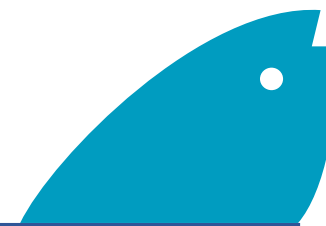


Text Amendment:  
Chapter 155, Zoning Code  
Article 4 – Gazebo / Tiki / Chickee  
Article 5 – Rear Yard Corner Triangle





## Tiki/Chickee Hut, Gazebo & Rear Yard Corner Triangle

Solutions for the prevalence of Tiki/Chickee Huts in violation primarily along a waterfront.

### **Relevant Code Sections:**

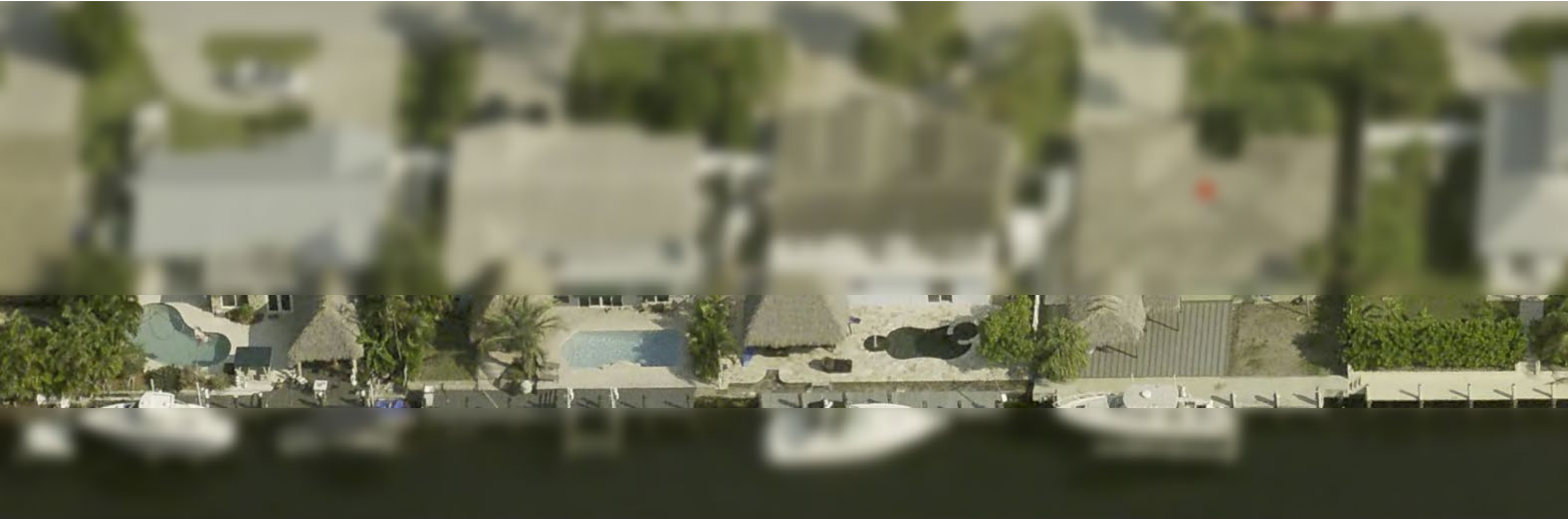
- The requirement that accessory structures be set back 15 feet from property lines abutting a waterway ([155.4302.B.2.h](#)); and
- The requirement for an unobstructed rear yard corner triangle abutting waterways ([155.5302.D.5a](#)).

**Residents typically prefer that Tiki/Chickee huts are as close to the water as feasible and typically abutting the interior lot lines. *This puts them in conflict with both of these standards.***

The general solution proposed is to **eliminate all rear yard corner triangle standards** (remove fence and vegetation transparency, no structures or obstructions over 3 feet in height) and to **create an exemption for Gazebos/Tikis/Chickees** allowing them to abut the waterway (no overhang).



# Tikis and Rear Yard Corner Triangles





# Article 4, Accessory Uses and Structures



## 155.4302. General

...

### 2. Prohibited Location of Accessory Uses and Structures

Unless otherwise provided for in Section 155.4303 (Standards for Specific Accessory Uses and Structures), accessory uses and structures shall not be located within the following:

- a. Any platted or recorded easement;
- b. Any required landscape easement or buffer;
- c. An area over any known utility;
- d. An area designated as a fire lane or emergency access route on an approved site plan;
- e. An area designated as a parking area on an approved site plan;
- f. A required yard setback;
- g. In front of the principal structure;
- h. Within 15 feet of a property line abutting a waterway or canal; and
- i. Within 25 feet of the historic dune vegetation line.



# Article 4, Accessory Uses and Structures



## NN. Gazebo (*Includes Tiki / Chickee*)

...

### 2. Definition

A gazebo is an ornamental garden pavilion, with a covered roof and open sides, constructed of wood, metal, or vinyl. This term also includes a tiki or chickee hut, which has a thatched roof of palm or palmetto materials.

### 3. Standards

Gazebos are allowed as an accessory structure subject to the following standards:

#### a. Height and Area

i. The structure shall not exceed ~~ten~~ 15 feet in height; ~~however a chickee hut as provided for in F.S. 553.73(9)(i) may be constructed to a height not to exceed 15 feet.~~

ii. The structure shall not exceed a size greater than 20% of the area of the principal structure; however the structure may be a minimum of 300 square feet.

#### b. Setback

i. The structure may be located within an interior side yard setback or a rear yard setback, but shall be located at least three feet from a side or rear lot line, including property lines abutting a waterway or canal.

ii. The structure located closer than five feet to an interior side or rear lot line shall be screened with a six foot high solid fence or a hedge maintained at a height of five feet along such interior side and/or rear lot line, except where abutting a waterway or canal property line.

iii. The roof overhang shall not extend closer than one foot to any side or rear property line, unless it is abutting a waterway or canal, in which case the overhang may extend to the waterway or canal property line.



# Article 5, Fences and Walls

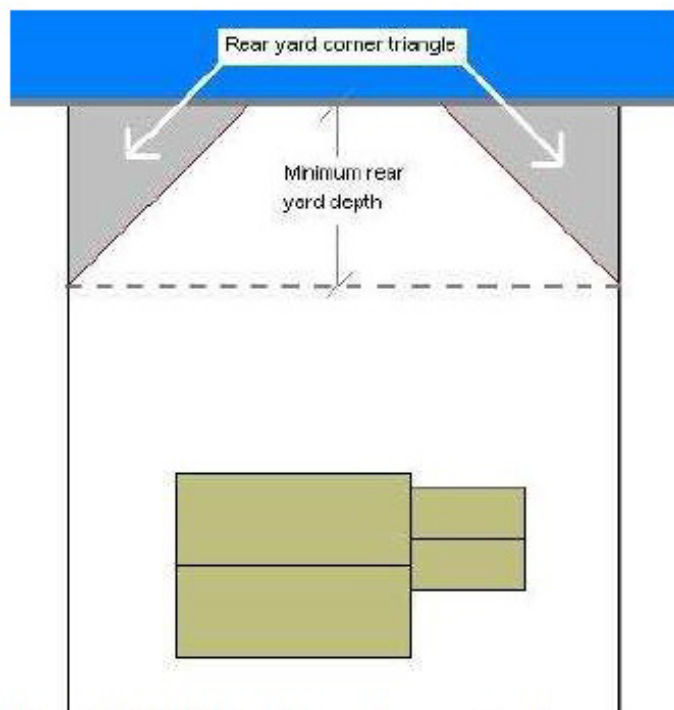


Figure 155.5302.D.5.a: Rear yard corner triangle

## D. Height Requirements for Fences and Walls

...

### 5. Fences and Walls Adjacent to Waterways

Where a lot abuts a canal or waterway, fences and walls adjacent to the canal or waterway shall comply with the following standards:

#### ~~a. Within Rear Yard Corner Triangle~~

#### ~~Figure 155.5302.D.5.a: Rear yard corner triangle~~

~~—Except as otherwise provided in subsection e below, where the rear lot line abuts the canal or waterway, no fence, wall, or other obstruction greater than three feet high shall be located within the triangular land area formed by the intersection of the rear lot line with an interior side lot line not abutting a canal or waterway—with two sides of the triangle running along the rear and interior lot lines and being equal in length to the minimum rear yard depth, and the third side being a line connecting the ends of the other two sides—provided that a fence in such area may be as high as 42 inches if it is 66 percent see-through and may be as high as six feet if it is at least 75 percent see-through. (See Figure 155.5302.D.5.a: Rear yard corner triangle.)~~

#### ~~ba. On a Rear Yard Terrace or Patio~~

~~Except as otherwise provided in subsection a above, the height of a fence or wall erected on a terrace or patio located or extending into the rear yard may be up to 42 inches high if it is at least 66 percent see-through and does not obstruct view of the canal or waterway from abutting lots.~~

...



# Article 5, Fences and Walls (Amendment to Proposal)



## D. Height Requirements for Fences and Walls

...

### 5. Fences and Walls Adjacent to Waterways

Where a lot abuts a canal or waterway, fences and walls adjacent to the canal or waterway shall comply with the following standards:

#### ~~a. Within Rear Yard Corner Triangle~~

#### ~~Figure 155.5302.D.5.a: Rear yard corner triangle~~

~~Except as otherwise provided in subsection e below, where the rear lot line abuts the canal or waterway, no fence, wall, or other obstruction greater than three feet high shall be located within the triangular land area formed by the intersection of the rear lot line with an interior side lot line not abutting a canal or waterway—with two sides of the triangle running along the rear and interior lot lines and being equal in length to the minimum rear yard depth, and the third side being a line connecting the ends of the other two sides—provided that a fence in such area may be as high as 42 inches if it is 66 percent see-through and may be as high as six feet if it is at least 75 percent see-through. (See Figure 155.5302.D.5.a: Rear yard corner triangle.)~~

#### ~~b. On a Rear Yard Terrace or Patio~~

~~Except as otherwise provided in subsection a above, the height of a fence or wall erected on a terrace or patio located or extending into the rear yard may be up to 42 inches high if it is at least 66 percent see-through and does not obstruct view of the canal or waterway from abutting lots.~~

#### ~~ea. Adjacent to Sea Wall~~

~~Except as otherwise provided in subsection a above, w~~**Where a lot line abuts a canal or waterway along a sea wall that is less than four and one-half feet above mean sea level, the height of a fence or wall adjacent to the lot line may be up to seven and one-half feet above mean sea level.**

#### ~~eb. Atop Sea Wall~~

~~No wall or fence shall be erected atop a seawall~~**No fence or railings shall be attached onto a Mooring Structure, Tidal Flood Barrier or Seawall Cap, as defined in Chapter 151,**

#### ~~ec. On all properties abutting the east right-of-way line of Harbour Drive (NE 26th Avenue)~~

On all properties abutting the east right-of-way line of Harbour Drive (NE 26th Avenue) a site visibility area shall be provided as follows:

- i. The sight visibility area shall be that private property which lies 25 feet north and 25 feet south of the centerline of a canal and east of the east right-of-way line of Harbour Drive (NE 26th Avenue) to the edge of the permitted seawalls as they exist on November 25, 2003.
- ii. No walls or fences shall be constructed or maintained within the sight visibility area.



# Article 5, Landscaping (Amendment to Proposal)



## 155.5203. LANDSCAPING

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### B. General Requirements for Landscaping

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#### 6. Maintenance of Landscaping

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~~.....viii. Plants shall be maintained in a way that does not obstruct sight visibility above a height of three feet within the triangular land area formed by the intersection of a rear lot line abutting a canal or waterway with an interior side lot line not abutting a canal or waterway—with two sides of the triangle running along the rear and interior lot lines and being equal in length to the rear yard depth, and the third side being a line connecting the ends of the other two sides.~~

(renumber following sections)





# Why?



- **Respond to community preference and alleviate Code Compliance issues.**
  - Not that so many properties have active violations (nor that the city is seeking compliance from all waterfront properties) but should complaints be made, or other applications for subject properties be submitted to the City, we have lifted recourse but to seek compliance.
- **Conflicts with Code**
  - An opaque fence within a Rear Yard Corner Triangle may not exceed a height of 3 feet. Should a property have a pool, the minimum height of a security fence is 4 feet.
- **History**
  - Ordinance 76-8 (Approved October 1975)
    - ...in no event shall fences or walls other than fences of the chain-link type extend closer than fifteen (15) feet to any canal or waterway.
  - Ordinance 91-63 (Approved June 1991)
    - Created Section/Standards for Accessory Uses, Structures abutting Waterways.
    - ~~...In any district, no part of any building or structure shall be constructed within less than 25 feet of a property line abutting any canal or waterway.~~  
All structures shall be set back at least 15 feet from a property line abutting a canal or waterway.
- **Is there a legal rationale to preserve view across an adjacent property (may be construed as “Riparian Right”)?**
  - No – to be a legitimate claim of obstructing a waterfront view, the obstruction must substantially and materially block/obstruct the landowners’ view of the channel from their own property.



# Department Recommendation

Given the information provided to the Board, the Development Services Department provides the following alternative motion options, which may be revised or modified at the Board's discretion.

## Alternative Motion I

The Board recommends approval of the code amendment, **as amended**, as it finds the proposed revisions consistent with the Comprehensive Plan and meets the review standards for a zoning code text amendment.

## Alternative Motion II

The Board recommends the item be tabled to give Staff time to address and issues raised by the Board, Staff, or the general public.

Staff Recommends Alternative Motion 1.