



# VILLAGE OF KEY BISCAIYNE

Office of the Village Manager

*Village Council*

Franklin H. Caplan, *Mayor*  
Michael E. Kelly, *Vice Mayor*  
Michael W. Davey  
Enrique Garcia  
Robert Gusman  
Mayra P. Lindsay  
James S. Taintor

**DT:** October 17, 2011  
**TO:** Honorable Mayor and Members of the Village Council  
**FR:** John C. Gilbert, Interim Village Manager  
**RE:** Docks and Mooring Piles: Zoning Text Amendment

*Village Manager*

Genaro "Chip" Iglesias

## RECOMMENDATION

It is recommended that the Village Council approve the attached ordinance which amends the docks and mooring piles zoning regulations. The recommendation is based on the Building, Zoning, and Planning Director's determination that the ordinance is consistent with the review criteria that are set forth in the Zoning and Land Development Regulations.

## BACKGROUND

The Zoning and Land Development Regulations contain criteria to evaluate text amendments to the Zoning and Land Development Regulations. The Building, Zoning, and Planning Director has compared the text amendment with the criteria. The Director found that the request is consistent with the review criteria and has recommended approval of the ordinance.

**ORDINANCE NO. 2011-**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-100(F)(4) OF THE VILLAGE CODE OF ORDINANCES RELATING TO DOCKS AND MOORING PILES WITHIN THE SINGLE FAMILY DISTRICTS; PROHIBITING DOCKS ON CERTAIN PROPERTIES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (the “Village”) currently regulates docks within the Village; and

**WHEREAS**, on February 8, 2011, the Village Council adopted Ordinance 2011-1 creating the Dock Advisory Board in order to study and evaluate the existing dock and mooring pile regulations within the Village, and to provide recommended changes to such regulations to the Village Council; and

**WHEREAS**, the Village Council, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance and recommends approval; and

**WHEREAS**, after review and consideration of the Dock Advisory Board’s recommendations, the Village Council desires to amend the Village Code of Ordinances as provided for within this Ordinance; and

**WHEREAS**, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

**Section 1.** The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Section 30-100(f)(4) of the Village Code Amended.** The Village Council hereby amends the Village Code as follows:

**Sec 30-100. Single Family and Two Family district**

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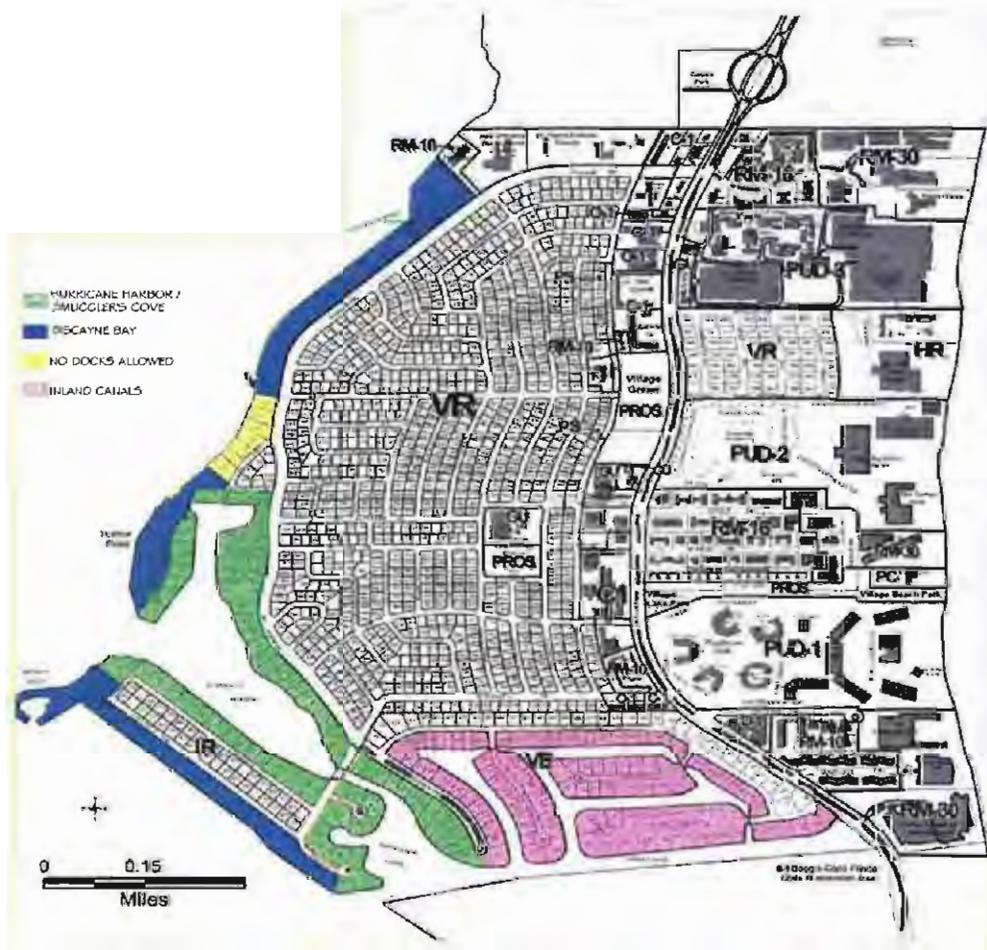
*(f) Permitted encroachments in Required Yards.*

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*(4) Docks and mooring piles.*

These regulations shall apply to all properties within the single family districts, unless addressed in the specific regulations. For purposes of this section, properties shall be identified as provided for in the Village Waterfront Property Map.

**VILLAGE OF KEY BISCAYNE  
WATERFRONT PROPERTY MAP**



(a) General Requirements

<u>Regulations</u>	<u>Requirements</u>
<u>Building Permit Required</u>	<u>No docking facility shall be constructed without prior written approval by the Building, Zoning and Planning Department. The Village may deny a permit for any docking facility which is determined, under the criteria provided herein and by applicable law, to be detrimental to the equitable, safe, and adequate navigation of all Waterways in the Village including Biscayne Bay.</u>
<u>Docks, davits, fender pilings, watercraft and mooring piles</u>	<u>Minimum setback shall be the side setback in the applicable zoning district extended into the water. No portion of a watercraft, including, but not limited to, the bow pulpit, engines, &amp; dive platforms shall encroach into the required setback.</u>
<u>Mooring pile height.</u>	<u>Maximum height of a mooring pile shall be 13 ft. above NGVD (National Geodetic Vertical Datum).</u>
<u>Tender</u>	<u>For purposes of this section, a tender shall be considered a watercraft if it is in the water.</u>
<u>Boat lift &amp; lift arm</u>	<u>A boat lift or boat arm shall not encroach into the minimum required setback extended into the water. The bottom of a watercraft on a boatlift shall be no more than six inches above the mean high water mark.</u>
<u>Legal nonconforming docks and mooring piles</u>	<u>The re-decking, replacement or repair of a legal nonconforming dock or mooring pile is permitted if it is within the same footprint as the original dock or mooring piles. A legal nonconforming dock or mooring pile that is destroyed or damaged by a natural disaster may be rebuilt within the same footprint as the original dock and mooring pile if a building permit is obtained within two years of the date of said destruction.</u>
<u>Maximum Number of slips and guest watercraft</u>	<u>There shall be no more than two boat slips per property. One guest boat is allowed if moored no more than 24 hours.</u>
<u>Measurement from mangroves</u>	<u>Whenever mangroves are situated on a property, any required measurements shall be from the water's edge of said mangroves.</u>
<u>Fender Piles</u>	<u>Where the width of a waterway does not permit a dock or mooring pile, fender piles may be placed at a distance not to exceed 18 inches from the bulkhead.</u>

(b) Specific Regulations

<u>Regulations</u>	<u>Canal</u>	<u>Hurricane Harbor &amp; Smuggler's Cove</u>	<u>Bayfront Properties</u>
<u>Dock projection &amp; parallel length</u>	<u>A dock shall be permitted to project a maximum of 10 ft. or 10% of the Waterway width, whichever is less.</u>	<u>A dock shall be permitted to project a maximum of 20 ft. or 20% of the Waterway width, whichever is less.</u>	<u>A dock shall be permitted to project a maximum of 40 ft. from the property line. If there is a concave or convex property line, projection of one side of the dock may exceed 40 ft., but no more than six ft. The maximum length of a dock parallel to a bulkhead shall be 55 ft.</u>
<u>Mooring pile projection and distance requirements</u>	<u>The maximum mooring pile projection shall be 25 ft. from the bulkhead or 20% of the Waterway width, whichever is less.</u>	<u>The maximum mooring pile projection shall be 35 ft. from the bulkhead or 20% of the Waterway width, whichever is less.</u>	<u>The maximum mooring pile projection shall be 20 ft. from a dock and 60 ft. from the property line. Maximum distance between mooring piles shall be 55 ft.</u>
<u>Triangle</u>	<u>N/A</u>	<u>N/A</u>	<u>A 60 degree triangle shall be required. Baseline of the triangle is required to be greater than or equal to 100 ft. The dock or boat lift shall be located within the triangle. Mooring piles, boat lift arms, and watercraft are permitted outside of the triangle. (See, illustration below).</u>
<u>Max. length of watercraft</u>	<u>N/A</u>	<u>N/A</u>	<u>50 ft.</u>
<u>Site specific regulations</u>	<u>N/A</u>	<u>N/A</u>	<u>See below, the Site Specific Regulations Map for the following properties: 400 S. Mashta Dr., 420 S. Mashta Drive, and 28 Harbor Point Drive. Docks and moorings are prohibited on the following properties: 400 Harbor Dr. through and including 500 Bay Lane.</u>
<u>Perpendicular dock restrictions</u>	<u>N/A</u>	<u>The portion of a dock which is perpendicular to the bulkhead shall exceed the portion of a dock which is parallel to a bulkhead by 50% or more. No mooring pile or watercraft shall extend beyond the end of the dock more than 10% the length of the dock</u>	<u>N/A</u>



~~a. *General Regulations.* No docking facility within the single family districts in the Village of Key Biscayne shall be constructed without prior written approval by the Village of Key Biscayne Building, Zoning and Planning Department. The Village reserves the right to deny such permit for any docking facility which is determined, under the criteria provided herein and by applicable law, to be detrimental to the equitable, safe, and adequate navigation of all Waterways in the Village including Biscayne Bay.~~

~~1. All docks, davits, fenders, watercraft and mooring piles shall be set back a minimum of ten feet from each side property line extended into any bodies of water.~~

~~2. No mooring pile shall have a height exceeding 13 feet above NGVD (National Geodetic Vertical Datum).~~

~~3. No more than two slips shall be permitted per residence. Slip(s) which are occupied by a guest may be moored no longer than 24 hours.~~

~~4. A tender shall not be considered as a watercraft.~~

~~5. No dock shall project within 50 feet of a breakwater~~

~~6. No dock shall be within 25 feet of a marked channel.~~

~~7. A boat lift may project from a dock within the applicable 45 or 60 degree triangle but may not encroach the required ten foot side yard setbacks. Lift arms may extend beyond the applicable 45 or 60 degree triangle, but shall not extend beyond the mooring piles.~~

~~8. The maximum height for a watercraft on a boat lift is such that the keel may be no more than five inches above the Mean High Water Level.~~

~~9. Maximum Dock and Mooring Pile Extensions from a Property Line.~~

~~a. *Canal.* No dock shall extend from a property line into any canal a distance greater than ten feet, or ten percent of the width of the waterway, whichever is less. No mooring pile shall extend from a property line into any canal a distance greater than 25 feet or 20 percent of the canal width, whichever is less. The dock, watercraft and any mooring pile shall fit within a 45 degree triangle.~~

**{triangle}**

~~b. *Hurricane Harbor and Smuggler's Cove.* No dock shall extend from a property line into Hurricane Harbor or Smuggler's Cove a distance greater than 20 feet or ten percent of the waterway, whichever is less. No mooring pile shall extend from a property line into Hurricane Harbor or Smuggler's Cove a distance greater than 35 feet or 20 percent of the channel width, whichever is less. The dock, watercraft and any mooring piles shall fit within a 45 degree triangle.~~

~~e. Biscayne Bay. No dock shall extend from a property line into Biscayne Bay a distance greater than 40 feet. The dock and watercraft shall fit within a triangle with 60 degree angles along the base of the triangle. The baseline of the triangle shall not exceed 100 feet. No mooring pile shall extend more than 20 feet from a dock and may not extend more than 60 feet from the property line into Biscayne Bay. Mooring piles are permitted outside of the 60 degree triangle.~~

~~10. Where the width of a waterway does not permit the placement of a dock or outer mooring pile, fender mooring piles may be placed at a distance not to exceed 18 inches from the bulkhead.~~

~~b. Specific Regulations. The following provisions shall apply only to those properties located along Biscayne Bay at 200 through and including 398 Harbor Drive:~~

**{triangle}**

~~1. No dock shall extend from a property line into Biscayne Bay a distance greater than 40 feet. The dock shall fit within a triangle with 60 degree angles along the base of the triangle as depicted below. The baseline of the triangle shall not exceed 100 feet.~~

~~2. No mooring pile shall extend more than 20 feet from a dock and may not extend more than 60 feet from the property line into Biscayne Bay. No more than two mooring piles and one watercraft are permitted outside of the 60 degree triangle.~~

~~3. If the property line is a concave or convex arc, the projection of one side of the dock may exceed the 40 foot maximum by no more than six feet.~~

~~4. No more than one slip shall be permitted per residence. A watercraft owned by a guest may be moored no longer than 24 hours within a slip.~~

~~5. No dock or mooring pile shall project within 60 feet of a breakwater.~~

~~6. A boat lift shall not encroach into the required ten foot side yard setbacks. Lift arms may extend beyond the 60 degree triangle, but shall not extend beyond the mooring piles.~~

~~7. The maximum height for a watercraft on a boat lift is such that the bottom of the watercraft may be no more than six inches above the Mean High Water Level.~~

~~8. A watercraft shall not exceed a maximum of 50 feet in length overall (LOA).~~

~~9. The maximum distance between mooring piles shall be 50 feet, and the maximum length of a dock running parallel to the property shall not exceed 50 feet.~~

**Section 3. 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 4. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 5. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading

PASSED on first reading this \_\_\_ day of \_\_\_\_\_, 2011.

PASSED AND ADOPTED on second reading this \_\_\_ day of \_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR FRANKLIN CAPLAN

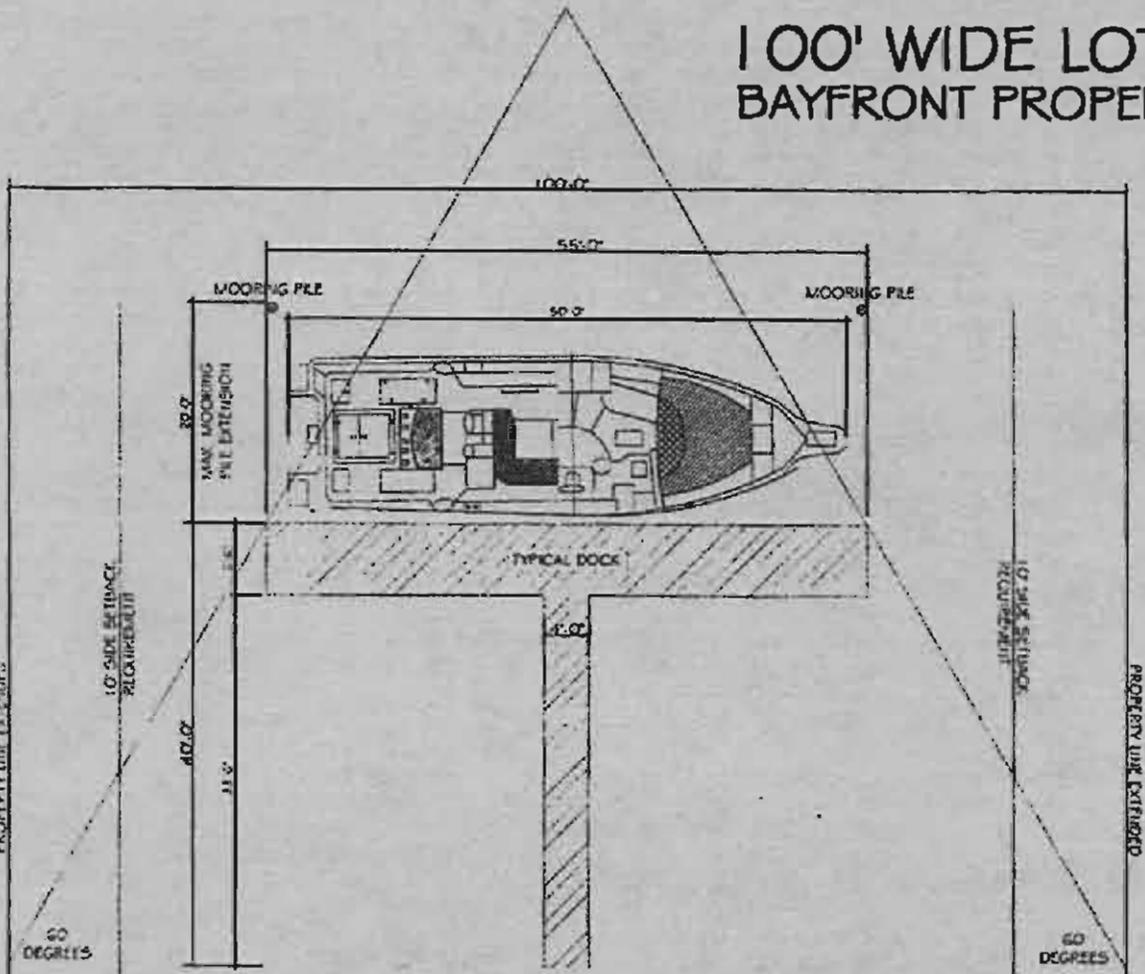
ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY

# 100' WIDE LOT BAYFRONT PROPERTIES



**60 Degree Triangle,  
40' Dock & 50' Boat**

DRAWING SOURCE: V&B B2P DEPARTMENT  
WCF. 1/23/08

~~a. *General Regulations.* No docking facility within the single family districts in the Village of Key Biscayne shall be constructed without prior written approval by the Village of Key Biscayne Building, Zoning and Planning Department. The Village reserves the right to deny such permit for any docking facility which is determined, under the criteria provided herein and by applicable law, to be detrimental to the equitable, safe, and adequate navigation of all Waterways in the Village including Biscayne Bay.~~

~~1. All docks, davits, fenders, watercraft and mooring piles shall be set back a minimum of ten feet from each side property line extended into any bodies of water.~~

~~2. No mooring pile shall have a height exceeding 13 feet above NGVD (National Geodetic Vertical Datum).~~

~~3. No more than two slips shall be permitted per residence. Slip(s) which are occupied by a guest may be moored no longer than 24 hours.~~

~~4. A tender shall not be considered as a watercraft.~~

~~5. No dock shall project within 50 feet of a breakwater~~

~~6. No dock shall be within 25 feet of a marked channel.~~

~~7. A boat lift may project from a dock within the applicable 45 or 60 degree triangle but may not encroach the required ten foot side yard setbacks. Lift arms may extend beyond the applicable 45 or 60 degree triangle, but shall not extend beyond the mooring piles.~~

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~~b. *Hurricane Harbor and Smuggler's Cove.* No dock shall extend from a property line into Hurricane Harbor or Smuggler's Cove a distance greater than 20 feet or ten percent of the waterway, whichever is less. No mooring pile shall extend from a property line into Hurricane Harbor or Smuggler's Cove a distance greater than 35 feet or 20 percent of the channel width, whichever is less. The dock, watercraft and any mooring piles shall fit within a 45 degree triangle.~~

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**Section 4. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 5. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading

PASSED on first reading this 5th day of July, 2011.

PASSED AND ADOPTED on second reading this \_\_\_\_ day of \_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR FRANKLIN CAPLAN

ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY



# VILLAGE OF KEY BISCAYNE

## Department of Building, Zoning and Planning

*Village Council*  
Franklin H. Caplan, *Mayor*  
Michael E. Kelly, *Vice Mayor*  
Michael W. Davey  
Enrique Garcia  
Robert Gusman  
Mayra P. Lindsay  
James S. Taintor

**DT:** October 17, 2011  
**TO:** John C. Gilbert, Interim Village Manager  
**FR:** Jud Kurlancheek, AICP, Director  
Building, Zoning, and Planning Department  
**RE:** Amendment to the Dock and Mooring Pile Regulations

*Director*  
Jud Kurlancheek, AICP  
*Chief Building Official*  
Eugenio M. Santiago, P.E.

### APPLICATION SUMMARY

<b>Applicant</b>	The Village of Key Biscayne
<b>Request</b>	Amendment to the dock and mooring pile zoning regulations
<b>Zoning District</b>	Not applicable
<b>File Number</b>	AZO 11-02
<b>Recommendation</b>	Approval

### EXPLANATION AND ANALYSIS

**Summary of the Changes:** Attached to this report is a summary of the regulations. There are two illustrations which compare the existing and proposed regulations.

**Text Amendment Review Criteria:** The Village's Zoning Ordinance requires that text amendments to the Zoning and Land Development Regulations be evaluated based on the following criteria:

**Criteria 1** The proposed amendment is consistent with the Comprehensive Plan.

**Analysis** The Comprehensive Plan does not address dock and mooring pile regulations.

**Recommendation** Consistent

**Criteria 2** The proposed change will result in buildings that are consistent in scale and otherwise compatible with those within 300 ft. of the site.

Analysis The proposed changes address docks, watercraft, and mooring piles. As such, this criteria is not applicable.

Recommendation Not applicable

**Criteria 3** The resulting boundaries of a zoning district are logically drawn.

Analysis The proposed regulations do not address zoning district boundary lines. As such, this criteria is not applicable.

Recommendation Not applicable

**Criteria 4** The proposed change will enhance property values in the Village.

Analysis The proposed changes will permit waterfront properties to have more flexibility in the design and location of docks and moorings. Since waterfront properties have a significant higher value than inland properties, this greater utilization of the waterfront will enhance property values.

Recommendation Consistent

**Criteria 5** The proposed change will enhance the quality of life in the Village.

Analysis The proposed changes provide for a greater utilization of docks and moorings for waterfront properties. As such, the quality of life is enhanced.

Recommendation Consistent

**Criteria 6** There are substantial and compelling reasons why the proposed change is in the best interest of the Village.

Analysis The existing regulations do not permit non-conforming docks and moorings to be repaired or rebuilt if the cost of this work exceeds 50% of the assessed value. This results in watercraft that are sized to fit the moorings. These types of watercraft are extremely expensive and if they cannot be moored, a substantial burden is placed on the property owner.

The existing regulations for 200 – 398 Harbor Drive Bayfront properties have different requirements than other similarly situated bayfront properties. The proposed regulations provide for one set of regulations for all bayfront properties.

The proposed changes increase safety in the waterways by prohibiting and limiting the location of docks on certain properties, and increase visibility to the water by requiring docks and moorings to meet the property's setback requirements.

Recommendation      Consistent

***RECOMMENDATION***

Staff recommends approval of the attached ordinance.

## **DOCK ADVISORY BOARD RECOMMENDATIONS**

JUNE 28, 2011

### **SCOPE OF WORK**

To evaluate and provide recommendations to the Village Council regarding the existing regulations for:

1. Docks
2. Watercraft
3. All other marine related structures

### **DOCK ADVISORY BOARD MEMBERS**

Council appointed:

Carlos de la Cruz

John Dasburg

Finlay Matheson

Billy Pesch

Bob Vernon (Board elected Chair) Council appointed:

### **POLICY DECISIONS**

- Preference for specific regulations to address unique problems
- Work product to be a report, not an ordinance
- Local regulations needed as County and State regulations had too many exceptions
- Best way to regulate view corridors was to extend building setbacks into the water
- 60 degree triangle only to be used for bayfront properties. Remove 45 degree triangle on Canals, Smuggler's Cove and Hurricane Harbor properties

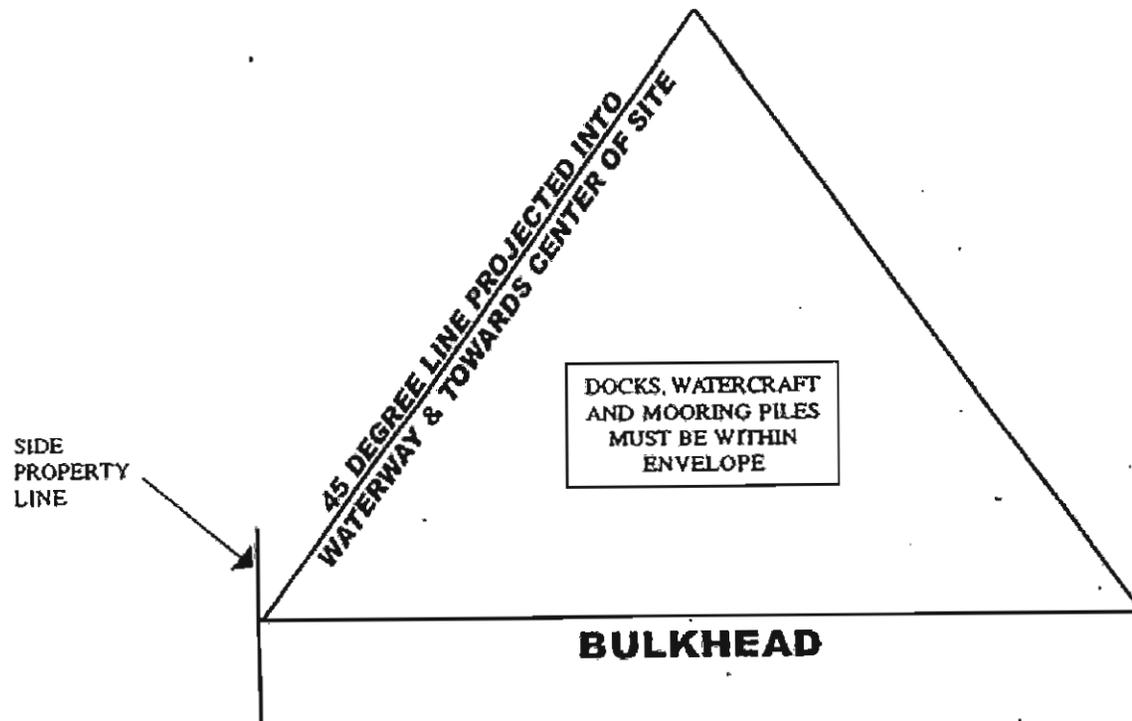
## CHANGES TO EXISTING REGULATIONS

- Regulations that were in place for 200-398 Harbor Dr. extended to all bayfront properties except 400 Harbor Dr. to 485 W. Matheson Dr.
- Perpendicular docks in Hurricane Harbor and Smuggler's Cove subject to specific regulations
- Any legal non-conforming dock may be re-decked, replaced, or repaired if within the same footprint
- If a legal non-conforming dock is destroyed by a natural disaster, a building permit must be issued within two years
- Whenever mangroves are on a property, all measurements will be from the water's edge
- 400 Harbor Dr. to 385 W. Matheson Dr: docks and moorings not permitted in the proposed vessel exclusion zone.

# VILLAGE OF KEY BISCAYNE WATERFRONT PROPERTY MAP



# 45 DEGREE TRIANGLE TO BE REMOVED





Mashta Island

Smugglers Cove

S. Mashta Dr.

Dock & boatlift permitted here

400

420

Biscayne Bay

No dock or boatlift permitted here

Pines Canal

Dock & boatlift permitted here

400 & 420

South Mashta Drive



Bill Baggs State Park

© 2011 Europa Technologies

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© 2011 Google



Harbor Point

Biscayne Bay

28

No dock or boatlift permitted here

Dock & boatlift permitted here

Hurricane Harbor

N

Mashta Island

28 Harbor Point

©2010 Google

Imagery Date: Apr 1, 2010

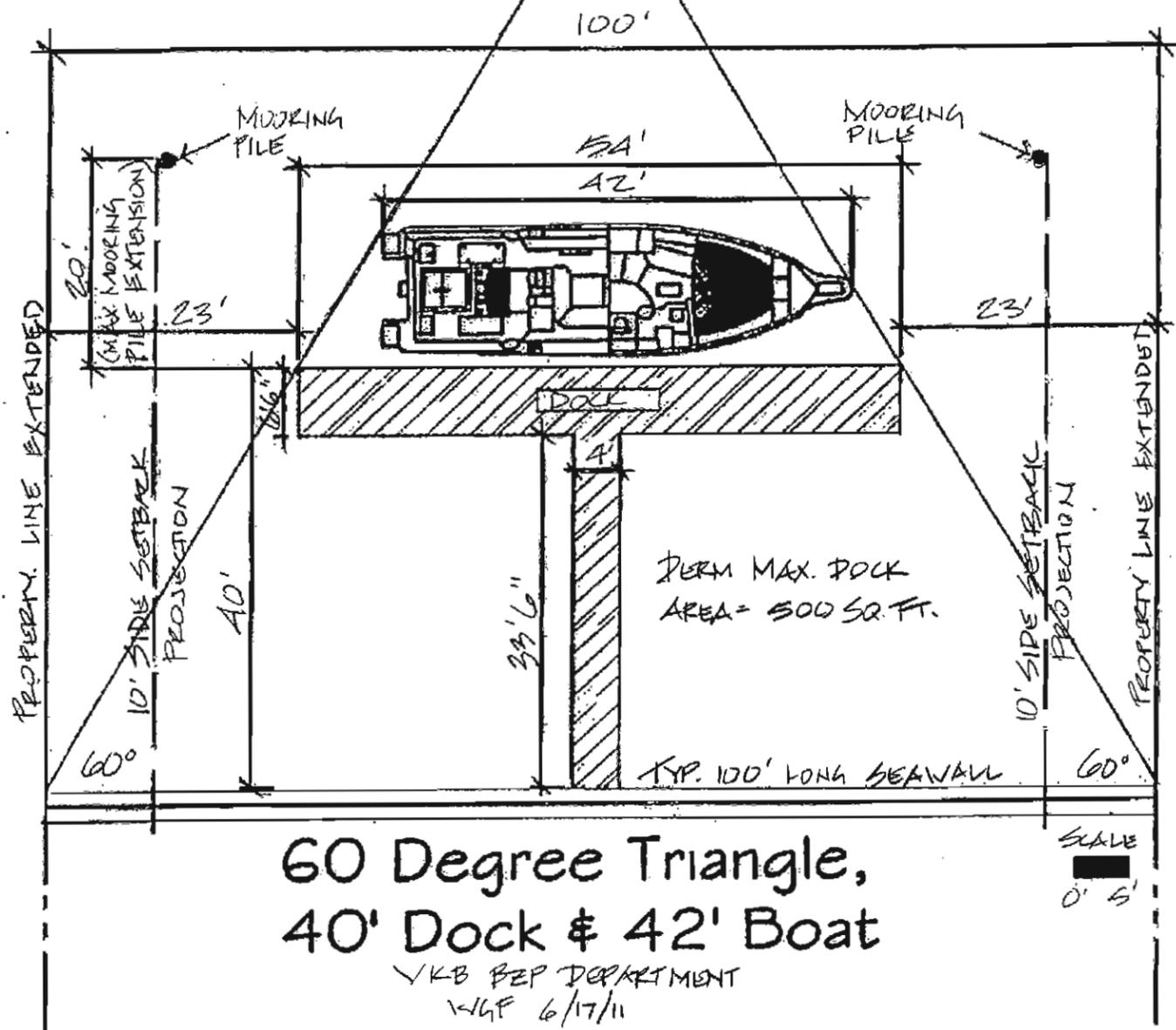
© 2011 Google 25°41'17.22" N 80°10'28.16" W elev 0 ft

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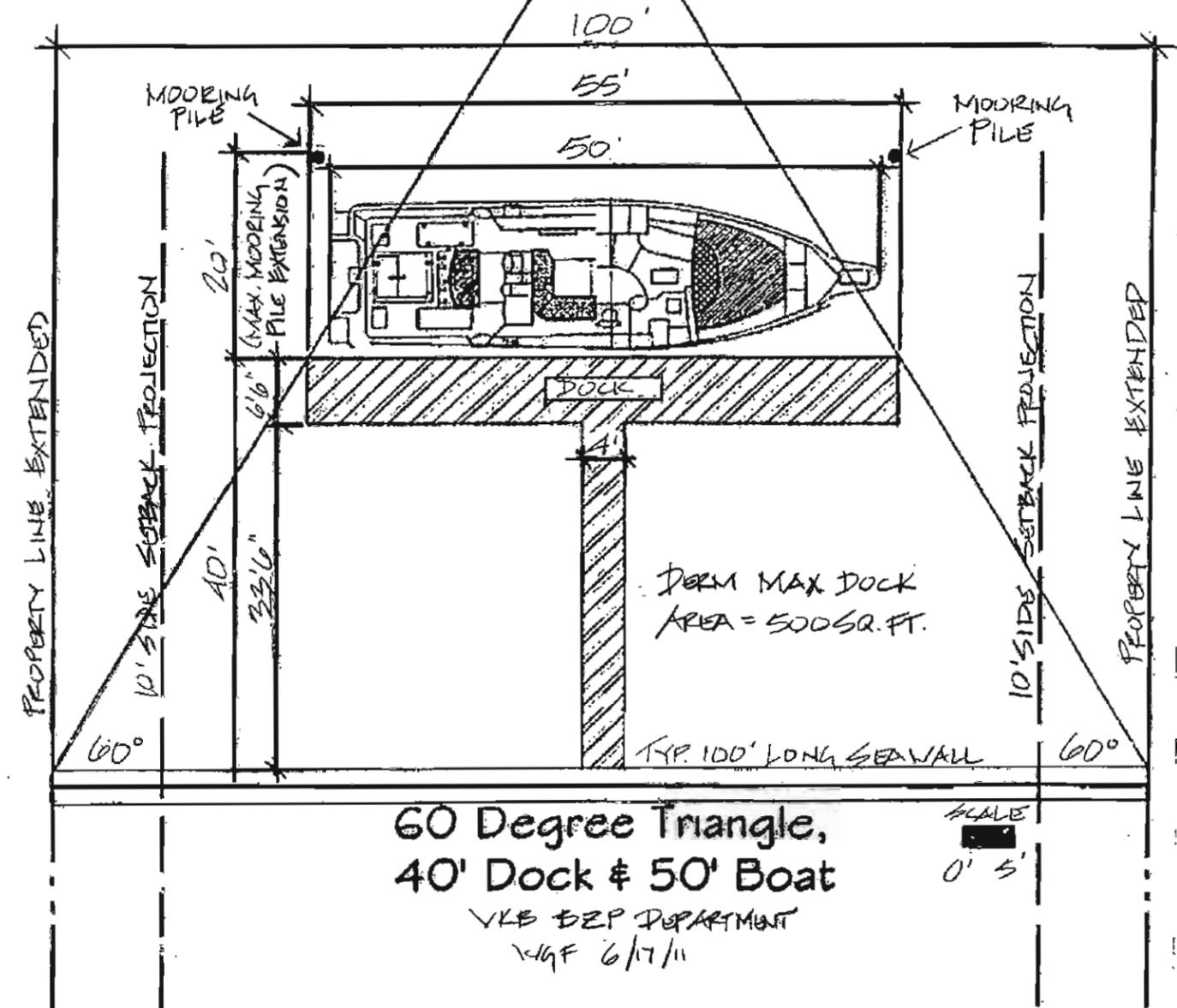
EXTEND 200-300 REGULATIONS TO ALL  
 BAYFRONT PROPERTIES EXCEPT 400  
 HARBOR DR. TO 485 W. MATHESON DR.

BAYFRONT PROPERTIES

100' WIDE LOT  
 EXISTING REGULATIONS  
 EXCLUDING 200-398 HARBOR DR.



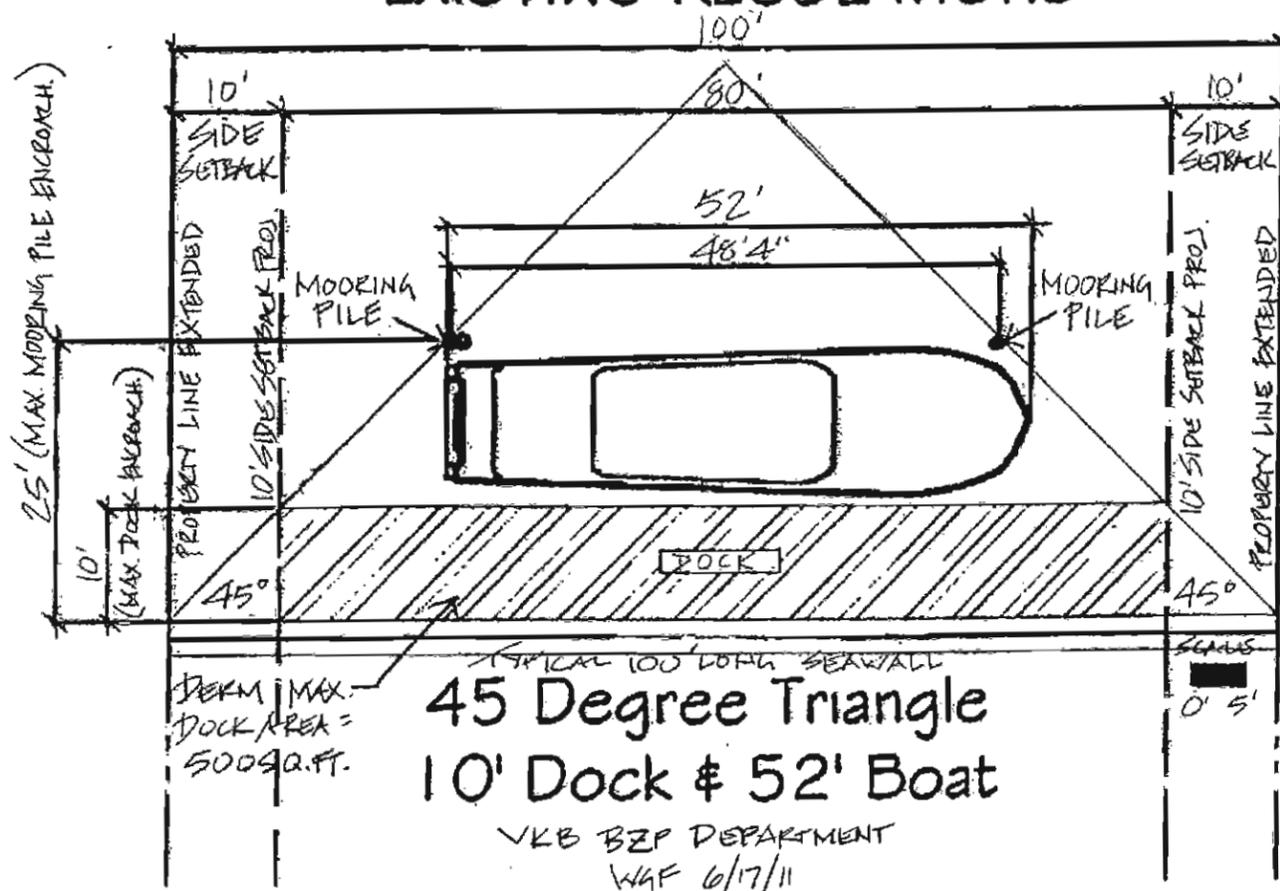
100' WIDE LOT  
 PROPOSED REGULATIONS



# CANAL PROPERTIES: EXISTING AND PROPOSED REGULATIONS

## CANAL PROPERTIES

100' WIDE LOT  
EXISTING REGULATIONS



100' WIDE LOT  
PROPOSED REGULATIONS

