provided to the FDEP is enclosed herewith, specifically a submerged aquatic vegetation survey. Also, a sketch showing the existing seawall, dock, and FVP is attached as the final page of the FDEP General Permit issued to the De Beers. I trust because this information was sufficient for FDEP, it will also be sufficient for Highland Beach.

As the De Beers' property has an existing dock, the final clause cited above is inapplicable to this situation. Thus, the only statutory provision remaining is Highland Beach's authority to ensure compliance with local codes related to building or zoning which are no more stringent than the general permit criteria. Stated another way, Highland Beach is allowed to apply its zoning and building regulations on subject matters not covered by the statutory criteria of location, size, environmental impact. Highland Beach is able to enforce its code requirements related to electricity, plumbing, and other topics not addressed by the FVP statute. For example, if the De Beers desire lights on the FVP, the local code regarding electricity would apply. However, there are no electrical, plumbing, etc. concerns for the FVP.

Record Clarification

I have received a letter dated July 15, 2024, from a neighboring property owner to the Town of Highland Beach and take this opportunity to respond to allegations therein. The July letter has no merit, and while a point-by-point discussion is unnecessary, my client would like to correct the record as to a number of points.

The July letter asserts that only one dock is allowed on the property and alleges De Beer is seeking an additional dock. A FVP is not a dock. This distinction can be seen by separate statutory exemptions for floating docks that are different than the statutory provisions regarding FVPs. Additionally, FDEP has a general permit for floating docks (cited by the July letter) that is different than the general permit for FVPs cited in this letter above. In fact, as discussed above, FVPs are intended to be used where a boat otherwise can be moored and are often used within boat slips. Thus, a FVP is not a dock and these allegations have no merit.

The July letter also asserts that the FVP violates setback lines. FDEP's general permit criteria addresses where a FVP can be placed and limits the size. As the location and size of an FVP are addressed in the statute and general permit criteria, a local government can be no more stringent in its regulations. Therefore, setback lines are inapplicable to a FVP that is statutorily exempt or meets the general permit criteria.

Conclusion

The Florida Department of Environmental Protection has issued a General Permit to Mr. De Beer authorizing his floating vessel platform. Therefore, subsection 403.813(1)(s), Florida Statutes, limits a local government's regulatory authority. Enclosed is the FDEP permit and documents submitted to the state agency to assist in its review. As you will see, the De Beer FVP meets the general permit and statutory criteria and therefore meets the local government requirements.

Thank you for your consideration on this matter and please let me know if you have any questions.

Sincerely,



Amelia Savage

cc: Jeff Remas, Building Official - bco@highlandbeach.us
Ingrid Allen, Town Planner - iallen@highlandbeach.us
Adam Osowsky, Code Compliance Officer - aosowsky@highlandbeach.us
Marthin De Beer - mfdebeer@mac.com



This map is a general depiction of boundaries obtained from public records and is not a legal description or survey.