

ADD-ON

Meeting Date
11/06/2008



AGENDA	
Section	Public Hearing
Item No.	VI.C

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT: ORDINANCE RE: CONDITIONAL USE PERMIT (CUP) FOR PRIVATE DOCKS
 (FIRST READING)
 DEPT/OFFICE: Planning & Zoning Office

Requested Action:
 It is requested that the Board of County Commissioners consider an ordinance creating a Conditional Use Permit for Private Docks.

Summary Explanation & Background:
 On September 10, 2008, the Board of County Commissioners directed staff to advertise a code amendment to create a Conditional Use Permit (CUP) for Private Docks in circumstances where docks exist on parcels that do not meet minimum lot size requirements for a single family residence.

This ordinance addresses the circumstances of several existing boat dock owners whose dock lots are separate from their residential lots. Currently, the zoning regulations only permit private boat docks on residential lots with direct waterfront, such that the dock is on the same lot as a residence.

This ordinance will allow consideration by Conditional Use Permit of circumstances where the dock lot is in close proximity to, but is not part of, the residential lot. It also provides for the consideration of waivers for existing dock lots that may not meet all of the conditions of the CUP. This ordinance would allow prospective dock owners the ability to seek a CUP for a separate dock lot.

This is the first of two public hearings. This ordinance was heard by the Local Planning Agency on October 20, 2008, and was approved unanimously, with recommended editorial changes. Their recommendations have been incorporated into this ordinance.

Fiscal Impact: Fiscal Impact to FY 08-09 includes advertising cost of approximately \$2,000. If the ordinance is approved, application processing costs will be defrayed by public hearing fees.

Name: Rick Enos Rick.Enos@brevardcounty.us
 Phone: 633-2070

Exhibits Attached: Ordinance, matrix

Contract /Agreement (If attached): Reviewed by County Attorney		Yes <input type="checkbox"/>	No <input type="checkbox"/>
County Manager's Office Eggy Busacca, County Manager	Department Robin M. Sobrino, AICP, Director, Planning and Zoning Office	<i>Robert M. Sobrino</i>	PR <input type="checkbox"/>

ORDINANCE NO. 08-

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; CREATING SECTION 62-1943.3 TO ESTABLISH A CONDITIONAL USE PERMIT FOR PRIVATE BOAT DOCKS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES.

WHEREAS, the Board of County Commissioners has determined that it is in the public interest to establish a process by which private boat docks may be considered; and

WHEREAS, the Board of County Commissioners, on September 10, 2008, directed preparation of an amendment to the Zoning Regulations to create a Conditional Use Permit for private boat docks; and

WHEREAS, the Local Planning Agency, on October 20, 2008, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Chapter 62, Article VI, Section 62-1943.3, Code of Ordinances of Brevard County, Florida, is hereby created to read as follows:

Section 62-1943.3. Private boat docks accessory to adjacent single family residential lots.

A private boat dock, for the purposes of this section, is a boat dock that is used in connection with a waterfront lot or parcel which may be undersized for the residential zoning classification in which it is located, and is therefore associated with and considered part of an adjacent residential lot. The term "adjacent", for the purposes of this section, means any lot within the same neighborhood as described below in paragraph (1).

A conditional use for a private boat dock on a waterfront lot or parcel may be considered as an accessory use to an adjacent developed or undeveloped buildable residential lot in any residential zoning classification under the following conditions. Owners of docks established prior to (the effective date of this ordinance), as evidenced by a certified survey or other irrefutable evidence, may request a waiver of any of the below conditions as part of the Conditional Use Permit review process.

Staff note: The above statement regarding waivers for existing dock owners was moved to this location by recommendation of the LPA. It has originally been listed as item (8) below, but was moved because it is not a condition.

- (1) The lot or parcel upon which the dock is to be constructed must be owned and used by the owner of a residential lot or parcel (or residential tenant of said lot or parcel) located within either the same platted subdivision or within 1000' of the dock parcel. The owner of the dock lot or parcel and the residential lot shall maintain fee simple ownership to both properties at all times.
- (2) The lot or parcel shall not be located on the Indian or Banana River Lagoons.
- (3) The lot or parcel shall have at least 30 feet of road frontage.
- (4) The boat dock may contain slips for no more than two boats and shall not be used for commercial purposes.
- (5) No other accessory structures are permitted on the dock lot or parcel.
- (6) The dock lot or parcel shall not be used to store a boat trailer, nor shall it be used to launch a boat.
- (7) The dock shall meet all applicable development standards described in Section 62-2118.

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule code or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part

of the Brevard County Code, and that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session, this 17th day of November, 2008.

Attest:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

Scott Ellis, Clerk

Truman Scarborough, Chairman
As approved by the Board on November 17, 2008.

(S E A L)

Private Boat Docks Matrix Describing Provisions of the Proposed Ordinance

Current	Proposed
Current code permits private docks only as an accessory use to a residence on the same lot.	No change to this provision.
No provision for private docks not on the same lot as the residence.	<p>This amendment adds a CUP that permits private boat docks on lots that are close to, but separated from, the residential lot under the following circumstances:</p> <ul style="list-style-type: none"> • The dock lot must be located within either the same subdivision or within 1000' of the owner's residential lot. • The dock lot shall not be located within the Indian or Banana River Lagoons. • The dock lot shall have at least 30 feet of road frontage. • The boat dock may contain slips for no more than two boats and shall not be used for commercial purposes. • No other accessory structures are permitted on the dock lot or parcel. • The dock lot or parcel shall not be used to store a boat trailer, nor shall it be used to launch a boat. • The dock shall meet all applicable development standards described in Section 62-2118.
	This ordinance also provides for waivers of any of the above conditions for owners of docks established prior to November 17, 2008.