

Motion: Reconfigure the Village's dock regulation to eliminate the D-5 portions and use setbacks as a primary control mechanism.

On the D-5 triangle and boat regulations.

- No other community uses the D-5 triangle or any triangle to determine the location of docks.
- No other community uses the D-5 triangle or any other triangle to determine where a boat can be docked.
- The most widely used regulations use setbacks as a primary method of control.
- On a typical Key Biscayne canal lot, which is 100 feet wide, the largest boat that can fit inside a D-5 triangle is 56 feet.
- A 20 foot set back from either side would, at most, allow a 60 foot boat, practically the same. Reasonable?
- On any irregular lot, however, the D-5 regulations often create significant restrictions.
- On many non canal waterfront lots, due to DERM and other agency's regulations, the D-5 restrictions make having a conforming dock and boat combination impossible.
- Most of these properties currently have nonconforming docks and boats. If a storm or regular decay was to significantly damage a dock, the property owner would not be able to get a permit to rebuild and their ability to have either a dock or a boat would become impossible.
- What is the Village's policy position on the right of waterfront property owners to reasonably use their property and have a boat?
- Specifically, does the Village believe that a waterfront property owner has the right to use the waterways to dock a boat?
- Which is the primary right, to allow boat dockage or to maintain view corridors?
- Recently, a group of homeowners along Harbor Drive filed suit against the Village to change the D-5 regulations to allow them the right to place docks and boats outside the D-5 triangle. Due to DERM and other regulations, it was the only way that they could legally use their waterfront to place a dock and a boat behind their properties. These property owners understood that in doing so, they would restrict their own view corridors, but that was necessary in order to allow them to have a dock and a boat.
- The Council agreed that these changes were reasonable and necessary and affirmed these homeowner's right to have a dock and a boat behind their properties by changing the code. Did this action set policy for the Village? Possibly, but not clearly enough.
- Does the right of a neighbor to have view corridors trump the right of an owner to reasonably use their waterfront to have a dock and a boat?
- Setbacks, without the D-5 triangle, protect both the primary homeowner's rights and the reasonable expectation of neighbors to view corridors.



VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council

Robert L. Vernon, *Mayor*
Enrique Garcia, *Vice Mayor*
Michael W. Davey
Robert Gusman
Michael E. Kelly
Jorge E. Mendia
Thomas Thornton

DT: August 18, 2010

TO: Honorable Mayor and Members of the Village Council

FR: Genaro "Chip" Iglesias, Village Manager

RE: Watercraft and Dock Regulations

Village Manager

Genaro "Chip" Iglesias

Councilmember Mendia requested the attached drawings be provided for the meeting to illustrate the following:

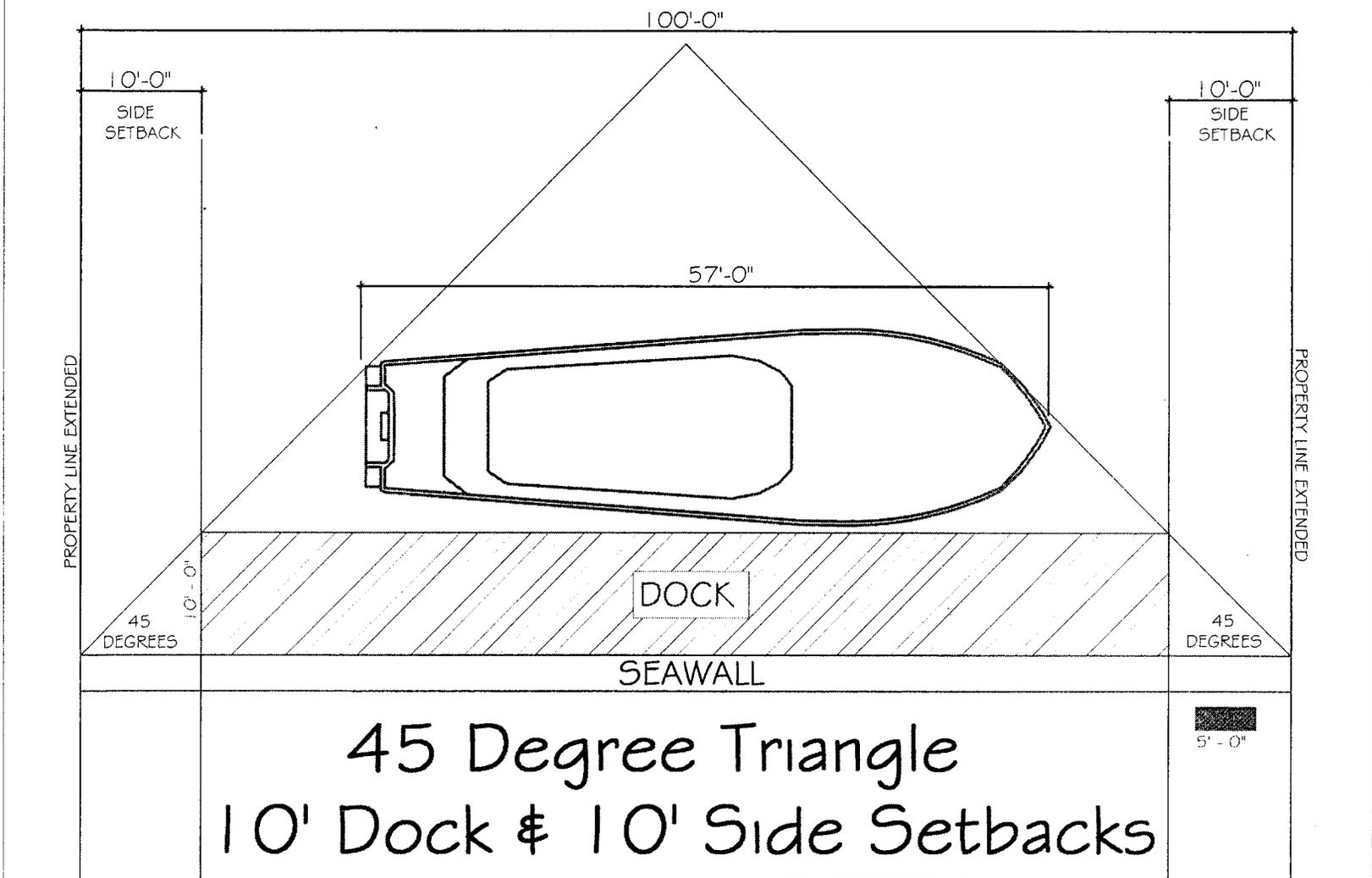
1. Current regulations with the 45 degree triangle and the 10 ft. setback.
2. Impact when the triangle is removed and replaced with larger setbacks.

Also, attached is a table that compares the current regulations with those used by Miami Beach, Coral Gables, Longboat Key, Jupiter Beach, and Ft. Lauderdale.

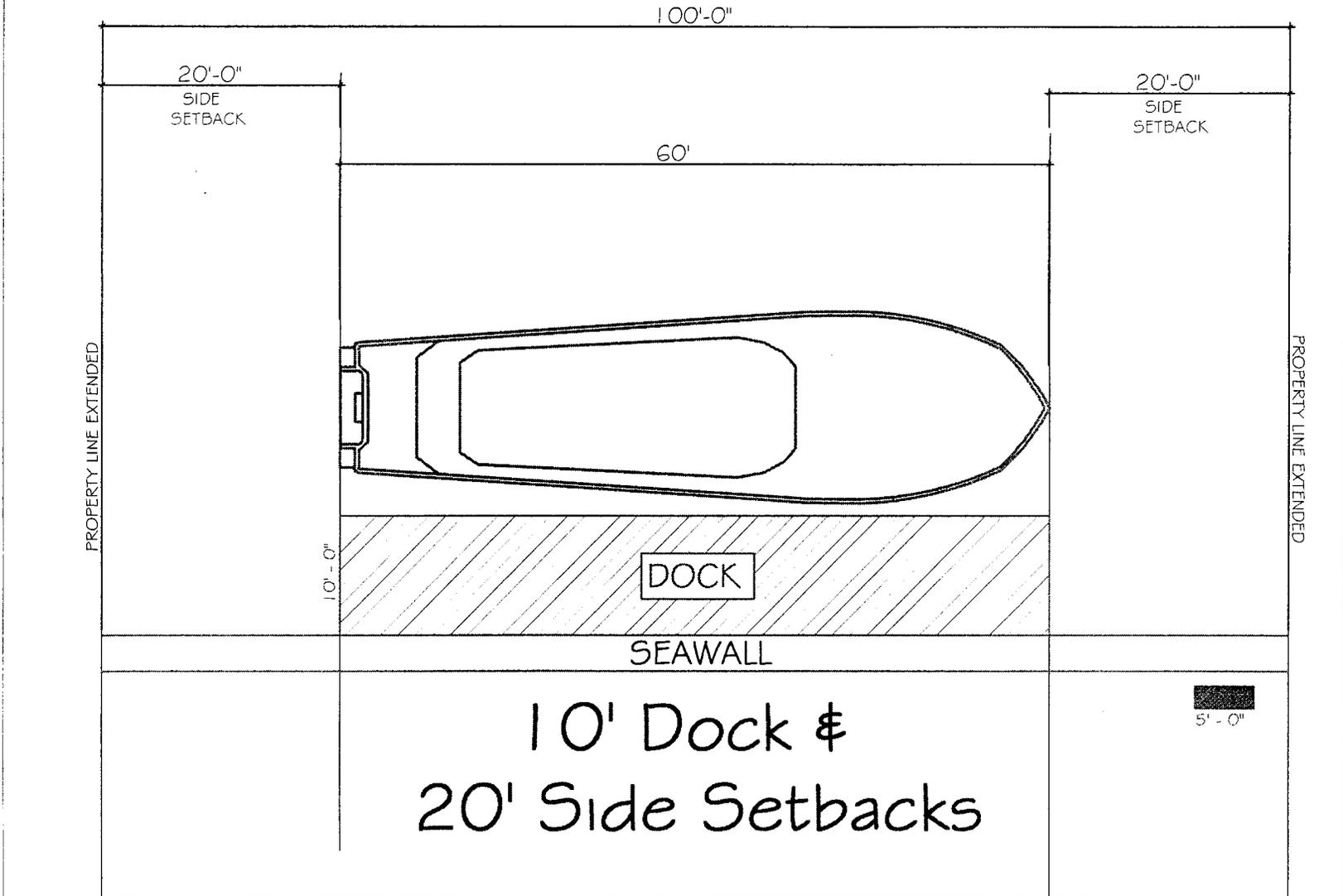
COMPARISON OF WATERCRAFT AND DOCK REGULATIONS

	Key Biscayne	Miami Beach	Coral Gables	Longboat Key	Jupiter Beach	Ft. Lauderdale
Triangle/Degree	Yes/60 on 200-398 Harbor Dr.; otherwise 45.	No	No	No	No	No
Inside Triangle:						
Boats?	200-398 Harbor Dr. no; otherwise yes	NA	NA	NA	NA	NA
Mooring Piles?	200-398 Harbor Dr. no; otherwise yes.	NA	NA	NA	NA	NA
Docks?	Yes	NA	NA	NA	NA	NA
Setback From Side Property Lines Extended into Waterway	10'	7.5'	25'	15'	District side setback extended into waterway.	District side setback extended into waterway.
Boat Size Regulation	200-398 Harbor Dr. 50' length; otherwise within triangle.	No	No	No	No	No
Maximum Dock Projection	200-398 Harbor Dr. 40', Biscayne Bay 25'; otherwise 10' or 10% of waterway width, whichever is less.	By DERM reg's.; > 40' into waterway requires Conditional Use approval.	25'	50' into open water; otherwise 30% of channel width or 30', whichever is less.	Natural waterway: max. 50' from the mean high water line or 20% of the waterway width, whichever is less. Man-made surface waters (i.e. lakes, retention ponds or canals: 5' or 10% of waterway width, whichever is less.	10% of waterway width or 20', whichever is less.
Maximum Mooring Pile Projection	200-398 Harbor Dr. 20' from dock, 55' max. on center, Biscayne Bay 25' from bulkhead Otherwise = lesser of 20 from dock or 25% of waterway width	Per DERM reg's. > 40' into waterway requires Conditional Use approval.	20' beyond dock	Same as docks	Same as docks, but on man-made surface waters > 50' wide, mooring piles may project 25% of width.	5' into waterways of 50' width or less; otherwise, 30% of the waterway width or 25' beyond the property line, whichever is less.

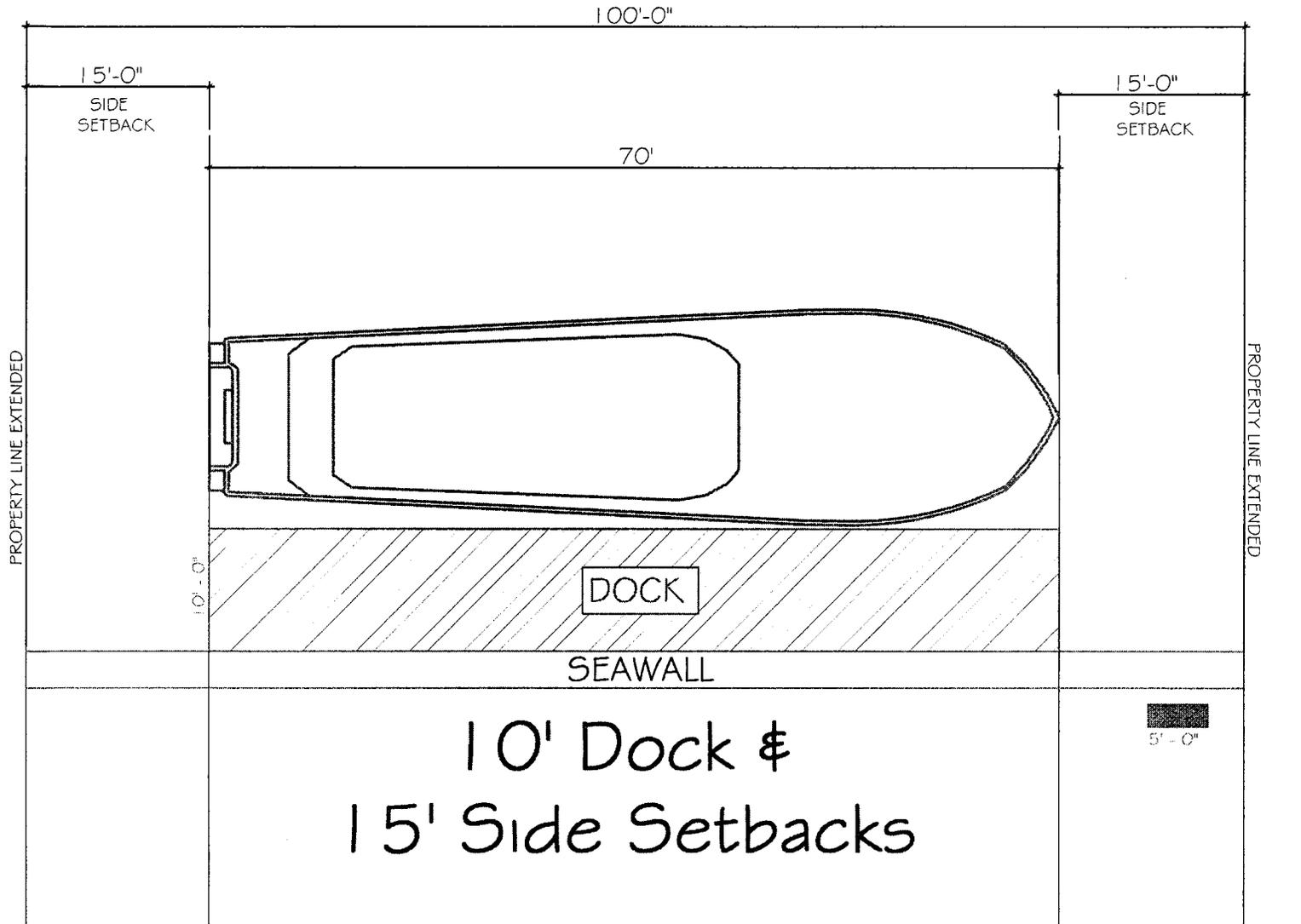
100' WIDE LOT (CURRENT REGULATION)



100' WIDE LOT



100' WIDE LOT



100' WIDE LOT

