



**Town Commission
Jarvis Hall 4505 N. Ocean Drive**

Regular Town Commission

Regular Town Commission

Tuesday, February 22, 2022, 6:30 PM
Jarvis Hall 4505 N. Ocean Drive

1. CALL TO ORDER, MAYOR CHRIS VINCENT

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION – Rabbi Bentzion Singer

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

5. PRESENTATIONS

- 5.a. Citizen Observer Patrol Annual Awards and Promotions- 25th Anniversary
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6. PUBLIC COMMENTS

7. PUBLIC SAFETY DISCUSSION

- 7.a. AMR January 2022 Report
[Agenda Cover .pdf](#)
[Ex.1 -AMR LBTS January 2022 Times.pdf](#)
- 7.b. VFD January 2022 Report
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[Ex.1 – VFD January 2022 Report.pdf](#)

8. TOWN MANAGER REPORT

- 8.a. Town Manager Report for February 22, 2022
[Agenda Cover .pdf](#)
[Ex1 Thank You Letter.pdf](#)

9. TOWN ATTORNEY REPORT

10. APPROVAL OF MINUTES

- 10.a. Approval of Minutes: January 10, 2022, Town Special Commission Meeting & January 11, 2022, Town Commission Meeting
[Agenda Cover.pdf](#)
[Ex. 1 - 01-10-22 LBTS Special Commission 2nd draft minutes.pdf](#)
[Ex. 2 - 01-11-22 LBTS Commission 1st draft minutes.pdf](#)

11. CONSENT AGENDA

- 11.a. 2022 Club Car Carryall 710 LSV Lease
[Agenda Cover .pdf](#)
[EX 1-AG 2019-20 - Enterprise Fleet Mgmt.pdf](#)
[EX 2- Quote.pdf](#)
- 11.b. Special Event Application for LBTS VFD’s Annual Easter Egg Hunt Saturday, April 16, 2022
[Agenda Cover .pdf](#)
[Ex 1 Easter Egg Hunt FVD 4-16-22 App.pdf](#)
[Ex 2 Special Events Chapter 17.pdf](#)

12. OLD BUSINESS

13. NEW BUSINESS

- 13.a. Application for Relief of Code Compliance Lien at 5000 N Ocean Boulevard, Unit #1711 (Sea Ranch Club B)

[Agenda Cover.pdf](#)

[Ex. 1 - Mitigation Application.pdf](#)

- 13.b. Renewal of Town Contracts

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14. COMMISSIONER COMMENTS

15. ORDINANCES 1st Reading

16. ORDINANCES 2nd Reading

- 16.a. ORDINANCE 2022-01 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN’S CODE OF ORDINANCES BY CREATING CHAPTER 9, "FLOOD PREVENTION AND CONTROL," ARTICLE XI, "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION" TO ESTABLISH TIDAL FLOOD PROTECTION AND BARRIER INFRASTRUCTURE STANDARDS THAT ACCOUNT FOR PROJECTED SEA LEVEL RISE, AND PROVIDE FOR ABATEMENT OF NUISANCE FLOODING AND REAL ESTATE SALE DISCLOSURES; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

[Agenda Cover.pdf](#)

[EX 1 2022-01 Tidal Sea Level Rise ORD 3K26976.pdf](#)

[EX 2-](#)

[ARTICLE XXV. __RESILIENCY STANDARDS FOR TIDAL FLOOD PROTEC](#)

17. RESOLUTIONS – PUBLIC COMMENTS

- 17.a. RESOLUTION NO. 2022-08. A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A WORK AUTHORIZATION WITH HUGH JOHNSON LANDSCAPE ARCHITECTURE, INC. DBA ARCHITECTURAL ALLIANCE LANDSCAPING; AUTHORIZING THE TOWN MANAGER TO EXECUTE A WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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[Ex1 - Resolution 2022-08 - Architectural Alliance Landscape - Downtown.pdf](#)

[Ex 2- LBTS - Town Center, A-1-A to Oceanfront - Task 1 & Task 2 - Rev 2-3-22 WORK AUTHORIZATION.pdf](#)

- 17.b. RESOLUTION 2022-09. A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ACCEPTING A GIFT IN THE AMOUNT OF \$25,000 FROM THE AMENDED AND RESTATED ALICE J. RUTTEN TRUST UAD 11-16-2017; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE RECEIPT FOR THE GIFT; AND PROVIDING FOR AN EFFECTIVE DATE

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[Ex1- 2022-09 Resolution Gift Acceptance.pdf](#)

[Ex2 - Letter from Alice Rutten Trust.pdf](#)

18. QUASI JUDICIAL PUBLIC HEARINGS

- 18.a. Case Number 2021-V-01: 4403 Tradewinds Inc. (Applicant) – Requests a variance to

Section 30-311(c) of the Town's Code Ordinances (the "Town Code") to permit construction of a boat dock to extend into the Intracoastal Waterway at a maximum distance between 11.4 feet to 13.5 feet from the property line, where the Town Code provides that a boat dock may be constructed or erected to extend into the Intracoastal Waterway at a maximum distance of eight (8) feet.

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[Ex 1 Application Plans Narrative Aerials.pdf](#)

[EX 2 Public Notice, Notice Requirements and Public Comments.pdf](#)

[EX 3- Citizen Participation Summary.pdf](#)

[Ex 4 30-311 Boats, boat lifts, boathouses, docks.pdf](#)

[Ex 5- Variance Requirements.pdf](#)

[Ex 6- Army Corp, DEP, Broward County Permits.pdf](#)

[Ex 7- Planning and Zoning Board Packet.pdf](#)

[Ex 8 4403-4405 W Tradewinds Avenue Dock Variance DO 3K90600.pdf](#)

[Ex_8_DO EXHIBIT 1 Application_Plans_Narrative_Aerials.pdf](#)

19. ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting's agenda, but should relate to the business of the Town, and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted By: Captain Thomas Palmer

Submitting Department: Broward Sheriff's Office

Item Type: Presentation

Agenda Section: PRESENTATIONS

Subject Title: Citizen Observer Patrol Annual Awards and Promotions- 25th Anniversary

Explanation: The Citizen Observer Patrol (COP) is a BSO program where Lauderdale-By-The-Sea citizens volunteer their time to patrol the Town in specially marked vehicles, on bicycles and on a four-wheel drive utility vehicle to provide increased visibility for public safety. Additionally, COP volunteers assist with traffic control, patrol and other duties that assist the Town and BSO during various events. The volunteers wear a uniform that distinguishes them as COP members and they are organized in a fashion similar to BSO, including rank.

This ceremony also celebrates the unit's 25th anniversary in the Town of Lauderdale by the Sea.

After a 14-month suspension due to COVID-19, the COP program resumed operations in May 2021. In less than seven months, the members volunteered a total of 846 hours, drove 1,349 miles around town, 214 hours of UTV patrol and 26 hours of bicycle patrol. Each year the volunteers are recognized for the efforts put forth on behalf of the program and members are promoted to fill vacant ranks.

We appreciate the opportunity to give these selfless volunteers recognition at the Commission meeting.

Volunteer Hours Award - Tom Criqui – 1,500 hours

Promotion to the Rank of Sergeant - Joe Couriel

Promotion to the Rank of Lieutenant:

Lisa Quaranto

Dan Ford

Art Jackson

Jim Meade

Anne Maretsky

Tim Bokovoy

Philip Wojahn

25 Year Longevity Award - Dolores San Miguel



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted By: Brooke Liddle, AMR

Submitting Department: Public Safety

Item Type: Report

Agenda Section: PUBLIC SAFETY DISCUSSION

Subject Title: AMR January 2022 Report

Recommendation: Accept/Approve

Attachments: Ex.1 – AMR January 2022 Report

Response Date	Address	Dispatched	Enroute	On Scene	Response Time
1/1/2022	100 BLK Commercial Blvd	01:53:26	01:55:47	01:57:09	00:03:43
1/1/2022	4300 BLK El Mar Dr	09:35:14	09:36:56	09:39:17	00:04:03
1/1/2022	1400 BLK S Ocean Blvd	11:46:01	11:46:21	11:49:51	00:03:50
1/2/2022	4600 BLK Poinciana St	01:24:19	01:25:37	01:27:32	00:03:13
1/2/2022	5100 BLK N Ocean Blvd	09:10:05	09:12:22	09:13:06	00:03:01
1/2/2022	S Ocean Blvd / Terra Mar DR	09:52:55	09:52:58	09:55:34	00:02:39
1/2/2022	2000 BLK S Ocean Blvd	22:42:49	22:42:53	22:45:36	00:02:47
1/3/2022	100 BLK Commercial Blvd	02:06:14	02:06:56	02:09:07	00:02:53
1/3/2022	4500 BLK N Ocean Dr	03:53:13	03:55:18	03:57:00	00:03:47
1/3/2022	3900 BLK N Ocean Dr	10:48:04	10:50:31	10:51:29	00:03:25
1/3/2022	5100 BLK N Ocean Blvd	16:31:29	16:34:49	16:34:51	00:03:22
1/3/2022	3200 BLK Spanish River Dr	21:19:19	21:20:45	21:24:26	00:05:07
1/4/2022	4600 BLK El Mar Dr	13:27:58	13:31:43	13:31:55	00:03:57
1/4/2022	4900 BLK N Ocean Blvd	21:59:46	22:02:54	22:04:56	00:05:10
1/5/2022	1700 BLK S Ocean Blvd	05:37:48	05:39:11	05:42:14	00:04:26
1/5/2022	1900 BLK Waters Edge	08:33:56	08:34:09	08:37:07	00:03:11
1/5/2022	1500 BLK S Ocean Blvd	16:57:54	16:58:20	17:01:30	00:03:36
1/5/2022	1600 BLK S Ocean Blvd	18:04:07	18:04:29	18:07:55	00:03:48
1/5/2022	6000 BLK N Ocean Blvd	19:50:32	19:50:36	19:54:14	00:03:42
1/6/2022	4600 BLK El Mar Dr	11:34:41	11:36:24	11:38:15	00:03:34
1/6/2022	1500 BLK S Ocean Blvd	17:45:43	17:46:01	17:49:17	00:03:34
1/7/2022	Poinciana St/Commercial Blvd	08:55:09	08:55:18	08:59:13	00:04:04
1/7/2022	4500 BLK N Ocean Dr	12:54:47	12:55:34	12:55:53	00:01:06
1/7/2022	100 BLK Commercial Blvd	14:29:41	14:29:51	14:35:26	00:05:45
1/8/2022	Washingtonia Ave / El Mar DR	08:50:41	08:51:06	08:53:02	00:02:21
1/8/2022	6000 BLK N Ocean Blvd	11:19:19	11:19:40	11:21:57	00:02:38
1/8/2022	Commercial Blvd / El Mar DR	12:56:45	13:00:04	13:00:06	00:03:21
1/8/2022	4600 BLK Bougainvillea Dr	18:17:22	18:17:37	18:20:12	00:02:50
1/8/2022	4600 BLK Poinciana St	22:53:56	22:54:27	22:57:31	00:03:35
1/9/2022	4900 BLK N Ocean Blvd	03:02:17	03:04:19	03:06:58	00:04:41
1/9/2022	Commercial Blvd / El Mar DR	15:31:44	15:33:17	15:33:20	00:01:36
1/9/2022	5200 BLK N Ocean Blvd	16:47:01	16:50:00	16:50:04	00:03:03
1/9/2022	4500 BLK El Mar Dr	19:28:24	19:29:36	19:30:48	00:02:24
1/10/2022	4000 BLK N Ocean Dr	04:22:48	04:23:59	04:25:42	00:02:54
1/10/2022	200 BLK Hibiscus Ave	12:27:55	12:28:09	12:31:09	00:03:14
1/10/2022	200 BLK Basin Dr	16:02:27	16:04:12	16:04:33	00:02:06
1/11/2022	200 BLK Imperial Ln	00:13:56	00:14:59	00:17:19	00:03:23
1/11/2022	1600 BLK S Ocean Blvd	11:55:32	11:55:57	11:59:10	00:03:38
1/11/2022	5100 BLK N Ocean Blvd	13:20:34	13:20:51	13:24:07	00:03:33
1/11/2022	S Ocean Blvd / Coral Reef DR	13:37:25	13:37:35	13:40:55	00:03:30
1/11/2022	200 BLK Washingtonia Ave	20:10:25	20:12:59	20:14:09	00:03:44
1/12/2022	5200 BLK N Ocean Blvd	05:32:15	05:32:47	05:35:07	00:02:52
1/12/2022	5400 BLK N Ocean Blvd	06:42:28	06:42:37	06:44:37	00:02:09
1/12/2022	1400 BLK S Ocean Blvd	13:31:01	13:31:13	13:33:26	00:02:25
1/12/2022	2000 BLK S Ocean Blvd	15:10:10	15:12:44	15:14:23	00:04:13
1/12/2022	4600 BLK El Mar Dr	18:37:37	18:39:13	18:41:24	00:03:47
1/12/2022	100 BLK Commercial Blvd	22:58:19	22:59:41	23:01:43	00:03:24

1/13/2022	5100 BLK N Ocean Blvd	09:51:03	09:52:31	09:54:23	00:03:20
1/13/2022	4100 BLK Bougainvillea Dr	18:34:48	18:35:12	18:37:48	00:03:00
1/13/2022	4400 BLK Poinciana St	21:00:07	21:01:58	21:03:47	00:03:40
1/14/2022	2000 BLK S Ocean Blvd	11:52:02	11:52:06	11:54:10	00:02:08
1/15/2022	4300 BLK N Ocean Blvd	00:00:49	00:01:23	00:03:59	00:03:10
1/15/2022	2000 BLK S Ocean Blvd	06:14:46	06:15:36	06:18:07	00:03:21
1/15/2022	200 BLK Neptune Ave	08:54:50	08:58:23	08:58:25	00:03:35
1/15/2022	5400 BLK N Ocean Blvd	12:13:25	12:15:13	12:16:12	00:02:47
1/15/2022	100 BLK Commercial Blvd	18:23:39	18:24:31	18:25:46	00:02:07
1/15/2022	5100 BLK N Ocean Blvd	18:50:41	18:52:07	18:53:46	00:03:05
1/16/2022	5200 BLK N Ocean Blvd	13:54:52	13:55:37	13:59:35	00:04:43
1/16/2022	N Ocean Dr / Pine Ave	18:47:15	18:51:46	18:51:53	00:04:38
1/16/2022	200 BLK Harbor Dr	21:34:18	21:34:53	21:38:01	00:03:43
1/17/2022	1800 BLK S Ocean Blvd	14:28:08	14:28:12	14:31:07	00:02:59
1/17/2022	5500 BLK N Ocean Blvd	15:29:40	15:31:09	15:32:47	00:03:07
1/17/2022	5400 BLK N Ocean Blvd	20:13:20	20:13:27	20:17:21	00:04:01
1/18/2022	1800 BLK S Ocean Blvd	02:40:16	02:41:28	02:44:06	00:03:50
1/18/2022	2000 BLK S Ocean Blvd	08:39:16	08:39:43	08:43:38	00:04:22
1/18/2022	1900 BLK E Terra Mar Dr	11:29:56	11:30:09	11:33:47	00:03:51
1/18/2022	4000 BLK N Ocean Dr	13:11:48	13:14:16	13:15:06	00:03:18
1/18/2022	1800 BLK S Ocean Blvd	18:52:36	18:55:00	18:55:06	00:02:30
1/18/2022	1800 BLK S Ocean Dr	18:59:35	19:01:19	19:04:22	00:04:47
1/18/2022	1700 BLK S Ocean Blvd	20:09:30	20:10:40	20:13:04	00:03:34
1/19/2022	2000 BLK S Ocean Blvd	08:04:38	08:05:05	08:07:13	00:02:35
1/19/2022	4100 BLK N Ocean Dr	13:24:53	13:28:23	13:29:05	00:04:12
1/19/2022	200 BLK Commercial Blvd	15:23:34	15:24:19	15:27:18	00:03:44
1/20/2022	4500 BLK El Mar Dr	01:35:58	01:36:50	01:38:26	00:02:28
1/20/2022	4100 BLK El Mar Dr	11:40:01	11:40:06	11:42:27	00:02:26
1/21/2022	3200 BLK Fiesta Way	18:54:00	18:54:13	18:59:48	00:05:48
1/22/2022	200 BLK Washingtonia Ave	13:42:43	13:44:58	13:46:13	00:03:30
1/22/2022	200 BLK Commercial Blvd	19:57:15	19:57:57	19:59:51	00:02:36
1/22/2022	100 BLK W Commercial Blvd	22:23:35	22:24:28	22:26:34	00:02:59
1/23/2022	1900 BLK S Ocean Blvd	06:19:55	06:20:53	06:23:01	00:03:06
1/23/2022	200 BLK Capri Ave	11:56:59	12:00:26	12:01:12	00:04:13
1/24/2022	200 BLK W Commercial Blvd	07:09:31	07:11:19	07:12:59	00:03:28
1/24/2022	4600 BLK N Ocean Dr	13:11:40	13:12:42	13:15:03	00:03:23
1/24/2022	4900 BLK N Ocean Blvd	14:50:49	14:52:04	14:53:27	00:02:38
1/25/2022	200 BLK Washingtonia Ave	11:52:14	11:53:40	11:55:18	00:03:04
1/25/2022	100 BLK Commercial Blvd	16:00:57	16:01:56	16:01:59	00:01:02
1/25/2022	1400 BLK S Ocean Blvd	18:22:33	18:22:45	18:27:45	00:05:12
1/25/2022	Lake Ct / Sea Grape Dr	18:37:28	18:37:32	18:40:54	00:03:26
1/26/2022	3200 BLK Fiesta Way	04:28:13	04:29:08	04:34:26	00:06:13
1/26/2022	5200 BLK N Ocean Blvd	08:21:22	08:23:47	08:23:49	00:02:27
1/27/2022	5400 BLK N Ocean Blvd	12:24:40	12:26:38	12:26:39	00:01:59
1/27/2022	200 BLK Commercial Blvd	17:34:28	17:36:25	17:37:46	00:03:18
1/28/2022	4200 BLK N Ocean Dr	21:04:08	21:05:56	21:07:30	00:03:22
1/29/2022	4500 BLK N Ocean Dr	00:51:00	00:51:29	00:52:06	00:01:06
1/29/2022	N Ocean Dr / Commercial Blvd	05:05:08	05:05:23	05:08:27	00:03:19
1/29/2022	200 BLK Oceanic Ave	07:34:00	07:34:19	07:37:52	00:03:52
1/29/2022	4400 BLK El Mar Dr	09:17:36	09:19:24	09:21:11	00:03:35
1/29/2022	1900 BLK S Ocean Blvd	18:02:48	18:03:40	18:06:54	00:04:06

1/29/2022	100 BLK Commercial Blvd	20:56:40	20:57:10	20:59:18	00:02:38
1/29/2022	1700 BLK S Ocean Blvd	22:15:32	22:15:55	22:21:11	00:05:39
1/30/2022	5300 BLK N Ocean Blvd	03:44:01	03:45:41	03:48:41	00:04:40
1/30/2022	Terra Mar Dr/S Ocean Blvd	08:38:07	08:38:18	08:42:22	00:04:15
1/30/2022	100 BLK Commercial Blvd	19:35:00	19:35:42	19:37:23	00:02:23
1/30/2022	1400 BLK S Ocean Blvd	21:11:11	21:11:59	21:15:14	00:04:03
1/31/2022	5400 BLK N Ocean Blvd	07:10:41	07:10:58	07:13:22	00:02:41
1/31/2022	200 BLK Commercial Blvd	10:14:08	10:16:05	10:16:46	00:02:38
1/31/2022	4500 BLK Bougainvillea Dr	11:37:08	11:38:52	11:38:54	00:01:46
1/31/2022	4200 BLK N Ocean Dr	20:21:47	20:22:42	20:24:24	00:02:37
	6 min or less = 99%		Overall Average		0:03:23



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted By: Chief Judson Hopping, VFD

Submitting Department: Public Safety

Item Type: Report

Agenda Section: PUBLIC SAFETY DISCUSSION

Subject Title: VFD January 2022 Report

Recommendation: Accept/Approve

Attachments: Ex.1 – VFD January 2022 Report



Lauderdale-By-The-Sea Volunteer Fire Department

Overview

During the month of January 2022, the Volunteer Fire Department continued its focus on fire prevention for high-rise buildings and commercial properties. There were 14 annual fire inspections: 3 re-inspections and no complaints.

Responses:

The Volunteer Fire Department responded to 37 fire rescue calls within the limits of our contract.

- Of the 37 emergency fire calls dispatched, there were 12 fire alarms, 1 outside fire, 1 electrical/utility fire, 2 vehicle accident w/injuries, 1 watermain break, 5 elevator rescues, 1 drowning, and 14 "other" fires.
- There were 118 medical 911 calls for January 2022. The department was dispatched to 23 of those calls, of which, 3 were canceled by M12 or the chief on duty. E12 provided BLS care until M12/212 arrival on 2 calls and provide M12/212 lift assist on 18 calls.

Training:

The Volunteer Fire Department had 10 Regular in-town, and 27 Associate out-of-town members for a total of 37 active members.

For the month of January there were 7 fire drills, 2 D/E classes, 12 fire inspections, and 1 car seat installation.

- 254 Hrs - Fire drills, & In-house D/E training
- 77 Hrs - Annual High-Rise Fire Inspections
- 1 Hrs - Public Awareness; Car Seat Installation

A total of 332+ hours were spent in the month of January on training.

In closing, the Volunteer Fire Department will continue to improve and increase its members training, as required by ISO and established state training curriculums. We continue to recruit new members through the fire academies, our website, and local town events.

Respectfully,

Judson Hopping,
Fire Chief



Town of Lauderdale-By-The-Sea Fire Department Monthly Report January 2022

	Regular In - Town	Associate Out of Town
Active Member	10	27
Fire 1 non-certified	1	0
Fire 1 Certified	1	1
Fire II Certified	8	26
CPR/1 st Responder	5	12
EMT-B (FL)	2	10
Paramedic (FL)	3	7

Emergency 911 Calls

Fire/Rescue	37
Total Medical 911 calls	118
Medical calls V.F.D. Not Dispatched	95
Medical calls V.F.D. Dispatched	23
Medical calls Canceled by COD/M12	3
Medical calls V.F.D. provided care/assisted	20

Training

332+ Total Hrs.

Firefighter & In-house D/E training drills	254 Hrs
Annual High-Rise Fire Inspections	77 Hrs.
Public Awareness; Car Seat Installation	1 Hrs.

Station Hours

Firefighter Station Watch	1,568.75+ Hrs
Ocean Rescue patrol	118 Hrs
Chief on Duty/Command	744 Hrs

2,430.75+ Total Hrs.

LBTS Volunteer Fire Department - January 2022, Active Roster

Last Name	First Name	LBTS FF No.	Membership	*Town Resident	Rank	Fire Certifications	EMS Certification	MTD Calls	YTD Calls
Agostinone	Valentina	188744	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	2	15
Aubrey	Keith	163	Regular Member		Firefighter	Firefighter II	Paramedic (FL)	6	26
Benrubi	Aaron	173349	Associate Member		Driver Engineer	Firefighter II	Paramedic (FL)	8	24
Bias	Jonathan	81298	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	10	30
Cabrera	Ricardo	177336	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	8	21
Carlton	Ryan	186384	Associate Member		Lieutenant	Firefighter II	EMT-B (FL)	11	28
Cosenza	Vincent	169533	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	8	22
Cowles	James	186248	Regular Member	*	Firefighter	Firefighter I	CPR for healthcare provider	34	114
DeZayas	Mauricio	186553	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	1	1
Edouard	Myriam	708	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	9	25
Fair	Deonta	191412	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	1	1
Fixman	Daniella	190965	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	2	18
Frew	Jake	182810	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	8	19
Frew	Maria	174735	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	6	15
Hernandez	Rosa	190618	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	9	22
Hopping	Judson	054	Regular Member		Fire Chief	Firefighter II - D/E - Officer I	EMT-B (FL)	12	36
Horan	Sean	177190	Regular Member		Trainee	Trainee	CPR for healthcare provider	6	27
Johnson	Scott	33472	Regular Member		Driver Engineer	Firefighter II - Officer I	Paramedic (FL)	6	6
Kane	Mark	155	Associate Member		Captain	Firefighter II-D/E - Officer I	EMT-B (FL)	22	61
Louvaris	John	078	Regular Member		Deputy Chief	Firefighter II-D/E - Officer II	CPR for healthcare provider	37	142
Maggard	Dylan	165765	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	4	17
Mangin	Andrew	735	Associate Member		Driver Engineer	Firefighter II - D/E	Paramedic (FL)	8	19
Nemia	John	190426	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	4	24
Neves	Lucas	183412	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	3	3
Obregon	Chelsea	192558	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	0	0
Paine	Kyle	173	Regular Member		Firefighter	Firefighter II	EMT-B (FL)	2	5
Paine	Riley	704	Regular Member		Battalion Chief	Firefighter II-D/E - Officer II	Paramedic (FL)	24	100
Paine	Stephen	140	Regular Member		Fire Marshal	Firefighter II	CPR for healthcare provider	19	56
Piper	Kyle	184815	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	2	15
Porcelli	Joseph	184121	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	0	0
Ritchey	Dylan	160895	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	2	9
Ruiz	Rodrigo	174946	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	4	18
Samler, Jr.	Thomas	187730	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	6	29
Silverstone	James	025	Regular Member	*	Driver Engineer	Firefighter II	CPR for healthcare provider	3	26
Stewart	Theodore	190140	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	2	14
Swordloff	Tyler	189739	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	7	7
Warden	Stephanie	195840	Associate Member		Trainee	Trainee	CPR for healthcare provider	4	4

Monthly Activity Report - January 2022

Date	Fire/Rescue Calls	Event Description	Start Time	End Time	No. of FF
01-Jan-22	1461 South Ocean Blvd.	Fire alarm	9:21:00 PM	9:40:00 PM	3
01-Jan-22	1461 South Ocean Blvd.	Fire alarm	9:48:00 PM	10:04:00 PM	3
01-Jan-22	4100 El Mar Drive	Outside fire - bonfire on the beach	10:01:00 PM	10:05:00 PM	3
01-Jan-22	1461 South Ocean Blvd.	Fire alarm - firewatch established due to multiple activations	10:24:00 PM	10:26:00 PM	3
04-Jan-22	2017 Sailfish	Other fire - service call	3:24:00 PM	3:38:00 PM	3
05-Jan-22	1530 South Ocean Blvd.	Elevator rescue	12:52:00 PM	1:07:00 PM	4
06-Jan-22	3900 North Ocean Drive	Elevator rescue	5:50:00 PM	6:06:00 PM	3
09-Jan-22	1800 South Ocean Blvd.	Fire alarm	7:57:00 AM	8:07:00 AM	8
11-Jan-22	1242 Commercial Blvd.	Other fire - suspicious incident	1:59:00 AM	2:11:00 AM	4
11-Jan-22	4540 North Ocean Drive	Elevator rescue	1:00:00 PM	1:26:00 PM	6
11-Jan-22	South Ocean Blvd.	Other fire - wash down	1:37:00 PM	2:16:00 PM	5
13-Jan-22	4220 El Mar Drive	Fire alarm - commercial	5:03:00 AM	5:19:00 AM	6
14-Jan-22	5100 North ocean Blvd.	Fire alarm	5:44:00 PM	5:57:00 PM	4
14-Jan-22	3271 South Terra Mar Drive	Fire alarm	9:34:00 PM	9:56:00 PM	6
15-Jan-22	5490 North Ocean Drive	Other fire - svc call male passed out in vehicle	12:12:00 PM	1:00:00 PM	7
16-Jan-22	1900 South Ocean Blvd.	Elevator rescue	4:21:00 AM	4:48:00 AM	6
16-Jan-22	Commercial Blvd.	Drowning	1:16:00 PM	1:44:00 PM	9
18-Jan-22	1850 South Ocean Blvd.	Other fire - forcible entry	2:38:00 PM	3:17:00 AM	5
19-Jan-22	1621 Bel Air Drive	Other fire - svc call leaking hydrant	1:29:00 PM	1:36:00 PM	3
19-Jan-22	227 Commercial Blvd.	Accident w/injuries	3:23:00 PM	4:42:00 PM	6
21-Jan-22	4316 El Mar Drive	Fire alarm	10:47:00 AM	11:05:00 AM	5
21-Jan-22	2 Commercial Blvd.	Other fire svc call locked vehicle	2:38:00 PM	2:42:00 PM	6
21-Jan-22	1911 Blue Water Terrace	Electrical utility fire	4:07:00 PM	5:38:00 PM	7
21-Jan-22	3253 Fiesta Way	Elevator rescue	4:18:00 PM	4:29:00 PM	7
21-Jan-22	3253 Fiesta Way	Other fire - forced entry	6:54:00 PM	7:41:00 PM	6
22-Jan-22	5200 North Ocean Drive	Fire alarm	12:16:00 PM	12:37:00 PM	6
22-Jan-22	1911 Blue Water Terrace	Other fire - svc call - low hanging Comcast's wires	3:23:00 PM	3:43:00 PM	6
24-Jan-22	4653 North Ocean Drive	Fire alarm	10:26:00 AM	10:47:00 AM	6
24-Jan-22	4653 North Ocean Drive	Fire alarm	12:27:00 PM	12:38:00 PM	6
25-Jan-22	Seagrape/Lake Court	Accident w/injuries	6:35:00 PM	7:15:00 PM	8
26-Jan-22	4653 North Ocean Drive	Fire alarm	6:23:00 PM	6:34:00 PM	6
26-Jan-22	4471 Bougainvillea Drive	Other fire - bees on playground equip.	3:01:00 PM	3:28:00 PM	6
29-Jan-22	14644 Poinciana Street	Other fire - lockout	8:09:00 PM	8:12:00 PM	6
29-Jan-22	4225 North Ocean Drive	Other fire - wash down	9:13:00 PM	10:33:00 PM	6
29-Jan-22	1770 South Ocean Blvd.	Other fire - knock box	10:14:00 PM	10:28:00 PM	6
30-Jan-22	1461 South Ocean Blvd.	Waterbreak	5:06:00 AM	5:31:00 AM	7
31-Jan-22	4228 North Ocean Drive	Other fire - forcible entry	8:20:00 PM	8:37:00 PM	9

Total Calls 37

Date	First Responder	Event Description	Start Time	End Time	No. of FF
05-Jan-22	Waters Edge	medical, E12 canceled on scene	8:32:00 AM	8:44:00 AM	3
05-Jan-22	South Ocean Blvd.	medical, E12 provided lift assist	1:49:00 AM	2:16:00 AM	3
06-Jan-22	South Ocean Blvd.	medical, E12 provided lift assist	12:28:00 PM	12:45:00 PM	3
07-Jan-22	South Ocean Blvd.	medical, E12 provided lift assist	2:20:00 PM	2:52:00 PM	3
07-Jan-22	Commercial Blvd.	medical, provided transport from the beach	2:27:00 PM	2:34:00 PM	3
07-Jan-22	South Ocean Blvd.	medical, E12 provided lift assist	5:28:00 PM	5:43:00 PM	4
08-Jan-22	North Ocean Blvd.	medical, provided transport from the beach	11:17:00 AM	11:44:00 AM	5
11-Jan-22	Imperial Lane	medical, E12 assisted M12	12:12:00 AM	1:19:00 AM	3
11-Jan-22	Ocean/SeaWatch	medical, E12 canceled en route	1:41:00 PM	1:46:00 PM	5
11-Jan-22	El Mar Drive	medical, E12 canceled on scene	8:18:00 PM	9:03:00 PM	10
11-Jan-22	South Ocean Blvd.	medical, E12 provided lift assist	5:43:00 PM	5:58:00 PM	6
11-Jan-22	South Ocean Blvd.	medical, E12 provided lift assist	5:43:00 PM	5:58:00 PM	6
14-Jan-22	South Ocean Blvd.	medical, E12 provided lift assist	1:02:00 PM	1:20:00 PM	4
16-Jan-22	Bel Air Avenue	medical, E12 assisted M212	2:19:00 PM	2:40:00 PM	5
18-Jan-22	South Ocean Blvd.	medical, E12 assisted M12 w/lift	7:58:00 PM	8:27:00 PM	5
20-Jan-22	North Ocean Drive	medical, E12 provided lift assist	1:02:00 PM	1:19:00 PM	4
21-Jan-22	North Ocean Drive	medical, E12 provided lift assist	11:54:00 PM	12:09:00 AM	4
23-Jan-22	Capri Avenue	medical, E12 assisted M12	11:56:00 AM	1:03:00 PM	4
24-Jan-22	El Mar Drive	medical, E12 assisted M212	2:06:00 PM	2:59:00 PM	5
24-Jan-22	North Ocean Drive	medical, E12 provided lift assist	1:05:00 PM	2:05:00 PM	6
27-Jan-22	North Ocean Drive	medical, E12 provided BLS care until M212 arrived	12:24:00 PM	12:28:00 PM	4
31-Jan-22	Bougainvillea Drive	medical, E12 provided BLS until M212 arrived	11:37:00 AM	12:30:00 PM	3
31-Jan-22	Codrington Drive	medical, E12 provided lift assist	5:20:00 AM	5:35:00 AM	5

Total Calls 23

Date	Public Service	Event Description	Start Time	End Time	No. of FF
31-Jan-22	Station	Installed a forward facing car seat	2:30:00 PM	3:30:00 PM	1

Date	Drill/Training	Event Description	Start Time	End Time	No. of FF
04-Jan-22	1500 South Ocean Blvd.	Pre-planning fire inspection @Leisure Tower	10:00:00 AM	12:00:00 PM	3
06-Jan-22	4140 El Mar Drive	Pre-planning fire inspection @Sea Lord Hotel	10:00:00 AM	11:30:00 AM	3
10-Jan-22	Station 12	In-house D/E training by Chief Caldero	6:00:00 PM	10:00:00 PM	6
11-Jan-22	Admin office	Orientation for new class	6:00:00 PM	10:00:00 PM	12
12-Jan-22	4343 North Ocean Blvd.	Pre-planning fire inspection @Burger-Fi	10:00:00 AM	11:00:00 AM	4
13-Jan-22	1700 South Ocean Blvd.	Pre-planning fire inspection @Cristelle Condo	10:00:00 AM	11:30:00 AM	4
13-Jan-22	Station 12	New class training - P.O.	6:00:00 PM	9:00:00 PM	12
14-Jan-22	1430 South Ocean Blvd.	Pre-planning fire inspection @Cristelle Cay Condo	10:00:00 AM	12:00:00 PM	3
15-Jan-22	Station 12	New class P.O.'s	8:00:00 AM	12:00:00 PM	8
15-Jan-22	Station 12	New class P.O.'s	1:00:00 PM	4:00:00 PM	8
18-Jan-22	1480 South Ocean Blvd.	Pre-planning fire inspection @International Studio	10:00:00 AM	11:30:00 AM	3
19-Jan-22	Station 12	Rit bag - stokes basket ops	6:00:00 PM	10:00:00 PM	4
19-Jan-22	4225 El Mar Drive	Pre-planning fire inspection @Buena Vista	10:00:00 AM	12:00:00 PM	4
19-Jan-22	Station 12	In-house D/E training by Chief Caldero	6:00:00 PM	10:00:00 PM	3
21-Jan-22	5100 North Ocean Drive	Pre-planning fire inspection @Sea Ranch A	10:00:00 AM	1:00:00 PM	4
24-Jan-22	1440 South Ocean Blvd.	Pre-planning fire inspection @Corniche Condo	10:00:00 AM	11:30:00 AM	4
25-Jan-22	2000 South Ocean Blvd.	Pre-planning fire inspection @Royal Coast Condo	10:00:00 AM	11:30:00 AM	4
25-Jan-22	Station 12	P.O.'s new candidate: Ropes, knots, tools & SCBA	2:00:00 PM	3:00:00 PM	4
26-Jan-22	1620 South Ocean Blvd.	Pre-planning fire inspection @Ocean Colony	10:00:00 AM	12:00:00 PM	4
27-Jan-22	Station 12	Bumping, 2min SCBA, hydrant & hook-up	6:00:00 PM	10:00:00 PM	8
27-Jan-22	4540 North Ocean Drive	Pre-planning fire inspection @Leisure Mar Condo	10:00:00 AM	11:30:00 AM	4
31-Jan-22	Station/Off-site	Delivered training prop from off-site - next month's trng.	6:00:00 PM	10:00:00 PM	7

Date	Ocean Rescue	Event Description	Start Time	End Time	No. of FF
03-Jan-22	Beach	Ocean rescue patrol: 10-11a, 12-1p, 2:30-3:30p, & 4-5p	11:00:00 AM	2:00:00 PM	2
05-Jan-22	Beach	Ocean rescue patrol: 12-1p & 5-6p	12:00:00 PM	2:00:00 PM	2
07-Jan-22	Beach	Ocean rescue patrol: 9:30-10:30p	9:30:00 AM	10:30:00 AM	2
07-Jan-22	Beach	Ocean rescue patrol: 1-2pm & 5-5:15p	1:00:00 PM	2:15:00 PM	2
08-Jan-22	Beach	Ocean rescue patrol: 9:30-11a & 4-5p	10:30:00 AM	1:00:00 PM	2
10-Jan-22	Beach	Ocean rescue patrol: 10-11a & 4-5p	11:00:00 AM	1:00:00 PM	2
12-Jan-22	Station 12	Ocean rescue patrol: 9:30-10a, 12:15-13:15p, 2:45-3:15p & 4:45-5:15p	12:01:00 AM	5:01:00 AM	2
13-Jan-22	Beach	Ocean rescue patrol:	11:00:00 AM	2:00:00 PM	2
14-Jan-22	Beach	Ocean rescue patrol: 9:30-10a, 12-1p, & 4-5p	12:00:00 PM	2:30:00 PM	2
17-Jan-22	Beach	Ocean rescue patrol: 10-11a, 12-1p, & 3-5p	11:00:00 AM	2:00:00 PM	3
19-Jan-22	Beach	Ocean rescue patrol: 12-1:30p & 4:30-5:30p	12:00:00 PM	2:30:00 PM	2
20-Jan-22	Beach	Ocean rescue patrol & trng.: 10-11a, 1-2p, & 4-5p	11:00:00 AM	2:00:00 PM	2
23-Jan-22	Beach	Ocean rescue patrol: 10-11a, 12-1:30p, 3-4p, & 5-5:30p	11:00:00 AM	3:00:00 PM	2
24-Jan-22	Beach	Ocean rescue patrol: 9:30-10a, 11-12n, 2-2:30p, 3:30-4p, & 4:45-5:15p	12:00:00 PM	3:00:00 PM	2
25-Jan-22	Beach	Ocean rescue patrol & trng.: 9:30-10a & 4-5p	12:00:00 PM	1:30:00 PM	2
26-Jan-22	Beach	Ocean rescue patrol: 9:15-9:45a, 12-12:20p & 4-5p	12:00:00 PM	1:45:00 PM	2
27-Jan-22	Beach	Ocean rescue patrol & trng.: 9:30-10a, 11:45-12:45p, 1:30-2:45p, & 4:45-5:15p	11:30:00 AM	3:15:00 PM	2
28-Jan-22	Beach	Ocean rescue patrol: 9:30-10a, 1:15-2:30p & 4-5:30p	1:15:00 PM	4:45:00 PM	2
30-Jan-22	Beach	Ocean rescue patrol & trng.: 10-11a, 1-2p, & 4-5p	11:00:00 AM	2:00:00 PM	4
31-Jan-22	Beach	Ocean rescue patrol: 9:45-10:30p, 2-3:30p, & 4:45-5:45p	11:00:00 AM	2:15:00 PM	2

*Ocean Rescue patrol consist of checking poles/life rings, educating public on flags, rips currents & any fire related issued near or on the beach.

Unit Response Time 3- Month Average

Jan-22

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	44	56	3	3
Response Time	0:05:58	0:5:46	0:00:00	0:00:00

Total Average Response Time : 5:00

Dec-21

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	48	51	0	4
Response Time	0:05:12	0:05:13	0:00:00	0:00:00

Total Average Response Time : 4:48

Nov-21

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	39	46	2	6
Response Time	0:05:39	0:05:41	0:00:00	0:00:00

Total Average Response Time : 4:36



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted By: Linda Connors, Town Manager

Submitting Department: Administration

Item Type: Reports

Agenda Section: TOWN MANAGER REPORT

Subject Title: Town Manager Report for February 22, 2022

Explanation: Following is the Town Manager's report for February 22, 2022.



1. FDOT Walking Audit

Last Thursday, Town staff, Vice-Mayor Oldaker and FDOT staff and contractors met to conduct a Roadway Safety Audit to assess the walking conditions on A1A. Staff addressed the lack of crosswalks, broken light fixtures, inefficient or missing signage and areas in the sidewalk that needed repair or replacement. FDOT will review the results of the survey and identify items that can be fixed immediately, those that would require a short timeline and other projects that would require several years. Broward County transit is also reviewing ADA improvements for existing bus stops and their surroundings. We will also work with the MPO to see if there are additional means to help the Town continue to improve pedestrian safety.

2. Board Appointments

The Town Commission will be appointing board members for the Planning and Zoning Board, Audit Committee and Firefighters Pension Board of Trustees at their April 12th Commission meeting. A person must be a resident to qualify. Please submit your board application available on the Town's website to the Town Clerk for additional information, please contact the Town at (954) 640-4200.

3. Pier Status

The Town cited the Pier and has been presented their case to several Special Magistrate Hearings since April 2018. Several Orders have been issued, and in October 2019 the Magistrate assessed fines totaling \$53,375. The County issued a stop work order and required additional federal permitting. This took several years and during this time no additional fines were assessed. The permits were finally issued last October and the Pier owners were brought before the Special Magistrate to discuss their progress at the January 20th Special Magistrate meeting. At that meeting it was decided that the Building Official and Code Compliance staff will conduct monthly site visits to review progress and will report to the Special Magistrate at the monthly Code Hearings. The last site visit was Wednesday, January 26, 2022, when we saw the pier being prepared for evaluation and repairs. Since then, we have been informed that divers have been in the water for extensive assessments. The next site visit is scheduled for Wednesday, February 23, 2022 and the case is scheduled to appear again at the February 24, 2022 Special Magistrate Hearing.

4. Sea Lord Annex Building Update (4132 N Ocean Drive)

Last month, the Town Building personnel issued a Stop Work Order for rooftop or exterior work on the Sea Lord Annex property. This Order was issued because there were deviations between the approved plans and the structure under construction. Staff met with the owner, architect and builder and required revised elevations along with an updated narrative to explain the proposed modifications as well as the items that exceed the Code's height limitations. A narrative was submitted but was deficient and the Town has asked for additional information. In the interim, the property owner has been cited and the case will be presented to the Special Magistrate at the February 24, 2022 meeting.

5. Visitor Center

As you may know, Veronica Pietronuto, the longtime Visitor Center employee, has resigned. She was a wealth of information and will be missed terribly. We are lucky to have Lisa Johnson filling in two days a week with volunteers staffing the center on remaining days. If you are

interested, the Visitor Center is looking for volunteers to help staff the front desk. Please contact (954) 640-4200 if you are interested.

Please also see attached thank you letter written by a happy visitor to the Town appreciating Debbie Hime's suggestions.



6. Friedt Park Lighting

A few of our lights in Friedt park are broken which made using the Bocci Ball courts at night difficult. The Public Works department were able to change out the broken fixture and poles with temporary poles until such time that we decide a permanent option. This project was completed using budgeted funds for less than \$2,000 for ten fixtures. As a comparison, the replacement fixtures were previously purchased at a cost of \$2,000 per fixture. Thanks to Ken and his team for careful fiscal management.

Attachments:

Ex. 1 – Thank you Letter

Mayor Chris Vincent
Town Hall
4501 North Ocean Dr
Lauderdale By The Sea, FL 33308

Subj: Great Time In Your City

Mayor Chris Vincent,

We live in a small community on the outskirts of Richmond Virginia and decided to escape the cold Virginia winter and spent this week in Ft Lauderdale. This was our first time in this part of Florida and had an itinerary setup to visit Miami, Everglades and Key West. We stayed at the Ocean Sky Resort and I'm lucky we saw your LBTS Visitor Center on the way to check-in.

I unfortunately do not remember the nice lady who helped us answer so many questions on Monday February 6th but she was excellent and is a great ambassador for your city. We essentially trashed our itinerary and followed her recommendations. We ended up not going to Miami or Key West and spend our time in LBTS dining at local restaurants and visiting places she had recommended. The Morikami Japanese Garden was especially special.

I normally do not write letters like this but she made our vacation so special and we will be sure to make visits to Lauderdale By The Sea a yearly event. Kudos to you and your citizens for maintaining such a nice city. Truly extraordinary! Thank you.

Takashi Eto

Takashi and Midori Eto
4626 King Bird Ct
Providence forge, VA 23140

Copy to: LBTS Visitor Center

*Thank you for recommending the
Sea Watch On the Ocean. The
food was outstanding! We'll
see you next year!*



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted By: Neysa Herrera, Assistant to the Town Manager

Submitting Department: Administration

Item Type: Minutes

Agenda Section: APPROVAL OF MINUTES

Subject Title: Approval of Minutes: January 10, 2022, Town Special Commission Meeting & January 11, 2022, Town Commission Meeting

Explanation: Approval of the following Town Commission Meeting Minutes:

- January 10, 2022 Town Special Commission Meeting
- January 11, 2022 Town Commission Meeting

Recommendation: Accept / Approve

Attachments: Ex.1. January 10, 2022 Town Special Commission Meeting Minutes
Ex.2 January 11, 2022 Town Commission Meeting Minutes



DRAFT
TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
SPECIAL TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Monday, January 10, 2022
6:30 PM

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Chris Vincent called the meeting to order at 6:30 p.m. Also present were Vice Mayor Alfred “Buz” Oldaker, Commissioner Edmund Malkoon, Commissioner Elliot Sokolow, Commissioner Randy Strauss, Town Attorney Susan Trevarthen (attending via Zoom), Assistant Town Attorney James White, Town Manager Linda Connors, Assistant to the Town Manager Neysa Herrera, Development Services Director Jhanelle Campbell, Public Works Director Ken Rubach, Director of Finance and Budget Lucila Lang, and Public Information Officer/IT Administrator Steve d'Oliveira.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. QUASI-JUDICIAL

Mayor Vincent advised that the Item before the Town Commission at tonight’s meeting requests Level II Conditional Use Review. The Applicant is seeking to construct a single-family dwelling unit in the RM-25 zoning district.

- a. Pursuant to Town Code Section 30-126, “Conditional Uses Review,” the Applicant has requested Level 2 Conditional Use Approval to construct a single-family dwelling unit in the RM-25 zoning district.**

Town Attorney Susan Trevarthen explained the procedures for the hearing of quasi-judicial items, and the Commissioners disclosed any ex parte communications on the Item.

Town Attorney Trevarthen added that the Town has received a number of written public comments during the time in which tonight’s Item has been pending. These are included in the backup materials, along with written summaries of oral comments made at previous Town meetings. The Town has also received two written submissions that were not included in the backup materials:

- A letter from Walter Duke dated January 7, 2022

- A letter from Henry Handler dated January 6, 2022

Both of these individuals made comments on behalf of The Seaward Villas, which is a neighbor to the subject property.

There were no questions from either the Applicant or the neighboring party with respect to the Commissioners' ex parte communications.

Individuals wishing to speak on the Item were sworn in at this time.

Development Services Director Jhanelle Campbell showed a presentation on the Item, which requests construction of a single-family home at 4112 El Mar Drive in the RM-25 zoning district. The property is currently a vacant lot of 10,177 sq. ft. (0.23 acre) in size. Public notice of tonight's meeting was mailed to all property owners within a 300 ft. radius of the subject site, and notice was posted on the property itself, on each end of El Mar Drive, and on the Town's website.

Staff received several questions, comments, and public records requests related to the Application. These are included in the Commissioners' backup materials.

When the Application was received, the subject property owners could request approval for conditional use in the RM-25 zoning district. Since that time, however, Ordinance 2021-09 has been passed, meaning no other such requests may be brought forward. This Application was received prior to adoption of the Ordinance. Staff has reviewed all Application materials, as well as architectural submittals.

Conditional use criteria are governed by Section 30-126 of the Town's Code. This Section provides a process by which conditional uses may be granted. Conditional use applications require review by Town Staff, the Town Architect, and review/recommendation by the Planning and Zoning Board. Final review and consideration is made by the Town Commission.

Conditional uses are not permitted by right, but may be approved if substantial evidence is presented to show that an application meets the criteria listed in Code. These criteria are as follows:

- Land use compatibility
- Sufficient site size
- Site specifications
- Infrastructure sufficient to accommodate the proposed use

- Compliance with the Town's Comprehensive Plan and Code of Ordinances
- Proper use of mitigative techniques

Staff has reviewed the Application in accordance with these criteria. The Application was presented to the Planning and Zoning Board at its July 7, 2021 meeting. After discussion and input from the Applicant, the abutting property owner, and the public, the Planning and Zoning Board recommended approval of the request by a 4-1 vote. Public comments heard at that meeting are also provided in the backup materials.

Following the Planning and Zoning Board meeting, the Application was subjected to architectural review per Code Section 30-5.1. The Town Architect initially found that the proposed structure was incompatible with the Town's preferred architectural style of Mid-century Modern. A revised design was then submitted and approved by the Town Architect. Development Services Director Campbell showed graphics of both the initial and revised designs.

Under the land use compatibility criterion in Section 30-126, several sub-criteria were evaluated. The building plans for the proposed structure indicate a maximum height of 33 ft. This elevation is based on the Florida Department of Environmental Protection's 100-year storm elevation. This approach has been followed since approximately 2013, based on the Town Attorney's interpretation of Section 7.2 of the Town's Charter.

The land use compatibility sub-criteria were also analyzed and aesthetics reviewed by the Town Architect, who found them to be compliant. The proposed single-family home is expected to be able to coexist with the permitted land uses on El Mar Drive and in surrounding areas without negatively affecting adjacent and neighboring properties.

For the sufficient size criterion, Staff agreed with the Applicant's analysis that the property is of sufficient size to provide adequate screening, buffers, landscaping, open space, off-street parking, internal traffic circulation, infrastructure, and similar plans and improvements necessary to mitigate against potential adverse effects of the proposed use. The Mid-century Modern design and scale of the property were found to be compatible with adjacent and surrounding properties. Staff found the Application to be compliant with both the Comprehensive Plan and the Code of Ordinances.

Regarding the proper use of mitigative techniques, the Application demonstrates use of these techniques, including changes made during revision of the initial design. The proposed design appropriately addresses all off-site impacts to ensure that land use

activities in the vicinity, including community infrastructure, will not be burdened by adverse effects detrimental to the general public health, safety, and welfare.

The Town Manager also found that the Application met the requirements of Town Code as well as for approval of conditional use. Her approval is included in the Staff Report.

The single-family home is proposed to be constructed at 33 ft. above wave crest elevation. This elevation is based on FDEP's 100-year storm elevation, also known as a breaking wave crest elevation under 2020 Florida Building Code. For this Application, the 100-year breaking wave crest elevation is established at 17.52 North American Vertical Datum (NAVD). Development Services Director Campbell noted that the abutting property is not required to meet this elevation, as it was constructed prior to the adoption of this regulation; however, if the abutting property were to be significantly improved or a new building was constructed, the elevation of the new or improved structure must also meet the breaking wave crest elevation requirements.

Conditional use requirements are intended to ensure that a project having an adverse impact on neighboring properties is not approved. The request for a single-family home would generate less traffic and potentially fewer people using the surrounding beach. Staff does not view these as detrimental to the community.

Staff believes that the architecture of the proposed structure is unique and consistent with the Town's preferred architectural style of Mid-century Modern. It also mimics the architectural design and characteristics of smaller Mid-century Modern boutique hotels located on El Mar Drive.

Upon reviewing all plans and materials submitted by the Applicant, Staff believes these are consistent with Town Code. They have determined that the Application meets the criteria for approval. The standard conditions of approval, which would be included in the Development Order if the Application is approved by the Town Commission, would apply.

Commissioner Malkoon asked if the Application also meets all setback requirements for the property. Development Services Director Campbell confirmed this.

Mayor Vincent requested additional detail regarding the actual height and wave crest elevation of the streetside portion of the proposed building. Development Services Director Campbell explained that the NAVD point of habitable space begins at 17.52 ft.

When this is added to the proposed building height, the top of the building will lie at an elevation of approximately 43 ft.

Commissioner Strauss asked for the height of the building located just north of the Seaward Villas. Development Services Director Campbell advised that she did not have information regarding the height of this building, which is the Sea Lord Hotel.

Mayor Vincent commented that Staff's analysis of the conditional use request appeared to be in agreement with the Applicant's analysis. Development Services Director Campbell confirmed that Staff did not believe there would be any adverse impacts, inordinate burden, or hardship on the Seaward Villas. She added that the change from the Applicant's initial design to the revised design addressed some of the potential adverse effects: for example, the balconies on the ocean side of the subject property were changed to glass, which allows for more penetration of sunlight. Mayor Vincent observed that these were material, but not substantial, adjustments to the construction of the building itself, with no changes proposed to its design, height, width, or setbacks.

Courtney Crush, attorney representing Applicants Sherri and Dave Staudacher, stated that the Conditional Use Application was originally submitted in March 2021 and included a request for administrative adjustments. Following discussions with Town Staff as well as feedback from the neighboring property to the north, the Application was revised to remove the request for administrative adjustments. The Application has been recommended for approval after analysis by Planning Staff, the Planning and Zoning Board, and general discussion of single-family homes on El Mar Drive.

Ms. Crush recalled that the Planning and Zoning Board had discussed both future policy issues and the appropriate time for architectural review. The Application was originally scheduled to come before the Town Commission in fall 2021; however, this was deferred in order for architectural review to proceed. This review was submitted to the Town Architect. The Town also directed Staff to prepare a proposed Amended Zoning Ordinance that would remove single-family homes from the RM-25 zoning district. The Planning and Zoning Board recommended approval of that draft Ordinance, which was ultimately brought before the Commission.

The Applicant also received correspondence from the Town Architect which clarified his review of the proposed structure's architectural. In this letter, the Town Architect explained that the scope of his review was limited to architectural features, pursuant to Town guidelines.

The Commission considered the amended RM-25 zoning regulations upon first reading and adopted these changes in October 2021. The Applicant's team conducted a follow-up discussion with the Town Architect, and received a letter of approval of architectural review in October 2021.

Ms. Crush noted that uses along El Mar Drive include vacant property, residential, hotel/motel, and commercial uses. Toward the north, the built environment is varied with regard to new building placement and heights. Residential and hotel/motel uses also continue toward the north on El Mar Drive.

Ms. Crush stated that the proposed single-family home is capable of meeting criteria associated with land use, Town Code, and analysis of mitigative techniques. The subject property is a platted lot that has never been subdivided or "carved off."

Cecilia Ward, also representing the Applicant, recalled that in 2011-2012, she was hired by the Town to assist in the review of its Comprehensive Plan, Unified Land Development Regulations, and architectural design issues. She assisted with an in-depth study into existing conditions in relation to hotel, motel, and apartment hotel uses, which included significant public outreach. The result was a number of changes to the RM-25 zoning regulations in Section 30-241 of Code, which were intended to make it easier for existing hotel, motel, and apartment hotel establishments to upgrade and renovate.

Ms. Ward continued that the end result of these changes was the discouragement of conversion of existing hotel and motel uses. She emphasized that there was no intent to prohibit single-family development on vacant lots, which is why the conditional use process was available to allow this development.

Ms. Ward stated that she has analyzed the Town's Code for dimensional standards and requirements as they apply to the site design submitted with the Application. She found these to be compliant with setback and view requirements, noting that the intent of view requirements is to allow pedestrians on El Mar Drive to be able to see the ocean. The Application also complies with height restrictions and parking requirements.

Ms. Ward next addressed conditional use review criteria, noting that the density of the subject zoning district allows roughly seven dwelling units, or 14 units for a hotel or motel. These are significantly less dense than what is permitted. The subject area must also be in harmony with existing residential uses in the surrounding vicinity. The location does not result in substantially less public benefit. Some provisions among the

conditional use criteria, including hours of operation, do not apply to a single-family home. The proposed use is also consistent with the characteristics of El Mar Drive and its varying densities and design types.

There are four overriding categories of conditional use review:

- Land use compatibility
- Size of the site
- Compliance with the Comprehensive Plan
- Mitigative techniques

Regarding land use compatibility, the proposed single-family use is compatible, as it is less intensive than other uses that are permitted by right. The use is permitted in the RM-25 zoning district and Medium Residential Future Land Use category.

The proposed single-family use satisfies the Town's architectural review. Ms. Ward reiterated that the intent of the architectural design guidelines was to move from requiring Mediterranean-style architecture and instead encourage preservation of Mid-century Modern. The Town Architect has confirmed that the proposed structure is compatible with this criterion.

The Applicant's team performed a traffic analysis that shows the proposed single-family structure would result in significantly less traffic than would be generated by seven or 14 units, each of which would be permitted by right. The proposed use complies with all dimensional requirements of the RM-25 zoning district. Ms. Ward advised that Code requires a site design or plan of site design as part of the Conditional Use Application: single-family dwellings are not required to submit a Site Plan application.

The Application is also in compliance with several policies and objectives, some of which address infrastructure capability to serve the proposed development, level of service standards, and design of the proposed use to pedestrian scale. Ms. Ward clarified that the latter refers to the preservation of view requirements from El Mar Drive for pedestrians.

Ms. Ward concluded that the proper use of mitigative techniques, as noted earlier by Town Staff, includes the placement of windows in relation to adjacent properties, addition of glass railings, and other architectural design features, including both horizontal and vertical design elements.

Ms. Crush recalled that when the Application went before the Planning and Zoning Board, Board members and community residents evaluated the criteria discussed above and asked questions related to design, setbacks, height, minimum flood elevation, and grade. One neighboring property showed a graphic suggesting that a building feature of the proposed structure could be flipped so it faces the south rather than the north. Following the Planning and Zoning Board meeting, the Applicant's team reached out to this neighbor and was advised by their counsel that the proposed flip would not be sufficient.

There was also discussion by the Planning and Zoning Board that the approval of the proposed single-family home might result in the proliferation of single-family homes on larger vacant properties. The Town has since amended its Code to address this concern.

Once the Planning and Zoning Board approved the Application, it proceeded to architectural review. Ms. Crush advised that the Planning and Zoning Board's findings that the proposed structure is compliant with setbacks, setbacks, and other requirements are maintained in the Application. Changes include the incorporation of specific critical elements from the Town's architectural guidelines into the property. She showed renderings of the two designs, noting that the building maintains its footprint and that a variety of different features, include architectural elements and the color palette, have been introduced.

Tara Patton, also representing the Applicant, addressed the design enhancements that were added following initial architectural review. She also showed a graphic clarifying the changes from initial to final submittal, pointing out that while the overall style remains the same, there are variations. These consistent elements include asymmetrical design, cantilevered canopies, use of geometric shapes, intersecting planes, and cutouts. She noted that the primary change in the two designs is the color.

Other details that changed following Planning and Zoning Board approval include highlighting of asymmetry with like colors, Mid-century Modern elements near the front door and around the walls, use of glass railing materials, changes to the balcony areas, "eyebrows" over windows, and cutouts to both rear and front walls. The lighter color palette contributes to a more coastal appearance.

Ms. Patton continued that when the Applicant's team looked at nearby structures on El Mar Drive, they found that the surrounding architectural styles are varied, with Mediterranean and Mid-century Modern elements as well as traditional architecture.

Ms. Crush concluded that the Applicants have listened to the input of Town Staff, the Planning and Zoning Board, and prospective neighbors in proposing the design for their property. She reiterated that conditional use is permitted subject to assurance that an applicant complies with land development regulations, the residential Comprehensive Plan, Code requirements, and conditional use criteria. The Application has been reviewed at multiple levels and was found to meet these criteria.

Ms. Crush requested the opportunity to make follow-up comments as necessary after other speakers have addressed the Commission.

Commissioner Malkoon stated that he did not feel it was accurate to suggest that the proposed structure would have no impact at all on neighboring properties. While the building is permissible according to the analyses provided, he noted that it is likely to be the last single-family home in the subject area, due to steps taken to prohibit more such developments. He also suggested that more could have been done by the Applicant to mitigate the property's effects on its neighbors, even though the size and height proposed are permitted by Code.

Commissioner Malkoon continued that the Seaward Villas had expressed concern regarding the potential shadows cast by the proposed building, and had provided a rendering that showed its pool deck would be in shadow for most of the year. He asked if it might make sense for the Applicant to move their proposed pool to the north side, which would create more space between the two properties and potentially benefit both parties.

Ms. Crush replied that the Applicants' team had reached out to the Seaward Villas' counsel to indicate they were willing to discuss this possibility; however, counsel responded that this change would be insufficient to address his clients' concerns. She read from the letter of response from Seaward Villas' counsel, which indicated that the Applicants must also be willing to discuss the height and proximity of their planned structure to both the Seaward Villas property and El Mar Drive.

Commissioner Malkoon explained that his intent was to acknowledge that the planned structure will have an impact on neighboring properties. He pointed out that even a smaller building would have an effect on Seaward Villas, as that property's doors and windows face south and the new structure would still affect its views. He concluded that he would like to see these two parties meet to discuss realistic mitigation of impacts.

Ms. Crush advised that her clients were happy to discuss this further with their neighbors.

Mayor Vincent shared Commissioner Malkoon's concerns that the redesign of the property after its first architectural review had not included any material changes to the structure, but only to architectural features and elements. He added that while the proposed project now meets architectural standards, this does not mean that it will meet conditional use requirements with respect to its impact. The Town Architect has not opined on aspects such as impacts or an inordinate burden on adjacent properties.

Mayor Vincent continued that when the Town rewrote an Ordinance regarding this zoning district in 2012, the Commission at that time had not indicated any opposition to residential use, which could have included not only single-family homes but condominiums or other multi-unit development. He clarified, however, that he did not believe the 2012 Commission had any intention of permitting the development of single-family homes, but had unfortunately neglected to address this.

Mayor Vincent also noted that while the Planning and Zoning Board had recommended the Application by a vote of 4-1, they also voted 3-2 against grandfathering the Application, which he felt was significant. Ms. Crush suggested that this may have been the result of those two votes being taken under "two different sets of criteria."

Vice Mayor Oldaker asked if the Applicants' architect had been permitted to design their home "to the max" for what could be built on the property, or if they provided the architect with a design to try to fit onto the lot. Ms. Crush replied that the architect was given parameters for the design, based upon the family's preferences as well as wave crest elevation requirements.

Vice Mayor Oldaker asked if, during the design process, the Applicants had acted with "compassion to the neighborhood." Sherri Staudacher, Applicant, advised that neighbors had asked that three large air conditioning units be relocated. She recalled that she and her husband had spoken with the neighboring property owners and their family on several occasions. Those owners had provided the Applicants with an architect's renderings of what they would find acceptable, although this did not reflect her own wishes for her property.

Vice Mayor Oldaker requested clarification of the timeline for these discussions. Ms. Staudacher stated that these discussions began in spring 2021. She added that when the plans for the home were brought before the Planning and Zoning Board, it had come

as a surprise when neighbors reacted negatively to the design, as the Applicants' team had reviewed the design of the building in detail with the neighboring property owners. By the time the Planning and Zoning Board saw the Application, the neighbors adamantly opposed the conditional use.

Ms. Crush continued that following the Planning and Zoning Board meeting, the Applicants' team had offered mitigative techniques, which included the architectural modifications referred to earlier. These changes were made prior to architectural review and were part of the presentation to the Planning and Zoning Board. Following that Board meeting, the Applicants had minimal contact with their neighbors except through both parties' counsel.

Commissioner Strauss addressed the alternate architectural drawings provided to the Applicant by their neighbors, asking if those drawings proposed height differences for the property. Ms. Crush explained that the neighbors' architect had communicated with the Applicants' architect: this contact did not occur between the Applicants and either the neighbors or the neighbors' counsel. The proposal had included "sliding the building" from one position to another rather than reducing its height. The architects' contact occurred in December 2021, on or after the time at which the neighboring property owners had requested deferral of the Item.

The Commissioners took a brief recess from 7:11 p.m. to 7:25 p.m.

Henry Handler, attorney representing the Siletti Family Limited Partnership, which owns the Seaward Villas property at 4128 El Mar Drive, stated that his clients opposed the Application. He submitted a letter dated January 7, 2022, by the team's property appraiser, Walter Duke, as well as his own letter dated January 6, 2022, both of which were previously sent to the Town.

Mr. Handler advised that the Town's zoning Code previously included single-family residential development as a permitted use in the RM-25 zoning district. In 2012, the Town amended its zoning Code to eliminate this permitted use from that district, instead making single-family residential use a conditional use in RM-25.

Mr. Handler asserted that the Commission's reasons for eliminating this permitted use were stated during various Town Commission and Planning and Zoning Board meetings held in connection with this Code revision. This was because the Town wished to keep single-family residential neighborhoods separate and distinct from the business and

commercial hotel district: hotels were encouraged within the RM-25 zoning district, and single-family residential uses were discouraged.

The Town also amended Policy 1.2.1 of its Comprehensive Plan to reflect its intent to keep single-family residences separate from high-density multi-family or tourist-oriented land uses. The RM-25 zoning district is a significant commercial district within the Town and is intended to permit single-family residential uses “only in rare circumstances.”

Mr. Handler continued that the purpose of the Conditional Use section of Town Code is to ensure that these uses are only permitted on specific sites where the proposed use may be adequately accommodated without adversely affecting properties and land uses within the immediate vicinity. Conditional uses may only be permitted upon the finding that the proposed use satisfies the specific review criteria in Code.

One requirement of a conditional use application is a description of any mitigative techniques used to abate any possible adverse impacts of the proposed use on properties in the immediate vicinity. This means the Applicant must demonstrate the following:

- Land use compatibility of the conditional use, including its proposed scale, traffic-generating characteristics, and off-site impacts
- Compatibility shall be measured based upon characteristics of the proposed use or development in relationship to surrounding development in the immediate area

Mr. Handler asserted that the design of the Applicants’ proposed residence does not employ sufficient mitigative techniques to reduce the structure’s negative impacts, which include loss of light and diminishment of view corridors. He added that the size and shape of the site are inadequate to accommodate the scale and intensity of the proposed conditional use.

Mr. Handler continued that the proposed use is contrary to the Town’s historic character and RM-25 zoning district as well as to its policies regarding the separation of single-family residential areas from higher-density multi-family and tourist-oriented land uses. The adverse effects of the proposed structure on the Seaward Villas are expected to include projected loss of income and property value.

William Schenck, also representing the Siletti Family Limited Partnership, stated that he was hired in June to investigate potential adverse impacts of the proposed residence to the south of his clients’ property. He advised that the Seaward Villas include four units

with both south- and east-facing windows, as well as a beachfront pool. The proposed residence is 40 ft. 6 in. in height as opposed to the 22 ft. height of the Seaward Villas.

Mr. Schenck stated that the proposed residence extends its maximum distance to the beachfront side, which he estimated was 18.5 ft. beyond the edge of the Seaward Villas. The proposed plans, as of October 19, 2021, extend to the maximum rear setback limit line. The building is set back the maximum distance of 35 ft. from El Mar Drive.

Mr. Schenck commented that the proposed structure's height is 33 ft., or three stories, above the wave crest elevation. He pointed out that the Town's single-family residential district allows a height of two stories above grade.

Mr. Schenck continued that the current design's setbacks are calculated based on the overall length of the building, which is listed in the Applicants' plans as 110 ft. He stated that the revised plans include a 3 ft. balcony, which can be occupied, to the west of the building, which extends the building's overall length to 113 ft. He felt the setback should be calculated using this distance rather than 110 ft.

Another concern was for inconsistencies within the plans. Mr. Schenck noted that renderings and elevations indicate a "bump-out" to the north and south with no set dimension. This would extend beyond the walls shown on the Site Plan and constitute a setback violation.

Mr. Schenck provided a shadow study dated December 1, 2021 at 1 p.m., stating that while the Seaward Villas currently have good access to natural lights both in the units and to their pool area, the proposed residence would have excellent light and panoramic views on a year-round basis at the expense of the Seaward Villas. Other shadow studies occurred during prime rental months of November, December, January, and February and also show shadows cast upon the Seaward Villas. He identified this as an adverse impact.

Mr. Schenck continued that there is also an impact of shadows into the Seaward Villas' units themselves on the south and east faces of the building. Views from inside the units would also be adversely affected. He suggested it may be possible for the Applicant to do more to mitigate this issue.

In December 2021, the Siletti Family Limited Partnership offered a proposal to the Applicant that would allow them to enjoy the benefits of their home while introducing

more substantial mitigative impacts. This plan was sent to the Applicant's team with the request that it be shared with their counsel and the Applicants themselves. Mr. Schenck reviewed the differences between the Applicant's proposed design and the mitigative impacts, which include:

- Reducing the planned 35 ft. setback from El Mar Drive to 25 ft. in order to further open the right-of-way to views and light
- Flipping the plan to place parking on the southern portion of the site, and flipping large balconies to the northern side
- "Wraparound" back balconies rather than the current design to lessen shadows

Mr. Schenck asserted that these changes would allow both the Applicant and the Seaward Villas to retain ample sunlight on their pools and provide more cohesive alignment between the east and west ends of the proposed structure. The house would retain the same square footage as in the current design.

Mr. Schenck recalled that receipt of the mitigative proposal had been forwarded to the Applicants, but there was no response.

Walter Duke, architect retained by the Siletti Family Limited Partnership, explained that he was brought onto the team to analyze potential adverse financial impacts of the proposed structure to the south of the Seaward Villas. He noted that the Seaward is a boutique hotel located directly on the beach, and the components creating value for the property include its ocean view. The hotel market currently reflects record increases in pricing, which are related to the types of amenities this hotel can provide.

Mr. Duke stated that while there has been no calculation of the final diminution of value that could occur as a result of the Applicants' structure, it is expected to be significant if two oceanfront rooms cannot retain their ocean view. The beachfront units are also likely to be less appealing in the anticipated conditions. While occupancy may not decrease dramatically, a drop in room rates is expected. Mr. Duke concluded that it was his opinion a full study would show significant negative impact on the Seaward Villas property in rental rates, business operations, and market value.

Mr. Schenck provided a brief review of the Applicants' responses, which included compatibility of introducing a single-family home on the site, which will be less intensive than multi-family or hotel uses with regard to nuisances, traffic generation, and alteration of light and air. He asserted that these are not the standards for compatibility that are required by Town Code: instead, Code asks that the Commission look at the impact of the Application on immediate neighboring facilities as well as on the overall

area. He felt it has been substantially demonstrated that there would be significant adverse impacts with no real mitigative efforts made to address these impacts.

James Siletti, member of the Siletti Family Limited Partnership, stated that the proposed structure would severely affect his business. He read a statement into the record which questioned how the Application could be found as compliant with Town Code under the conditional use criteria. He cited information provided through shade studies, noting that alterations of air, light, and shadows must be considered as determining factors for compatibility.

Mr. Siletti continued that the Applicants were aware their proposed structure would have a significant impact on the adjacent boutique hotel and must be compatible with that property. He felt the Application ignores this Code requirement, and that a smaller design would have a less significant impact on the hotel.

Tony Siletti, member of the Siletti Family Limited Partnership, stated that it was not his team's intent to prevent the Applicants from leaving a legacy for their children; however, the size of the proposed structure on a small lot would have a significant negative impact on the Seaward Villas. He reiterated that they are asking the Applicant to reduce the size and impacts of their plans.

Commissioner Strauss asked if the alternative concept proposed by the Silettis' team is still viable as a proposed mitigation. Mr. J. Siletti replied that this option was offered as a proposed starting point to show there are ways to mitigate the impact of the Application. He indicated willingness to discuss this option further.

Commissioner Strauss commented that the Partnership's presentation appears to show that height is less of an issue to the Seaward Villas than setbacks. Mr. J. Siletti agreed that this is accurate. Commissioner Strauss also asked if the Partnership is opposed to the property being a single-family home rather than a multi-family or hotel use. Mr. J. Siletti advised that his primary concern was for the impact any building built on the subject lot would have on his property.

Commissioner Strauss also addressed the shade study, asking if any scenarios were run to show the effect of the neighboring property if it was limited to the height restrictions that are in place to the south of the Applicants' property. Mr. Schenck replied that no study of this nature was performed.

Commissioner Strauss noted that the proposed mitigative architectural design appears to minimize the shadow effect on the Seaward Villas. Mr. Schenck replied that there would still be shadows after 12 p.m., but these would be reduced by half under the proposed design.

Commissioner Malkoon observed that while the proposed mitigative rendering includes the same square footage as the Applicants' design, it does not propose the same height. He noted that this proposal may offer a better alignment that does not build to the maximum allowable height; however, because the Partnership's team has referred to this alternate design as "a start," the Applicants may have concerns that the proposed changes would not be enough. He encouraged the two parties to work with one another and come to a compromise.

Ian Demello, attorney for the Applicants, stated that his clients' issue with the proposal is based on this concern: while the Applicants first agreed to consider flipping the location of the pool, the result was that the Partnership then asked for more changes. He reiterated that the only change the Applicants were currently willing to consider was the original flipping of the pool. He confirmed that if the Commission approved this specific change and the Application did not have to go before the Planning and Zoning Board again, the Applicants may be willing to make that change.

Mr. J. Siletti declared that there has been outreach from the Seaward Villas to the Applicants since the beginning and that his team has made several attempts to have further discussions. The architectural renderings proposed by his team were brought forward to show how the Applicants could mitigate their property without reducing its size. He stated that his team would be happy to have additional conversations with the Applicants, although he added that he was "not in a position to say yes" as to whether his team's architectural proposal would work.

Commissioner Malkoon commented that a lesser setback in front of the proposed structure and a larger setback in its rear could protect both parties from some shadows. He felt this was a more sensible alignment of the proposed structure.

Commissioner Sokolow stated that the Partnership has enjoyed the benefits of the adjacent empty lot for several decades. He pointed out that while the Applicants have attempted to mitigate the effects of their proposed structure, it is ultimately their property, and the Town's Development Services Department has confirmed that their plans are acceptable. He concluded that these were the effects of living in an

environment that is always becoming more crowded, and hoped to bring this ongoing issue to an end at tonight's meeting.

Mayor Vincent commented that his decision would be based on the testimony presented, as well as on the Town Code that was amended in 2012. He again noted that Staff has not addressed any of the Application's prospective impacts on the neighboring property, and asked if this meant Staff believed it would have no negative effects on the Seaward Villas. He also asked why Staff had only addressed the Applicants' analysis of the Application and not any of the findings brought forward by the neighbors' team.

Mayor Vincent continued that there was also no discussion of the 2012 Ordinance that removed single-family homes from the RM-25 zoning district as a permitted use, nor an explanation of the purpose of its conditional use status, which he stated was intended to provide additional consideration to prevent a potential onslaught of single-family homes on El Mar Drive. There have been no such applications in the RM-25 district before the current one.

Mayor Vincent advised that the Town should have taken steps to protect itself from the type of situation that is now before the Commission, such as the recent adoption of an Ordinance that prohibits the development of any more single-family homes in the RM-25 district. He felt the Application should be sent back to the Planning and Zoning Board, adding that the purpose of the 2012 Ordinance had been grossly misrepresented at the previous Planning and Zoning Board meeting at which this Application was discussed.

Mayor Vincent continued that the only mitigative changes proposed by the Applicants were modifications to the materials requested by the architect rather than to the design of the structure itself. He also noted that while the Town Architect's decision is final because it was not appealed before the Commission, this did not constitute a final decision for the entire process. In addition, the Town Architect did not offer an opinion on impacts, as that would have been outside his purview.

Mayor Vincent again recommended that the Application be sent back to the Planning and Zoning Board "with the information that we all have now."

Mr. Demello stated that the Applicant is neither challenging the Partnership's right to stand as an affected party under Town Code, nor are the Applicants conceding that the Partnership has demonstrated legal standing. He reiterated that single-family residences were sanctioned by the Town as a conditional use and are presumed to be

compatible in the general welfare. If the Applicants meet the criteria for conditional use, the burden then shifts to either the zoning authority or the Town Commission to demonstrate that the Application does not in fact meet this standard and that the request is adverse to the public interest.

Mr. Demello continued that the Staff Report includes substantial evidence of mitigative techniques and that the Application complies with Code, conditional use criteria, and the Town's Comprehensive Plan.

Town Attorney Trevarthen clarified that it would not be appropriate at this time for the Applicant's counsel to offer a rebuttal or closing argument, as public comment on the Application has not yet been heard. If there are no more direct questions from the Commission at this time, she recommended that public comment be heard, including a reading of written comments submitted in advance of tonight's meeting.

Assistant to the Town Manager Neysa Herrera read the following written comments:

- Barbara Cole, resident, addressed the Town's Strategic Plan from 2012, noting that it has resulted in revisions to Code and the Comprehensive Plan which address the Town's character in terms of the uses permitted in various areas. The Strategic Plan recommends like uses beside like uses in order to prevent conflict. She concluded that the Commission should do what it can to preserve the RM-25 district.
- Ann Marchetti, resident, stated her opposition to the Application, pointing out that the project's size would have adverse impacts on the neighboring property and therefore does not meet conditional use criteria. She did not feel a single applicant should be able to change the landscape of El Mar Drive.
- Roseann Minnet, resident, asked the Commission to reconsider whether or not the Application is cohesive with the rest of El Mar Drive. She felt the proposed structure would not fit into that roadway's community environment, and the Commission has the authority to request a more appropriate structure that maintains sight lines to the ocean.
- Wayne Dillistin, resident, advised that he had voted against the Application as a member of the Planning and Zoning Board. He cautioned that the Application does not meet conditional use criteria, as it is not compatible with adjacent land uses and is not consistent with the future development of El Mar Drive. He concluded that the Application should go back to the Planning and Zoning Board for review once it has met the requirements of having no negative impacts.

At this time Mayor Vincent opened public comment. Town Attorney Trevarthen noted that the weight of individuals' testimony is greater if they are sworn in.

Sherri Staudacher, Applicant, addressed an earlier comment that stated the Applicants had not responded to outreach from the Partnership. She explained that it had been necessary for her and her husband to change attorneys, as their attorney at that time had worked with Mr. J. Siletti on a previous matter.

Dave Staudacher, Applicant, advised that his team had no issue with modifying the setbacks and flipping the pool to the opposite side of the building; however, he pointed out that the Partnership was unwilling to commit to making no further requests. He concluded that they would be willing to make concessions "as long as we were protected on both sides."

Ms. Staudacher clarified that this referred to the possibility that a property on either side of the Applicants' parcel could make changes that affected their home.

Barbara Cole, resident, stated that at the September 13, 2021 Commission meeting, the property at 4112 El Mar Drive was grandfathered in for consideration of conditional use. She recalled that at the March 21, 2012 Planning and Zoning Board meeting, the Town Planner had indicated that conditional use for a single-family home in the RM-25 district "was the Commission's number-two priority."

Ms. Cole continued that in 2012, during consideration of the Strategic Plan's mission and vision statements, the Town Attorney had noted many communities did not realize they "wanted to say no" until it was too late for this action. She also noted that it was not always a use that was objectionable to a community, but the scale and presentation of the use as well.

Town Attorney Trevarthen stated that at this point, Town Staff had the opportunity to rebut any information offered at tonight's meeting, followed by the same opportunity for rebuttal by the Applicant and by the neighboring party.

Development Services Director Campbell addressed the balconies of the proposed site, noting that Town Code prohibits these structures from encroaching more than 5 ft. into the front setback.

With respect to the Application's compatibility with the Town's Comprehensive Plan, Development Services Director Campbell explained that policy must be considered in

the context of established goals and objectives. She noted that Policy 1.2.1 perpetuates the existing pattern of segregating single-family areas from higher-density multi-family and tourist-oriented land uses, pointing out that this policy refers to areas rather than to specific lots.

Goal 1.0, which corresponds to Policy 1.2.1, seeks to maintain a coastal resort-oriented residential community characterized by a land use mix which reflects a balance of year-round, seasonal, and tourist populations and discouragement of urban sprawl. Development Services Director Campbell advised that the RM-25 zoning district provides for a mix of uses. Objective 1.2 also corresponds with this policy by maintaining the Town's year-round residential character, with particular emphasis on preservation of single-family areas. It was noted again that this reference is to areas rather than individual lots.

Mr. Demello asked if Staff had reviewed all evidence and made an independent determination as to whether or not the Applicants' proposed mitigative techniques satisfied the Code criteria. Development Services Director Campbell confirmed that this was done.

Mr. Demello also asked if the quasi-judicial proceedings outlined in Code Section 30-140 permitted an opposing party to offer rebuttal to the Application. Attorney Trevarthen stated that the Town planned to provide the Partnership with an opportunity for rebuttal. Mr. Demello explained that he felt it would be more appropriate to allow the Partnership to make their rebuttal at this time in order to ensure that the Applicants' rebuttal was the last heard before the discussion returns to the Commission. Attorney Trevarthen replied that she had no objection to this, as procedures are not specific regarding the timing of a third-party rebuttal.

Mr. Schenck addressed the Commission once more, stating that the Partnership's proposed mitigative plan was sent to the Applicants' team in December 2021. Following a second email, Mr. Schenck received confirmation that the Applicants' team had received the plan and forwarded it on to the Applicants themselves as of December 29, 2021. He concluded his rebuttal at this time.

Mr. Demello submitted the Applicants' record binder for the record at this time. He advised that the Applicants maintain the arguments from the Partnership do not provide competent substantial evidence to carry their burden, as Staff has demonstrated that the Application complies with Code.

Ms. Ward briefly addressed comments made during previous presentations, pointing out that the impact of shadows is not a criterion for conditional use review. Applicable provisions speak to the alteration of light and air, which is reviewed in relation to setbacks, the view from El Mar Drive, and adherence to provisions of RM-25 zoning.

Ms. Ward continued that value of the property is also not a criterion for conditional use review. She advised that it was her professional opinion that the testimonies related to these two items are not in compliance with discussion of the Application.

Ms. Ward noted that conditional use review is not intended to consider permitted uses within the Land Use category. Land use compatibility provisions, which are part of the conditional use review criteria, state that the Town Manager makes a determination of compatibility in accordance with Code. The provisions of conditional use criteria state that adverse impacts are measured including the permitted uses within the land use category.

With respect to mitigative techniques, Ms. Ward stated that these are intended to be applied as needed to prevent adverse impacts to adjacent land uses. This includes the area typically within a 300 ft. radius and is not limited to abutting properties. One mitigative technique is to apply the maximum setback from El Mar Drive in order to maintain pedestrian views to the ocean.

Ms. Ward continued that adverse impacts are defined in Code as “unduly negatively impacted, directly or indirectly, by another use or condition.” She asserted that neither shadows nor value are to be considered as an adverse impact for this reason.

With no other individuals wishing to speak at this time, Mayor Vincent closed the public hearing and brought the discussion back to the Commission.

Commissioner Strauss commented that he had reviewed the documentation submitted by both parties in this case, as well as documents from the Planning and Zoning Board and from previous Town Commission meetings. He characterized the Town’s Charter and Code as law within the Town, and recalled that at the time the Application was submitted, the RM-25 zoning district allowed single-family homes; however, Code provided standards for this conditional use.

Commissioner Strauss continued that the Commission is asked to strictly apply these terms and to determine whether or not an applicant has complied with conditional use standards. The conditional use standards state that an application shall be denied if the

Commission determines the proposed use does not meet the criteria or is adverse to the public interest. This means the Commission has the ultimate decision in this case. The Commission may also impose conditions and safeguards on an application.

Commissioner Strauss observed that the Applicants knew that single-family residential development was a conditional use when they purchased the subject property. He pointed out that even if the alternative plan presented by the neighbors was agreeable to the Applicants, this did not necessarily mean the Application complies with conditional use criteria. He concluded that he felt the Application should go back before the Planning and Zoning Board and that the two parties should work together toward alternatives that are more satisfactory to both of them as well as to the Commission.

Vice Mayor Oldaker stated that the Applicants' acceptance, earlier in the meeting, of a proposed alternative provided some hope for a resolution. He also believed the two parties should meet to discuss this option further and move forward from that point.

Commissioner Malkoon asked if Staff would need to review the alternative mentioned by the Vice Mayor, and if this would further delay a decision on the Application to determine if the two parties could come to an agreement. Mayor Vincent commented that any substantial change, particularly for conditional use, would have to go back before the Planning and Zoning Board.

Town Attorney Trevarthen advised that the quasi-judicial procedures state any testimony, documentary evidence, or information presented at the hearing justifies providing additional time for more research or review. The Commission may continue the case until a designated time to permit this additional research or review. Once a decision has been made to continue, the date to which the proceedings will be continued shall be announced.

Town Attorney Trevarthen emphasized, however, that a continuance would be for the purpose of gaining additional testimony, documenting evidence, or gathering more information. It would not be proper for the Town to refuse to make a decision and order the parties to decide instead: the Commission must ultimately make the decision.

Commissioner Malkoon asked for clarification of the next steps if the Application were approved at tonight's meeting. Town Attorney Trevarthen replied that in this case, a final order would be issued, along with any conditions of approval the Commission may wish to place on the project. The project would then move forward through the development

process, including building permitting and final zoning, before construction may proceed.

Commissioner Malkoon asked if the Application would then come back to the Commission for final approval of its Site Plan. Town Attorney Trevarthen stated that if the Application is approved tonight, the Commission's decision is considered to be final and the matter moves on. Should the Commission not make a decision, they have the right under Code to continue or defer the item.

Town Attorney Trevarthen also addressed the proposal that during continuance, the Application could go back to the Planning and Zoning Board. She pointed out that quasi-judicial procedures do not address this possibility, but that a decision may be postponed while more information is gathered.

Commissioner Strauss stated that his recommendation on mitigation would be for the alternative plan to go before the Planning and Zoning Board for consideration. He asked if this would be permissible. Town Attorney Trevarthen advised that this can be proposed to determine whether or not there is Commission consensus. She added that the Commission may also hear input from the two parties as well as Staff on this procedural question.

Mr. Handler stated that the Partnership approves this procedural suggestion, as going back to the Planning and Zoning Board provides a structure by which information can be exchanged about an alternative design. He added that this may include incremental changes to the project's design that are consistent with the Partnership's presentation this evening.

Commissioner Sokolow asserted that he would prefer the Commission not to postpone their decision any further, and hoped that it would be possible to make slight changes and bring both parties to an agreement. He also noted that the Commission would not be required to accept the Planning and Zoning Board's recommendation.

Mr. Demello stated that the Applicants did not agree to having the Application deferred back to the Planning and Zoning Board, as it is their right under Code and under Florida Statutes to have a decision made at tonight's hearing. He proposed that the Commission could approve the Application with conditions, which could include clear standards, such as modification of the building's setback or flipping the existing Site Plan. These could be approved administratively by Staff as long as they are compliant with Code.

Mayor Vincent asked if the Applicant's team felt they have met the conditional use requirements set forth in Code. Mr. Demello replied that there is competent substantial evidence in the record to support approval of the Application.

Mayor Vincent pointed out that the proposed structure remains essentially the same, with no significant changes to the design offered by the Applicant except architectural features and some materials. Ms. Crush stated that this is what is pending before the Commission, reiterating that after the Application went before the Planning and Zoning Board, the Applicants and Mr. J. Siletti met on-site to discuss flipping the property design. When the Applicants agreed to this proposal, however, it was determined that this change was no longer acceptable.

Ms. Crush continued that if the Commission wishes to condition their approval on this change, and if the Town Attorney and Staff agree that these conditions may be implemented by Staff, the Applicants are willing to agree to this change.

Mayor Vincent expressed concern that should the Commission agree to this condition, they would have approved a single-family use within the RM-25 district without acknowledging whether or not the property meets conditional use requirements. If the project is changed, the Commission would still have to review it to determine its impacts on the neighboring property.

Mr. Demello stated that the Application, with mitigative techniques, has already been approved by the Planning and Zoning Board. He reiterated that the Application already satisfies Code requirements for conditional use.

Mayor Vincent pointed out that the Commission retains the prerogative to disagree with Staff's testimony, based on the testimony provided at tonight's hearing. Town Attorney Trevarthen confirmed that the Commission makes the ultimate decision on which competent substantial evidence justifies their decision. She added that the Applicants' counsel is indicating that they would not object if the Commission makes a motion to approve the plans with the addition of "flipping the property and moving it to the west."

Commissioner Sokolow made a motion, seconded by Commissioner Malkoon, to make the determination that the Applicant has met the requirements for conditional use as a single-family [property], and approve the project, subject to the alternative plan of flipping it and moving it to some degree.

Town Attorney Trevarthen recommended greater specificity in the **motion**, stating that “to some degree” is not sufficient. She advised that the **motion** should be to move the structure a specific distance, and should include the phrase “subject to Code Compliance.”

Commissioner Sokolow **amended** his **motion** to include the following: **to flip the design and move the building 10 ft. to the west, subject to Code Compliance**

Vice Mayor Oldaker requested clarification of how this change would affect the wraparound balconies proposed by the Partnership’s architect. Commissioner Sokolow indicated he was in agreement with this proposed **amendment** to include the wraparound balconies with the existing footprint of the interior. Commissioner Malkoon also indicated his agreement as second.

Commissioner Strauss requested that the full **motion** be restated for clarity. Town Attorney Trevarthen restated the **motion** as follows: **Commissioner Sokolow made a motion, seconded by Commissioner Malkoon, to approve the project as proposed and with the conditions made by Staff, with the following additional conditions:**

1. The building slides 10 ft. west.
2. The design flips, as has been referred to earlier this evening.
3. The balconies are now wraparound, as shown on the document presented by the neighboring property owner.

All of that is subject to final review at building permit to make sure Code Compliance is met.

Motion carried 4-1 (Mayor Vincent dissenting).

4. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 10:43 p.m.

Mayor Chris Vincent

ATTEST:

Lauderdale-By-The-Sea
Special Town Commission Meeting
January 10, 2022

Town Clerk

Date



DRAFT
TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, January 11, 2022
6:30 PM

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Chris Vincent called the meeting to order at 6:30 p.m. Also present were Vice Mayor Alfred “Buz” Oldaker, Commissioner Edmund Malkoon, Commissioner Eliot Sokolow, Commissioner Randy Strauss, Town Manager Linda Connors, Assistant to the Town Manager Neysa Herrera, Town Attorney Susan Trevarthen (attending via Zoom), Public Works Director Ken Rubach, Director of Finance and Budget Lucila Lang, Development Services Director Jhanelle Campbell, Planner Sue Leven, Special Events and Marketing Manager Debbie Hime, Human Resources Manager Lisa Slagle, and Public Information Officer/IT Administrator Steve d’Oliveira.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pauline Brooks McGuinness gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Vincent requested that Items 17a, 17c, and 17d be heard immediately after public comment.

5. PRESENTATIONS

None.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Michael and Paula Morelli, residents, advocated for legislation that would enable Florida municipalities to implement smoke-free beaches. Mr. Morelli felt the Town’s steps to

curtail smoking debris on its beaches were insufficient, and pointed out that other cities, such as Fort Lauderdale, have passed Resolutions asking the Governor and State Legislature to allow cities and towns to prohibit smoking on beaches. He requested that the Town consider passing a similar Resolution.

Barbara Cole, resident, asked that Commissioners running for reelection and candidates for future elections learn from the Mayor's experience and practice in his office. She also spoke in favor of more Commissioner-led public meetings, and congratulated Mayor Vincent on running unopposed for his final term.

With no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

The following Items were taken out of order on the Agenda.

17. RESOLUTIONS – PUBLIC COMMENTS

- a. RESOLUTION 2022-01 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE AGREEMENT WITH THE CHAPPELL GROUP, INC., FOR BIDDING AND ENGINEERING OVERSIGHT SERVICES FOR THE CANAL DREDGING PROJECT, IN AN AMOUNT NOT TO EXCEED \$72,204.69; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Public Works Director Ken Rubach stated that Phase 1 of the canal dredging process began in 2021 with the securing of all necessary permits, which was done by the Chappell Group, Inc. The permitting phase is now complete and the Town is in the bidding phase, to be followed by dredging. He explained that this Item would provide for the Chappell Group's continued assistance in preparing the bid and overseeing the rules and regulations associated with canal dredging.

Commissioner Strauss made a motion, seconded by Vice Mayor Oldaker, to move forward with the agreement. Motion carried 5-0.

- c. RESOLUTION 2022-03 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A WORK AUTHORIZATION WITH BAXTER & WOODMAN, INC. FOR THE PREPARATION OF THE CYCLE 1 STORMWATER AND WASTEWATER NEEDS ANALYSIS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Public Works Director Rubach explained that in 2021, a number of South Florida communities experienced infrastructure issues. As a result, the State Legislature imposed a mandate requiring all municipalities to provide reports on how they plan to maintain their stormwater and wastewater infrastructure over the next 20 years.

The Town Commission took proactive steps to ensure a stormwater study was done to lay out the Town's plans over this time frame. The wastewater portion of this study is expected to be easily achieved, as the Town has recently lined all its sewer mains. The lining of laterals and overall system maintenance will be part of this plan.

Vice Mayor Oldaker asked if the state will provide any necessary funding for either study. Public Works Director Rubach replied that competitive grant funds are available; however, there is no funding from the state for this process. It was noted that one purpose of the study is to place Town projects on a list through which they will be eligible for grant funds.

Commissioner Malkoon made a motion, seconded by Vice Mayor Oldaker, to approve. Motion carried 5-0.

- d. RESOLUTION 2022-04 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA APPROVING AN AGREEMENT WITH MATRIX CONSULTING INC. D/B/A MATRIX CONSULTING GROUP, LTD FOR THE COMPLETION OF A FIRE ASSESSMENT FEE STUDY; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Assistant to the Town Manager Neysa Herrera explained that this Item is for a fire assessment rate study. The Town has maintained one of the lowest fire assessment rates in Broward County, with no increase to this rate for approximately six years. As part of the fiscal year (FY) 2021-2022 budget process, the Town allocated \$30,000 for this study. They currently have an agreement with Matrix Consulting Group for the comprehensive operations of the Town's Volunteer Fire Department (VFD). Staff recommends that Matrix be retained for the fire assessment study due to their familiarity with the VFD.

The Town's purchasing manual provides for professional services exceeding \$15,000 to be exempted from competitive requirements if the Town Commission considers this to be in the best interests of the Town.

Mayor Vincent commented that there have been concerns from business owners regarding the fire assessment fees they pay in comparison to the fees paid by private residences. Representatives of Matrix Consulting, Inc. confirmed that this will be examined as part of the study, along with how the current rates were established and options for calculating new rates. Another consideration may be whether all commercial businesses should be assessed the same rates or whether some types of commercial businesses should pay different rates depending upon the type of commercial use.

Town Attorney Susan Trevarthen advised that the Town must follow a particularly methodology in calculating the fire assessments, which is based upon classes of use and demand for services.

Commissioner Sokolow made a motion, seconded by Vice Mayor Oldaker, to approve. Motion carried 5-0.

7. PUBLIC SAFETY DISCUSSION

a. BSO December 2021 Report

Captain Tom Palmer of the Broward Sheriff's Office (BSO) stated that the number of Part 1 crimes reported in the Town in 2021 have decreased in comparison to 2020. Official figures will be provided over the next two months.

Captain Palmer added that a planned Shred-a-Thon by BSO, originally scheduled for January 22, 2022, has been postponed. The rescheduled date has yet to be determined.

Mayor Vincent asked if any particular crimes were especially diminished and whether a correlation of this decrease might be related to the COVID-19 pandemic. Captain Palmer replied that trends throughout Broward County have not been consistent.

Vice Mayor Oldaker advised that he has heard positive feedback from residents in his neighborhood regarding the presence of patrol vehicles.

Vice Mayor Oldaker made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

b. AMR December 2021 Report

Vice Mayor Oldaker made a motion, seconded by Commissioner Malkoon, to approve. Motion carried 5-0.

8. TOWN MANAGER REPORT

a. November 2021 Finance Report

Director of Finance and Budget Lucila Lang noted out that the Florida Development Group (FDG) payments for the Palm Portal and the Parking Fund have been broken down in the November report. She added that the General Fund's cash investment report includes approximately \$11 million, of which \$1.668 million has been transferred into the Capital Improvement Fund.

Vice Mayor Oldaker pointed out that revenues are listed in the November 2021 report as slightly higher than anticipated at 18.1%. Finance Director Lang added that revenues were significantly higher in November 2021 than the previous year, even with ongoing COVID-19-related restrictions.

b. Town Manager Report

Town Manager Linda Connors reported that the Visitors Center is now under Town Management, and recognized Special Events and Marketing Manager Debbie Hime for

her work during this transition. While there have been staffing issues, it is expected that the Visitors Center will soon be back to 100%.

The Town has hired an Assistant Development Services Director, Chris Gratz, who has worked in other Broward County municipalities in the past in addition to private sector experience.

Qualifying for the 2022 election ended on Monday, January 10. Commission Districts One and Two are both up for election this year. The election is scheduled for March 8, 2022.

Planning and Zoning Board membership ends at the time of the March election, and the Commission will be asked to appoint new members to this Board during the second meeting of that month. Any residents interested in serving on this advisory body are encouraged to apply through the website or at Town Hall.

Town Manager Connors noted that the current Omicron variant of the COVID-19 virus has been very contagious, resulting in staffing difficulties for Town businesses, services, and vendors. Affected services include BSO and solid waste contractor Waste Pro. She requested understanding for these entities during this phase of the pandemic.

Commissioner Malkoon asked if any candidate debates or events are planned prior to the March 8, 2022 election. Town Attorney Trevarthen recalled that in the past, the League of Women Voters reached out to the Town to plan these events. Town Manager Connors offered to reach out to this organization.

Mayor Vincent addressed the public comment provided by Michael Morelli, stating that he would ensure that informational pamphlets provided by Mr. Morelli are copied and distributed to the other Commissioners. He and Commissioner Strauss expressed interest in bringing this issue back for further discussion at a subsequent meeting.

9. TOWN ATTORNEY REPORT

Town Attorney Trevarthen reported that the Florida legislative session began today. A number of bills of interest to the Town and other local governments are moving through the committee process, including bills addressing vacation rentals, pet stores, and municipal liability for Ordinances. The proposed Statute that would restore home rule to ban smoking on beaches has not yet been scheduled for a hearing.

10. APPROVAL OF MINUTES

a. December 14, 2021 Town Commission Meeting Minutes

Vice Mayor Oldaker made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.

11. CONSENT AGENDA

a. Special Event Application for the Publix Fort Lauderdale A1A Marathon on Sunday, February 20, 2022

Commissioner Strauss made a motion, seconded by Vice Mayor Oldaker, to approve. Motion carried 5-0.

12. OLD BUSINESS

a. Audit of the Lauderdale-By-The-Sea Volunteer Fire Department – Final Report

Assistant to the Town Manager Herrera recalled that Matrix Consulting Group was selected by the Commission to conduct a comprehensive operations audit of the Town's VFD. To understand the Town's level of service, Matrix's project team conducted interviews with Town Staff and elected officials as well as members of the VFD.

In September 2021, a draft report was presented outlining the first findings of this evaluation. Residents were then provided the opportunity to add feedback via email. This public feedback has been analyzed and addressed in the update of the Matrix report, which is before the Commission tonight. Next steps will be to discuss the findings with the Commission and implement the recommendations the Commission feels would be in the best interests of the Town.

Also in 2021, the Town approved a one-year contract with the VFD. The purpose of entering into a one-year rather than a multi-year contract was to incorporate the results of the study into the drafting of a new contract. The report's recommendations will also be used to plan future budgets.

Robert Finn, representing Matrix Consulting Group, provided a brief update on the audit, recalling that the audit was intended to look at the VFD's regional response system in

Broward County. The County has adopted a “closest unit” response, which allows the dispatch center to determine where the most appropriate apparatuses are located regardless of jurisdiction and send them to a call.

The audit also considered the VFD’s response data, its organization and management structure, how well initial responses and mutual aid work in the community, risks and the VFD’s ability to mitigate them, and comparisons to national best practices and standards for agencies of like size.

Matrix interviewed a number of employed and elected Town officials, as well as VFD Staff, and collected data sets from the VFD, BSO, and dispatch agencies. They found call demand to be approximately 550 calls per year. Call processing at the dispatch center is slightly longer than the industry standard of 60 seconds, at one minute and 18 seconds 90% of the time.

Turnout times were somewhat long, although travel time was consistent at six minutes 90% of the time. Recommendations include adding performance standards to the VFD contract in terms of emergency response, including standards for turnout and travel times. Matrix also recommends continuing to staff command positions and deploy three additional personnel from the Engine Company on a daily basis.

In terms of organization, Matrix recommended reorganizing command staff to bring multiple personnel under a single title and developing a succession plan for the Fire Prevention Division to improve depth. Annual evaluations of calls can help to determine what kinds of public events may be necessary to educate the public.

Because Fort Lauderdale and Pompano Beach experience a number of high-risk incidents and critical calls, Matrix recommends formal training with these entities so all parties understand how services would be deployed and emergencies would be mitigated. Best practices include both in-person and online training, as this combination maximizes the opportunity for personnel to attend training events. An annual evaluation of training programs would ensure that Staff is receiving the training they need.

The existing contract includes language addressing the Beach Patrol but does not specify how often or when these patrols should occur. Matrix recommends improving this language, as well as authorizing an Assistant Fire Marshal position to ensure succession planning and depth.

Matrix recommends continuing the VFD's annual audit to ensure that costs and expenses align with the Town's budget and expenditures. They also recommend developing an apparatus and vehicle inventory requirement and replacement plan. Key performance indicators may be included in the contract to clarify what the Town expects of the VFD's performance. A general facility assessment was conducted to plan for the future and improve living quarters for the VFD.

After meeting with personnel, the audit was opened to public comments. This feedback requested that no Fire Station be built where the Town's tennis courts are currently located. Additional comments received included a recommendation to review post-incident analysis of the Bel Air fire, as well as a comment on looking into how promotions occur within the organization and another suggesting that the Town contract with Fort Lauderdale, Pompano Beach, or both to provide fire services. Mr. Finn cautioned that it would remain in the Town's best interest to continue to staff resources within the Town.

Based on these comments, Matrix reviewed the post-incident analysis of the Bel Air fire, as well as the VFD's policy manual and contracts and by-laws. While a post-incident analysis was conducted for this fire, it was not required and was done up to two months after the event. They recommended adding into the VFD's contract that post-incident analyses be provided to the Town Manager once these documents are completed.

Regarding policies and by-laws, Matrix found that the signature page was signed but not dated to show when signatures occurred and changes were adopted. He recommended that a date line be added for clarification. All policies met best practice standards for volunteer agencies.

Mr. Finn noted that the Bel Air post-incident analysis generated several recommendations, including improvements to operations, command, and dispatch. Matrix recommended developing a policy to require not only a report but a post-incident analysis session with responders from other municipalities.

Mayor Vincent asked if the recommended succession plan is standard for VFDs of the Town's size. Mr. Finn explained that the key change would be aligning positions more closely with fire prevention duties. A succession plan would ensure that, if the Fire Marshal were unavailable, there are other qualified fire investigators with whom the Town has some kind of agreement.

Mayor Vincent also asked if there is a particular time frame in which it is recommended that a post-incident analysis be sent to the Town Manager. Mr. Finn replied that the typical standard is to provide this report within two weeks of the event.

Commissioner Sokolow asked if the Town has no control over call processing time. Mr. Finn confirmed this. Commissioner Sokolow also noted that the VFD has an Insurance Services Office (ISO) rating of 2 out of 10, and asked if the ratings of Fort Lauderdale's and Pompano Beach's Fire Departments are known. Mr. Finn replied that Fort Lauderdale is rated 1 but did not know Pompano Beach's rating. He added that there is no difference between a 1 and 2 rating in terms of insurance rates.

Commissioner Strauss asked if there is an intra-Town agreement for training with Fort Lauderdale and Pompano Beach. Mr. Finn advised that this would need to be developed. At present, there is only a mutual aid agreement between the municipalities.

Vice Mayor Oldaker made a motion, seconded by Commissioner Strauss, to accept the report. Motion carried 5-0.

13. NEW BUSINESS

a. Canal Dredging

It was noted that this Item was previously discussed.

14. COMMISSIONER COMMENTS

Vice Mayor Oldaker recalled that he has used the Hibiscus Drive crosswalk a number of times, and recognized the Town's accomplishment in its implementation. He also encouraged all residents to vote in the upcoming election.

Commissioner Strauss noted that the Town has an active bocce ball league as well as tennis, pickleball, and basketball. He also encouraged all present to vote.

Commissioner Sokolow congratulated Mayor Vincent on his unopposed reelection, and wished the other Commissioners who have registered as candidates the best of luck.

Commissioner Malkoon also congratulated Mayor Vincent and offered good luck to all candidates.

15. ORDINANCES 1ST READING

- a. **ORDINANCE 2021-15 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 14 “OFFENSES,” ARTICLE I “IN GENERAL,” SECTION 14-33, “SALE OF NICOTINE VAPORIZERS OR LIQUID NICOTINE” TO CONFORM TO CHANGES IN STATE LAW, AND REQUIRING BUSINESSES SELLING TOBACCO PARAPHERNALIA TO CONCEAL THEIR INVENTORY FROM OUTSIDE OF THEIR PREMISES; AND PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment.

Barbara Cole, resident, stated that she had not previously realized Ordinance 2021-15 was tied to Ordinance 2021-10, and suggested that the Commission discuss this further. She concluded that she was in favor of the proposed changes for tobacco paraphernalia shops.

Adam Steinberg, representing Grateful J's, pointed out that the Ordinance uses the phrase “concealing the paraphernalia,” which he did not believe is reflected in state law. If the Ordinance is passed to require tobacco paraphernalia stores to conceal their inventory, this would mean requiring drapes or blackout curtains on the windows, which would incur additional expense. He also pointed out that some of the equipment in question qualifies as art, and that concealing merchandise would restrict the ability of stores from displaying their goods.

Mr. Steinberg continued that his client has already removed some of the inventory that can be classified as tobacco paraphernalia from his window display, and items close to windows have been moved to another location in the store. He reminded the Commission that his client spent a significant amount of money in the permitting and opening of the store and is now faced with the possible restrictions of Ordinance 2021-15, as well as the possibility of amortization as noted in Ordinance 2021-10. He requested additional dialogue to reach a compromise.

With no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

Development Services Director Jhanelle Campbell advised that on November 9, 2021, Staff presented Ordinance 2021-10, which includes a reference to amortization and established definitions of “tobacco paraphernalia” and “tobacco paraphernalia stores.” These definitions only included devices that fall outside statutory definitions for nicotine dispensing devices in Florida Statute 569.31. The Ordinance also established a definition for “tobacco paraphernalia store,” which means stores in which tobacco paraphernalia constitutes more than 5% of the inventory.

When Ordinance 2021-10 was discussed upon first reading, the Commission raised the possibility of amortizing the two existing tobacco paraphernalia stores out of the Town. Direction was ultimately given to Staff to remove amortization from the Ordinance. Staff was also asked to determine whether or not Town Code could be amended to require that the display of tobacco paraphernalia be concealed from public view. Ordinance 2021-15 accomplishes this request, and also addresses a number of changes required for the Town to come into conformance with state law.

During the 2021 Florida legislative session, Chapter 2021-14 was passed, which updated several regulations and terms, which are included in the Commissioners’ backup materials. These changes initiated the need for the Town to update its provisions to conform to state law. Ordinance 2021-15 would:

- Increase the minimum age for purchase or possession of nicotine products and tobacco products from 18 to 21 years, and revises all related definitions accordingly
- Require all dealers of nicotine products and tobacco products to comply with Florida Statute Chapter 569, as may be amended from time to time
- Designate Town Code Compliance Officers as “nicotine product enforcement officers,” who may enforce Florida Statute Section 386.212, 569.11, or 569.42 as may be amended
- To address the Town Commission’s direction of November 9, 2021, by requiring any business selling tobacco paraphernalia to conceal its inventory of this paraphernalia from view of the public outside its premises

Staff recommends approval of the Ordinance in conjunction with Ordinance 2021-10.

Development Services Director Campbell showed photographs from both the Town’s affected stores at this time, noting that the photos were taken earlier in the same day. She noted that most of the paraphernalia has been moved away from one store’s windows, although a second store still displays these items.

Commissioner Strauss noted that it is difficult to see the paraphernalia in the windows of Hollywood Tobacco at night, although it had been easier to see these items in the window of Grateful J's before they were relocated. He pointed out that the back of the store includes several shelves of this paraphernalia and the interior of the store is well-lit. He felt this defeated the purpose of removing the paraphernalia from the windows.

Commissioner Strauss continued that the concealment of these products from the outside of the store(s) is similar to what is required of a liquor store or adult bookstore. He suggested that the second reading of Ordinance 2021-10 be tabled and brought back at the same time as second reading of Ordinance 2021-15 so they can be considered together. He added that without the requirement for concealment of paraphernalia, he would not be in favor of removing the amortization element of Ordinance 2021-10. He concluded that he has not yet seen what he would consider to be 100% cooperation in concealment of items by the two businesses.

Commissioner Malkoon requested additional information on the issue of window signage. Development Services Director Campbell referred the Commission to Exhibit 3 of the second reading of the Town's B-1 Ordinance, which includes extensive analysis of windows. Town Staff has not yet received a sign application from either business, although they have received a call from a sign company associated with Grateful J's to determine signage requirements. The company advised that they will submit sign applications to the Town by Friday, January 15, 2022.

Town Manager Connors reminded all present that when the COVID-19 pandemic first began, its effect on Town businesses led to a relaxation of enforcement, including window sign requirements. Roughly two years later, Staff is reaching out to businesses once again to ensure compliance in window signage.

Development Services Director Campbell stated that, based upon Town Code's definition of "window," and the fact that all separators between each pane of glass are less than 6 in., she has determined that Grateful J's has a total of six windows, including four windows and two doors. Each door is considered a separate window, and each window can be no less than 75% transparent from the exterior. There may be no more than three signs per window. She advised that she will calculate the percentages of window usage to determine what can remain and what must be removed.

Because the signs were installed without a permit, there is a double fee charge for each permit. Each window requires a separate permit. Mayor Vincent noted that during the pandemic, there was no relaxation of the requirement for sign permits. He requested an

update on work done within the store without a permit. Development Services Director Campbell replied that the Town, in conjunction with the Building Official, had determined this did not constitute a viable work-without-permit issue. She offered to provide the Commissioners with a summary of this issue after tonight's meeting.

Mayor Vincent addressed Mr. Steinberg's concern, raised during public comment, that concealment is not part of any Florida Statute. Town Attorney Trevarthen advised that Staff had researched this request and found no preemption of a local government's ability to create and enforce such a requirement. She added that Ordinance 2021-15 is written in a way that places these restrictions on any business selling tobacco paraphernalia, not only the two stores discussed thus far. The concealment requirement is not limited to stores where a minimum of 5% of their goods are paraphernalia.

Mayor Vincent also addressed amortization, requesting the Town Attorney's opinion on Commissioner Strauss's suggestion to bring Ordinances 2021-10 and 2021-15 back together. Town Attorney Trevarthen replied that there is no barrier to this request. She reminded the Commission that Ordinance 2021-10 is pursuant to a zoning in progress, which was extended through the end of January 2022. The two items could be brought forward together at the Town's second January 2022 meeting.

Commissioner Sokolow made a motion, seconded by Commissioner Strauss, to adopt Ordinance 2021-15 as written on first reading. Motion carried 5-0.

16. ORDINANCES 2ND READING

- a. ORDINANCE 2021-10 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, “UNIFIED LAND DEVELOPMENT REGULATIONS,” SECTION 30-1, “DEFINITIONS,” TO DEFINE TOBACCO PARAPHERNALIA STORES; AMENDING SUBDIVISIONS L AND M, B-1-A AND B-1 DISTRICT REGULATIONS, TO CHANGE THE LISTS OF PERMITTED AND CONDITIONAL USES AND CREATE SUPPLEMENTAL REGULATIONS; CREATING SECTION 30-281 TO PROVIDE FOR AMORTIZATION OF EXISTING TOBACCO PARAPHERNALIA STORES IN THE B-1 ZONING DISTRICTS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment.

Barbara Cole, resident, stated that she did not understand why the Town would remove the possibility of amortization as a tool to regulate certain Town businesses. She did not feel the subject business(es) have acted in good faith since the first reading of Ordinance 2021-10. She concluded that p.13, lines 450-458 of the Ordinance constitute “an after-the-fact acknowledgment that the business is coming,” and that the Commission should have been informed of these plans.

Adam Steinberg, representing Grateful J’s, also addressed amortization, recalling that there are many reasons for not using this practice as a regulatory tool. He emphasized that his client had gone through all the necessary steps to bring his business into the community, and did not feel that business has been problematic.

Mayor Vincent explained that there have been no allegations of illegal activity by the subject business: the Town has opted to remove this type of business as a permitted use.

With no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

Commissioner Sokolow made a motion, seconded by Commissioner Strauss, to defer Ordinance 2021-15 until the next Commission meeting. Motion carried 5-0.

Town Attorney Trevarthen clarified that the next Commission meeting is scheduled for January 25, 2022.

17. RESOLUTIONS – PUBLIC COMMENTS

- b. RESOLUTION 2022-02 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, WAIVING THE PURCHASING MANUAL REQUIREMENTS AS IN THE BEST INTERESTS OF THE TOWN; APPROVING A PURCHASE OF A LICENSE PLATE RECOGNITION UNIT FOR PARKING SERVICES FROM MUNICIPAL CITATION SOLUTIONS, LLC; AUTHORIZING THE TOWN MANAGER TO EXECUTE A PURCHASE ORDER; AND PROVIDING FOR AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Public Works Director Rubach advised that the Town currently uses one license plate recognition system in Parking Services. As the Town becomes busier, it can be a challenge to have only one such unit. In addition, having an extra unit will free Staff to be able to address either customer service or equipment issues on a timely basis. While the license plate recognition system itself is not proprietary, the Town must use its current parking company to maintain this system in order to keep it in a single database.

Vice Mayor Oldaker asked if the Commission may see a presentation on how the license plate recognition system works. Public Works Director Rubach confirmed that either a brief video presentation or a ride-along can be scheduled.

Commissioner Malkoon made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

- e. RESOLUTION 2022-05 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE PURCHASE OF A 75 SABER QUINT AERIAL LADDER FROM TEN-8 FIRE & SAFETY, LLC, UTILIZING THE FLORIDA SHERIFF’S ASSOCIATION COOPERATIVE PURCHASING CONTRACT FSA20-VEF14.02, IN AN AMOUNT NOT TO EXCEED \$887,740; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE PURCHASE ORDER; AND PROVIDING FOR AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment.

Barbara Cole, resident, expressed concern that it would take over 17 months to construct a new fire truck when the VFD’s current contract is only 12 months. She also asked if the Town has ever purchased a new truck for the VFD before now.

With no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

VFD Chief Judson Hopping clarified that the truck that will be purchased if Resolution 2022-05 passes was purchased in 1994 and is now 27 years old. Replacement of vehicles is recommended every 10 years. Mayor Vincent added that the Commission’s approval of the VFD audit showed that they were comfortable with the assessment of the Fire Department and were willing to continue working with them.

Commissioner Strauss asked what would become of the old ladder truck when it is replaced. Chief Hopping advised that truck manufacturing companies can put buyers in touch with third-party dealers who market older vehicles. Proceeds from the sale of the existing vehicle would go back into the Fire Fund or the Town. No estimates of the vehicle's worth have been conducted thus far, as the truck will remain in service for another 17 months.

Commissioner Sokolow made a motion, seconded by Commissioner Malkoon, to approve Resolution 2022-05. Motion carried 5-0.

- f. RESOLUTION 2022-06 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE 2021 / 2022 FISCAL YEAR BUDGET IN ACCORDANCE WITH THE ATTACHED EXHIBIT “A,” AUTHORIZING APPROPRIATIONS AND EXPENDITURES IN ACCORDANCE WITH THE 2021 / 2022 FISCAL YEAR BUDGET AS AMENDED; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Director of Finance and Budget Lucila Lang noted that most of the proposed budget transfers would come from FY 2020-2021. The reason for the transfer is that the VFD had ordered a new Ranger in 2020-2021, which has not yet come in.

Vice Mayor Oldaker made a motion, seconded by Commissioner Malkoon, to approve. Motion carried 5-0.

18. QUASI JUDICIAL PUBLIC HEARINGS

None.

19. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 8:23 p.m.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
January 11, 2022

Mayor Chris Vincent

ATTEST:

Town Clerk

Date



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted by: Ken Rubach, Director of Public Works

Submitting Department: Public Works

Item Type: Consent

Agenda Section: CONSENT

Subject Title: 2022 Club Car Carryall 710 LSV Lease

Explanation: As part of the FY22 budgeting process, staff evaluated current vehicle and equipment needs and is recommending replacement of a 2008 Club Car Golf Cart. The current cart provides little storage/bed capacity, the battery is beyond its useful life and the cart does not meet the needs of the Department in performing tasks.

The proposed replacement vehicle is a 2022 Club Car Carryall 710 LSV, which will be the same model currently utilized by the Public Works Department. This vehicle has proven to provide the additional storage and bed capacity needed to perform the daily functions of the department when a full-size truck is not required. The proposed replacement Carryall provides more flexibility in usage and the ability to be used for multiple tasks.



Proposed New Vehicle

In 2019, the Town entered into a five-year Master Equity Lease Agreement with Enterprise for the leasing of vehicles (**Exhibit 1**). The lease of the Carryall will be pursuant to the Master Equity Lease Agreement. The total cost of the 60-month lease is \$17,391.60 (**Exhibit 2**). The first year of the lease (\$289.86 per month, per UTV, for a total yearly amount of \$3,478.32) has been budgeted in 001.541.100-500.644 Capital Outlay-Vehicles.

An additional upfitting cost of approximately \$500 striping/decals are not included in the lease price and will be paid for separately out of 001.541.100-500.644 Capital Outlay-Vehicles & 001.541.100-500.461 Vehicle Maintenance.

Recommendation: Authorize the Town Manager to execute a lease agreement with Enterprise Fleet Management for a 2022 Club Car Carryall 750 LSV as per the terms set forth in the lease quote and Master Equity Lease Agreement.

Attachments:

Exhibit 1 - Master Lease Agreement

Exhibit 2 - Quote

Reviewed by Town Attorney:

☒	Yes	☐	No
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enterprise
FLEET MANAGEMENT

MAINTENANCE AGREEMENT

This Maintenance Agreement (this "Agreement") is made and entered into this 30th day of July, by Enterprise Fleet Management, Inc., a Missouri corporation ("EFM"), and Town of Lauderdale By The Sea ("Lessee").

WITNESSETH

1. LEASE. Reference is hereby made to that certain Master Lease Agreement dated as of the 30th day of July, by and between Enterprise FM Trust, a Delaware statutory trust, as lessor ("Lessor"), and Lessee, as lessee (as the same may from time to time be amended, modified, extended, renewed, supplemented or restated, the "Lease"). All capitalized terms used and not otherwise defined in this Agreement shall have the respective meanings ascribed to them in the Lease.

2. COVERED VEHICLES. This Agreement shall only apply to those vehicles leased by Lessor to Lessee pursuant to the Lease to the extent Section 4 of the Schedule for such vehicle includes a charge for maintenance (the "Covered Vehicle(s)").

3. TERM AND TERMINATION. The term of this Agreement ("Term") for each Covered Vehicle shall begin on the Delivery Date of such Covered Vehicle and shall continue until the last day of the "Term" (as defined in the Lease) for such Covered Vehicle unless earlier terminated as set forth below. Each of EFM and Lessee shall each have the right to terminate this Agreement effective as of the last day of any calendar month with respect to any or all of the Covered Vehicles upon not less than sixty (60) days prior written notice to the other party. The termination of this Agreement with respect to any or all of the Covered Vehicles shall not affect any rights or obligations under this Agreement which shall have previously accrued or shall thereafter arise with respect to any occurrence prior to termination, and such rights and obligations shall continue to be governed by the terms of this Agreement.

4. VEHICLE REPAIRS AND SERVICE. EFM agrees that, during the Term for the applicable Covered Vehicle and subject to the terms and conditions of this Agreement, it will pay for, or reimburse Lessee for its payment of, all costs and expenses incurred in connection with the maintenance or repair of a Covered Vehicle. This Agreement does not cover, and Lessee will remain responsible for and pay for, (a) fuel, (b) oil and other fluids between changes, (c) tire repair and replacement, (d) washing, (e) repair of damage due to lack of maintenance by Lessee between scheduled services (including, without limitation, failure to maintain fluid levels), (f) maintenance or repair of any alterations to a Covered Vehicle or of any after-market components (this Agreement covers maintenance and repair only of the Covered Vehicles themselves and any factory-installed components and does not cover maintenance or repair of chassis alterations, add-on bodies (including, without limitation, step vans) or other equipment (including, without limitation, lift gates and PTO controls) which is installed or modified by a dealer, body shop, upfitter or anyone else other than the manufacturer of the Covered Vehicle, (g) any service and/or damage resulting from, related to or arising out of an accident, a collision, theft, fire, freezing, vandalism, riot, explosion, other Acts of God, an object striking the Covered Vehicle, improper use of the Covered Vehicle (including, without limitation, driving over curbs, overloading, racing or other competition) or Lessee's failure to maintain the Covered Vehicle as required by the Lease, (h) roadside assistance or towing for vehicle maintenance purposes, (i) mobile services, (j) the cost of loaner or rental vehicles or (k) if the Covered Vehicle is a truck, (i) manual transmission clutch adjustment or replacement, (ii) brake adjustment or replacement or (iii) front axle alignment. Whenever it is necessary to have a Covered Vehicle serviced, Lessee agrees to have the necessary work performed by an authorized dealer of such Covered Vehicle or by a service facility acceptable to EFM. In every case, if the cost of such service will exceed \$50.00, Lessee must notify EFM and obtain EFM's authorization for such service and EFM's instructions as to where such service shall be made and the extent of service to be obtained. Lessee agrees to furnish an invoice for all service to a Covered Vehicle, accompanied by a copy of the shop or service order (odometer mileage must be shown on each shop or service order). EFM will not be obligated to pay for any unauthorized charges or those exceeding \$50.00 for one service on any Covered Vehicle unless Lessee has complied with the above terms and conditions. EFM will not have any responsibility to pay for any services in excess of the services recommended by the manufacturer, unless otherwise agreed to by EFM. Notwithstanding any other provision of this Agreement to the contrary, (a) all service performed within one hundred twenty (120) days prior to the last day of the scheduled "Term" (as defined in the Lease) for the applicable Covered Vehicle must be authorized by and have the prior consent and approval of EFM and any service not so authorized will be the responsibility of and be paid for by Lessee and (b) EFM is not required to provide or pay for any service to any Covered Vehicle after 100,000 miles.

5. ENTERPRISE CARDS: EFM may, at its option, provide Lessee with an authorization card (the "EFM Card") for use in authorizing the payment of charges incurred in connection with the maintenance of the Covered Vehicles. Lessee agrees to be liable to EFM for, and upon receipt of a monthly or other statement from EFM, Lessee agrees to promptly pay to EFM, all charges made by or for the account of Lessee with the EFM Card (other than any charges which are the responsibility of EFM under the terms of this Agreement). EFM reserves the right to change the terms and conditions for the use of the EFM Card at any time. The EFM Card remains the property of EFM and EFM may revoke Lessee's right to possess or use the EFM Card at any time. Upon the termination of this Agreement or upon the demand of EFM, Lessee must return the EFM Card to EFM. The EFM Card is non-transferable.

6. PAYMENT TERMS. The amount of the monthly maintenance fee will be listed on the applicable Schedule and will be due and payable in advance on the first day of each month. If the first day of the Term for a Covered Vehicle is other than the first day of a calendar month, Lessee will pay EFM, on the first day of the Term for such Covered Vehicle, a pro-rated maintenance fee for the number of days that the Delivery Date precedes the first monthly maintenance fee payment date. Any monthly maintenance fee or other amount owed by Lessee to EFM under this Agreement which is not paid within twenty (20) days after its due date will accrue interest, payable upon demand of EFM, from the date due until paid in full at a rate per annum equal to the lesser of (i) Eighteen Percent (18%) per annum or (ii) the highest rate allowed by applicable law. The monthly maintenance fee set forth on each applicable Schedule allows the number of miles per month as set forth

Initials: EFM BM Customer WmV

in such Schedule. Lessee agrees to pay EFM at the end of the applicable Term (whether by reason of termination of this Agreement or otherwise) an overmileage maintenance fee for any miles in excess of this average amount per month at the rate set forth in the applicable Schedule. EFM may, at its option, permit Lessor, as an agent for EFM, to bill and collect amounts due to EFM under this Agreement from Lessee on behalf of EFM.

7. NO WARRANTIES. Lessee acknowledges that EFM does not perform maintenance or repair services on the Covered Vehicles but rather EFM arranges for maintenance and/or repair services on the Covered Vehicles to be performed by third parties. EFM MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS, REPAIRS OR SERVICES PROVIDED FOR UNDER THIS AGREEMENT BY THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLIANCE WITH SPECIFICATIONS, OPERATION, CONDITION, SUITABILITY, PERFORMANCE OR QUALITY. ANY DEFECT IN THE PERFORMANCE OF ANY PRODUCT, REPAIR OR SERVICE WILL NOT RELIEVE LESSEE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING THE PAYMENT TO EFM OF THE MONTHLY MAINTENANCE FEES AND OTHER CHARGES DUE UNDER THIS AGREEMENT.

8. LESSOR NOT A PARTY. Lessor is not a party to, and shall have no rights, obligations or duties under or in respect of, this Agreement.

9. NOTICES. Any notice or other communication under this Agreement shall be in writing and delivered in person or sent by facsimile, recognized overnight courier or registered or certified mail, return receipt requested and postage prepaid, to the applicable party at its address or facsimile number set forth on the signature page of this Agreement, or at such other address or facsimile number as any party hereto may designate as its address or facsimile number for communications under this Agreement by notice so given. Such notices shall be deemed effective on the day on which delivered or sent if delivered in person or sent by facsimile, on the first (1st) business day after the day on which sent, if sent by recognized overnight courier or on the third (3rd) business day after the day on which mailed, if sent by registered or certified mail.

10. MISCELLANEOUS. This Agreement embodies the entire Agreement between the parties relating to the subject matter hereof. This Agreement may be amended only by an agreement in writing signed by EFM and Lessee. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provisions in any other jurisdiction. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that Lessee may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of EFM. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Missouri (without reference to conflict of law principles).

IN WITNESS WHEREOF, EFM and Lessee have executed this Maintenance Agreement as of the day and year first above written.

LESSEE: <u>Town of Lauderdale By The Sea</u>	EFM: <u>Enterprise Fleet Management, Inc.</u>
Signature: <u>William Vance</u>	Signature: <u>Brett Frazee</u>
By: <u>William Vance</u>	By: <u>Brett Frazee</u>
Title: <u>Town Manager</u>	Title: <u>Vice President</u>
Address: <u>4501 Ocean Drive</u> <u>Lauderdale By The Sea, FL</u> <u>33308</u>	Address: <u>5105 Johnson Road</u> <u>Coconut Creek FL 33073</u>
Attention: <u>Ken Rubach</u>	Attention: _____
Fax #: <u>954-640-4236</u>	Fax #: _____
Date Signed: <u>7-30-19.</u>	Date Signed: <u>July 30, 2019</u>

Initials: EFM B Customer WV

MAINTENANCE MANAGEMENT AND FLEET RENTAL AGREEMENT

This Agreement is entered into as of the 30th day of July, by and between Enterprise Fleet Management, Inc., a Missouri corporation, doing business as "Enterprise Fleet Management" ("EFM"), and Town of Lauderdale By The Sea (the "Company").

WITNESSETH:

1. ENTERPRISE CARDS: Upon request from the Company, EFM will provide a driver information packet outlining its vehicle maintenance program (the "Program") and a card ("Card") for each Company vehicle included in the Company's request. All drivers of vehicles subject to this Agreement must be a representative of the Company, its subsidiaries or affiliates. All Cards issued by EFM upon request of the Company shall be subject to the terms of this Agreement and the responsibility of the Company. All Cards shall bear an expiration date.

Cards issued to the Company shall be used by the Company in accordance with this Agreement and limited solely to purchases of certain products and services for Company vehicles, which are included in the Program. The Program is subject to all other EFM instructions, rules and regulations which may be revised from time to time by EFM. Cards shall remain the property of EFM and returned to EFM upon expiration or cancellation.

2. VEHICLE REPAIRS AND SERVICE: EFM will provide purchase order control by phone or in writing authorizing charges for repairs and service over \$75, or such other amount as may be established by EFM from time to time under the Program. All charges for repairs and services will be invoiced to EFM. Invoices will be reviewed by EFM for accuracy, proper application of potential manufacturer's warranties, application of potential discounts and unnecessary, unauthorized repairs.

Notwithstanding the above, in the event the repairs and service are the result of damage from an accident or other non-maintenance related cause (including glass claims), these matters will be referred to the Company's Fleet Manager. If the Company prefers that EFM handle the damage repair, the Company agrees to assign the administration of the matter to EFM. EFM will administer such claims in its discretion. The fees for this service will be up to \$125.00 per claim and the Company agrees to reimburse for repairs as outlined in this agreement. If the Company desires the assistance of EFM in recovering damage amounts from at fault third parties, a Vehicle Risk Management Agreement must be on file for the Company.

3. BILLING AND PAYMENT: All audited invoices paid by EFM on behalf of the Company will be consolidated and submitted to the Company on a single monthly invoice for the entire Company fleet covered under this Agreement. The Company is liable for, and will pay EFM within ten (10) days after receipt of an invoice or statement for, all purchases invoiced to the Company by EFM, which were paid by EFM for or on behalf of the Company. EFM will be entitled to retain for its own account, and treat as being paid by EFM for purposes of this Agreement, any discounts it receives from a supplier with respect to such purchases which are based on the overall volume of business EFM provides to such supplier and not solely the Company's business. EFM will exercise due care to prevent additional charges from being incurred once the Company has notified EFM of its desire to cancel any outstanding Card under this Agreement. The Company will use its best efforts to obtain and return any such cancelled Card.

4. RENTAL VEHICLES: The Card will authorize the Company's representative to arrange for rental vehicles with a subsidiary of Enterprise Rent-A-Car Company for a maximum of two (2) days without prior authorization. Extensions beyond two (2) days must be granted by an EFM representative. The Company assumes all responsibility for all rental agreements arranged by EFM with a subsidiary of Enterprise Rent-A-Car Company through an EFM representative or through the use of the Card. All drivers must be at least 21 years of age, hold a valid driver's license, be an employee of the Company or authorized by the Company through established reservation procedures and meet other applicable requirements of the applicable subsidiary of Enterprise Rent-A-Car Company.

5. NO WARRANTY: EFM MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO PRODUCTS, REPAIRS OR SERVICES PROVIDED FOR UNDER THIS AGREEMENT BY THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY, COMPLIANCE WITH SPECIFICATIONS, OPERATION, CONDITION, SUITABILITY, PERFORMANCE, QUALITY OR FITNESS FOR USE. Any defect in the performance of any product, repair or service will not relieve the Company from its obligations under this Agreement, including without limitation the payment to EFM of monthly invoices.

6. CANCELLATION: Either party may cancel any Card under this Agreement or this Agreement in its entirety at any time by giving written notice to the other party. The cancellation of any Card or termination of this Agreement will not affect any rights or obligations under this Agreement, which shall have previously accrued or shall thereafter arise with respect to any occurrence prior to such cancellation or termination. A Card shall be immediately returned to EFM upon cancellation to: Enterprise Fleet Management, 600 Corporate Park Drive, St. Louis, MO 63105, Attention: Enterprise Card Department. Notice to EFM regarding the cancellation of any Card shall specify the Card number and identify the Company's representative. In the case of a terminated representative, such notice shall include a brief description of the efforts made to reclaim the Card.

7. NOTICES: All notices of cancellation or termination under this Agreement shall be mailed postage prepaid by registered or certified mail, or sent by express overnight delivery service, to the other party at its address set forth on the signature page of this Agreement or at such other address as such party may provide in writing from time to time. Any such notice sent by mail will be effective three (3) days after deposit in the United States mail, duly addressed, with registered or certified mail postage prepaid. Any such notice sent by express overnight delivery service will be effective one (1) day after deposit with such delivery service, duly addressed, with delivery fees prepaid. The Company will promptly notify EFM of any change in the Company's address.

Initials: EFM EFM

Customer WmV

8. FEES: EFM will charge the Company for the service under this Agreement \$⁶_____ per month per Card, plus a one time set-up fee of \$⁰_____.

9. MISCELLANEOUS: This Agreement may be amended only by an agreement in writing signed by EFM and the Company. This Agreement is governed by the substantive laws of the State of Missouri (determined without reference to conflict of law principles).

IN WITNESS WHEREOF, EFM and the Company have executed this Maintenance Management and Fleet Rental Agreement as of the day and year first above written.

Company: <u>Town of Lauderdale By</u>	EFM: <u>Enterprise Fleet Management, Inc.</u>
Signature: <u>William Vance</u>	Signature: <u>Brett Frazee</u>
By: <u>William Vance</u>	By: <u>Brett Frazee</u>
Title: <u>Town Manager</u>	Title: <u>Vice President</u>
Address: <u>4501 Ocean Drive</u>	Address: <u>5105 Johnson Road</u>
<u>Lauderdale By The Sea, FL</u>	<u>Coconut Creek FL 33073</u>
<u>33308</u>	
Date Signed: <u>7-30-19</u>	Date Signed: <u>July 30, 2019</u>

Initials: EFM B Customer Wmv

MASTER EQUITY LEASE AGREEMENT

This Master Equity Lease Agreement is entered into this 30th day of July, by and between Enterprise FM Trust, a Delaware statutory trust ("Lessor"), and the lessee whose name and address is set forth on the signature page below ("Lessee").

1. LEASE OF VEHICLES: Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the vehicles (individually, a "Vehicle" and collectively, the "Vehicles") described in the schedules from time to time delivered by Lessor to Lessee as set forth below ("Schedule(s)") for the rentals and on the terms set forth in this Agreement and in the applicable Schedule. References to this "Agreement" shall include this Master Equity Lease Agreement and the various Schedules and addenda to this Master Equity Lease Agreement. Lessor will, on or about the date of delivery of each Vehicle to Lessee, send Lessee a Schedule covering the Vehicle, which will include, among other things, a description of the Vehicle, the lease term and the monthly rental and other payments due with respect to the Vehicle. The terms contained in each such Schedule will be binding on Lessee unless Lessee objects in writing to such Schedule within ten (10) days after the date of delivery of the Vehicle covered by such Schedule. Lessor is the sole legal owner of each Vehicle. This Agreement is a lease only and Lessee will have no right, title or interest in or to the Vehicles except for the use of the Vehicles as described in this Agreement. This Agreement shall be treated as a true lease for federal and applicable state income tax purposes with Lessor having all benefits of ownership of the Vehicles. It is understood and agreed that Enterprise Fleet Management, Inc. or an affiliate thereof (together with any subservicer, agent, successor or assign as servicer on behalf of Lessor, "Servicer") may administer this Agreement on behalf of Lessor and may perform the service functions herein provided to be performed by Lessor.

2. TERM: The term of this Agreement ("Term") for each Vehicle begins on the date such Vehicle is delivered to Lessee (the "Delivery Date") and, unless terminated earlier in accordance with the terms of this Agreement, continues for the "Lease Term" as described in the applicable Schedule.

3. RENT AND OTHER CHARGES:

(a) Lessee agrees to pay Lessor monthly rental and other payments according to the Schedules and this Agreement. The monthly payments will be in the amount listed as the "Total Monthly Rental Including Additional Services" on the applicable Schedule (with any portion of such amount identified as a charge for maintenance services under Section 4 of the applicable Schedule being payable to Lessor as agent for Enterprise Fleet Management, Inc.) and will be due and payable in advance on the first day of each month. If a Vehicle is delivered to Lessee on any day other than the first day of a month, monthly rental payments will begin on the first day of the next month. In addition to the monthly rental payments, Lessee agrees to pay Lessor a pro-rated rental charge for the number of days that the Delivery Date precedes the first monthly rental payment date. A portion of each monthly rental payment, being the amount designated as "Depreciation Reserve" on the applicable Schedule, will be considered as a reserve for depreciation and will be credited against the Delivered Price of the Vehicle for purposes of computing the Book Value of the Vehicle under Section 3(c). Lessee agrees to pay Lessor the "Total Initial Charges" set forth in each Schedule on the due date of the first monthly rental payment under such Schedule. Lessee agrees to pay Lessor the "Service Charge Due at Lease Termination" set forth in each Schedule at the end of the applicable Term (whether by reason of expiration, early termination or otherwise).

(b) In the event the Term for any Vehicle ends prior to the last day of the scheduled Term, whether as a result of a default by Lessee, a Casualty Occurrence or any other reason, the rentals and management fees paid by Lessee will be recalculated in accordance with the rule of 78's and the adjusted amount will be payable by Lessee to Lessor on the termination date.

(c) Lessee agrees to pay Lessor within thirty (30) days after the end of the Term for each Vehicle, additional rent equal to the excess, if any, of the Book Value of such Vehicle over the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule. If the Book Value of such Vehicle is less than the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule, Lessor agrees to pay such deficiency to Lessee as a terminal rental adjustment within thirty (30) days after the end of the applicable Term. Notwithstanding the foregoing, if (i) the Term for a Vehicle is greater than forty-eight (48) months (including any extension of the Term for such Vehicle), (ii) the mileage on a Vehicle at the end of the Term is greater than 15,000 miles per year on average (prorated on a daily basis) (i.e., if the mileage on a Vehicle with a Term of thirty-six (36) months is greater than 45,000 miles) or (iii) in the sole judgment of Lessor, a Vehicle has been subject to damage or any abnormal or excessive wear and tear, the calculations described in the two immediately preceding sentences shall be made without giving effect to clause (ii) in each such sentence. The "Book Value" of a Vehicle means the sum of (i) the "Delivered Price" of the Vehicle as set forth in the applicable Schedule minus (ii) the total Depreciation Reserve paid by Lessee to Lessor with respect to such Vehicle plus (iii) all accrued and unpaid rent and/or other amounts owed by Lessee with respect to such Vehicle.

(d) Any security deposit of Lessee will be returned to Lessee at the end of the applicable Term, except that the deposit will first be applied to any losses and/or damages suffered by Lessor as a result of Lessee's breach of or default under this Agreement and/or to any other amounts then owed by Lessee to Lessor.

(e) Any rental payment or other amount owed by Lessee to Lessor which is not paid within twenty (20) days after its due date will accrue interest, payable on demand of Lessor, from the date due until paid in full at a rate per annum equal to the lesser of (i) Eighteen Percent (18%) per annum or (ii) the highest rate permitted by applicable law (the "Default Rate").

(f) If Lessee fails to pay any amount due under this Agreement or to comply with any of the covenants contained in this Agreement, Lessor, Servicer or any other agent of Lessor may, at its option, pay such amounts or perform such covenants and all sums paid or incurred by Lessor in connection therewith will be repayable by Lessee to Lessor upon demand together with interest thereon at the Default Rate.

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(g) Lessee's obligations to make all payments of rent and other amounts under this Agreement are absolute and unconditional and such payments shall be made in immediately available funds without setoff, counterclaim or deduction of any kind. Lessee acknowledges and agrees that neither any Casualty Occurrence to any Vehicle nor any defect, unfitness or lack of governmental approval in, of, or with respect to, any Vehicle regardless of the cause or consequence nor any breach by Enterprise Fleet Management, Inc. of any maintenance agreement between Enterprise Fleet Management, Inc. and Lessee covering any Vehicle regardless of the cause or consequence will relieve Lessee from the performance of any of its obligations under this Agreement, including, without limitation, the payment of rent and other amounts under this Agreement.

4. USE AND SURRENDER OF VEHICLES: Lessee agrees to allow only duly authorized, licensed and insured drivers to use and operate the Vehicles. Lessee agrees to comply with, and cause its drivers to comply with, all laws, statutes, rules, regulations and ordinances and the provisions of all insurance policies affecting or covering the Vehicles or their use or operation. Lessee agrees to keep the Vehicles free of all liens, charges and encumbrances. Lessee agrees that in no event will any Vehicle be used or operated for transporting hazardous substances or persons for hire, for any illegal purpose or to pull trailers that exceed the manufacturer's trailer towing recommendations. Lessee agrees that no Vehicle is intended to be or will be utilized as a "school bus" as defined in the Code of Federal Regulations or any applicable state or municipal statute or regulation. Lessee agrees not to remove any Vehicle from the continental United States without first obtaining Lessor's written consent. At the expiration or earlier termination of this Agreement with respect to each Vehicle, or upon demand by Lessor made pursuant to Section 14, Lessee at its risk and expense agrees to return such Vehicle to Lessor at such place and by such reasonable means as may be designated by Lessor. If for any reason Lessee fails to return any Vehicle to Lessor as and when required in accordance with this Section, Lessee agrees to pay Lessor additional rent for such Vehicle at twice the normal pro-rated daily rent. Acceptance of such additional rent by Lessor will in no way limit Lessor's remedies with respect to Lessee's failure to return any Vehicle as required hereunder.

5. COSTS, EXPENSES, FEES AND CHARGES: Lessee agrees to pay all costs, expenses, fees, charges, fines, tickets, penalties and taxes (other than federal and state income taxes on the income of Lessor) incurred in connection with the titling, registration, delivery, purchase, sale, rental, use or operation of the Vehicles during the Term. If Lessor, Servicer or any other agent of Lessor incurs any such costs or expenses, Lessee agrees to promptly reimburse Lessor for the same.

6. LICENSE AND CHARGES: Each Vehicle will be titled and licensed in the name designated by Lessor at Lessee's expense. Certain other charges relating to the acquisition of each Vehicle and paid or satisfied by Lessor have been capitalized in determining the monthly rental, treated as an initial charge or otherwise charged to Lessee. Such charges have been determined without reduction for trade-in, exchange allowance or other credit attributable to any Lessor-owned vehicle.

7. REGISTRATION PLATES, ETC.: Lessee agrees, at its expense, to obtain in the name designated by Lessor all registration plates and other plates, permits, inspections and/or licenses required in connection with the Vehicles, except for the initial registration plates which Lessor will obtain at Lessee's expense. The parties agree to cooperate and to furnish any and all information or documentation, which may be reasonably necessary for compliance with the provisions of this Section or any federal, state or local law, rule, regulation or ordinance. Lessee agrees that it will not permit any Vehicle to be located in a state other than the state in which such Vehicle is then titled for any continuous period of time that would require such Vehicle to become subject to the titling and/or registration laws of such other state.

8. MAINTENANCE OF AND IMPROVEMENTS TO VEHICLES:

(a) Lessee agrees, at its expense, to (i) maintain the Vehicles in good condition, repair, maintenance and running order and in accordance with all manufacturer's instructions and warranty requirements and all legal requirements and (ii) furnish all labor, materials, parts and other essentials required for the proper operation and maintenance of the Vehicles. Any alterations, additions, replacement parts or improvements to a Vehicle will become and remain the property of Lessor and will be returned with such Vehicle upon such Vehicle's return pursuant to Section 4. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, Lessee shall have the right to remove any additional equipment installed by Lessee on a Vehicle prior to returning such Vehicle to Lessor under Section 4. The value of such alterations, additions, replacement parts and improvements will in no instance be regarded as rent. Without the prior written consent of Lessor, Lessee will not make any alterations, additions, replacement parts or improvements to any Vehicle which detract from its economic value or functional utility. Lessor will not be required to make any repairs or replacements of any nature or description with respect to any Vehicle, to maintain or repair any Vehicle or to make any expenditure whatsoever in connection with any Vehicle or this Agreement.

(b) Lessor and Lessee acknowledge and agree that if Section 4 of a Schedule includes a charge for maintenance, (i) the Vehicle(s) covered by such Schedule are subject to a separate maintenance agreement between Enterprise Fleet Management, Inc. and Lessee and (ii) Lessor shall have no liability or responsibility for any failure of Enterprise Fleet Management, Inc. to perform any of its obligations thereunder or to pay or reimburse Lessee for its payment of any costs and expenses incurred in connection with the maintenance or repair of any such Vehicle(s).

9. SELECTION OF VEHICLES AND DISCLAIMER OF WARRANTIES:

(a) LESSEE ACCEPTANCE OF DELIVERY AND USE OF EACH VEHICLE WILL CONCLUSIVELY ESTABLISH THAT SUCH VEHICLE IS OF A SIZE, DESIGN, CAPACITY, TYPE AND MANUFACTURE SELECTED BY LESSEE AND THAT SUCH VEHICLE IS IN GOOD CONDITION AND REPAIR AND IS SATISFACTORY IN ALL RESPECTS AND IS SUITABLE FOR LESSEE'S PURPOSE. LESSEE ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER OF ANY VEHICLE OR AN AGENT OF A MANUFACTURER OF ANY VEHICLE.

(b) LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY VEHICLE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, IT BEING AGREED THAT ALL SUCH RISKS ARE TO BE BORNE BY LESSEE. THE VEHICLES ARE LEASED "AS IS," "WITH ALL FAULTS." All warranties made by any supplier, vendor and/or manufacturer of a Vehicle are hereby assigned by Lessor to Lessee for the applicable Term and Lessee's only remedy, if any, is against the supplier, vendor or manufacturer of the Vehicle.

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(c) None of Lessor, Servicer or any other agent of Lessor will be liable to Lessee for any liability, claim, loss, damage (direct, incidental or consequential) or expense of any kind or nature, caused directly or indirectly, by any Vehicle or any inadequacy of any Vehicle for any purpose or any defect (latent or patent) in any Vehicle or the use or maintenance of any Vehicle or any repair, servicing or adjustment of or to any Vehicle, or any delay in providing or failure to provide any Vehicle, or any interruption or loss of service or use of any Vehicle, or any loss of business or any damage whatsoever and however caused. In addition, none of Lessor, Servicer or any other agent of Lessor will have any liability to Lessee under this Agreement or under any order authorization form executed by Lessee if Lessor is unable to locate or purchase a Vehicle ordered by Lessee or for any delay in delivery of any Vehicle ordered by Lessee.

10. RISK OF LOSS: Lessee assumes and agrees to bear the entire risk of loss of, theft of, damage to or destruction of any Vehicle from any cause whatsoever ("Casualty Occurrence"). In the event of a Casualty Occurrence to a Vehicle, Lessee shall give Lessor prompt notice of the Casualty Occurrence and thereafter will place the applicable Vehicle in good repair, condition and working order; provided, however, that if the applicable Vehicle is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair (a "Totaled Vehicle"), Lessee agrees to pay Lessor no later than the date thirty (30) days after the date of the Casualty Occurrence the amounts owed under Sections 3(b) and 3(c) with respect to such Totaled Vehicle. Upon such payment, this Agreement will terminate with respect to such Totaled Vehicle.

11. INSURANCE:

(a) Lessee agrees to purchase and maintain in force during the Term, insurance policies in at least the amounts listed below covering each Vehicle, to be written by an insurance company or companies satisfactory to Lessor, insuring Lessee, Lessor and any other person or entity designated by Lessor against any damage, claim, suit, action or liability:

(i) Commercial Automobile Liability Insurance (including Uninsured/Underinsured Motorist Coverage and No-Fault Protection where required by law) for the limits listed below (Note - \$2,000,000 Combined Single Limit Bodily Injury and Property Damage with No Deductible is required for each Vehicle capable of transporting more than 8 passengers):

<u>State of Vehicle Registration</u>	<u>Coverage</u>
Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont	\$1,000,000 Combined Single Limit Bodily Injury and Property Damage - No Deductible
Florida	\$500,000 Combined Single Limit Bodily Injury and Property Damage or \$100,000 Bodily Injury Per Person, \$300,000 Per Occurrence and \$50,000 Property Damage (100/300/50) - No Deductible
All Other States	\$300,000 Combined Single Limit Bodily Injury and Property Damage or \$100,000 Bodily Injury Per Person, \$300,000 Per Occurrence and \$50,000 Property Damage (100/300/50) - No Deductible

(ii) Physical Damage Insurance (Collision & Comprehensive): Actual cash value of the applicable Vehicle. Maximum deductible of \$500 per occurrence - Collision and \$250 per occurrence - Comprehensive).

If the requirements of any governmental or regulatory agency exceed the minimums stated in this Agreement, Lessee must obtain and maintain the higher insurance requirements. Lessee agrees that each required policy of insurance will by appropriate endorsement or otherwise name Lessor and any other person or entity designated by Lessor as additional insureds and loss payees, as their respective interests may appear. Further, each such insurance policy must provide the following: (i) that the same may not be cancelled, changed or modified until after the insurer has given to Lessor, Servicer and any other person or entity designated by Lessor at least thirty (30) days prior written notice of such proposed cancellation, change or modification, (ii) that no act or default of Lessee or any other person or entity shall affect the right of Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns to recover under such policy or policies of insurance in the event of any loss of or damage to any Vehicle and (iii) that the coverage is "primary coverage" for the protection of Lessee, Lessor, Servicer, any other agent of Lessor and their respective successors and assigns notwithstanding any other coverage carried by Lessee, Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns protecting against similar risks. Original certificates evidencing such coverage and naming Lessor, Servicer, any other agent of Lessor and any other person or entity designated by Lessor as additional insureds and loss payees shall be furnished to Lessor prior to the Delivery Date, and annually thereafter and/or as reasonably requested by Lessor from time to time. In the event of default, Lessee hereby appoints Lessor, Servicer and any other agent of Lessor as Lessee's attorney-in-fact to receive payment of, to endorse all checks and other documents and to take any other actions necessary to pursue insurance claims and recover payments if Lessee fails to do so. Any expense of Lessor, Servicer or any other agent of Lessor in adjusting or collecting insurance shall be borne by Lessee.

Lessee, its drivers, servants and agents agree to cooperate fully with Lessor, Servicer, any other agent of Lessor and any insurance carriers in the investigation, defense and prosecution of all claims or suits arising from the use or operation of any Vehicle. If any claim is made or action commenced for death, personal injury or property damage resulting from the ownership, maintenance, use or operation of any Vehicle, Lessee will promptly notify Lessor of such action or claim and forward to Lessor a copy of every demand, notice, summons or other process received in connection with such claim or action.

(b) Notwithstanding the provisions of Section 11(a) above: (i) if Section 4 of a Schedule includes a charge for physical damage waiver, Lessor agrees that (A) Lessee will not be required to obtain or maintain the minimum physical damage insurance (collision and comprehensive) required under Section 11(a) for the Vehicle(s) covered by such Schedule and (B) Lessor will assume the risk of physical damage (collision and comprehensive) to the Vehicle(s) covered by such Schedule; provided, however, that such physical damage waiver shall not apply to, and Lessee shall be and remain liable and responsible for, damage to a covered Vehicle caused by wear and tear or mechanical breakdown or failure, damage to or loss of any parts, accessories or components added to a covered

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Vehicle by Lessee without the prior written consent of Lessor and/or damage to or loss of any property and/or personal effects contained in a covered Vehicle. In the event of a Casualty Occurrence to a covered Vehicle, Lessor may, at its option, replace, rather than repair, the damaged Vehicle with an equivalent vehicle, which replacement vehicle will then constitute the "Vehicle" for purposes of this Agreement; and (ii) if Section 4 of a Schedule includes a charge for commercial automobile liability enrollment, Lessor agrees that it will, at its expense, obtain for and on behalf of Lessee, by adding Lessee as an additional insured under a commercial automobile liability insurance policy issued by an insurance company selected by Lessor, commercial automobile liability insurance satisfying the minimum commercial automobile liability insurance required under Section 11(a) for the Vehicle(s) covered by such Schedule. Lessor may at any time during the applicable Term terminate said obligation to provide physical damage waiver and/or commercial automobile liability enrollment and cancel such physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least ten (10) days prior written notice. Upon such cancellation, insurance in the minimum amounts as set forth in 11(a) shall be obtained and maintained by Lessee at Lessee's expense. An adjustment will be made in monthly rental charges payable by Lessee to reflect any such change and Lessee agrees to furnish Lessor with satisfactory proof of insurance coverage within ten (10) days after mailing of the notice. In addition, Lessor may change the rates charged by Lessor under this Section 11(b) for physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least thirty (30) days prior written notice.

12. INDEMNITY: To the extent permitted by state law, Lessee agrees to defend and indemnify Lessor, Servicer, any other agent of Lessor and their respective successors and assigns from and against any and all losses, damages, liabilities, suits, claims, demands, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) which Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns may incur by reason of Lessee's breach or violation of, or failure to observe or perform, any term, provision or covenant of this Agreement, or as a result of any loss, damage, theft or destruction of any Vehicle or related to or arising out of or in connection with the use, operation or condition of any Vehicle. The provisions of this Section 12 shall survive any expiration or termination of this Agreement. Nothing herein shall be deemed to affect the rights, privileges, and immunities of Lessee and the foregoing indemnity provision is not intended to be a waiver of any sovereign immunity afforded to Lessee pursuant to the law.

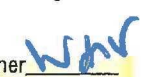
13. INSPECTION OF VEHICLES; ODOMETER DISCLOSURE; FINANCIAL STATEMENTS: Lessee agrees to accomplish, at its expense, all inspections of the Vehicles required by any governmental authority during the Term. Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns will have the right to inspect any Vehicle at any reasonable time(s) during the Term and for this purpose to enter into or upon any building or place where any Vehicle is located. Lessee agrees to comply with all odometer disclosure laws, rules and regulations and to provide such written and signed disclosure information on such forms and in such manner as directed by Lessor. Providing false information or failure to complete the odometer disclosure form as required by law may result in fines and/or imprisonment. Lessee hereby agrees to promptly deliver to Lessor such financial statements and other financial information regarding Lessee as Lessor may from time to time reasonably request.

14. DEFAULT; REMEDIES: The following shall constitute events of default ("Events of Default") by Lessee under this Agreement: (a) if Lessee fails to pay when due any rent or other amount due under this Agreement and any such failure shall remain unremedied for ten (10) days; (b) if Lessee fails to perform, keep or observe any term, provision or covenant contained in Section 11 of this Agreement; (c) if Lessee fails to perform, keep or observe any other term, provision or covenant contained in this Agreement and any such failure shall remain unremedied for thirty (30) days after written notice thereof is given by Lessor, Servicer or any other agent of Lessor to Lessee; (d) any seizure or confiscation of any Vehicle or any other act (other than a Casualty Occurrence) otherwise rendering any Vehicle unsuitable for use (as determined by Lessor); (e) if any present or future guaranty in favor of Lessor of all or any portion of the obligations of Lessee under this Agreement shall at any time for any reason cease to be in full force and effect or shall be declared to be null and void by a court of competent jurisdiction, or if the validity or enforceability of any such guaranty shall be contested or denied by any guarantor, or if any guarantor shall deny that it, he or she has any further liability or obligation under any such guaranty or if any guarantor shall fail to comply with or observe any of the terms, provisions or conditions contained in any such guaranty; (f) the occurrence of a material adverse change in the financial condition or business of Lessee or any guarantor; or (g) if Lessee or any guarantor is in default under or fails to comply with any other present or future agreement with or in favor of Lessor, The Crawford Group, Inc. or any direct or indirect subsidiary of The Crawford Group, Inc.. For purposes of this Section 14, the term "guarantor" shall mean any present or future guarantor of all or any portion of the obligations of Lessee under this Agreement.

Upon the occurrence of any Event of Default, Lessor, without notice to Lessee, will have the right to exercise concurrently or separately (and without any election of remedies being deemed made), the following remedies: (a) Lessor may demand and receive immediate possession of any or all of the Vehicles from Lessee, without releasing Lessee from its obligations under this Agreement; if Lessee fails to surrender possession of the Vehicles to Lessor on default (or termination or expiration of the Term), Lessor, Servicer, any other agent of Lessor and any of Lessor's independent contractors shall have the right to enter upon any premises where the Vehicles may be located and to remove and repossess the Vehicles; (b) Lessor may enforce performance by Lessee of its obligations under this Agreement; (c) Lessor may recover damages and expenses sustained by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns by reason of Lessee's default including, to the extent permitted by applicable law, all costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns in attempting or effecting enforcement of Lessor's rights under this Agreement (whether or not litigation is commenced) and/or in connection with bankruptcy or insolvency proceedings; (d) upon written notice to Lessee, Lessor may terminate Lessee's rights under this Agreement; (e) with respect to each Vehicle, Lessor may recover from Lessee all amounts owed by Lessee under Sections 3(b) and 3(c) of this Agreement (and, if Lessor does not recover possession of a Vehicle, (i) the estimated wholesale value of such Vehicle for purposes of Section 3(c) shall be deemed to be \$0.00 and (ii) the calculations described in the first two sentences of Section 3(c) shall be made without giving effect to clause (ii) in each such sentence); and/or (f) Lessor may exercise any other right or remedy which may be available to Lessor under the Uniform Commercial Code, any other applicable law or in equity. A termination of this Agreement shall occur only upon written notice by Lessor to Lessee. Any termination shall not affect Lessee's obligation to pay all amounts due for periods prior to the effective date of such termination or Lessee's obligation to pay any indemnities under this Agreement. All remedies of Lessor under this Agreement or at law or in equity are cumulative.

15. ASSIGNMENTS: Lessor may from time to time assign, pledge or transfer this Agreement and/or any or all of its rights and obligations under this Agreement to any person or entity. Lessee agrees, upon notice of any such assignment, pledge or transfer of any amounts due or to become due to Lessor under this Agreement to pay all such amounts to such assignee, pledgee or transferee. Any such assignee, pledgee or transferee of any rights or obligations of Lessor under this Agreement will have all of the rights and obligations that have been assigned to it. Lessee's rights and interest in and to the Vehicles are and will continue

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at all times to be subject and subordinate in all respects to any assignment, pledge or transfer now or hereafter executed by Lessor with or in favor of any such assignee, pledgee or transferee, provided that Lessee shall have the right of quiet enjoyment of the Vehicles so long as no Event of Default under this Agreement has occurred and is continuing. Lessee acknowledges and agrees that the rights of any assignee, pledgee or transferee in and to any amounts payable by the Lessee under any provisions of this Agreement shall be absolute and unconditional and shall not be subject to any abatement whatsoever, or to any defense, setoff, counterclaim or recoupment whatsoever, whether by reason of any damage to or loss or destruction of any Vehicle or by reason of any defect in or failure of title of the Lessor or interruption from whatsoever cause in the use, operation or possession of any Vehicle, or by reason of any indebtedness or liability howsoever and whenever arising of the Lessor or any of its affiliates to the Lessee or to any other person or entity, or for any other reason.

Without the prior written consent of Lessor, Lessee may not assign, sublease, transfer or pledge this Agreement, any Vehicle, or any interest in this Agreement or in and to any Vehicle, or permit its rights under this Agreement or any Vehicle to be subject to any lien, charge or encumbrance. Lessee's interest in this Agreement is not assignable and cannot be assigned or transferred by operation of law. Lessee will not transfer or relinquish possession of any Vehicle (except for the sole purpose of repair or service of such Vehicle) without the prior written consent of Lessor.

16. MISCELLANEOUS: This Agreement contains the entire understanding of the parties. This Agreement may only be amended or modified by an instrument in writing executed by both parties. Lessor shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Agreement and no waiver whatsoever shall be valid unless in writing and signed by Lessor and then only to the extent therein set forth. A waiver by Lessor of any right or remedy under this Agreement on any one occasion shall not be construed as a bar to any right or remedy, which Lessor would otherwise have on any future occasion. If any term or provision of this Agreement or any application of any such term or provision is invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision will not be affected thereby. Giving of all notices under this Agreement will be sufficient if mailed by certified mail to a party at its address set forth below or at such other address as such party may provide in writing from time to time. Any such notice mailed to such address will be effective one (1) day after deposit in the United States mail, duly addressed, with certified mail, postage prepaid. Lessee will promptly notify Lessor of any change in Lessee's address. This Agreement may be executed in multiple counterparts (including facsimile and pdf counterparts), but the counterpart marked "ORIGINAL" by Lessor will be the original lease for purposes of applicable law. All of the representations, warranties, covenants, agreements and obligations of each Lessee under this Agreement (if more than one) are joint and several.

17. SUCCESSORS AND ASSIGNS; GOVERNING LAW: Subject to the provisions of Section 15, this Agreement will be binding upon Lessee and its heirs, executors, personal representatives, successors and assigns, and will inure to the benefit of Lessor, Servicer, any other agent of Lessor and their respective successors and assigns. This Agreement will be governed by and construed in accordance with the substantive laws of the State of Missouri (determined without reference to conflict of law principles).

18. NON-PETITION: Each party hereto hereby covenants and agrees that, prior to the date which is one year and one day after payment in full of all indebtedness of Lessor, it shall not institute against, or join any other person in instituting against, Lessor any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States. The provisions of this Section 18 shall survive termination of this Master Equity Lease Agreement.

19. NON-APPROPRIATION: Lessee's funding of this Agreement shall be on a Fiscal Year basis and is subject to annual appropriations. Lessor acknowledges that Lessee is a municipal corporation, is precluded by the County or State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the County or State to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the lease terms within this Agreement or any Schedules relating hereto are contingent upon appropriation of funds. The parties further agree that should the County or State fail to appropriate such funds, the Lessor shall be paid all rentals due and owing hereunder up until the actual day of termination. In addition, Lessor reserves the right to be paid for any reasonable damages. These reasonable damages will be limited to the losses incurred by the Lessor for having to sell the vehicles on the open used car market prior to the end of the scheduled term (as determined in Section 3 and Section 14 of this Agreement).

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Master Equity Lease Agreement as of the day and year first above written.

LESSEE: Town of Lauderdale By The Sea
Signature: William Vance

By: William Vance
Title: Town Manager
Address: 4501 Ocean Drive
Lauderdale By The Sea, FL
33308

Date Signed: 7-30-19

Initials: EFM B Customer Nmv

LESSOR: Enterprise FM Trust
By: Enterprise Fleet Management, Inc. its attorney in fact

Signature: Brett Frazee

By: Brett Frazee
Title: Vice President

Title: 5105 Johnson Road
Address: Coconut Creek FL 33073

Date Signed: July 30, 2019



AMENDMENT TO MASTER EQUITY LEASE AGREEMENT

THIS AMENDMENT ("Amendment") dated this 30th day of July, 2019 is attached to, and made a part of, the MASTER EQUITY LEASE AGREEMENT entered into on the 30th day of July, 2019 ("Agreement") by and between Enterprise FM Trust, a Delaware statutory trust ("Lessor") and Town of Lauderdale By The Sea ("Lessee"). This Amendment is made for good and valuable consideration, the receipt of which is hereby acknowledged by the parties.

Section 12 of the Master Equity Lease Agreement is amended to read as follows:

INDEMNITY: To the extent permitted by Florida law, Lessee agrees to defend and indemnify Lessor, Servicer, any other agent of Lessor and their respective successors and assigns from and against any and all losses, damages, liabilities, suits, claims, demands, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) which Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns may incur by reason of Lessee's breach or violation of, or failure to observe or perform, any term, provision or covenant of this Agreement, or as a result of any loss, damage, theft or destruction of any Vehicle or related to or arising out of or in connection with the use, operation or condition of any Vehicle. The provisions of this Section 12 shall survive any expiration or termination of this Agreement. Nothing herein shall be deemed to affect the rights, privileges, and immunities of Lessee as set forth in Section 768.28 of the Florida Statutes and the foregoing indemnity provision is not intended to be a waiver of any sovereign immunity afforded to Lessee pursuant to Florida law and shall be subject to the monetary limits set forth at Section 768.28, Florida Statutes.

Section 14(a), first paragraph of the Master Equity Lease Agreement is amended to read as follows:

(a) if Lessee fails to pay when due any rent or other amount due under this Agreement and any such failure shall remain unremedied for fifteen (15) days;

Section 14, first sentence, second paragraph of the Master Equity Lease Agreement is amended to read as follows:

Upon the occurrence of any Event of Default, Lessor, with written notice to Lessee, will have the right to exercise concurrently or separately (and without any election of remedies being deemed made), the following remedies

Section 17 of the Master Equity Lease Agreement is amended to read as follows:

Subject to the provisions of Section 15, this Agreement will be binding upon Lessee and its heirs, executors, personal representatives, successors and assigns, and will inure to the benefit of Lessor, Servicer, any other agent of Lessor and their respective successors and assigns. This Agreement will be governed by and construed in accordance with the substantive laws of the State of Florida (determined without reference to conflict of law principles) and any such action pursuant to this Agreement shall be brought in the Seventeenth Judicial Circuit in Broward County, Florida.

Section 19 of the Master Equity Lease Agreement is amended to read as follows:

NON-APPROPRIATION: Lessee's funding of this Agreement shall be on a Fiscal Year basis and is subject to annual appropriations. Lessor acknowledges that Lessee is a municipal corporation, is precluded by the Florida State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the State of Florida to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the lease terms within this Agreement or any Schedules relating hereto are contingent upon appropriation of funds. The parties further agree that should the State of Florida fail to appropriate such funds, the Lessor shall be paid all rentals due and owing hereunder up until the actual day of termination. In addition, the parties agree that Lessor may recover the losses incurred by the Lessor for having to sell the vehicles on the open used car market prior to the end of the scheduled term (as determined in Section 3 and Section 14 of this Agreement).

All references in the Agreement and in the various Schedules and addenda to the Agreement and any other references of similar import shall henceforth mean the Agreement as amended by this Amendment. Except to the extent specifically amended by this Amendment, all of the terms, provisions, conditions, covenants, representations and warranties contained in the Agreement shall be and remain in full force and effect and the same are hereby ratified and confirmed.

FLEET MANAGEMENT

IN WITNESS WHEREOF, Lessor and Lessee have executed this Amendment to Master Equity Lease Agreement as of the day and year first above written.


Town of Lauderdale By The Sea (Lessee)

By William Vance

Title: Town Manager

Date Signed: 7-30-19, _____


Enterprise FM Trust (Lessor)
By: Enterprise Fleet Management, Inc., its attorney in fact

Brett Frazee
By _____

Vice President
Title: _____

Date Signed: July 30, 2019, _____

Prepared For: Town of Lauderdale- By-The-Sea, Florida
Rubach, Ken

Date 02/04/2022
AE/AM GS0/KSW

Unit #

Year 2022 **Make** *Club Car **Model** *Carryall

Series *Utility Vehicle - US

Vehicle Order Type In-Stock **Term** 60 **State** FL **Customer#** 593584

\$ 17,005.46	Capitalized Price of Vehicle ¹
\$ 0.00 *	Sales Tax <u>0.0000%</u> State <u>FL</u>
\$ 0.00 *	Initial License Fee
\$ 0.00 *	Registration Fee
\$ 150.00	Other: (See Page 2)
\$ 0.00	Capitalized Price Reduction
\$ 0.00	Tax on Capitalized Price Reduction
\$ 0.00	Gain Applied From Prior Unit
\$ 0.00 *	Tax on Gain On Prior
\$ 0.00 *	Security Deposit
\$ 0.00 *	Tax on Incentive (Taxable Incentive Total : \$0.00)

All language and acknowledgments contained in the signed quote apply to all vehicles that are ordered under this signed quote.

Order Information

Driver Name
Exterior Color
Interior Color
Lic. Plate Type Yellow City
GVWR 0

\$ 17,155.46	Total Capitalized Amount (Delivered Price)
\$ 231.60	Depreciation Reserve @ <u>1.3500%</u>
\$ 58.26	Monthly Lease Charge (Based on Interest Rate - Subject to a Floor) ²
\$ 289.86	Total Monthly Rental Excluding Additional Services

Additional Fleet Management

Master Policy Enrollment Fees

\$ 0.00 Commercial Automobile Liability Enrollment
Liability Limit \$0.00

\$ 0.00 Physical Damage Management

Comp/Coll Deductible 0 / 0

\$ 0.00 Full Maintenance Program ³ Contract Miles 18,500
Incl: # Brake Sets (1 set = 1 Axle) 0

OverMileage Charge \$ 0.0350 Per Mile

Tires 0 Loaner Vehicle Not Included

\$ 0.00 Additional Services SubTotal

\$ 0.00 Sales Tax 7.0000%

State FL

\$ 289.86 Total Monthly Rental Including Additional Services

\$ 3,259.46 Reduced Book Value at 60 Months

\$ 400.00 Service Charge Due at Lease Termination

Quote based on estimated annual mileage of 3,700

(Current market and vehicle conditions may also affect value of vehicle)

(Quote is Subject to Customer's Credit Approval)

Notes

Enterprise FM Trust will be the owner of the vehicle covered by this Quote. Enterprise FM Trust (not Enterprise Fleet Management) will be the Lessor of such vehicle under the Master Open - End (Equity) Lease Agreement and shall have all rights and obligations of the Lessor under the Master Open - End (Equity) Lease Agreement with respect to such vehicle. Lessee must maintain insurance coverage on the vehicle as set forth in Section 11 of the Master Open-End (Equity) Lease Agreement until the vehicle is sold.

ALL TAX AND LICENSE FEES TO BE BILLED TO LESSEE AS THEY OCCUR.

Lessee hereby authorizes this vehicle order, agrees to lease the vehicle on the terms set forth herein and in the Master Equity Lease Agreement and agrees that Lessor shall have the right to collect damages in the event Lessee fails or refuses to accept delivery of the ordered vehicle. Lessee certifies that it intends that more than 50% of the use of the vehicle is to be in a trade or business of the Lessee.

LESSEE Town of Lauderdale- By-The-Sea, Florida

BY **TITLE**

DATE

* INDICATES ITEMS TO BE BILLED ON DELIVERY.

¹ Capitalized Price of Vehicle May be Adjusted to Reflect Final Manufacturer's Invoice. Lessee Hereby Assigns to Lessor any Manufacturer Rebates And/Or Manufacturer Incentives Intended for the Lessee, Which Rebates And/Or Incentives Have Been Used By Lessor to Reduce the Capitalized Price of the Vehicle.

² Monthly Lease Charge Will Be Adjusted to Reflect the Interest Rate on the Delivery Date (Subject to a Floor).

³ The inclusion herein of references to maintenance fees/services are solely for the administrative convenience of Lessee. Notwithstanding the inclusion of such references in this [Invoice/Schedule/Quote], all such maintenance services are to be performed by Enterprise Fleet Management, Inc., and all such maintenance fees are payable by Lessee solely for the account of Enterprise Fleet Management, Inc., pursuant to that certain separate [Maintenance Agreement] entered into by and between Lessee and Enterprise Fleet Management, Inc.; provided that such maintenance fees are being billed by Enterprise FM Trust, and are payable at the direction of Enterprise FM Trust, solely as an authorized agent for collection on behalf of Enterprise Fleet Management, Inc.

Other Totals

Description	(B)illed or (C)apped	Price
Initial Administration Fee	C	\$ 150.00
Courtesy Delivery Fee	C	\$ 0.00
Total Other Charges Billed		\$ 0.00
Total Other Charges Capitalized		\$ 150.00
Other Charges Total		\$ 150.00

VEHICLE INFORMATION:

2022 *Club Car *Carryall *Utility Vehicle - US - US

Series ID:

Pricing Summary:

	INVOICE	MSRP
Base Vehicle	\$14,944.16	\$16,982.00
Total Options	\$952.00	\$1,120.00
Destination Charge	\$319.00	\$319.00
Total Price	\$16,215.16	\$18,421.00

SELECTED COLOR:

Exterior:

white-

Interior:

-

SELECTED OPTIONS:

CODE	DESCRIPTION	INVOICE	MSRP
CB	Cargo Box includes Tailgate Tether	\$723.35	\$851.00
LED	LED Lights	\$187.85	\$221.00
RS	REAR SAFETY TRIANGLE 1035739019+	\$40.80	\$48.00

CONFIGURED FEATURES:

Electric Carryall® 710 LSV, Independent leaf spring with dual hydraulic shocks, ENGINE/MOTOR TYPE 48V 3-phase AC, SUSPENSION - REAR Independent leaf spring with dual hydraulic shocks, BED LOAD CAPACITY 850 lb (385.6 kg), OVERALL HEIGHT 74.3 in, BRAKES 4-wheel hydraulic disk/drum

On-Board Hi-Freq Charger with 15 foot (4.6m) Cord Reel, White Cowl, Gray Bucket Seats

Backup Camera, Tail Lights, Brake Lights, Turn Signals and Horn, DOT Tires 6-ply rated - 20x10-10



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted by: Debbie Hime, Special Events and Marketing Manager

Submitting Department: Administration

Item Type: Consent

Agenda Section: CONSENT

Subject Title: Special Event Application for LBTS VFD's Annual Easter Egg Hunt Saturday, April 16, 2022

Explanation: The LBTS Volunteer Fire Department ("VFD") Fire Chief Judson Hopping (the "Applicant") has submitted an application to host their Annual Easter Egg Hunt (the "Event") on Saturday, April 16, 2022 from 9:00 a.m. until 11:00 a.m. in Friedt Park, 4501 Bougainvillea Drive (**Exhibit 1**). Based on previous Egg Hunts hosted by the VFD, they expect a maximum of 300 volunteers, participants, and family members to attend.

Saturday, April 16, 2022	
Start of Set-up	7:00 a.m.
Start Time of Event	9:00 a.m.
End Time of Event	11:00 a.m.
Clean up Begins	11:00 a.m.
Clean up Completed by	1:00 p.m.

The proposed amplified sound/speaker system is a hand held megaphone, which does not require electricity. Participants will be directed to the bathrooms in Friedt Park. The VFD requests the following assistance from Town:

1. Free parking for participants in front of and behind Town Hall, in front of the tennis courts, and Friedt Park thirty (30) minutes before the event and until the event is over (maximum end time 11:00 a.m.);
2. Installing a plastic, temporary fence as noted on the site plan; and,
3. Public Works assistance to erect temporary fencing the day before the Event.

There is no Town fee for this Event as it meets the requirements of Chapter 17-3.1.1 (**Exhibit 2**) since it is a volunteer event that provides direct benefits to LBTS.

Recommendation: Staff recommends approval of the Event subject to the following conditions:

1. Free parking for the spots in front of and behind Town Hall, in front of the tennis courts, and in Friedt Park from 8:30 a.m. until thirty minutes after the Event ends or max 11:00 a.m.

2. BSO Police Chief has indicated that there will be no detail officers scheduled for this Event.
3. During the Event, as needed, and at the end of the Event, the Applicant shall empty the Town's waste receptacles and recycling bins within the Event area and within 100 feet of the Event area. The applicant shall be responsible for clean-up of the Park following the conclusion of the Event including the removal and disposal of all collected debris from the event. Trash shall not be placed in Town garbage receptacles.
4. Participants can use the restrooms in Friedt Family Park.
5. Set up is proposed to start at 7:00 a.m. and clean-up will be completed by 1:00 p.m.
6. The Event site shall be organized in a safe manner to protect attendees. There will be no electric cords and similar material used.
7. The Applicant shall keep the sidewalks next to Event site and within the Event site open and clear for pedestrian traffic.
8. Canopies: Max 10 x 10 size and measures to secure must approved in advance by the Fire Marshal. Canopies will be removed immediately if winds exceed the limit to safely secure them.
9. The Town Manager or designee may suspend permission for this Event due to construction activities, failure of the Applicant to comply with the terms and conditions of the Town's event permit, for health or safety issues, or for the best interests of the Town. No guns, fire, balloons, alcohol, or pets are allowed.
10. The Applicant shall provide a written notice, which must be approved by the Town prior to distribution, to all properties within 300 feet of the Event site by March 16, 2022, and confirm to the Town in writing which properties have been notified.
11. At least thirty (30) days prior to the Event, the Applicant shall provide a Certificate of Liability Insurance written in comprehensive form naming the Town as additional insured in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury, and \$1,000,000 per occurrence and \$2,000,000 general aggregate for property damage with thirty (30) days written notice required for cancellation.
12. The Event will be operated so as not to violate the Town's Code, including but not limited to the noise levels set forth in Chapter 13.
13. Upon showing by the Applicant of a valid reason, the Town Manager may approve minor logistical or site plan changes that are consistent with the Commission's past policy direction on special events.
14. The onsite Town representative may terminate the Event due to the Applicant not complying with the terms and conditions of the Town's event permit, for health or safety issues, and for such as but not limited to, crowds that exceed the capacity of the Event site.

Attachments

1. Special Event Application for LBTS VFD Easter Egg Hunt on Saturday, April 16, 2022
2. Chapter 17-3.1.1

2/3/22



SPECIAL EVENT APPLICATION INFORMATION

For your event to be considered by the Town Commission, a **fully completed** application must be submitted **at least** 60 days prior to the date of the event.

This application is available in Word format at www.lbts-fl.gov/town/docs.htm. If possible please use the Word document and your computer to complete the application.

An application is not considered complete unless it includes:

1. A full description of the proposed event,
2. A detailed site plan (*very important!*),
3. All required documents, and
4. The application fee.

A meeting with Special Events Permitting is required before submitting a Special Event Application. Questions? Call our Special Projects Coordinator at 954-640-4200 or email debbieh@lbts-fl.gov.

Payment of Special Event Permit fee is required at the time of Application submission via hand delivery or by mail to:

***Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, Florida 33308***

A Special Event shall be approved by the Town Commission before an event is advertised to the public. A special event is defined as a concert, festival, race, walk, carnival, show, exhibition, parade, or any other similar outdoor event whether operated totally outdoors, on stage, under tents, or with the use of any temporary building or structure, ***to which members of the public are invited as participants or spectators.***

Please review the Town's special event requirements by clicking on: https://www.Special_Event_Requirements
Or download a copy of the Special Event Requirements from our website and review them before submitting your application.

Important to remember:

1. Your event is approved by the Town Commission with "Conditions" that must be met or your event is cancelled. **READ and understand the Conditions. Talk with us if you have questions.**
2. You are responsible for securing and paying for all fees, licenses, and permits required by any governmental agency having jurisdiction, providing the Town evidence of all required insurances, and providing evidence of organization and/or charity.
3. You have to file all of the required documents shall be provided not later than 30 days prior to the event date or the event authorization terminates (unless prior arrangements have been approved by Town).
 - a. Insurance
 - b. Vendor lists and licenses
 - c. File site plan

4. Parking is limited in Lauderdale-By-The-Sea, and will be a consideration when approving your event.
5. You may have to obtain permits from the Building & Fire Departments to meet Florida Building Code and Fire Code standards.
6. You are responsible for securing and paying for all fees, licenses, and permits required by any governmental agency having jurisdiction.

I (Applicant) have read and fully understand the above:



Signature of Applicant

Print Name: Judson Hopping

Event Name: LBTS Easter Egg Hunt



SPECIAL EVENT APPLICATION

Submit this completed application at least 60 days prior to the proposed date of your event.

DETAILED SITE PLAN REQUIRED (see details at end of application)

Site Plans often do not include details that are necessary to approve an application or to issue a permit and delays are caused by rejections of initial applications.

Once you have completed the written portion of the application, provide a Site Plan on the last page or attach separately to this application.

Name of Event: L.B.T.S. Easter Egg Hunt

Event Purpose, Description and Activities: TO FOSTER A FUN EVENT FOR CHILDREN

New Event ☐ or Returning Event ☒ Previous Attendance ☐

Day(s) and Date(s) of Event: 4/16/2022

Proposed location of the Event (location, streets, landmarks):

Friedt Park

How many people do you anticipate on site at any peak time?

Participants: 50 #Spectators 25 #Adult volunteers: 20

Please complete the following table:

Activity	Day	Time
Start of set-up:	<u>4/16/22</u>	<u>08:00</u>
Start time of the Event:	<u>4/16/22</u>	<u>09:00</u>
EVENT		
End time of the Event:	<u>4/16/22</u>	<u>10:30</u>
Start of Clean up:	<u>4/16/22</u>	<u>10:30</u>
Clean-up completed by: (Site restored to original condition)	<u>4/16/22</u>	<u>11:30</u>

Name and address of host or sponsoring organization:

Is applicant a Non-Profit Organization?

YES NO

Please attach Organization's proof of 501c3 IRS exemption, background, history, accomplishments, and other events:

Person submitting Application ("Responsible Party"):

Name: *Judson Hopping*

Mailing address: *4513 N. Ocean Blvd*

Phone: *954 640 4250*

Mobile phone: *954 868 7776*

Email: *Jhopping@LBTSFire.com* Fax:

Representative(s) who will be at each day of the event:

Name(s): *SAME AS ABOVE*

Mailing address:

Phone:

Mobile phone:

Evening phone:

Fax:

Email:

Add information as necessary:

Will you have an event contractor or planner?

☒ YES ☐ NO

If yes, please provide the contact information of your event contractor (event planner)

Name: *Judson Hopping*

Company Name: *LBTS FIRE Dept.*

Business Address:

Company Email:

Phone Office:

Phone Mobile:

List contractors that will be on site before, during or after the event (use separate page if needed) – final list required 30 days prior to event.

NONE

Request for Town Involvement:

Are you requesting the Town be involved with this event in any way? ☒ YES ☐ NO

If yes, describe services requested, if any:

Install orange fence in park

STATEMENT OF BENEFIT

If the applicant is seeking sponsorship/co-sponsorship from the Town of Lauderdale-By-The-Sea, a Statement of Benefit is required by Town Code and shall be included here or attached to this application.

If the Town is a sponsor or co-sponsor of the event, the Applicant shall keep financial records of the event sufficient to document all revenues and expenditures. These records shall be available at reasonable time within Broward County for inspection by the Town.

(Insert here or denote if attached)

FEES

Are there fees or donations collected on site from the participants or spectators?

YES ☒ NO

If yes, provide details:

SOUND SYSTEMS

The event sound systems shall be operated so as not to violate the Town's Code, including and especially Section 13-6, Noise Limitation. Violations of the Town's noise ordinance are grounds for the immediate termination of the source of the noise and may be grounds to terminate the event.

Do you plan to use amplified sound? Provide details, time and location, and if you require electrical connections for:

N/A Proposed amplified sound/speaker system:

N/A Proposed live music: List genre, type, ambiance:

N/A Planned recorded music

N/A Do you require electrical connections for any of the above? Please give details:

CLEAN EVENT STANDARDS

Keeping the event area clean during the event and immediately following the event, including trash removal, walkways, and streets, is the responsibility of the applicant. See Clean Up Deposit under Conditions

Please note that, except for very small events, all events shall provide a recycling plan and follow recycling requirements. See Recycling Requirements under Conditions. For more info email recycle@lbts-fl.gov.

Name the contractor or organization (including contact information) who is responsible for your Event's recycling:

Name: N/A

Email:

Address:

Daytime phone:

Mobile phone:

TENTS, CANOPIES, STAGES, BLEACHERS

Tents are generally defined as temporary structures having two or more sidewalls or drops.

A canopy is a tent without sides.

All Tents, canopies larger than 120 sq. ft., multiple canopies without separation, and stages require a building permit. The use of tents or large canopies require approval of the LBTS Fire Marshal and are required to have building permits obtained via LBTS Building Department prior to Event. Manufacture labels are required to be attached to the tents and canopies.

Rental agencies shall provide documentation of the flame spread labeling of 25 or less submitted with application. All canopies larger than 120 sq. ft. shall submit copies the manufacture's labels attached to the tents or canopies with application.

Stages and bleachers shall include product approvals that are supplied by the manufacturer.

Indicate if any of the following will be assembled at the Event and include locations on Site Plan. List sizes and numbers of each:

Tents: _____
Canopies: _____ *NA*
Stages: _____
Bleachers: _____ list size and max load:

UTILITIES

All utilities requirements shall be approved by the Director of Development Services and the Fire Marshall prior to Application submission to Town Commission.

Depending on location of event, electrical and/or water may be available from the Town for a fee.

Electrical Requirements: *Electrical work requires an Electrical Building Permit.
Generators over 5KW require an Electrical Building Permit.
A Florida Licensed Electrical Contractor is required to obtain permits.*

All electrical requests shall meet the requirements of the Florida Building Code with final approval from the Town's Building Official at least 30 days prior to the Event. Contractor is required to schedule and successfully complete inspection of work prior to Event opening. Florida Building Code 101.4.1, 105.4.5.

Will any **electrical equipment be installed** in conjunction with the Special Event? (i.e. lighting in tents, outlets for cooking, stages, etc.) Yes NO

If the Event requires the following on public property, list what equipment is to be installed and locations (include voltage, amperage, and phases of wiring) as well as company name providing the equipment. Describe below, include location and use, and also include locations on Site Plan:

NA _____ Electrical power:
_____ Water:
_____ Gas, propane, BBQ grills, generators:
_____ Fuel Storage:

SIGNAGE

All signage shall be included in the application if you wish to exceed the Town Code requirements. Signage shall be reviewed by Development Services (LindaC@lbtS-fl.gov) before Application is submitted to Town Commission). No signage shall be installed without permit.

Information on signage shall include location, colors, size and number of signs. Indicate
signage to be placed in any right of way that directs traffic to the Event and their approximate size.

Are you requesting permission to erect signage for this Event?

YES NO

For each sign please provide:

Description, number of signs, proposed dates, location, size of signs in square feet and letter size:

Include sign locations on detailed Site Plan or attach a separate sheet.

RESTROOMS (show on Site Plan)

The number of portable toilets required depends on the number of attendees, length and type of event, as determined by the Building Official.

Local businesses that have more than the required number of restroom facilities that allow their facilities to be used may count towards the extra restroom facilities required.

If Event is downtown, permit holder is required to obtain written approval from restaurants to allow participants to use their restroom facilities.

Number of restroom facilities required by Town: TBD

Number of additional restroom facilities, and type, that will be on event site: _____
(Show on Site Plan)

STREET CLOSURES

Street closures may be required at the Event's expense

Are you requesting that any public streets be closed for the Event? YES ☒ NO
I don't know, please advise _____

If yes, indicate the streets and blocks and times the closure is requested:

TRAFFIC CONTROL/BARRICADES

A traffic control contractor may be required for events which require barricades or traffic control signage.

Please list your traffic control contractor, if applicable:

VEHICLES

Vehicles are not allowed to drive or park on Town property or park grounds due to damage to underground irrigation systems and to the sod. Applicant shall be responsible for restoration of any damage to Town property.

Are you requesting to drive or park on town property or park grounds: YES ☒ NO

If you are requesting that vehicles be permitted to drive or park on Town property, please indicate the type(s) of vehicles, the locations, and times they would be parked. Must be approved by Town's Parking Department prior to Event.

LOADING/UNLOADING: If you are requesting that vehicles be permitted to load/unload in non-metered areas, please indicate the location and times loading and unloading would occur:

TRAFFIC CONTROL PLAN

Parking exemptions shall be approved by Assistant Town Manager prior to Application submission to Town Commission). Town may block spaces for safety and other reasons at the expense of the Event.

Include detailed Site Plan indicating how on and off street parking will be accommodated.

Are you requesting the reservation of any Town parking meter spaces for the Event? ☒ YES ☐ NO

If yes, provide the meter numbers on the Site Plan and purpose for which they will be used.

All parking meter fees are paid 30 days prior to the event.

Meters Behind Town Hall And Along the Park

OFF DUTY POLICE/CODE COMPLIANCE OFFICERS

Off duty police officers are required, at the applicant's expense, for street closures, events with alcohol, or large crowds, as determined by the Sheriff's Department. Large events may require a code compliance officer to ensure compliance with Town codes.

Do you anticipate needing off duty police officers for your Event?

YES

☒ NO

Do you anticipate needing code compliance officers for your Event?

YES

☒ NO

CONCESSIONS:

A no-compete clause pertaining to local restaurants will be required where applicable.

Are you planning to have any type of concessions?

YES

☒ NO

If YES, has the Florida Health Department approved the food vending Site Plans?

YES

☒ NO

If yes, is the food provided by a Non-Profit _____ or For Profit _____ organization?

Is the food free of charge _____ or for sale _____

Do all food vendors have a temporary food service permit?

YES

NO

Please list the types of food that will be served: *none*

Are you requesting any of the following types of cooking equipment be used on site:

Charcoal Grills _____	Sterno _____	Fryers _____	Open fires _____
Propane Grills _____	Refrigerators _____	Smokers _____	Hoods _____
Concession trailers _____	Warmers _____	LP Tanks _____	Other _____

Provide details of dispensing locations here and on Site Plan

ALCOHOL

State license is required to be submitted to the Town at least 30 days prior to the event

Are you planning on selling alcoholic beverages at the event?

YES

☒ NO

If YES, has a liquor permit been obtained from the State of Florida?

YES

☒ NO

~~Provide details of dispensing locations here and on Site Plan~~

Provide contact information for all license holders that will be serving alcohol:

VENDORS

A list of all vendors their company name is required for initial approval and final list is required 30 days prior to event and subject to approval (add here or on separate page, and vendor location on site Plan):

Name	Company	Vendor Type
------	---------	-------------

none

ANIMALS

Any exhibition or similar undertaking in which animals are required to participate in performances for the amusement or entertainment of an audience is subject to Town Commission approval.

Are animals included in your event?

☒ YES ☐ NO

If yes, please give details: Easter Bunny

FIREWORKS

(Fireworks require a separate permit approval process and application)

Are you requesting approval to discharge fireworks at the event?

YES ☒ NO

SALE OF MERCHANDISE

Are you requesting approval to offer other items for sale at the event?

YES ☒ NO

List items for sale:

RIDES

Rides or other amusement may require a State of Florida inspection

Copies of contracts with any provider of rides, mechanical devices and amusements shall be submitted to the Town at least 30-days prior to the event.

Are rides to be included in the Event?

YES ☒ NO

If yes, please provide the number and description of each type:

Mechanical/Electrical:

Inflatable (bounce house etc.):

Manual (slides, trampolines):

Other:

NO BALLOONS RELEASED

When balloons are released over the ocean, they become a major source of pollution and significantly increase the mortality rate among sea turtles, birds and other marine life. Sea turtles and fish often mistake the balloons for jellyfish, eat them and die when their stomachs become blocked. Birds can become entangled in the balloon strings and drown. To help reduce the threats caused by balloons, I agree that there will be no release of balloons at this event and I have been informed that the release of balloons is illegal under Florida Statute 379.233. Balloons may be used for decorations at an event but they must either be deflated or taken home at the end of the event, NEVER released into the air. Failure to abide by this requirement will result in the cancellation of the ~~current Event and denial of future special event permits.~~

I agree no balloons will be released _____

FIRE WATCH or EMS ONSITE

If required by the Fire Marshall, the applicant shall provide for a fire watch and/or an EMS Crew during the event. Large events or those using combustible materials may require qualified stand-by personnel and the appropriate equipment, the cost of which is the responsibility of the applicant.

First Aid facilities may be required by Town at Event's expense. Initial 

INSURANCE

Insurance requirements differ depending on the type of event and if alcohol is served.

For events not serving alcohol and without fireworks, the Applicants shall provide a Certificate of Liability Insurance written in comprehensive form naming the Town as additional insured in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and \$1,000,000 per occurrence and \$2,000,000 general aggregate for property damage with thirty days written notice required for cancellation.

Certificate of Liability Insurance naming the Town as additional insured is required from all Event businesses, promoters, and other related event planners

An approved form of a Certificate of Liability Insurance may be required with your Application for approval by the Town Commission and/or shall be provided the Town at least 30 days prior to the Event date.

Talk to Town Staff representative if your Event proposes serving alcohol or having fireworks about insurance requirements, as both require additional insurance.

Do you and all parties involved have the required insurance coverage needed for this Event?

☒ YES ☐ NO

EVENT CONDITIONS

Approval for this Event shall expire without future action of the Town if all documents such as but not limited to insurance certificates, health and liquor licenses, BSO police detail contract(s), Fire Marshall or Development Services approvals, MOT Plan, Solid Waste Plan, final Site Plan, any monies due to Town, and other material requirements are not submitted at least 30 days prior to the Event.

Copies of State and County licenses for all vendors and contractors shall be filed with the Town 30 days in advance of the Event. (Final list of vendors and their locations shall be submitted to the Town no later than two weeks prior to the event unless otherwise approved in advance by Town)

If the Event is approved by the Commission, they will establish the Event conditions that the application shall abide by during the Event. Standard Conditions shall include, but are not limited to the following:

1. Permission for this Event may be suspended or modified by the Commission, Town Manager or his designated Staff.
2. Turtle Clause: If any of the set-up will take place on the beach sand please avoid any marked sea turtle nests with a minimum buffer of 30 feet.
3. Setup of the Event will start at about _____ and the area will be cleaned and open by _____
4. The Police Chief shall specify the number of BSO detail officers needed for traffic and crowd control. The Applicants shall contract with BSO Detail Office for the detail BSO deputies within ten (10) days of receiving Event approval.

5. The Police Chief shall approve the Applicant's Maintenance of Traffic Plan (MOT), if one is required.
6. The Applicants shall submit a solid waste and recycling plan for approval at least 30 days prior to the Event to the Municipal Services Director. The Applicant shall provide additional waste receptacles and recycling bins. During the event as needed and at the end of the event, the Applicant shall empty all of the waste receptacles and recycling bins and pick up litter within the event site and 100 feet of the site.
7. All signage will be approved and permitted with Development Services at least 30 days prior to the event
8. All related Fire Marshall and Building Official's related requirements have been approved
9. Provide proof of additional restroom facilities ordered at least 30 days prior to event
10. The event and its approved sound systems shall be operated so as not to violate the Town's Code, including and especially Section 13-6, Noise Limitation. All music shall end promptly at ____ pm.
11. The event site shall be organized in a safe manner to protect attendees. All electric cords and similar material shall be covered so as to not pose a hazard to the public or event staff, or will be battery operated.
12. Parking Requirements have been identified, fees paid and listed on site plan
13. The Applicant shall provide a written notice to all properties affected by this event by (date), (30 days in advance) for approval prior to distribution; and confirm in writing which properties have been notified.
14. Clean up Deposit may be imposed, based on the final Site Plan, and due two weeks prior to the event.
15. Clean up fee starting at \$150 will be charged if area is not cleaned to Town standards.
16. Final Site Plan must be presented for approval at least 48 hours in advance of the event.
17. Streets and sidewalks will be free of any debris and cleaned at the end of tear down.
18. A Damage Deposit may be imposed, based on size of event and location.
19. There will be no release of balloons at this Event.
20. Any inspections or work required by Town Staff after normal working hours will incur additional costs set forth by the respective department.
21. Upon showing by the Applicant of a valid reason, or if required by the Town, the Town Manager may approve minor logistical changes that are consistent with the Commission's policy direction on special Events.
22. The Applicant shall meet the following minimum insurance requirements per Ordinance 2015-06, which may be modified by action of the Town Commission for a specific Event:
 - a) Prior to issuance of the requested permit, proof of commercial general liability insurance, whether through a single policy, or a combination of policies, in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury and property damage.
 - b) No required policy shall have a deductible or self-insurance retention greater than \$15,000.
 - c) All policies must be issued by companies authorized to do business in the State of Florida and rated A- or better per Best's Key Rating Guide, latest edition. The certification of insurance shall provide for the Town to receive 30 days' written notice prior to any cancellation, non-renewal or material change in the coverage provided, unless the insurance company refuses to provide such notice, as evidenced by affidavit of the policy holder or written documentation from the insurance company. In any Event, the Applicants shall be held responsible for providing the Town notice of any change in insurance coverage. The Town shall be named as an additional insured on all required insurance policies, and an endorsement reflecting this requirement shall be issued as part of any required policies. The Applicants shall provide an original certificate of insurance as evidence of continued coverage prior to any annual renewal of the permit. Failure

to comply with these requirements shall justify a denial, suspension or revocation of the requested approval by the Town Manager or designee.

- d) In the Event that control of any applicable Event or activity, by contract or other arrangement, becomes the responsibility of a party other than the Applicant (the "sub-applicant"), the sub-applicant shall provide insurance and indemnification meeting the requirements of this Section under which the Applicant is applying, as if they were the Applicant and shall be held responsible for compliance with the Town Code as if the sub-applicant were the Applicant.
 - e) If applicable, at least thirty (30) days prior to the first Event, the Applicants shall provide a Certificate of Liquor Liability Insurance written in comprehensive form naming the Town as additional insured in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and \$1,000,000 per occurrence and \$2,000,000 general aggregate for property damage, which provides coverage for each Event authorized by this permit. The Certificate shall specify that the Town will be given at least thirty (30) days written notice of any cancellation.
23. In the Event that insurance certificates, licenses and other material requirements are not provided by the required dates, the approval for this Event shall expire unless the Town Manager finds there are extenuating circumstances that the Event sponsors have cured or can immediately cure without compromising the health, welfare and safety of the citizens of the Town of Lauderdale-By-The-Sea and those attending the Event, without increasing the administration costs of the Town.
24. Applicant shall owe no monies to the Town at the time of the Event. There shall be no past due fines, moneys, fees, taxes or other charges owed to the Town by the current or past property owners or operators requesting the special Event permit. A special Event permit will not be issued until all past due debts to the Town are paid in full.
25. The Town Manager may suspend permission for this Event due to failure of the Applicants to comply with the terms and conditions of the Town's permit, due to conflicting activities, for health or safety issues, or for the best interests of the Town.
26. The onsite Town representative may terminate an Event due to the Applicant not complying with the terms and conditions of the Town's Event permit, for health or safety issues, and for such as but not limited to, crowds that exceed the capacity of the Event site.

INDEMNIFICATION

Applicant shall indemnify, defend and hold harmless the Town, its officers, agents and employees, from and against any and all claims, suits, actions, damages, liabilities, expenditures or causes of action of any kind arising directly or indirectly from this Special Event and resulting or accruing from any intentional act or any negligent act, omission or error of Applicant which in turn results in or relates to injuries to body, life, limb or property sustained in, about or upon the Special Event Area, and arising from the use of the Town property.

~~Applicant shall defend, at its sole cost and expense, any legal action, claim or proceeding instituted by any person against the Town as a result of any claim, suit or cause of action accruing or in any way arising out of this Special Event Application for injuries to body, life, limb or property as set forth above.~~

Applicant shall save the Town harmless from and against all judgments, orders, decrees, attorneys' fees, costs, expenses and liabilities incurred in and about any claim, and the investigation or defense of them, which maybe entered, incurred or assessed as result of the foregoing.

SITE PLAN DETAILS

Site Plans often do not include the details that are necessary to approve an application or to issue a permit and delays are caused by rejections of initial applications.

The following details are intended to be a guide to assist you in developing a Site Plan. A current survey of the property is most helpful. If a survey is not available, a drawing depicting the area of the Event should include these details, as necessary. More than a one page Site Plan may be included in your application if details of specific areas are important to your Event.

*A detailed map of the Event site identifying location of each of the following **MUST** be drawn here or attached to this application prior to submission. Dimensions are required to determine if available site will support all of the proposed activities.*

Cooking Areas need to be separated from public areas with fences or barricades

Canopy, tents or other covers: locations should include the size, type, & (shelter, vending, food, EMS)

Location:

- The site of the event, with streets, parks and other landmarks identified
- Routes for races, parades, etc.
- Traffic routing and road closures
- Ticket Kiosks
- Access control points
- Signage (*shall be approved by Development Services prior to Application submission to Town Commission*)
- Signs (location, size, color and wording)*

Public Services:

- Fire lanes (emergency access for fire equipment and EMS)
- Restroom facilities (incl. Portable & Private)
- Locate electrical equipment, permanent and temporary (temporary electrical installation (must be to code and approved by Town)
- Trash and Recycling receptacle locations
- Smoking and No Smoking areas
- Pedestrian walkways
- Garbage Cans
- Recycling Bins

Hazard/ Precautions:

- Hazards at the site (ditches, construction areas, obstructions to pedestrian traffic, bodies of water)
- Fencing, barriers, barricades, walls, gates, etc.
- Gasoline, propane, grills, fire, charcoal, generators, any other flammable fuel
- Fuel Storage and dispensing areas
- Fire Extinguishers Minimum size 4A/10BC one every 75 ft. of travel. If cooking, Class K or 1 40BC rated Fire Extinguisher for every cooking station or canopy (at discretion of Fire Marshall)
- Generators (shall be approved by Fire Marshall in advance)

Event:

- Canopies, tents, stages (types shall be specified) locations for sales, food service, etc. *Large tents will require Fire Marshall approval of illuminated exit signs and fire extinguishers*
- Vendor locations (booths or tables and approximate size, (Vendor's company names phone numbers and email addresses required on separate page at least 48 hours in advance of the Event)
- Restrooms – Portable and Private
- First Aid facilities
- Trailers, storage, sleeping facilities, service boxes, displays, etc.
- Alcohol serving/consuming areas
- ~~Rides and Amusements, Rides, demonstrations, performance areas and stages including Musicians and Artists~~

Parking:

- Parking areas, location, parking spaces, and parking space numbers that will be blocked; to load/unload before, during or after the event and the amount of time for each occurrence

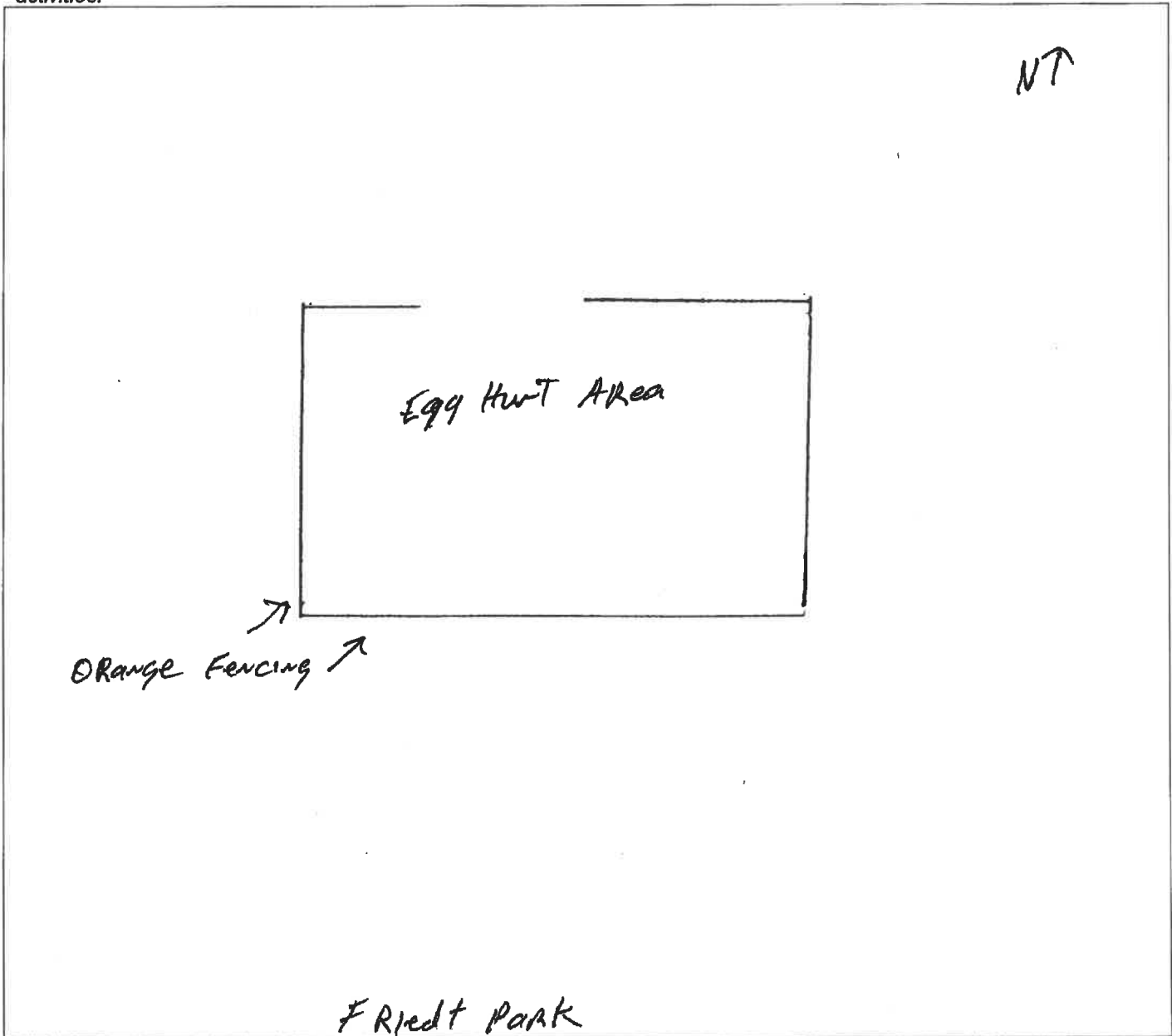
Code or Security Enforcement (paid by Event)

- EMS stand-by or Fire watch areas (include first aid stations)
- Police: Off duty police officers (if known)

DETAILED SITE PLAN

See above for inclusion examples

A detailed map of the event site identifying location of each of the following **MUST** be drawn here or attached to this application prior to submission. Dimensions are required to determine if available site will support all of the proposed activities.



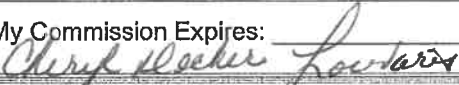
PERMISSION OF THE PROPERTY OWNER

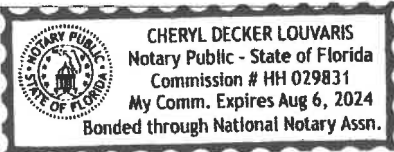
Applicant's and Property Owner's Certification

An event held on property that is not owned by the applicant requires the permission of the property owner, which is granted by having the property owner sign this special event application.

By signing this event application, the petitioner agrees to all terms, conditions, and indemnification in this application, and understands that this application or the approval of this event application by the Town Commission does not grant any permission to violate any laws, ordinances or statutes.

Additions and/or revisions to this application must be submitted in writing.

Applicant	Property Owner
I understand the Town's requirements to hold a special event and the information provided in this application is complete to the best of my knowledge.	I give the applicant permission to use my/our property for the proposed special event and I understand the Town's requirements to hold a special event and the information given by the applicant is complete to the best of my knowledge.
Applicant's Signature (required): 	Property owner's Signature (required): _____
Date: <u>2/3/22</u>	Date: _____
Applicant's (Print information below) Name: <u>Judson Hopping</u> Title: <u>Fire Chief</u> Organization: <u>LBTS Fire Dept.</u> Telephone: <u>954 868 7776</u> Mobile: _____ Email: <u>jhopping@LBTSFire.com</u>	Property Owner's (Print information below) Name: _____ Title: _____ Organization: _____ Telephone: _____ Mobile: _____ Email: _____
STATE OF FLORIDA: COUNTY OF BROWARD:	STATE OF FLORIDA: COUNTY OF BROWARD:
SWORN TO AND SUBSCRIBED BEFORE ME, a Notary Public of the State of Florida, by <u>JUDSON HOPPING</u> who is personally known to me/provided <u>FL DRIVER LIC</u> as identification and who did/did not take an oath.	SWORN TO AND SUBSCRIBED BEFORE ME, a Notary Public of the State of Florida, by _____ who is personally known to me/provided _____ as identification and who did/did not take an oath.
My Commission Expires: _____ 	My Commission Expires: _____
Notary Public, State of Florida	Notary Public, State of Florida



Applicant's Certification

By signing this event application, the petitioner agrees to all terms, conditions, and indemnification in this application, and understands that this application or the approval of this event application by the Town Commission does not grant any permission to violate any laws, ordinances or statutes.

Additions and/or revisions to this application shall be submitted in writing.

I understand the Town's requirements to hold a special event and the information provided in this application is complete to the best of my knowledge.

J. S. Hopping
Applicant's Signature (required)

2/3/22
Date

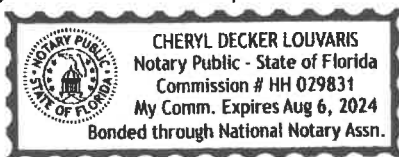
Judson Hopping Fire Chief
Applicant's Printed Name and Title/Organization

954 868 7726
Telephone Number

STATE OF FLORIDA:
COUNTY OF BROWARD:

SWORN TO AND SUBSCRIBED BEFORE ME, a Notary Public of the State of Florida,
by *Judson Hopping* who is personally known to me/provided
FL DRIVERS LICENSE as identification and who did/did not take an oath.

Cheryl Decker Louvaris
Notary Public, State of Florida
My Commission Expires:



ARTICLE VIII. SPECIAL EVENTS

Sec. 17-111. Permit required.

It shall be unlawful for any person to advertise to the general public a special event which requires a permit without first obtaining a permit as provided herein. It shall be unlawful for any person to hold a special event as hereinafter defined without first making application to the Town, paying the prescribed fee, and obtaining a permit for such special event. Special events shall not be permitted to be located or operated in the Town except as provided herein.

(Ord. No. 379, § 1, 7-9-96)

Sec. 17-112. Definitions.

[As used in this article:]

Special event shall mean a concert, festival, race, walk, carnival, show, exhibition, parade, and any other similar outdoor event whether operated totally outdoors, on stage, under tents, or with the use of any temporary building or structure, to which members of the public are invited as participants or spectators.

(Ord. No. 379, § 2, 7-9-96)

Sec. 17-113. Application.

All persons interested in conducting special events in the Town shall first submit an application on a form available from the Town. An application for a special event shall be filed along with the filing fee no less than 60 days in advance of the beginning date of the event and shall contain the following:

- (1) A detailed description of the location of the event, the hours of operation, and length (in number of days) of the event.
- (2) If the special event, or any part thereof, is to be held only on private property, an affidavit from the owner(s) of the property on which the event is to be conducted stating that the owner(s) has legal title to the property, consents to the event, and will be responsible for cleanup of the property following the conclusion of the event. If the special event is to be held on public property, in whole or in part, an acknowledgement by the applicant that the applicant is responsible for cleanup of public property unless cleanup is otherwise assumed by the Town.
- (3) If the event will include amusement rides, a copy of any contract between the applicant and any person providing a ride, mechanical entertainment or amusement device, together with a valid County or State business license. No carnival operation shall be permitted to begin erecting its activities until the issuance of a special events permit.
- (4) The names and addresses of all financial sponsors of the event.
- (5) The names and addresses of all charitable or not-for-profit organizations which will receive any portion of proceeds from the event.

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- (6) A statement from the applicant that it has the ability to provide the insurance required in section 17-9(3). Proof of such insurance shall be provided prior to issuance of the requested permit.
 - (7) An indemnity and hold harmless certificate in favor of the Town in a form approved by the Town Attorney.
 - (8) For any event including a display of fireworks, as defined in F.S. § 791.01(4), all of the following shall be required:
 - a. The applicant shall provide evidence that the fireworks display will be supervised and operated by one or more persons trained in pyrotechnics, and provide applicable licensing information for such operators.
 - b. The applicant shall provide a detailed description of the proposed location of the fireworks display and demonstrate that the location will not pose a hazard to any structure.
 - c. A statement from the applicant that it has the ability to provide the insurance required in section 17-9(3) and a general liability insurance policy of not less than \$5,000,000.00 per incident for all claims related to fireworks. Proof of such insurance shall be provided prior to issuance of the requested permit.
 - d. The applicant shall list the approximate number and kinds of fireworks to be discharged.
 - e. Time and duration of the display.

(Ord. No. 379, § 3, 7-9-96; Ord. No. 422, § 2, 7-29-99; Ord. No. 2007-06, § 2, 4-10-07; Ord. No. 2011-16, § 2, 8-23-2011; Ord. No. 2014-04, § 3, 6-24-2014; Ord. No. 2014-12, § 2, 8-23-2014; Ord. No. 2015-06, § 2, 8-11-2015)

Sec. 17-114. Review of application.

- (a) The Town's administrative staff shall review all applications at time of submission. No application shall be accepted if it fails to provide any of the above required information.
- (b) Following acceptance of an application, the Town's administrative staff may request additional disclosure to substantiate the veracity of the information disclosed in the application. If any information is determined to be inaccurate or incomplete, the application shall be returned to the applicant for correction.
- (c) Following acceptance and review of the application, the Town Administration shall submit the application, any supporting documentation thereto, together with any recommendation of the Administration to the Town Commission for review and approval. The Town Administration's recommendation shall address conditions on the operation of the special event including, but not limited to:
 - (1) Limitation on the days and hours of operation.
 - (2) Posting of surety, letter of credit, or cash bond to cover post-event cleanup, repairs, or unpaid utility charges.
 - (3) Provisions for sanitary facilities.
 - (4) Provisions for electrical and building inspections.
 - (5) Provisions for security.
 - (6) Provisions for the regulation of alcoholic beverages.
 - (7) Provisions for noise and pollution control.
 - (8) Provisions for comprehensive general liability insurance, naming the Town as an additional insured, or other insurance as deemed necessary.

-
- (9) Provisions for traffic control and street closure.
 - (10) Whether, upon considering the location of the proposed special event, the potential impacts upon neighboring properties, and the day of the week on which the special event is proposed to occur, it is in the best interests of the Town to allow the playing or broadcasting of live or recorded music until 10:30 p.m.
 - (11) The location and the hours during which the display shall be permitted.
 - (12) For any event which includes a fireworks display, the applicant shall comply with any additional conditions as may be required by the Chief of the Fire Department, including attendance of Fire Department personnel during the display. Any costs of providing Fire Department personnel to comply with the conditions of the approval shall be the responsibility of the applicant.
- (d) Notwithstanding the foregoing, the Town Administration may recommend denial of a permit for a special event, and the Town Commission may deny the application, on any of the following grounds:
- (1) The application for permit (including any required attachments and submissions) is not fully completed and executed;
 - (2) The application for permit contains a material falsehood or misrepresentation;
 - (3) The applicant is legally incompetent to contract or to sue and be sued;
 - (4) The application or the person on whose behalf the application for permit was made has on prior occasions damaged Town property and has not paid in full for such damage, or has other outstanding and unpaid debts to the Town;
 - (5) For a special event on public property, if a fully executed prior application for permit for the same time and place has been received, and a permit has been granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular park, or other public property or part hereof;
 - (6) The use or activity intended by the applicant would conflict with planned programs organized and conducted by the Town;
 - (7) The proposed use or activity is prohibited by or inconsistent with the uses of the park or other public property;
 - (8) The use or activity intended by the applicant would present a threat to the health, safety or welfare of the applicant, other users of the park or other public property, Town employees or the public;
 - (9) The applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations of the Town concerning the sale or offering for sale of any goods or services;
 - (10) The use or activity intended by the applicant is prohibited by law, or ordinances or regulations;
 - (11) The applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted;
 - (12) The applicant has violated the terms or conditions of prior permits issued to or on behalf of the applicant; or
 - (13) The applicant has been issued a citation or notice to appear for a violation of section 13-6, "Noise Limitations," of the Code of Ordinances in connection with a prior permitted event;
 - (14) An application that includes a display of fireworks, as defined in F.S. § 791.01(4), fails to:
 - a. Comply with Florida Statutes;

-
- b. Comply with the application requirements of this article; or
 - c. Receive approval from the Chief of the Fire Department.

(Ord. No. 379, § 4, 7-9-96; Ord. No. 2008-14, § 1, 6-11-08; Ord. No. 2009-14, § 2, 7-28-09; Ord. No. 2011-16, § 2, 8-23-2011)

Sec. 17-115. Issuance of permit.

No permit shall be issued by the Town until the special event has been approved by majority vote of the Town Commission. In granting approval, the Town Commission shall address the recommendations of the Town Administration.

No permit shall be issued until the conditions established by the Town Commission are reduced to writing and signed by the applicant.

(Ord. No. 379, § 5, 7-9-96)

Sec. 17-116. Town-sponsored and co-sponsored events.

The Town Commission may agree to sponsor or co-sponsor a special event. If an applicant seeks sponsorship or co-sponsorship by the Town, it shall include in its application a statement of how the Town will benefit from the proposed event, shall project any net revenues from the event, and contain a statement of how the revenues will be distributed. The Town Administration shall estimate the total cost of the proposed event in terms of expenditures, costs, lost revenues where applicable and projected revenues when anticipated.

The Town Commission's approval to act as sponsor or co-sponsor of the event shall include a provision stating the source of funds that the Town will use, if any in support of the sponsorship.

This section is not applicable to Town events organized and managed by the Town.

(Ord. No. 379, § 6, 7-9-96; Ord. No. 2011-16, § 2, 8-23-2011)

Sec. 17-117. Records.

The applicant shall keep safety inspection and financial records of the event sufficient to document all revenues generated by the event. These financial records shall be open for audit by the Town in the event the Town acts as sponsor or co-sponsor of the event.

(Ord. No. 379, § 7, 7-9-96)

Sec. 17-118. Penalty.

Each violation of this article shall subject the violator to a fine of \$500.00. Each day that a violation occurs shall constitute a separate violation of this article. Each day that a special event is advertised to the public without a permit being first obtained shall constitute a separate violation of this article.

(Ord. No. 379, § 8, 7-9-97)



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted by: Bethany Banyas, Senior Code Compliance Officer

Submitting Department: Development Services

Item Type: New Business

Agenda Section: NEW BUSINESS

Subject Title: Application for Relief of Code Compliance Lien at 5000 N Ocean Boulevard, Unit #1711 (Sea Ranch Club B)

Explanation: The Town received a mitigation application (**Exhibit 1**) from Dieter Aranda (authorized representative for the property owner, BRICMAYFL LLC) for the condominium unit located at Sea Ranch Club B, 5000 North Ocean Boulevard, Unit #1711, on January 13, 2022.



Figure 1-Subject property

On November 5, 2015, the Town's Code Compliance Inspector was called to the property by the Fire Marshal. The Fire Marshal posted a Stop Work Order and the Town's Code Compliance Officer issued a Notice of Violation and Notice of Hearing for interior renovations of the unit without permits. The violation and permit history follows.

Table 1: Violation and Permit History

Date	Narrative
11/05/2015	A Notice of Violation and Notice of Hearing was issued to the property.
11/09/2015	The NOV and NOH were delivered to the property owner's mailing address as evidenced by the signed Green Card, dated November 9, 2015.
12/14/2015	At the December 14, 2015 Special Magistrate Hearing, the Magistrate found that a violation existed of work without permit. He issued a Final Order giving the respondent until January 24, 2016 to comply or a fine of \$200 per day would accrue beginning on January 25, 2016. A Hearing Cost of \$150 was assessed. The respondent did not appear.
01/25/2016	A fine of \$200 per day began to accrue. At the January 25, 2016 Special Magistrate Hearing, the Magistrate certified the lien, the unpaid hearing cost, and an additional hearing cost of \$100. The respondent did not appear.
02/09/2016 to 08/15/2016	After-the-fact Permit Application #LBS16-004463 for interior renovations was submitted to the Town. The Plumbing and Electrical disciplines were approved upon the first review; the Mechanical portion of the permit was approved upon second review. Five Structural reviews were completed, with the permit being approved on August 15, 2016.
09/02/2016	All permit fees totaling \$2,762.88 were paid and Permit LBS16-004463 was issued.
10/05/2016 to 11/02/2016	Ten permit inspections were called in, eight of which passed.
04/06/2017	The Building Department mailed a notice to the property owner and to the contractor of record, informing them that the permit would expire on April 27, 2017 if no action was taken.
04/27/2017	90 days passed since the last inspection, and Permit #LBS16-004463 expired.
05/01/2017 to 09/06/2018	On four separate occasions, the Building Department sent letters to the owner's and contractor's addresses of record, informing them that the permit had expired on April 27, 2017.
11/18/2020	Code Compliance Inspector Bethany Banyas received an email from Heather Perry, legal representative for the children of the previous owner (who had recently passed). Ms. Perry and Inspector Banyas communicated by phone and email. Inspector Banyas provided case information, mitigation information and backup documentation to assist her understanding of the violation.
02/10/2021 to 08/10/2021	The contractor, Dieter Aranda, communicated with the Town during this time to coordinate renewal and closure of the permit. A renewal fee of \$1,042.27 was paid, LBS16-004463 was renewed, and the remaining inspections were completed so that the permit was closed on August 10, 2017. The associated code case #15110003 was complied. A fine of \$200.00 per day had accrued for 2,025 days, from January 25, 2016 through August 10, 2021. The fines totaled \$405,000, with an additional \$250 due in hearing costs.
01/13/2022	The Town received an application for mitigation of the code fines, along with payment of all required costs and fees.

The Town is required by law to send certain code compliance notices to the mailing address that is listed with the Broward County Property Appraiser's Office at the time of the issuance, which was (and remains at the time of this memorandum) **BRICMAYFL LLC, 915 Middle River Dr, Ste 506, Fort Lauderdale, FL, 33304**. Code Compliance sent the original Notice of Violation/Notice of Hearing to this address by Certified Mail, and a Certified Mail receipt ('Green Card') signed and dated November 9, 2015, was returned to the Town at least 10 days prior to the meeting date. Code Compliance also sent the Order of Imposition of Fines to this address by Certified Mail (which was delivered as evidenced by the signed Green Card, dated February 8, 2016), thus fulfilling the Florida Statutes' requirements for service of notice.

Although not required by law, a copy of the Final Order was also sent by Certified Mail and was delivered to the property owner's mailing address January 11, 2016.

A summary of the case and the offered settlement is shown in Table 2. The applicant is requesting a 100% reduction in fines.

Table 2: Code Case #15110003 Fines Summary

Violation Description	Days In Violation	Daily Fine	Total Due	Settlement Offered	Reduction Requested
FBC 105.1 (Interior Renovations Without Permits)	2,025 days	\$200	\$405,000	\$0	100%

Under the Town's procedures for relief from code enforcement liens (Resolution 2014-22, Policy Section 5) the Commission shall consider all relevant factors to determine what relief, if any, is appropriate, including the following criteria:

A. The nature and gravity of the violation.

The Town generally considers work without permit to be a serious violation, as the construction may have not been completed properly with all necessary inspections to ensure that the requirements of the Florida Building Code have been met.

B. Any actions taken by the Respondent to correct the violation.

Compliance was reached by obtaining an after-the-fact permit, completing the work according to the specifications of the permit, renewing the permit after it expired, and requesting and passing all required inspections.

C. The length of time between the previously ordered compliance date and the date the violation was brought into compliance.

Code case #15110003 was brought into compliance 2,025 days after the deadline listed in the Final Order. From the initial date of discovery, the violation existed for 2,105 days.

D. Any actual costs expended by the Respondent to cure the violation as provided by supporting documentation.

The fees to obtain the permit necessary to cure the violation totaled \$2,762.88. Renewal fees were \$1,042.27. Hearing costs totaled \$250, and the mitigation application fee was \$500. The applicant did not provide documentation of any other costs to cure the violation.

E. Any other prior or current violations committed by the Respondent on the subject property or upon any other property owned by the Respondent within the Town.

There are currently no other properties owned by the Respondent in the Town.

Recommendation: Staff recommends the Commission hear from the applicant's representative, determine the appropriate mitigation amount for the lien, and require full payment of that mitigated amount within 30 days, by March 24, 2022.

Attachments:

Exhibit 1 – Mitigation Application

Reviewed by Town Attorney:

☒	Yes	☐	No
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APPLICATION FOR RELIEF FROM CODE FINES OR LIENS

Page | 1

TOWN OF LAUDERDALE-BY-THE-SEA

4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Tel: (954) 640-4210 Fax: (954) 634-4654

Notice: This application is available as a WORD document for your convenience.

The Town accepts applications for code fine relief from owners of properties that have corrected ALL of the violations on the subject property. In certain very limited circumstances, the purchaser of a single family property may apply for a code fine or lien reduction before compliance is complete.

The Town's policy and procedures for code relief is set forth in Resolution 2014-22. You are required to read Resolution 2014-22 prior to submitting your relief application.

CASE # 15110003

TOWN OF LAUDERDALE-BY-THE-SEA vs. BRICMAYFL, LLC / ALEJANDRO BOLLINGER

(Name of Respondent(s) as listed)

Property owner: BRICMAYFL, LLC / ALEJANDRO BOLLINGER

Address: 5000 N OCEAN BOULEVARD # 1711 LAUDERDALE BY THE SEA FL 33308

Phone numbers: 954-822-6496

Email Address: DIETER@A1INTERIORWORKS.COM

ADDRESS OF PROPERTY: 5000 N OCEAN BOULEVARD # 1711
LAUDERDALE BY THE SEA, FL 33308

(Where violation(s) existed)

NATURE OF VIOLATION: BUILDING CODE VIOLATION

Name of applicant (if not owner): DIETER ARANDA

954-822-6496

DIETER@A1INTERIORWORKS.COM

Contact information:

THIS PROPERTY CURRENTLY IS ☐ IS NOT ☒ (check one) INVOLVED IN LITIGATION

All Applications SHALL submit a copy of the following documentation (when applicable):

File: C:\Users\Dieter\Desktop\WORK IN PROGRESS\ALEJANDRO BOLLINGER\2018 Mitigation Application.docx
Printed: 12/23/2021 4:08 PM

APPLICATION FOR RELIEF FROM CODE FINES OR LIENS

Page | 2

(Reference any supporting documentation as Exhibit 1, Exhibit 2, and so forth.)

1. Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
2. Foreclosure Complaint;
3. Foreclosure Order, with the recording date, book and page shown;
4. Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. Certification of Lien Order, with the recording date, book and page shown;
6. New Certificate of Title, with the recording date, book and page shown;
7. Town's Final Order of Imposition of Fine; and
8. Claim of Lien(s) with the recording date, book and page shown.
9. Reduced payment offer per case. Justification of the offered amount must be provided for each case.

FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:

1. The nature and gravity of the violation(s);
2. Any actions you have taken to correct the violation(s);
3. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
4. Any actual costs you expended to cure the violation(s), if supported by documentation;
5. Any other prior or current violations you committed on the subject property or upon any other property you own within the Town; and
6. Equitable considerations.
 - i. Whether there was any extraordinary hardship which existed or currently exists;
 - ii. Whether the Applicant was the property owner when the fine or lien was imposed;
 - iii. Whether the property is homestead or non-homestead property;
 - iv. Whether the Town lien is interfering with the sale or restoration of the property or will prevent the property from being conveyed to a new owner.

WHY RELIEF SHOULD BE GRANTED:

(When you completed this section, at a minimum, address the above factors.)

PLEASE SEE ATTACHED DOCUMENT: EXHIBIT 1

APPLICATION FOR RELIEF FROM CODE FINES OR LIENS

Page | 4

PROCEDURES FOR RELIEF FROM CODE LIENS OR FINES

Application:

A non-refundable application fee is required to be submitted with your completed application.

A completed Application for Relief will be considered by the Town Manager or the Town Commission as follows:

- A. The Town Manager is authorized to negotiate and settle Code liens or fines when the negotiated reduced fine is within the Town Manager's Purchasing Authority (\$15,000) and the reduction in fines is less than 50% of the amount owed.
- B. If the Application requires Town Commission approval, it will be set for the next available regular Town Commission meeting date after all requirements have been met and after the Application is approved by the Town Manager.

The Town Manager or designee shall notify the Applicant of the scheduled hearing. The property owner or violator requesting the reduction of fine must appear at the hearing for the reduction of fine unless they designated an agent, in which case the designated agent shall appear at the hearing. No such hearing shall proceed if the Applicant or representative is not present at the hearing.

PAYMENT AND PERFORMANCE

Any relief granted shall be contingent upon payment of any outstanding amounts within the specified time period and completion of any required performance to effectuate code compliance. Failure to provide valid payment to the Town or to perform as required within the specified time period shall cause the original penalty(s) to continue and the approved relief to terminate without any future action of the Town.

Upon showing by the Applicant of a valid reason beyond the control of the Applicant, the Town Manager may approve one limited time extension if in the best interest of the Town. Once the Town has verified code compliance and received the monies due the Town, the Town will prepare and record the applicable release of lien.

APPLICATION FOR RELIEF FROM CODE FINES OR LIENS

Page | 3

(Reference any supporting documentation as Exhibit 1, Exhibit 2, and so forth.)

Name of Property Owner or Representative: DIETER ARANDA (OWNERS REP)

Address: 4613 N UNIVERSITY DR # 289 CORAL SPRINGS FL 33067

Business Phone Number:

Cell Phone Number: 954-822-6496

Email Address: DIETER@A1INTERIORWORKS.COM

I CERTIFY THAT I have read Resolution 2014-22 and that I am:

- ☐ the owner of the subject property;
- ☐ an Attorney representing the owner,
- ☐ the legal representative for the property, or
- ☒ otherwise authorized to act on behalf of the property owner in this matter.

AND DOCUMENTATION OF THIS IS ATTACHED.

12-21-2021

DIETER ARANDA

Date

Signature of Applicant

October 12, 2021

TO WHOM IT MAY CONCERN:

**CASE # : 15110003
5000 N. Ocean Blvd Apt. # 1711
Lauderdale By The Sea FL. 33308**

This letter is to certify that I, Alejandro Hannes Bollinger Tabini, with Peruvian passport # 220038843 and Peruvian ID: DNI #: 10299245, authorize Dieter Aranda of A-1 Interior Works, Inc., with FL ID: DL #: A653-173-69-249-0, to represent me in the mitigation process regarding 5000 N. Ocean Blvd., Apt. 1711, Lauderdale By the Sea, FL 33308 with case #: 15110003

Please do not hesitate to contact us if you have any questions.

Thank you very much.



ALEJANDRO HANNES BOLLINGER TABINI



Christine Andreasen

03

OBSERVACIONES


REPÚBLICA DEL PERÚ
 MINISTERIO DE RELACIONES EXTERIORES

CONSULADO GENERAL DEL PERÚ EN BUENOS AIRES

Fecha: ABR-15-2021

BOLLINGER TABINI ALEJANDRO HANNES

POR EXPEDICIÓN DE UN PASAPORTE ELECTRÓNICO

Número de Orden: 0007830

Número de Actualización: 362

Número de Tarifa: 50B

Tarifa: 70.00 SOLES CONSULARES

7,000.00 PESO ARGENTINO



MREAC02457069

PASAPORTE
PASSPORT
REPÚBLICA DEL PERÚ

L29897432

TPO / TYPE CODIGO PAIS / COUNTRY CODE
P PERPASAPORTE No. / PASSPORT No.
220038843

APELLIDOS / SURNAME

BOLLINGER TABINI

NOMBRES / GIVEN NAMES

ALEJANDRO HANNES

NACIONALIDAD / NATIONALITY

PERUANA

FECHA DE NACIMIENTO / DATE OF BIRTH

24 ABR/ABR 1975

DIRECCION / ADDRESS

10299245

SEXO / SEX

M

LUGAR DE NACIMIENTO / PLACE OF BIRTH

LIMA

FECHA DE EMISION / DATE OF ISSUE

15 ABR/ABR 2021

FIRMA DEL TITULAR / HOLDER'S SIGNATURE

FECHA DE VENCIMIENTO / DATE OF EXPIRY

15 ABR/ABR 2026



P<PERBOLLINGER<TABINI<<ALEJANDRO<HANNES<<<<<
 2200388438PER7504242M2604158<<<<<<<<<<<<<06

EXHIBIT 1

This application for relief of fines concerns 5000 N Ocean Drive, Apt 1711, Lauderdale by the Sea, FL 33308. A total of \$405,000 in fines for an open permit (Permit #LBS16-004463) were levied (Case #15110003). Ines Bollinger Tabini's company, Bricmayfl LLC, owned the property at the time of her death on April 29, 2019. Her son Alejandro Bollinger inherited the property upon her death.

Please see attached documents.

All trade final inspections (mechanical, plumbing, electrical, and fire) for the property had passed as of January 2017. The final structural inspection to close the permit was apparently never done.

At the time the trade final inspections were being completed in January 2017, Mrs. Bollinger Tabini, who resided in Peru and used this unit as a vacation property, became ill. She returned to Peru and was subsequently diagnosed with cancer and died on April 29, 2019.

Neither the new owner, Mr. Alejandro Bollinger, nor the contractor, Mr. Dieter Aranda, President and Owner of A-1 Interior Works, has any record of receipt of notification of failure to close Permit #LBS16-004463.

This open unattended permit led to Code Enforcement opening Case #15110003 against the property owner.

On November 18, 2020, Mr. Bollinger, who resides in Argentina, learned through his deceased mother's lawyer, Mr. George Moraitis, of this case against the property. Upon investigating the issue, he learned that his mother had engaged A-1 Interior Works to remodel her apartment.

Mr. Bollinger contacted Mr. Aranda about the case. Up to that point, November 18, 2020, Mr. Aranda was unaware of Mrs. Bollinger Tabini's death. Upon further investigation Mr. Bollinger and Mr. Aranda determined the fines levied were due to the open permit. Mr. Aranda and A-1 Interior Works immediately took action to address the situation. The expired permit was reactivated, and the necessary inspections were done to close the permit on August 9, 2021.

As soon as Mr. Bollinger learned of the open permit, he directed A-1 Interior Works to take immediate action to address the issues and work toward closing the permit. A-1 Interior Works immediately took action and closed the permit. As stated previously, neither Mr. Bollinger nor A-1 Interior Works knew about this situation until September 2020. The permit was closed August 2021.

Mr. Bollinger respectfully requests that he be absolved of paying the accrued fines. He was not aware of the open permit and the fines being levied. He did not willfully or maliciously avoid taking action to resolve the situation. Once Mr. Bollinger learned of the situation, he, together with A-1 Interior Works, did everything as quickly as possible to resolve the matter. Furthermore neither his deceased mother, Bricmayfl, LLC, nor Alejandro Bollinger have ever been in any litigation with the town of Lauderdale By The Sea or Broward county. All taxes are up to date.



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted By: Linda Connors, Town Manager

Submitting Department: Administration

Item Type: Discussion Item

Agenda Section: NEW BUSINESS

Subject Title: Renewal of Town Contracts

Explanation: Section III.L.4. of the Purchasing Manual authorizes the Town Manager to exercise renewal options in Commission approved contracts after providing the Commission with notice of the Town Manager's intent to do so. It has been past practice to annually schedule a comprehensive review of all contracts that have a renewal option and present it to the Commission so that the Commission can provide feedback regarding which contracts, if any, they would like staff to rebid.

Table One lists the continuing services contracts that will expire in the next 45 days and have additional periods of renewal.

Table One

Contractor.	Description		Expiration Date	Renewal Option
Republic Parking	Parking		4/28/22	Two periods of one year each
Carnahan Proctor and Cross	Engineering Consulting		3/15/22	Two periods of one year each
Baxter & Woodman	Engineering Consulting		3/15/22	Two periods of one year each
Miller Legg	Engineering Consulting		3/15/22	Two periods of one year each
Stantec	Engineering Consulting		3/15/22	Two periods of one year each
Via Planning, Inc.	Engineering Consulting		3/15/22	Two periods of one year each
Architectural Alliance	Landscape Architecture		3/29/22	Two periods of one year each
Cartaya	Architect		3/29/22	Two periods of one year each
CPZ Architect, Inc.	Architect		3/29/22	Two periods of one year each
Hansen & Associates	Architect		3/29/22	Two periods of one year each
Keith & Schnars	Engineering		3/29/22	Two periods of one year each
R. J. Behar	Engineering Consulting		3/29/22	Two periods of one year each
Avirom & Associates	Surveying		3/29/22	Two periods of one year each

Table Two lists contracts other than continuing services contracts that are set to expire in 2021 and are eligible for renewal.

Table Two

Contract	Description	Expiration Date	Renewal Option	Staff Recommendation
AG 2018-10 State Contracting	Construction Mgr. at Risk	4/12/22	One (1) year increment for up to a total contract term, including extension (5 years)	Renew
AG 2018-14 Man-Con	Construction Mgr. at Risk	4/20/22	One (1) year increment for up to a total contract term, including extension (5 years)	Renew
AG 2019-11 Limousines of South Florida	Transportation Agreement (Piggyback – Lauderdale Lakes)	5/1/21	Two (1) one (1) year term with 10-day notice	Renew
AG 2018-13 Civics Plus	Website Redesign Services	4/25/22	One year	Renew. Cost will be less starting this year
AG 2018-19 American Underwater Contractor	Buoy Maintenance	7/3/22	One year extension	Renew
Archive Social	Social Media Archiving	4/8/22	One (1) two (2) year extension	Renew

Table Three lists the contracts that have reached their expiration and which the Town has exhausted all the renewals included in the contract. Staff will either schedule a competitive solicitation for these services or review alternatives to move forward.

Table Three

Contract No.	Description	Date Entered	Duration	Expiration Date
AG 2017-25 C.A.P Government	Building Plans Review and Inspection Services	8/22/17		9/30/22
AG 2019-34 All on Stage Production	Sound, Light & Staging for Christmas by the Sea	10/24/19	2 years	9/30/22
AG 2016-05 VFD	Fire Protection & Fire Prevention Services	9/30/21	One (1) one (1) year term	11/30/22
AG 2019-08 Zambelli	4 th of July Fireworks Display	4/1/19	3 year	12/31/21
AG 2019-31 Killowatt Electric	Electrical Maintenance (Oakland Park Piggyback)	11/19/19	2 years	10/1/2023
AG 2020-05 Killowatt Electric	Electrical Installation (Coral Springs Piggyback)	1/17/20	2 years	12/31/22

Recommendation: If the Commission has no objection, the Town will send out the renewal letters next week for those contracts that are eligible for renewal.

Attachments: None



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted By: Jhanelle Campbell, Development Services Director

Submitting Department: Development Services

Item Type: Ordinance

Agenda Section: ORDINANCES 2nd Reading

Subject Title: ORDINANCE 2022-01 AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY CREATING CHAPTER 9, "FLOOD PREVENTION AND CONTROL," ARTICLE XI, "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION" TO ESTABLISH TIDAL FLOOD PROTECTION AND BARRIER INFRASTRUCTURE STANDARDS THAT ACCOUNT FOR PROJECTED SEA LEVEL RISE, AND PROVIDE FOR ABATEMENT OF NUISANCE FLOODING AND REAL ESTATE SALE DISCLOSURES; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE. **(Exhibit 1)**

Explanation: On March 31, 2020, Broward County (the "County") Board of Commissioners adopted an ordinance establishing Article XXV "Resiliency Standards for Tidal Flood Protection" in the County Code of Ordinances **(Exhibit 2)**. This Article requires affected municipalities, including Lauderdale-By-The-Sea, to adopt regionally consistent minimum standards and provides a basis for resilience investments across the County. The County's code serves as the model code and is the minimum requirement that the Town can approve and maintain compliance with the County's regulations.

Ordinance 2022-01 **(Exhibit 1)** amends Chapter 9 – Flooding of the Town's Municipal Code to meet the requirements of the Broward County Code. In this summary, staff replaced the term tidal flood barriers to sea walls for ease of reference. The changes proposed in Ordinance 2022-01 include the following:

	Code Summary	Ordinance Line
1.	Purpose and Intent. Provides a standard for flood mitigation infrastructure through the year 2070 and ensures new shoreline structures and major improvements are designed at consistent standards.	Lines 48-55
2.	Applicability. The requirements apply to all new sea walls and fixed infrastructure (i.e., docks). It does not include oceanfront beaches.	Lines 56-70
3.	Definitions. Defines the following terms: bank, berm, green-grey infrastructure or materials, mooring structure, NAVD88, public nuisance,	Lines 70 - 105

	riprap, seawall, seawall cap, shoreline, substantial repair or rehabilitation, tidal flood barrier, tidally influenced area.	
4.	Minimum Requirements. Establishes a minimum elevation of 5 feet NAVD88 for all new or substantially repaired seawalls, etc. Applications for barriers submitted prior to January 1, 2035 may be permitted at 4 feet NAVD88 if designed and constructed to accommodate a minimum elevation of 5 feet by January 1, 2050	Lines 109-116
5.	Maintenance of Tidal Flood Barrier. Requires all property owners to maintain sea wall in good repair. Failure to do so is a citable civil infraction. If cited by the town, property owner must complete the repairs within 365 days of receipt of the citation.	Lines 117-129
6.	Maintenance if Below 5 feet NAVD88. Requires property owners to improve sea walls under 5 feet NAVD88 elevation, if necessary, so that they do not impact adjacent property or public right-of-way. If necessary improvements are required, they must be completed within 365 days from receipt of the citation.	Lines 130-139
7.	Establishes design and construction requirements for sea walls.	Lines 140-154
8.	Requires a real estate disclosure for any contract for the sale of real estate located in tidally influenced areas of the Town to inform the buyer that the real estate is in a tidally influenced area and the owner may be required to meet minimum elevation standards or substantial repair or rehabilitation to abate nuisance flooding.	Lines 161-172

Broward County Resilience Officer, Jennifer Jurado was present at the January 25th Town Commission meeting and provided an in-depth review of the County requirements. After the presentation, the Town Commission voted to adopt Ordinance 2022-01 on first reading.

Recommendation: Staff recommends adoption of Ordinance 2022-01 on second reading.

Attachments:

Ex. 1 - Ordinance 2022-01

Ex. 2 - Article XXXV, Chapter 39, Broward County Code of Ordinances

Reviewed by Town Attorney:

☐	Yes	☒	No
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AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY CREATING CHAPTER 9, "FLOOD PREVENTION AND CONTROL," ARTICLE XI, "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION" TO ESTABLISH TIDAL FLOOD PROTECTION AND BARRIER INFRASTRUCTURE STANDARDS THAT ACCOUNT FOR PROJECTED SEA LEVEL RISE, AND PROVIDE FOR ABATEMENT OF NUISANCE FLOODING AND REAL ESTATE SALE DISCLOSURES; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, sea level rise is currently increasing the frequency, depth, and spatial extent of tidal flooding across tidally influenced areas of Broward County, including the Town of Lauderdale-by-the-Sea (the “Town”); and

WHEREAS, seawalls and shorelines that are below rising water levels allow the trespass of water onto adjacent properties, causing flooding threats to infrastructure, public health, and safety; and

WHEREAS, on January 7, 2020, Broward County (the “County”) enacted an amendment to the Broward County Land Use Plan creating Policy 2.21.7, requiring tidally influenced municipalities to enact regionally consistent minimum seawall and top-of-bank elevation standards within two (2) years; and

WHEREAS, on March 31, 2020, the County created Article XXV “Resiliency Standards for Tidal Flood Protection” within Chapter 39 of the Broward County Code of Ordinances (the “County Code”) ; and

WHEREAS, together, Policy 2.21.7 of the Broward County Land Use Plan and Article XXV of Chapter 39 of the County Code serve as the model code and planning foundation for municipal adoption of regionally consistent minimum standards and a basis for resilience investments across the community; and

WHEREAS, the Town is a tidally influenced municipality; and

33 **WHEREAS**, the Town Commission deems it in the best interest of the Town to adopt
34 this Ordinance.

35 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**
36 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS**
37 **FOLLOWS:**

38 **Section 1.** **Recitals.** The foregoing “Whereas” clauses are ratified and confirmed as
39 being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby
40 made a specific part of this Ordinance

41 **Section 2.** **Amending Chapter 9.** Chapter 9, “Flood Protection and Control,” Article
42 XI, “Resiliency Standards for Tidal Flood Protection” is hereby created to read as follows:

43 [Underlining omitted]

44 **ARTICLE XI. RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION**

45 **Sec. 9-60. - Purpose and intent.**

46 The purpose of this article is to establish a consistent minimum elevation for tidal flood barriers
47 that will:

- 48 (a) Provide a standard for flood mitigation infrastructure that serves as a barrier to tidal
49 flooding, not seepage, by accounting for water levels predicted under combined conditions
50 of sea level rise, high tides, and high frequency storm surge through the year 2070; and
- 51 (b) Ensure new shoreline structures and major shoreline improvements are designed for
52 use as tidal flood barriers through application of consistent standards that account for
53 future predicted tidal flood conditions and coastal water levels associated with sea level
54 rise in accordance with current regional sea level rise projections, as updated and
55 adopted by the Broward County Board of County Commissioners.

56 **Sec. 9-61. Applicability.**

57 This article applies to all new tidal flood barriers, substantial repair or substantial rehabilitation
58 to shorelines and shoreline structures, and the installation of any fixed infrastructure attached
59 to tidal flood barriers (such as mooring structures). This article is not applicable to oceanfront
60 beaches or shorelines seaward of the Coastal Construction Control Line.

61 **Sec. 9-62. Definitions.**

For the purposes of this article, the following terms, phrases, words, and their derivation shall have the meanings given herein, except when the context clearly indicates a different meaning. In the interpretation and application of this article, the definitions provided for herein shall control over definitions that may be included in other documents or manuals, including, but not limited to, the Florida Building Code. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and the word “may” is permissive.

Bank. The level space separating a waterway from an inland area, often elevated and constructed of compacted soil.

Berm. An earthen mound designed with impermeability to resist the flow of tidal waters through it to an adjacent property or public right-of-way.

Green-grey infrastructure or green-grey materials. A combination of engineered and natural features that provide environmental qualities and ecosystem value.

Mooring structure. A boat dock, slip, davit, hoist, lift, floating vessel platform, mooring pile, or similar structure attached to land or to a seawall, to which a vessel can be moored.

North American Vertical Datum (NAVD88). The vertical control for datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

Public nuisance. A condition injurious to the public health or safety of the community or neighborhood, or injurious to any considerable number of persons, or a condition that obstructs the free passage or use, in the customary manner, of any public right-of-way.

Rip-rap. A foundation of unconsolidated boulders, stone, rubble, concrete without protruding rebar, or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.

Seawall. A vertical or near vertical (often interlocking) structure placed between an upland area and a waterway or waterbody for erosion control.

Seawall cap. A concrete box structure (usually reinforced) that connects seawall panels,

piles, and anchoring system (if present) together at the top.

Shoreline. A tidally influenced area where land meets water.

Substantial repair or substantial rehabilitation.

(a) Any modification to the shoreline or a shoreline structure along more than fifty percent (50%) of the length of the property's shoreline; or

(b) Any modification, alteration, or installation of an appurtenant structure such as a mooring structure) that exceeds fifty percent (50%) of the cost of a tidal flood barrier along the property's shoreline.

Tidal flood barrier. Any structure or shoreline feature including, but not limited to, banks, berms, green-grey infrastructure, seawalls, seawall caps, upland stem walls, or other infrastructure that impedes tidal waters from flowing onto adjacent property or public right-of-way, and located within or along a tidally influenced area. This definition is not meant to include rip-rap, derelict erosion control structures, or permeable earthen mounds that do not provide an impermeable water barrier to tidal flooding.

Tidally influenced area. The real property adjacent to, or affected by, a waterway with water level changes in response to the daily tide.

Sec. 9-62. Minimum elevations for coastal infrastructure within tidally influenced areas.

(a) *Minimum requirements.* All new or substantially repaired or substantially rehabilitated banks, berms, green-grey infrastructure, seawalls, seawall caps, upland stem walls, or other similar infrastructure shall be designed and constructed to perform as tidal flood barriers. Tidal flood barriers shall have a minimum elevation of five (5) feet NAVD88. Applications for new or substantially repaired or substantially rehabilitated tidal flood barriers submitted prior to January 1, 2035, may be permitted at a minimum elevation of four (4) feet NAVD88, if designed and constructed to accommodate a minimum elevation of five (5) feet NAVD88 by January 1, 2050.

(b) *Maintenance of tidal flood barrier.* All property owners must maintain a tidal flood barrier in good repair. A tidal flood barrier is presumed to be in disrepair if it allows tidal waters to flow unimpeded through or over the barrier and onto adjacent property or

public right-of-way. Failure to maintain a tidal flood barrier in good repair shall be a citable civil infraction, pursuant to Chapter 6.5 of this Code. The owner of the tidal flood barrier shall demonstrate progress towards repairing the cited defect, as determined by the Town, within sixty (60) days after receiving a citation and shall complete repairs within three hundred sixty-five (365) days after receipt of the citation. If the required repair or rehabilitation meets the substantial repair or substantial rehabilitation threshold, no later than three hundred sixty-five (365) days after receipt of the citation, the property owner shall design, obtain permits, cause to be constructed, and obtain final inspection approval of seawall improvements that meet the minimum elevation and design requirements.

(c) *Tidal flood barriers below a minimum five (5) feet NAVD88.* Tidal flood barriers below a minimum five (5) feet NAVD88 elevation shall be improved, designed, and constructed so as to prevent tidal waters from impacting adjacent property or public right-of-way. Causing, suffering, or allowing the trespass of tidal waters onto adjacent property or public right-of-way is hereby declared a public nuisance and a citable civil infraction, pursuant to Chapter 6.5 of this Code, requiring abatement. The owner shall demonstrate progress toward addressing the cited concern, as determined by the Town, within sixty (60) days after receipt of the citation and complete the construction of an approved remedy no later than three hundred sixty-five (365) days after receipt of the citation.

(d) *Design and construction requirements.*

(1) Tidal flood barriers shall be designed and constructed to prevent tidal waters from flowing through the barrier, while still allowing for the release of upland hydrostatic pressure.

(2) To the extent practicable, tidal flood barriers shall be designed and constructed to adjoin immediately proximate tidal flood barriers to close gaps and prevent trespass of tidal water.

(3) All tidal flood barriers undergoing substantial repair or substantial rehabilitation shall be constructed along the property's entire shoreline.

(4) All tidal flood barriers shall be constructed with natural limerock rip-rap, or other

approved habitat enhancement, at the waterward face of the structure.

(5) Property owners are encouraged to consider approaches and materials that enhance the biological value of traditional (flat surface) seawalls and flood barriers with the incorporation of living shoreline features, use of hybrid green-grey materials, and the use of biological forms, where practicable.

(e) *Other flood protection measures.* This section shall not be construed to require the installation of a seawall where other flood protection measures serve as an equally effective tidal flood barrier.

(f) *Automatic tidal flood barriers.* Tidal flood barriers capable of automatically being elevated in advance of high tides to prevent tidal flooding are permissible, provided that automation cannot require daily human intervention.

Sec. 9-63. Required disclosure in contracts for sale of real estate.

Real Estate Disclosure. In any contract for the sale of real estate located in tidally influenced areas of the Town executed after the effective date of this article, the seller shall include in the contract or a rider to the contract the following disclosure in not less than fourteen-point, capitalized, bold-faced type:

THIS REAL ESTATE IS LOCATED IN A TIDALLY INFLUENCED AREA. THE OWNER MAY BE REQUIRED BY COUNTY OR MUNICIPAL ORDINANCE TO MEET MINIMUM TIDAL FLOOD BARRIER ELEVATION STANDARDS DURING CONSTRUCTION OR SUBSTANTIAL REPAIR OR SUBSTANTIAL REHABILITATION OF SEAWALLS, BANKS, BERMS AND SIMILAR INFRASTRUCTURE OR WHEN REQUIRED TO ABATE NUISANCE FLOODING.

Section 3. **Codification.** This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section”, “article” or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 5. Conflicts. All prior ordinances or resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage on second reading.

Passed on the first reading, this ____ day of ____, 2022.

Passed and adopted on the second reading, this ____ day of ____, 2022.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Oldaker	_____	_____
Commissioner Sokolow	_____	_____
Commissioner Strauss	_____	_____
Commissioner Malkoon	_____	_____

ATTEST:

Acting Town Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

PART II - CODE OF ORDINANCES
Chapter 39 - ZONING
ARTICLE XXV. RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION

ARTICLE XXV. RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION

Sec. 39-404. Purpose and intent.

The purpose of this article is to establish a consistent minimum elevation for tidal flood barriers that will:

- (a) Provide a standard for flood mitigation infrastructure that serves as a barrier to tidal flooding, not seepage, by accounting for water levels predicted under combined conditions of sea level rise, high tides, and high frequency storm surge through the year 2070; and
- (b) Ensure new shoreline structures and major shoreline improvements are designed for use as tidal flood barriers through application of consistent standards that account for future predicted tidal flood conditions and coastal water levels associated with sea level rise in accordance with current regional sea level rise projections, as updated and adopted by the Broward County Board of County Commissioners.

(Ord. No. 2020-11 , § 1, 3-31-20)

Sec. 39-405. Applicability.

This article applies to all new tidal flood barriers, substantial repair or substantial rehabilitation to shorelines and shoreline structures, and the installation of any fixed infrastructure attached to tidal flood barriers (such as mooring structures). This article is not applicable to oceanfront beaches or shorelines seaward of the Coastal Construction Control Line.

(Ord. No. 2020-11 , § 1, 3-31-20)

Sec. 39-406. Definitions.

For the purposes of this article, the following terms, phrases, words, and their derivation shall have the meanings given herein, except when the context clearly indicates a different meaning. In the interpretation and application of this article, the definitions provided for herein shall control over definitions that may be included in other documents or manuals, including, but not limited to, the Florida Building Code. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive.

Bank means the level space separating a waterway from an inland area, often elevated and constructed of compacted soil.

Berm means an earthen mound designed with impermeability to resist the flow of tidal waters through it to an adjacent property or public right-of-way.

Green-grey infrastructure or green-grey materials means a combination of engineered and natural features that provide environmental qualities and ecosystem value.

Mooring structure means a boat dock, slip, davit, hoist, lift, floating vessel platform, mooring pile, or similar structure attached to land or to a seawall, to which a vessel can be moored.

North American Vertical Datum (NAVD88) means the vertical control for datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

Public nuisance means a condition injurious to the public health or safety of the community or neighborhood, or injurious to any considerable number of persons, or a condition that obstructs the free passage or use, in the customary manner, of any public right-of-way.

Rip-rap means a foundation of unconsolidated boulders, stone, rubble, concrete without protruding rebar, or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.

Seawall means a vertical or near vertical (often interlocking) structure placed between an upland area and a waterway or waterbody for erosion control.

Seawall cap means a concrete box structure (usually reinforced) that connects seawall panels, piles, and anchoring system (if present) together at the top.

Shoreline means a tidally influenced area where land meets water.

Substantial repair or substantial rehabilitation means:

- (a) Any modification to the shoreline or a shoreline structure along more than fifty percent (50%) of the length of the property's shoreline; or
- (b) Any modification, alteration, or installation of an appurtenant structure (such as a mooring structure) that exceeds fifty percent (50%) of the cost of a tidal flood barrier along the property's shoreline.

Tidal flood barrier means any structure or shoreline feature including, but not limited to, banks, berms, green-grey infrastructure, seawalls, seawall caps, upland stem walls, or other infrastructure that impedes tidal waters from flowing onto adjacent property or public right-of-way, and located within or along a tidally influenced area. This definition is not meant to include rip-rap, derelict erosion control structures, or permeable earthen mounds that do not provide an impermeable water barrier to tidal flooding.

Tidally influenced area means the real property adjacent to, or affected by, a waterway with water level changes in response to the daily tide.

(Ord. No. 2020-11 , § 1, 3-31-20)

Sec. 39-407. Minimum elevations for coastal infrastructure within tidally influenced areas.

- (a) All new or substantially repaired or substantially rehabilitated banks, berms, green-grey infrastructure, seawalls, seawall caps, upland stem walls, or other similar infrastructure shall be designed and constructed to perform as tidal flood barriers. Tidal flood barriers shall have a minimum elevation of five (5) feet NAVD88. Applications for new or substantially repaired or substantially rehabilitated tidal flood barriers submitted prior to January 1, 2035, may be permitted a minimum elevation of four (4) feet NAVD88, if designed and constructed to accommodate a minimum elevation of five (5) feet NAVD88 by January 1, 2050.
- (b) All property owners must maintain a tidal flood barrier in good repair. A tidal flood barrier is presumed to be in disrepair if it allows tidal waters to flow unimpeded through or over the barrier and onto adjacent property or public right-of-way. Failure to maintain a tidal flood barrier in good repair shall be a citable offense. The owner of the tidal flood barrier shall demonstrate progress towards repairing the cited defect within sixty (60) days after receiving a citation and shall complete repairs within three hundred sixty-five (365) days after receipt of the citation. If the required repair or rehabilitation meets the substantial repair or substantial rehabilitation threshold, no later than three hundred sixty-five (365) days after receipt of the citation, the property owner shall design, obtain permits, cause to be constructed, and obtain final inspection approval of seawall improvements that meet the minimum elevation and design requirements.

-
- (c) Tidal flood barriers below a minimum five (5) feet NAVD88 elevation shall be improved, designed, and constructed so as to prevent tidal waters from impacting adjacent property or public right-of-way. Causing, suffering, or allowing the trespass of tidal waters onto adjacent property or public right-of-way is hereby declared a public nuisance and a citable offense requiring abatement. The owner shall demonstrate progress toward addressing the cited concern within sixty (60) days after receipt of the citation and complete the construction of an approved remedy no later than three hundred sixty-five (365) days after receipt of the citation.
 - (d) Tidal flood barriers shall be designed and constructed to prevent tidal waters from flowing through the barrier, while still allowing for the release of upland hydrostatic pressure.
 - (e) To the extent practicable, tidal flood barriers shall be designed and constructed to adjoin immediately proximate tidal flood barriers to close gaps and prevent trespass of tidal water.
 - (f) All tidal flood barriers undergoing substantial repair or substantial rehabilitation shall be constructed along the property's entire shoreline.
 - (g) All tidal flood barriers shall be constructed with natural limerock rip-rap, or other approved habitat enhancement, at the waterward face of the structure.
 - (h) Property owners are encouraged to consider approaches and materials that enhance the biological value of traditional (flat surface) seawalls and flood barriers with the incorporation of living shoreline features, use of hybrid green-grey materials, and the use of biological forms, where practicable.
 - (i) This section shall not be construed to require the installation of a seawall where other flood protection measures serve as an equally effective tidal flood barrier.
 - (j) Tidal flood barriers capable of automatically being elevated in advance of high tides to prevent tidal flooding are permissible, provided that automation cannot require daily human intervention.

(Ord. No. 2020-11 , § 1, 3-31-20)

Sec. 39-408. Required disclosure in contracts for sale of real estate.

In any contract for the sale of real estate located in tidally influenced areas of Broward County executed after December 31, 2020, the seller shall include in the contract or a rider to the contract the following disclosure in not less than fourteen-point, capitalized, bold-faced type:

THIS REAL ESTATE IS LOCATED IN A TIDALLY INFLUENCED AREA. THE OWNER MAY BE REQUIRED BY COUNTY OR MUNICIPAL ORDINANCE TO MEET MINIMUM TIDAL FLOOD BARRIER ELEVATION STANDARDS DURING CONSTRUCTION OR SUBSTANTIAL REPAIR OR SUBSTANTIAL REHABILITATION OF SEAWALLS, BANKS, BERMS, AND SIMILAR INFRASTRUCTURE OR WHEN REQUIRED TO ABATE NUISANCE FLOODING.

(Ord. No. 2020-11 , § 1, 3-31-20)

Secs. 39-409, 39-410. Reserved.



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted by: Linda Connors, Town Manager

Submitting Department: Administration

Item Type: Resolution

Agenda Section: RESOLUTIONS-PUBLIC COMMENTS

Subject Title: RESOLUTION NO. 2022-08. A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A WORK AUTHORIZATION WITH HUGH JOHNSON LANDSCAPE ARCHITECTURE, INC. DBA ARCHITECTURAL ALLIANCE LANDSCAPING; AUTHORIZING THE TOWN MANAGER TO EXECUTE A WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Explanation: At the January 25, 2022, meeting, the Commission held a comprehensive discussion regarding the Downtown area and whether to eliminate parking in the downtown area east of North Ocean Drive. This area was originally redeveloped in 2013 to increase the size of the sidewalks, add public plazas, and make the area more pedestrian friendly. Angled parking spaces were removed and replaced with parallel parking spaces. In 2020, the Commission directed staff to block off selected parking spaces on A1A, Commercial Boulevard, and El Mar Drive to allow restaurants to utilize this space for additional outdoor dining so that restaurants could meet the social distancing mandates required because of COVID 19.

As the pandemic has continued, outdoor dining remains extremely popular and the use of the parking spaces for additional outdoor sidewalk space was considered. At the meeting on January 25th, the Town Commission voted to remove the parallel parking spaces along Commercial Boulevard east of North Ocean Drive and back out parking spaces on A1A north of Commercial Boulevard. This option would eliminate 18 spaces, 3 of which are ADA spaces that would need to be relocated to El Mar Drive. In a separate but related discussion, the Commission voted to approve the adjacent restaurants continued use of the Connie Hoffmann Ocean Plaza and requested that the Town amend Resolution 2014-18 that regulated said Plaza's use.

In 2016, the Town, pursuant to Section 287.055, Florida Statutes (the "CCNA"), entered into several continuing services agreements with various architectural, engineering and landscape architectural firms to vet the contractors through the selection process and have them available to hire without going through an individual bidding process. This was done so that we could move quickly and efficiently on construction projects without going through the timely process of individual RFPs to add to the time it would take to complete a project. These continuing services agreements are valid through 2022 with two additional one-year terms available.

Time is of the essence for this project and therefore, staff is recommending the use of one of the consultants from the Town's pool of continuing service agreements. Staff spoke with three firms from the Town's pool of continuing service agreements regarding the scope of work – Architectural Alliance,

Stantec, and Miller Legg. Hugh Johnson Landscape Architecture, Inc. dba Architectural Alliance Landscape (“AAL”) participated in the redevelopment of Downtown in 2014. Due to AAL’s prior experience in the redevelopment of the Downtown area, staff found AAL to be the most qualified firm for the project.

Staff met with Hugh Johnson, the principal of AAL, to further discuss the scope of the project and review some of the concerns that were addressed during the meeting. Staff discussed the Commission’s request, with significant discussion about how the materials selected needed to be able to withstand the sidewalk café use (which is different to pedestrian-only) and adding a treatment that would protect the Ocean Plaza pavers from staining caused by food service. Staff also discussed with Mr. Johnson the use of appropriate landscaping that would be able to withstand the harsh salt air environment and adjustments to the pedestrian walking pattern and sidewalk café locations to make the downtown area more appealing and lighting and pedestrian/vehicular safety improvements. These discussions were incorporated into the work authorization for the conceptual and schematic design attached as Exhibit A to Resolution 2022-08. The cost for this work is proposed at \$22,600. The Commission budgeted \$350,000 in the FY22 CIP for the Downtown Reconfiguration.

Recommendation: Approve Resolution 2022-08, which approves a work authorization with Architectural Alliance Landscape for the Conceptual and Schematic Design for the Redevelopment of the Downtown Area.

Attachments: Ex. 1 – Resolution 2022-08

Reviewed by Town Attorney:

☒	Yes	☐	No
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RESOLUTION NO. 2022-08

**A RESOLUTION OF THE TOWN COMMISSION OF THE
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA,
APPROVING A WORK AUTHORIZATION WITH HUGH
JOHNSON LANDSCAPE ARCHITECTURE, INC. DBA
ARCHITECTURAL ALLIANCE LANDSCAPING;
AUTHORIZING THE TOWN MANAGER TO EXECUTE A
WORK AUTHORIZATION; AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, pursuant to Section 287.055, Florida Statutes, and Request for Qualifications No. 2016-09-01 for Continuing Professional Services (the “RFQ”), the Town entered into multiple continuing contracts with qualified firms, including Architectural Alliance Landscaping (“AAL”), for the provision of architectural and engineering consulting services on an as needed basis (the “Continuing Contract”); and

WHEREAS, on January 25, 2022, the Town Commission voted to remove the parallel parking spaces along Commercial Boulevard east of North Ocean Drive and back out parking spaces on A1A north of Commercial Boulevard, and redevelop them into sidewalk and landscape areas (the “Project”); and

WHEREAS, the Town considered multiple firms from the Town's pool of continuing contracts for the provision of design services (the “Services”) for the Project; and

WHEREAS, Hugh Johnson Landscape Architecture, Inc. dba Architectural Alliance Landscape (“AAL”) participated in the redevelopment of Downtown in 2014; and

WHEREAS, due to AAL’s prior experience in the redevelopment of the Downtown area, staff found AAL to be the most qualified firm for the Services for the Project; and

WHEREAS, AAL provided Town staff with a proposal for the Services for the Project in an amount of \$22,600; and

1 **WHEREAS**, the Town Commission deems it to be in the best interest of the Town and its
2 residents to approve, and authorize execution of, a work authorization with AAL for the Services
3 for the Project in the amount of \$22,600 (the “Work Authorization”).

4 **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE**
5 **TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:**

6 **SECTION 1. Recitals.** The foregoing “Whereas” clauses are hereby ratified and
7 confirmed as being true and correct and incorporated herein by this reference.

8 **SECTION 2. Work Authorization Approved.** The Work Authorization with AAL in
9 the amount of \$22,600 for the Services, is hereby approved.

10 **SECTION 3. Authorization to Execute.** The Town Commission authorizes the Town
11 Manager to execute the Work Authorization, consistent with the terms of the Continuing Contract,
12 together with such non-substantial changes as are acceptable to the Town Manager and approved as
13 to form and legal sufficiency by the Town Attorney.

14 **SECTION 4. Authorization to Implement.** The appropriate Town officials are
15 authorized to execute all necessary documents and to take any necessary action to effectuate the
16 intent of this Resolution.

17 **SECTION 5. Effective Date.** This Resolution shall become effective immediately
18 upon passage and adoption.

19 **PASSED AND ADOPTED** on this ____ day of February, 2022.

MAYOR CHRIS VINCENT

Attest:

Town Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

WORK AUTHORIZATION

Between

TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA

And

Architectural Alliance Landscape

for

Work Authorization No.

PROJECT NAME

Town Center, A-1-A to Oceanfront Pavilion
Lauderdale-By-The-Sea, Florida

TOWN OF LAUDERDALE-BY-THE-SEA
WORK AUTHORIZATION FOR PROFESSIONAL SERVICES

Contractor: Architectural Alliance Landscape			
Address: 612 S.W. 4 th Avenue Fort Lauderdale, FL 33315			
Solicitation Name and No.: Agreement Description: #		Work Authorization No.: Effective Date: Completion Date: December 1st 2022	
P.O. # For Work Authorization: To Be Assigned		Budget:	
Task Description: Landscape Architectural Design Services			
In accordance with the above referenced agreement, you are authorized to perform the tasks detailed in attached Exhibit "A" (Scope of Services). All required services will be completed in an amount not to exceed the amount set forth below and in Exhibit "B" and in accordance with the schedule reflected on Exhibit "C".			
The total amount shall not exceed \$, unless additional services are authorized by the Town in writing.			
	Method of Compensation (Lump Sum, Hourly NTE)	Amount (\$)	<i>Project Code</i>
Conceptual Design		\$ 8,800.	
Schematic Design		\$12,800.	
Reimbursable Expense Allowance		\$1,000.	
Total		\$22,600.	
Other Notes: - This Work Authorization is subject to the same terms and conditions of the <u>Continuing Professional Services Contract</u> dated March 14th, 2017 (the "Contract"). - Nothing in this Work Authorization or the Contract shall be deemed or treated as a waiver by the Town of any immunity to which it is entitled by law, including but not limited to the Town's sovereign immunity as set forth in Section 768.28, Florida Statutes. <u>Scrutinized Companies</u>			

- a. Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
 - b. If this Agreement is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
 - c. The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
 - d. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.
4. Chapter 119 (Public Records). The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable, and shall comply with the following:
 - a. CONTRACTOR agrees to keep and maintain public records in CONTRACTOR's possession or control in connection with CONTRACTOR's performance under this Agreement. CONTRACTOR additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the TOWN.
 - b. Upon request from the TOWN's custodian of public records, CONTRACTOR shall provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
 - c. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the TOWN.
 - d. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONTRACTOR shall be delivered by the CONTRACTOR to the Town Manager, at no cost to the TOWN, within seven (7) days. All such records stored electronically by CONTRACTOR shall be delivered to the Town in a format that is compatible with the TOWN's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONTRACTOR shall

destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

- e. Any compensation due to CONTRACTOR shall be withheld until all records are received as provided herein.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-640-4200, Neysa Herrera@lauderdalebythesea-fl.gov, or by mail: Town Clerk, 4501 N. Ocean Drive, Lauderdale-By-The-Sea, FL 33308.

Please acknowledge receipt of, and agreement with, this Work Authorization by signing and dating and returning three (3) original signed copies to the Town Manager. The Town will send you one fully executed copy.

Town of Lauderdale-By-The-Sea Approval:

Linda Connors, Town Manager

(Signature)

(Date)

Neysa Herrera , Acting Town Clerk

(Signature)

(Date)

Contractor Acceptance:

Contractor Name: Hugh Johnson

Title: Principal

(Signature)

(Date)

Exhibit A – Scope of Services

Name of Project:

Town Center, A-1-A to Oceanfront Pavilion

THE CLIENT HEREBY REQUESTS THE PERFORMANCE OF THE FOLLOWING SERVICES:

Scope of work is to provide professional Landscape Architectural Services for the design and construction document preparation for streetscape & improvements to Commercial Boulevard and adjacent rights of way from the eastern boundary of A-1-A to the eastern boundary / Beachfront Pavilion. Civil Engineering not included in this Agreement.

SCOPE OF SERVICES

Exhibit A

The scope of services includes:

TASK 1: CONCEPTUAL DESIGN

The Consultant shall:

- A. Current updated survey of established limit of work to be provided by LBTS.
- B. Meet with the Town Manager to review previous design concepts for area and to discuss the input the Town has received from residents and business owners regarding the goals stated earlier.
- C. Develop revisions to preliminary design concepts for the project area.
- D. Hold two (2) public meetings for the purpose of obtaining input from the public located in the project area on the preliminary design concepts. (Compile data from Survey input).
- E. Hold one (1) public meeting for the purpose of obtaining input from the public on the preliminary design concepts.
- F. Meet with the Town Manager to review the input received at those meetings and discuss resolution of conflicting input.
- G. Prepare a refined conceptual design for the project, with supporting illustrations. The refined conceptual design should consist of the following:
 - i. Recommended pedestrian improvements within the ROW from A-1-A to El Mar Drive.
 - ii. A conceptual sub-tropical landscape design enhancements that provides shade to pedestrians and creates a distinctive look for this section of Town.
 - iii. Increase dining space for commercial businesses on the street while softening the appearance of the streetscape with landscaping and other aesthetic improvements.
 - iv. Relocate two (2) handicapped parking spaces to El Mar Drive.
 - v. Eliminate parallel parking on Commercial Blvd. & on A-1-A (North of Commercial Blvd.) and add curbing.
 - vi. Select paver replacement for sidewalks material between A-1-A and El Mar Drive.
 - vii. Specify Linear Planters on Oceanfront Plaza.
 - viii. Specify color enhancing sealant for Anglin's Square and Oceanfront Plaza.
 - ix. Add curbing on N.W. sidewalk edge of A-1-A.
 - x. Replacement of existing lighting poles as needed. Provide additional lighting in outdoor dining areas as needed.

In addition to the meetings detailed above, the Consultant shall consult regularly with the Town Manager and other staff members she may include to review progress, design issues, etc.

Deliverables: A conceptual design package of proposed street improvements:

- Supporting typical sections, sketches, illustrations that clearly show the proposed streetscape alternatives mounted on foam core board or other suitable mounting material for presentations.
- A power point presentation of the design concept.
- A sufficient number of materials must be prepared and submitted that shows various streetscape elements to a sufficient level of detail for observers to get a true sense of how the streetscape will appear.

TASK 2: SCHEMATIC DESIGN

Using feedback from the public meetings, develop a Schematic Design for the project including:

- A. Recommend paving and hardscape materials options of varying costs and or style for the Town to select from including textures, colors, and patterns.
- B. Recommend lighting for the Town to select from including fixtures, photometric, location and design and provide specifications for the styles recommended being cognizant of energy efficiency and life cycle costs.
- C. Recommend site furnishings options including but not limited to benches, trash receptacles, bike racks, planters, etc. that are consistent with the character the Town is seeking and can hold up under the environmental conditions.
- D. Provide detailed schematics for the location, size and type of landscape materials.
- E. Ensure that the recommended design is consistent with the requirements of permitting agencies and Local, County, State and Federal agencies and departments that have jurisdiction over the project area.
Communicate with such agencies and departments about any features of the design that are not routinely approved or are out of the ordinary.
- G. Prepare a list of required or expected permits in conjunction with the Civil Engineer.
- H. Meet with the Town Manager to review the proposed schematic design.
- I. Present the schematic design at a Town Commission meeting and facilitate obtaining direction from the Commission on the plan elements.
- J. Attend a follow up town commission meeting to present design revisions.

Deliverables:

Consultant shall prepare the Schematic Design package with the intent to solicit detailed review and comment from the elected officials, Town Manager and general public.

- Provide two sets as described earlier under the conceptual design phase.
- Prepare a power point presentation of the schematic design and the various options for lighting, hardscape materials, site furnishings, etc.

Provide a list of required permits and the likely time frame to receive approvals.

COMPOSITION OF PROJECT TEAM

The Landscape Architectural Consultant will coordinate with the project Civil Engineer and project MEP to prepare drawings for building permit and throughout Construction Administration to achieve final approved permits.

FEE SCHEDULE:

TASK 1 – CONCEPTUAL DESIGN PHASE - **\$8,800.**

TASK 2 – SCHEMATIC DESIGN PHASE - **\$12,800.**

PRINTING AND REIMBURSABLE EXPENSES

All printing and reimbursable and reimbursable expenses to be billed at cost. Receipts for all expenses to be provided with the monthly invoices. And not to exceed allowance for these expenses is **\$1,000.**

PAYMENT BASIS

- Monthly
- Retainer Fee-\$0.00*
**to be applied to final invoice*

VENUE & COST LITIGATION

On all amounts not paid within 30 days from date of invoice, the Client will also be responsible for all collection costs, including all attorneys' fees. In the event of a fee dispute, venue of any litigation to resolve that dispute shall be in Broward County, Florida. Additionally, reasonable attorney's fees and costs shall be assessed for the prevailing party against the losing party in any litigation pertaining to collection fees or costs accrued, as a result of the representation.

LIABILITY LIMITATION

The Client may terminate this agreement during the Design Process and is responsible for compensation of Design Services completed to date of termination. To the maximum extent permitted by law, the Client agrees to limit the Design Professional's liability for the Client's damages to the sum of the Design Professional's fee. This limitation shall apply regardless of the cause of action or legal theory pled or asserted. **Liability for any Construction Documents or calculations prepared by any Engineers or other Consultants shall remain solely with that Consultant. PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, individual employees or agents may not be held individually liable for negligence.**

2022 RATES FOR ADDITIONAL SERVICES:

Principal	\$225.00 per hour	Reimbursable expenses at cost.
Project Manager	\$160.00 per hour	Computer plots and prints at \$.40 per sq.ft.
Landscape Architect	\$130.00 per hour	Travel over 30 miles, \$.55 per mile.
Technical/Draftsman	\$120.00 per hour	
Clerical	\$ 75.00 per hour	

Client will please sign, date, and return with retainer. Work will commence soon after the signed Agreement is received. Should this document not be executed and returned to us, all parties acknowledge and agree that “authorization to proceed” through any other means constitutes formal acceptance of all terms and conditions herein.

FOR: AAL
We agree to perform the work described above.

By: *Hugh Johnson, RLA*

Date: *February 2, 2022*

FOR: THE CLIENT
The work described is authorized and the above terms and conditions are accepted.

By: _____

Date: _____

Exhibit B - Compensation/Line Item

Hourly Compensation Rates Architectural Alliance Landscape

Principal	\$225.00 per hour
Project Manager	\$160.00 per hour
Landscape Architect	\$130.00 per hour
Technical/Draftsman	\$120.00 per hour
Clerical	\$ 75.00 per hour

Reimbursable expenses at cost

Computer plots and prints at \$.40 per sq.ft.

Travel over 30 miles, \$.55 per mile.

Exhibit C – Work Authorization Schedule

The schedule for the completion of this Work Authorization is:

	Task	Task Duration	Completion Date
1.	Conceptual Design	5 weeks	5 weeks from authorization to proceed
2.	Schematic Design	5 weeks	10 weeks from authorization to proceed

Town of Lauderdale by-the-Sea Approval:

Linda Connors, Town Manager

(Signature)

(Date)

Tedra Allen, Town Clerk

(Signature)

(Date)

Contractor Acceptance:

Contractor Name:

Title:

(Signature)

(Date)



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted by: Linda Connors, Town Manager

Submitting Department: Administration

Item Type: Resolution

Agenda Section: RESOLUTIONS-PUBLIC COMMENTS

Subject Title: RESOLUTION 2022-09. A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ACCEPTING A GIFT IN THE AMOUNT OF \$25,000 FROM THE AMENDED AND RESTATED ALICE J. RUTTEN TRUST UAD 11-16-2017; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE RECEIPT FOR THE GIFT; AND PROVIDING FOR AN EFFECTIVE DATE **(Exhibit 1)**.

Explanation: The Town received a letter from Judy Bonevac, Esquire informing us that the Town was left a gift from the Alice J Rutten Trust in the amount of \$25,000 for the purpose of funding activities held at the Lauderdale=By-The-Sea Community Center **(Exhibit 2)**. To properly accept the gift, the Commission must formally except the offer. Once the funding is received, the Finance Director will prepare a budget amendment.

Recommendation: Approve Resolution 2022-09 which authorizes the Town Manager to complete the receipt to initiate the process to accept the gift on behalf of the Town.

Attachments:

Exhibit 1 – Resolution

Exhibit 2 – Letter from Alice Rutten Trust

Reviewed by Town Attorney:

☒	Yes	☐	No
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WHEREAS, the Amended and Restated Alice J. Rutten Trust UAD 11-16-2017 (the “Trust”) left a gift for the Town in the amount of \$25,000 for the purpose of funding activities held by the Lauderdale-By-The-Sea Community Center (the “Gift”); and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 2. Acceptance of Gift. The Town Commission hereby accepts the Gift from the Trust.

SECTION 4. Authorization to Implement. The appropriate Town officials are authorized to execute all necessary documents and to take any necessary action to effectuate the intent of this Resolution.

PASSED AND ADOPTED on this ____ day of February, 2022.

1

Attest:

Town Clerk

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

LAW OFFICES OF
JUDY BARRINGER BONEVAC, P.A.
1401 EAST BROWARD BOULEVARD - SUITE 300
FORT LAUDERDALE, FLORIDA 33301
TELEPHONE (954) 565-4112
WEBSITE: www.bonevaclaw.com
E-Mail: bonevaclaw@bellsouth.net

JUDY B. BONEVAC
LL.M. - Estate Planning
LL.M. - Taxation

THEODORE H. FULTON, JR.
Inactive

February 1, 2022

Town of Lauderdale-By-The-Sea
4501 North Ocean Blvd
Lauderdale-By-The-Sea, FL 33308
Attention: Linda Connors, Town Manager

RE: Amended And Restated Alice J. Rutten Trust UAD 11-16-2017

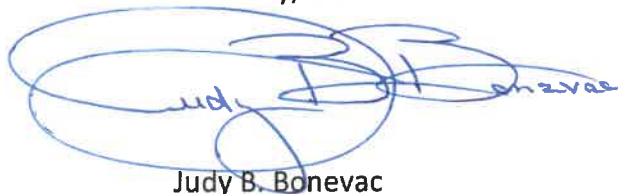
Ms. Connors:

This law firm represents Philip Laux, the Surviving Trustee of the Amended And Restated Alice J. Rutten Trust UAD 11-16-2017 (hereinafter the "Trust"), as amended. Under the terms of the Trust, the Town of Lauderdale-By-The-Sea, Florida was left a gift in the amount of Twenty-Five Thousand (\$25,000.00) Dollars for the purpose of funding activities held at the Lauderdale-By-The-Sea Community Center.

The administration of the decedent's estate and trust is almost complete; accordingly, we are in a position to distribute your gift. Enclosed please find a **Receipt** which will need to be executed by the authorized representative of your Town to distribution of your gift. Please have the authorized representative of your Town execute the enclosed **Receipt** and return same to this law firm which will hold it in escrow until such time the check for your Town's gift under the Trust is mailed. It is anticipated that the check to your organization will be mailed within seven (7) days of our receipt of the executed Receipt. A stamped, preaddressed envelope is enclosed for your convenience.

If you have any questions in connection with this matter, please do not hesitate to contact me.

Sincerely,



Judy B. Bonevac

Enclosure
cc: Philip Laux, Surviving Trustee

RECEIPT

The undersigned, _____, authorized representative of the Town of Lauderdale-By-The-Sea, Florida, whose address is 4501 North Ocean Blvd., Lauderdale-By-The-Sea, FL 33308 and who has an interest in the Amended And Restated Alice J. Rutten Trust UAD 11-16-2017 (hereinafter the "Trust") as a specific devisee, hereby acknowledges receipt of the sum of Twenty-Five Thousand and no/100 (\$25,000.00) Dollars which represents the Twenty- Five Thousand (\$25,000.00) Dollar specific devise in favor of the Town of Lauderdale-By-The-Sea, Florida to be used for funding activities held at the Lauderdale-By-The-Sea Community Center, as set forth in the Trust, and, on behalf of the Town of Lauderdale-By-The Sea, Florida., releases the trustee of the Trust from all further obligations, liability and/or responsibilities in connection with the Trust.

Signed on this ____ day of February, 2022.

Town of Lauderdale-By-The-Sea, Florida

By: _____
Print Name: _____
Print Title: _____



Town Commission Agenda Item Report

Meeting Date: February 22, 2022

Submitted by: Jhanelle Campbell, Development Services Director

Submitting Department: Administration

Item Type: Quasi-Judicial

Agenda Section: QUASI-JUDICIAL PUBLIC HEARINGS

Subject Title: Case Number 2021-V-01: 4403 Tradewinds Inc. (Applicant) – Requests a variance to Section 30-311(c) of the Town’s Code Ordinances (the “Town Code”) to permit construction of a boat dock to extend into the Intracoastal Waterway at a maximum distance between 11.4 feet to 13.5 feet from the property line, where the Town Code provides that a boat dock may be constructed or erected to extend into the Intracoastal Waterway at a maximum distance of eight (8) feet.

Explanation: On September 27, 2021, 4403 Tradewinds Inc. (the “Applicant”), submitted a variance request (**Exhibit 1**) for the property located at 4403-4405 W Tradewinds Avenue (the “Property”). Pursuant to Town Code Section 30-127, “Variance Procedures and Requirements,” the Applicant is seeking a variance from Section 30-311(c) of the Town Code to permit construction of a boat dock to extend into the Intracoastal Waterway at a maximum distance between 11.4 feet to 13.5 feet from the Property line, where the Town Code currently provides that a boat dock may be constructed or erected to extend into the Intracoastal Waterway at a maximum distance of eight (8) feet. The Property is generally located on the west side of West Tradewinds Avenue adjacent to the Intracoastal Waterway, north of Commercial Boulevard, and within close proximity to the intersection of Commercial Boulevard and West Tradewinds Avenue, as further shown and depicted on the aerial location map referenced below as (Figure 1).

The Applicant submitted a completed Application, including all required documents and plans. Notice was sent to all property owners within 300 feet on January 21, 2022, and the Property was posted and advertised pursuant to Section 30-139 of the Town Code (**Exhibit 2**). At the time of agenda publication, staff received two responses to the notice (**Exhibit 2**).

Citizen Participation

A Citizen Participation meeting was held on December 28, 2021 in Jarvis Hall and a Citizens Participation Meeting Summary Report (**Exhibit 3**) was submitted and filed with the Development Services Department on January 12, 2022.

Description of the Existing Site

The Property is zoned B-1 and includes a mixed use, with professional offices and a restaurant. There are parking areas on the east and north sides of the Property. The Property is generally located on the west side of West Tradewinds Avenue adjacent to the Intracoastal Waterway, north of Commercial Boulevard, and within close proximity to the intersection of Commercial Boulevard and West Tradewinds Avenue.

Background

The building on the Property was constructed in 1972. Since then, the dock has been used by those utilizing the Property, including patrons of the restaurant arriving by boat. According to the Applicant, the existing dock has suffered damage to the wood dock itself as well as the support structure over the years. In addition, the Applicant



Figure 1-Location of Property

advises of ongoing issues with the enforcement of a “No Wake” zone in the area. Per the Applicant, the failure of passing boats to observe the “No Wake” zone has exacerbated the deterioration of the dock and seawall. As a result, the dock and seawall are required to be repaired and rebuilt. In order to continue using the dock, the Applicant is proposing to rebuild the dock and its supporting structure and add riprap boulders. In addition, the inclusion of riprap boulders underneath the proposed dock will aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats, people, and the dock. The proposed dock and riprap protects vessels and passengers from the excessive wakes experienced along this portion of the Intracoastal Waterway. This repair includes having a dock that extends into the Intracoastal Waterway more than the maximum eight (8) feet allowed by the Town Code, which required the Applicant to submit a Variance Application.

It should be noted that the Applicant discusses a proposal to have a water taxi stop at this location. However, it is important to note a water taxi service has not yet been formally proposed to the town. Therefore, this Variance Application is solely related to the request to seek expansion/replacement of the boat dock for additional width to extend into the Intracoastal Waterway

Variance Request

Section 30-311(c) of the Town Code (**Exhibit 4**) currently provides that a boat dock may be constructed or erected to extend into the Intracoastal Waterway at a maximum of eight (8) feet from the Property line. The Variance Application seeks to allow the proposed dock to be constructed between 11.4 feet to 13.5 feet from the Property line into the Intracoastal Waterway.

Criteria and Analysis

Section 30-127 (**Exhibit 5**) of the Town Code provides that a variance application shall be evaluated by considering the following criteria. Please note that the Applicant’s response is taken directly from the application. For the full narrative from the Applicant, please see **Exhibit 1**.

1. *Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.*

Applicant statement:

The proposed dock has been approved by the U.S. Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection (FDEP; Permit No. 06-395244-002-EM), and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337). (**Exhibit 6**) These environmental agencies also take into consideration navigation along the Intracoastal Waterway when reviewing applications and permit issuance. The Intracoastal Waterway is a Federal channel and requires approval from the ACOE Navigation District to construct proposed construction, which has been reviewed and granted. The proposed structure also adheres to the Florida Department of Environmental Protection requirement stating that no docks or vessels can exceed 25% the width of the waterway. The addition of rip rap boulders underneath the proposed dock will aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats, people, and the dock. In addition, rip rap provides a robust environment for marine species in the surrounding waters. The proposed dock and riprap will provide significant marine habitat while protecting vessels and passengers from the excessive wakes experienced along this portion of the Intracoastal Waterway. The proposed dock complies with the current five (5) foot setback on the north and south of the dock as required by the town code.

This section of the Intracoastal Waterway is marked as an “Idle Speed No Wake” zone (“750 feet north of the East Commercial Boulevard Bridge” 68D-24.008 Broward County Boating Restricted Areas). However, the small existing wood dock has previously experience damage to not only the dock, but damage to boats from passing wakes that could have led to injuries. Previously, the dock acted as a location for passengers to board the Fort Lauderdale Water Taxi; unfortunately, these damages terminated the use of the dock facilities due to unsafe conditions. These incidents demonstrate that the no wake zone is not being enforced or adhered to; thus, resulting in the need for the riprap to absorb the waver energy and a 9-11.5’ concrete wide dock.

Staff findings:

There are no other properties on the Intracoastal Waterway with commercial uses in the Town that include a dock for the use by the establishments’ patrons. As asserted by the Applicant, the Property’s

proximity to the Bridge, the fact that multiple boats traverse the waterway adjacent to the Property when the Bridge is up, and failure of boaters to observe the "Idle Speed No Wake" zone has taken a toll on the existing dock and infrastructure. These factors create special conditions that impact the reasonable use of the land. The ability to upgrade both the dock and its supporting infrastructure will allow the Applicant to provide a safer area for customers to dock watercraft and access the Property. In addition, expansion of the additional rip rap, and subsequent expansion of the dock, reduces the impact of passing boats and moving water on the dock.

This criterion has been met.

2. *The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.*

Applicant Statement:

The 8-foot dock rule applies in Lauderdale-By-The-Sea in residential areas, where the canal is typically small in width. These residential areas typically have a canal that is about 100 feet wide, whereas, in the portion of the Intracoastal Waterway that this proposed dock along this commercial property is located, the canal is approximately 300 feet wide. As such this property is a marked exception to the other properties which are largely residential, and are on a much narrower canal.

Staff Findings:

The proximity of the dock to the Bridge, the use of the dock by multiple boats over the course of the day, and the fact that this is only restaurant property in the Town that uses the dock to service customers on the Intracoastal going to businesses on the Property qualify as circumstances that few if any properties can claim as an issue.

This criterion has been met.

3. *The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.*

Applicant Statement:

The existing dock has been deemed as a hazard for boats to moor and dock safely without the modification listed in the proposed plans. Additionally, the code states that "boat docks...may be constructed or erected to extend into any waterway a distance of ten percent of the width of the waterway or distance of eight feet, whichever is less, as measured from the recorded property line" (Sec 30-311 (2)a). As the property line is located approximately 0.8-1.4' landward of the existing wet-face, this would only allow for the addition of a 7.2' dock. The maximum of a 7.2' or 8' wide dock would not allow for the addition of riprap as it would extend past the dock creating a hazard for mooring vessels and their passengers. Here the riprap is needed to absorb the excessive wakes experienced along this heavily traveled Intracoastal Waterway. In addition, the code mandated 8' wide from property line prevents the applicant from safe mooring on the ICW, pedestrian access, boat disembarkment, and water taxi access at this location.

Staff Findings:

The property has the right to construct a dock under the Code and the relevant federal, state and County agencies have approved it from a navigational and environmental perspective. The literal interpretation of the Code would mean that the dock could only extend into the Intracoastal Waterway a maximum of eight (8) feet. Failing to allow the larger dock would prevent construction in compliance with those agency approvals, which approved a dock that extends further into the waterway than the Code allows, and would result in an unsafe condition exposing boats and boaters directly to the rip rap. Thus, the property would be faced with either losing the right to protect the property through the use of rip rap as recommended by their contractor and approved by the Army Corps of Engineers or providing a safe condition for those persons mooring at the dock.. Staff believes this is a hardship rather than mere inconvenience.

This criterion has been met.

4. *The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.*

Applicant Statement:

The hardship is not self-created. The property is located approximately 100 feet to the north of the East Commercial Boulevard Bridge where heavy boat traffic is frequently experienced. Large commercial vessels and other tall boats are required to wait for the bridge to open for safe passage leading to boat congestion in the surrounding area. Attempting to moor on a small dock during these times has proven difficult and dangerous and could lead to life threatening situations that a larger dock with more rip rap would prevent.

Staff Findings:

Staff agrees that the hardship is not self-created, and arises from the unique location of the property and customer-serving use of the dock. Additionally, the County has required all municipalities to adopt resiliency standards which encourage the use of rip rap as part of their ways to address sea level rise.

This criterion has been met.

5. *The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Applicant Statement:

If an 8 foot dock is provided for in a 100 foot wide canal then a 24 foot dock should be provided in a 300 foot wide waterway. We are not seeking that. We are only seeking an additional 5 foot to allow for the rip rap to break up the wake action from the boat traffic travelling up and down the Intracoastal Waterway which runs the entire length of the United States rather than a few feet inland. The extension will not be injurious to the neighborhood but will add an additional barrier of protection to neighboring properties from wave action and enhance the property appearance. The proposed structures will look modern and sophisticated similar to the docking facilities at Shooters Waterfront restaurant, which has an active water taxi service .

Additional special circumstances all involving safety for our community include:

- A wider structurally safe dock will improve pedestrian access along the dock for people to disembark, better boat access and a structurally safer area for a water taxi or large vessel.
- The variance allows the proposed seawall and dock to have increased structural integrity, height, and strength.
- The variance allows the safe usage of the restaurant property which now spaces tables 6 feet apart to prevent the spread of covid. Just as the City has wisely allowed restaurants in the town to use parking spaces for outdoor dining, the restaurant dock expansion will facilitate the town's intent to space restaurant dining in this location as well.
- Due to the structural dock improvements and additional width the property will provide a unique service to the Town for outdoor/waterfront dining and increase access to the town by the introduction of a new water taxi service stop which will provide a new east west corridor connection from this gateway property in the town on the ICW to the restaurant/retail corridor and ultimately the beach/AIA entertainment areas.

Staff Findings: The additional width for the dock at a commercial establishment will not have an impact on neighboring properties nor will it be detrimental to the public welfare. Based on the information provided by the Applicant, the variance will allow for safer conditions on the dock, especially in case of rough water.

Furthermore, the proposed dock would eliminate the setback non-conformity that currently exists. The existing dock extends to each property line, where the proposed dock will be set back a distance of five (5) feet on each end of the property per Town Code.

This criterion has been met.

6. *The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.*

Applicant Statement:

The granting of the variance does not change the usage of the dock but brings the height up so the dock is not flooded by high tides and diminishes the strong wave action caused by passing boats. The construction of the proposed dock makes the supports stronger by using concrete and the additional width better for the purpose of usage as a dock.

Staff Finding: The proposed use (a dock) is permitted, and the proposed width is the minimum necessary to protect those using the dock from the rip rap. As previously stated, the use of the dock for a water taxi is not part of this application.

This criterion has been met.

7. *Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.*

Applicant Statement:

The failure to grant the variance will maintain the property unusable for boats and the water taxis to dock safely as the small dock exhibits inadequate space for loading and unloading passengers and for the amount of riprap needed to reduce the wave energy.

Staff Finding: Financial hardship is not a basis for granting the variance. Staff's recommendation is based on the safety of the dock structure, which the protection of the seawall and absorption of the waves. These three objectives cannot all be met without the variance.

This criterion has been met.

Planning and Zoning Board Meeting

The variance request was presented to the Planning and Zoning Board (**Exhibit 6**) at its February 2nd meeting. After a review of the application, a presentation from the Applicant and the Applicant's engineer, and public comment, the Planning and Zoning Board recommended approval of the Applicant's variance request with a vote of 4-1.

Recommendation: Staff's evaluation and analysis outlined within this report and the supporting documents is based solely on specific facts, circumstances and the merits of the variance request, and is not based on the potential future uses on the Property in the future. The justification for the additional width of the dock presented at the Town was to provide additional rip rap boulders underneath the proposed dock that will provide added protection and aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats and the boat dock. More importantly, the dock width is necessary to ensure that the dock covers the rip rap so that the boats that moor at the dock are not damaged. The intent of the variance request seeking expansion/replacement of the boat dock is for various reasons including:

1. The public health, safety and welfare of Town residents and visitors;
2. Wave reduction;
3. Shoreline erosion, and
4. To help foster and continue environmental efforts to ensure a clean and safe Intracoastal Waterway within the Town and the State's Atlantic Intercoastal Waterway System.

Staff believes that the Applicant has justified the grant of the variance based on the criteria of the Town Code, and recommends approval of the request. Therefore, staff recommends approval of the attached Development Order (**Exhibit 7**).

The Town Commission should list its findings, and approve or deny the variance request based on the information presented.

Attachments:

Exhibit 1- Zoning Variance Application, Narrative, Plans for Proposed Dock

- Exhibit 2- Public Notice, Notice Requirements and Public Comments
- Exhibit 3- Citizen Participation Summary and Sign-In Sheet
- Exhibit 4 – Section 30-311, Boats, Boat lifts, boathouses, mooring and docking
- Exhibit 5- Variance Criteria
- Exhibit 6- Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection (FDEP; Permit No. 06-395244-002-EM), and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337).
- Exhibit 7- Planning and Zoning Board Report and supplemental exhibits
- Exhibit 8- Development Order

Reviewed by Town Attorney:

☒	Yes	☐	No
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LAUDERDALE•BY•THE•SEA

VARIANCE APPLICATION



4501 N. OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FL 33308
(954)-640-4210
ZONING@LBTS-FL.GOV
M-F 8:30-4:30 PM

For Administrative Purpose Only

Application Number: 2021-V-01
BTR #: _____
Date Application Submitted: 9-27-21
Date Application Found Complete: 10/7/21
Pre-Application Meeting Date: _____
Non-Refundable Application Fee: \$900 } pd 9/27/21
Cost Recovery Fee: \$400

LAUDERDALE•BY•THE•SEA

VARIANCE APPLICATION

In accordance with the Town of Lauderdale-By-The-Sea Unified Land Development Regulations applications for a Variance may be made under Section 30-127 and Section 30-112.

Section A: Items for Submittal

Note: Please submit digital copies with the application via email or thumb drive

- The Fee for Variance + Deposit (See Fee Schedule)
- Completed and notarized Universal Development Application
- Survey of site signed and sealed by a licensed surveyor, dated no more than 12 months prior to the submission date
- An approved site plan and development order for the property, if existing
- Any other application specific information as required by the Development Services Director or designee.
- Completion of Section B, noted below

Section B: Variance Consideration Criterion

Note: An application shall be evaluated by the criteria noted in Section 30-127. Please provide a response to each question below.

1. Are there special conditions and circumstances existing that affect the land, structure or building involved preventing the reasonable use of such land, structure or building?
2. Are there circumstances which cause the hardship peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district?
3. Does the literal interpretation of the provisions of the applicable regulation result in a hardship upon the owner, as distinguished from a mere inconvenience?
4. How is the hardship not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations?
5. Is a variance the minimum that will make possible the reasonable use of the property and the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will the variance not be injurious to the neighborhood or otherwise detrimental to the public welfare?
6. How does the grant of the variance not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies?
7. Will failure to grant the variance render the property unusable as a permitted use in the zoning district in which the property lies?

If a resubmittal is requested, please submit the amended documents, the previous comments received from the Town, and the applicant's response to those comments.



Need assistance or clarification?
Please contact us at (954)-640-4210 or email Zoning@lbts-fl.gov

In accordance with Section 30.111-30.113 of the Town's Unified Land Development Regulations: Development applications are required to be provided before any development permit is issued. Please refer to the Town's website to obtain a copy of the corresponding Application Checklist and Fee Schedule.

Check appropriate application and block:

- | | |
|---|---|
| ☐ Appeal of Administrative Decision | ☐ Historic Designation |
| ☐ Site Plan | ☐ Certificate of Appropriateness |
| ☐ Site Plan Level 1 Modification | ☐ Zoning Relief |
| ☐ Site Plan Level 2 Modification | ☐ Rezoning |
| ☐ Conditional Use _____ | ☐ Right-of-Way Vacation |
| ☐ Conditional Use Modification _____ | ☐ Comprehensive Plan Amendment |
| ☐ Administrative Adjustment _____ | ☐ Payment in Lieu of Parking |
| ☒ Variance _____ | ☐ Parking Reduction _____ |
| ☐ Plat _____ | ☐ Other: _____ |
| ☐ Architectural Review _____ | |

Project Name: 4403 Tradewinds Inc.

Folio Numbers: 494318070010

Street Address: 4403 W. Tradewinds Ave. LRTS

Legal Description: All of Block M B Yacht Basin Unit B Plat Book 31

Name of Property Owner: 4403 Tradewinds, Inc. / Jo Ann Hoffman Pg 3
Property Owner's Phone #: 954-937-1191

Address of Property Owner: 4403 W. Tradewinds Ave LRTS FL 33308

Property Owner's Email Address: joann@joannhoffman.com + carlos@joannhoffman.com

Name of Applicant: Jo Ann Hoffman Applicant's Phone #: 954-937-1191

Applicant's Address: 4403 W. Tradewinds Ave LRTS, FL 33308

Applicant Email Address: joann@joannhoffman.com + carlos@joannhoffman.com

Name of Agent (e.g. Contractor Representing the Project): The Chappell Group

Agent's Email Address: tyler@thechappellgroup.com Agent's Phone #: 954-782-1908

Agent's Address: 714 E. McNab Rd Pompano Beach, FL 33060

Land Use Plan Designation: Business/Retail Zoning District: B-1

Existing Use of the Subject Property: Dock

Proposed Use of the Subject Property: Dock

DEVELOPMENT APPLICATION SIGNATURE SECTION

Property Owner

Print Name of Property Owner: 4403 TRADEWINDS INC Date: 9-24-21 / Jo Ann Hoffman

Signature of Property Owner: [Signature]

State of Florida:

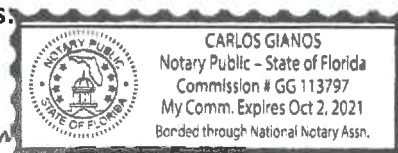
County: Broward

SWORN AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this day 24th of September, 2021.

The person signing is ☒ personally known to me or has ☐ produced identification

Print Notary Name: CARLOS GIANOS My Commission Expires:

Notary Signature: [Signature]



Applicant

Print Name of Property Owner: Jo Ann Hoffman of 4403 TRADEWINDS INC Date: 9-24-21

Signature of Property Owner: [Signature]

State of Florida:

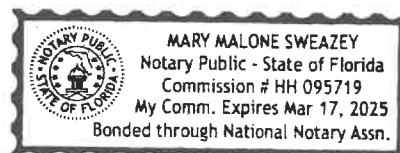
County:

SWORN AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this day 24 of Sept, 2021.

The person signing is ☒ personally known to me or has ☐ produced identification

Print Notary Name: Mary Malone Sweazey My Commission Expires:

Notary Signature: Mary Malone Sweazey





McLAUGHLIN ENGINEERING COMPANY

LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W. 64th STREET, SUITE 400, FORT LAUDERDALE, FLORIDA 33301
PHONE: (954) 763-7611 * EMAIL: OFFICE@MECO400.COM

SPECIAL PURPOSE LOCATION SURVEY TO ACCOMPANY REQUEST FOR ARMY CORPS OF ENGINEERS PERMIT THE INTRACOASTAL WATERWAY ADJACENT TO PORTION OF BLOCK "H", ALL OF BLOCK "M" AND YACHT BASIN (PRIVATE), SILVER SHORES SECTION OF LAUDERDALE BY THE SEA, UNIT "B" (P.B. 31, PG. 3 B.C.R.) SHEET 1 OF 2 SHEETS

COORDINATE AND ELEVATION NOTES:

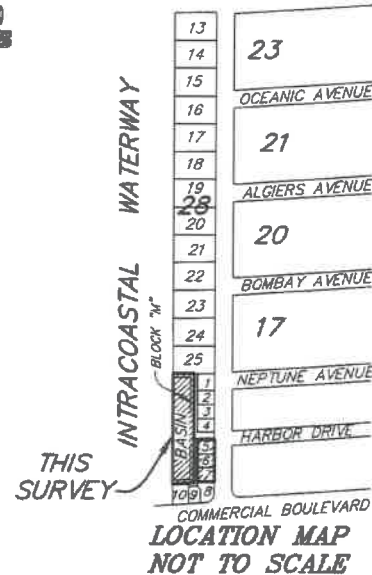
HORIZONTAL ACCURACY:

The channel location as shown hereon refers to U.S. ARMY CORPS OF ENGINEERS (ACOE) 10ft Project Control Map, File 8B-24,258, Sheets 15 of 20. The Channel Cut Reference Stations bearings and coordinates have been transformed to the North American Datum 1983 High Accuracy Reference Network (NAD83(HARN)) as furnished by the ACOE. The coordinates shown on the property are from control that was shot in the field by using the Global Positioning System (GPS) and meet or exceed the one (1) foot tolerance requirements of the ACOE.

VERTICAL ACCURACY:

The Elevations shown hereon refer to National Geodetic Vertical Datum 1988 (NVAD 88) as converted using Verticon 3.2 software, utilizing National Geodetic Survey Bench Mark #AD5854 (ELEVATION = 10.20) with a Latitude of 26°11'25.4"N and Longitude of 80°05'44.5"W and meet or exceed the 0.5 foot vertical tolerance requirements of the ACOE and are indicated thus:

3.11+



UPLAND LEGAL DESCRIPTION:

Lot 3 TO 6, Block "H", All of Block "M" and Yacht Basin (private), SILVER SHORES SECTION OF LAUDERDALE BY THE SEA, UNIT "B", according to the plat thereof, as recorded in Plat Book 31, Page 3, of the public records of Broward County, Florida.

Said land situate, lying and being in Section 18, Township 49 South, Range 43 East, Town of Lauderdale by the Sea, Broward County, Florida.

GENERAL NOTES:

- 1) This survey reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by McLaughlin Engineering Company.
- 2) Underground improvements if any not located.
- 3) This drawing is not valid unless sealed with an embossed surveyors seal.
- 4) Survey information does not infer Title or Ownership.
- 5) The purpose of this survey is to establish the horizontal and vertical positioning of improvements, whether proposed or existing, within the Intracoastal Waterway using the criteria established in that certain Memorandum for Record (CESAJ-RD (1200a)) Dated July 18, 2013.

CERTIFICATION:

We hereby certify that this survey meets the Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17.05 Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Dated at Fort Lauderdale, Florida, this 1st day of September, 2020.
Revised to add Submerged Land Easement this 22nd day of October, 2020.

McLAUGHLIN ENGINEERING COMPANY

JAMES M. McLAUGHLIN JR.
Registered Land Surveyor No. 4497
State of Florida.

FIELD BOOK NO. EFB-GPS & PRINT

11" x 17"

DRAWN BY: JMMjr

JOB ORDER NO. V-5430

REF DWG: 0-140A

CHECKED BY:

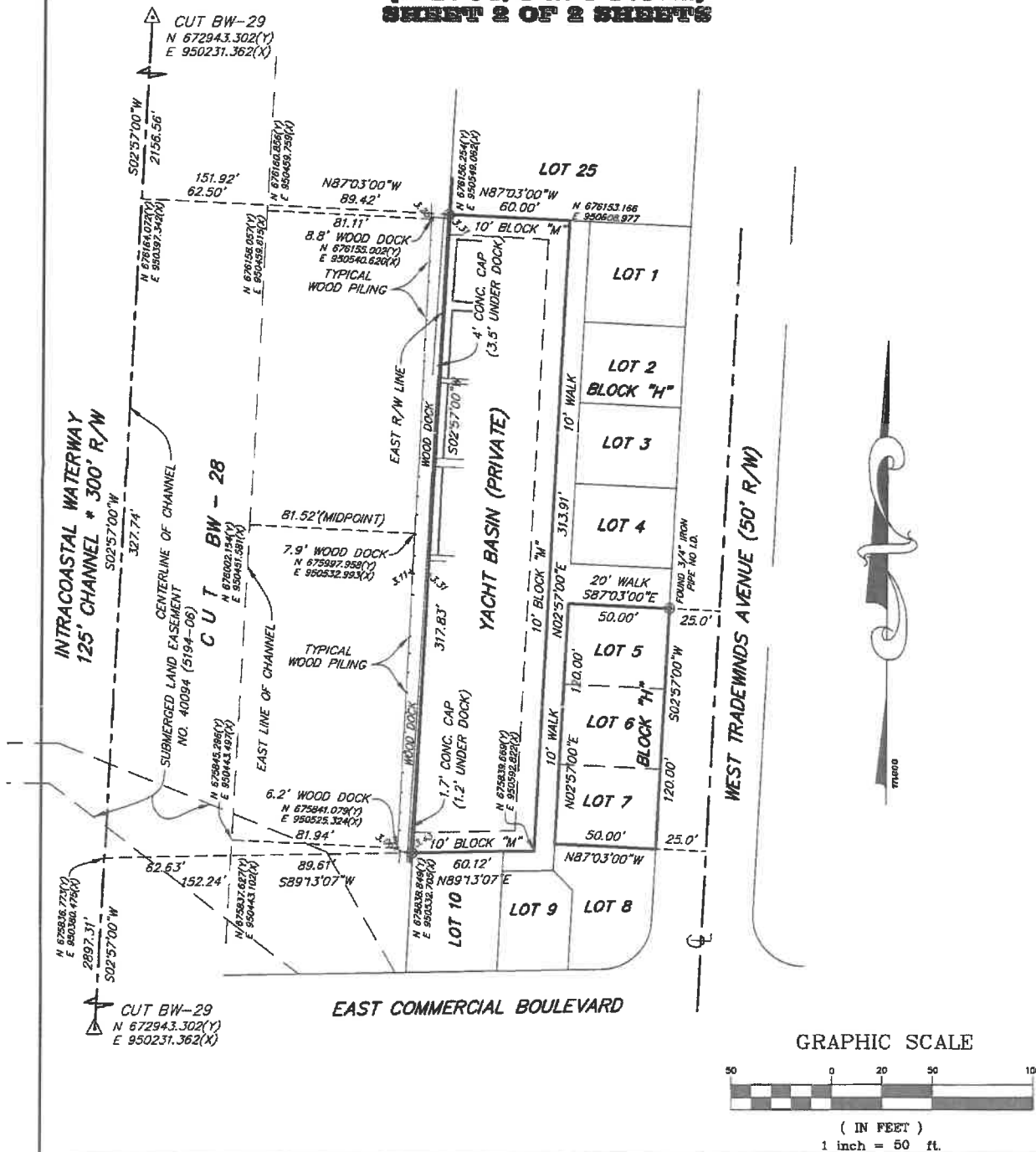
C: JMMjr/2020/V5430(XY)



McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W. 64th STREET, SUITE 400, FORT LAUDERDALE, FLORIDA 33301
PHONE: (954) 763-7611 * EMAIL: OFFICE@MECO400.COM

X-Y COORDINATE SURVEY
TO ACCOMPANY REQUEST FOR ARMY CORPS OF
ENGINEERS PERMIT
THE INTRACOASTAL WATERWAY ADJACENT TO
PORTION OF BLOCK "H", ALL OF BLOCK "M" AND YACHT
BASIN (PRIVATE), SILVER SHORES SECTION OF
LAUDERDALE BY THE SEA, UNIT "B"
(P.B. 31, PG. 3 B.C.R.)
SHEET 2 OF 2 SHEETS



FIELD BOOK NO. EFB & PRINT

11" X 17"

DRAWN BY: JMMjr

JOB ORDER NO. V-5430

CHECKED BY:

REF DWG: O-140A

C: \JMMjr\2020\V5430(XY)

9-22-21

Section B: Variance Consideration Criteria

Dear Mayor, Town Manager and Commissioners,

On behalf of 4403 Tradewinds Inc, we have applied for a variance per the attached plan to allow a concrete dock that extends a range of 11.4' to 13.5' from the property line along the property at 4403 Tradewinds Inc. There are multiple special circumstances for this variance which meet the criteria under Section B of the Variance application:

[1] Are there any special conditions and circumstances existing that affect the land, structure or building involved preventing the reasonable use of such land, structure or building?

The proposed dock has been approved by the U.S. Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection (FDEP; Permit No. 06-395244-002-EM), and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337). These environmental agencies also take into consideration navigation along the Intracoastal Waterway when reviewing applications and permit issuance. The Intracoastal Waterway is a Federal channel and requires approval from the ACOE Navigation District to construct proposed construction, which has been reviewed and granted. The proposed structure also adheres to the Florida Department of Environmental Protection requirement stating that no docks or vessels can exceed 25% the width of the waterway. The addition of rip rap boulders underneath the proposed dock will aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats, people, and the dock. In addition, rip rap provides a robust environment for marine species in the surrounding waters. The proposed dock and riprap will provide significant marine habitat while protecting vessels and passengers from the excessive wakes experienced along this portion of the Intracoastal Waterway. The proposed dock complies with the current five (5) foot setback on the north and south of the dock as required by the town code.

This section of the Intracoastal Waterway is marked as an "Idle Speed No Wake" zone ("750 feet north of the East Commercial Boulevard Bridge" 68D-24.008 Broward County Boating Restricted Areas). However, the small existing wood dock has previously experience damage to not only the dock, but damage to boats from passing wakes that could have led to injuries. Previously, the dock acted as a location for passengers to board the Fort Lauderdale Water Taxi; unfortunately, these damages terminated the use of the dock facilities due to unsafe conditions. These incidents demonstrate that the no wake zone is not being enforced or adhered to; thus, resulting in the need for the riprap to absorb the waver energy and a 9-11.5' concrete wide dock.

[2] Are there any circumstances which cause the hardship peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district?

The 8-foot dock rule applies in Lauderdale-By-The-Sea in residential areas, where the canal is typically small in width. These residential areas typically have a canal that is about 100 feet wide, whereas, in the portion of the Intracoastal Waterway that this proposed dock along this commercial property is located, the canal is approximately 300 feet wide. As such this property is a marked exception to the other properties which are largely residential, and are on a much narrower canal.

[3] Does the literal Interpretation of the Provisions of the applicable regulation result in a hardship upon the owner, as distinguished from a mere inconvenience?

The existing dock has been deemed as a hazard for boats to moor and dock safely without the modification listed in the proposed plans. Additionally, the code states that "boat docks... may be constructed or erected to extend into any waterway a distance of ten percent of the width of the waterway or distance of eight feet, whichever is less, as measured from the recorded property line" (Sec 30-311 (2)a). As the property line is located approximately 0.8-1.4' landward of the existing wetface, this would only allow for the addition of a 7.2' dock. The maximum of a 7.2' or 8' wide dock would not allow for the addition of riprap as it would extend past the dock creating a hazard for mooring vessels and their passengers. Here the riprap is needed to absorb the excessive wakes experienced along this heavily traveled Intracoastal Waterway. In addition, the code mandated 8' wide from property line prevents the applicant from safe mooring on the ICW, pedestrian access, boat disembarkment, and water taxi access at this location.

[4] How is the hardship not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations?

The hardship is not self-created. The property is located approximately 100 feet to the north of the East Commercial Boulevard Bridge where heavy boat traffic is frequently experienced. Large commercial vessels and other tall boats are required to wait for the bridge to open for safe passage leading to boat congestion in the surrounding area. Attempting to moor on a small dock during these times has proven difficult and dangerous and could lead to life threatening situations that a larger dock with more rip rap would prevent.

[5] Is a variance the minimum that will make possible the reasonable use of the property and the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will the variance not be injurious to the neighborhood or otherwise detrimental to the public welfare?

If an 8 foot dock is provided for in a 100 foot wide canal then a 24 foot dock should be provided in a 300 foot wide waterway. We are not seeking that. We are only seeking an additional 5 foot to allow for the rip rap to break up the wake action from the boat traffic travelling up and down the Intracoastal Waterway which runs the entire length of the United States rather than a few feet inland. The extension will not be injurious to the neighborhood but will add an additional barrier of protection to neighboring properties from wave action and enhance the property appearance. The proposed structures will look modern and sophisticated similar to the docking facilities at Shooters Waterfront restaurant, which has an active water taxi service.

Additional special circumstances all involving safety for our community include:

1. A wider structurally safe dock will improve pedestrian access along the dock for people to disembark, better boat access and a structurally safer area for a water taxi or large vessel.
2. The variance allows the proposed seawall and dock to have increased structural integrity, height, and strength.
3. The variance allows the safe usage of the restaurant property which now spaces tables 6 feet apart to prevent the spread of covid. Just as the City has wisely allowed restaurants in the town to use parking spaces for outdoor dining, the restaurant dock expansion will facilitate the town's intent to space restaurant dining in this location as well.
4. Due to the structural dock improvements and additional width the property will provide a unique service to the Town for outdoor/waterfront dining and increase access to the town by the introduction of a new water taxi service stop which will provide a new east west corridor connection from this gateway property in the town on the ICW to the restaurant/retail corridor and ultimately the beach/AIA entertainment areas.

[6] How does the grant of the variance not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies?

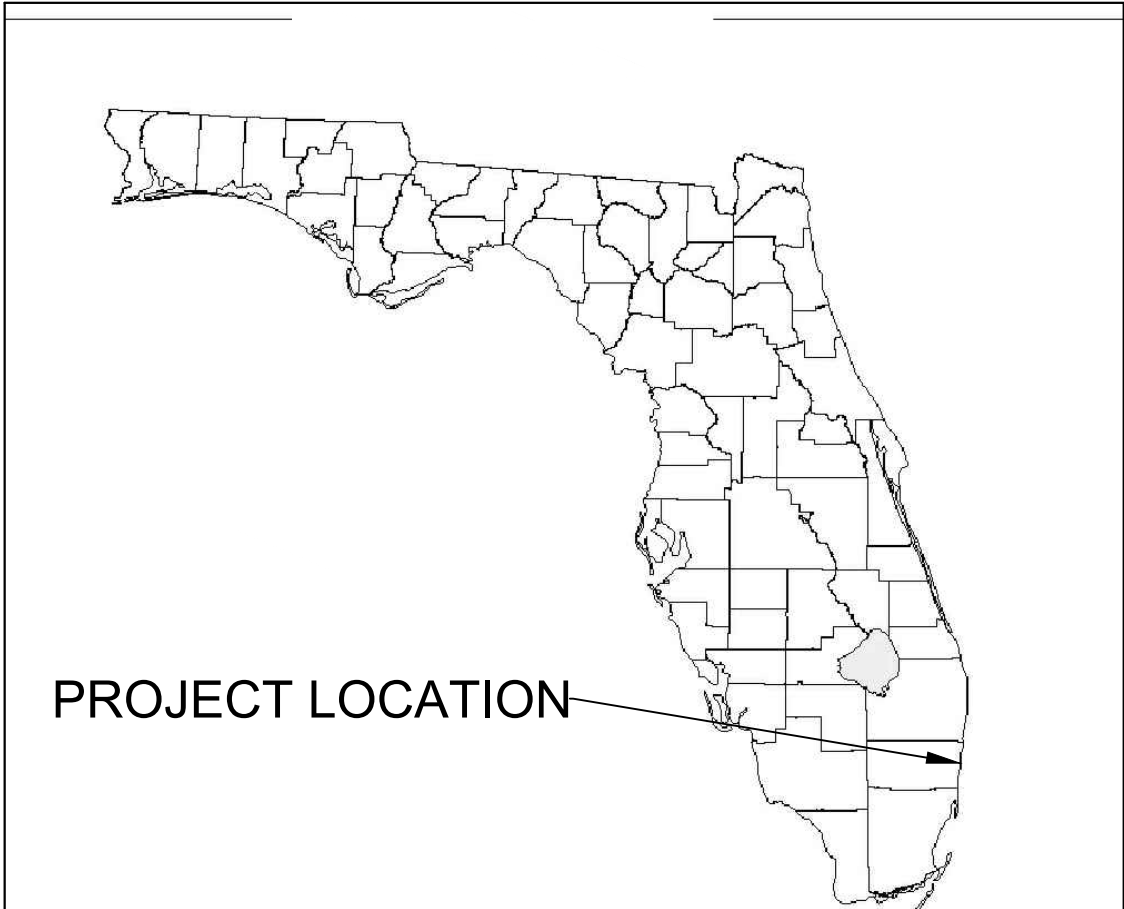
The granting of the variance does not change the usage of the dock but brings the height up so the dock is not flooded by high tides and diminishes the strong wave action caused by passing boats. The construction of the proposed dock makes the supports stronger by using concrete and the additional width better for the purpose of usage as a dock.

[7] Will failure to grant the variance render the property unusable as a permitted use in the zoning district in which the property lies?

The failure to grant the variance will maintain the property unusable for boats and the water taxis to dock safely as the small dock exhibits inadequate space for loading and unloading passengers and for the amount of riprap needed to reduce the wave energy.

4403-4405 TRADEWINDS AVE PLAN SET

Proposed Plans



LOCATION MAP (N.T.S.)

DRAWING INDEX

SHEET 1: COVER

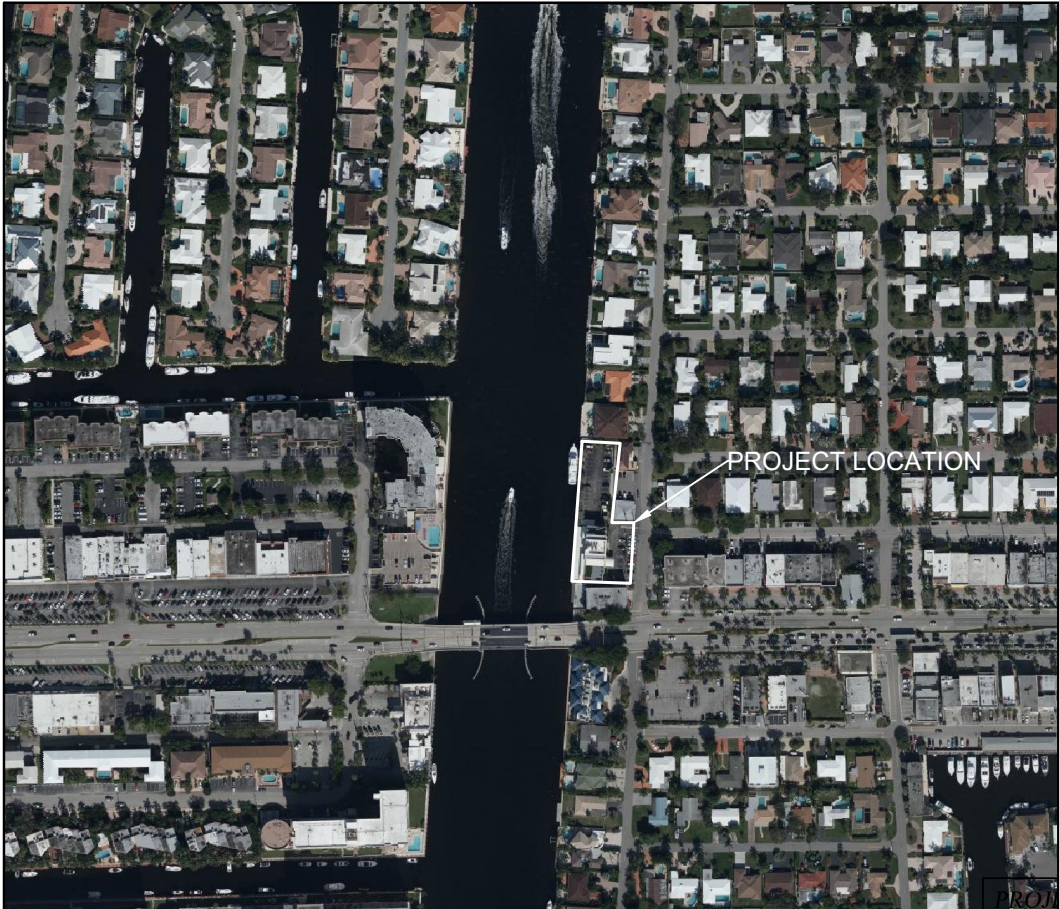
SHEET 2: EXISTING
CONDITIONS

SHEET 3: PROPOSED
CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:
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SOLUTIONS, INC.**
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omslaer
PE 52733, EB 26829

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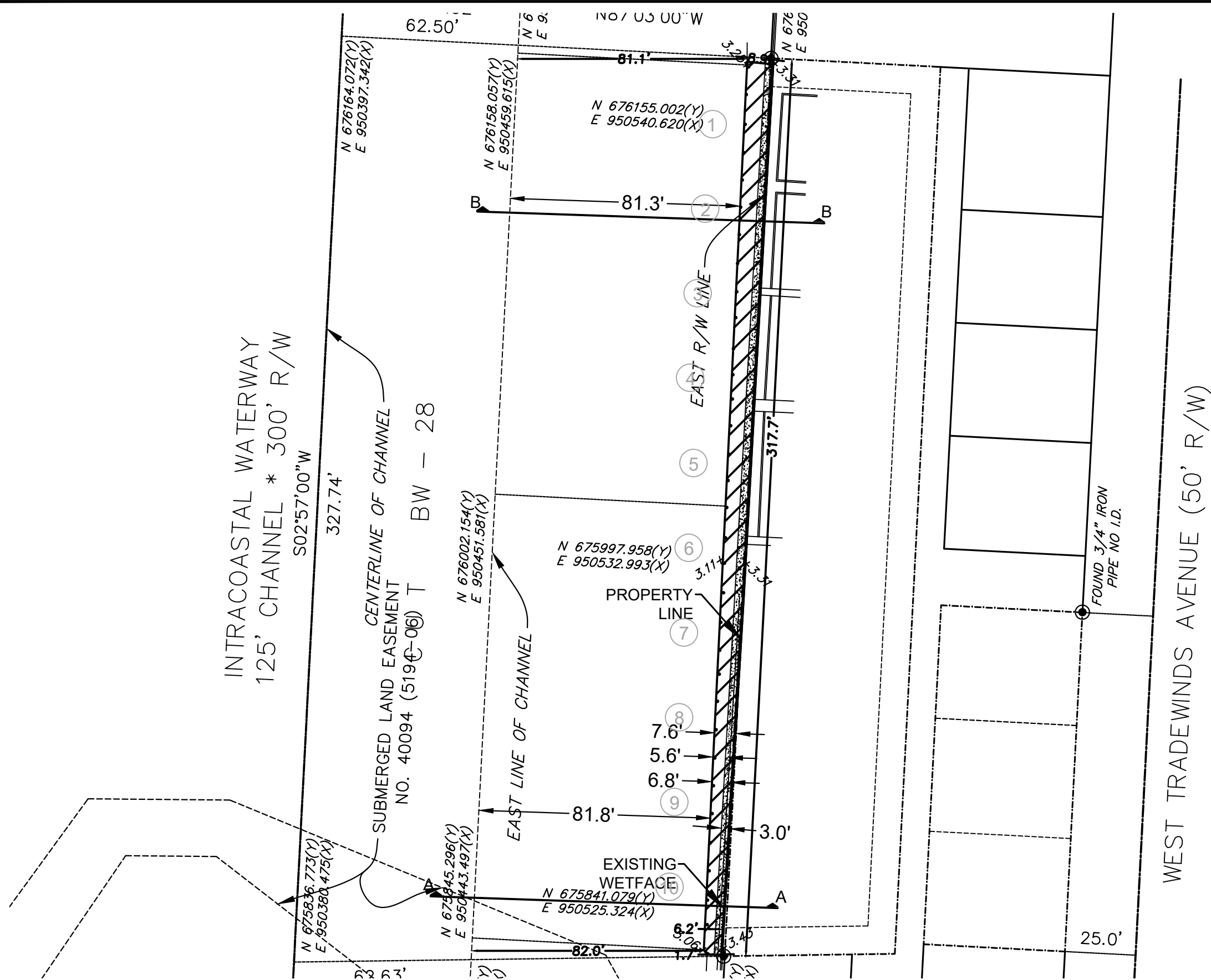
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4403-4405 TRADEWINDS AVE

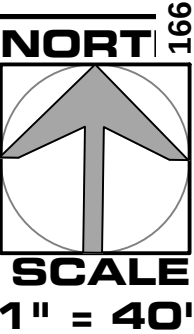
PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

Date: 2/10/2021	Sheet : 1	of : 6
Proj No.: 20-0077		



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



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LEGEND

- [] SUBJECT SITE (0.57 AC)
- [] EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- [] EXISTING WOOD MARGINAL DOCK TO BE REMOVED (±2,440 SQ. FT.)
- ① EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88.

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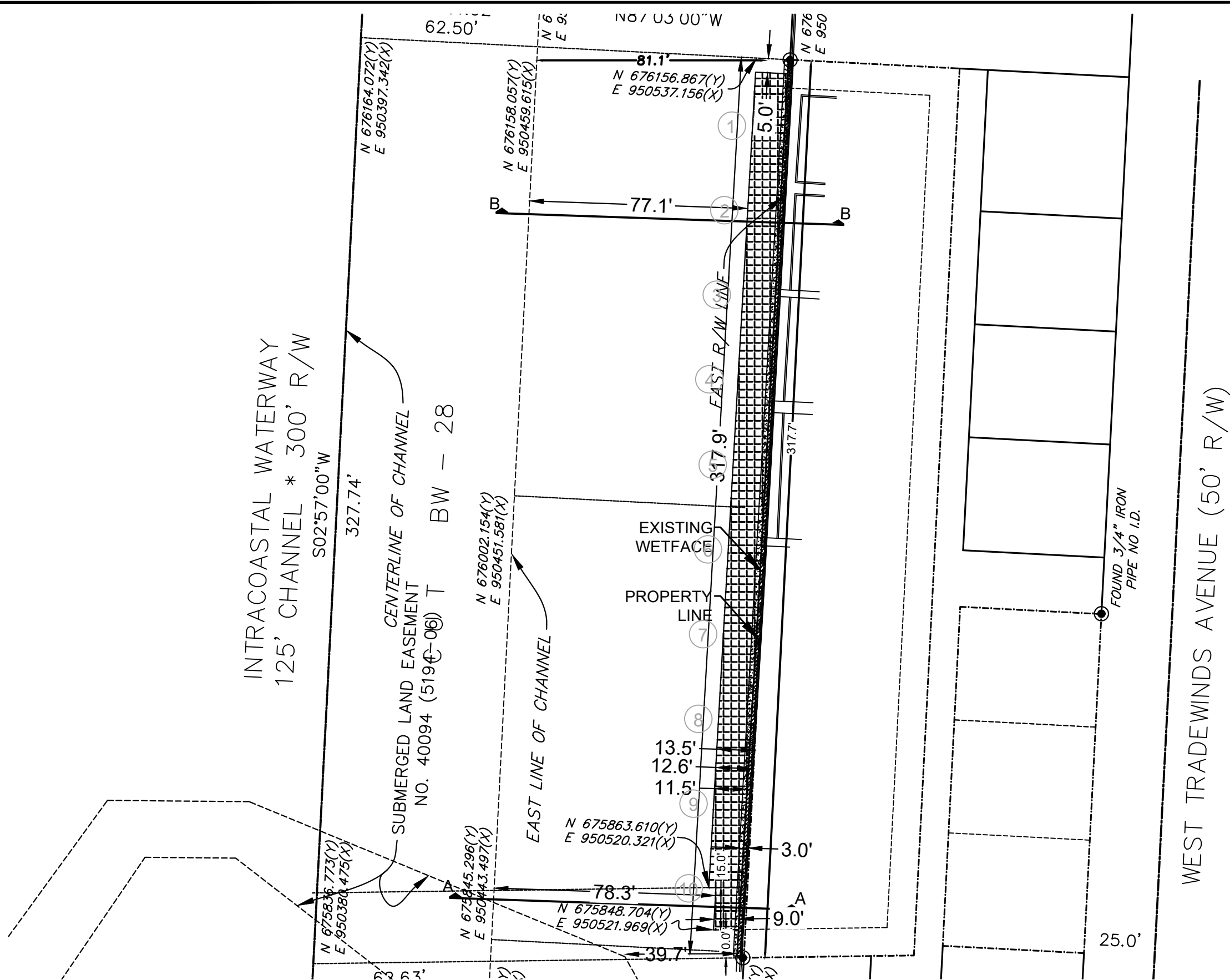
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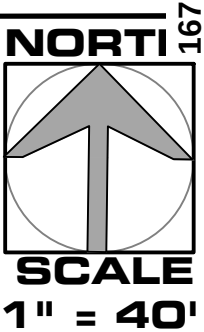
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4403 TRADEWINDS, INC.

EXISTING CONDITIONS

Date: 12/23/2020	Sheet : 2	of : 6
Proj No.: 20-0077		



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



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LEGEND

- [---] SUBJECT SITE (0.57 AC)
- [Pattern] EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- [Pattern] PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
- [Pattern] PROPOSED CONCRETE MARGINAL DOCK (±3,468 SQ. FT.)
- ① EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,104SQ. FT.

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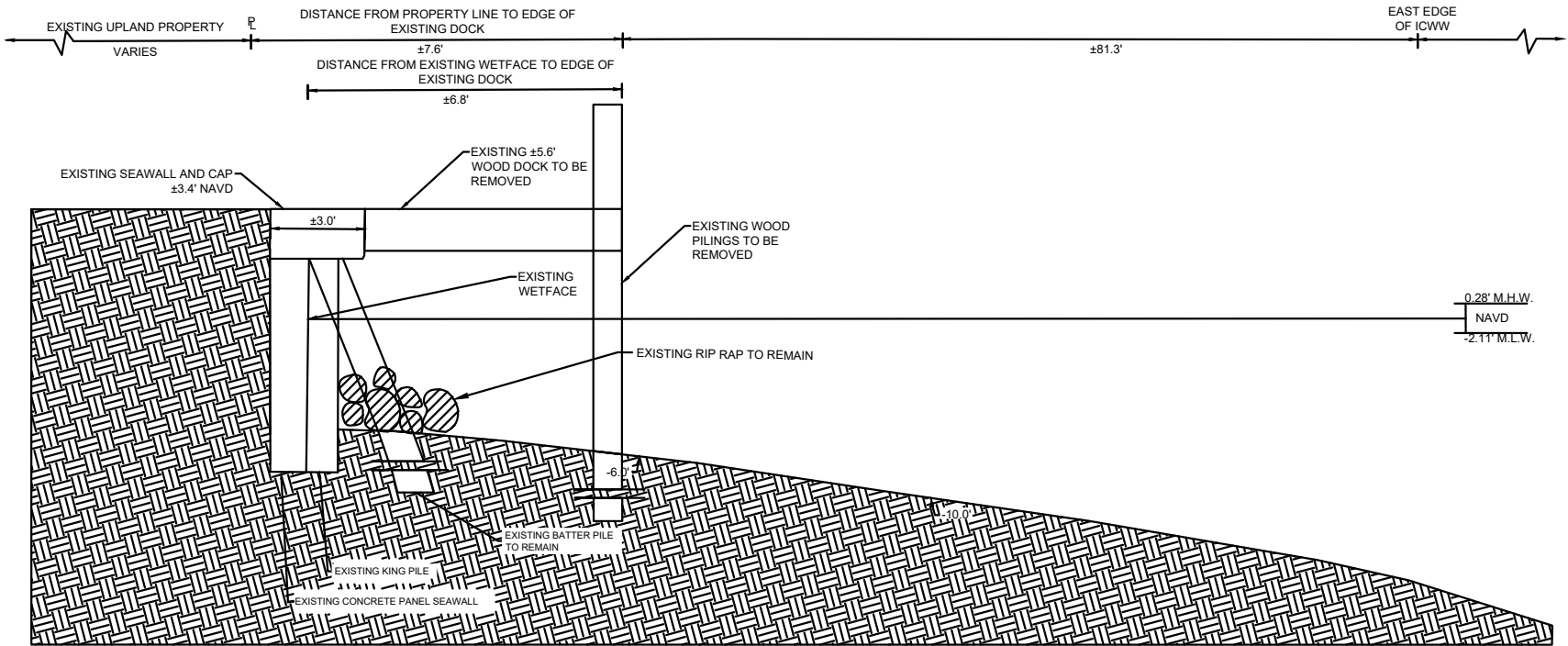
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PROPOSED CONDITIONS

Date: 12/23/2020	Sheet : 3	of : 6
Proj No.: 20-0077		

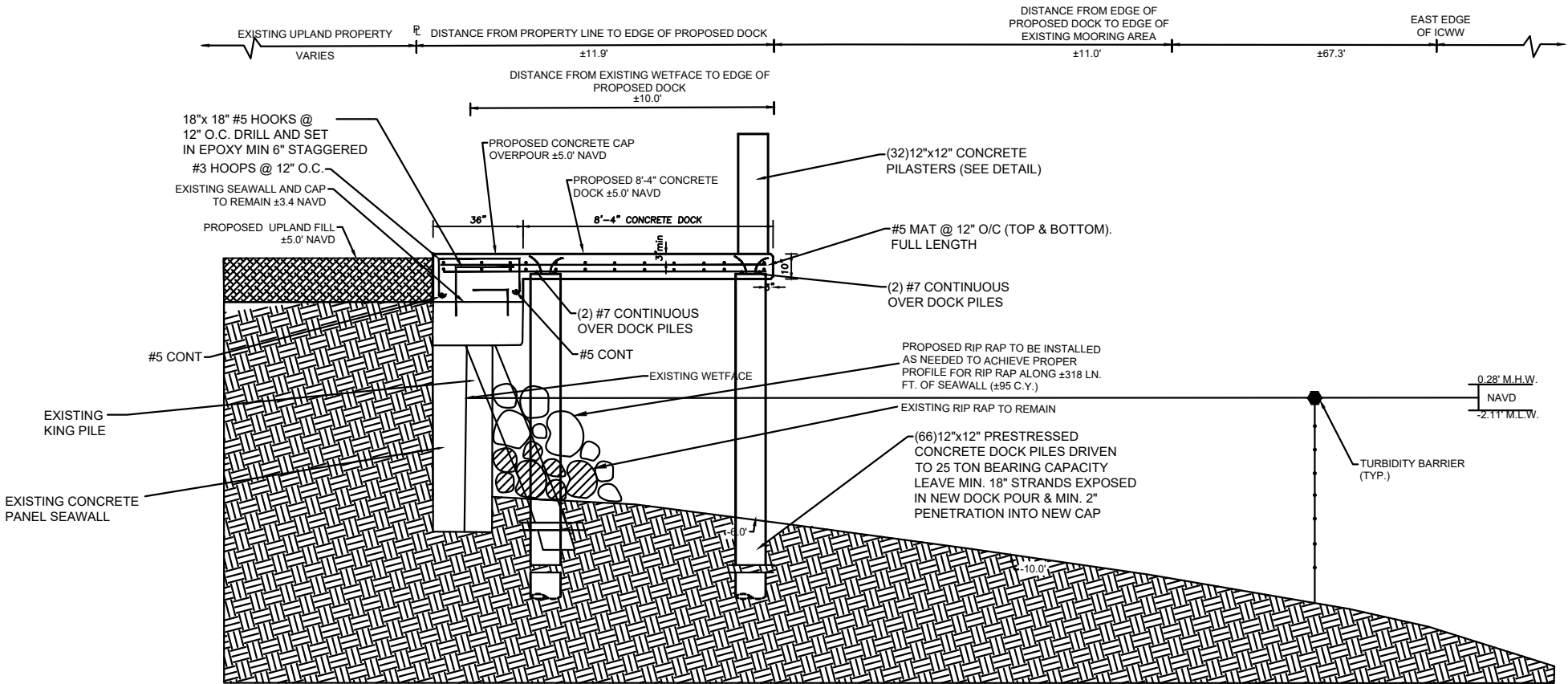
EXISTING CONDITIONS A-A (TYP.)

N.T.S.



PROPOSED CONDITIONS A-A (TYP.)

N.T.S.



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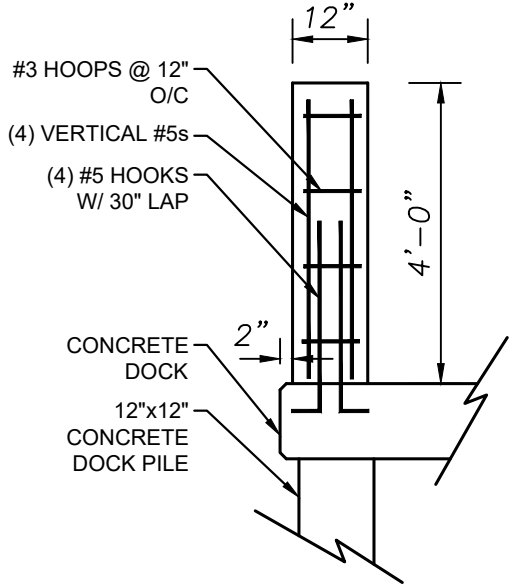
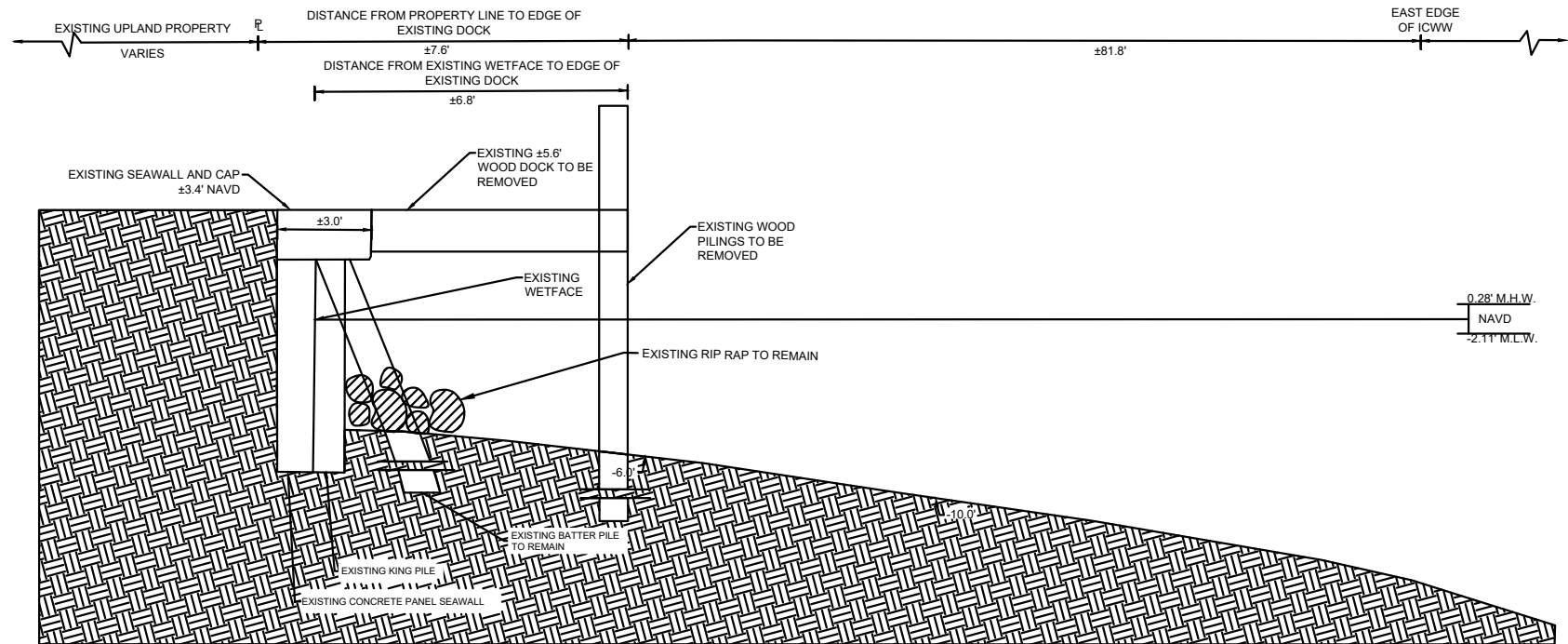
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SECTION A

Date: 12/23/2020	Sheet : 4	of : 6
Proj No.: 20-0077		

EXISTING CONDITIONS B-B (TYP.)

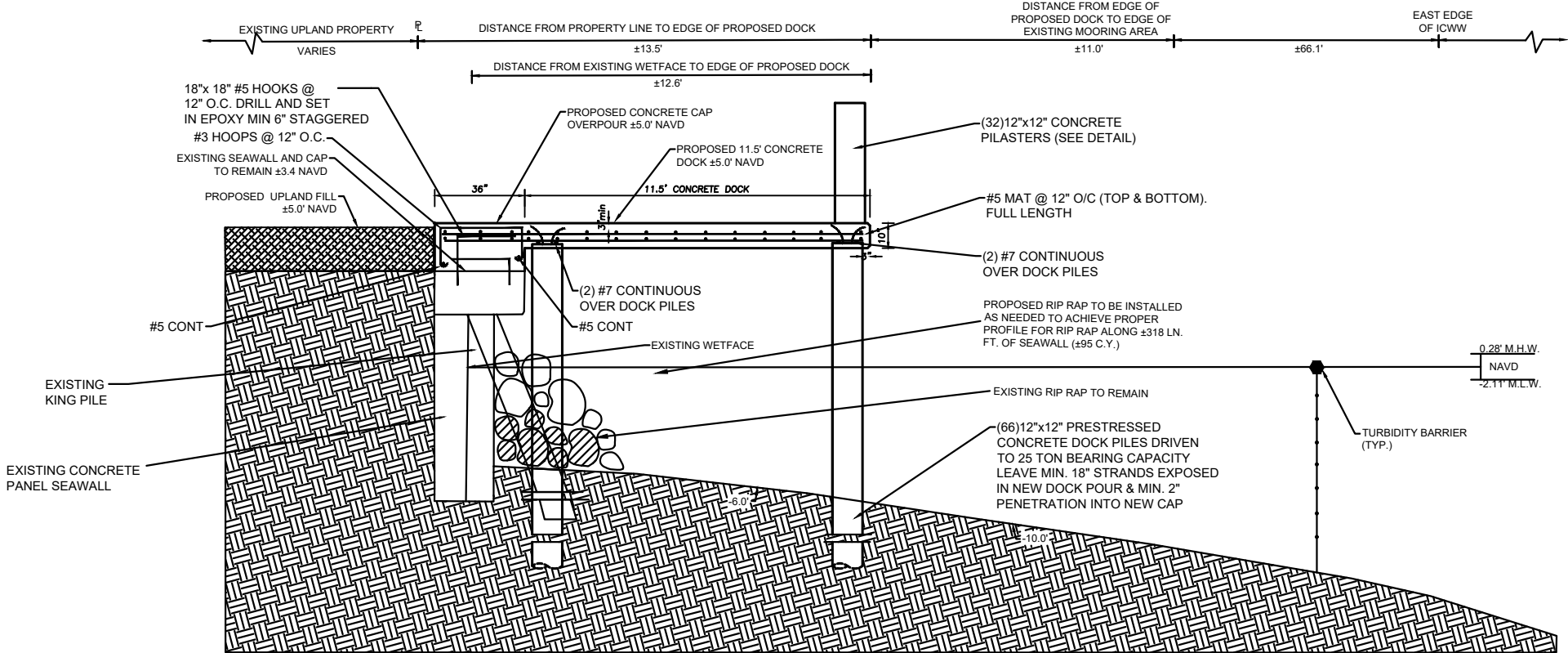
N.T.S.



PILEASTER DETAIL
Scale: 3/8" = 1'

PROPOSED CONDITIONS B-B (TYP.)

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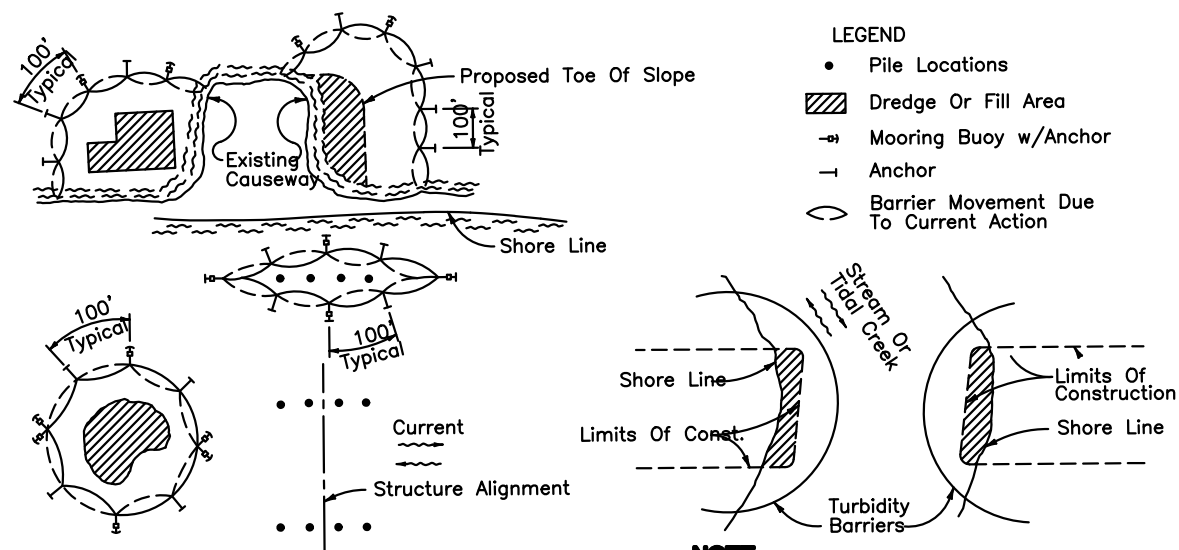
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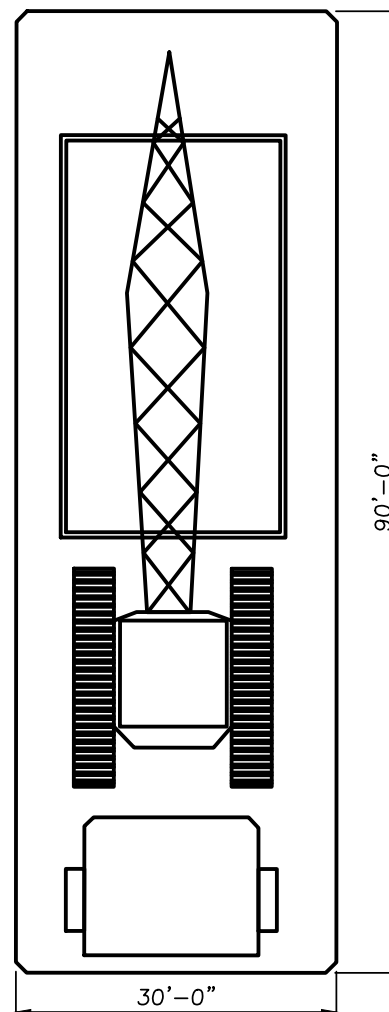
SECTION B

Date: 12/23/2020	Sheet : 5	of : 6
Proj No.: 20-0077		



Turbidity Barrier

N.T.S.



Construction Barge(typ)

N.T.S.

PILE DRIVING NOTES

1. Pile driving operations shall be observed by a special inspector, including test piles sufficient to determine the approximate length required to meet design capacity.
2. Piles shall be driven using an approved cushion block consisting of material so arranged so as to provide the transmission of the hammer energy.
3. Piles shall be driven to required capacity a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
4. Piles shall be driven with a drop hammer or gravity hammer provided the weight of the hammer is no less than 3000 pounds, and the fall of the hammer shall not exceed 6 feet.
5. Piles shall be driven with a variation of not more than $\frac{1}{4}$ " per foot from the vertical, or from the batter line indicated, with a maximum variation of the head of the pile from the position shown on the plans of not more than 3 inches.
6. Where piling must penetrate strata offering high resistance to driving, the structural engineer of record or special inspector may require that the piles be set in pre-drilled or punched holes. The piles shall reach their final penetration by driving.

CONCRETE NOTES

1. Concrete shall conform to ACI 318(latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi at 28 days with a maximum water-cementitious materials ratio, by weight, normal aggregate concrete of 0.40.
2. Owner shall employ and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM.
3. Licensed contractor is responsible for the adequacy of forms and shoring and for safe practice in their use and removal.
4. Concrete cover shall be 3" unless otherwise noted on approved drawings.
5. Reinforcing steel shall be in conformance with the latest version of ASTM A615 Grade 60 specifications. All reinforcement shall be placed in accordance with ACI 315 and ACI Manual of Standard Practice.
6. Splices in reinforcing bars shall not be less than 48 bar diameters and reinforcing shall be continuous around all corners and shanges in direction. Continuity shall be provided at corners and changes in direction by bening the longitudinal steel around the corner 48 bar diameters.
7. For repair of defective, cracked, or loose concrete, the areas must be cut out and the rebar must be cleaned by sandblasting, coated with zinc, and repaired with at least three inches of epoxy/concrete mix of gunnite concrete with sulfate-resistant cement cover.
8. A 1" deep control joint shall be sawcut in seawall cap at every other pile location, or maximum 20' O/C spacing.
9. Per section 2003.8.4.4 of the 2010 Florida Building Code, all aluminum in contact with concrete shall be protected with alkali-resistant coatings, such as heavy bodied bituminous paint or water-white methacrylate lacquer.
10. All unanticipated or unforeseen demolition and/or new construction conditions which require deviation from the plans and notes herein shall be reported to the Engineer prior to commencement of work.
11. All new materials and/or patchwork shall be provided to match existing materials and/or adjoining work where practical except as specifically noted herein.
12. Licensed contractor shall use all possible care to protect all existing materials, surfaces, and furnishings from damage during all phases of construction.
13. The licensed contractor to install and remove all shoring and bracing as required for the proper execution of the work.
14. All new work and/or materials shall conform to all requirements of each administrative body having jurisdiction in each pertaining circumstance.
15. Licensed contractor to verify location of existing utilities prior to commencing work.
16. All elevations shown refer to national geodetic vertical datum(NGVD) of 1929.
17. Turbidity Barriers are to surround all in water construction areas during all construction activities.

CONCRETE PILE NOTES

1. Concrete pile concrete shall attain 6000 psi compressive strength in 28 days.
2. Concrete piles shall be reinforced with (4) $\frac{7}{8}$ " lo-lax strands, 270 kips, and #5 spiral ties.
3. Concrete piles shall be 12"x12" square, 20 feet minimum length.
4. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.

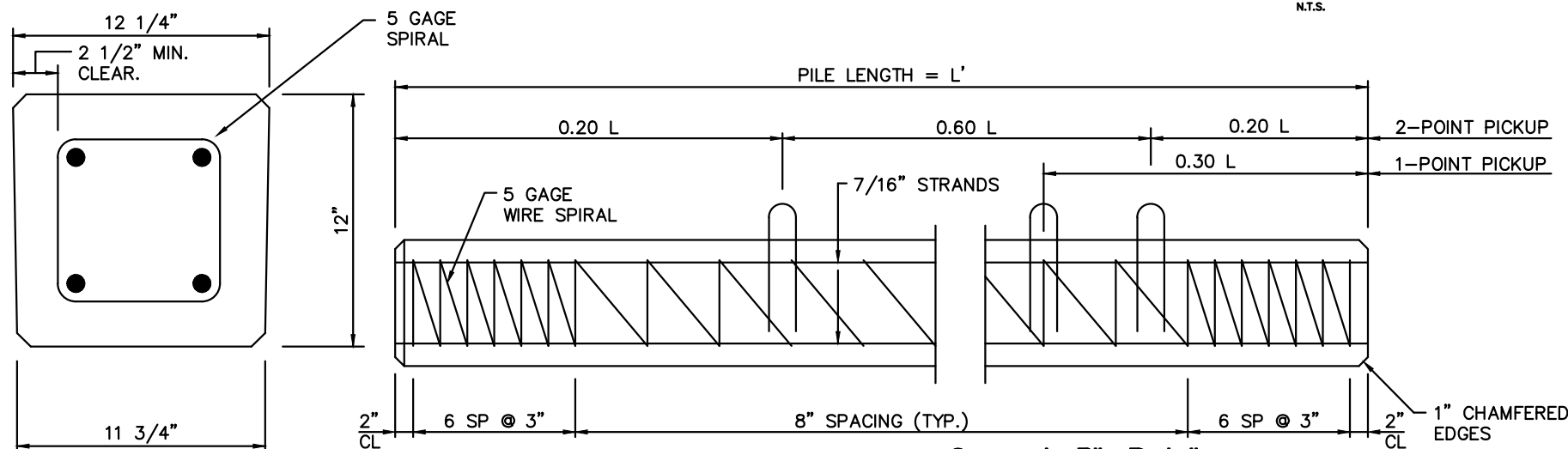
PILE NOTE:

CONCRETE COMPRESSIVE STRENGTH:
3000 PSI • RELEASE
5000 PSI • DRIVING

SPIRAL TO BE ASTM A-82 TIGHT HARD-DRAWN WIRE

STRANDS - USE FOUR 7/16" (270K) LOW RELAXATION ASTM 416-87 UNCOATED 7-WIRE STRANDS TENSIONED TO 2.33 KIPS EACH

1-POINT PICKUP-MAXIMUM L = 50'
2-POINT PICKUP-MAXIMUM L = 62'



Concrete Pile Detail

N.T.S.

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- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

DETAILS

Date:
12/23/2020
Proj No.:
20-0077

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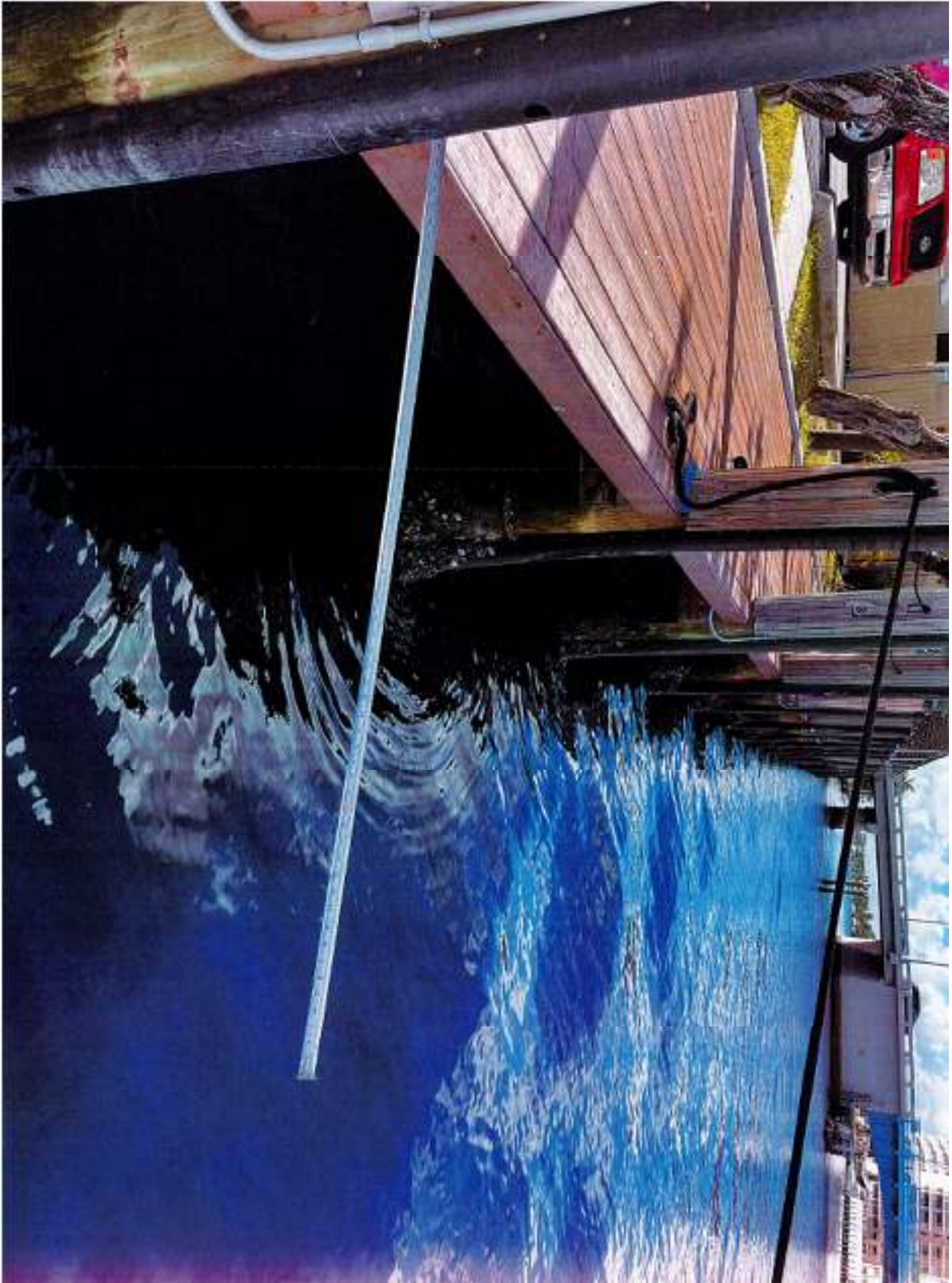


Aerial Photo Showing Dock

DOCK PHOTOGRAPHS









Notice of Public Quasi-Judicial Hearing - Town of Lauderdale-By-The-Sea, Florida

NOTICE IS HEREBY GIVEN that the Town of Lauderdale-By-The-Sea will hold public hearing(s) on the request below at **Jarvis Hall, 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida, 33308**, as follows:

Planning & Zoning Board	February 2, 2022	6:00 PM
Town Commission	February 22, 2022	6:30 PM

The following request shall be considered during the above referenced public hearing(s), which any person may attend and/or speak at regarding:

Application Number: 2021-V-01
Applicant: 4403 Tradewinds Inc.
Legal Description: SILVER SHORES SEC OF LAUDERDALE BY THE SEA UNIT B 31-3 B PAR
 MARKED YACHT BASIN-PRIVATE& LOTS 5,6 & 7 BLK H & ALL BLK M
Site Address: 4403 W Tradewinds Avenue
Zoning District: B-1

Request: Pursuant to Town Code Section 30-127, “Variance Procedures and Requirements,” the Applicant requests a variance to Section 30-311(c) of the Town’s Code Ordinances, to allow a dock to extend between 11.4 feet to 13.5 feet into the Intracoastal Waterway from the property line.

THE AGENDA PACKET AND RELATED MATERIALS CONCERNING THE REQUEST IS AVAILABLE FOR REVIEW AND INSPECTION AT THE TOWN CLERK’S OFFICE, 4501 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA, DURING REGULAR BUSINESS HOURS. ADDITIONALLY, THE AGENDA PACKET, INCLUDING MATERIALS RELATED TO THE REQUEST IS AVAILABLE FOR REVIEW THE FRIDAY BEFORE THE MEETING ON THE TOWN’S WEBSITE AT WWW.LBTS-FL.GOV.

PURSUANT TO TOWN CODE SECTION 30-140, THE APPLICATION WILL BE PRESENTED AND CONSIDERED AT THE MEETINGS ON THE DATES SET FORTH ABOVE. AFFECTED PERSONS WILL BE ALLOWED TO PRESENT EVIDENCE AT THE PUBLIC HEARING(S), BRING FORTH WITNESSES, AND CROSS EXAMINE WITNESSES PROVIDED NOTIFICATION AND FILING OF SUCH INFORMATION IS MADE WITH THE TOWN CLERK PRIOR TO THE ABOVE PUBLIC HEARING(S).

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE WITH RESPECT TO ANY MATTER CONSIDERED AT THE PUBLIC HEARING(S), HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO ENSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORDS INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICAN WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THESE PROCEEDINGS SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO DAYS PRIOR TO THE MEETING AT (954) 640-4210 FOR ASSISTANCE.

You may also submit written comments to:

Town Clerk
 4501 Ocean Drive
 Lauderdale-By-The-Sea, Florida 33308

Sec. 30-139. Notice of Public Hearings.

- (a) *Generally.* When an application for development approval is subject to a public hearing, the DSD shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:
 - (1) Applicant's name;
 - (2) The date, time, and place of the public hearing;
 - (3) A description of the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by State law;
 - (4) The nature, scope and purpose of the proposal being noticed;
 - (5) The Town departments where the public may inspect the application, staff report and related materials during normal business hours;
 - (6) A statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application; and
 - (7) Other information as may be required by law.
- (b) *Mailed notice.*
 - (1) Where mailed notice is required, pursuant to Table XXX, it shall be provided to all property owners within a 300 foot radius of the subject property, and shall include the subject property owner(s) and Town Development Services Department.
 - (2) Distances for purposes of mailed notice requirements shall be measured from the perimeter of the property subject to development approval, except that where the owner of the subject property owns contiguous property, the distance shall be measured from the perimeter of the boundary of the contiguous property.
 - (3) Property owners shall be determined by the ad valorem tax records of Broward County.
 - (4) The DSD shall prepare the written notice and provide said notice to the Town Clerk who shall be responsible for mailing the notices.
 - (5) Mailed notice shall be deemed given when a notice has been properly addressed, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service.
 - (6) Notice by mailing is a courtesy only and no action taken by the Town shall be voided by the failure of any individual property owner to receive such notice.
- (c) *Published notice.* When the provisions of this chapter require published notice, the DSD shall provide that the notice be:
 - (1) Published in the non-legal section of the local newspaper of general circulation that has been selected by the Town and in accordance with applicable Florida Statutes.
 - (2) Follow the timelines and ad type established in Table XXX in this article.
 - (3) For the purposes of this section and Table XXX:
 - a. "Display ad" shall be no less than two columns wide by ten inches long and the headline of the required notice shall be in a type no smaller than 18 point font size. If the ad is for a zoning map amendment, it shall also include a map pursuant to Florida Statutes 166.041(3)(c)2.

-
- b. "Standard ad" shall be in the legal ad section of the classified ads of the newspaper and shall be in a type no smaller than 5 point font size.
- (d) *Posted notice.* When the provisions of this chapter require that notice be posted on the property subject to the application, the DSD shall provide the required sign to the applicant who will be responsible for posting the property, as set forth below:
- (1) Signs shall be placed on the property that is the subject of the application in accordance with timelines prescribed in Table XXX in this article prior to a required or requested hearing.
 - (2) If the subject property fronts on more than one right-of-way, then a sign shall be posted facing each right-of-way.
 - (3) Signs shall be placed no more than five feet from the street or if there is a sidewalk, no more than two feet beyond the property side edge of the sidewalk, so that the lettering is visible from the street.
 - (4) If the sign is destroyed or removed from the property, the applicant is responsible for obtaining another sign from the Town and posting the new sign on the property.
 - (5) The sign shall remain on the property until final disposition of the application. This shall include any deferral, rehearing, appeal, or requirement for review or hearing by another body. The sign information shall be updated to include any additional public hearings or public hearing deferrals consistent with Table XXX.
 - (6) No less than five days prior to the public hearing, the applicant shall execute and submit to the Department an affidavit of proof of the posting of the public notice sign in accordance with the provisions of this section. Updates as provided in (5) above shall also require such affidavit. If the applicant fails to submit the required affidavit, the DSD may postpone the application until the next public hearing after the affidavit has been supplied.
- (e) *Town Website Posting.* Notice of all development applications shall be provided on the Town's Website no later than ten days prior to any public hearing related to the application. Website Notice is a courtesy only and no action taken by the Town shall be voided by the failure of such notice to be posted.
- (f) *Re-noticing.* All costs of re-noticing the public hearing shall be borne by the party failing to comply with the applicable notice requirements, requesting the deferral or continuance, or whose actions are responsible for the deferral or continuance which may require re-noticing of the hearing. Continuances to a date certain, announced at the originally noticed meeting, shall not require re-notice of the new public hearing date. Continuances to unspecified dates, substantive changes to an application request during the period an application has been continued, or more than two continuances on the application, shall require re-noticing for the new public hearing date.
- (g) *Development applications requiring public hearing.* Public hearings on applications for development permit approvals other than rezoning, including, but not limited to administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, vacations and variances shall be noticed as follows in accordance with Table XXX.
- (h) *Applicant bears burden of costs.* When the provisions of this chapter require that notice be provided, the costs of Town staff preparing the content of the notice and providing such notice shall be billed through cost recovery.
- (i) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements not in conflicting with the Florida Statutes.

Table XXX. Notice Requirements

Application Type	Florida Statute Reference	Board Notice Date (as applicable)	Commis- sion Notice Date	Type of Notice			Mailed 300'	Published (Ad Type)
				Website	Posted			
Other development permits: administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, variances		10 days	10 days	X	X		X	n/a
Administrative decisions: Architectural Review, Conditional Use Level 1 Modification, Site Plan Level 1 Modification				n/a	n/a		n/a	n/a
Comprehensive Development Master Plan - Text	163.3184	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X				X (Display)
Comprehensive Development Master Plan - Map	163.3184	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X	X		X	X (Display)
Land Development Code - Text Amendments changes to actual list of permitted, conditional, or prohibited uses within a zoning category).	166.041(3)(c)2	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X				X (Display)
Land Development Code - all other Text Amendments	166.041	10 days	10 days	X				X (Standard)

Zoning Map Change (chapter 30)—Town (less than 10 contiguous acres)	166.041(3)(c)1	10 days	30 days	X		X	X (Standard)
Zoning Map Change (chapter 30)—Town (10 or more contiguous acres)	166.041(3)(c)2	10 days	7 days - 1st public hrg 5 days - 2nd public hrg	X	X	X*	X* (Display, with map)
Zoning Map Change (chapter 30)—Owner	166.041(3)(a)	10 days	10 days	X	X	X	X (Standard)

(Ord. No. 2014-08, § 3, 7-7-2014)

(Supp. No. 38)

Created: 2021-12-03 09:54:10 [EST]

Jhanelle Campbell

From: stephen nagy <snagy10@hotmail.com>
Sent: Friday, January 28, 2022 12:48 PM
To: Jhanelle Campbell
Subject: V2021-V-01 – VARIANCE_CLE LBTS.pdf 4403 W. Tradewinds Response from Nagy 4423 W Tradewinds Ave.
Attachments: VARIANCE_CLE LBTS.pdf

[CAUTION] This external e-mail originated outside the Town. Do not open links or attachments unless you are certain they are safe.

Genelle: Attached is a summary of the case law which applies to variances in Fl. Please offer to planing zoning and the commission for review. There is no legal hardship as it relates to this case. Additionally, The proposed dock does not fit in with the neighborhood scheme. Regardless what the zoning board and the commission grants the town cannot legally defend granting of a variance permit for this proposed dock. Granting of this variance will subject the city to litigation preventing its construction.

An Employee of the Hoffman law firm has told me they are very influential in the city. Additionally, they conveyed arrogance by claiming they have plenty of lawyers and can get their way.

This is not an approvable variance as any dock is not necessary to use the property (see case law.) "The requisite hardship may not be found unless there is a showing that under present zoning, no reasonable use can be made of the property." Thompson v. Planning Commission, 464 So.2d 1231 (1 DCA 1985). Herrera v. Miami, 600 So.2d 561 (3DCA 1992). The property must be rendered unusable to be considered a hardship. The Hoffman Lawyers should know that.

Furthermore the variance request in nothing more than a selfish desire of the owner. It is not in harmony with and consistent with the purpose of the general zoning plan. Granting the variance must not adversely affect the zoning scheme as a whole. Granting of this variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951).

Please read and review the attached caselaw review on variances.

Furthermore, it will cause a hazard where boats que up for bridge opening at the Commercial Blvd bridge. The rest of us with conforming docks will be encumbered by limited line of sight. This is not legal and is morally wrong.

I will respond to the variance criteria submitted by the property owner:

1. There is no special condition cited. Everyone along the intercoastal deals with wave action. The fact that the "Old Wood Dock " was allegedly damaged only indicates it should be repaired or replaced. The "allegedly " damaged dock has been in continuous use without interruption albeit the owner claims it is damaged and unusable.

2. Incidentally the applicant repeatedly recites a preamble to all statements that the project has " already been approved by the Army Corps of engineers and the state FDEP." This statement is simply a fallacy in reasoning reason known as "False Association." This fallacy asserts that the qualities of one approval are inherently qualities of another. The City zoning regulations are exclusive of the other agencies. Applicant should stop repeating this assertion. I find it intellectually insulting. ACOE review for hazards to navigation. FDEP reviews environmental issues. The city, reviews compliance to building and zoning codes. All agencies are mutually exclusive.
3. Applicant simply doesn't want to abide by the city dock limits.
2. There are no Circumstances peculiar to the property. The applicant claims the intercoastal waterway is 300 feet wide and residential canals are usually 100 feet wide.
3. In fact the distance from the applicant property line and the federal channel is approximately 81 feet. The federal channel is well traveled and of more complex movement than a 100 foot wide residential canal. This further substantiates the need to adhere to the current 8' dock limit.

3. There is no hardship. The applicant claims the existing dock is a hazard. There is no submitted evidence to support this claim. If there are defects, they should be repaired or replaced. Perhaps a concrete dock in the same footprint conforming the code.

The Rip Rap claim of interfering with the mooring is False.

-- Rap below the surface does not reduce wave action. Rip Rap used as a shoreline barrier does absorb wave action. Shoreline Rip Rap is not proposed here.

-- The applicants plan only shows riprap along the foot of the existing seawall not extending to the existing wood dock edge. The proposed application does not depict rip rap as extending to the proposed dock profile. As such the claim an extended dock is necessary to prevent vessels from contacting the Rip Rap is false.

-- the Army Corp permit only permits a Rip Rap additional extension of 1.5 feet. I don't think there is any existing Rip Rap at the seawall. 95 cubic yards as proposed is an insignificant amount to require a dock 13.5 feet along a 318 foot wall.

The Rip Rap necessity and application claim is another fallacy in reasoning. This is know as a Red Herring Fallacy. This is a claim intended to mislead or distract from the relevant or important question.

The seawall absorbs the wave action. Rip Rap below the surface is only conducive to marine life and does not reduce wave action. The proposed Rip Rap does not extend to the edge of the existing dock nor the proposed extended dock. Please dont be fooled by the Rip Rap claim it is a Red Herring assertion.

4. Self created?? This answer is counter intuitive. Traffic waiting at the commercial blvd. bridge would indicate a smaller dock is conducive to safety. A larger dock would produce more congestion.

5. The existing use and existing dock size establish the minimum use has been achieved or exceeded. No variance is necessary to continue that use.

A enlarged dock will block the lines of sight of adjacent property owners. Larger and more numerous vessels will do the same.

The water taxi claim is bewildering. The fort Lauderdale water taxi does not go north to Lauderdale by the sea. It's northbound service limit is Oakland park blvd. The pompano water taxi is shut down.

6. Anybody can build a concrete dock. It just has to be only 8 feet wide.

7. The property can be used without any dock. In fact before Applicants ownership the existing parking lot was an inland marina. The property was reconfigured, marina land filled. A seawall, dock and parking lot were then constructed. Perhaps the Marina should be reinstalled in lieu of the parking lot or just rebuild the existing dock within city zoning limits.

This request is nothing more than a wish and desire of the owner. There is no hardship and must be Disapproved as legally insufficient to meet the criteria for a variance.

Stephen Nagy
4423- 4425 W. Tradewinds.
[\(954\) 816-8089](tel:9548168089)

FLORIDA LAW REGARDING VARIANCES

A Continuing Legal Education (CLE) Program presentation by

Updated by Ralf Brookes, Attorney Cape Coral Florida and
Henry Lee Morgenstern, Attorney, Gainesville Florida (2004)

A. Introduction to Variances

A variance is, generally, permission for a landowner to go outside the limits of the zoning code, and to build something which would otherwise be illegal under the terms of the zoning code or land development regulations.

The reason or rationale behind the law allowing variances at all is that in some situations, the literal application of the zoning code would create such a "hardship", that it would not allow any use of certain parcels of property whatsoever.

Without the flexibility to allow some reasonable use of the property, such totally prohibitive zoning would constitute inverse condemnation, subjecting the zoning authority to liability for a "taking". Askew v. Gables-by-the-Sea, Inc., 333 So.2d 56 (1 DCA 1976). Thus, the legal justifications for variances, and the threshold criteria for determination of a "taking", are closely related. (See, below, criteria for granting variances, when is it a taking not to allow a variance).

A variance is sometimes mistakenly believed to be simply a tool for allowing a more intense use than would otherwise be allowed. As such, it needs to be distinguished from a special exception or conditional use.

A "special exception" or conditional use is specifically authorized in that zone, but will be allowed only if specific, listed criteria for that special exception or conditional use are met. A variance is specifically prohibited in that zone, but will be allowed only if necessary to prevent a "taking", i.e., if no authorized use is reasonably possible in its place.

Boards of adjustment have sometimes been unclear on this distinction, granting variances as a convenient expedient to avoiding the zoning and land development regulations. The criteria for obtaining variances are theoretically very strict, and the grounds for overturning illegal variances relatively easy to prove if sufficient facts and discussion of a legal hardship is not placed in the record.

An Applicant's variance request must be reviewed on its own merits, rather than on the basis of previously approved variances in the jurisdiction. See City of Jacksonville v. Taylor, 721 So.2d 1212 (Fla. 1st DCA 1998). Previously issued variances do not establish controlling precedent or constitute a basis to sustain other variance applications.

B. Criteria for Granting Variances - Generally

Ordinances authorizing variances may be worded in different ways, and you should always read your specific language carefully. The standards must be definite, City of Miami v. Save Brickell Ave., 426 So.2d 1100 (3 DCA 1983), and the criteria must be mandatory, and not permissive (i.e., "shall consider criteria" means "must comply with criteria"), id.; Drexel v. City of Miami Beach, 64 So.2d 317 (Fla. 1953).

In 1985, local governments were given express authority to adopt variance criteria in their codes (most City's and County's adopted codifications of the existing law of variances with slight modifications in each locality). The repeal and replacement of Florida's standard zoning enabling act in 1985 when Florida's Growth Management Act of 1985 was adopted¹ did not diminish or substantially change the authority of local government or Florida law regarding variances, in fact previous Florida Law was codified in many local governments by ordinance. Both before and after 1985, the courts have followed long-established Florida law that a variance cannot be granted for self-created actions – and this requirement is codified in most city and county codes in Florida. Even after 1985, the courts have been very strict in their review of the hardship required to obtain a variance.

Generally, a variance is authorized if due to circumstances **unique to the applicant's property itself** and not shared by other property in the area, there exists an undue and unnecessary hardship created by the zoning regulations

1. The hardship cannot have been self-created.

The hardship criteria found in variance provisions has a long line of cases and has been strictly construed by the courts. Josephson v. Autrey, 96 So.2d 784 (Fla. 1957).

The criteria has been interpreted to mean three things:

a. A mere economic disadvantage due to the owner's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Nance, supra; Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967). If, however, the only allowable uses are economically impossible, then a variance would be allowed. Nance II.

b. Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

c. If a purchaser buys land with a condition creating a hardship upon it, the owner

is only entitled to such variance as his predecessor in title was entitled. If the owner participated in an affirmative act which created the hardship (such as by purchasing only a substandard piece of a larger lot), then the hardship should be ruled self-created. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The requirement that a variance hardship cannot be self-created is required by most codes and Florida case law. In Re Kellogg, 197 F. 3rd 1116, 1121 (11th Cir. 1999). Josephson v. Autrey, 96 So.2d 784 (Fla. 1957) (superceded by statute *on other grounds* in Grace v. Town of Palm Beach 656 So.2d 945 (Fla. DCA 1995); Town of Ponce Inlet v Rancourt, 627 So.2d 586, 588 (Fla. DCA 1993).

Case law, as well as the Land Development Regulations control the degree of showing needed to support the approval of a variance from the express requirements of local regulations. The days of the “weeping variance” have been replaced by strict interpretation of what is required to show entitlement to a variance from local Code provisions under the case law. Town of Indialantic v. Nance, 400 So.2d 37 (5 DCA 1981), *affd.* 419 So.2d 1041; appealed again at 485 So.2d 1318 (5 DCA 1986), *rev. den.* 494 So.2d 1152.

Post 1985, the First District Court of Appeals in City of Jacksonville v. Taylor, 721 So.2d 1212 (Fla. 1st DCA 1998) Bernard v. Town Council of Palm Beach, 569 So.2d 853 (Fla. 4th DCA, 1990); Metropolitan Dade County v. Betancourt, 559 So. 2d 1237; Town of Indiatlantic v. Nance, 485 So.2d 1318 (Fla. 5th DCA 1986), and Town of Indiatlantic v. Nance (“Nance I”), 400 So.2d 2137 (Fla. 5th DCA 1981); Maturo v. City of Coral Gables, 619 So.2d 455 (Fla. 3rd DCA 1993); Herrara v. City of Miami, 600 So.2d 561 (Fla 3rd DCA 1992) *rev. denied* 613 So.2d 2 (Fla. 3rd DCA 1992). In Re Kellogg, 197 F. 3d 1116, 1121 (11th Cir. 1999).

Pre 1985 cases had similar holdings and include Blount v. City of Coral Gables, 312 So. 2d 208 (Fla. 3rd DCA 1975) (“Nor are the Blounts entitled to a variance from the above zoning ordinance...as the hardship was self-created because they knew of the restricted zoning ordinance.”)(*citing other Florida cases on this issue*); Clarke v. Morgan, 327 So.2d 769 (Fla. 1975); Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959); Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The purchase of property with zoning restrictions on the property will normally not constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959). Namon v. DER 558 So. 2d 504 (Fla 3rd DCA 1990) and the cases cited therein address cases where property is purchased AFTER adoption of prohibitory regulations. The court in Namon recognized such pre-existing notice as applied to takings analysis in Florida cases, as follows:

“Appellants are deemed to purchase the property with constructive knowledge of the applicable land use regulations. Appellants bought unimproved property. A subjective expectation that the land could be developed is no more than an expectancy and does not

translate into a vested right to develop the subject property. See *Graham v. Estuary Properties, Inc.*, 399 So.2d 1374, 1382, 1383 (Fla.), cert. denied sub nom. *Taylor v. Graham*, 454 U.S. 1083, 102 S. Ct. 640, 70 L. Ed. 2d 618 (1981)

'...[a]n owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it was unsuited in its natural state and which [injures] the rights of others." *Namon* at 505, (original citation omitted) see also *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1005, 104 S. Ct. 2862, 2874, 81 L.E.2d 815, 834 (1984).

"A 'reasonable investment-backed expectation' must be more than a 'unilateral expectation or an abstract need'; *Namon* citing *Claridge v. New Hampshire Wetlands Board*, 125 N.H. 745, 485 A.2d 287, 291 (1984)

"A person who purchases land with notice of statutory impediments to the right to develop that land can justify few, if any, legitimate investment-backed expectations of development rights which rise to the level of constitutionally protected property rights"; cf. *Elwyn v. City of Miami*, 113 So.2d 849, 852 (Fla. 3d DCA) "One who purchases property while it is in a certain known zoning classification, ordinarily will not be heard to claim as a hardship a factor or factors which existed at the time he acquired the property.", cert. denied, 116 849 (Fla. 1959).

Case law also indicates that a mere economic "disadvantage" or the owner's mere preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. *Burger King v. Metropolitan Dade County*, 349 So.2d 210 (3 DCA 1977); *Metropolitan Dade County v. Reineng*, 399 So.2d 379 (3 DCA 1981); *Crossroads Lounge v. City of Miami*, 195 So.2d 232 (DCA 1967).

Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. *Friedland v. Hollywood*, 130 So.2d 306 (DCA 1961); *Elwyn v. Miami*, 113 So.2d 849 (3 DCA 1959).

If the owner participated in an affirmative act which created the hardship (such as by purchasing a substandard size lot), then the hardship should be ruled self-created. *Coral Gables v. Geary*, 383 So.2d 1127 (3 DCA 1980).

2. Consistency with neighborhood and scheme of regulations.

Granting the variance must not adversely affect the zoning scheme as a whole. Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." *Troup v. Bird*, 53 So.2d 717 (Fla. 1951).

"A variance should not be granted where the use to be authorized thereby will alter the essential character of the locality, or interfere with the zoning plan for the area and with rights of owners of other property."

Elwyn v. City of Miami, 113 So.2d 849 (Fla. 3rd DCA 1959).

3. No reasonable legal use can be made of the property without the variance.

Some cases go so far as to say no variance can be granted if the property can still be used without the variance. This approach incorporates, to some extent, the law of taking of property without just compensation, i.e., a variance can be granted and will not be overturned if no other reasonable use can be made of the property without a variance.

"The requisite hardship may not be found unless there is a showing that under present zoning, no reasonable use can be made of the property." Thompson v. Planning Commission, 464 So.2d 1231 (1 DCA 1985). Herrera v. Miami, 600 So.2d 561 (3DCA 1992).

The hardship must be such that it "renders it virtually impossible to use that land for the purpose or in the manner for which it is zoned." Hemisphere Equity v. Key Biscayne, 369 So.2d 996 (3 DCA 1979).

It is the land, and not the nature of the project, which must be unique and create a hardship. Nance, supra; Ft. Lauderdale v. Nash, 425 So.2d 578 (4 DCA 1982) (many other common violations in the neighborhood do not constitute a hardship); City of Miami v. Franklin Leslie, 179 So.2d 622 (3 DCA 1965).

When is Denial of a Variance a Taking?

A reasonable use of the property under existing zoning, requiring a denial of the variance, does not mean the owner's preferred use, or a use that will bring the owner an economic return. All that is required is a use beneficial to the owner and consistent with the zone. Metropolitan Dade Co. v. Betancourt, 559 So.2d 1237 (3 DCA 1990).

An extensive discussion of similar coastal setback beach ordinances and denial of a variance for construction seaward of such a setback appears under two, separate McNulty takings cases – the federal takings case of McNulty v. Town of Indialantic, 727 F Supp 604 (M.D. Fla. 1989) and the state court takings case of Town of Indialantic v McNulty, 400 So. 2d 1227 (Fla. 5th DCA 1981). The cases share common facts, the Town of Indialantic denied McNulty a variance for a 12-unit condominium on the beach under a similar coastal setback provision to the

line at bar resulting in both state and federal review.

"[A] diminution of property value does not, by itself, establish a taking Inability to use the property for production of an income stream or to make the highest and best use does not render the property without economically viable use". 727 F Supp 611.

The court found that when regulations seek to protect natural resources, the court should "hesitate to find a taking", comparing such regulations to "restraining... [a] public nuisance". 727 F Supp 614.

The McNulty state court decision noted that the "harm to be prevented [by beachfront construction] is substantial" and held that McNulty made an insufficient showing that a taking would occur if he were denied the variance. 400 So.2d 1227. In discussing the harm to be prevented, the state appellate court noted that:

"Through sad experience Florida has learned the importance of the barrier sand dunes which face its "high energy" beaches. The 'high energy beach' is a shore fronting the open ocean and dominated by sand and dunal features." Maloney and O'Donnell, *Drawing the Line at the Oceanfront*, 30 *Fla. L. Rev.* 383, 385 n.19 (1978). Sand beaches and dunes comprise a very small and unstable part of Florida's coastal zone.

Forming a narrow band along the shores of the Atlantic Ocean and the Gulf of Mexico, they offer some of the state's most attractive and most hazardous locations for real estate development. Without adequate controls on construction and excavation, oceanfront development could destroy not only man-made structures but also beaches and dunes. Maloney and O'Donnell, *Drawing the Line at the Oceanfront*, 30 *Fla. L. Rev.* 383, 389 (1978).

Various local communities, like Indialantic, have adopted similar set back ordinances to protect the dunes, bluffs and natural vegetation of their beaches, and Chapter 161, Florida Statutes (1979), the "Beach and Shore Preservation Act," has as one of its stated purposes the protection and preservation of the "beach dune system. The "construction line" drawn pursuant to this State law was west or landward of the setback line of the Town as applied to McNulty's land. In any event, the State law contemplated that cities and counties could establish stricter setback lines than those set by the State. Sections 161.052(2)(b), 161.053(4), Fla. Stat. (1979). See § 163.3177(6)(d), (f) and (g), Fla. Stat. (1979).

There can no longer be any question that the "police power" may be exercised to protect and preserve the environment. Florida's Constitution expressly provides: It shall be the policy of the State to conserve and protect its natural resources and scenic beauty. Adequate provisions shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise. Art. V, § 7, Fla. Const. Other jurisdictions have reached a similar conclusion, without the benefit of an express constitutional provision.

The wetlands and coastal areas are places of critical concern because of their important role in protecting the inland regions against flooding and storm danger.”

The leading case on regulatory takings for environmental purposes is Graham v Estuary Properties, Inc., 399 So.2d 1374 (Fla. 1981). It states six criteria for considering “[w]hether a regulation is a valid exercise of the police power or a taking”, and specifically holds that protection of the environment is a legitimate use of the police power. 399 So.2d at 1380-1381.

Graham has recently been applied in Lee County v Morales, 557 So.2d 652, 655-656 (2 DCA 1990) (rezoning not a taking unless no beneficial and reasonable uses remain); and Namon v DER, 558 So.2d 504 (3 DCA 1990) (no taking where owner was aware of development restrictions [fill permit], even if no construction or economic use can be made of the property; “if you bought a swamp you must have wanted a swamp”).

4. **Other Code criteria.** Various codes may also include the following criteria (See, e.g., prior F.S. 163.170(8), repealed 1985):

- a. The granting of the variance will not accord applicant any special privileges;
- b. The variance is the minimum one for the reasonable use of the applicant's land;
- c. The grant of the variance will be harmonious and noninjurious to the surrounding land; and
- d. The variance will not be contrary to the public interest.

Most court cases have focused on the hardship (whether it is the result of unique physical characteristics of the land in question or whether it is really an impermissible self-created hardship). However, all variance standards must be met. The standards themselves must be definite, City of Miami v. Save Brickell Ave., 426 So.2d 1100 (3 DCA 1983), and the criteria must be mandatory, and not permissive (i.e., “shall consider criteria” means “must comply with criteria”), id.; Drexel v. City of Miami Beach, 64 So.2d 317 (Fla. 1953).

5. **Police Power Limits.** One case says that under the “arbitrary and unreasonable” test, where there is “no reasonably debatable relation to public health, safety or welfare” the court may be required to compel that a variance be granted. Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981). The case's reasoning, moreover, is at odds with the clear holding of the Supreme Court one year later:

T]he “fairly debatable” test should be used to review legislative-type zoning enactments, while a variance seeker must demonstrate a “unique hardship” in order

to qualify for a variance."

Nance v. Town of Indialantic, 419 So.2d 1041 (Fla. 1982).

Amendments to Regulations that no longer make sense.

If the land development regulation no longer has a valid public purpose, or should be changed, the proper method is to *amend the zoning code or land development regulations* rather than grant numerous variances from the offending provision. Therefore, in some instances amending (or a recommendation to amend) the code may be more appropriate than granting variances each time the issue comes up.

6. Consistency with Comprehensive Plan.

Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951). All development orders, including variances, must be consistent with duly adopted Comprehensive Plan policies, objectives and goals under Florida Statutes 163.3215 (which also establishes procedures to challenge variances on the grounds of consistency with comprehensive plan policies). Machado v. Musgrove, 519 So. 629 (Fla. 3rd DCA 1987). And the remedy awarded by courts if a development order is found to be inconsistent with a comprehensive plan policy can include demolition of offending structures. Pinecrest Lakes v Shidel, 795 So. 2d 191 (Fla. 4th DCA).

C. Use-Variances vs. Non-Use Variances

Some codes distinguish between "use" variances, and "non-use" or "area" variances. A "use" variance would be one where application was made for a non-permitted use, while "non-use" or "area" variances would apply to a permitted use, but allow laxity of a height, setback, lot size, or other dimensional rule.

Use variances are often expressly disallowed by code.

Use-Variances

The Florida Supreme Court, sitting en-banc, clearly set the limits on use variances in Josephson v. Autrey, 96 So.2d 784 (Fla. 1957). The court held that, while zoning boards could make adjustments in height, setback, side lot, and other area problems unique to the parcel, use variances would be improper if they created a wholly inconsistent use in the zone:

"To endow such a board with the authority to amend the zoning ordinance in particular instances by authorizing a use of property prohibited by the ordinance

itself would be to convey to the appeals board the authority to enact legislation, nullify the decision of the municipal legislative body, and in effect destroy the beneficent results to be obtained by comprehensive zoning. When circumscribed by reasonable bounds the appeals board serves a valid and useful purpose. If granted unrestricted power to amend the zoning ordinance by changing completely the authorized uses of the particular land, the effect would be to transfer the legislative powers of the municipality to this non-legislative administrative agency."

Although the strictness of this position was questioned in Clarke v. Morgan, 327 So.2d 769,772 (Fla. 1975), Josephson still is good law. See Walgreen v. Polk, 524 So.2d 1119 (2 DCA 88).

The cases which have allowed use variances have abided by the Josephson admonition. In addition to other variance criteria applicable to all variances (discussed below), an applicant for a use variance must also show that the proposed use is basically consistent with the neighboring uses in the area. Troup v. Bird, 53 So.2d 717 (Fla. 1951) (a lake in a residential area did not change the residential character of the area); Josephson v. Autrey, 96 So.2d 784 (Fla. 1957) (filling station not a consistent use in a motel zone); Metropolitan Dade Co v. Reineng Corp, 399 So.2d 379 (3 DCA 1981) (liquor store would "harmonize" with neighborhood); Monterey Development Co. v. Stuart Marine Center, Inc., 305 So.2d 245 (4 DCA 1974) (dry-dock boat storage consistent with marine area); Dade Co. v. Pepper, 168 So.2d 198 (3 DCA 1964) (junkyard consistent with industrial area).

II - THE ADMINISTRATIVE PROCEEDINGS BEFORE LOCAL GOVERNMENT

Typically, the applicant land owner will fill out a variance application. It will be reviewed by staff, and set for a hearing before whatever body is empowered to grant or deny variances in that jurisdiction, usually a Board of Adjustment.

A. Exhaustion of Administrative Remedies. To challenge a variance, someone with standing needs to appear and object, not only at the hearing on the variance application, but, if the variance is granted and being appealed, they must also object and use every "extra-judicial and administrative remedy which may provide the relief sought", or the later judicial appeal may be dismissed for failure to exhaust administrative remedies. City of Miami v. F.O.P., 378 So.2d 20 (3 DCA 1980).

Even parties with standing will lose their right to appeal if they do not personally appear and object at the administrative hearing. Battaglia Fruit Co. v. City of Maitland, 530 So.2d 940 (5 DCA 1988). A written objection entered into the record should suffice.

The Applicant must also exhaust his administrative remedies by asking for a variance

before claiming a taking. Mackay v DER. Under Herrera, this should mean that the owner needs to prove that he has been denied the minimum economically viable use.

. Burden of Proof. The burden to prove the existence of the required hardship and unique conditions is always on the applicant. Gomez v. City of St. Petersburg, 550 So.2d 7 (2 DCA 1989). Therefore, if the owner presents no evidence that the property cannot be used without the variance, there must be a denial. Herrera v. Miami, 600 So.2d 561 (3DCA 1992). The burden is more extensive than for a party seeking a permissible use by special exception. Cf. Gomez with Pollard v. Palm Beach City, 560 So.2d 1358 (4DCA 1990).

III- JUDICIAL REVIEW OF VARIANCE DECISIONS

A. Jurisdiction.

The Circuit Court has jurisdiction to review the action of the Board of Adjustment under the authority of Florida Constitution 1968, Article V, Section 5; Florida Rules of Appellate Procedure 9.030(c)(3) and 9.100; and Florida Rules of Civil Procedure 1.630.

B. Procedure.

A petition is filed under RAP 9.100 and RCP 1.630, within 30 days of the "rendition of the matter sought to be reviewed". "Rendition" is the date of the filing of the order of the zoning board in which it makes its findings, not the date of the hearing. RAP 9.020(g)

1. Petition. The Petition should contain:

- a. Statement of Jurisdiction
- b. Statement of Standing
- c. Statement of facts, all of which must be in the record
- d. Grounds of Objection
- e. All authorities and arguments of law
- f. Statement of relief sought

g. An appendix containing the record under Rule of Appellate Procedure 9.220 or the Rules of Civil Procedure 1.630 must be attached

2. Appendix. Must include everything from the record on which you will

refer or rely. Nothing outside the record presented at the hearing may be included.

A challenger should also provide the Court with copies of all ordinances on which the ruling was based. The Court cannot take judicial notice of ordinances or of amendments which were not brought before the zoning board. Nichols v. FIDC, 315 So.2d 238 (4 DCA 1975). F.S. 90.202(10) allows the court to take judicial notice of ordinances, but they must be published or first presented to the zoning board. Hill v State, 471 So.2d 567 (1 DCA 1985).

3. Filing. The petition and appendix are simply filed with the Court, no hearing or notice is required. Submit along with it a Motion for Summons in Certiorari and Order to Show Cause and proposed order (see sample forms, *infra*). If the Court finds you have made a prima facie case, it will issue what RCP 1.630(d) calls "a summons in certiorari", or RAP 9.100 calls an "order to show cause", giving the zoning board a reasonable time to respond. Oral argument may be requested under RAP 9.100(d)(3), but it is not required.

Since this is an appeal, and not a new proceeding, there is no discovery. The Court will only review the record created below.

4. Briefs. RAP 9.100 provides for a response by the board, and then a reply by the appellant, with a supplemental index if desired.

C. Standards for Judicial Review.

1. Circuit Court. The circuit court's certiorari review of an administrative action reviews 3 components:

a. Whether procedural due process was followed;

b. Whether the essential requirements of the law have been followed;

c. Whether the decision was supported by competent substantial evidence. City of Deerfield Beach v. Vaillant, 419 So.2d 624 (Fla. 1982) However, the circuit court, like any other appellate court, may not reweigh the evidence or substitute its judgment for the administrative board's. If any competent substantial evidence was presented the decision must stand. Martin v. First Apostolic Church, 321 So.2d 471 (4 DCA 1975) [special exception to build church denied].

2. Court of Appeals. Vaillant holds that when the Court of Appeals reviews the circuit court (RAP 9.030(b)(2)(B)), it only may review the first two criteria. (a and b, above). The Court of Appeals theoretically may not reverse a circuit court on the basis of whether there was or was not competent evidence presented, so long as due process and the essential rules of law are followed. Gomez v. City of St. Petersburg, 550 So.2d 7 (2 DCA 1989).

3. Comprehensive Plan consistency. A challenge to a variance decision based on an alleged inconsistency with a particular comprehensive plan policy must be brought within 30 days pursuant to the statutory procedures set forth in Florida Statutes 163.3215. Comprehensive Plan inconsistency cases are held to different statutory procedures and a strict scrutiny standard.

e. Standing to seek judicial review of a variance in court

A person seeking to challenge a variance needs to show that the variance will have some effect on him different from the effect on the community at large, even if no different than upon others in his neighborhood. Carlos Estates v. Dade Co., 426 So.2d 1167 (3 DCA 1983). This has generally been held to mean landowners in the immediate neighborhood of the project. Hemisphere Equity v. Key Biscayne, 369 So.2d 996 (3 DCA 1979) (objectors have standing if they reside in "proximity" of project); Allapattah Community v. City of Miami, 379 So.2d 387 (3 DCA 1980) ("neighborhood" sufficient), but anyone in the same zoning district would seem to meet the Carlos Estates test.

Carlos Estates describes two subgroups in the Renard v. Dade County, 261 So.2d 832 (Fla. 1972) category 1 "special injury" classification (for standing to challenge violations of an existing zoning ordinance). Objections to variances (and special exceptions) follow the above rule. Objections to code violations by neighbors, however, according to Carlos Estates, requires "an impact unique to [the objector's] property". This distinction does not appear in Renard.

There is no rule that only landowners may object, thus a long term lease might suffice, but economic injury from business competition alone is not sufficient to create standing. Skaggs-Albertson v. Michels Pharmacy, Inc., 332 So.2d 113 (2 DCA 1976). But where the business is strictly regulated, such as with a liquor license, the economic injury does rise to the level of conferring standing. Skaggs-Albertson's v ABC Liquors, 363 So.2d 1082 (Fla. 1978).

The fact that someone is in the area required for notice is not conclusive as to standing. Battaglia Fruit v. Maitland, 530 So.2d 940 (5 DCA 1988).

Note that if you can find any grounds to challenge the variance as "void because not properly enacted", then any affected resident or citizen of the government unit has standing. Renard v. Dade County, 261 So.2d 832 (Fla. 1972); Upper Keys Citizens Coalition v. Wedel, 341 So.2d 1062 (3 DCA 1987); Save Brickell Ave., Inc. v City of Miami, 393 So.2d 1197 (3 DCA 1981).

Standing of Environmental and Citizens Groups.

In general, representative organizations have standing if they meet the criteria laid out in Florida Home Builders v. Dept of Labor, 412 So.2d 351, 353 (Fla. 1982):

- a. a "substantial number of its members, although not necessarily a majority"

would have standing in their own right,

- b. the interests it seeks to protect are genuine to the organization's purpose, and
- c. neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.
- d. The organization must have a “special injury” to a special interest that exceeds in degree the general interest in community good shared by the general public (i.e., inquire into what are the organizations special interests and what are the special impacts to those interests).

Upper Keys Citizens Assoc. v. Monroe Co., 467 So.2d 1018 (3 DCA 1985); Chabau v Dade County, 385 So.2d 129 (3 DCA 1980). An organization is often felt to be unable to meet the "special injury" requirement, which must still be followed. U.S. Steel Corp v. Save Sand Key, Inc., 303 So.2d 9 (Fla. 1974). See Friends of the Everglades, 595 So.2d 186; Sailboat Key, 306 So.2d 616; Exchange Investments, 481 So.2d 1223.

Challenges to variances based on an alleged inconsistency with a specific Comprehensive Plan policy in circuit court must demonstrate a basis under the statutory standing requirements of Florida Statutes 163.3215. Putnam County Environmental Council v. Putnam County, 757 So. 2d 590(Fla. 5th DCA 2000).

-----ENDNOTES-----

¹ In 1985, the entire zoning enabling act was repealed (not just variances). Chapter 85-55 Laws of Florida, p. 235 Section 20 acknowledges that the Growth Management Act of 1985 repealed §§163.160 through 163.315, Florida Statutes and replaced it with §§ 163.3161 and 163.3215, Florida Statutes (making comprehensive plan consistency and concurrency requirements more stringent), but did not remove any of the previous zoning enabling authority:

“Section 20. It is the intent of the legislature that the repeal of the sections 163.160 through 163.315, Florida Statutes, by this act shall not be interpreted to limit or restrict the powers of ...county officials, but shall be interpreted as a recognition of their broad statutory and constitutional powers to plan for and regulate the use of land. It is further the intent of the legislature to reconfirm that sections 163.3161 and 163.3215, Florida Statutes, have provided and do provide the necessary statutory direction and basis for municipal and county officials to carry out their comprehensive planning and land development regulation powers duties and responsibilities.”

The basic Florida Law of variances has not changed, as criteria for variances similar to Florida case law requirements has been incorporated into local Codes establishing similar variance criteria to be applied through slightly different procedures (Hearing Examiners v. Boards of Adjustment) for each County. But the ability to review and grant or deny variances, as well as the basic Florida law of variances, remains the same before and after 1985. *See, post-1985 cases cited above.* Since 1985, All development orders, including variances, must be consistent with duly adopted Comprehensive Plan policies, objectives and goals under the Growth Management Act of 1985, Florida Statutes 163.3215.

Lodging Association LBTS
October 11, 2021

To: LBTS Commissioners

Re: Water Taxi Stop at Blue Moon Restaurant

The hoteliers in Lauderdale by-the-Sea will be thrilled to be able to send our guests to the Blue Moon Restaurant to board the Water Taxi and experience our beautiful intracoastal waterway.

Most of our guests do not need a car when they stay in our walkable town. They will love being able to walk along Commercial Blvd. to a nearby Water Taxi stop. The walk will also bring traffic to the west of A1A businesses.

We look forward to this exciting addition to our Town.

Warmly,

Ellen Zavell

Ellen Zavell

President Lodging Association LBTS

4403 Tradewinds, Inc.

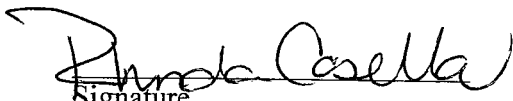
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

7-SIX VACATION SUPPLY CO
Name/Business Owner

4405 N. Ocean Dr
LBS, FL
Address

10-11-21
Date

4403 Tradewinds, Inc.

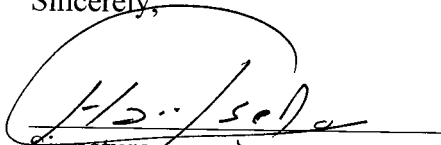
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

Haikel Sedouki
Name/Business Owner

235 Commercial Blvd. Lauderdale by the Sea.
Address
33308

10/04/2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

Gold Coast Scuba Steve Gagas
Name/Business Owner

259 Commercial Blvd. Suite 2
Lauderdale-By-The-Sea, FL 33308
Address

10/4/21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,



Signature

Frank Wojcik

Name/Business Owner

4419 W. Tradewinds Ave
Lauderdale By The Sea

Address

10/4/21

Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature Rocio Arana

Kadampa Meditation Fort Lauderdale
Name/Business Owner

4342 E Tradewinds Ave
Lauderdale by the Sea FL 33308
Address

10/08/2021
Date

4403 Tradewinds, Inc.

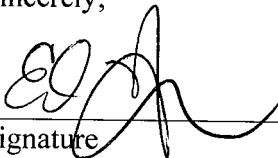
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

ED HUSS (GEN MGR)
Name/Business Owner

BEACH ACE HARDWARE

232 COMMERCIAL BLVD
Address

10/8/21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

Pedro Hernandez / Pedrito's Bike Shop
Name/Business Owner

230 Commercial Blvd. #1
Lauderdale By the Sea FL 33308
Address

10/8/2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

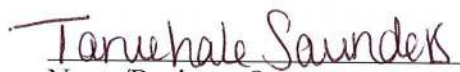
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature


Name/Business Owner

242 Commercial Blvd
LBTS FL 33308
Address

10/8/21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

Austin Mcarty
Name/Business Owner

Grateful J's - Never stopped Packin.

250 A Commercial Blvd, Lauderdale
Address By The Sea, FL 33308

10/8/21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

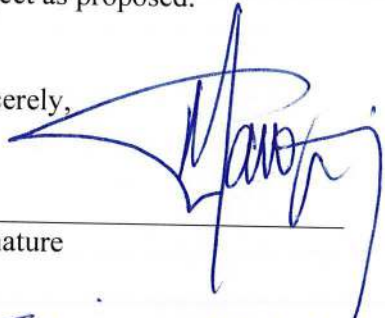
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,

Signature


ERIC MAUGE

Name/Business Owner



FLORIDA PURCHASING AGENCY, INC.

262 Commercial Blvd.

Lauderdale by the sea, FL 33308

Address 954-776-5170

Date

10/8/2021

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,


Signature

Ann Sandgrist Harmony Hair & spa
Name/Business Owner

262 Commercial Blvd

L. B. T. S.

Address

10/8/21

Date

4403 Tradewinds, Inc.

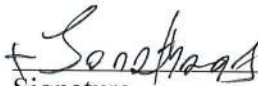
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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Sincerely,


Signature

Sonathan S. Village Pump.
Name/Business Owner

4404 El Mar Dr
Lauderdale By The Sea FL
Address

10/11/21
Date

4403 Tradewinds, Inc.

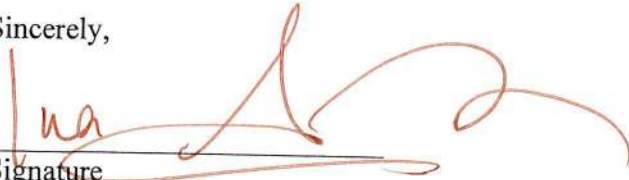
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4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

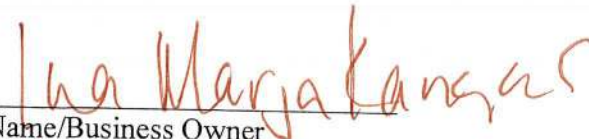
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

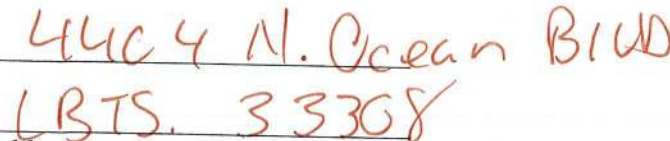
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Signature


Name/Business Owner


Address


Date

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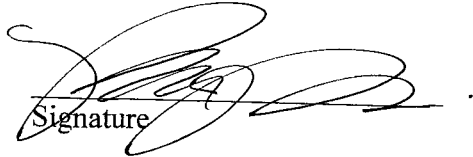
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4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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Sincerely,


Signature

Pamela J. Rossi
Name/Business Owner

217 Commercial Blvd
Lauderdale By the Sea
Address

10/11/2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

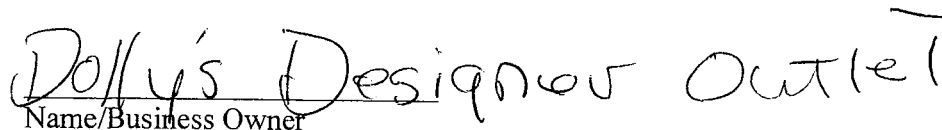
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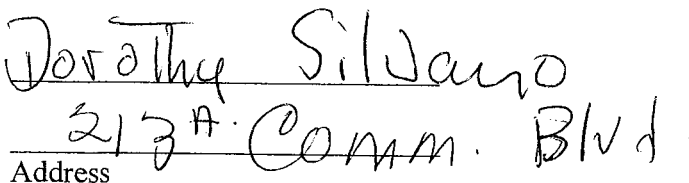
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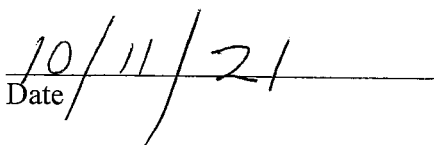
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Signature


Name/Business Owner


Address


Date

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4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

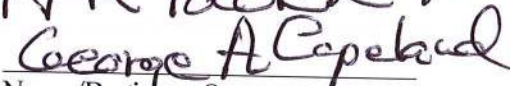
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Sincerely,


Signature

TFR Tackle INC

Name/Business Owner

228 Commercial Blvd.
Lauderdale By The Sea FL
Address

10/8/2021
Date

4403 Tradewinds, Inc.

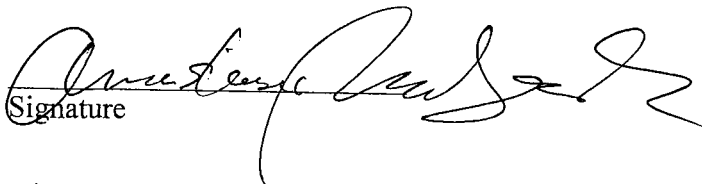
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Sincerely,


Signature

Anastasios Nikolakopoulos
Name/Business Owner

Boston Reef by the Sea
107A Boston Commercial Blvd
Address

10-11-21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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Sincerely,



Signature

Dennis Giff / Rees's Inc.

Name/Business Owner

4328 W. Ocean DR
4350 N. Ocean DR

228 Commercial Blvd

Address

10/11/21

Date

4403 Tradewinds, Inc.

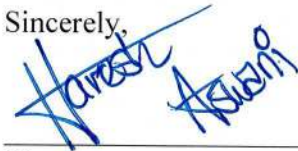
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Lauderdale By The Sea, FL 33308

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Sincerely,



Signature



Name/Business Owner



Address



Date

4403-4405 TRADEWINDS AVE PLAN SET



LOCATION MAP (N.T.S.)

DRAWING INDEX

SHEET 1: COVER

SHEET 2: EXISTING
CONDITIONS

SHEET 3: PROPOSED
CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:

**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
151 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omolara
PE 52733, EB 26829

This document has been electronically
signed and sealed by John H. Omolara, P.E.
on date noted using a SHA-1 authentication
code. Printed copies are not considered
signed and sealed and SHA-1 authentication
code must be verified on any electronic
copies per Rule 62-30.060, F.A.C.

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THE Chappell GROUP
714 East McNeil Road
Pompano Beach, Florida 33060
Tel: 954.782.1100
Fax: 954.782.1108
www.thechappellgroup.com

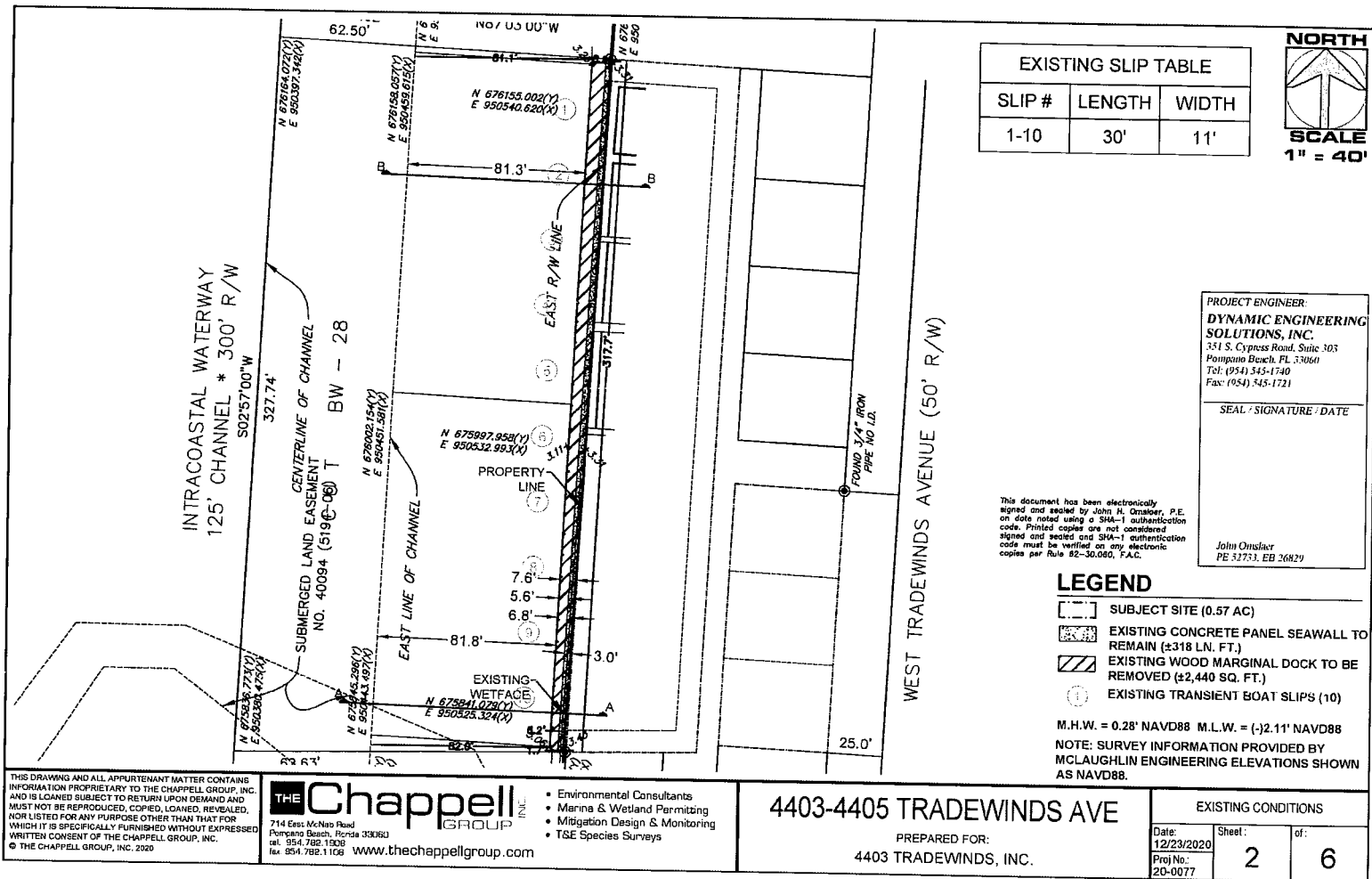
- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

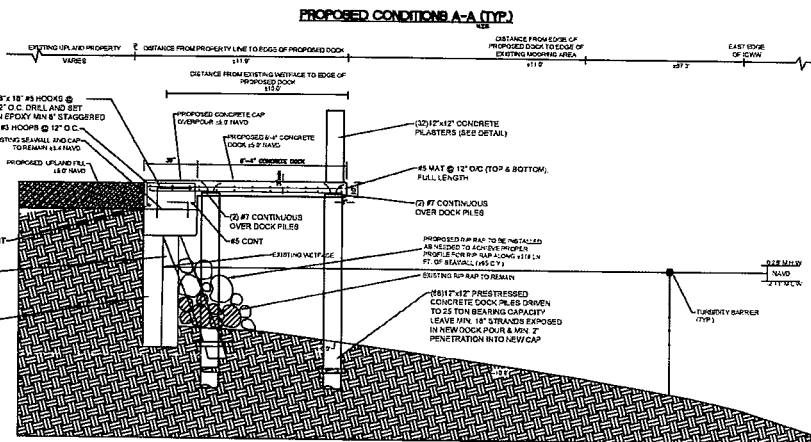
4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

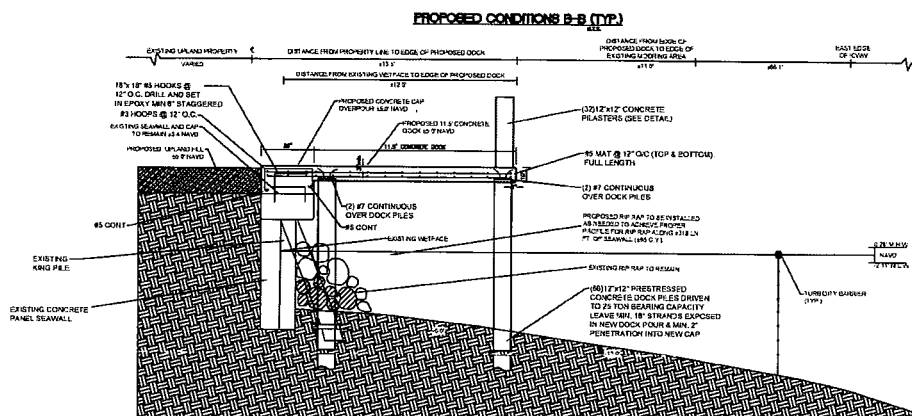
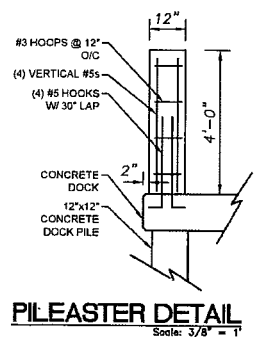
Date: 2/10/2021	Sheet: 1	of: 6
Proj No: 20-0077		





John Oniskar
PE 52733, EB 26829

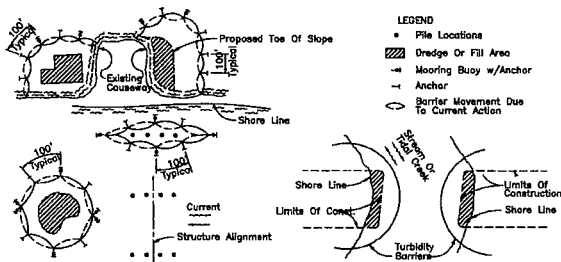
Sheet :	of :
4	



PROJECT ENGINEER:
DYNAMIC ENGINEERING
SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

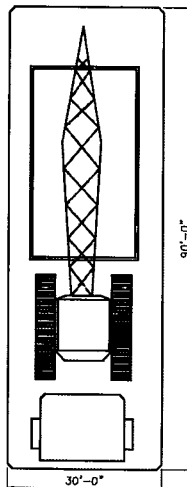
John Onstner
PE 52733, EB 26829



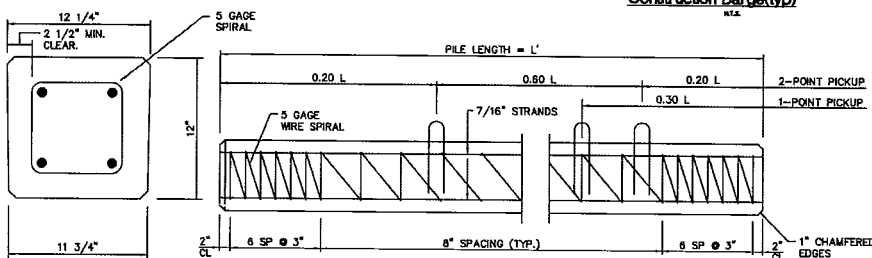
- NOTES:**
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
 2. Number and spacing of anchors dependent on current velocities.
 3. Deployment of barrier around pile location may vary to accommodate construction operations.
 4. Navigation may require engineering barrier during construction operations.
 5. For additional information see Section 104 of the Standard Specifications.

Turbidity Barrier
N.T.S.

Turbidity barriers for flowing streams and tidal creeks may be either floating, or stacked types, or any combination of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractor's option unless otherwise specified in the plans. However, payment will be under the pay item(s) established in the plans for floating turbidity barrier and/or stacked turbidity barrier. Piles in stacked turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.



Construction Barge (typ)
N.T.S.



Concrete Pile Detail
N.T.S.

PILE NOTE:

CONCRETE COMPRESSIVE STRENGTH:
5000 PSI @ RELEASE
5000 PSI @ DRIVING

SPIRAL TO BE ASTM A-62 TIGHT HARD-DRAWN WIRE

STRANDS - USE FOUR 7/16" (E706) LOW RELAXATION ASTM 416-87 UNGRADED 7-WIRE STRANDS TENSORED TO 233 KIPS EACH

1-POINT PICKUP-MAXIMUM L = 50'
2-POINT PICKUP-MAXIMUM L = 62'

This document has been electronically signed and sealed by John H. Omsizer, P.E. on date noted using a SHA-1 authentication code. Printed copies are not considered signed and sealed and SHA-1 authentication code must be verified on any electronic copies per Rule 62-30.080, F.A.C.

PILE DRIVING NOTES:

1. Pile driving operations shall be observed by a special inspector, including fast piles sufficient to determine the approximate length required to meet design capacity.
2. Piles shall be driven using an approved cushion block consisting of material so arranged as to provide the transmission of the hammer energy.
3. Piles shall be driven to required capacity a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
4. Piles shall be driven with a drop hammer or gravity hammer provided the weight of the hammer is no less than 3000 pounds, and the fall of the hammer shall not exceed 6 feet.
5. Piles shall be driven with a variation of not more than 1" per foot from the vertical, or from the batter line indicated, with a maximum, plans of not more than 3 inches.
6. Where piling must penetrate strata offering high resistance to driving, the structural engineer of record or special inspector may require that the piles be set in pre-drilled or punched holes. The piles shall resist their final penetration by driving.

CONCRETE NOTES:

1. Concrete shall conform to ACI 318 (latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi at 28 days with a minimum water-cementitious materials ratio, by weight, normal aggregate concrete of 0.40.
2. Owner shall employ and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM.
3. Licensed contractor is responsible for the adequacy of forms and churning and for safe practice in their use and removal.
4. Concrete cover shall be 3" unless otherwise noted on approved drawings.
5. Reinforcing steel shall be in accordance with the latest version of ASTM A615 Grade 60 specifications. All reinforcement shall be placed in accordance with ACI 318 and ACI Manual of Standard Practice.
6. Splices in reinforcing bars shall not be less than 48 bar diameters and reinforcing shall be continuous around all corners and changes in direction. Continuity shall be provided at corners and changes in direction by bending the longitudinal steel around the corner 48 bar diameters.
7. For repair of defective, cracked, or loose concrete, the areas must be cut out and the repair must be closed by sandblasting, coated with zinc, and repaired with at least three inches of epoxy/concrete mix of granite concrete with sulfate-resistant cement cover.
8. A 1" deep control joint shall be scored in second cap at every other pile location, or maximum 20' O/C spacing.
9. Per section 2003.8.4.4 of the 2010 Florida Building Code, all aluminum in contact with concrete shall be protected with alkali-resistant coatings, such as heavy bodied bituminous paint or water-white methacrylate lacquer.

GENERAL NOTES:

1. Construction to follow 2014 Florida Building code, 5th Edition and amendments as applicable and all local, state, and federal laws.
2. Contractor shall verify the existing conditions prior to commencement of the work. Any conflicts or anomalies between existing conditions or the various elements of the working drawings shall be brought to the attention of the Engineer prior to the commencement of the work. Contractor and all subcontractors are responsible for all lines, elevations, and measurements in connection with their work.
3. Do not scale drawings for dimensions.
4. Contractor or customer to pay for all permit fees, inspections, and testing required.
5. Contractor to verify location of existing utilities prior to commencing work.
6. Contractor is responsible for all means, methods, and procedures of work.
7. Contractor to obtain all permits as necessary from all local, state, and federal agencies.
8. Contractor to properly fence and secure area with barricades.
9. Any deviation and/or substitution from the information provided herein shall be submitted to the Engineer for approval prior to commencement of work.
10. All unexcused or unforeseen demolition and/or new construction conditions which require deviation from the plans and notes herein shall be reported to the Engineer prior to commencement of work.
11. All new materials and/or patchwork shall be provided to match existing materials and/or adjoining work where practical except as specifically noted herein.
12. Licensed contractor shall use all possible care to protect all existing materials, surfaces, and furnishings from damage during all phases of construction.
13. The licensed contractor to install and remove all shoring and bracing as required for the proper execution of the work.
14. All new work and/or materials shall conform to all requirements of each administrative body having jurisdiction in each pertaining circumstance.
15. Licensed contractor to verify location of existing utilities prior to commencing work.
16. All elevations shown refer to national geodetic vertical datum (NGVD) of 1929.
17. Turbidity barriers are to surround all in water construction areas during construction activities.

CONCRETE PILE NOTE:

1. Concrete pile concrete shall obtain 6000 psi compressive strength in 28 days.
2. Concrete piles shall be reinforced with (4) #4 to-be flexed, 270 kpsi, and #5 spiral ties.
3. Concrete piles shall be 12"x12" square, 20 feet minimum length.
4. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.

PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
131 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omsizer
PE 52735, EB 26829

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THE Chappell GROUP
714 East McNab Road
Pompano Beach, Florida 33060
tel. 354.702.1800
fax. 354.769.1100
www.thechappellgroup.com

- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- TSE Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

DETAILS

Date: 12/23/2020
Proj No.: 20-0077
Sheet: 6 of 6

4403 Tradewinds, Inc.

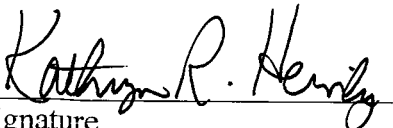
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

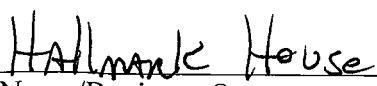
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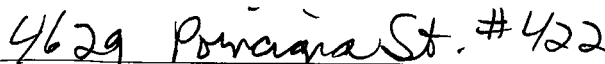
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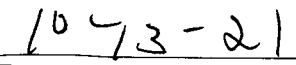
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Sincerely,


Signature


Name/Business Owner


Address


Date

4403 Tradewinds, Inc.

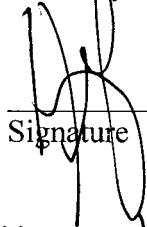
Ms. Jo Ann Hoffman
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4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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Sincerely,



Signature

Howard Goldberg

Name/Business Owner

1960 Ocean Mist Dr. LBTS

Address

10/13/21

Date

4403 Tradewinds, Inc.

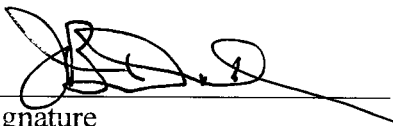
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Sincerely,


Signature

JAMES B. DAWSON
Name/Business Owner

4629 POINCIANA ST. APT 503
LBTS

Address

13 OCT 21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,


Signature

1650 Wealth Mgt
Name/Business Owner

255 Commercial Blvd #201
LBTS, FL 33308
Address

10/14/21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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Sincerely,


Signature

Dr. Jean Pierre LLC
Virtual Vitality MD
Name/Business Owner

3038 W Federal Hwy
Address

Ft. Lauderdale FL 33306
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,

Signature

Name/Business Owner

Address

Date

SITE CLASS

FT LAND

10/3/21

4403 Tradewinds, Inc.

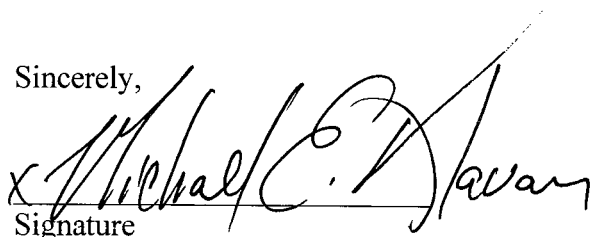
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

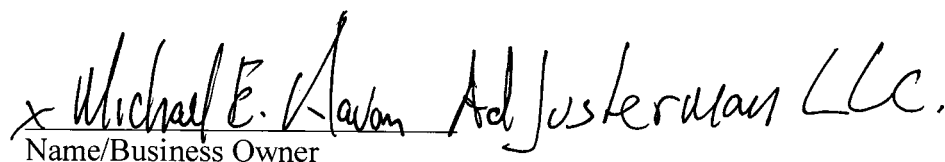
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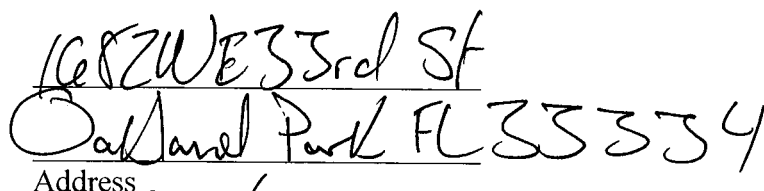
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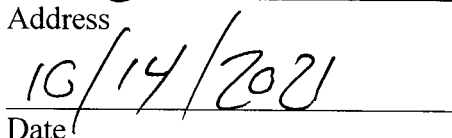
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Sincerely,

x 
Signature

x  Ad Justerman LLC.
Name/Business Owner


Address


Date

4403 Tradewinds, Inc.

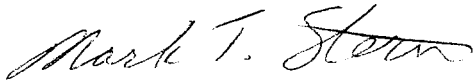
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4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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Sincerely,



Signature

Mark T. Stern of The Law Offices of Mark T. Stern
Name/Business Owner

4326 E. Tradewinds Ave
Lauderdale By The Sea, FL 33308
10/14/2021

4403 Tradewinds, Inc.

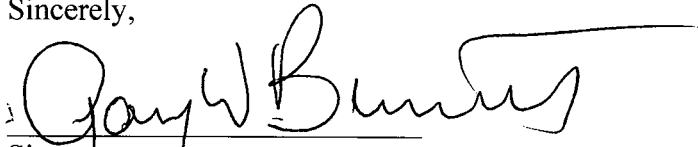
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4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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Sincerely,


Signature

GARY W. BURNETT
Name/Business Owner

269 Harbor Dr.
L.B.T.S.
Address

10/14/2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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Sincerely,


Signature

Ellen Zavell / Driftwood Beach Club
Name/Business Owner

4417 E. 1st Ave Dr.
L.B.T.S., FL. 33308
Address

10/14/21
Date

4403 Tradewinds, Inc.

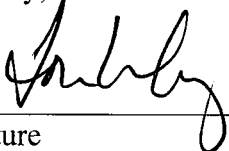
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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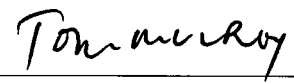
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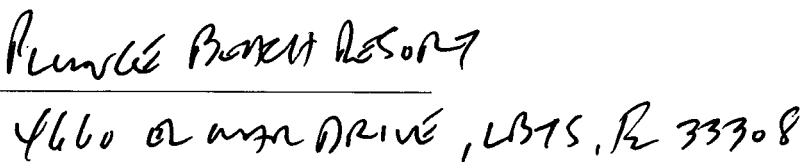
Sincerely,



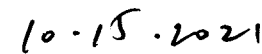
Signature



Name/Business Owner



Address



Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,



Signature

Ruth Stilwell, OWNER
Name/Business Owner

Aerospace Policy Solutions, LLC
275 Commercial Blvd. Suite 210
Address

14/October 2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,



Signature

Blue Moon Fish Co.
Name/Business Owner

Blue Moon Fish Co.
4405 W. TRADEWINDS AVE.
Address

10/15/20
Date

4403 Tradewinds, Inc.

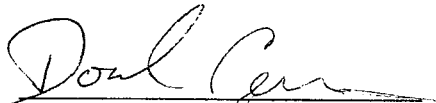
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4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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Sincerely,


Signature

Dominick Casale
Name/Business Owner

Diamonds & doggies
111 Commercial Blvd. LBTS, FL 33308
Address

10/15/2021
Date

4403 Tradewinds, Inc.

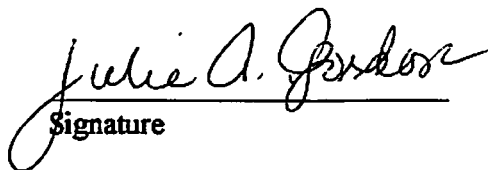
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4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

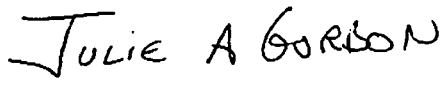
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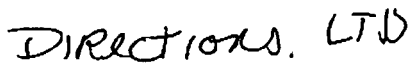
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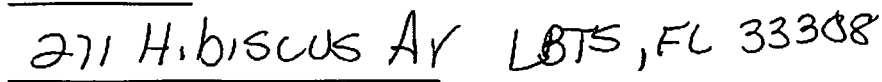
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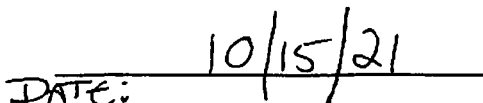
Sincerely,


Signature


Name/Business Owner




Address


DATE:

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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Sincerely,



Signature



Name/Business Owner

4201 EZ Mar DR
Laud By The Sea, FL

Address

Date

10/18/21

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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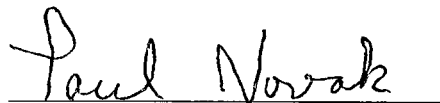
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Sincerely,



Signature



Name/Business Owner

HIGH NOON RESORT
4424 ELMAR DRIVE - LOTS

Address

10-18 - 2021

Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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Sincerely,


Signature

Billy Jacks Shack
Name/Business Owner

218 Commercial Blvd SUT 102
LAUDERDALE BY THE SEA, FL 33308
Address

10/20/21
Date

4403 Tradewinds, Inc.

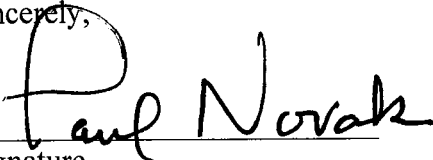
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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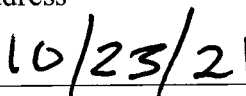
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Sincerely,


Signature

HIGH NOON RESORT
Name/Business Owner
4424 EL MAR DRIVE
LAUDERDALE BY THE SEA, FL. 33308

Address


Date

4403 Tradewinds, Inc.

RE: Citizens Participation Meeting Summary/4403 Tradewinds Dock Replacement and Expansion Variance

Dear Town of Lauderdale-By-the Sea

Please allow this correspondence to serve as the Citizens Participation Meeting Summary for the meeting held on December 29, 2021, at 6:30 p.m. at Jarvis Hall in Lauderdale by the Sea in accordance with Ordinance 2021-11 and in compliance with section 30-114.

On behalf of 4403 Tradewinds Inc., we have applied for a variance to allow a concrete docket that extends a range of 11.4' to 13.5' from the property line along the property at 4403 Tradewinds Inc, less the required setbacks on both sides of the property line. The proposed dock has been approved by the U.S Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection and Growth Management Department (06-395244-002-EM and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337). The Intracoastal Waterway is a Federal channel and requires approval from the ACOE Navigation District to construct this proposed dock, which has been reviewed and granted. The proposed structure also adheres to the Florida Department of Environmental Protection requirement stating that no docks or vessels can exceed 25% the width of the waterway. With the expansion/replacement of the dock, additional rip rap boulders underneath the proposed dock will aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats, people, and the dock. In addition, by adding rip rap this will provide significant habitat for marine life, but most importantly protecting lives and provide for the safety of patrons of the restaurant while getting on and off their boats.

At the meeting on December 29, 2021, a sign-in sheet was placed at the front door. We requested that each interested party attending this meeting to sign-in. Attached is the patron sign-in sheet. There were additional people present but did not sign-in. The sign-in sheet evidences the participation of 12 attendees. In addition to the 12 participants, multiple city officials and employees were present. Mr. Carlos Gianos presented the variance plan and Ms. Jenna Robbins of the Chappell Group was present as an engineering consultant.

Participate Speaker #1: Linda Kay (Ladies Club) requested what are the intentions for the additional dock space. She also expressed hearsay that the dock expansion was to include 10 boat slips going into the Intracoastal waterways.

4403 Tradewinds, Inc., response: The intention of the requested additional dock space is for various reasons including health and safety, wave reduction, shoreline erosion, increase marine

habitat and conforming to patrons' desire for outdoor dining and social distancing as a result of COVID-19.

Participate Speaker #2: (Ladies Club) requested information regarding financial gain on behalf of 4403 Tradewinds, Inc., and inquired as to this becoming a potential water taxi stop. In addition, she inquired as to parking availability for the water taxi and increased diners. Lastly, she discussed the construction process and increased traffic/parking.

4403 Tradewinds Inc., response: The financial gain on behalf of 4403 Tradewinds, Inc., would potentially increase the value of the property. However, the property owner of 4403 Tradewinds, Inc., does not have any intention of selling the property at this time. The dock placement/expansion is a huge expense for the property owner being done for various reasons including life, safety, protection of the seawall and property from erosion and increased boat activity.

As a response to the inquiry regarding the dock to be used as a stop for the water taxi services, this is a potential future plan and no town approval and no contracts or agreements as to this have been drafted at this time.

As a response to the parking inquiry, the property has a valet service that would accommodate the additional patrons and there are various public parking spaces and lots available throughout Lauderdale by the Sea.

As a response to the construction project, it was stated by Ms. Jenna Robbins with Chappell Group that most of the construction equipment/personnel will be brought in and done from barges. There will however be occasional needs that would require workers to be onsite and require parking for these workers. The parking will be managed, and all efforts will be made to reduce traffic in the residential surrounding areas.

Participate Speaker #3: Greg Lanzon a resident of the Warwick Condos located across the canal inquired as to the reference of 77 feet on the proposed plans. In addition, he inquired regarding the number of increased tables of 30 and the additional noise due to the added outdoor seating. He also wanted to confirm the estimated time frame to complete dock.

4403 Tradewinds, Inc., response: Ms. Jenna Robbins from the Chappell Group explained the 77-foot marker on the plans was the eastern edge of the intercoastal waterways and no construction can be done inside the canal according to the Army Corp of Engineers.

As to the inquiry of the "30" additional tables, this again is hearsay and no plans or conversations as to the layout of the outdoor dining have been discussed other than adhering to social distancing guidelines and the desire of the restaurant to expand the table distancing. The restaurant also does not anticipate that the increased dock size will attribute to additional noise. The restaurant has and will continue to adhere to the town noise ordinances.

Participate Speaker #4: Roseann Minnet residence of Lauderdale by the Sea, inquired why all residents of Lauderdale by the Sea were not notified of the Citizens Participation Meeting, timing of Citizens Participation Meeting, parking issues, and impact of Lauderdale by the Sea as a whole.

4403 Tradewinds, Inc., response: In accordance with Town Ordinance 2021-11 and Section 30-114 the applicant must provide notice to the effected parties, residents and property owners that are located within a 300-foot radius of the subject property and proposed application. Representative of 4403 Tradewinds, Inc., properly adhered to the Town Ordinance including mailing requirements and posting of a sign of the Citizen Participation Meeting on the property. The date and time of the Citizens Participation Meeting was scheduled in in compliance with the Town Ordinance to meet the deadlines for this application to be heard at the meeting in February 2022. The parking issue response was previously discussed above.

Participate Speaker #5: Robert Taylor owner at 5100 Dupont Blvd, Ft. Lauderdale inquired as to the next steps and process of the Town of Lauderdale by the Sea for reviewing plans for variance and requested a display of the dock plans. In addition, Mr. Taylor inquired information regarding notification to the City of Ft. Lauderdale and corresponding permit number and reports to the U.S Army Corps of Engineers, Florida Department of Environmental Protection and Growth Management Department and Broward County Environmental Protection and Grown Management Department.

4403 Tradewinds, Inc., response: There are two upcoming public hearings to review the variance application prior to final approval from the Town Commission. These additional meeting are open to the public for attendance and comments. Ms. Jenna Robbins from the Chappell Group, responded as to the application process to the federal, state and county entities and verified that all required permits were issued in accordance within regulation. In addition, Ms. Robbins stated these reports are public record and are available online through each individual entity: U.S Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection and Growth Management Department (06-395244-002-EM and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337). Notification to the City of Ft. Lauderdale was not a requirement needed to obtain any permits.

Participate Speaker #6: Ben Bittner: owner of 4420 W. Tradewinds Ave. inquired as to the range/address of dock replacement/expansion project and identity of owner of entities. In addition, he was concerned regarding the potential increased charter boat business, increased car/bus traffic, parking and increased noise from restaurant for residents.

4403 Tradewinds, Inc., response: the dock expansion project includes the property line from 4403-4405, however, inquiries were made as to the ownership of 4419. These properties are owned under various corporate entities of which Ms. Hoffman is a principal of. As for increased charter business, this will not have an increased impact from this project. Additionally, as for the concern regarding increased noise from the restaurant, this was addressed above, and the restaurant will act in accordance with the Towns Noise Ordinance. However, since Mr. Bittner is in close proximity to the restaurant, the property manager assured him to personally address any issues and concerns that arise. The property manager also provided Mr. Bittner with his personal cell phone to discuss

issues as they arise. The property manager attests that he will personally try to mitigate any issues that arise from the residents living near the property, including but not limited to parking and noise complaints.

Participate Speaking #7: Linda Kay (Ladies Club) reiterated issues regarding parking including valet services and potential reduction of public parking spaces that is utilized by the Ladies Club on Wednesday and Thursdays.

4403 Tradewinds, Inc., response: parking issues were previously addressed above, however, property manager stating that he will personally speak with the principals of the valet service and restaurant to alleviate and accommodate the Ladies Club members' parking issues.

Participate Speaker #8: Marie Connelly: resident of 2000 S. Ocean Blvd: inquired as to the date for the application for permits, new ownership of restaurant, further explanation of rip rap and requesting model or slide show presentation at future meetings.

4403 Tradewinds, Inc., response: the application process for the dock replacement/expansion to the various required entities have been taking place since 2019 when Ms. Hoffman and her property manager evaluated the present condition of the dock. New owners of the restaurant are a company by the name of Ark Restaurants. Ms. Jenna Robbins from the Chappell Group further explained the rip rap including is needed to absorb the wave energy from passing boat traffic thus the need for a wider dock to cover the rip rap that will be placed.

Participate Speaker #9: Vicki Springstead from the Warwick: first commented on the hard work that had gone into preparing and applying for this application including the Citizens Participation Meeting. In addition, she noted that the property had been great neighbors to the Warwick residents. She inquired as how the dock replacement/expansion project could potentially affect their seawall. Ms. Jenna Robbins from the Chappell Group responded that the rip rap from the wave energy produced from the noticeably increased boat traffic would dissipate the wave energy to both sides of the intercoastal.

In closing, the participants main concerns were lack of parking and the impact on the neighborhood and Town during the construction process. In order to mitigate these concerns representatives of 4403 Tradewinds, Inc., have had communications and understanding from the current valet service that they will accommodate the Women's Club and any other vehicles from the restaurant and construction workers during this process. In addition, some residents raised concerns about noise level with the increased dock. Mr. Gianos' communicated with these neighbors and advised that he will address any infrastructural processes concerning these entities. Additionally, managers of the Blue Moon Fish Company have agreed to adhere to the current statutes and ordinances regarding noise.

4403 Tradewinds, Inc.

RE: 4403-4405 West Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

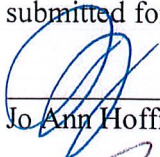
Dear Homeowners, Property Owners and Interested Parties:

The property located at 4403-4405 West Tradewinds Avenue is seeking to raise and extend its existing dock. We applied for a variance with the Town of Lauderdale- By-The Sea to construct a concrete dock with environmental rocks placed under the dock for both safety to reduce boat wakes and to assist with habitat resurgence.

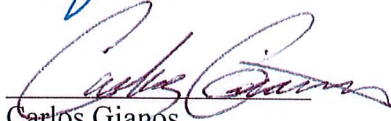
Pursuant to the recent Town Ordinance 2021-11 Amending Chapter 30 "Unified Land Development Regulation," Article V "Zoning" to Create Section 30-114, "Citizen Participation Required," the applicant for a variance is required to conduct a minimum of one public meeting with residents, property owners and interested parties that may be affected by the proposed application.

Therefore, please allow this correspondence to serve as Notice of a Citizens Participation Meeting scheduled for December 28, 2021 at 6:30 p.m. at Jarvis Hall. Any interested parties are encouraged to attend this meeting.

Enclosed for your reference please find the plans for the dock on the Intracoastal Waterway submitted for 4403 Tradewinds Ave in Lauderdale-By-The Sea, Florida.

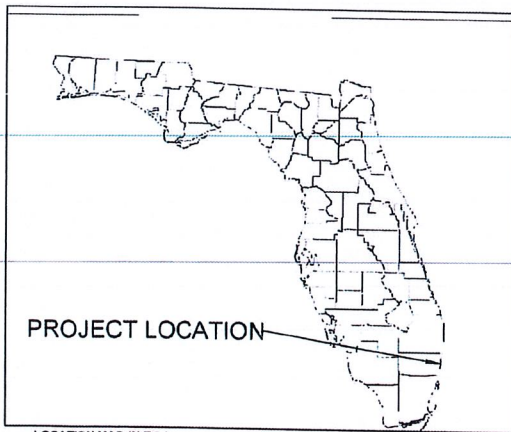

Jo Ann Hoffman

12/8/2021
Date of Notice


Carlos Gians

12/8/2021
Date of Notice

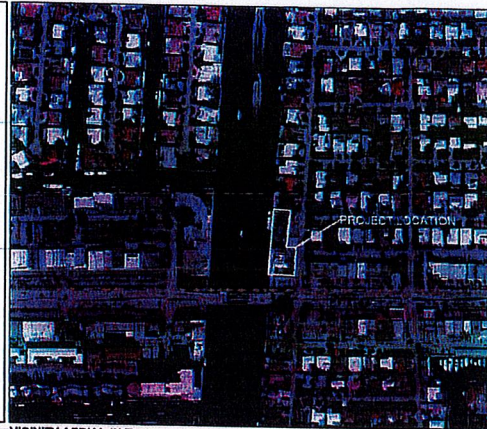
4403-4405 TRADEWINDS AVE PLAN SET



LOCATION MAP (N.T.S.)

DRAWING INDEX

- SHEET 1: COVER
- SHEET 2: EXISTING CONDITIONS
- SHEET 3: PROPOSED CONDITIONS
- SHEET 4: SECTION A
- SHEET 5: SECTION B
- SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:

DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL SIGNATURE DATE

John Onufar
PE 52733, EB 26829

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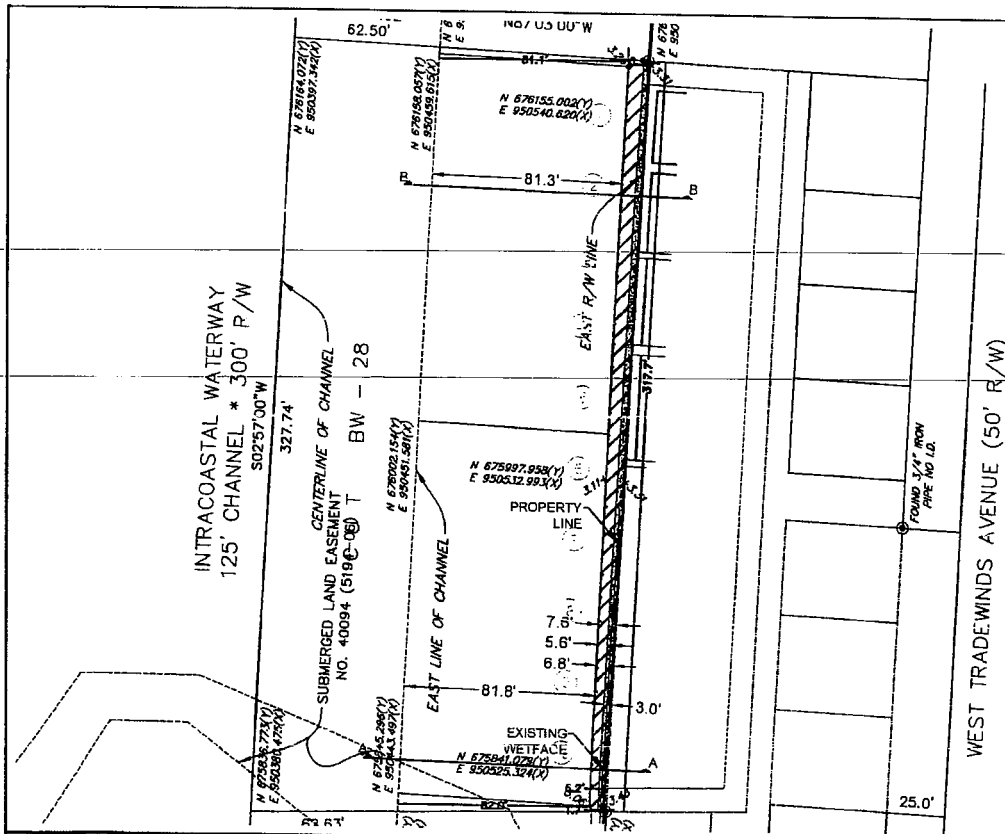
4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

Date: 2/10/2021	Sheet 1	of 6
Proj No.: 20-0077		

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EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
 351 S. Cypress Road, Suite 105
 Pompano Beach, FL 33064
 Tel: (954) 343-1740
 Fax: (954) 343-1721

SEAL SIGNATURE DATE

John Orsiller
 PE 51773, EB 36829

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LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 L.N. FT.)
- EXISTING WOOD MARGINAL DOCK TO BE REMOVED (±2,440 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88.

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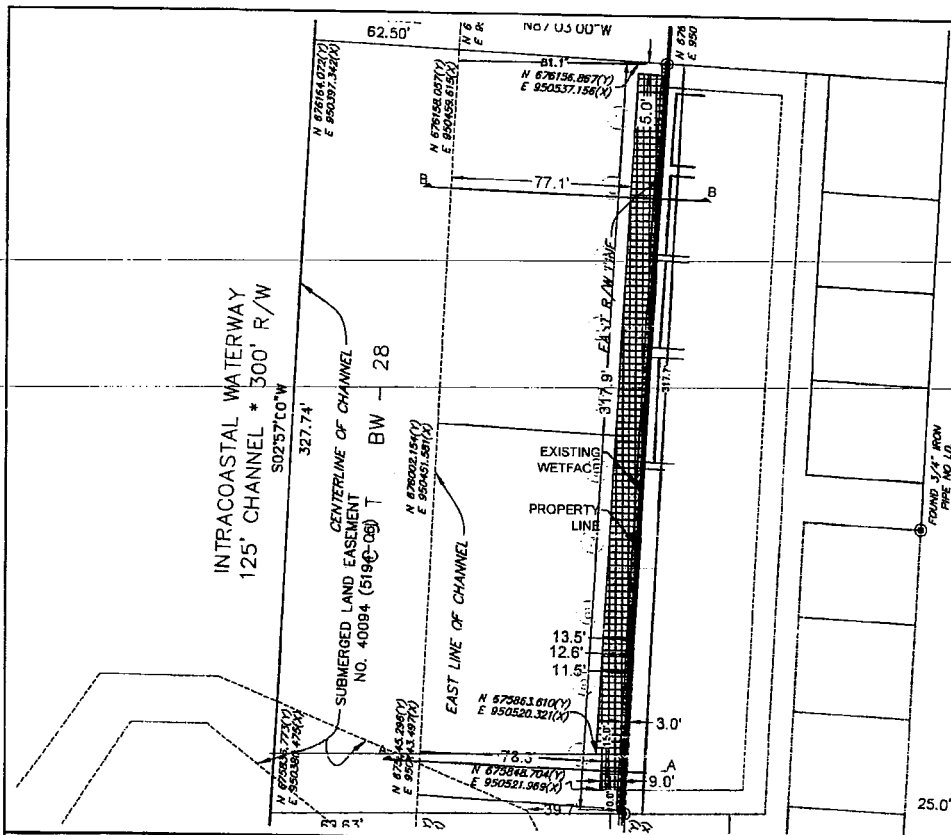
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- Marine & Wetland Planning
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
 4403 TRADEWINDS, INC.

EXISTING CONDITIONS

Date:	Sheet:	of:
12/23/2020	2	6
Proj No:		
20-0077		



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



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 331 S. Cypress Road, Suite 103
 Pompano Beach, FL 33060
 Tel: (954) 545-1740
 Fax: (954) 545-1721

SEAL: SIGNATURE: DATE

John Oniskor
 PE 52751, EB 26829

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LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
- PROPOSED CONCRETE MARGINAL DOCK (±3,468 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88
 NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,1045 SQ. FT.

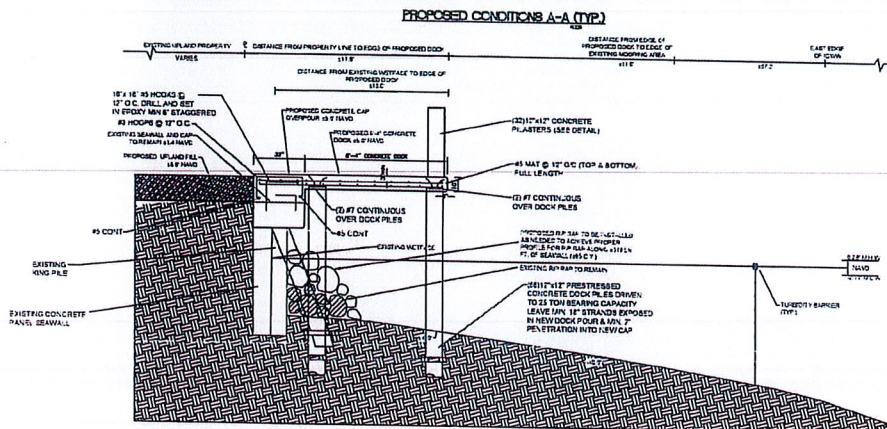
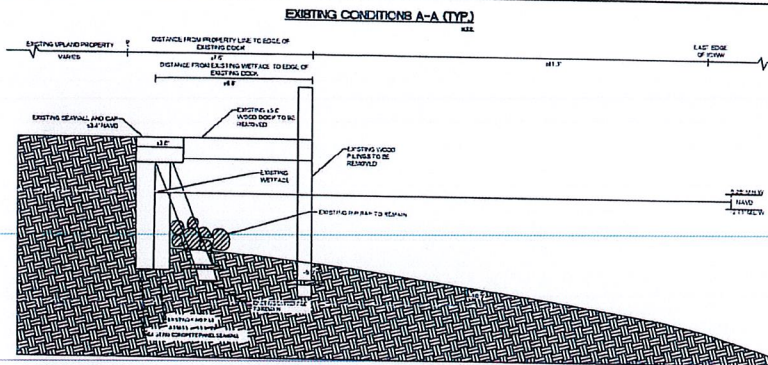
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4403-4405 TRADEWINDS AVE
 PREPARED FOR:
 4403 TRADEWINDS, INC.

PROPOSED CONDITIONS		
Date: 12/23/2020	Sheet: 3	of: 6
Proj No.: 20-0077		



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 Fax: (954) 545-1721

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John Omslager
 PE 52735, EB 26829

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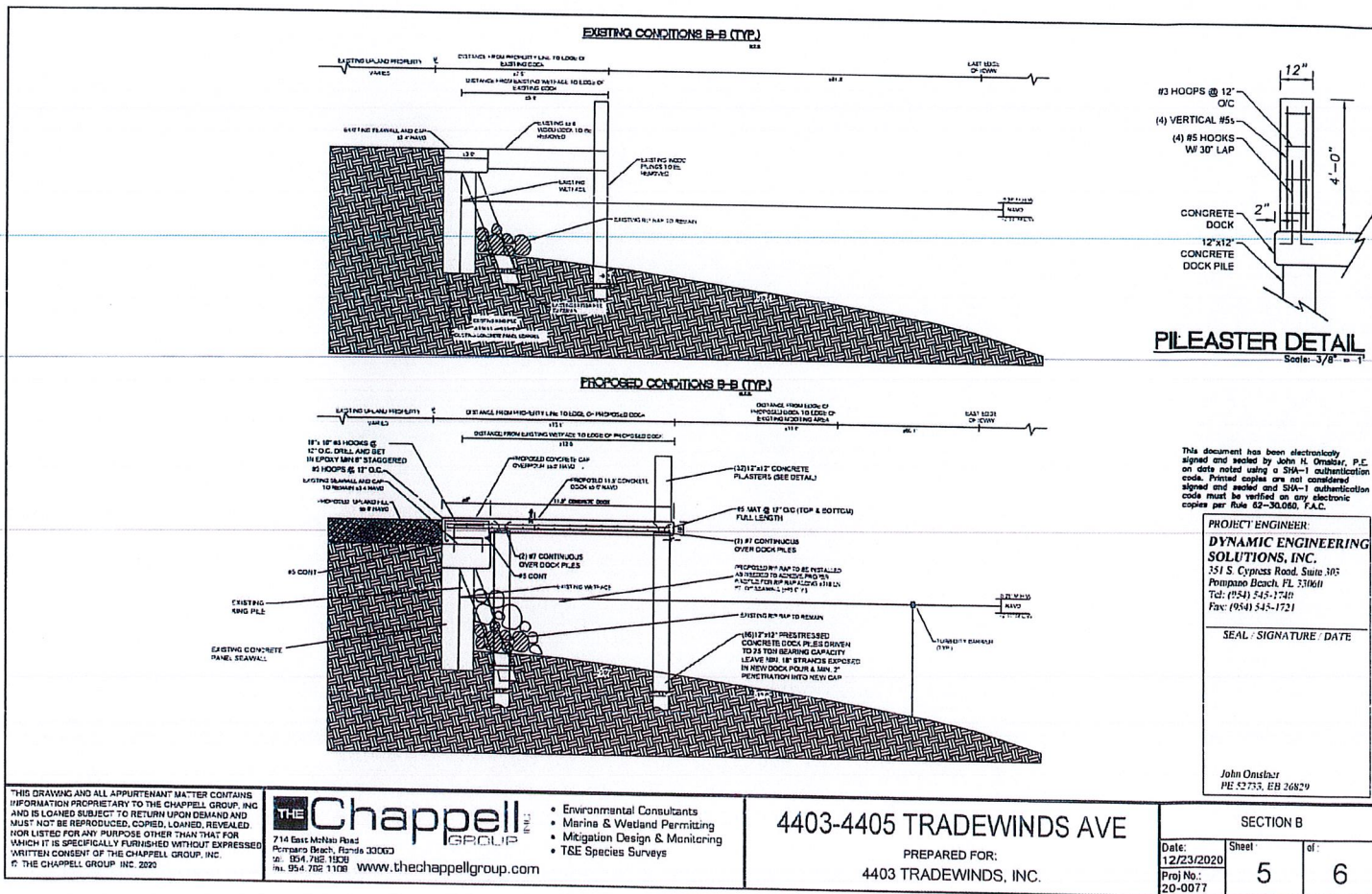
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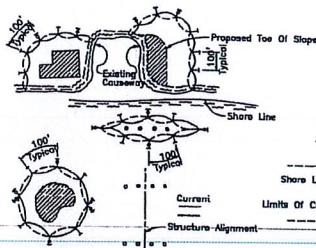
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4403-4405 TRADEWINDS AVE
 PREPARED FOR:
 4403 TRADEWINDS, INC.

SECTION A

Date: 12/23/2020	Sheet: 4	of: 6
Proj No.: 20-0077		





LEGEND

- Pile Locations
- ▨ Grillage Or Fill Area
- Moving Buoy w/Anchor
- Anchor
- Barrier Movement Due To Current Action

NOTES

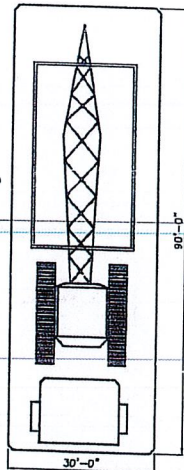
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of divers dependent on current velocities.
3. Deployment of barrier around pile location may vary to accommodate construction operations.
4. Modification may require augmenting barrier during construction operations.
5. For additional information see Section 104 of the Standard Specifications.

NOTE

Turbidity barriers for flowing streams and tidal creeks may be either floating, or skirted types, or any combination of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractor's option unless otherwise specified in the plans. However, approval will be required for the proposed barrier type(s) in the plans for Floating Turbidity Barrier and/or Skirted Turbidity Barrier. Plans to skirted turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.

Turbidity Barrier

NSA



Construction Barge (typ)

PILE DRIVING NOTES

1. Pile driving operations shall be observed by a special inspector, including test piles sufficient to determine the appropriate length required to meet design capacity.
2. Piles shall be driven using an approved cushion block consisting of material so arranged as to provide the transmission of the hammer energy.
3. Piles shall be driven in required capacity a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
4. Piles shall be driven with a drop hammer or gravity hammer, provided the weight of the hammer is no less than 3000 pounds, and the fall of the hammer shall not exceed 8 feet.
5. Piles shall be driven with a variation of not more than 1" per foot from the vertical, or from the batter the indicates, with a maximum pile of not more than 3 inches.
6. Where piling must penetrate strata offering high resistance to driving, the attached engineer of record or special inspector may require removal of the pile and/or pilehead.

CONCRETE NOTES

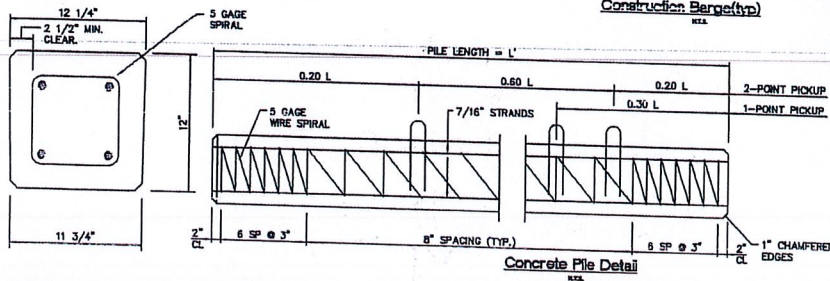
1. Concrete shall conform to ACI 318 (latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi at 28 days with a minimum water-cementitious materials ratio, by weight, of 0.45.
2. Owner shall employ and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM.
3. Licensed contractor is responsible for the adequacy of forms and bracing and for safe practice in their use and removal.
4. Concrete cover shall be 3" unless otherwise noted or approved otherwise.
5. Reinforcing steel shall be in accordance with the latest version of ASTM A615 Grade 60 specifications. All reinforcement shall be placed in accordance with ACI 318 and ACI Manual of Standard Practice.
6. Systems in reinforcing bars shall not be less than #4 bar diameter in diameter. Continuity shall be provided at corners and changes in direction by having the longitudinal steel around the corner 45 bar diameter.
7. For rebar of deflection, cracked, or loose concrete, the rebar shall be cut out and the rebar must be cleaned by sandblasting, coated with zinc, and replaced with at least three inches of epoxy/concrete. The rate of concrete repair shall be sufficient to prevent corrosion of other pile location, or maximum 20" O/C spacing.
8. Per section 2003.8.4.4 of the 2010 Florida Building Code, all minimum in contact with concrete shall be protected with chloride-resistant coatings, such as epoxy based bituminous paint or water-borne methacrylate lacquer.
9. Concrete pile concrete shall attach 6000 psi compressive strength in 28 days.
10. Concrete piles shall be reinforced with (4) #4 in-top strands, 270 Mpa, and #5 spiral ties.
11. Concrete piles shall be 17'x17' square, 20 feet minimum length.
12. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.

GENERAL NOTES

1. Construction to follow 2014 Florida Building Code, 3rd Edition and amendments as applicable and of local, state, and federal laws.
2. Contractor shall verify the existing conditions prior to commencement of the work. Any conflicts or omissions between existing conditions or the various elements of the working drawings shall be brought to the attention of the Engineer prior to the commencement of the work. Contractor and all subcontractors are responsible for all lines, elevations, and measurements in connection with their work.
3. Do not scale drawings for dimensions.
4. Contractor is responsible for all means, methods, and procedures of work.
5. Contractor to verify location of existing utilities prior to commencing work.
6. Contractor to provide all permits as necessary from all local, state, and federal agencies.
7. Any deviation and/or substitution from the information provided herein shall be submitted to the Engineer for approval prior to commencement of work.
8. All unexcused or unapproved deviation and/or new construction conditions which require deviation from the plans and rules herein shall be reported to the Engineer prior to commencement of work.
9. All new materials and/or equipment shall be provided to match existing materials and/or equipment used with barriermass.
10. The licensed contractor to be held and remove all shoring and bracing as required for the proper execution of the work.
11. All new work and/or materials shall conform to all requirements of such administrative body having jurisdiction in such jurisdiction.
12. Licensed contractor to verify location of existing utilities prior to commencing work.
13. All structures shown refer to national geodetic vertical datum (NGVD) of 1929.
14. Turbidity Barriers are to be installed in all water construction areas during all construction activities.

CONCRETE PILE NOTES

1. Concrete pile concrete shall attach 6000 psi compressive strength in 28 days.
2. Concrete piles shall be reinforced with (4) #4 in-top strands, 270 Mpa, and #5 spiral ties.
3. Concrete piles shall be 17'x17' square, 20 feet minimum length.
4. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.



Concrete Pile Detail

PILE ROD

CONCRETE COMPRESSION
STRENGTH:
5000 PSI @ RELEASE
5000 PSI @ DRIVE
SPIRAL TO BE ASTM A-618 TIGHT
HAND-DRAWN WIRE
STRANDS - USE FOUR 7/16" (2700)
LOW IMPERMEABLE JARS #16-18 UNCOATED
7-WIRE STRANDS TENSIONED TO 230 KIPS
EACH
1-POINT PICKUP-MAXIMUM L = 50'
2-POINT PICKUP-MAXIMUM L = 65'

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Fax: (954) 545-1721

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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

DETAILS

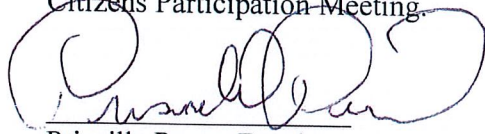
Date: 12/23/2020	Sheet: 6	of: 6
Proj No: 20-0077		

AFFIDAVIT OF MAILING

RE: 4403-4405 West Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Town of Lauderdale-By-the Sea

UNDER OATH, I, Priscilla Perez, Esquire hereby certify that the attached address labels were affixed onto envelopes and proper postage stamped on December 10, 2021 for mailing of Notice of Citizens Participation Meeting.


Priscilla Perez, Esquire

12/10/2021
Date


Carlos Giano, Agent

12/10/2021
Date

TIITF/STATE OF FLORIDA FL INLAND
NAVIGATION DISTRICT
1314 MARCINSKI RD
JUPITER, FL 33477

TOWN OF LAUDERDALE BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

BLENKE, ANNE M IRREV TR
TAYLOR, WILLIAM A TRSTEE ETAL
732 MIDDLE RIVER DR
FORT LAUDERDALE, FL 33304

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

PUBLIC LAND TOWN OF LAUDERDALE
BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

HOFFMAN TRADEWINDS LLC
4403 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

WOMANS CLUB OF LAUD-BY-THE-SEA
4411 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

VICNSONS REALTY GROUP LLC
218 SAN REMO DR
JUPITER, FL 33458

275 BLVD PARTNERS LP
71 MILLRUN CRES
*WOODBIDGE ON, CA L4H 1

MENNO, ROBERT
267 HARBOR DR
LAUDERDALE BY THE SEA, FL 33308

TIITF/STATE OF FLORIDA FL INLAND
NAVIGATION DISTRICT
1314 MARCINSKI RD
JUPITER, FL 33477

TOWN OF LAUDERDALE BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

4403 TRADEWINDS INC
4403 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

HOFFMAN TRADEWINDS LLC
4403 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

BLANCHARD, RICHARD
4401 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

VICNSONS REALTY GROUP LLC
218 SAN REMO DR
JUPITER, FL 33458

275 BLVD PARTNERS LP
71 MILLRUN CRES
*WOODBIDGE ON, CA L4H 1

FLORIDA DEPT OF TRANSPORTATION
OFFICE OF RIGHT OF WAY
3400 W COMMERCIAL BLVD
FORT LAUDERDALE, FL 33309

FPA HOLDINGS LLC
262 E COMMERCIAL BLVD # C
LAUDERDALE BY THE SEA, FL 33308

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

TOWN OF LAUDERDALE BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

HOFFMAN TRADEWINDS LLC
4403 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

TOWN OF LAUDERDALE BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

VICNSONS REALTY GROUP LLC
218 SAN REMO DR
JUPITER, FL 33458

HIDALGO, MICHAEL A GARCIA, DORIS
262 NEPTUNE AVE # 1-2
LAUDERDALE BY THE SEA, FL 33308



MOMCHILOVA,VELIN H/E MOMCHILOV,KALINKA
5100 DUPONT BLVD #4L
FORT LAUDERDALE, FL 33308

MARWOOD,CATHY & THOMAS
5100 DUPONT BLVD #5A
FORT LAUDERDALE, FL 33308

ERNST,VALERIE MARIA VALERIE MARIA ERNST
REV TR
13 JASON DR

ESPINOSA,CECILIA
5100 DUPONT BLVD #5B
FORT LAUDERDALE, FL 33308

BOLDUC,CHRISTIAN & VICTORIA
2741 NE 48 CT
LIGHTHOUSE POINT, FL 33064

KUSHELEVA,ELENA
83 DOGWOOD LN
STATEN ISLAND, NY 10305

MENNO,JOSEPH & THERESA M
264 NEPTUNE AVE
LAUDERDALE BY THE SEA, FL 33308

BURNETT,GARY W GARY W BURNETT TR
269 HARBOR DR
LAUDERDALE BY THE SEA, FL 33308

WALLER,ROBERT
268 NEPTUNE AVE
LAUDERDALE BY THE SEA, FL 33308

SCAUZILLO,ANGELO SCAUZILLO,MICHAEL
71 MILLRUN CRES
*WOODBIDGE ON, CA L4H 1

VLACH,ROSTISLAV
KAROVSKA 86
*OHROBEC 252 45, CZ

BARBARA FAM TR BARBARA,L &
BARBARA,J M TRSTEEES
4430 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

BARBARA,LOUIS & JAMETTE M BARBARA
FAMILY REV TR
4430 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

BITTNER,BENJAMIN J
4420 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

HARBOUR BAY LTD PARTNERSHIP
400 S COUNTY TRL STE A207
EXETER, RI 02822

MA,SHUWEI
265 NEPTUNE AVE
LAUDERDALE BY THE SEA, FL 33308

TOMASELLO,LISA M H/E BALOCCO,JOSEPH
M JR
4442 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

COHEN,DAVID B & DEBRA J
4443 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

GORDON,ROBERT & GAIL
4437 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

KRISTIN B BOWE REV TR BOWE,KRISTIN B
TRSTEE
15400 SWEETWATER CT
FORT MYERS, FL 33912

NAGY,STEPHEN NAGY,DEBBIE L
3329 NE 18 ST
FORT LAUDERDALE, FL 33305

PUBLIC LAND TOWN OF LAUDERDALE BY
THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

MORRISON,JUDITH P
5100 DUPONT BLVD APT 2A
FORT LAUDERDALE, FL 33308

HAGE,THOMAS
5645 NETHERLAND AVE #3-C
BRONX, NY 10471

WILLIAM M LAUDERDALE REV TR
ROXANNA L LAUDERDALE REV TR ETAL
1175 MORTON AVE
ELGIN, IL 60120

JOHNSON,MIKAEL
1112 GARDEN ST
HOBOKEN, NJ 7030

PATANE,TAMMY H/E PATANE,CHYRINO A
5100 DUPONT BLVD #2E
FORT LAUDERDALE, FL 33308

ROBERT E LEWIS & JAMES B WATSON JR TR
5100 DUPONT BLVD #2F
FORT LAUDERDALE, FL 33308

LOSCHIAVO,BONNIE LEE
5100 DUPONT BLVD APT 2G
FORT LAUDERDALE, FL 33308

ABEGG,DAVID T
5100 DUPONT BLVD #2H
FORT LAUDERDALE, FL 33308

WALTER,CHRISTOPHER ROBERT
5100 DUPONT BLVD #2I
FORT LAUDERDALE, FL 33308

FUNCCIUS,HANS E FUNCCIUS,MICHELE A
3170 STATE ROUTE 32
KINGSTON, NY 12401

SHERWOOD,CAROL ANN
945 GREENSWARD LANE
DELRAY BEACH, FL 33445

HERNANDEZ,BRIAN
5100 DUPONT BLVD # 2-L
FORT LAUDERDALE, FL 33308

JEANNE E BALAS REV TR BALAS,JEANNE E
TRS ETAL
360 SNYDER RD
READING, PA 19605

BIANCARDI,JULIE JULIE BIANCARDI REV LIV
TR
5100 DUPONT BLVD APT 2N
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MARA BAY PROPERTIES LLC
5711 BAYVIEW DR
FORT LAUDERDALE, FL 33308

CODY, DENA M CODY, WILLIAM D JR
5100 DUPONT BLVD APT 3D
FORT LAUDERDALE, FL 33308

O'BRIEN, DENNIS T & SANDRA M
5100 DUPONT BLVD UNIT 3E
FORT LAUDERDALE, FL 33308

HANNA, SCOTT DAVID H/E HANNA, N JOHN & BRENDA
5100 DUPONT BLVD # 3F
FORT LAUDERDALE, FL 33308

LARGE, KEVIN L
6418 AMBROSIA DR APT 5107
SAN DIEGO, CA 92124

CAPPELLO, DAWN M H/E CAPPELLO, JOSEPH
5100 DUPONT BLVD UNIT 3H
FORT LAUDERDALE, FL 33308

SIMORELLI, LIBERTA J LIBERTA J SIMORELLI REV
LIV TR
5100 DUPONT BLVD #3I
FORT LAUDERDALE, FL 33308

NILSEN, TOVE
5100 DUPONT BLVD #3J
FORT LAUDERDALE, FL 33308

MING, ZHI HUI
37 GWENDOLEN AVE
*TORONTO ON, CA O

DEL CARMEN O ALVARADO, KARELIA MCALEER, FELIX G
5050 BAYVIEW DR #2
FORT LAUDERDALE, FL 33308

SCHOOS, JAMES R & JOYCE
5100 DUPONT BLVD #3M
FORT LAUDERDALE, FL 33308

BACHRACH, BEVERLY S
5100 DUPONT BLVD UNIT 3N
FORT LAUDERDALE, FL 33308

SCHENKEL, WILLIAM LLOYD SCHENKEL, ELIZABETH ANN
750 PLEASANT ST
EXCELSIOR, MN 55331

MITCHELL, JOHN M JR H/E MITCHELL, TERESA A
5100 DUPONT BLVD #4B
FORT LAUDERDALE, FL 33308

VICTORY L SPRINGSTEAD TR SPRINGSTEAD, VICTORY L
TRS
5100 DUPONT BLVD APT 4C
FORT LAUDERDALE, FL 33308

ANGELOS, STEVE & MARIA
PO BOX 29
BALDWIN, MD 21013

DANIELLE R BUSH REV TR BUSH, DANIELLE R
TRSTEE
5100 DUPONT BLVD #4-E
FORT LAUDERDALE, FL 33308

FAVALORO, CHRISTOPHER
5100 DUPONT BLVD #4F
FORT LAUDERDALE, FL 33308

HECKER, NATALIE CLAIRE
5100 DUPONT BLVD UNIT 4G
FORT LAUDERDALE, FL 33308

GREAT LIFE HOLDINGS LLC CARIDI, NANCY &
TOMAT, GIOVANNI
18 PLACE MADEIRA
*KIRKLAND QC, CA O

TAYLOR, MILA TAYLOR, ROBERT W
5100 DUPONT BLVD #4I
FORT LAUDERDALE, FL 33308

BUZZETTA, CATHERINE
5100 DUPONT BLVD #4J
FORT LAUDERDALE, FL 33308

SIMSIĆ, ZORAN & SVETLANA
1908 BEECHKNOLL AVE
*MISSISSAUGA ON, CA O

MOMCHILOVA, VELIN H/E MOMCHILOV, KALINKA
5100 DUPONT BLVD #4L
FORT LAUDERDALE, FL 33308

ERNST, VALERIE MARIA VALERIE MARIA ERNST
REV TR
13 JASON DR
SPRING LAKE, NJ 7762

BOLDUC, CHRISTIAN & VICTORIA
2741 NE 48 CT
LIGHTHOUSE POINT, FL 33064

MARWOOD, CATHY & THOMAS
5100 DUPONT BLVD #5A
FORT LAUDERDALE, FL 33308

ESPINOSA, CECILIA
5100 DUPONT BLVD #5B
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B & B CHERNEY FAMILY REV LIV TR
CHERNEY,BARRY J & BERYL TRS
497 MILFORD RD
DEERFIELD, IL 60015

CLEMENTE,JOSEPH & ANNA GIUSEPPE
& ANNA CLEMENTE REV TR
5100 DUPONT BLVD #5-G
FORT LAUDERDALE, FL 33308

JOHN R SLAMA REV LIV TR
SLAMA,JOHN R TRSTEE
5415 11 ST S
FARGO, ND 58104

GAVIN,JOAN M JOAN M GAVIN REV TR
5100 DUPONT BLVD APT 5I
FORT LAUDERDALE, FL 33308

AVVENTO,VIRGINIA AVVENTO IRREV TR
5100 DUPONT BLVD #5J
FORT LAUDERDALE, FL 33308

ROSS,JULIE A
5100 DUPONT BLVD APT 5K
FORT LAUDERDALE, FL 33308

DESIMONE,LINDA C H/E
DESIMONE,JOHN A
5100 DUPONT BLVD #5L
FORT LAUDERDALE, FL 33308

GREAT LIFE HOLDINGS LLC
9315 TRANS CANADA HWY
*ST LAURENT QC, CA 0

LICHOROWIC,SCOTT JR
5100 DUPONT BLVD #5N
FORT LAUDERDALE, FL 33308

MCQUEEN,PATRICK M
1915 HICKORY BARK LN
BLOOMFIELD HILLS, MI 48304

BURKE,APRIL LACHELLE
5100 DUPONT BLVD #6B
FORT LAUDERDALE, FL 33308

FERRY,F FRED FERRYREV TR
5100 DUPONT BLVD UNIT 6C
FORT LAUDERDALE, FL 33308

THOMAS,ROBERT MAHBUBANI,LATA
4 WINDWARD WAY
RED BANK, NJ 7701

ARTHUR B & SUZANNE HALL REV TR
HALL,ARTHUR B & SUZANNE TRS
2621 SYLVAN SHORES DR
WATERFORD, MI 48328

JENNIE M HARRIS TR HARRIS,JENNIE M
TRS
6260 NE 18 AVE APT 810
FORT LAUDERDALE, FL 33334

GREAT LIFE HOLDINGS LLC
9315 TRANS CANADA HWY
*SAINT LAURENT QC, CA 0

REILLY,BARBARA L
32 SMITH ST
BLUE POINT, NY 11715

DERINS,BRENT A
5100 DUPONT BLVD #6I
FORT LAUDERDALE, FL 33308

KRUMPE,MICHAEL J
5100 DUPONT BLVD #6J
FORT LAUDERDALE, FL 33308

BRANDOFINO,RALPH A
5100 DUPONT BLVD UNIT 6-K
FORT LAUDERDALE, FL 33308

CORREA ORLARTE,MARIA E MARIA E
CORREA ORLARTE REV TR
5100 DUPONT BLVD #6L
FORT LAUDERDALE, FL 33308

BROADBENT,DARRELL J
1-282 ERIE ST SOUTH
*LEAMINGTON ON, CA 0

KOURI,JAMES
3720 BOUL ST ELZEAR APT 1104
*LAVAL QC, CA 0

MMCLOY,THOMAS RITA HELEN
MCCLOY REV TR
5100 DUPONT BLVD #7A
FORT LAUDERDALE, FL 33308

POWERS,WARREN WADE II & RITA W
5100 DUPONT BLVD #7B
FORT LAUDERDALE, FL 33308

BAILLIEU CATTELL,CHERRILL
5100 DUPONT BLVD APT 7C
FORT LAUDERDALE, FL 33308

LANZON,GREGORY GREGORY C
LANZON REV TR
5100 DUPONT BLVD #7D
FORT LAUDERDALE, FL 33308

FISCHELE,CHRISTIAN
7 RUE CHERBULLEZ
*GENEVA, CH



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LUFFER, CHARLES SEGAL, CAROLE
5100 DUPONT BLVD #7H
FORT LAUDERDALE, FL 33308

HALKIAS, ELAINE C
5100 DUPONT BLVD #7I
FORT LAUDERDALE, FL 33308

NARDINI, IVO
5100 DUPONT BLVD # 7J
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CIRONE, NUNZIO CIRONE, MICHELA
15915 82 ST
HOWARD BEACH, NY 11414

NOURELDIN, RONALDO
6957 MISS MUFFET LN N
JACKSONVILLE, FL 32210

BULL, ROBERT
5100 DUPONT BLVD #7M
FORT LAUDERDALE, FL 33308

RENIERO, BEATRIZ M RESNICH, SILVIO
MARIO
5100 DUPONT BLVD # 6J
FORT LAUDERDALE, FL 33308

VIATORI MARTINEZ, ANTONIA
5100 DUPONT BLVD #8A
FORT LAUDERDALE, FL 33308

SUNDEM, CHAD & BATINA
5116 ARDEN AVE
EDINA, MN 55424

CLAVEY, JOHN & CAROL
CLAVEY, JEFFREY & JODY
5100 DUPONT BLVD #8C
FORT LAUDERDALE, FL 33308

ROHLER, PHILIP HUGHES, MARTIN
5100 DUPONT BLVD #8-D
FORT LAUDERDALE, FL 33308

SCAGLIONE, RONALD S
5100 DUPONT BLVD #8E
FORT LAUDERDALE, FL 33308

DESTEFANO, AUGUSTINE
DESTEFANO, PHYLLIS
104 S HONEYMAN RD
WHITEHOUSE STATION, NJ 8889

MAGRANE, KELLY CARPER, TAYANA
5971 NE 3 AVE
FORT LAUDERDALE, FL 33334

DUNAWAY, JEFFERY H H/E
DUNAWAY, THERESIA M
5100 DUPONT BLVD #8H
FORT LAUDERDALE, FL 33308

MARGARET A CULL REV TR
CULL, MARGARET A TRS
2745 AYRSHIRE DR
BLOOMFIELD, MI 48302

PALMER, MICHAEL W MEEKINS, GEORGE
DEWEY III
5100 DUPONT BLVD #8J
FORT LAUDERDALE, FL 33308

ST HILAIRE, JACQUES
5100 DUPONT BLVD #8K
FORT LAUDERDALE, FL 33308

GRANT, JANELLE H/E GRANT, ERVIN
5100 DUPONT BLVD # 8L
FORT LAUDERDALE, FL 33308

GREGORY, STEVEN G
5100 DUPONT BLVD #8-M
FORT LAUDERDALE, FL 33326

BRUDER, PAUL A H/E BRUDER, ESILDA E
5100 DUPONT BLVD # 8N
FORT LAUDERDALE, FL 33308

METZGER, ELIZABETH M & NATHAN K
5100 DUPONT BLVD #9A
FORT LAUDERDALE, FL 33308

SCHOLLER, RENEE
6218 VALLEY PARK DR
TOLEDO, OH 43623

SPERTELL, BEVERLY K
5100 DUPONT BLVD # 9C
FORT LAUDERDALE, FL 33308

JAMES E WORDEN REV LIV TR
WORDEN, JAMES E TRSTEE
PO BOX 1093
JACKSON, MI 49204

OJEDA, MICHAEL JOSEPH
5100 DUPONT BLVD #9E
FORT LAUDERDALE, FL 33308

OCCHIOGROSSO, MICHELE
PINTO, STEVEN L
3100 NE 49 ST #409
FORT LAUDERDALE, FL 33308

LANGNER, HARVEY
5100 DUPONT BLVD APT 9G
FORT LAUDERDALE, FL 33308

CHASE,PATRICIA L
5100 DUPONT BLVD #9H
FORT LAUDERDALE, FL 33308

HAROUN,AIDA HAROUN,FARID
5550 ISABELLA AVE #03 CSL
*MONTREAL QC, CA H3X 1

HAHN,REGINA M SAMUELS,DENA A
5100 DUPONT BLVD APT 9J
FORT LAUDERDALE, FL 33308

STEIN,JOHN H LOUISE ANNE KOCH REV
TR
5100 DUPONT BLVD #9K
FORT LAUDERDALE, FL 33308

STEAD,NICHOLAS
5100 DUPONT BLVD UNIT 9-L
FORT LAUDERDALE, FL 33308

DORRIS,THOMAS FORREST
DORRIS,DONNA
9 CANDLEWOOD DR
MANTUA, NJ 8051

MORNELLI,CONSTANCE &
MORNELLI,MARK
PO BOX 123
LITTLE FALLS, NY 13365

SCHOENFELD,MICHAEL & FAITH
MICHAEL & FAITH SCHOENFELD TR
5100 DUPONT BLVD APT 10A
FORT LAUDERDALE, FL 33308

JONES,DOUGLAS HUGH
SECKULAR,PEGGY ANN
5100 DUPONT BLVD #10B
FORT LAUDERDALE, FL 33308

BOSSONE,DOMINIC J
713 HOWELL DR
BRIELLE, NJ 8730

BUSSY,PHILIPPE J YOUNG,WILLIAM R
191 MACKAY ST
*OTTAWA ON, CA K1M 2

HWANG,ING-SEI & HAU-MEI
3050 NE 47 ST
FORT LAUDERDALE, FL 33308

BUDASHEWITZ,PHILIP M
5100 DUPONT BLVD #10-F
FORT LAUDERDALE, FL 33308

PIEDRA,SANDRA
5100 DUPONT BLVD #10G
FORT LAUDERDALE, FL 33308

KLEIN,WALTER ASNIS,MARY
5100 DUPONT BLVD #10H
FORT LAUDERDALE, FL 33308

COSTELLO,PAULA C
5100 DUPONT BLVD #10-I
FORT LAUDERDALE, FL 33308

CRAWFORD,KRISTINE PETERSON
5100 DUPONT BLVD #10J
FORT LAUDERDALE, FL 33308

FALLDORF,MARK B NOGUEIRA
FALLDORF,MARISOL
5100 DUPONT BLVD #10K
FORT LAUDERDALE, FL 33308

PALMIERI,LINDA
14 ASTER AVE
MERRICK, NY 11566

HIGGINS,MONICA LYNN
HIGGINS,MICHAEL JAMES
5100 DUPONT BLVD #10M
FORT LAUDERDALE, FL 33308

SAVARNO,EDWARD A HODDER,CALVIN
W
1096 WILLIAMS DR
BELLE VERNON, PA 15012

TSE FAM TR TSE,CHARLES K & CLARA M
TRS
5100 DUPONT BLVD #11D
FORT LAUDERDALE, FL 33308

STPELTON,SEAN D SEAN D STEPELTON
TR
5100 DUPONT BLVD #11B
FORT LAUDERDALE, FL 33308

SEAN D STEPELTON TR
STPELTON,SEAN D TRS
5100 DUPONT BLVD #11C
FORT LAUDERDALE, FL 33308

TSE,CHARLES K & CLARA M TSE FAM TR
ETAL
5100 DUPONT BLVD #11-D
FORT LAUDERDALE, FL 33308

DW DENNIN & AJ CURRERI REV TR
DENNEN,DAVID W TRS ETAL
5100 DUPONT BLVD APT 11F
FORT LAUDERDALE, FL 33308

HAGE,THERESA HAGE,THOMAS
55 KNOLLS CRESCENT
BRONX, NY 10463

MILROY,RICHARD & MELISSA
2710 NE 6 ST
POMPANO BEACH, FL 33062

MANGANO,CARMELINE
5100 DUPONT BLVD APT 11I
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BENNETT,ALBERT II
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ANN
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FORT LAUDERDALE, FL 33308

CHANLER, JACK
5100 DUPONT BLVD APT 11M
FORT LAUDERDALE, FL 33326

KARRAS, MARIE
5100 DUPONT BLVD #11-N
FORT LAUDERDALE, FL 33308



**PUBLIC NOTICE
CITIZEN PARTICIPATION
MEETING**

CASE: 4403-4405 TRADEWINDS AVE.
DOCK VARIANCE

DATE: DEC. 28, 2021

TIME: 6:30PM

LOCATION: JARVIS HALL
4501 N. OCEAN DR.
LAUDERDALE BEACH, FL 33308

NAME	ADDRESS	PHONE NUMBER
Marie Connelly	2000 S. Ocean Blvd. LBT5, FL 33062	
Linda Kay Thompson	4477 W Trade Wind	
Ray Thompson	4477 Trade Winds	
Vicki Lynch	4411 W Trade Wind LBT5	
BEN BITTNER	4420 W TRADE WINDS	954 253 6963
Roseann Vincent	2006 S Ocean Blvd LBT5 FL 33062	
GREG LAVER Regina Hahn Laverne Miller	5100 Dupont Blvd Ft Lauderdale 33308	
Rat. Vicki Sprungstead	5100 Dupont Blvd 4C	
Robert Taylor	5100 Dupont	

Subdivision Q. - Supplemental Regulations

Sec. 30-311. - Boats, boat lifts, boathouses, mooring and docking.

(a) *Intent.*

- (1) The intent of this section is to permit construction in and upon the waterways of docks, boatslips, wharves, finger piers, boat lifts, dolphin, fender or mooring piles and other related structures which do not interfere with navigation, endanger life or property, or delay the public reasonable viable access to public waterways.
- (2) Structures not similar in nature to those listed herein are prohibited.
- (3) The requirements contained in this section shall apply and control the development on the waterways Town-wide.
- (4) Marinas shall comply with this section.

(b) *Permit required.*

- (1) It shall be unlawful for any person to construct or erect docks, wharves, piers, or dolphin, mooring or fender piles or any type of boat lifting or mooring device or any other structure on or in waterways without first obtaining:
 - a. Any required Broward County permits and/or approvals, and subsequently, a building permit from the Town; and
 - b. The necessary approvals and/or permits from the United States Army Corps of Engineers, or other governmental agencies as applicable to certain navigable waterways.

(c) *Structures in waterways.*

- (1) In a waterway 50 feet in width or less, boat slips, wharves, finger piers, docks, boat lifts, or dolphin, fender or mooring piles, or any other structures shall not be constructed or erected into any waterway more than five feet beyond the recorded property line.
- (2) In a waterway which is more than 50 feet in width, boat slips, wharves, finger piers, docks, boat lifts, or dolphin, fender, or mooring piles may be constructed or erected in a standard or marina mooring area under the following conditions providing the navigation channel is not encroached upon:
 - a. Boat docks or wharves may be constructed or erected to extend into any waterway a distance of ten percent of the width of the waterway or distance of eight feet, whichever is less, as measured from the recorded property line.
 - b. Finger piers may be constructed or erected to extend into any waterway subject to the requirements below:

Finger Pier	Waterway	Marina Mooring Area (established pursuant to 30-311(e))
Length	Ten percent of the width of the waterway or a distance of 20 feet, whichever is less, as measured from the recorded property line	Sixteen percent of the width of the waterway or a distance of 25 feet, whichever is less, as measured from the recorded property line
Width	No greater than necessary to meet ADA access requirements	No greater than necessary to meet ADA access requirements
Separation	Not less than 25 feet	Not less than 20 feet

- c. *Boat lifting devices.*
 - 1. Boat davits, elevator lifts, cradle lifts, floating lifts, or any other similar form of boat lifting device may be constructed or erected to extend into any waterway in a fully raised position, a distance equal to 20 percent of the width of the waterway or a distance of 20 feet, whichever is less, as measured from the recorded property line.
 - 2. A vertical guide pole with reflective identification marking shall be permanently mounted to the outer end of the lift and shall extend a minimum of six feet above the surface of the water at all times.
- d. *Dolphin, mooring or fender piles.*
 - 1. Dolphin, mooring or fender piles may be erected to extend into any waterway no further than the navigation channel boundary line as measured from the recorded property line.
 - 2. Dolphin, mooring, or fender piles shall have a six-inch wide reflective band placed two feet below the top of the piling.
 - 3. The minimum spacing between dolphin, fender or mooring piles shall be ten feet.
- (3) *Setbacks.* No boat docks, wharves, finger piers, boat lifting or mooring devices, dolphin, or other similar structures may be erected in the waterway, within five feet of an extended side property line.
- (4) Boat docks, wharves, or finger piers shall not be constructed or erected where the elevation of the deck exceeds the elevation of the top of the abutting seawall.
- (5) *Common docking area.* In addition to the provisions contained in sub-sections (1) through (4), if two or more lots share a common docking area, the following conditions must be met prior to any permit being issued pursuant to this section:
 - a. The affected property owners shall enter into an agreement with the Town which shall state the property owners have reviewed and approved the proposed plans as they relate to the placement of any structure in the common docking area as well as the proposed docking of any boat or watercraft.
 - b. The agreement shall be approved by the Town and thereafter recorded by the property owners along with a copy of the approved plans in the Public Records of Broward County, Florida, and shall be considered to be a restriction running with the land and shall bind the heirs, successors and assigns of the property owners.
- (6) Where a court of competent jurisdiction has adjudicated the docking rights of the adjoining property owners, the provisions of subsections (1) through (5) shall not apply, to the extent they are superseded by the Court's ruling, if proof of such adjudication is submitted with the building permit application.
- (7) Any structure erected in any waterway shall be kept in good repair by the owner thereof and shall be subject to removal by the Town in the event that they are unsafe or create a hazard to navigation as determined by the Town, the cost thereof to be assessed against the owner. Opportunity for notice and a hearing shall be afforded to the owner prior to such removal by the Town.
- (8) Boathouses and boat canals dug or excavated into any of the platted waterfront lots are prohibited.
- (d) *Docking and mooring of watercraft.*
 - (1) No watercraft shall be docked or moored:
 - a. Except at an approved dock, wharf, boat slip, pier, tender or mooring pile within a standard mooring area or a marina mooring area designated pursuant to a conditional use approval;

Exhibit 4

- b. Such that it extends beyond the standard mooring area or if applicable, the marina mooring area; or
 - c. Such that it extends within five feet of an extended side property line.
- (2) The DSD shall have the right and authority to regulate the size or number of watercraft moored at a specific property when necessary to protect public safety.
- (e) *Designation of a marina mooring area.* A marina, or any applicant for a marina, located in the B-1 zoning district may request approval of a designated marina mooring area as part of a conditional use application or conditional use amendment for the marina. Such designation shall be subject to all the requirements of section 30-271.

(Ord. No. 316, § 1, 1-9-90; Ord. No. 415, § 2, 2-23-99; Ord. No. 2007-14, § 2(Exh. A), 9-25-07; Ord. No. 2015-17, § 5, 5-24-2016)

Sec. 30-127. Variances procedures and requirements.

- (a) *Purpose.* The purpose of this section is to:
- (1) Provide for minimum standards for consideration of variance applications;
 - (2) Provide for an orderly system of review of application for variances from the effect of zoning regulations on property within the Town in order to accord the owners and users of such property with the due process of law guaranteed by the Constitution of the United States of America and the State of Florida; and
 - (3) Provide for a set of procedures and standards to guide the DSD, Planning and Zoning Board and Town Commission in the review of an application for variance and the approval or denial thereof.
- (b) *Application.* Application shall be made as provided in section 30-112.
- (c) *Recommendations of the Planning and Zoning Board.*
- (1) The Planning and Zoning Board shall review applications for variances from the Town's Land Development Regulations in accordance with the procedures set forth in article IV, division 1 of this chapter.
 - (2) After receiving all relevant materials and information, the Planning and Zoning Board recommendation shall be by vote of a simple majority of the quorum present and voting.
 - (3) Decisions of the Planning and Zoning Board are advisory to the Town Commission.
 - (4) A recommendation for approval by the Planning and Zoning Board confers no legal right to the applicant in the absence of subsequent approval by the Town Commission.
- (d) *Action by Town Commission.*
- (1) The Town Commission shall make express findings on the elements necessary for the granting of a variance as provided in subsection (e) below.
 - (2) The decision of the Town Commission is not final until the filing of a development order with the Town Clerk which shall be recorded in the official records of Broward County.
- (e) *Criteria for considering an "application for a variance."* In considering an application for a variance, an application shall be evaluated by considering the following criteria:
- (1) Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.
 - (2) The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.
 - (3) The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.
 - (4) The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.
 - (5) The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

-
- (6) The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.
 - (7) Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.
- (f) *Duration.*
- (1) Such rights and privileges shall be terminated at such time as designated in the conditions of the approval of the variance, or upon any interruption or cessation of the use permitted by the variance for one year or more.
 - (2) The Town shall have continuing jurisdiction over all variances and may revoke, modify or suspend the approval of the variance, after a public hearing before the Town Commission and notice given in the same manner as required for approval of a variance under article IV, division 9 of this chapter, under the following conditions:
 - a. The variance was obtained by fraud or misrepresentation:
 - b. The variance has been exercised contrary to the conditions of its approval; or
 - c. The exception permitted by the variance has been exercised so as to be detrimental to the public health, safety or welfare, so as to constitute a nuisance.

(Ord. No. 2014-08, § 3, 7-7-2014; Ord. No. 2020-08 , § 4, 10-13-2020)



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
4400 PGA BOULEVARD, SUITE 500
PALM BEACH GARDENS, FLORIDA 33410

Exhibit 6

June 22, 2021

Regulatory Division
South Branch
Palm Beach Gardens Section
SAJ-2020-04812(LOP-VEK)

4403 Tradewinds, Inc.
c/o JoAnne Hoffman
4403-4405 West Tradewinds Ave
Lauderdale-by-the-Sea, FL 33308



Dear Ladies and Gentlemen:

This is in reference to your request for a Department of the Army (DA) permit to perform work in or affecting waters of the United States. If you determine the permit provided is acceptable in its entirety and you have chosen to proceed with the authorized activity, then upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344) you are authorized under a Letter of Permission to complete the following activities:

- removal of an existing 2,440 ft² wooden dock
- installation of a 3,525 ft² concrete marginal dock
- installation of a 318' x 3' seawall cap
- placement of 95 yd³ of rip rap within 1.5' waterward of the existing rip rap

The project is located adjacent to 4403-4405 West Tradewinds Ave in Lauderdale-by-the-Sea, Section 18, Township 49 South, Range 43 East within the Intracoastal Waterway, Broward County, Florida.

Geographic Position: Latitude: 26.190576
Longitude: -80.102396

The project must be completed in accordance with the enclosed construction drawings, and the general and special conditions which are incorporated in, and made a part of, the permit.

Special Conditions:

1. Reporting Address: The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:

a. For electronic mail (preferred): SAJ-RD-Enforcement@usace.army.mil (not to exceed 15 MB).

b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

The Permittee shall reference this permit number, SAJ-2020-04812 (LOP-VEK), on all submittals.

2. As-Built with X-Y Coordinates: Within 60 days of completion of the authorized work, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment 3) to the Corps. The drawings shall be signed and sealed by a surveyor licensed under Florida Statute 472 and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) on 8½-inch by 11-inch paper. The drawings shall include the X & Y State Plane coordination points of the most waterward point of the structure and a point at the mean high water line (MHWL) or the face of the bulkhead/seawall, if present. The drawings shall include: the dimensions of the structure, depth of water (at mean low water) at the waterward end of the structure, and the distance from the waterward end of the structure to the near bottom edge of the channel.

b. Listing of any deviations between the work authorized by this permit and the work as constructed. In the event the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. Placement of the Department of the Army Permit number on all sheets submitted.

3. Cultural Resources/Historic Properties:

a. No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and

which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on nonfederal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archaeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archaeologist and from the Corps.

4. Assurance of Navigation and Maintenance: The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim

shall be made against the United States on account of any such removal or alteration.

5. Consent to Easement: A portion of the authorized work may be located within the Federal right-of-way for the Intracoastal Waterway federal navigation channel and would require a Department of the Army Consent to Easement. By copy of this permit, the proposal is being forwarded to the Corps' Real Estate Division for action on the Consent to Easement. Failure to obtain the Consent to Easement or waiver invalidates this authorization. The Real Estate Division is responsible for issuing the Consent to Easement. Contact with Real Estate for questions or status updates can be done at Post Office Box 4970, Jacksonville, Florida 32232-0019 or by telephone at 904-570-4514. Rationale: Required as project appears to be within a Federal ROW Easement.

6. Project Design Criteria (PDCs) for In-Water Activities: The Permittee shall comply with National Marine Fisheries Service's "PDCs for In-Water Activities" dated November 20, 2017 (Attachment 5).

7. Manatee Conditions: The Permittee shall comply with the "Standard Manatee Conditions for In-Water Work – 2011" (Attachment 5).

8. Daylight Hours: All activities must be completed during daylight hours.

9. Construction Location: Project construction shall take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.

10. JAXBO PDCs for In-Water Noise from Pile and Sheet Pile Installation: The maximum number of concrete piles installed via impact hammer per day is limited to no more than 5 piles per day.

11. Fill Material: The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

12. Federal Channel Setback: The most waterward edge of the authorized project shall be constructed approximately 75.78 feet from the near edge of the federal channel.

13. Marine Species Educational Signs: signs must be posted in a visible

location(s), alerting users of listed species in the area susceptible to vessel strikes and hook-and-line captures. The most current version of the signs that must be downloaded and sign installation guidance are available at: <https://www.fisheries.noaa.gov/southeast/consultations/protected-species-educational-signs>

The signs required to be posted by area are stated below:

- All projects in Florida shall use the Save Dolphins, Sea Turtles, Sawfish and Manta Rays sign.

These signs shall include contact information to the sea turtle and marine mammal stranding networks and smalltooth sawfish encounter database.

14. Monofilament Recycling Bins: Monofilament recycling bins must be provided at the docking facility to reduce the risk of turtle or sawfish entanglement in, or ingestion of, marine debris. Monofilament recycling bins must:

- Be constructed and labeled according to the instructions provided at <http://mrrp.myfwc.com>
- Be maintained in working order and emptied frequently (according to <http://mrrp.myfwc.com> standards) so that they do not overflow.

15. Notice of Permit: The Permittee shall complete and record the “Notice of Department of the Army Authorization” form (Attachment 6) with the Clerk of the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property within the county of the authorized activity. Within 90 days from the effective date of this permit, the Permittee shall provide a copy of the recorded Notice of Permit to the Corps clearly showing a stamp from the appropriate official indicating the book and page at which the Notice of Permit is recorded and the date of recording.

16. Commencement Notification: Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed “Commencement Notification” Form (Attachment 7).

17. Agency Changes/Approvals: Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a

modification of this permit from the Palm Beach Gardens Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.

18. Section 401 Water Quality Certification: An Individual Environmental Resource Permit (ERP) has been issued (Attachment 9) which constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341. Per General Condition #5, you must comply with the conditions specified in the ERP as special conditions to this permit.

19. Coastal Zone Management Act Consistency Determination: An Individual Environmental Resource Permit (ERP) has been issued which constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act. You must comply with the conditions specified in the ERP as special conditions to this permit.

If the work authorized is not completed on or before **June 22, 2026**, authorization, if not previously revoked or specifically extended, shall cease and be null and void.

Instructions for Objecting to Permit Terms and Conditions: This letter contains an initial proffered permit for your proposed project/permit application. If you object to certain terms and conditions contained within the permit, you may request that the permit be modified. Enclosed you will find a Notification of Administrative Appeal Options and Process fact sheet and Request for Appeal (RFA) form. If you choose to object to certain terms and conditions of the permit, you must follow the directions provided in Section 1, Part A and submit the completed RFA form to the letterhead address.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the letterhead address by August 21, 2021.

Should you have any questions regarding this letter, please contact the project manager Virginia King in writing the letterhead address, by telephone at 561-472-3515, or by email at Virginia.E.King@usace.army.mil

The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while

working to preserve our environment. We invite you to take a few minutes to visit http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey and complete our automated Customer Service Survey. Your input is appreciated – favorable or otherwise.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Alisa Zarbo

For: Andrew D. Kelly, Jr.
Colonel, U.S. Army
District Commander

Enclosures

- Attachment 1: DA Permit Transfer Request Form
- Attachment 2: General Conditions
- Attachment 3: Notification of Administrative Appeal Form
- Attachment 4: As-Built Certification Form
- Attachment 5: JAXBO PDC's for In-Water Activities
- Attachment 6: Standard Manatee Conditions for In-Water Work
- Attachment 7: Notice of Permit Form
- Attachment 8: Commencement Notification Form
- Attachment 9: Section 401 WQC
- Attachment 10: Plan Drawings

REQUEST PERMIT TRANSFER: PERMIT NUMBER: SAJ-2020-04812 (LOP-VEK)

When the structures or work verified by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, the present permittee and the transferee should sign and date below. This document must then be provided to the U.S. Army Corps of Engineers, Regulatory Division, Post Office Box 4970, Jacksonville, Florida 32232-0019.

(TRANSFeree SIGNATURE) (DATE)

(Name - Printed) Lot/Block of site

(Street Address)

(City, State, and Zip Code)

Flood Plain Information:

This Department of the Army permit does not give absolute authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions. You should contact the local office in your area that issues building permits to determine if your site is located in a flood-prone or floodway area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program. If your local office cannot provide you the necessary information, you may request a flood hazard evaluation of the site by providing this office with a letter and a small scale map showing the location of the site. The request should be addressed to the **Chief, Flood Control and Floodplain Management Branch, Jacksonville District, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232-0019**. Phone inquiries may be made at 904-232-2515.

GENERAL CONDITIONS
33 CFR PART 320-330
PUBLISHED FR DATED 13 NOVEMBER 1986

1. The time limit for completing the work authorized ends on **the date noted in the permit letter**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: 4403 Tradewinds, Inc

File Number: **SAJ-2020-04812 (LOP-VEK)**

Date: 06/22/21

Attached is:

See Section below

☒	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
☐	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
☐	PERMIT DENIAL	C
☐	APPROVED JURISDICTIONAL DETERMINATION	D
☐	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

Project Manager as noted in letter

If you have questions regarding the appeal process you may contact:

Phillip A. Shannin
404-562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

*Within sixty (60) days of completion of the authorized work, submit this form and one set of as-built engineering drawings via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, but not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-3697.*

1. Department of the Army Permit Number: SAJ-2020-04812 (LOP-VEK)

2. Permittee Information:

Name: _____

Address: _____

3. Project Site Identification (physical location/address):

4. As-Built Certification: I hereby certify that the authorized work, including any mitigation required by Special Conditions to the permit, has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

Signature of Engineer

Name (*Please type*)

(FL, PR, or VI) Reg. Number

Company Name

City

State

ZIP

(Affix Seal)

Date

Telephone Number

Date Work Started:_____ Date Work Completed:_____

Identify any deviations from the approved permit drawings and/or special conditions (attach additional pages if necessary):

**U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological
Opinion (JaxBO) Project Design Criteria (PDCs) for In-Water Activities**

November 20, 2017

- 1) **(AP.7.) Education and Observation:** The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:
http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html
- 2) **(AP.8.) Reporting** of interactions with protected species:
 - a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to takereport.nmfs@noaa.gov and SAJ-RD-Enforcement@usace.army.mil.
 - b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email Sawfish@MyFWC.com
 - c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email nmfs.ser.sturgeonnetwork@noaa.gov
 - d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
 - e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.
- 3) **(AP.9.) Vessel Traffic and Construction Equipment:** All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:
 - a) *Construction Equipment:*
 - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
 - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
 - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of

construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.

b) *All Vessels:*

- i) Sea turtles: Maintain a minimum distance of 150 ft.
- ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
- iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
- iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
- v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
- vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
- vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

- 4) **(AP.10.) Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:

- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
- c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
- d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
- e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm

Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):

- i) Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
 - ii) The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cableline). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.
- 5) **(AP.11.) Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.
- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
 - b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.

CAUTION: MANATEE HABITAT

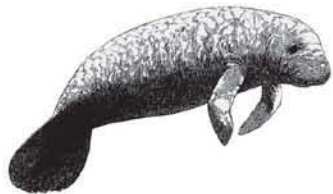
All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work
all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:



Wildlife Alert:

1-888-404-FWCC(3922)

cell *FWC or #FWC

Prepared by:

Permittee: _____

Address: _____

Phone: _____

NOTICE OF DEPARTMENT OF THE ARMY AUTHORIZATION

TAKE NOTICE the United States Army Corps of Engineers (Corps) has issued a permit or verification SAJ-2020-04812 (LOP-VEK) to 44003 Tradewinds, Inc. (Permittee) on June 22, 2021, authorizing work in navigable waters of the United States in accordance with Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403) on a parcel of land known as Folio/Parcel ID:

_____ located at 4403-4405 West Tradewinds Ave, in Section 18, Township 49 South, Range 43 East, Lauderdale-by-the-Sea, Broward County, Florida.

Within 30 days of any transfer of interest or control of said property, the Permittee must notify the Corps in writing of the property transfer by submitting the completed permit transfer page included with the issued permit or verification. The subject permit or verification concerns only that portion of the property determined to fall within the jurisdiction of the Corps and this notice is applicable only to those portions of the subject property in, over, under, or affecting navigable waters of the United States.

Conditions of the Permit/Verification: The permit or verification is subject to General Conditions and Special Conditions which may affect the use of the work authorized in the Intracoastal Waterway. Accordingly, interested parties should closely examine the entire permit or verification, all associated applications, and any subsequent modifications.

To obtain a copy of the authorization in its entirety submit a written request to:
U.S. Army Corps of Engineers
Regulatory Division - Special Projects & Enforcement Branch
Post Office Box 4970
Jacksonville, Florida 32232-0019

Questions regarding compliance with these conditions should be directed to:
U.S. Army Corps of Engineers
Enforcement Section
Post Office Box 4970
Jacksonville, Florida 32232-0019

Conflict Between Notice and Permit

This Notice of Authorization is not a complete summary of the issued permit or verification. Provisions in this Notice of Permit shall not be used in interpreting the

permit or verification provisions. In the event of conflict between this Notice of Permit and the permit or verification, the permit or verification shall control.

This Notice is Not an Encumbrance

This Notice is for informational purposes only. It is not intended to be a lien, encumbrance, or cloud on the title of the premises.

Release

This Notice may not be released or removed from the public records without the prior written consent of the Corps.

This Notice of Authorization is executed on this _____ day of _____, _____. This document is being submitted for recordation in the Public Records of Broward County, Florida as part of the requirement imposed by the authorization SAJ-2020-04812 (LOP-VEK) issued by Corps.

Permittee:

Address:

Phone: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or has produced _____ as identification.

Notary Public

(seal)

Print

My Commission Expires _____

COMMENCEMENT NOTIFICATION

*Within ten (10) days of initiating the authorized work, submit this form via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. Department of the Army Permit Number: SAJ-2020-04812 (LOP-VEK)

2. Permittee Information:

Name: _____

Email: _____

Address: _____

Phone: _____

3. Construction Start Date: _____

4. Contact to Schedule Inspection:

Name: _____

Email: _____

Phone: _____

Signature of Permittee

Printed Name of Permittee

Date



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Project Name: 4403 Tradewinds, Inc.

Permittee/Authorized Entity:

4403 Tradewinds, Inc.
c/o JoAnn Hoffman
4403-4405 W Tradewinds Ave.
Lauderdale by the Sea
Email: Tyler@thechappellgroup.com

Authorized Agent:

The Chappell Group, Inc.
c/o Tyler Chappell, Vice President
Email: Tyler@thechappellgroup.com

Environmental Resource Permit - Granted

State-owned Submerged Lands Authorization – Not Applicable

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Permit No.: 06-395244-001-EI

Permit Issuance Date: February 19, 2021

Permit Construction Phase Expiration Date: February 19, 2026

Environmental Resource Permit

Permit No.: 06-395244-001-EI

PROJECT LOCATION

The activities authorized by this Permit are located within the Intracoastal Waterway, Class III Waters, adjacent to 4403-4405 W Tradewinds Ave., (Section 18, Township 49 South, Range 43 East), in Broward County (Latitude N 26° 11' 25.34", Longitude W -80° 06' 08.41").

PROJECT DESCRIPTION

This permit authorizes the reconstruction of an existing 10-slip docking facility. The project includes the following activities: 1) removal of an existing 2,440 square foot marginal dock; 2) construction of a 318 linear foot seawall cap, and; 3) construction of a 3,525 square foot marginal dock.

This permit authorizes 3,525 ft² of work in surface waters. Submerged Resources are not located within the project boundaries; therefore, there will be no adverse impacts to resources.

AUTHORIZATIONS

Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

Sovereignty Submerged Lands Authorization

As staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), the Department has determined the activity is not on submerged lands owned by the State of Florida. Therefore, your project is not subject to the requirements of Chapter 253, F.S., or Rule 18-21, F.A.C.

Federal Authorization

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the Corps. You must apply separately to the Corps using their APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at:

<https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book>.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection (or Duly Authorized Designee), State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

Coastal Zone Management

Issuance of this authorization also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

Water Quality Certification

This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this activity may be required by other federal, state, regional, or local entities including but not limited to local governments or municipalities. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

PERMIT

The activities described must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit.

(1) The attached project drawings (sheets 1 through 6); the Standard Manatee Conditions for In-Water Work, 2011, and DEP forms 62-330.310(1); 62-330.310(2), 62-330.310(3); 62-330.340(1); and 62-330.350(1), which may be downloaded at <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm> become part of this permit. If the permittee does not have access to the Internet, please contact the Department at (561) 681-6600 to request the aforementioned forms and/or document(s).

SPECIFIC CONDITIONS - PRIOR TO CONSTRUCTION

(2) After selection of the contractor to perform the authorized activities and prior to the initiation of any work authorized by this permit, the permittee (or authorized agent) and the contractor shall attend a pre-construction conference with a representative of the Department. It shall be the responsibility of the permittee to contact the Department's Compliance Assistance Program, by email SED_Compliance@FloridaDEP.gov, or by phone (561) 681-6600, to schedule the pre-construction conference.

(3) Prior to the initiation of any work authorized by this permit, floating turbidity curtains with weighted skirts that extend to within one foot of the bottom shall be placed around the project site and shall be maintained and remain in place for the duration of the project construction to ensure that turbid discharges do not occur outside the boundaries of the floating turbidity screens. Additionally, staked erosion control devices shall be placed around the upland project area and any upland staging areas. All submerged resources, and surface waters outside the specific limits of construction authorized by this permit shall be protected from erosion, siltation, sedimentation, and/or scouring. Staked erosion control devices shall also be maintained and shall remain in place for the duration of the project construction to ensure that turbid discharges into wetlands or surface waters do not occur. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order during all phases of construction authorized by this permit until all areas that were disturbed during construction are sufficiently stabilized to prevent turbid discharges.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

(4) No dredging or filling of submerged grass beds or live bottom communities is authorized by this permit.

(5) Storage or stockpiling of tools and materials (i.e., lumber, pilings, debris,) within wetlands, along the shoreline, within the littoral zone, or elsewhere within wetlands or other surface waters is prohibited. This includes floating of pilings in surface waters. All vegetative material and debris shall be removed to a self-contained upland disposal area with no stockpiling of debris within wetland areas.

(6) A floating turbidity curtain shall be installed around the construction area and will remain in place until pilings have been installed and turbidity levels within the work area have returned to background levels prior to construction of the dock.

(7) Watercraft associated with the construction of the permitted structure shall operate within waters of sufficient depth to preclude bottom scouring, prop dredging or damage to submerged bottom or submerged resources. During all construction activities, there shall be a minimum of 1-foot clearance between the draft of the construction vessel/barge and the top of any submerged resources or submerged bottom.

SPECIFIC CONDITIONS – MONITORING/REPORTING REQUIREMENTS

(8) Turbidity levels outside the construction area shall not exceed 29 NTU's above background levels. The following measures shall be taken immediately by the permittee whenever turbidity levels within waters of the State surrounding the project site exceed 29 NTUs above background:

- a. Notify the Department at (561) 681-6600 at the time the violation is first detected.
- b. Immediately cease all work contributing to the water quality violation.
- c. Stabilize all exposed soils contributing to the violation. Modify the work procedures that were responsible for the violation, install more turbidity containment devices, and repair any non-functional turbidity containment devices.
- d. Perform turbidity monitoring.
- e. Resume construction activities once turbidity levels outside turbidity curtains fall below 29 NTUs.

(9) Water turbidity levels shall be monitored and recorded at least every 4 hours upon the occurrence of other circumstances that might create water quality violations on site. Samples shall be taken one foot above the bottom, mid-depth, and one-foot below the surface at monitoring stations located as follows:

- a. Approximately 100 feet up-current of the work sites and clearly outside the influence of construction activities. (This shall serve as the natural background sample against which other turbidity readings shall be compared.)
- b. Directly outside the turbidity curtains surrounding the work sites and within the densest portion of any visible turbidity plume. (This sample shall serve as the compliance sample.)

(10) During non-compliance events activities, the permittee or permittee's contractor shall collect the following turbidity monitoring data at the frequency and water depths directed by the Specific Condition above:

- a. Date and time of sampling event
- b. Turbidity sampling results (background NTUs, compliance NTUs, and the difference between them)
- c. Description of data collection methods
- d. An aerial map indicating the sampling locations
- e. Depth of sample(s)
- f. Weather conditions at times of sampling
- g. Tidal stage and direction of flow

Data shall be collected in a turbidity log and shall include a statement by the individual responsible for implementation of the sampling program attesting to the authenticity, precision, limits of detection, and accuracy of the data. The turbidity log shall be scanned and sent on a weekly basis to the Department's Compliance Assistance Program by email at SED_Compliance@floridadep.gov. The subject line of the email shall include the project name, permit number, and the title "Turbidity Monitoring Reports."

SPECIFIC CONDITIONS – OPERATING CONDITIONS

(11) Vessels utilizing this structure shall maintain a minimum of one foot clearance between the deepest draft of the vessel with the engine in the down position and the submerged bottom so as to preclude bottom scouring or prop dredging.

SPECIFIC CONDITIONS – MANATEE CONDITIONS

(12) The permittee shall comply with the standard manatee protection construction conditions listed in the attached "2011 Standard Manatee Conditions for In-Water Work".

SPECIFIC CONDITIONS – LISTED SPECIES

(13) This permit does not authorize the permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are

available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a “take” permit cannot be issued. Requests for further information or review can be sent to FWCConservationPlanningServices@MyFWC.com.

GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

(1) All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.

(2) A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.

(3) Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.

(4) At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), “Construction Commencement Notice,” [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.

(5) Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.

(6) Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:

- a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex – “Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit” [Form 62-330.310(3)]; or
- b. For all other activities – “As-Built Certification and Request for Conversion to Operational Phase” [Form 62-330.310(1)].
- c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.

(7) If the final operation and maintenance entity is a third party:

- a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
- b. Within 30 days of submittal of the as- built certification, the permittee shall submit “Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity” [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

(8) The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

(9) This permit does not:

- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
- b. Convey to the permittee or create in the permittee any interest in real property;
- c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
- d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

(10) Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

(11) The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.

(12) The permittee shall notify the Agency in writing:

- a. Immediately if any previously submitted information is discovered to be inaccurate; and

- b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

(13) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.

(14) If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

(15) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.

(16) The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

(17) This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.

(18) A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until a subsequent order of the Department. Because the administrative hearing

process is designed to formulate final agency action, the subsequent order may modify or take a different position than this action.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do

not publish notice of this action, this waiver may not apply to persons who have not received a clear point of entry.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Norva Blandin, MSEM
Program Administrator
Permitting Program
Southeast District

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this permit and all copies were sent on the filing date below to the following listed persons:

FDEP – Norva Blandin MSEM, Jeffrey Meyer, David White, David Petti

Linda Sunderland, Broward County EPD, LSunderland@broward.org

Jena Robbins, Senior Project Biologist, The Chappell Group Inc., jena@thechappellgroup.com

Kathryn Bongarzone, Project Manager, The Chappell Group, Inc., kathryn@thechappellgroup.com

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

February 19, 2021

Date

Attachments:

Project Drawings and Design Specs., 6 pages

Standard Manatee Conditions for In-Water Work, 2011

As-built Certification and Request for Conversion to Operational Phase Form 62-330.310(1)*

Request for Transfer to the Perpetual Operation Entity Form 62-330.310(2)*

Request to Transfer Permit Form 62-330.340(1)*

Commencement Notice Form 62-330.350(1)*

*Can be downloaded at: <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/forms-environmental-resource>



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

May 11, 2021

4403 Tradewinds, Inc.
c/o JoAnn Hoffman
4403-4405 W Tradewinds Ave.
Lauderdale by the Sea, Fort Lauderdale, FL 33308
Tyler@thechappellgroup.com

Re: Project Name: 4403 Tradewinds, Inc.
Permit No.: 06-395244-002-EM
Modification of Permit No.: 06-395244-001-EI

Dear Ms. Hoffman:

Your request to modify this permit has been received and reviewed by Department staff. The modification consists of the installation of 318+/- linear feet (95+/- cubic yards) of rip rap underneath the dock permitted in 06-395244-001-EI.

The above modification is not expected to adversely affect water quality and will not be contrary to or will be clearly in the public interest.

Since the proposed modification is not expected to result in any adverse environmental impact or water quality degradation, the permit is hereby modified as requested. By copy of this letter, we are notifying all necessary parties of the modifications.

This letter of approval does not alter the original expiration date of February 19, 2026, and does not change the original General or Specific Conditions (except as modified herein), or monitoring requirements of the permit (except as modified herein). This letter and attached drawings must be attached to the original permit.

NOTICE OF RIGHTS

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- (a) The name and address of each agency affected and each agency's file or identification number, if known;
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- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
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Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Norva Blandin, MSEM
Program Administrator
Permitting Program
Southeast District

Project Name: 4403 Tradewinds, Inc.
Permit No.: 06-395244-002-EM
Modification of Permit No.: 06-395244-001-EI
Page 4 of 4

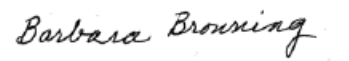
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FDEP – Norva Blandin MSEM, Jeffrey Meyer, David White, David Petti
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kathryn@thechappellgroup.com

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.

 _____	<u>May 11, 2021</u>
Clerk	Date

Enclosures:

Revised Permit Sketches, 6 pages

4403-4405 TRADEWINDS AVE PLAN SET



LOCATION MAP (N.T.S.)

DRAWING INDEX

SHEET 1: COVER

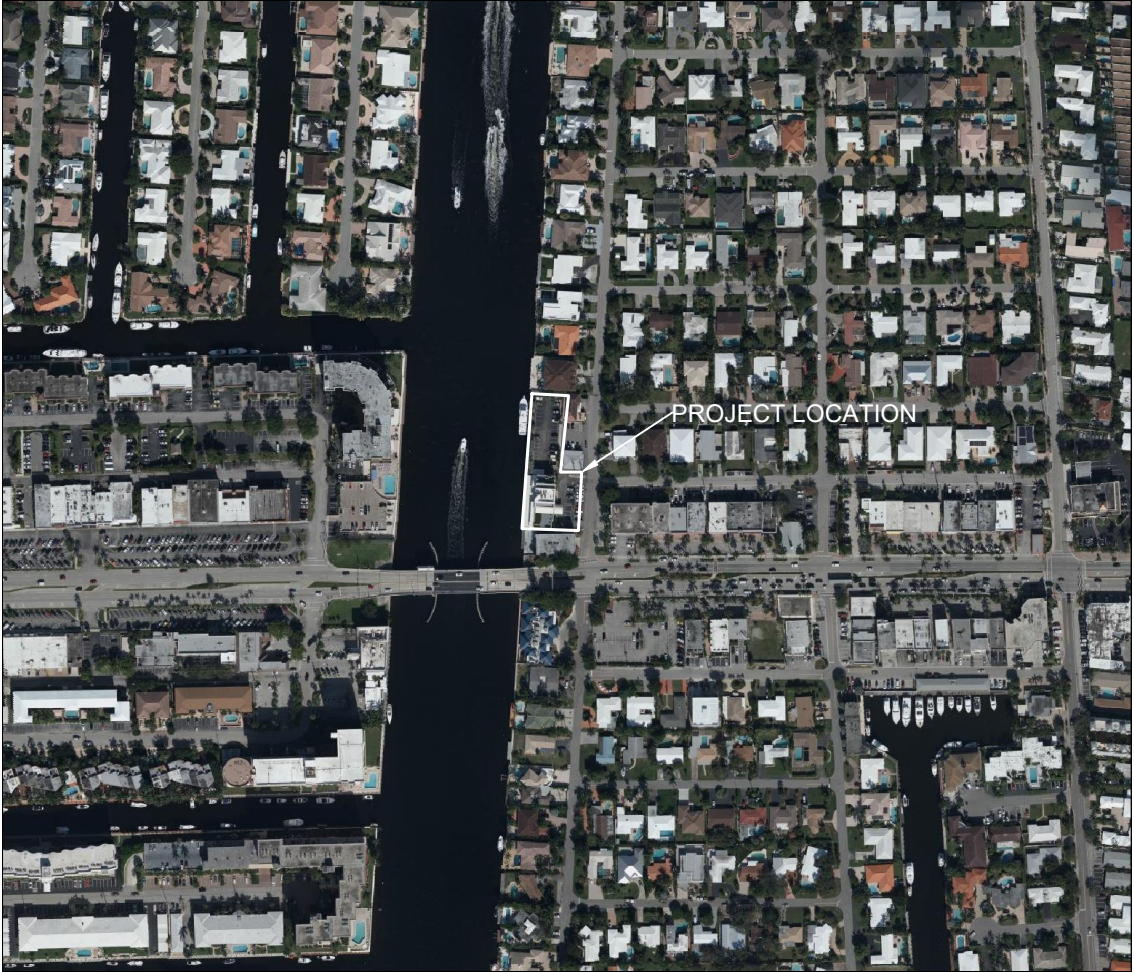
SHEET 2: EXISTING
CONDITIONS

SHEET 3: PROPOSED
CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

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THE Chappell
GROUP INC.
714 East McNab Road
Pompano Beach, Florida 33060
tel. 954.782.1908
fax. 954.782.1108
www.thechappellgroup.com

- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

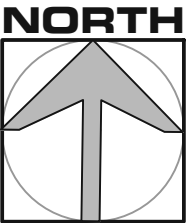
PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

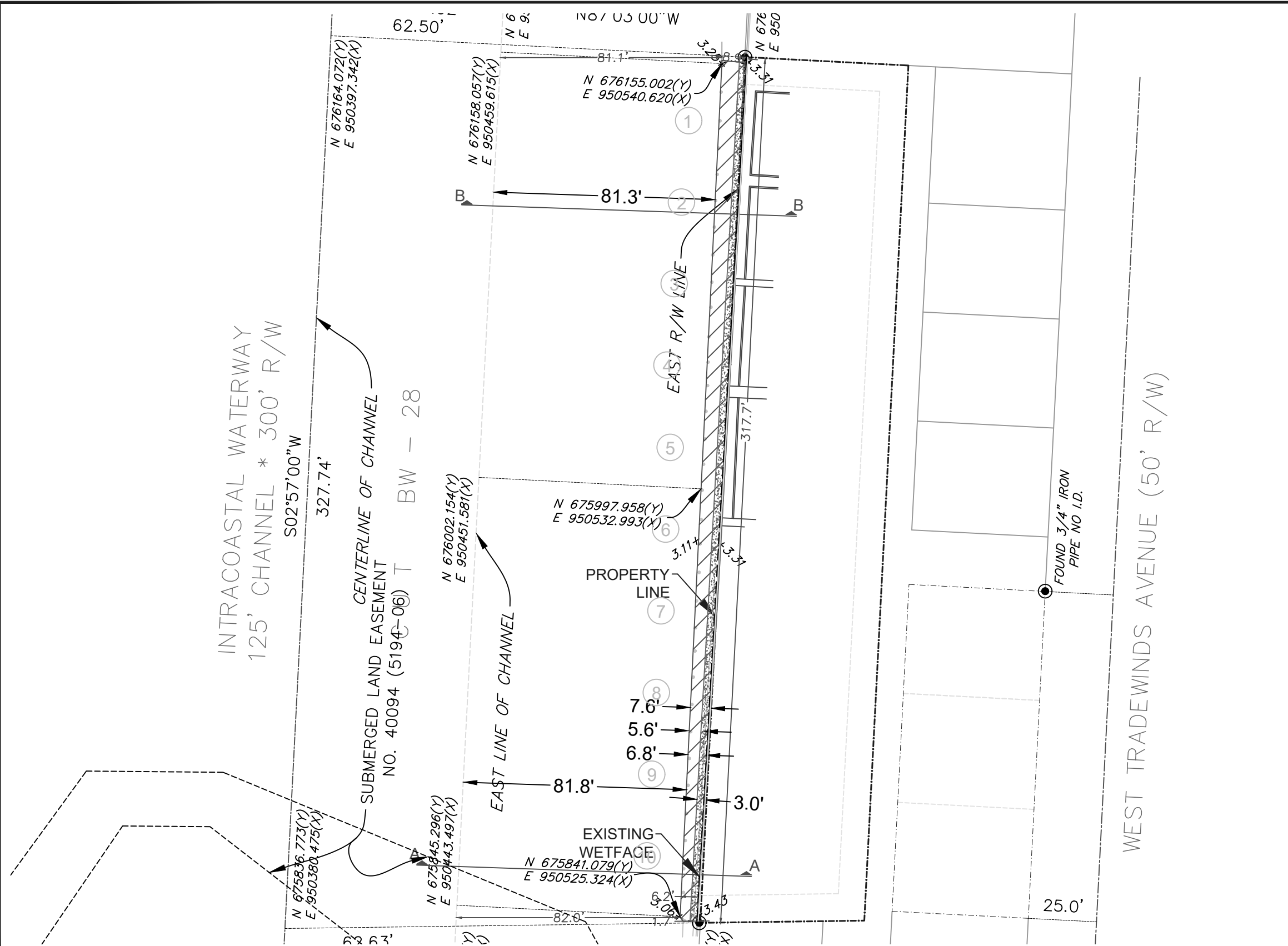
Date:
2/10/2021
Proj No.:
20-0077

Sheet :
1

of :
6



SCALE
1" = 40'



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- EXISTING WOOD MARGINAL DOCK TO BE REMOVED (±2,440 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88
NOTE: SURVEY INFORMATION PROVIDED BY
MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN
AS NAVD88.

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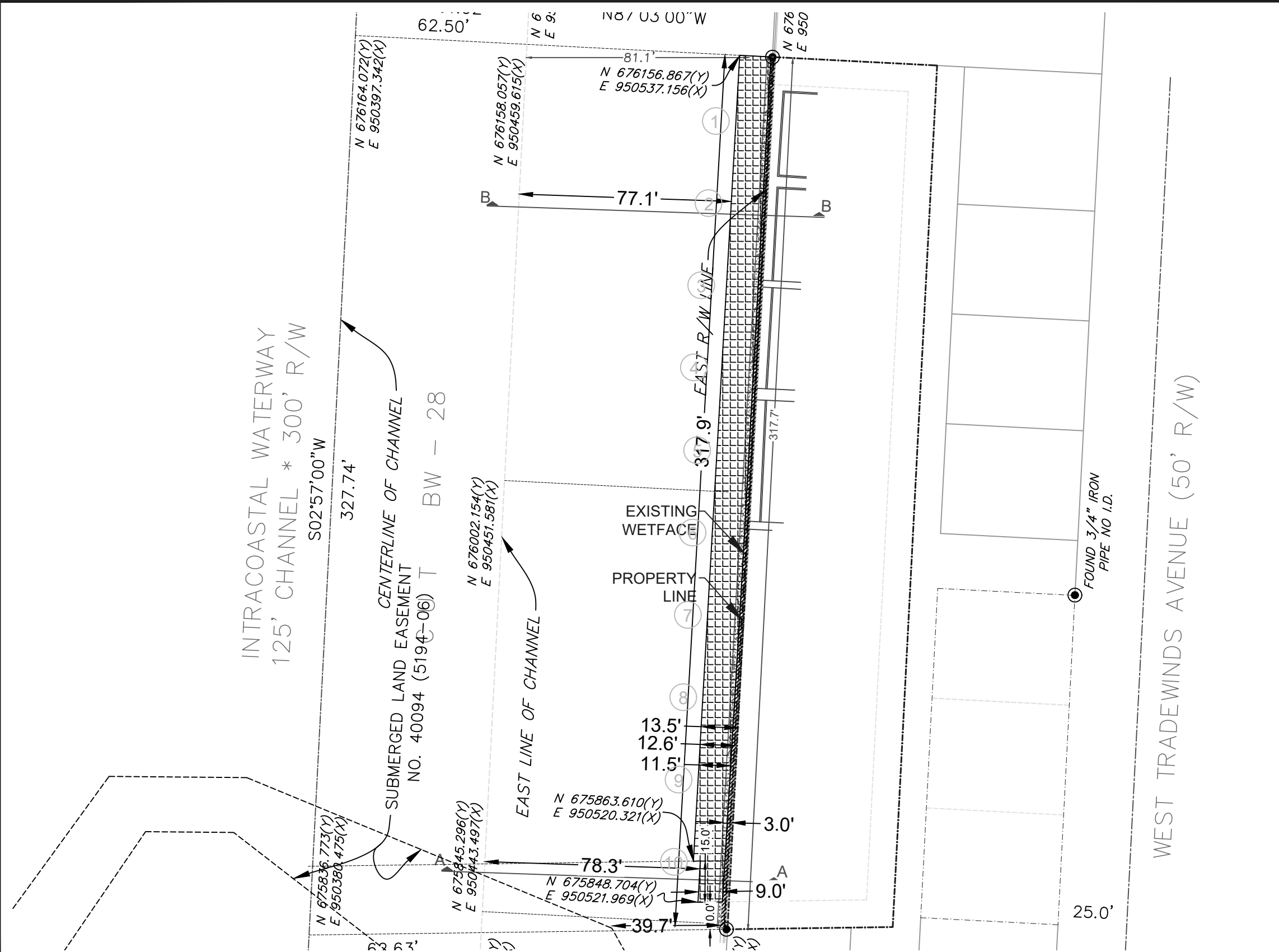
www.thechappellgroup.com

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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

EXISTING CONDITIONS		
Date: 2/10/2021	Sheet :	of :
Proj No.: 20-0077	2	6



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
- PROPOSED CONCRETE MARGINAL DOCK (±3,525 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,161SQ. FT.

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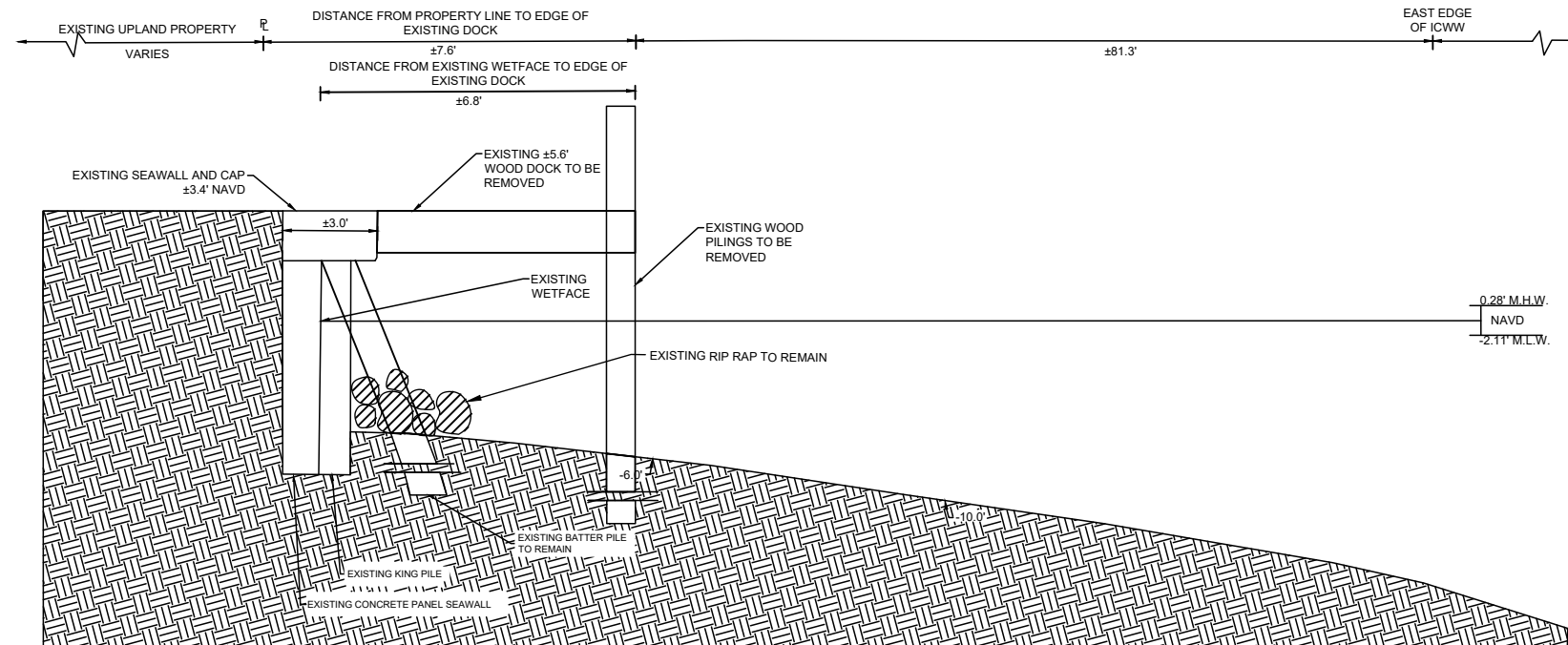
4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

PROPOSED CONDITIONS		
Date: 2/10/2021	Sheet : 3	of : 6
Proj No.: 20-0077		

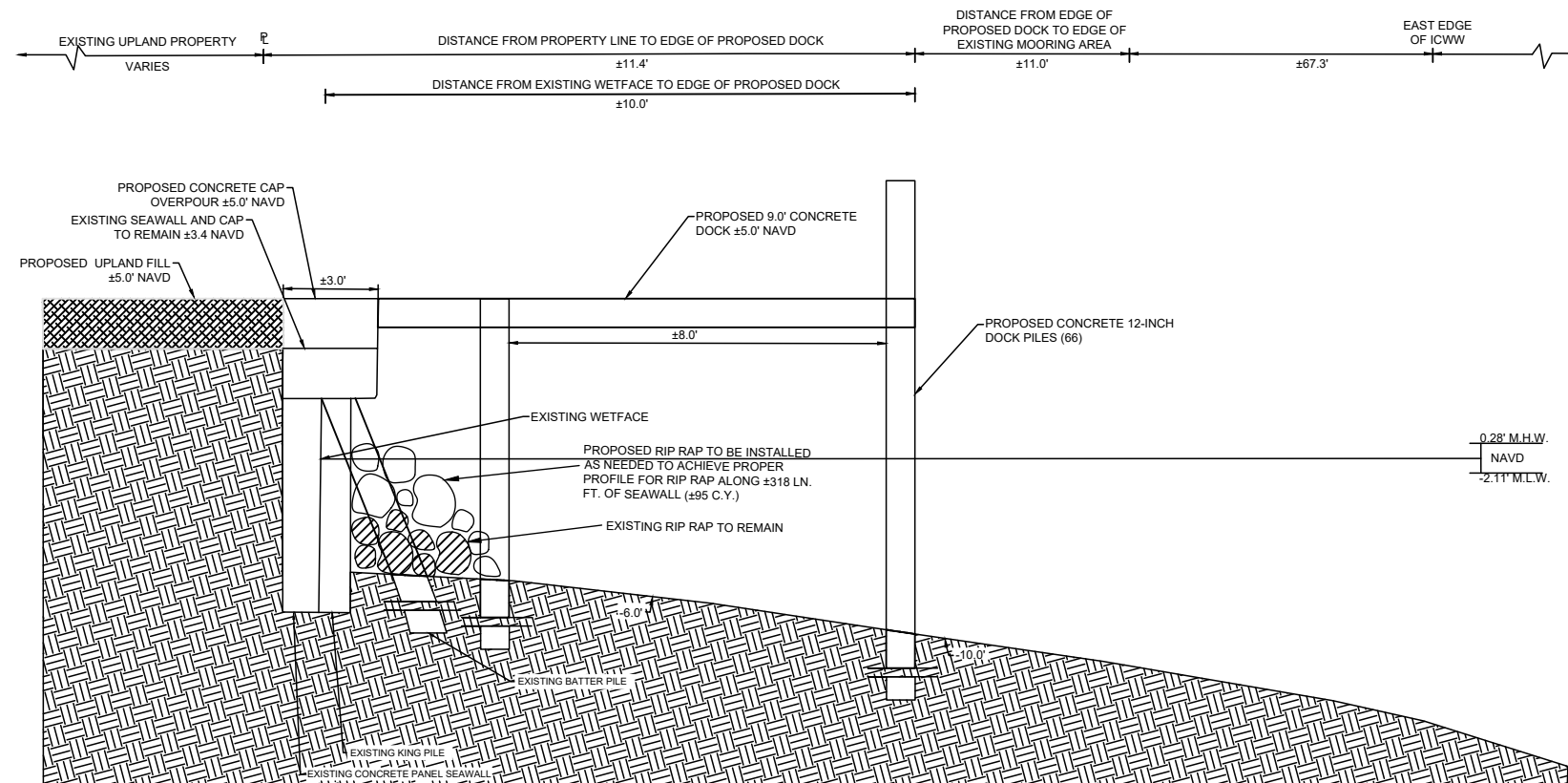
EXISTING CONDITIONS A-A (TYP.)

N.T.S.



PROPOSED CONDITIONS A-A (TYP.)

N.T.S.



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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

SECTION A

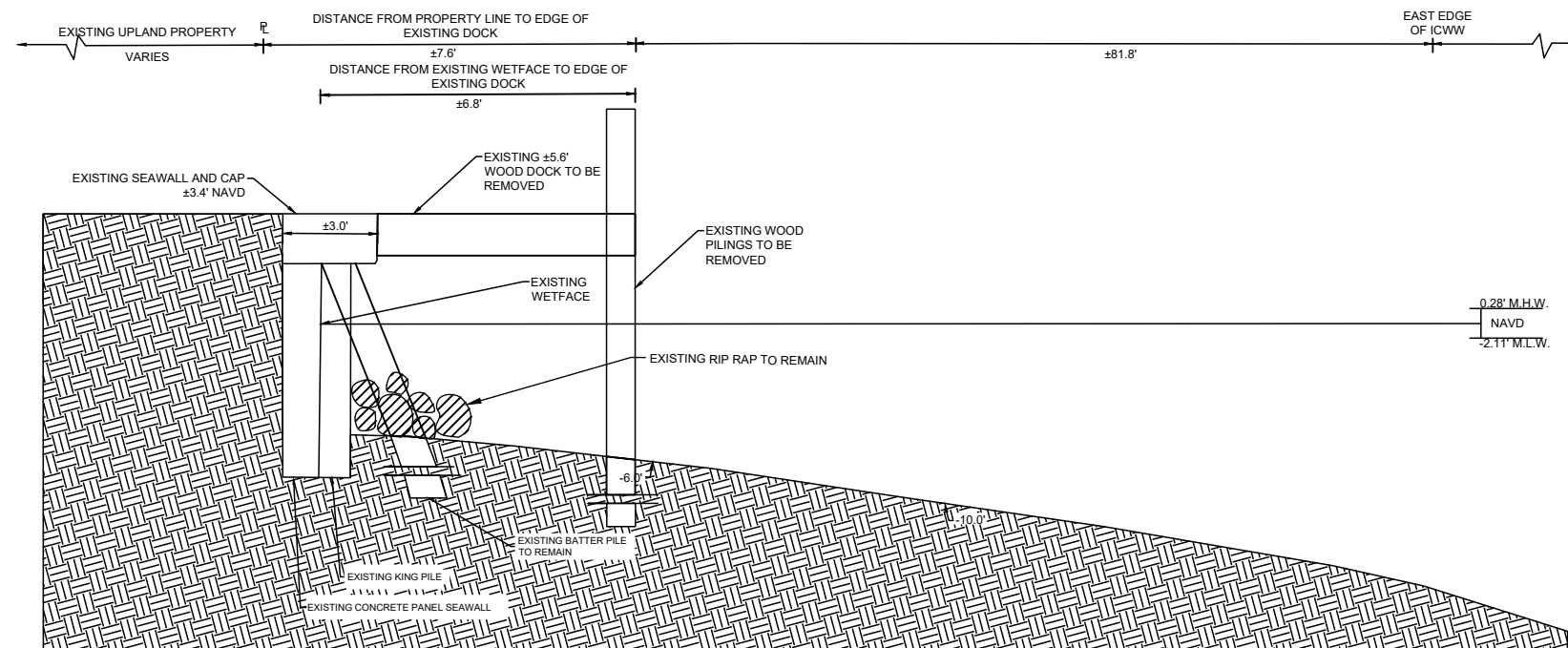
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Proj No.:
20-0077

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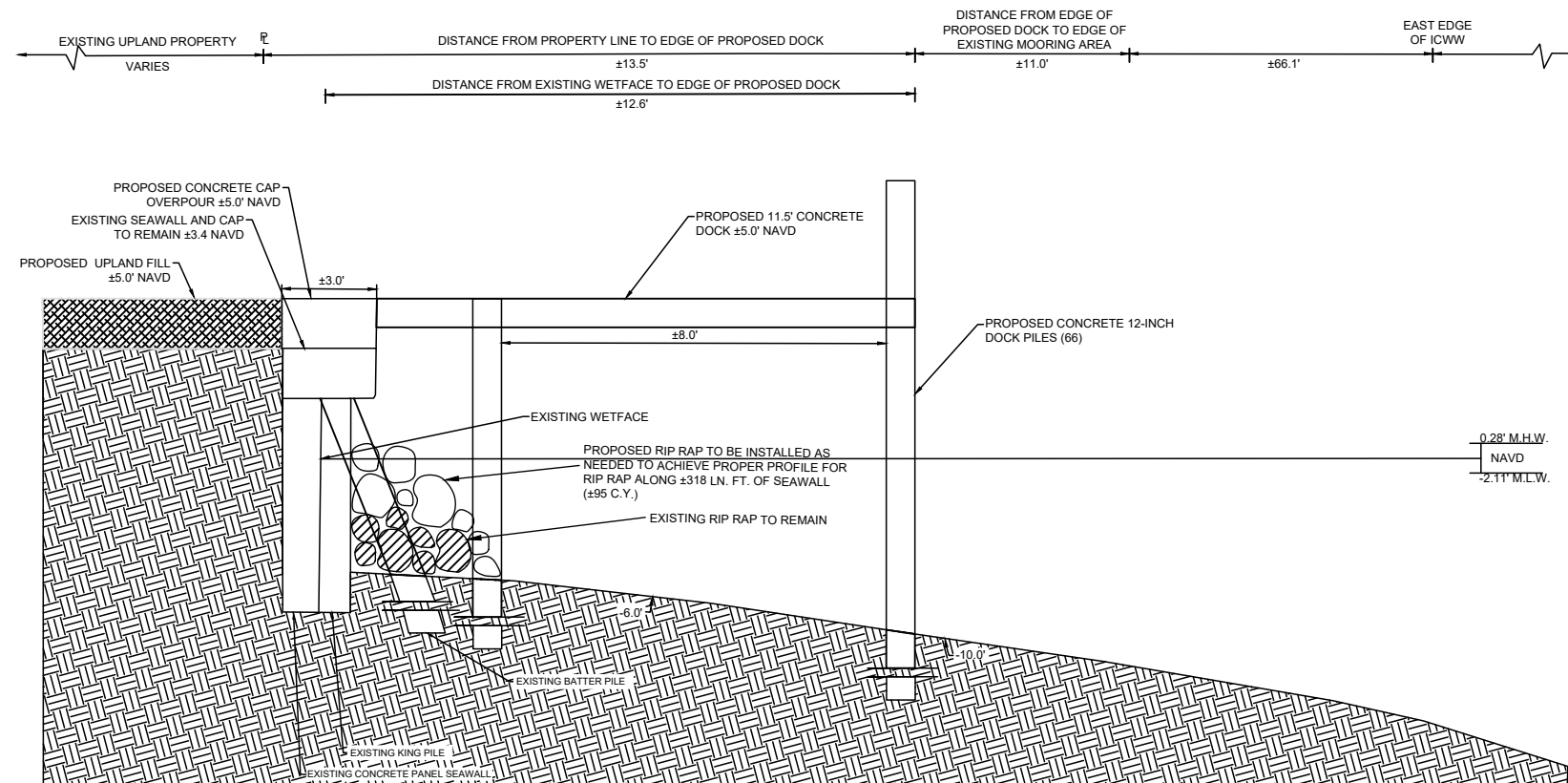
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6

EXISTING CONDITIONS B-B (TYP.)

N.T.S.

**PROPOSED CONDITIONS B-B (TYP.)**

N.T.S.



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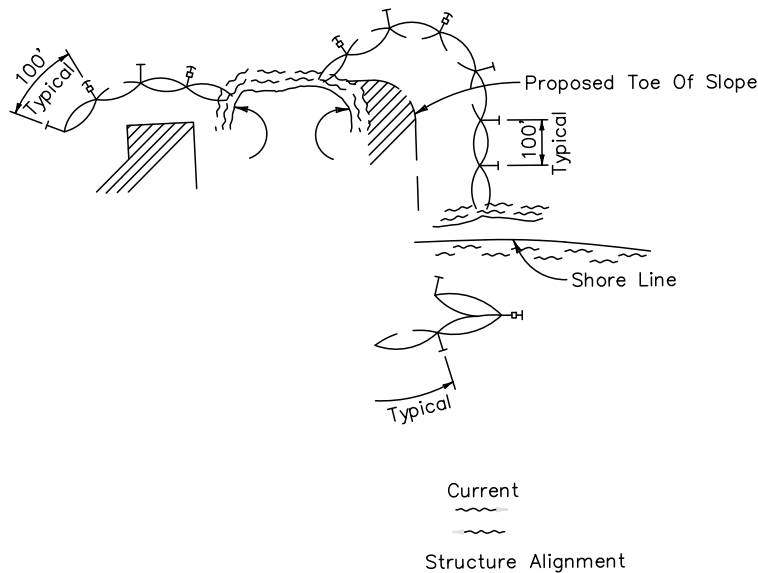
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2/10/2021
Proj No.:
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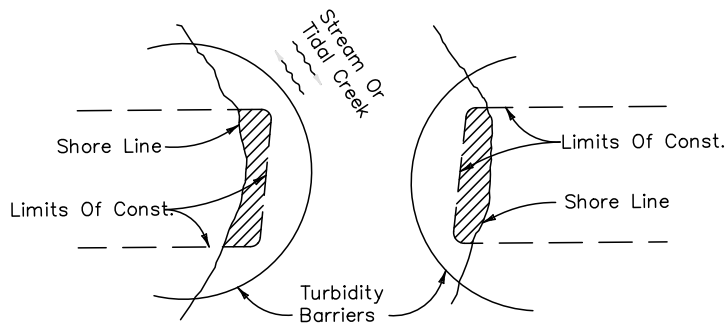
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of :
6

CONSTRUCTION BARGE
(TYP.)



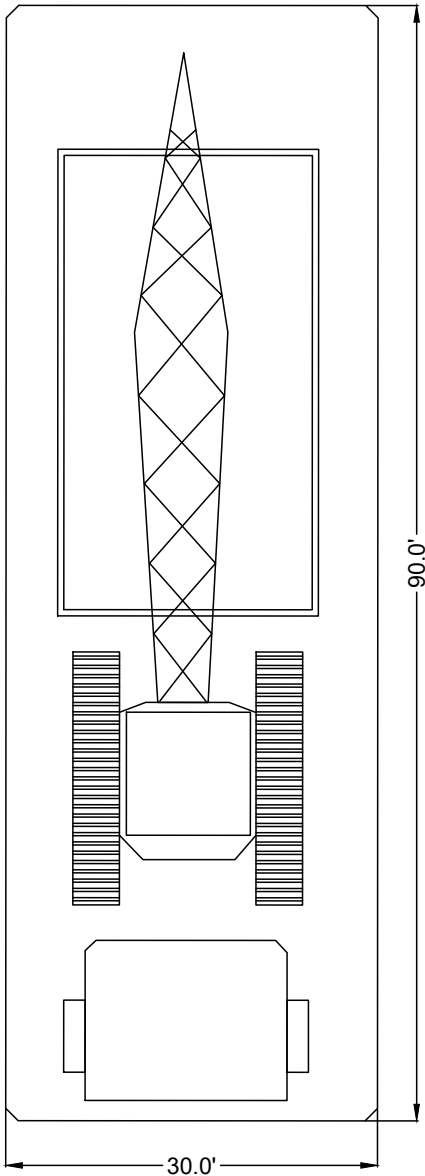
- LEGEND
- Pile Locations
 - ▨ Dredge Or Fill Area
 - ⊕ Mooring Buoy w/Anchor
 - Anchor
 - Barrier Movement Due To Current Action



Note:
Turbidity barriers for flowing streams and tidal creeks may be either floating, or staked types or any combinations of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractors option unless otherwise specified in the plans, however payment will be under the pay item(s) established in the plans for Floating Turbidity Barrier and/or Staked Turbidity Barrier. Posts in staked turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.

1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of anchors dependent on current velocities.
3. Deployment of barrier around pile locations may vary to accommodate construction operations.
4. Navigation may require segmenting barrier during construction operations.
5. For additional information see Section 104 of the Standard Specifications.

TURBIDITY BARRIER APPLICATIONS



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DETAILS		
Date: 2/10/2021	Sheet : 6	of : 6
Proj No.: 20-0077		



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
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561-681-6600

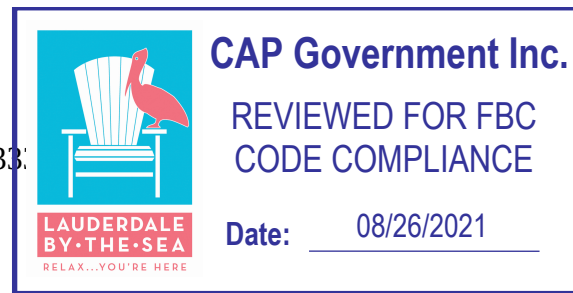
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STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Norva Blandin, MSEM
Program Administrator
Permitting Program
Southeast District

Project Name: 4403 Tradewinds, Inc.
Permit No.: 06-395244-002-EM
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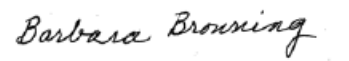
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Linda Sunderland, Broward County EPD, LSunderland@broward.org
Jena Robbins, Senior Project Biologist, The Chappell Group Inc., jena@thechappellgroup.com
Kathryn Bongarzone, Project Manager, The Chappell Group, Inc.,
kathryn@thechappellgroup.com

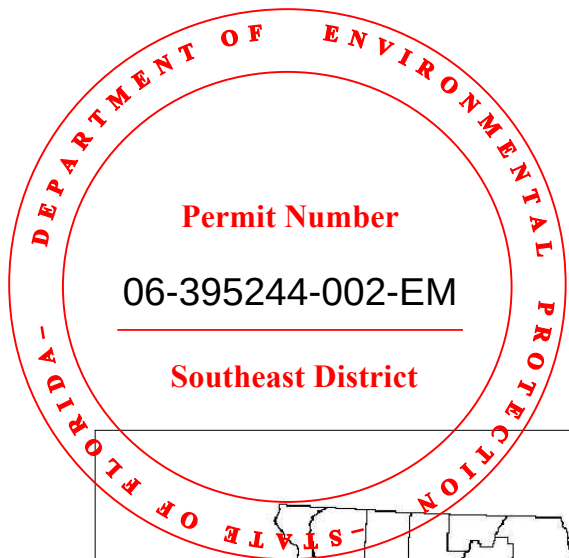
FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.

 _____	<u>May 11, 2021</u>
Clerk	Date

Enclosures:

Revised Permit Sketches, 6 pages



4403-4405 TRADEWINDS AVE PLAN SET



LOCATION MAP (N.T.S.)

DRAWING INDEX

SHEET 1: COVER

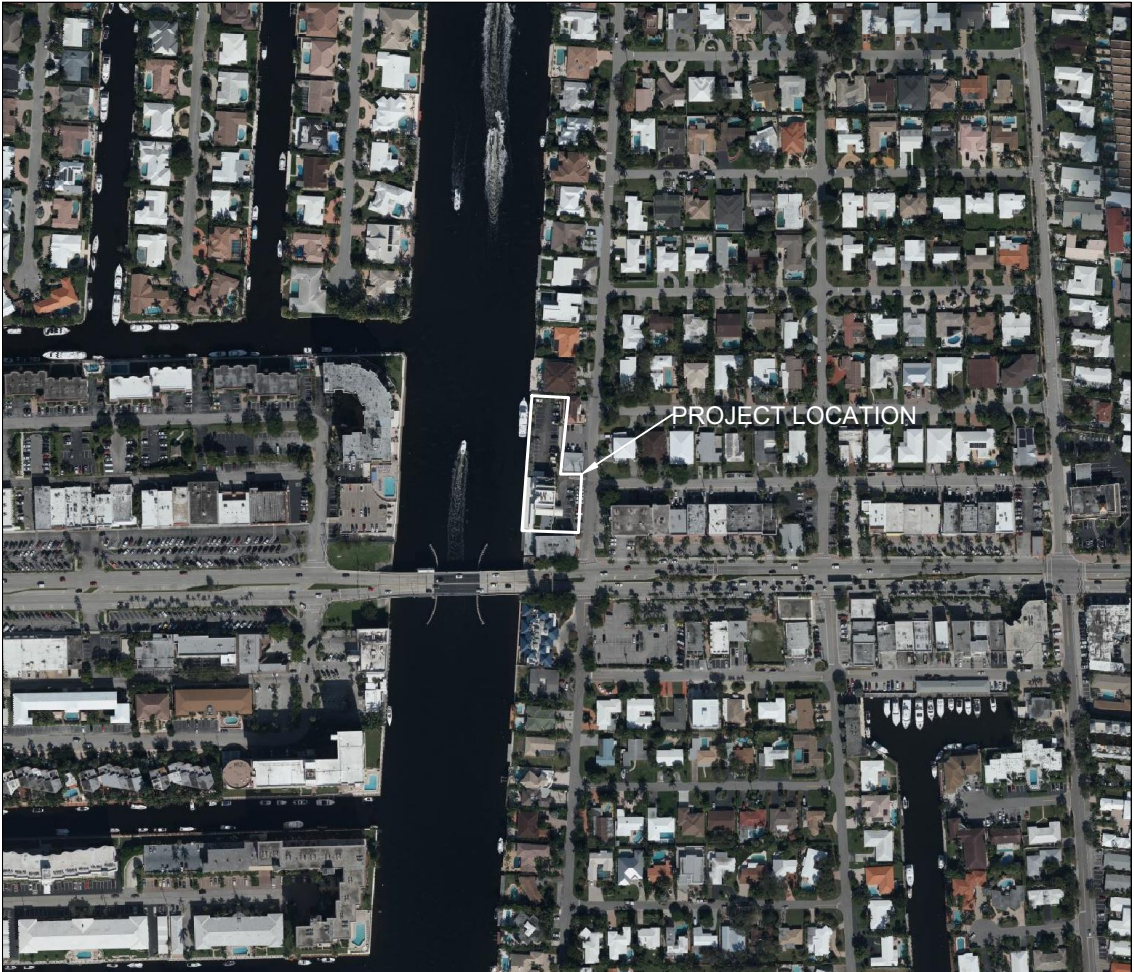
SHEET 2: EXISTING
CONDITIONS

SHEET 3: PROPOSED
CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

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THEChappell**INC.**
GROUP

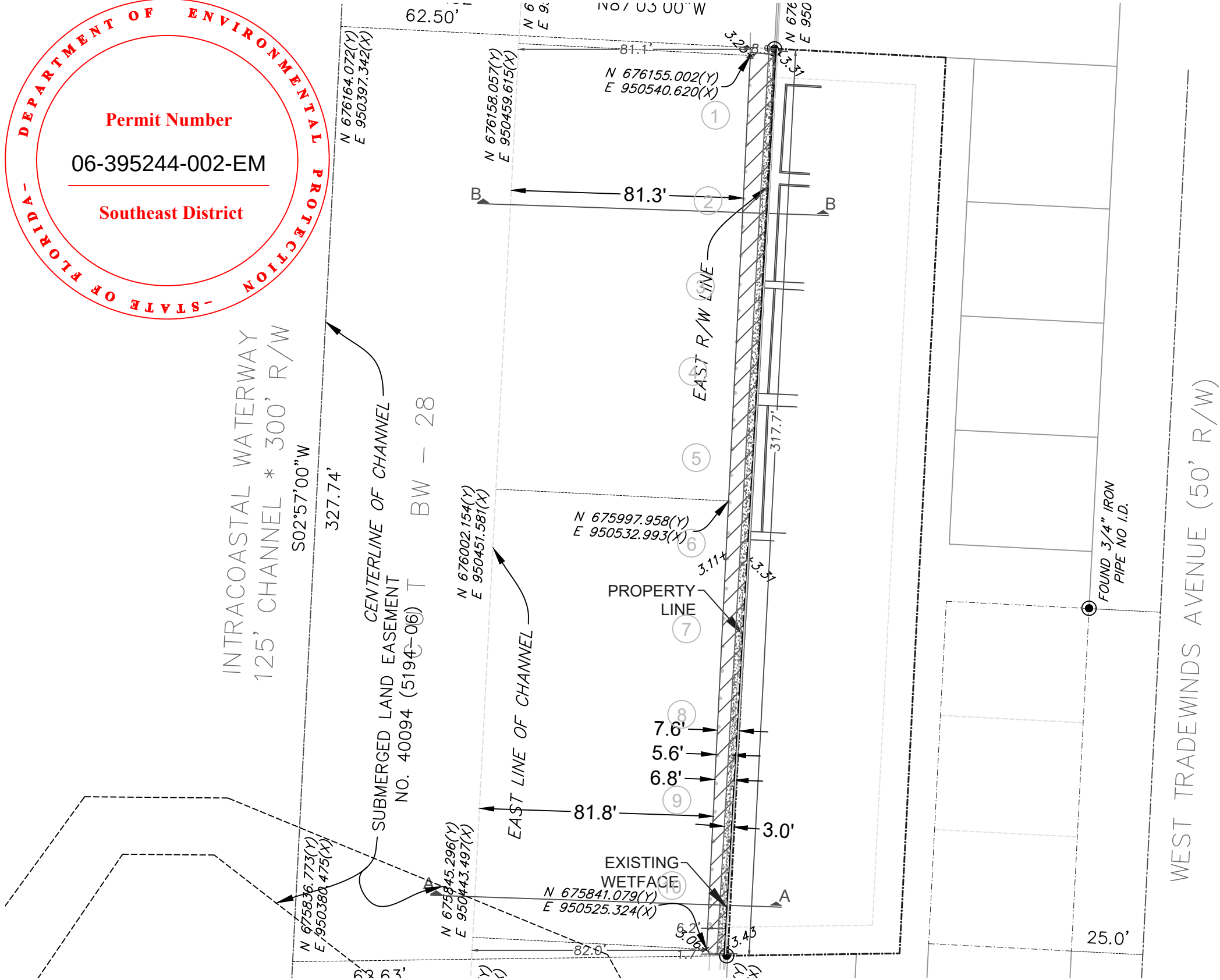
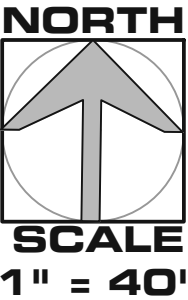
714 East McNab Road
Pompano Beach, Florida 33060
tel. 954.782.1908
fax. 954.782.1108
www.thechappellgroup.com

- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

COVER		
Date: 2/10/2021	Sheet :	of :
Proj No.: 20-0077	1	6



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- EXISTING WOOD MARGINAL DOCK TO BE REMOVED (±2,440 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88
NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88.

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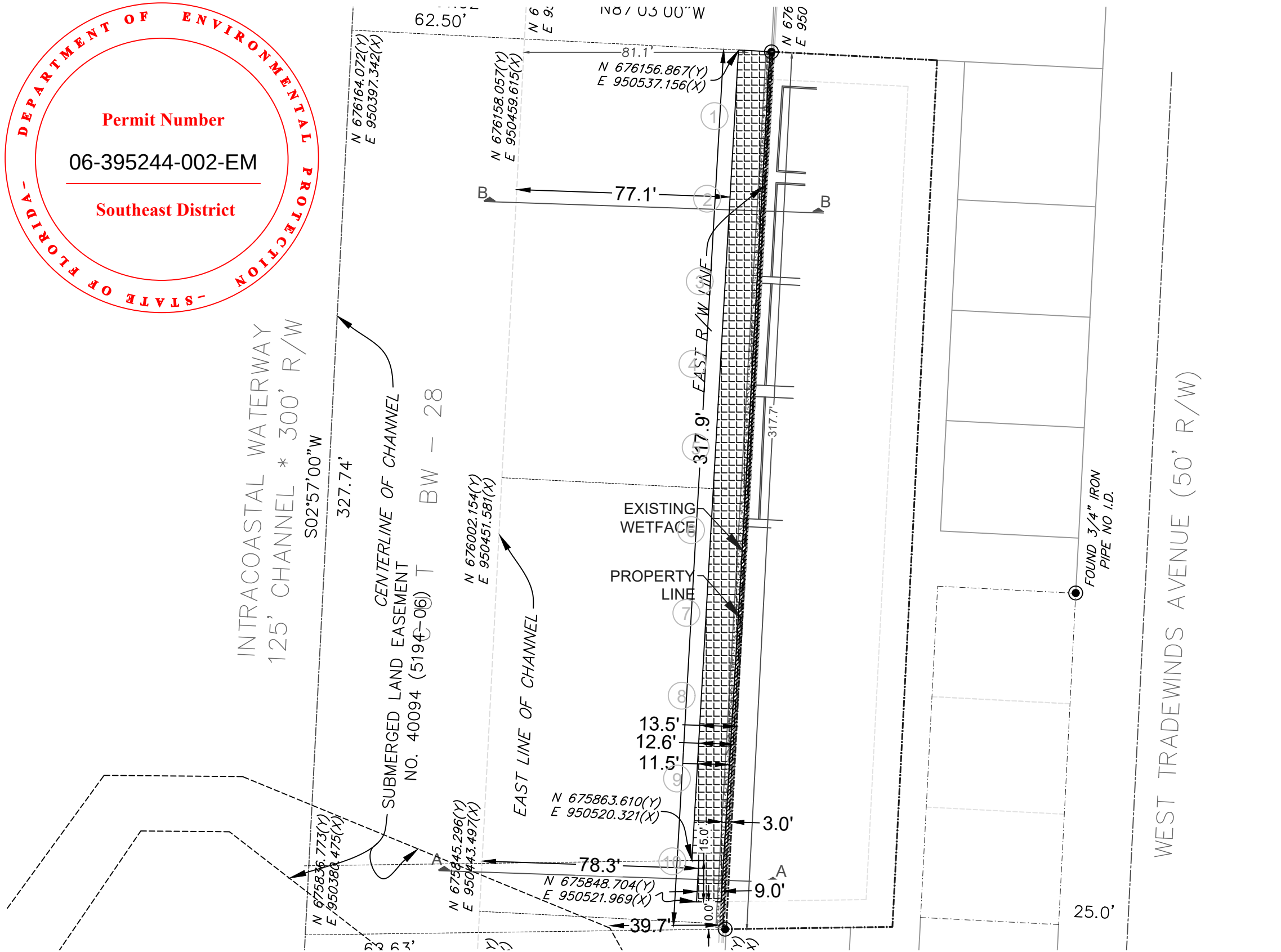
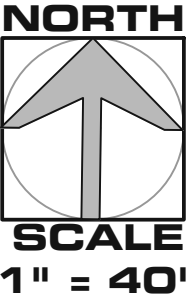
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4403 TRADEWINDS, INC.

EXISTING CONDITIONS		
Date: 2/10/2021	Sheet :	of :
Proj No.: 20-0077	2	6



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
- PROPOSED CONCRETE MARGINAL DOCK (±3,525 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88
NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,161SQ. FT.

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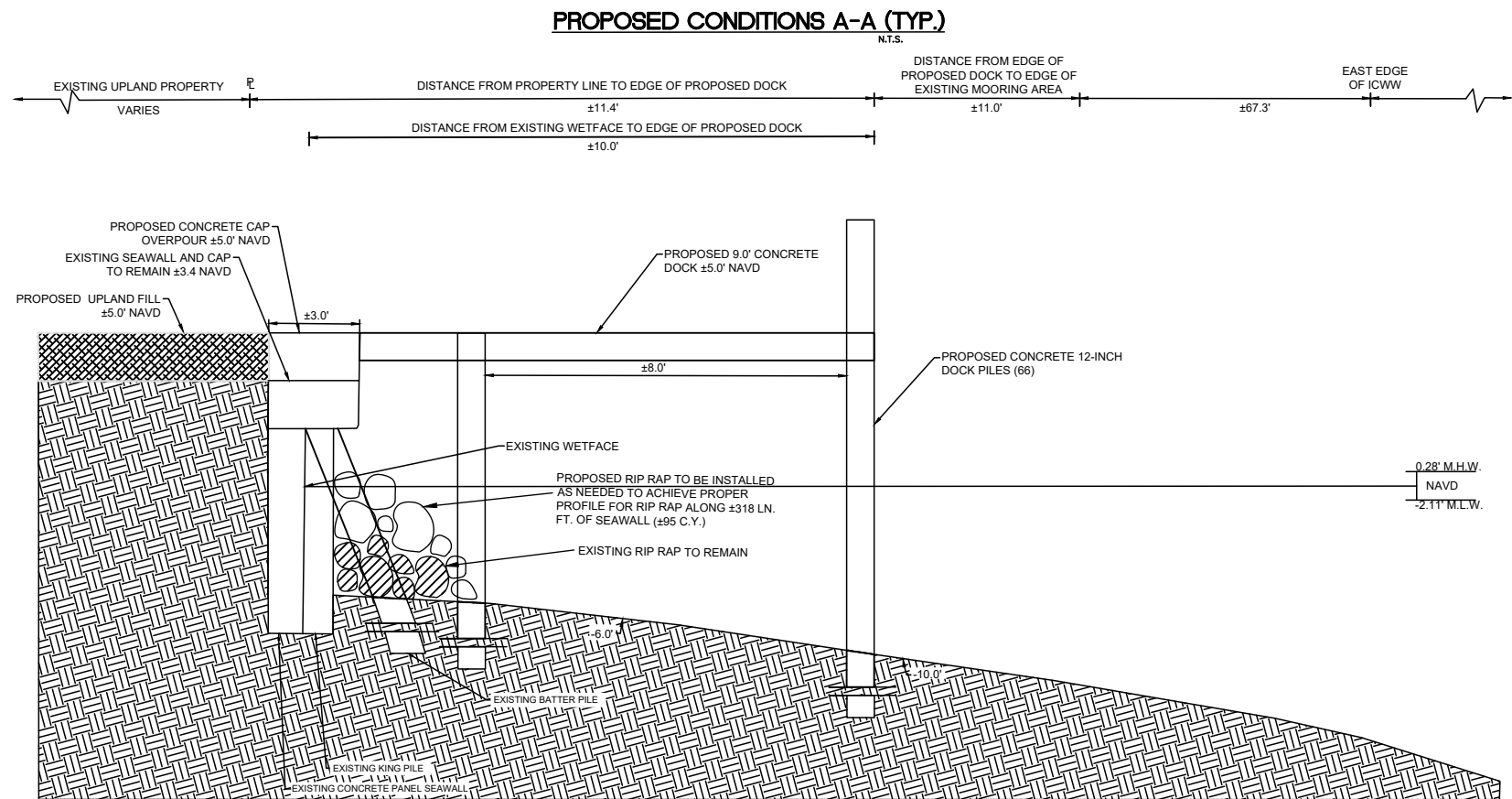
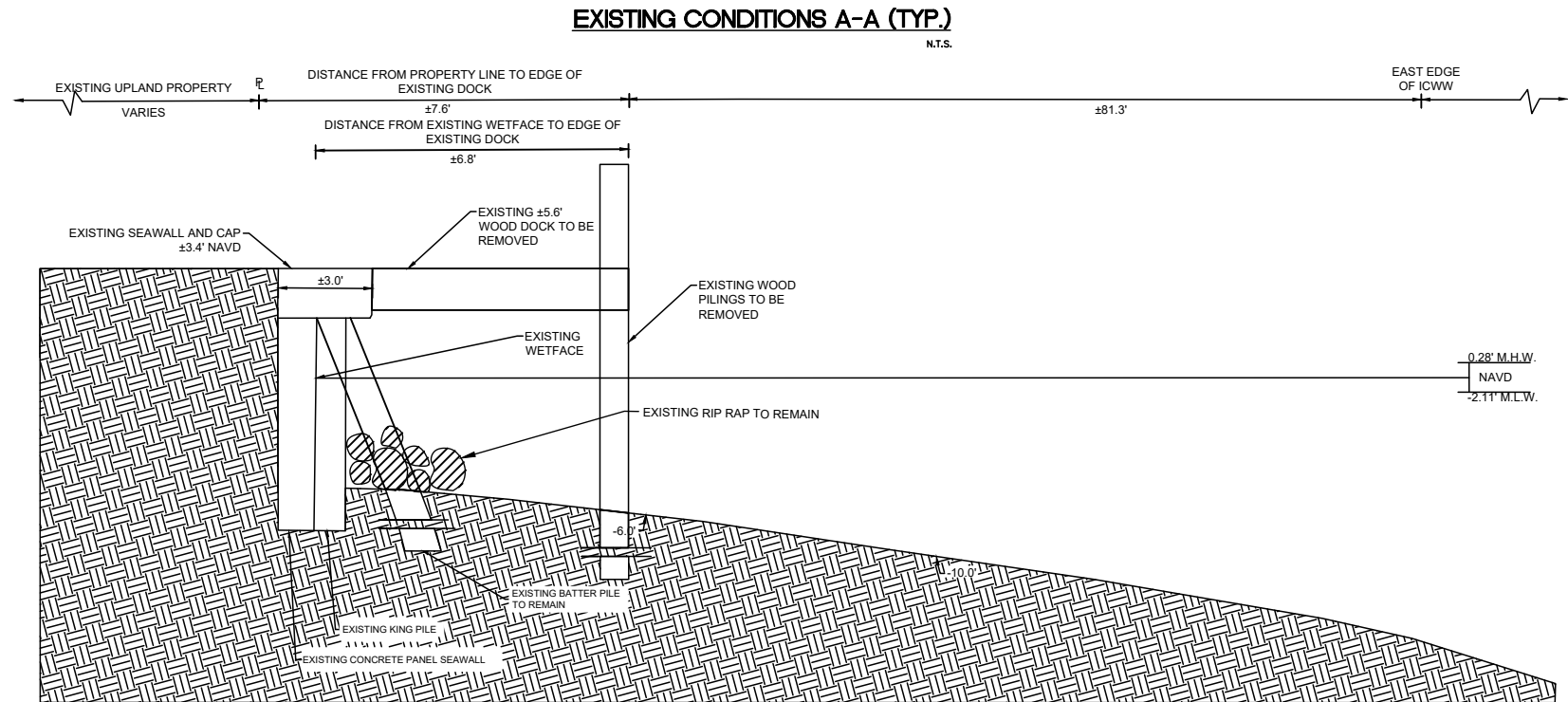
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PROPOSED CONDITIONS		
Date: 2/10/2021	Sheet : 3	of : 6
Proj No.: 20-0077		



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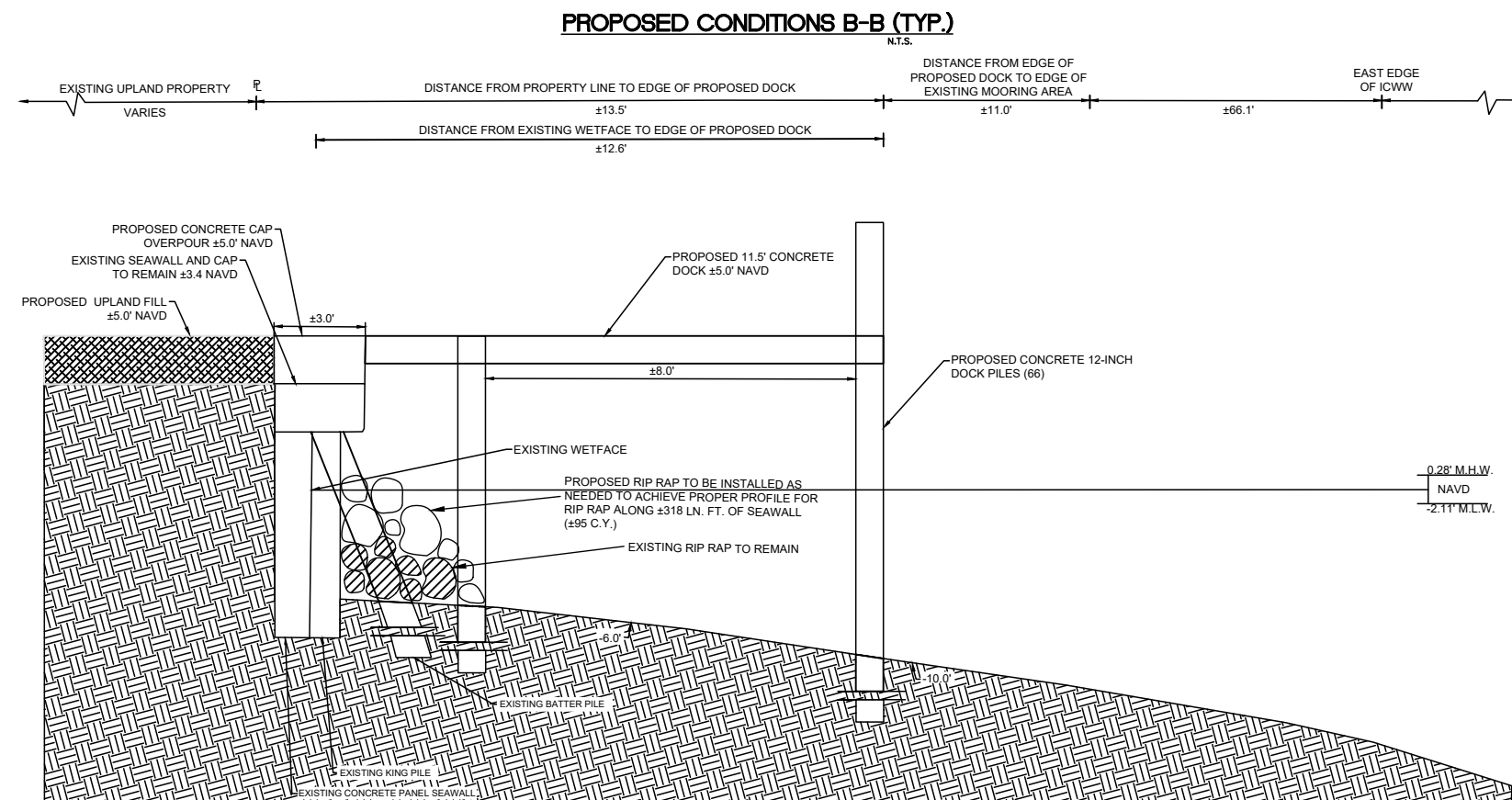
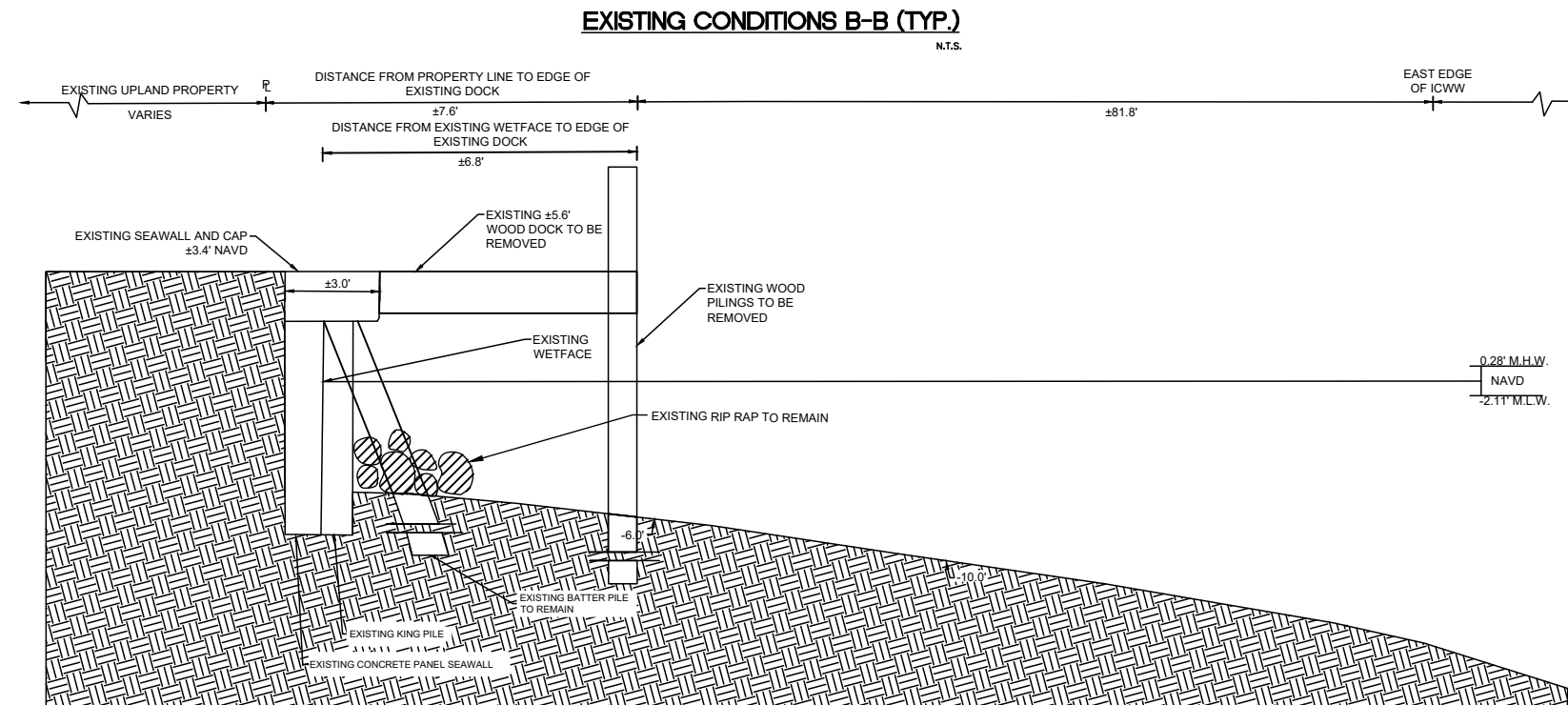
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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

SECTION A		
Date: 2/10/2021	Sheet : 4	of : 6
Proj No.: 20-0077		



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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

SECTION B

Date:
2/10/2021

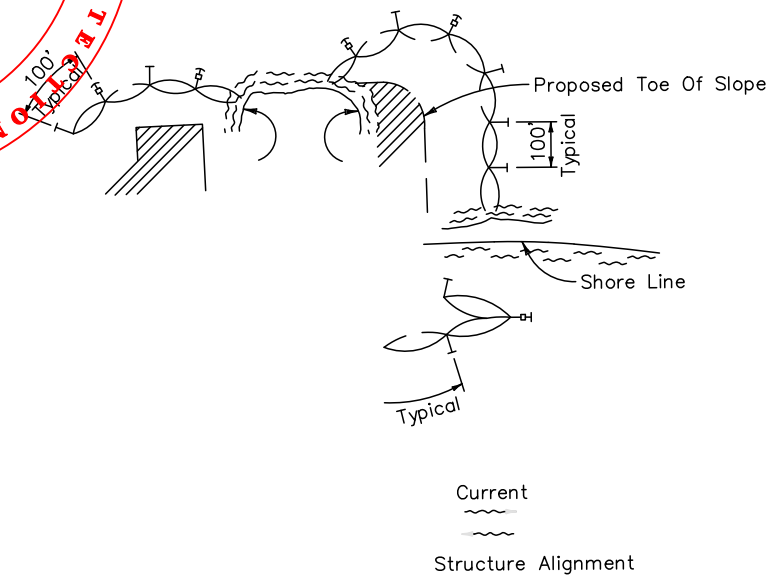
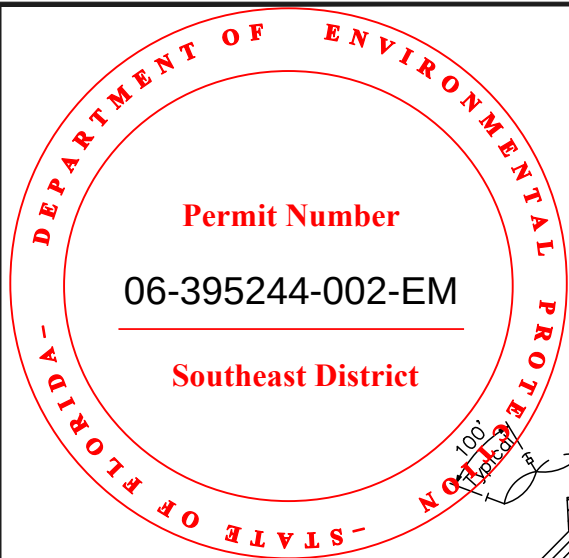
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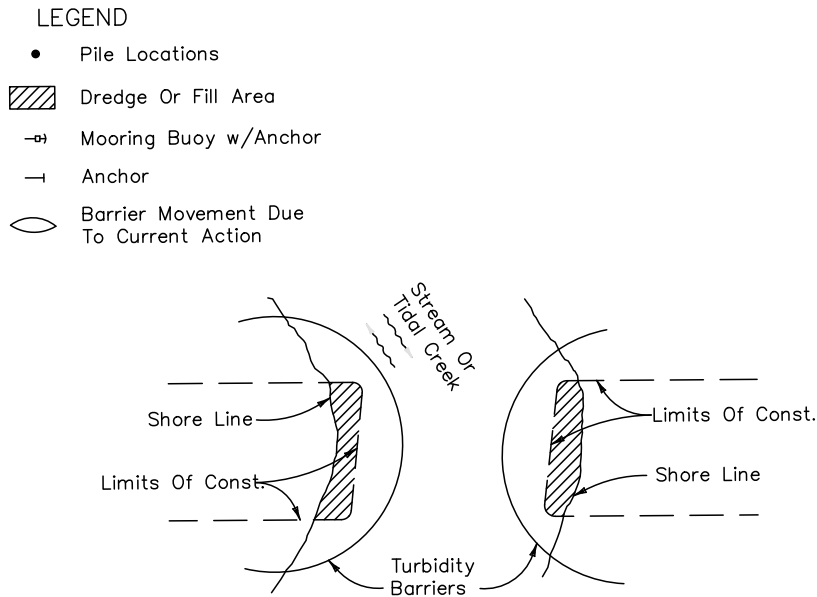
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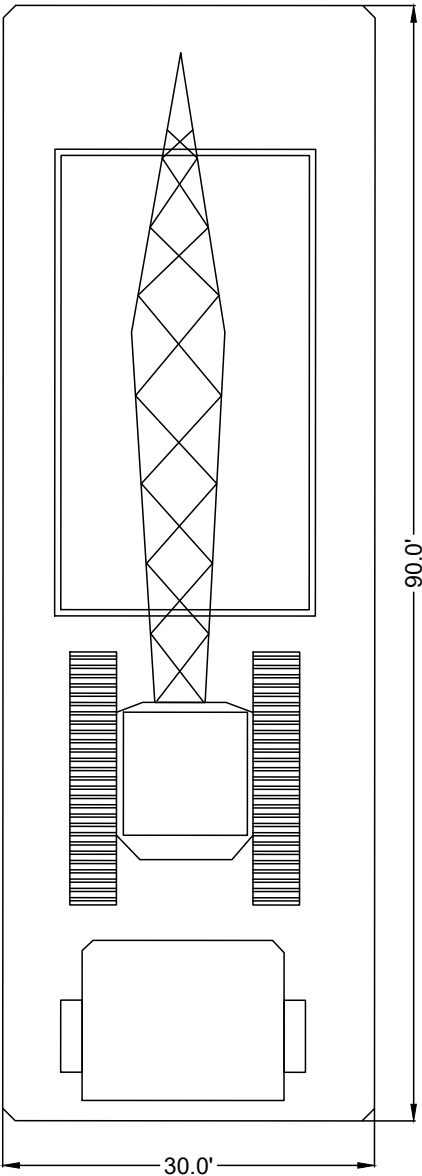
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of anchors dependent on current velocities.
3. Deployment of barrier around pile locations may vary to accommodate construction operations.
4. Navigation may require segmenting barrier during construction operations.
5. For additional information see Section 104 of the Standard Specifications.



Note:
Turbidity barriers for flowing streams and tidal creeks may be either floating, or staked types or any combinations of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractors option unless otherwise specified in the plans, however payment will be under the pay item(s) established in the plans for Floating Turbidity Barrier and/or Staked Turbidity Barrier. Posts in staked turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.

TURBIDITY BARRIER APPLICATIONS

CONSTRUCTION BARGE
(TYP.)



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4403-4405 TRADEWINDS AVE

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4403 TRADEWINDS, INC.

DETAILS		
Date: 2/10/2021	Sheet : 6	of : 6
Proj No.: 20-0077		



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Project Name: 4403 Tradewinds, Inc.

CAP Government Inc.

REVIEWED FOR FBC
CODE COMPLIANCE

Date: 08/26/2021

Permittee/Authorized Entity:

4403 Tradewinds, Inc.
c/o JoAnn Hoffman
4403-4405 W Tradewinds Ave.
Lauderdale by the Sea
Email: Tyler@thechappellgroup.com

Authorized Agent:

The Chappell Group, Inc.
c/o Tyler Chappell, Vice President
Email: Tyler@thechappellgroup.com

Environmental Resource Permit - Granted

State-owned Submerged Lands Authorization – Not Applicable

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Permit No.: 06-395244-001-EI

Permit Issuance Date: February 19, 2021

Permit Construction Phase Expiration Date: February 19, 2026

Environmental Resource Permit

Permit No.: 06-395244-001-EI

PROJECT LOCATION

The activities authorized by this Permit are located within the Intracoastal Waterway, Class III Waters, adjacent to 4403-4405 W Tradewinds Ave., (Section 18, Township 49 South, Range 43 East), in Broward County (Latitude N 26° 11' 25.34", Longitude W -80° 06' 08.41").

PROJECT DESCRIPTION

This permit authorizes the reconstruction of an existing 10-slip docking facility. The project includes the following activities: 1) removal of an existing 2,440 square foot marginal dock; 2) construction of a 318 linear foot seawall cap, and; 3) construction of a 3,525 square foot marginal dock.

This permit authorizes 3,525 ft² of work in surface waters. Submerged Resources are not located within the project boundaries; therefore, there will be no adverse impacts to resources.

AUTHORIZATIONS

Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

Sovereignty Submerged Lands Authorization

As staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), the Department has determined the activity is not on submerged lands owned by the State of Florida. Therefore, your project is not subject to the requirements of Chapter 253, F.S., or Rule 18-21, F.A.C.

Federal Authorization

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the Corps. You must apply separately to the Corps using their APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at:

<https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book>.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection (or Duly Authorized Designee), State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

Coastal Zone Management

Issuance of this authorization also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

Water Quality Certification

This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this activity may be required by other federal, state, regional, or local entities including but not limited to local governments or municipalities. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

PERMIT

The activities described must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit.

(1) The attached project drawings (sheets 1 through 6); the Standard Manatee Conditions for In-Water Work, 2011, and DEP forms 62-330.310(1); 62-330.310(2), 62-330.310(3); 62-330.340(1); and 62-330.350(1), which may be downloaded at <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm> become part of this permit. If the permittee does not have access to the Internet, please contact the Department at (561) 681-6600 to request the aforementioned forms and/or document(s).

SPECIFIC CONDITIONS - PRIOR TO CONSTRUCTION

(2) After selection of the contractor to perform the authorized activities and prior to the initiation of any work authorized by this permit, the permittee (or authorized agent) and the contractor shall attend a pre-construction conference with a representative of the Department. It shall be the responsibility of the permittee to contact the Department's Compliance Assistance Program, by email SED_Compliance@FloridaDEP.gov, or by phone (561) 681-6600, to schedule the pre-construction conference.

(3) Prior to the initiation of any work authorized by this permit, floating turbidity curtains with weighted skirts that extend to within one foot of the bottom shall be placed around the project site and shall be maintained and remain in place for the duration of the project construction to ensure that turbid discharges do not occur outside the boundaries of the floating turbidity screens. Additionally, staked erosion control devices shall be placed around the upland project area and any upland staging areas. All submerged resources, and surface waters outside the specific limits of construction authorized by this permit shall be protected from erosion, siltation, sedimentation, and/or scouring. Staked erosion control devices shall also be maintained and shall remain in place for the duration of the project construction to ensure that turbid discharges into wetlands or surface waters do not occur. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order during all phases of construction authorized by this permit until all areas that were disturbed during construction are sufficiently stabilized to prevent turbid discharges.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

(4) No dredging or filling of submerged grass beds or live bottom communities is authorized by this permit.

(5) Storage or stockpiling of tools and materials (i.e., lumber, pilings, debris,) within wetlands, along the shoreline, within the littoral zone, or elsewhere within wetlands or other surface waters is prohibited. This includes floating of pilings in surface waters. All vegetative material and debris shall be removed to a self-contained upland disposal area with no stockpiling of debris within wetland areas.

(6) A floating turbidity curtain shall be installed around the construction area and will remain in place until pilings have been installed and turbidity levels within the work area have returned to background levels prior to construction of the dock.

(7) Watercraft associated with the construction of the permitted structure shall operate within waters of sufficient depth to preclude bottom scouring, prop dredging or damage to submerged bottom or submerged resources. During all construction activities, there shall be a minimum of 1-foot clearance between the draft of the construction vessel/barge and the top of any submerged resources or submerged bottom.

SPECIFIC CONDITIONS – MONITORING/REPORTING REQUIREMENTS

(8) Turbidity levels outside the construction area shall not exceed 29 NTU's above background levels. The following measures shall be taken immediately by the permittee whenever turbidity levels within waters of the State surrounding the project site exceed 29 NTUs above background:

- a. Notify the Department at (561) 681-6600 at the time the violation is first detected.
- b. Immediately cease all work contributing to the water quality violation.
- c. Stabilize all exposed soils contributing to the violation. Modify the work procedures that were responsible for the violation, install more turbidity containment devices, and repair any non-functional turbidity containment devices.
- d. Perform turbidity monitoring.
- e. Resume construction activities once turbidity levels outside turbidity curtains fall below 29 NTUs.

(9) Water turbidity levels shall be monitored and recorded at least every 4 hours upon the occurrence of other circumstances that might create water quality violations on site. Samples shall be taken one foot above the bottom, mid-depth, and one-foot below the surface at monitoring stations located as follows:

- a. Approximately 100 feet up-current of the work sites and clearly outside the influence of construction activities. (This shall serve as the natural background sample against which other turbidity readings shall be compared.)
- b. Directly outside the turbidity curtains surrounding the work sites and within the densest portion of any visible turbidity plume. (This sample shall serve as the compliance sample.)

(10) During non-compliance events activities, the permittee or permittee's contractor shall collect the following turbidity monitoring data at the frequency and water depths directed by the Specific Condition above:

- a. Date and time of sampling event
- b. Turbidity sampling results (background NTUs, compliance NTUs, and the difference between them)
- c. Description of data collection methods
- d. An aerial map indicating the sampling locations
- e. Depth of sample(s)
- f. Weather conditions at times of sampling
- g. Tidal stage and direction of flow

Data shall be collected in a turbidity log and shall include a statement by the individual responsible for implementation of the sampling program attesting to the authenticity, precision, limits of detection, and accuracy of the data. The turbidity log shall be scanned and sent on a weekly basis to the Department's Compliance Assistance Program by email at SED_Compliance@floridadep.gov. The subject line of the email shall include the project name, permit number, and the title "Turbidity Monitoring Reports."

SPECIFIC CONDITIONS – OPERATING CONDITIONS

(11) Vessels utilizing this structure shall maintain a minimum of one foot clearance between the deepest draft of the vessel with the engine in the down position and the submerged bottom so as to preclude bottom scouring or prop dredging.

SPECIFIC CONDITIONS – MANATEE CONDITIONS

(12) The permittee shall comply with the standard manatee protection construction conditions listed in the attached "2011 Standard Manatee Conditions for In-Water Work".

SPECIFIC CONDITIONS – LISTED SPECIES

(13) This permit does not authorize the permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are

available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a “take” permit cannot be issued. Requests for further information or review can be sent to FWCConservationPlanningServices@MyFWC.com.

GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

(1) All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.

(2) A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.

(3) Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.

(4) At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), “Construction Commencement Notice,” [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.

(5) Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.

(6) Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:

- a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex – “Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit” [Form 62-330.310(3)]; or
- b. For all other activities – “As-Built Certification and Request for Conversion to Operational Phase” [Form 62-330.310(1)].
- c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.

(7) If the final operation and maintenance entity is a third party:

- a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
- b. Within 30 days of submittal of the as- built certification, the permittee shall submit “Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity” [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

(8) The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

(9) This permit does not:

- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
- b. Convey to the permittee or create in the permittee any interest in real property;
- c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
- d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

(10) Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

(11) The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.

(12) The permittee shall notify the Agency in writing:

- a. Immediately if any previously submitted information is discovered to be inaccurate; and

- b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

(13) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.

(14) If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

(15) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.

(16) The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

(17) This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.

(18) A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until a subsequent order of the Department. Because the administrative hearing

process is designed to formulate final agency action, the subsequent order may modify or take a different position than this action.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do

not publish notice of this action, this waiver may not apply to persons who have not received a clear point of entry.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Norva Blandin, MSEM
Program Administrator
Permitting Program
Southeast District

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this permit and all copies were sent on the filing date below to the following listed persons:

FDEP – Norva Blandin MSEM, Jeffrey Meyer, David White, David Petti

Linda Sunderland, Broward County EPD, LSunderland@broward.org

Jena Robbins, Senior Project Biologist, The Chappell Group Inc., jena@thechappellgroup.com

Kathryn Bongarzone, Project Manager, The Chappell Group, Inc., kathryn@thechappellgroup.com

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

February 19, 2021

Date

Attachments:

Project Drawings and Design Specs., 6 pages

Standard Manatee Conditions for In-Water Work, 2011

As-built Certification and Request for Conversion to Operational Phase Form 62-330.310(1)*

Request for Transfer to the Perpetual Operation Entity Form 62-330.310(2)*

Request to Transfer Permit Form 62-330.340(1)*

Commencement Notice Form 62-330.350(1)*

*Can be downloaded at: <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/forms-environmental-resource>

4403-4405 TRADEWINDS AVE PLAN SET



LOCATION MAP (N.T.S.)

DRAWING INDEX

SHEET 1: COVER

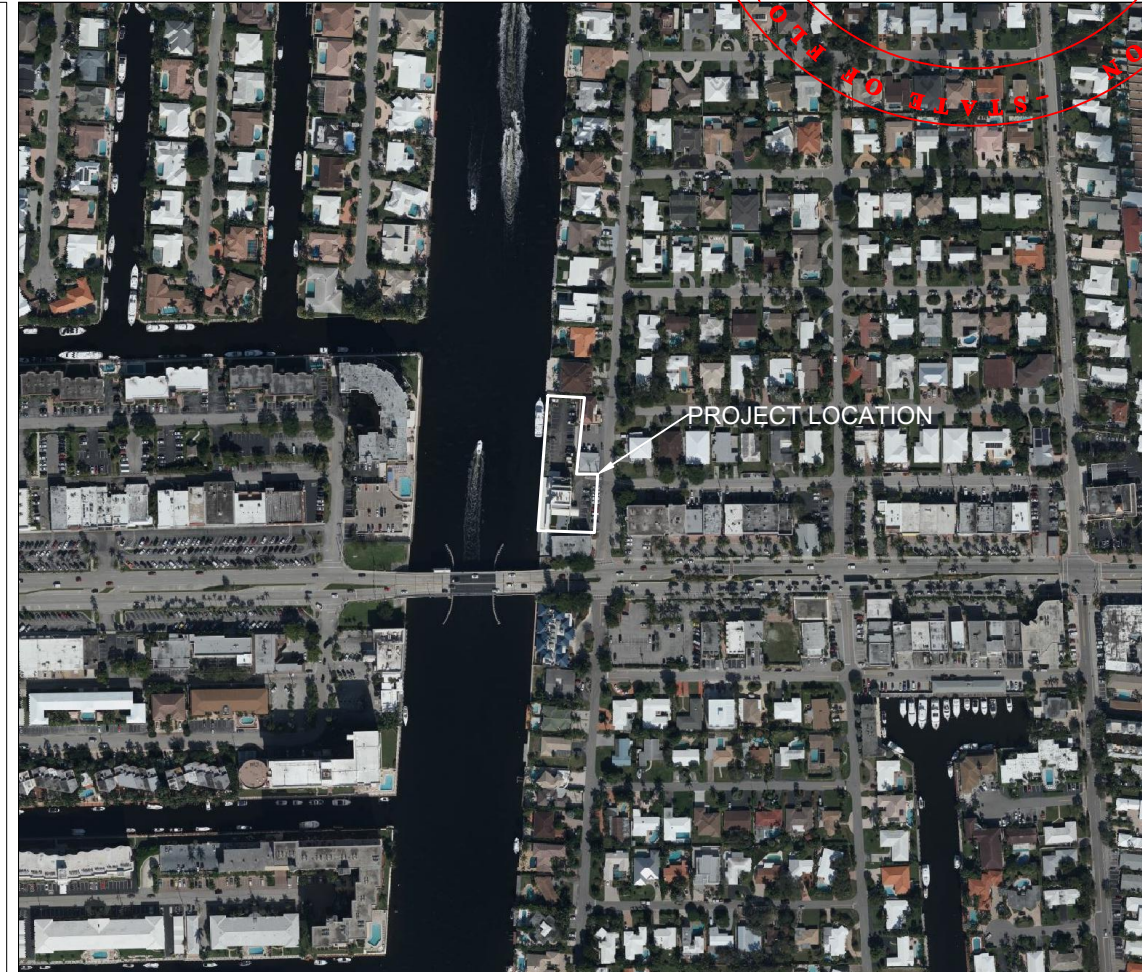
SHEET 2: EXISTING CONDITIONS

SHEET 3: PROPOSED CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

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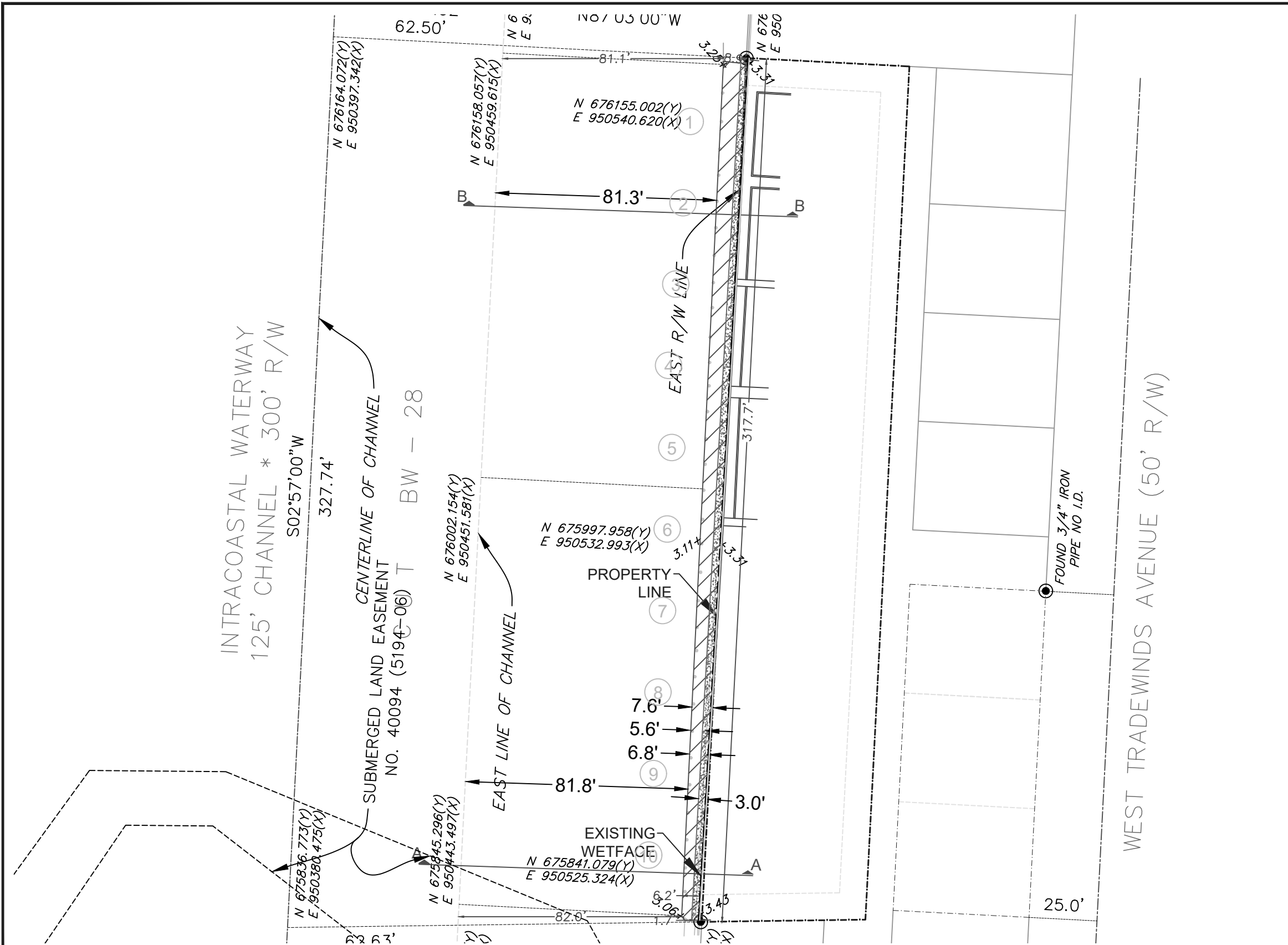
www.thechappellgroup.com

- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

COVER		
Date: 12/23/2020	Sheet :	of :
Proj No.: 20-0077	1	6



NORTH

SCALE
1" = 40'

DEPARTMENT OF ENVIRONMENTAL PROTECTION
- STATE OF FLORIDA -

Permit Number
06-395244-001-EI

Southeast District

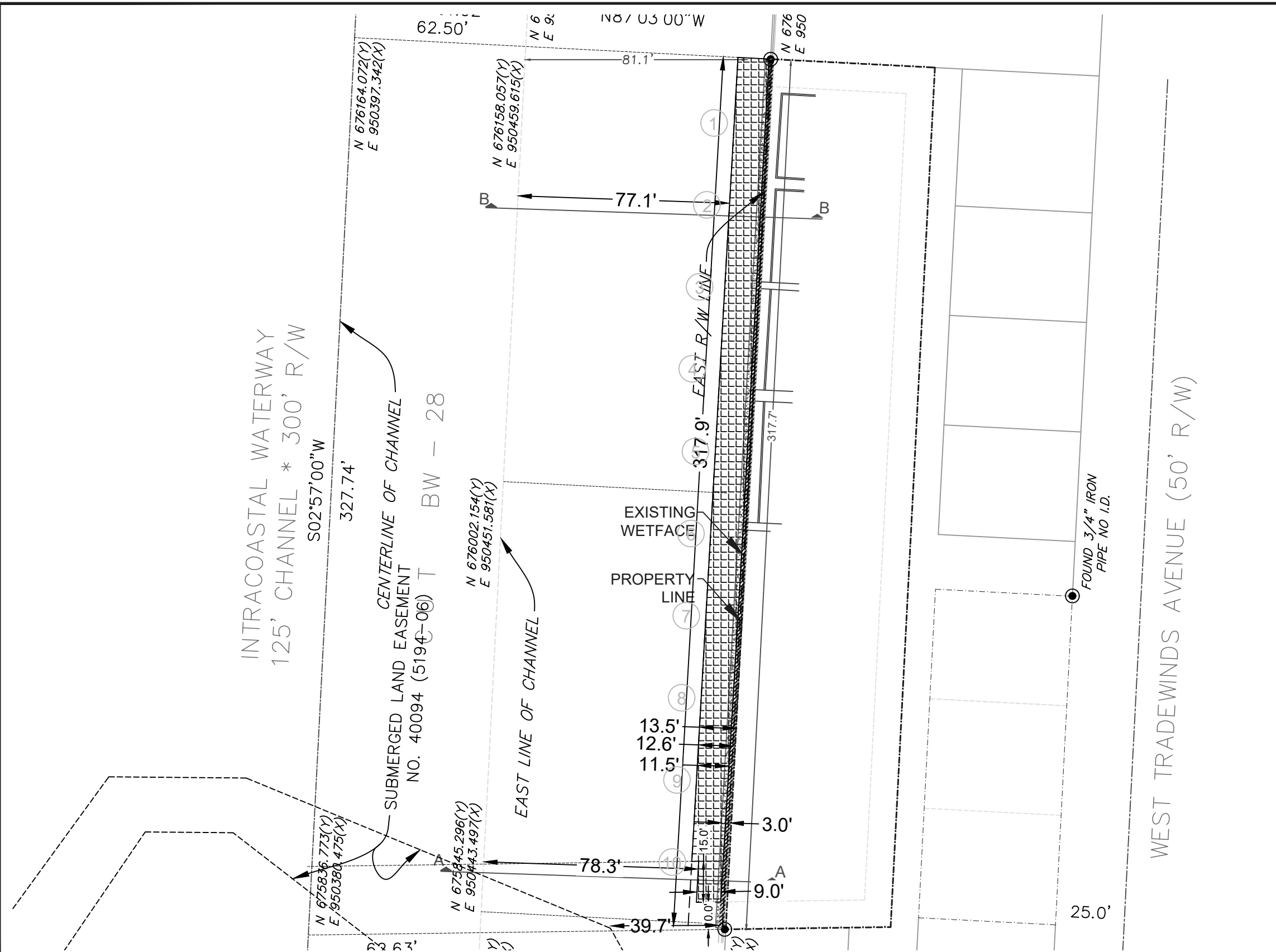
EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- EXISTING WOOD MARGINAL DOCK TO BE REMOVED (±2,440 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88.



NORTH

SCALE
1" = 40'

Permit Number
06-395244-001-EI

Southeast District

DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF FLORIDA

EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
- PROPOSED CONCRETE MARGINAL DOCK (±3,525 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,161SQ. FT.

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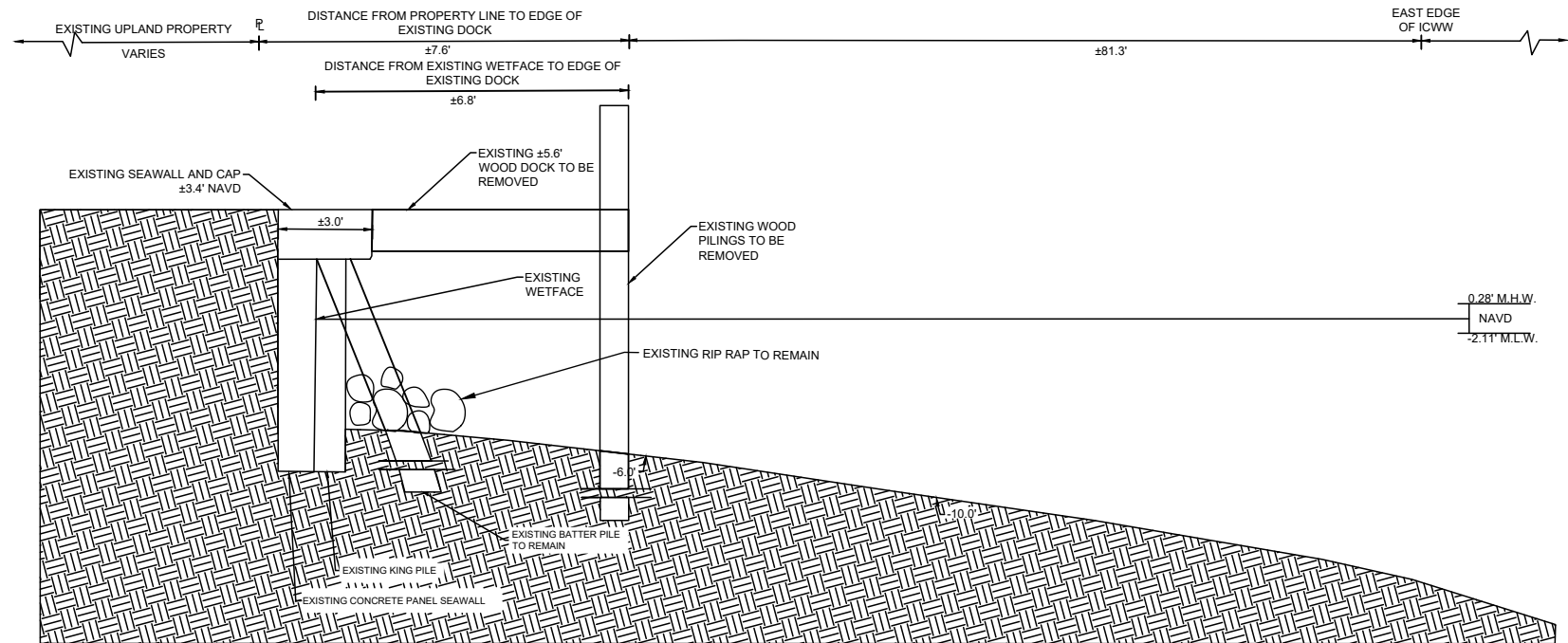
4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

PROPOSED CONDITIONS		
Date: 12/23/2020	Sheet : 3	of : 6
Proj No.: 20-0077		

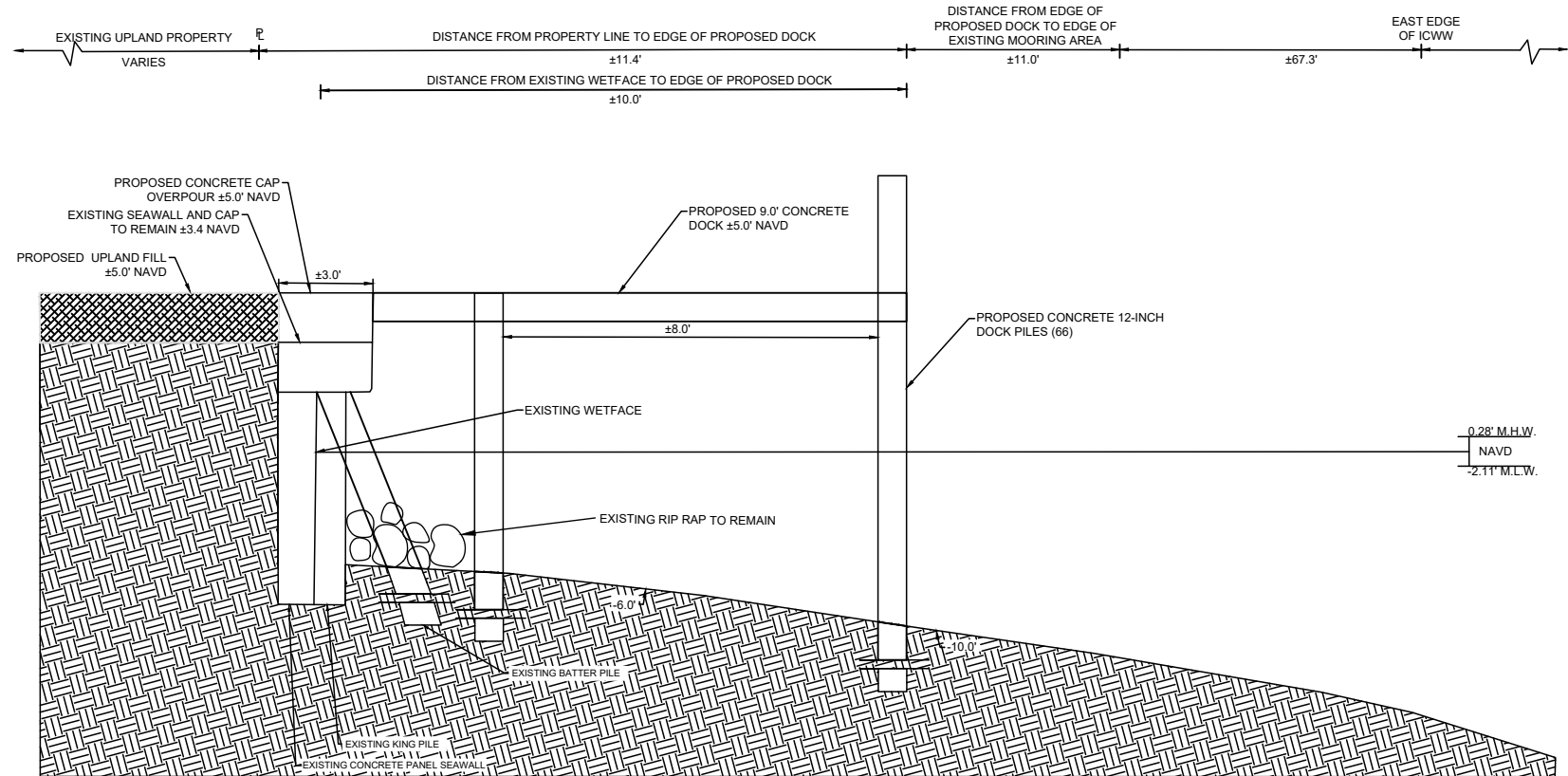
EXISTING CONDITIONS A-A (TYP.)

N.T.S.



PROPOSED CONDITIONS A-A (TYP.)

N.T.S.



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4403-4405 TRADEWINDS AVE

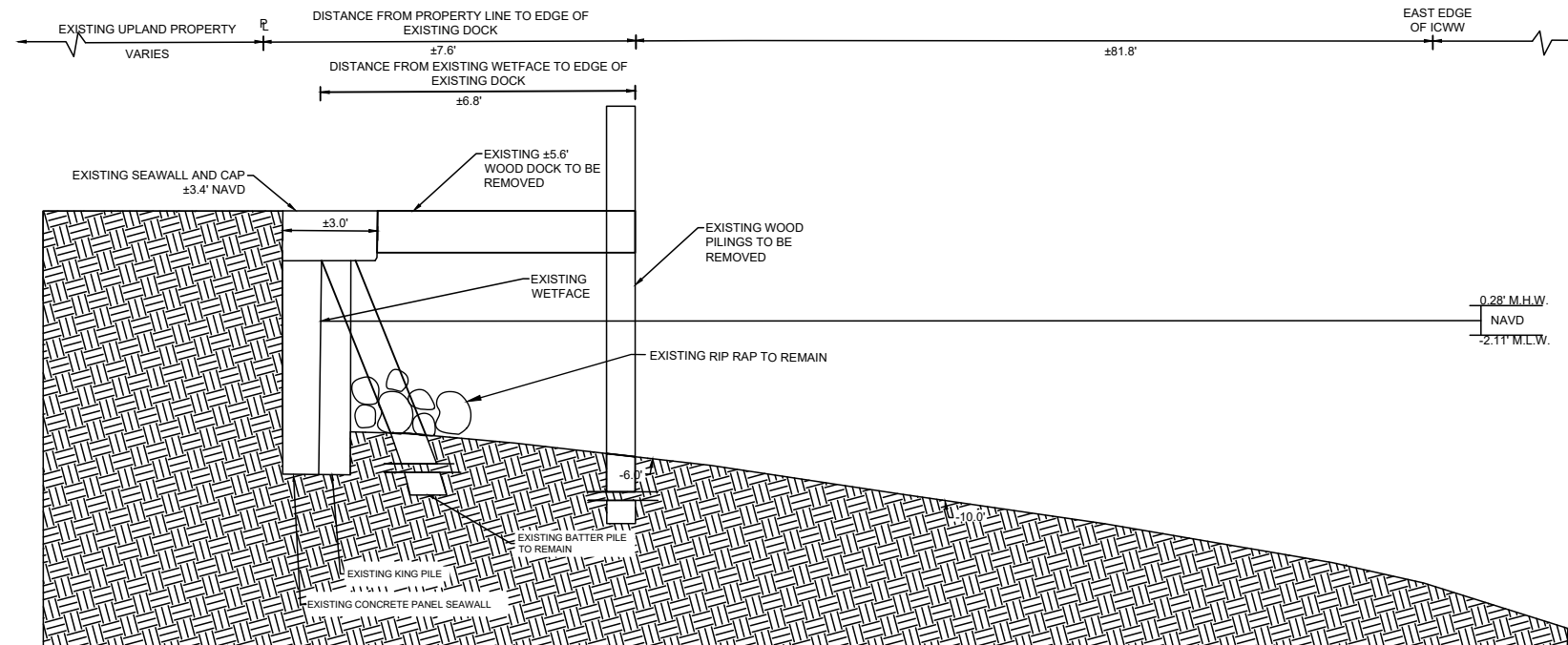
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SECTION A

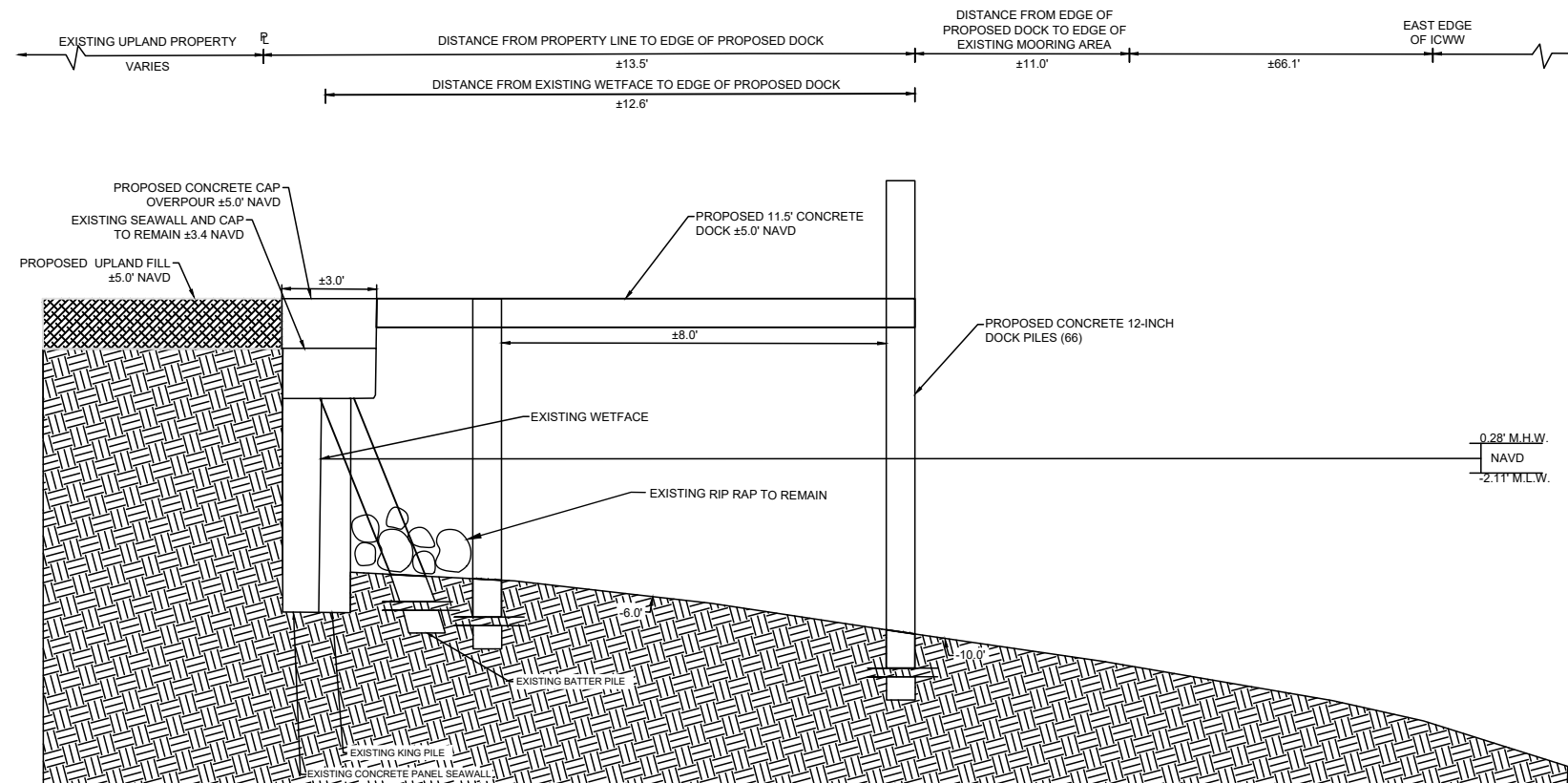
Date: 12/23/2020	Sheet : 4	of : 6
Proj No.: 20-0077		

EXISTING CONDITIONS B-B (TYP.)

N.T.S.

**PROPOSED CONDITIONS B-B (TYP.)**

N.T.S.



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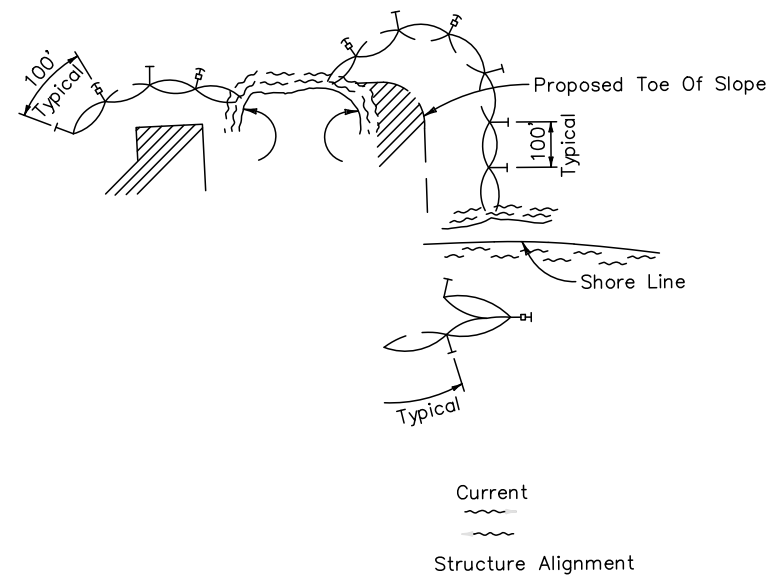
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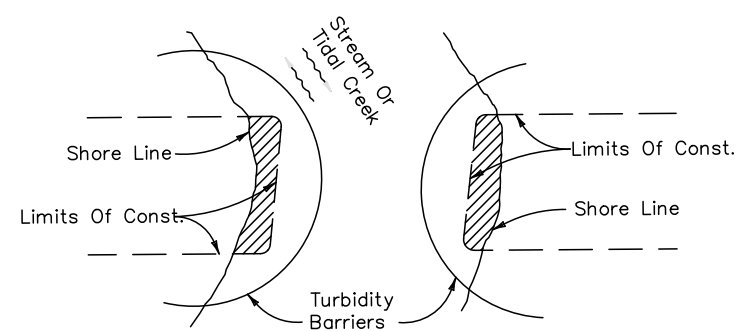
PREPARED FOR:
4403 TRADEWINDS, INC.

SECTION B

Date: 12/23/2020	Sheet : 5	of : 6
Proj No.: 20-0077		



- LEGEND
- Pile Locations
 - ▨ Dredge Or Fill Area
 - ⊕ Mooring Buoy w/Anchor
 - Anchor
 - Barrier Movement Due To Current Action

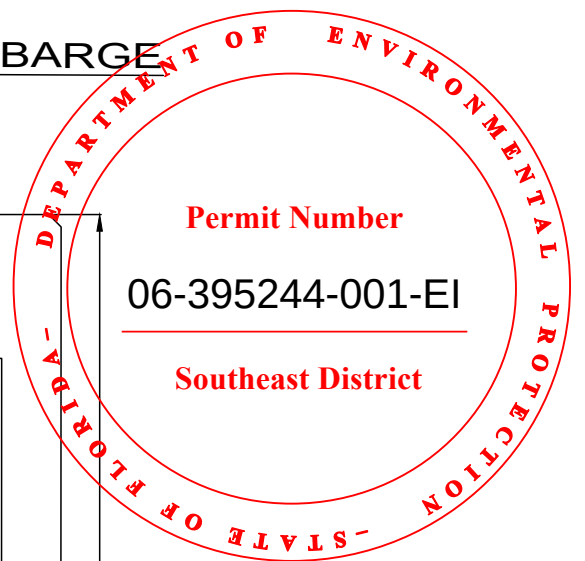
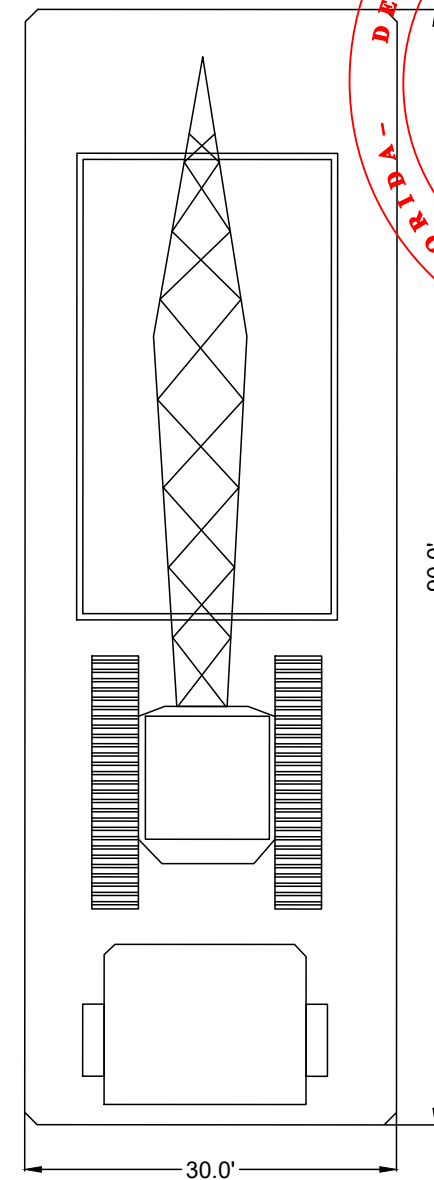


Note:
Turbidity barriers for flowing streams and tidal creeks may be either floating, or staked types or any combinations of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractors option unless otherwise specified in the plans, however payment will be under the pay item(s) established in the plans for Floating Turbidity Barrier and/or Staked Turbidity Barrier. Posts in staked turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.

1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of anchors dependent on current velocities.
3. Deployment of barrier around pile locations may vary to accommodate construction operations.
4. Navigation may require segmenting barrier during construction operations.
5. For additional information see Section 104 of the Standard Specifications.

TURBIDITY BARRIER APPLICATIONS

CONSTRUCTION BARGE
(TYP.)



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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

DETAILS

Date: 12/23/2020	Sheet : 6	of : 6
Proj No.: 20-0077		



Environmental Protection and Growth Management Department

ENVIRONMENTAL ENGINEERING AND PERMITTING DIVISION

1 North University Drive, Mailbox 201, Plantation, Florida 33324 • 954-51

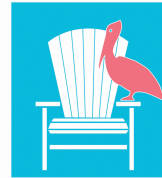
Via E-mail to Tyler Chappell of The Chappell Group

4403 Tradewinds Inc.

c/o JoAnn Hoffman

4403-4405 Tradewinds Ave.

Lauderdale-by-the-Sea, FL 33308



LAUDERDALE
BY THE SEA
RELAX...YOU'RE HERE

519/1/12

CAP Government Inc.

REVIEWED FOR FBC
CODE COMPLIANCE

Date: 08/26/2021

Dear Ms. Hoffman:

This is to notify you of the Environmental Protection and Growth Management Department's action concerning your application received November 30, 2020, for authorization to install a new seawall cap and construct marginal dock adjacent to your property at 4403 – 4405 Tradewinds Ave. in the City of Lauderdale-by-the-Sea, Florida. The application has been reviewed for an Environmental Resource License.

Broward County - Environmental Resource License (ERL) Review – Granted

The Department has reviewed the project for compliance with Aquatic and Wetland Resource Protection Ordinance Sec. 27-331 through 27-341 of the Broward County Code and Broward County's approved Manatee Protection Plan. Based on the information submitted, Environmental Resource License No. **DF20-1337** is hereby issued. The above-named licensee is hereby authorized to perform the work per the approved drawings(s), plans, documents and specifications as submitted by the licensee, and made a part hereof. The above referenced approvals will remain in effect subject to the attached Broward County General Conditions, Broward County Specific Conditions, and stamped exhibits.

The issuance of this license is a **final agency determination**. A person with a substantial interest may file a petition to request review of, or to intervene in a review of, a final administrative determination, subject to the provisions of Section 27-14, Broward County Code of Ordinances (excerpt attached).

Sincerely,

Linda Sunderland

Linda Sunderland

Environmental Program Supervisor

April 9, 2021

Date

ENC:

1. Environmental Resource License
2. Sec. 27-14 Administrative Review Procedures (4 pages)
3. One copy of stamped drawings (6 pages)

cc:

1. Jena Robbins, The Chappell Group, Inc. (via e-mail)
2. Samantha Jarvis, Broward County (via e-mail)
3. USACOE-PBG (via e-mail)

ENVIRONMENTAL RESOURCE LICENSE

LICENSEE: 4403 Tradewinds Inc.
c/o JoAnn Hoffman
4403-4405 Tradewinds Ave.
Lauderdale-by-the-Sea, Florida 33308

LICENSE NO: DF20-1337
PROJECT:
Commercial –
Dock Construction

This license is issued under the provision of Chapter 27 of the Broward County Code of Ordinances also cited as Broward County Natural Resource Protection Code hereinafter called the Code. The above-named applicant, hereinafter called licensee, is hereby authorized to perform the work or operate the facility shown on the approved drawing(s), plans, documents, and specifications as submitted by applicant, and made a part hereof and specifically described as follows:

Description of Work: This project involves: (1) installation of a new 318-linear foot long by 4.5' wide seawall cap; (2) removal of a 6.2' to 8.9' by 318' marginal wooden dock; and (3) associated construction of a new 294' long by 10' wide marginal concrete dock adjoining a 15' long by 7.5' wide dock. Total width of the proposed dock over water will be 10' to 12.6' as measured from the waterward face of the seawall panel to the waterward edge of the proposed 12-inch dock pilings, and the total area of all over water structures shall not exceed 3,525 square feet. Boulder riprap shall remain at a 2:1 slope against the seawall under the entirety of the proposed dock. This license does not authorize dredging, nor does it authorize impacts to seagrasses or any other natural resources.

Under the project described herein the Marine Facility Operating License (MFOL08-0042) acknowledges the 10 slips on site to be transitory and therefore the facility is not regulated under the County Manatee Protection Plan and does not require an annual MFOL fee.

Location of Work: This project is located at 4403-4405 W. Tradewinds Ave. along the eastern bank of the Intracoastal Waterway, BFSP central zone (Zone 5, ICW Central Part A), Section 18, Township 49 South, Range 43 East, in the City of Lauderdale-by-the-Sea, Florida. Folio Number 494318070010.

Construction shall be in accordance with submitted ERL Application Form received on 11/30/2020, and all additional information submitted; plans stamped by the Department on 04/09/2021 (attached); and with all General and Specific Conditions of this license.

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth herein are accepted by the licensee and enforceable by Environmental Protection and Growth Management Department (EPGMD) pursuant to Chapter 27 of the Broward County Code of Ordinances. EPGMD will review this license periodically and may revoke the license, initiate administrative and/or judicial action for any violation of the conditions by the licensee, its agents, employees, servants or representatives or principals.
2. This license is valid only for the specific uses set forth in the license application, and any deviation from the approved uses may constitute grounds for revocation and enforcement action by EPGMD.
3. In the event the licensee is temporarily unable to comply with any of the conditions of the license, the licensee shall notify EPGMD within twelve (12) hours. Within five (5) working days of the event, the licensee shall submit a written report to EPGMD that describes the incident, its cause, the measures being taken to correct the problem and prevent its reoccurrence, the owner's intention toward repair, replacement, and reconstruction of destroyed facilities, and a schedule of action leading toward operation within the license conditions.
4. The issuance of this license does not convey any vested rights or exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, or any violations of federal, state or local laws or regulations.
5. This license must be available for inspection on the licensee's premises during the entire life of the license.
6. By accepting this license, the licensee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source, that are submitted to EPGMD, may be used by EPGMD as evidence in any enforcement proceeding arising under Chapter 27 of the Broward County Code of Ordinances, except where such use is prohibited by § 403.111, F.S.
7. The licensee agrees to comply with Chapter 27 of the Broward County Code of Ordinances, as amended.
8. Any new owner of a licensed facility shall apply by letter for a transfer of license within thirty (30) days after sale or legal transfer. The transferor shall remain liable for performance in accordance with the license until the transferee applies for, and is granted the transfer of license. The transferee shall also be liable for performance in accordance with the license.
9. The licensee, by acceptance of this license, specifically agrees to allow access to the licensed source at reasonable times by EPGMD personnel for the purposes of inspection and testing to determine compliance with this license and Chapter 27 of the Broward County Code of Ordinances.
10. This license does not constitute a waiver or approval of any other license that may be required for other aspects of the total project.
11. If the licensee wishes to renew a license or extend its term, the licensee shall make application sixty (60) days prior to its expiration. Expired licenses are not renewable.
12. In addition to the general conditions set forth above, each license issued by EPGMD shall contain specific conditions determined by site conditions and requirements pursuant to the regulations as determined by the director of EPGMD. The licensee agrees that specific conditions are enforceable by EPGMD for any violation thereof.
13. Enforcement of the terms and provisions of this license shall be at the reasonable discretion of EPGMD, and any forbearance on behalf of EPGMD to exercise its rights hereunder in the event of any breach by the licensee, shall not be deemed or construed to be a waiver of EPGMD's rights hereunder.

SPECIFIC CONDITIONS:

A. STANDARD CONDITIONS

1. **Notify the Department in writing a minimum of 48 hours prior to project commencement and a maximum of 48 hours after project completion.** Commencement notification should include such information as the intended start date, estimated duration of construction, and the name and contact information of the firm contracted to do the work. Failure to comply with this condition may result in enforcement action.
2. Any project causing environmental problem(s) shall be reported immediately to the Department's Environmental Response Line at 954-519-1499.
3. All project generated solid waste and/or spoil material must be disposed of in a suitable approved manner in accordance with current regulations at an upland location (not including surface waters and wetlands).
4. All watercraft associated with the construction and use of the permitted structure shall only operate within waters of sufficient depth so as to preclude bottom scouring or prop dredging. **Specifically, there shall be a minimum 12-inch clearance between the deepest draft of the vessel (with the motor in the down position) and the top of any submerged resources or canal bottom at mean low water.**
5. Turbidity screens, silt fences, or equivalent shall be properly employed and maintained as necessary to effectively contain suspended sediments and/or runoff during construction activities. **Dredging, filling, excavation, seawall removal, seawall construction, and other projects which result in similar degrees of disturbance to wet sediments shall in all cases employ turbidity control measures designed to effectively enclose the entire work area.**
6. Turbidity levels shall be monitored and recorded if a visible turbidity plume is observed leaving the site during construction activities. If monitoring reveals that turbidity levels exceed 29 NTU's above natural background 50 feet downstream of the point of discharge, project activities shall immediately cease, and work shall not resume until turbidity levels drop to within these limits [62-302.530(69) FAC].

B. CONSTRUCTION CONDITIONS

1. The replacement dock shall have a maximum over-water width of 10.0 feet to 12.5 feet for a total over-water area of 3,525 square feet, as measured from the wet face of the existing seawall panel to the waterward edge of the proposed decking, and shall otherwise be constructed as shown on the attached drawings.
2. No dredging is authorized by this license.
3. If the approved license drawings and/or license attachments/plans conflict with the specific conditions, then the specific conditions shall prevail.
4. Demolition and construction related debris must be disposed of at an approved upland location and may not be left in the waterway.
5. This license does not eliminate the necessity to obtain any required federal, state, local or special district authorizations prior to the start of any activity approved by this license.

C. TURBIDITY CONDITIONS

1. All watercraft associated with the proposed work and/or use of the permitted structure shall only operate within waters of sufficient depth to preclude bottom scouring or prop dredging.
2. The contractor shall be responsible to have functional turbidity monitoring equipment on site during all construction activities and shall be responsible for training construction personnel in its calibration, operation, and related license requirements.

3. If a visible turbidity plume is observed leaving the site at any time, the licensee shall:
 - (a) Immediately cease all work contributing to the water quality violation. Operations may not resume until the Department gives authorization to do so.
 - (b) Notify the Department's call-in number immediately at (954) 519-1499, referencing the license number and project name.
 - (c) Stabilize all exposed material contributing to the water quality violation. Identify and remedy the work procedures that were responsible for the violation (i.e. dredging too rapidly, excessive tidal flow, etc.), and install more turbidity containment devices and/or repair any non-functioning turbidity containment devices.
4. Single turbidity screens, booms, curtains, or equivalent shall be affixed, anchored, or weighted to the existing seawall (not attached to the barge), shall span from water's surface to the substrate and shall be maintained as necessary during construction activities to minimize migration of turbidity into the adjacent waterway.
5. Connected turbidity curtain segments shall be overlapped and tied at the top and bottom to prevent turbidity from escaping through gaps between segments.
6. Turbidity curtains shall be deployed to effectively encapsulate the work area without impeding navigation in public waterways.

D. RIPRAP CONDITIONS

1. Approximately 318 linear feet of riprap shall remain along the seawall starting at one foot below mean high water and continuing at a 2:1 (horizontal:vertical) slope ratio. Riprap should not extend past the waterward edge of the structure, and should be placed so that full tidal flushing is achieved.
2. Riprap shall consist of unconsolidated lime-rock boulders (~12"-24") or rocks and shall be free of sediment, debris, and any toxic or otherwise deleterious substance. The riprap installment should allow the movement of water throughout the rocks providing habitat. Installation must be verified by staff as part of the as-built approval process discussed above.

E. STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

1. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The licensee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shut down if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
5. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported

to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com.

6. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the licensee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut-down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.
7. No later than 30 days after construction commencement, permanent manatee educational signs must be installed by the permittee/lessee. In the event the signs fade, become damaged or outdated, they must be replaced and maintained for the life of the facility. The on-site locations and types of signs must be acceptable to the Florida Fish and Wildlife Conservation Commission, which should be contacted at ImperiledSpecies@myfwc.com. The types of signs, sign vendors, and the process for FWC approval can be found at: <http://www.myfwc.com/wildlifehabitats/managed/manatee/signs/>.
8. Under the project described herein the Marine Facility Operating License (MFOL08-0042) acknowledges the 10 slips on site to be transitory and therefore the facility is not regulated under the County Manatee Protection Plan (MPP) and does not require an annual MFOL fee. According to the MPP, transitory uses are defined as boat facilities with docking for temporary uses (generally less than one day), including water-dependent public transportation, boat rental, restaurant, and hotel docks. Should this use change, the facility will become regulated under the MPP and an application for a new Environmental Resource License will be required.
9. Inspections shall be performed by the Department on a random basis. If the slip count is greater than the licensed slip number, a modification of the license may be applied for and if approved the new-slip fees shall be paid. If slips are not available in the MPP, the constructed facility shall remove the unlicensed slips. Failure to construct and operate the docking facility as authorized shall result in enforcement action.

F. STANDARD SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

1. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
2. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
3. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
4. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
5. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.

License No. DF20-1337
LICENSEE: 4403 Tradewinds Inc.

6. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824- 5312) and the local authorized sea turtle stranding/rescue organization.
7. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

G. A COPY OF THIS LICENSE SHALL BE KEPT ON SITE DURING ALL PHASES OF LICENSED CONSTRUCTION.

Recommended for approval by:

Michelle Decker
License Processor

Issued this 9th day of April 2021

Expiration Date: April 9th, 2023

**BROWARD COUNTY ENVIRONMENTAL PROTECTION AND
GROWTH MANAGEMENT DEPARTMENT**

Linda Sunderland

**LINDA SUNDERLAND, PWS
ENVIRONMENTAL PROGRAM SUPERVISOR
ENVIRONMENTAL ENGINEERING AND PERMITTING DIVISION**

Sec. 27-14. Administrative review of EPGMD determinations.

- (a) A person with a substantial interest may file a petition to request review of or to intervene in a review of a final administrative determination made pursuant to this chapter concerning:
 - (1) The requirement that a facility or activity obtain a license or environmental review approval.
 - (2) Interpretations of license or environmental review approval conditions.
 - (3) Interpretations of variance conditions.
 - (4) The decision to suspend or revoke a license or environmental review approval.
 - (5) The requirement of certain license conditions.
 - (6) The issuance of a license or environmental review approval.
 - (7) The denial of a license or environmental review approval.
 - (8) The scope of a license or environmental review approval, geographic or otherwise.
 - (9) The scope of a variance, geographic or otherwise.
 - (10) The issuance of a stop work order.
 - (11) Similar final administrative determinations.

This administrative review procedure shall be the only means of review available for the above final administrative determinations by either the petitioner or the intervenor (the parties).

- (b) person may not obtain review by this procedure of:
 - (1) The issuance or adjudication of or other matters involving a notice of violation or a citation.
 - (2) Internal policy decisions
- (c) A person desiring a review of a staff determination made pursuant to this Chapter shall first bring the determination to the attention of the appropriate section supervisor to attempt to resolve the matter. If a resolution cannot be reached, then the decision shall be reviewed by successive supervisory levels until the issue is resolved or reaches the level of the director or his or her designee for the final determination.
- (d) A person desiring administrative review of a final determination made by the director or the designee shall file a petition with the director for review by the hearing examiner. The petition shall be filed within ten (10) days from the rendition of the action taken or of the decision made by the director. An entity whose license or approval is being challenged shall be a party to the action.
- (e) The review shall not be heard until the provisions of subsection (f) are met. Upon motion to the hearing examiner, an insufficient petition shall be dismissed with or without leave to refile. If a petition is determined to be insufficient by the hearing examiner and the petitioner has been given leave to refile by the hearing examiner, unless otherwise ordered by the hearing examiner, the petitioner must refile within ten (10) days of the rendition of the order of dismissal or the petition will be dismissed with prejudice.

- (f) A sufficient petition for review or petition for intervention in the review shall, at a minimum, contain the following information:
- (1) The nature of the determination sought to be reviewed.
 - (2) A short, plain statement of the facts which form the subject matter upon which the determination was made as asserted by all parties of record at the time that the petition is filed; a statement of the material facts in dispute, if any. If any party is unable to state the matters in sufficient detail at the time initial petition is filed, the petition may be limited to a statement of the issues involved; and thereafter, upon timely written motion, a more definite and detailed statement shall be furnished not less than seven (7) days prior to the date set for the hearing.
 - (3) The specific determination for which the review is sought.
 - (4) The specific legal grounds upon which the parties seek review of the determination.
 - (5) A short statement of the petitioner's or the intervenor's substantial interest in the matter to be reviewed.
 - (6) The specific section of this chapter on which the decision is based, if known, and the specific section that the parties allege should control the decision, if known.
 - (7) A copy of the director's or the designee's written final determination.
 - (8) A statement of the relief requested stating precisely the action that the petitioner wants EPGMD to take with respect to the final determination.
- (g) All pleadings or other documents filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, the party's attorney or a party's qualified representative constitutes a certificate that he or she has read the pleading or other document and that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not brought for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading or other document is signed in violation of these requirements, the hearing examiner, upon motion or his or her own initiative, shall dismiss the matter.
- (h) A petitioner or intervenor may request an emergency hearing to stay all activities or work conducted pursuant to the challenged license or approval. Such petitioner or intervenor has the burden of proof to show by a preponderance of the evidence that the continued activities would cause substantial pollution or degradation to the environment. An emergency hearing shall be scheduled by EPGMD and be held within five (5) days of said request or as soon thereafter as possible subject to the availability of the hearing examiner. The petitioner or intervenor shall comply with the notice provisions of section 27-14(j)(2)a. and c. and section 27-14(j)(3) and (4) of this chapter.
- (i) The petition for review will not stay environmental protection activities required for the remediation or mitigation of a site or facility, the protection of the environment or the health, safety and welfare of the citizens of Broward County, or the prevention of further environmental degradation. The person responsible for these activities must take all necessary steps to prevent environmental degradation and must conduct the remediation or mitigation activities required by this chapter. The director may allow these activities to be delayed until after the hearing examiner's decision by certifying to

the hearing examiner that, by reason of facts stated in the certificate, a delay in the initiation or completion of these activities would not cause substantial environmental degradation or peril to life or property. The delay for conducting these activities may be subject to appropriate terms to ensure protection of the environment. The person responsible for these activities shall be responsible for any environmental damage or any violation of this chapter caused by the delay.

(j) Notice and Scheduling Requirements:

(1) The hearing on the review shall be scheduled within a reasonable time. It shall be the responsibility of the petitioner to request through EPGMD that the hearing date be scheduled. It shall also be the responsibility of the petitioner to give notice in accordance with this section at least ten (10) days prior to the hearing.

(2) The petitioner shall give notice of the hearing by:

- a. Giving personal notice to all proper parties; and
- b. Publishing notice on two (2) days in a newspaper of general circulation in the county; and
- c. Posting notice at a location determined by the Broward County Administrator's Office.

(3) The petitioner shall bear the cost of giving notice.

(4) The notice shall contain, at a minimum:

- a. A description and location of the facility or the activity to be conducted by the petitioner; and
- b. The time and place of the hearing.

(k) The petitioner shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to all parties.

(l) The hearing shall be a quasi-judicial hearing.

(1) The applicant/petitioner requesting the administrative review, any intervenor/petitioner and EPGMD shall have an opportunity to respond to and to present witnesses, other evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, and to be represented by counsel. Members of the general public who are not intervenors as set forth in Section 27-14 of this chapter are not parties to the proceeding.

(2) When appropriate, the general public may be given an opportunity to present oral or written communications. If the hearing examiner proposes to consider such material, then all parties shall be given an opportunity to cross-examine, challenge or rebut it.

(m) Denial, protest of, revocation, or suspension of a license, environmental review approval, or any other approval:

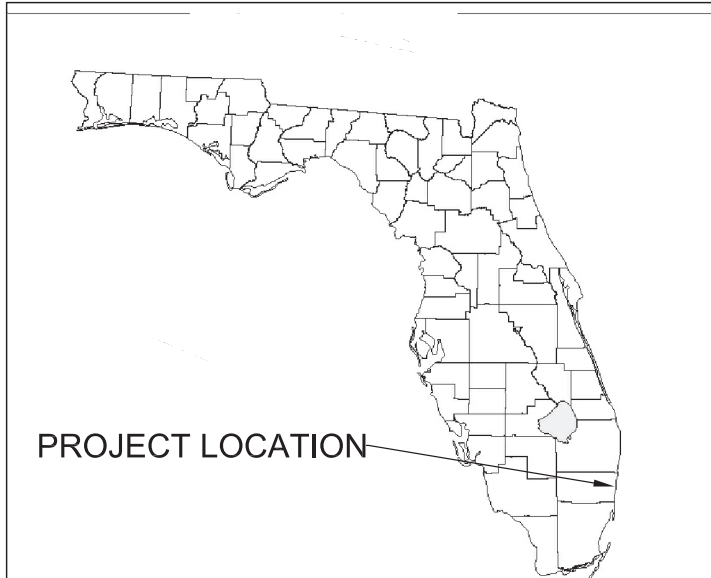
(1) In regard to denial or protest of approval of a license and any other review of an administrative decision, notwithstanding (2) below, the petitioner shall have the burden of showing, by a preponderance of the evidence, that the determination of the director was an arbitrary and/or capricious abuse of discretion, not supported by competent, substantial evidence or not in conformance with the

essential requirements of this chapter. The hearing examiner shall not substitute his or her judgment for that of EPGMD on an issue of discretion even though the hearing examiner may have reached a different conclusion based on the same facts.

- (2) In an action to revoke or suspend a valid license or approval, the burden shall be upon EPGMD to prove, by a preponderance of the evidence in an administrative hearing, the grounds for revocation or suspension. The license holder or approval recipient shall be provided notice of the hearing and a copy of the petition stating the grounds for revocation or suspension as provided in section 27-63 of this chapter. The petition shall state with specificity the acts complained of in order to allow the license holder or approval recipient an opportunity to prepare a defense. The hearing shall be conducted in accordance with the provisions of Section 27-37 of this chapter.
- (n) Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.
- (o) If the hearing examiner finds that the director or his or her designee has erroneously interpreted a provision and that a correct interpretation compels a particular action, he or she shall remand the case to the director or his or her designee for further action under a correct interpretation of the provision.
- (p) The hearing examiner shall complete and submit to the director and all parties a final order consisting of his or her findings of fact and conclusions of law.
- (q) A party to the hearing may obtain appellate review of the final order as provided by section 27-42 of this chapter.
- (r) A petitioner or intervenor shall pay a filing fee at the time the application for review is filed. The amount of the filing fee shall be set by resolution of the Board.

(Ord. No. 2003-34, § 1, 9-23-03; Ord. No. 2005-08, § 2.03, 4-26-05)
Secs. 27-15--27-19. Reserved.

4403-4405 TRADEWINDS AVE PLAN SET



PROJECT LOCATION

LOCATION MAP (N.T.S.)

DRAWING INDEX

SHEET 1: COVER

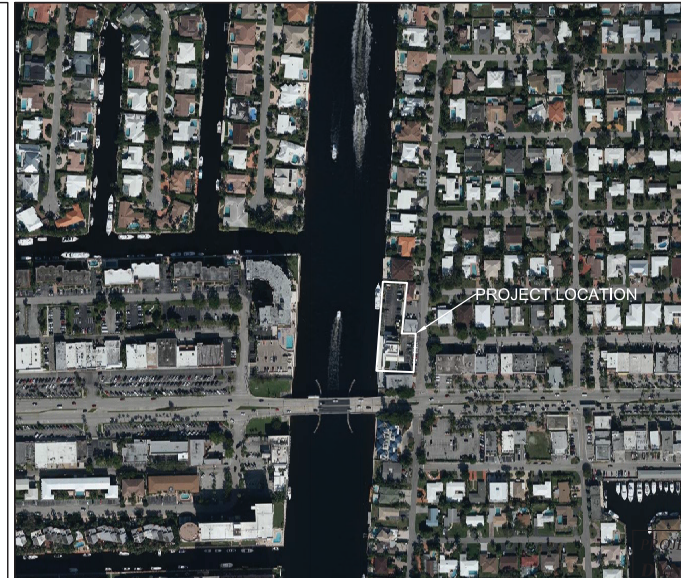
SHEET 2: EXISTING
CONDITIONS

SHEET 3: PROPOSED
CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



PROJECT LOCATION

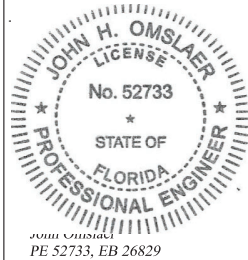
VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:
**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

John H
Omslaer

Digitally signed by John H
Omslaer
DN: c=US, st=FL, l=Pompano
Beach, o=Dynamic Engineering
Solutions, Inc., cn=John H
Omslaer,
email=des_inc@bellsouth.net
Date: 2021.03.29 09:31:02 -0400

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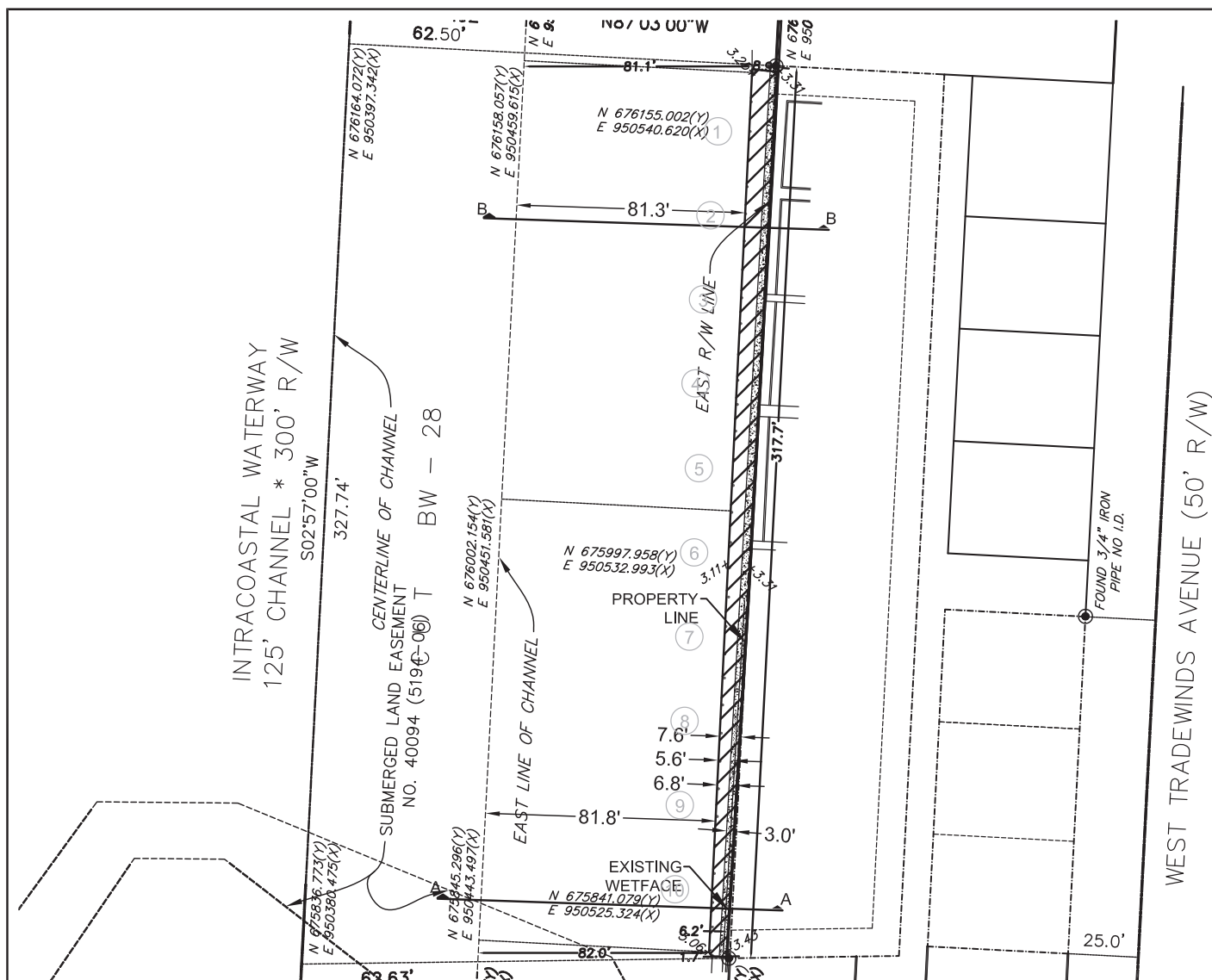
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- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

Date: 2/10/2021	Sheet : 1	of : 6
Proj No.: 20-0077		



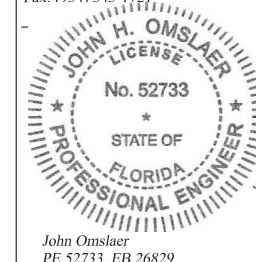
EXISTING SLIP TABLE		
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1-10	30'	11'



John H. Omslaer
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 351 S. Cypress Road, Suite 303
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 Fax: (954) 545-1721



LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- EXISTING WOOD MARGINAL DOCK TO BE REMOVED (±2,440 SQ. FT.)
- ① EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88.

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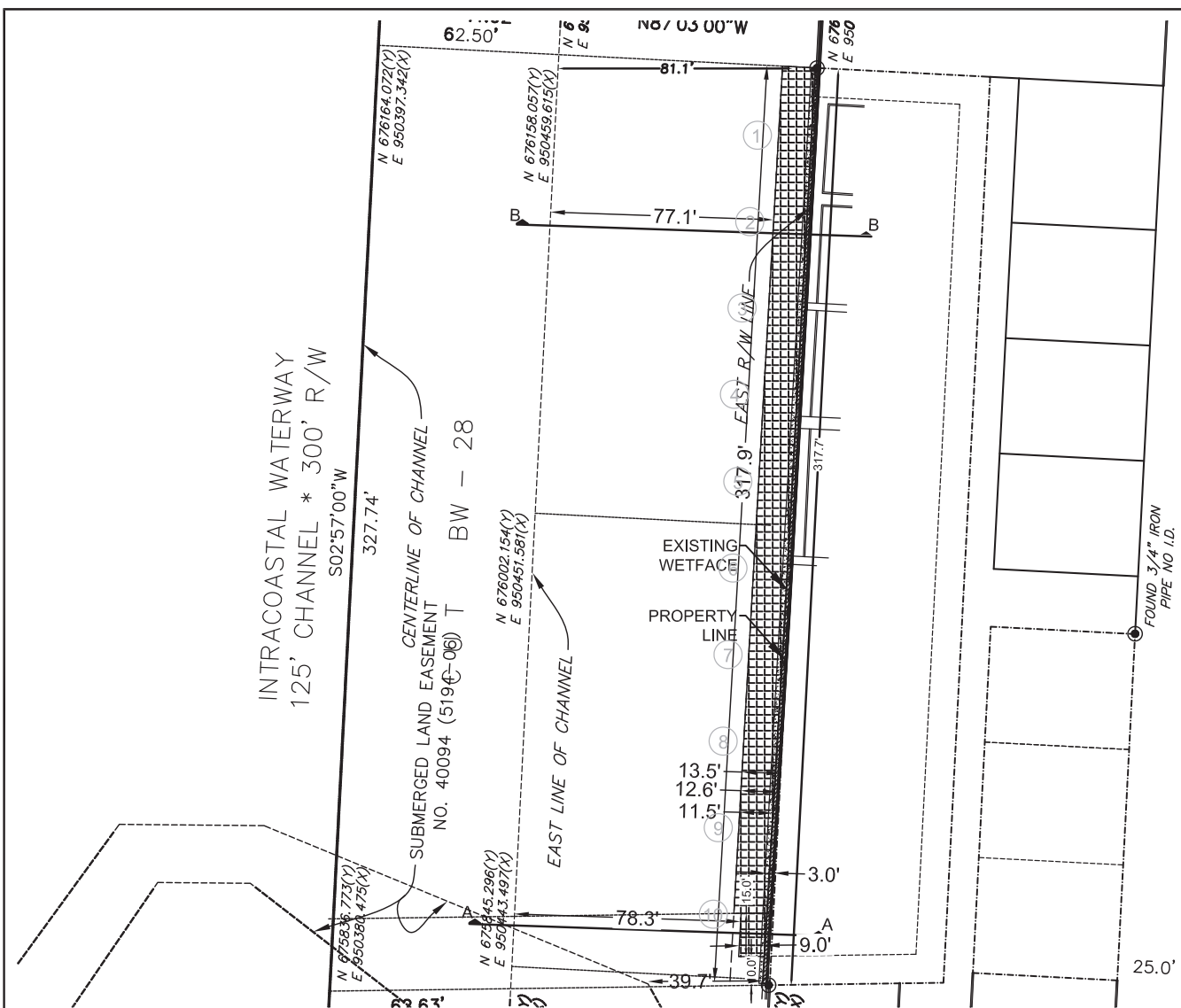
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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

EXISTING CONDITIONS

Date: 12/23/2020	Sheet: 2	of: 6
Proj No.: 20-0077		



WEST TRADEWINDS AVENUE (50' R/W)

EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



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 email=des_incebellsouth.net
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 Fax: (954) 545-1721

John Omslaer
 PE 52733, EB 26829

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
- PROPOSED CONCRETE MARGINAL DOCK (±3,525 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88
NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,161SQ. FT.

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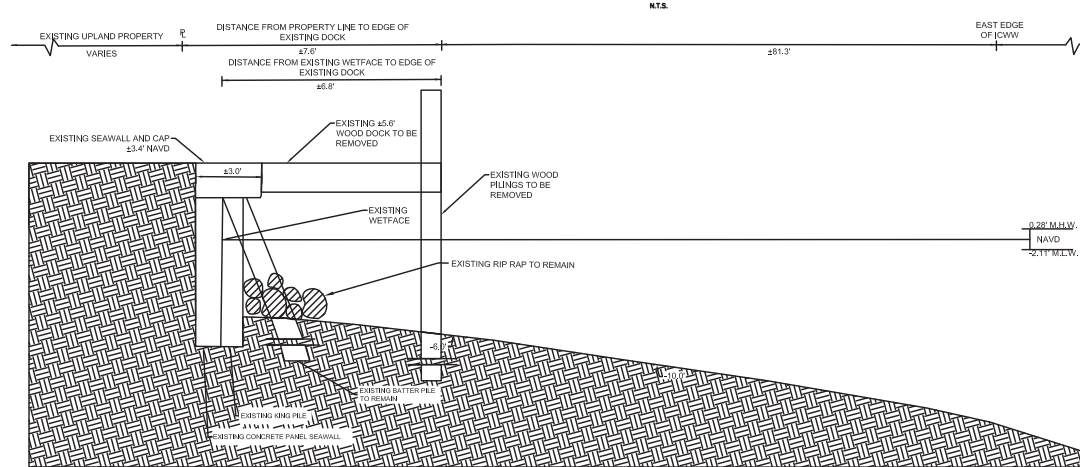
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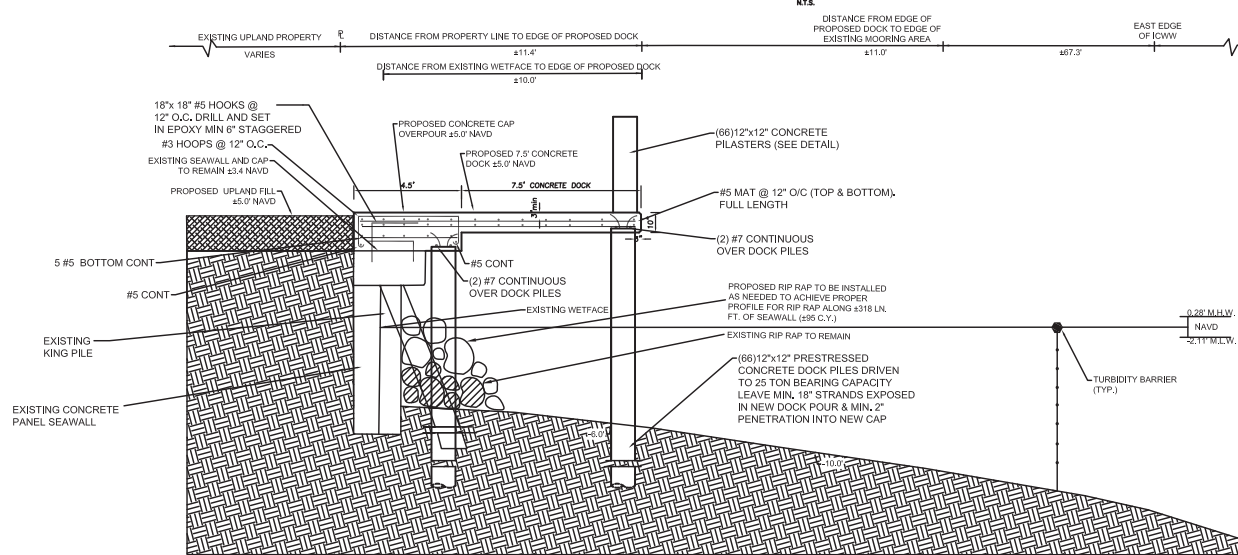
4403-4405 TRADEWINDS AVE
 PREPARED FOR:
4403 TRADEWINDS, INC.

PROPOSED CONDITIONS		
Date: 12/23/2020	Sheet: 3	of: 6
Proj No.: 20-0077		

EXISTING CONDITIONS A-A (TYP.)



PROPOSED CONDITIONS A-A (TYP.)



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JOHN H. OMSLAER
 LICENSE
 No. 52733
 STATE OF
 FLORIDA
 PROFESSIONAL ENGINEER

John Omslaer
 PE 52733, EB 26829

John H. Omslaer
 er

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 Date: 2021.03.29 09:33:59 -04'00'

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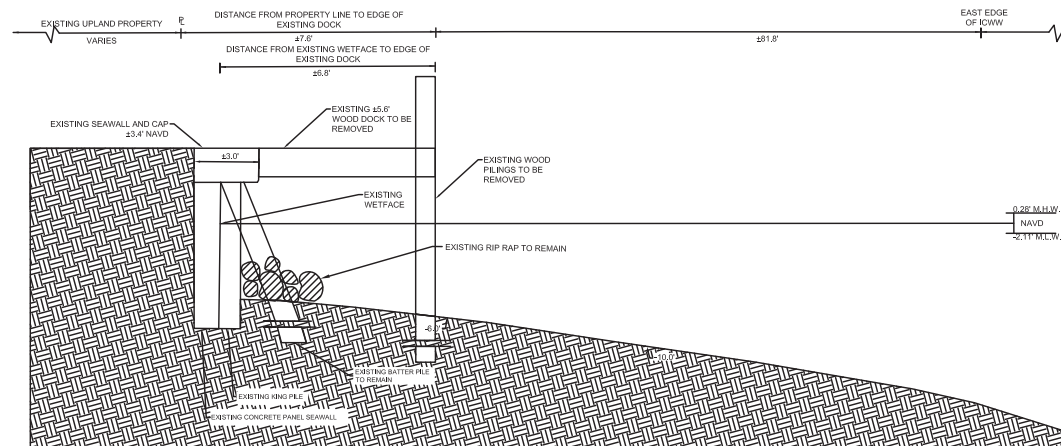
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4403-4405 TRADEWINDS AVE

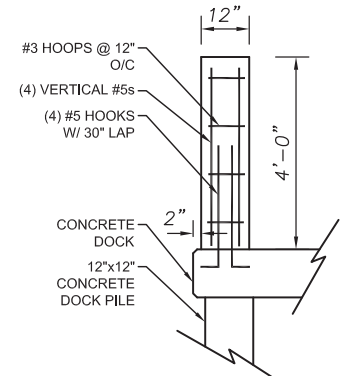
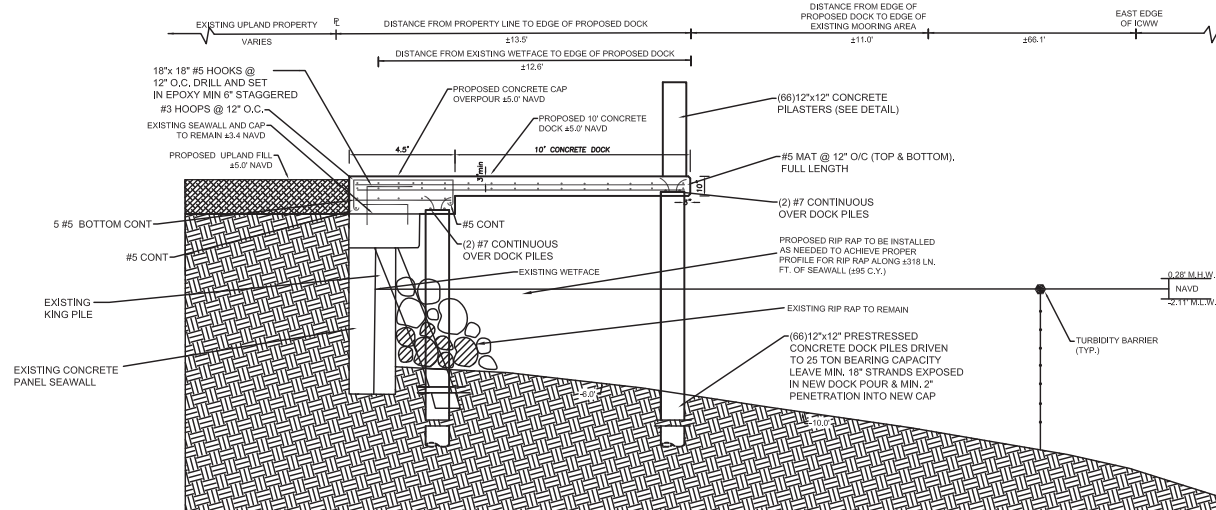
PREPARED FOR:
4403 TRADEWINDS, INC.

SECTION A		
Date: 12/23/2020	Sheet : 4	of : 6
Proj No.: 20-0077		

EXISTING CONDITIONS B-B (TYP.)



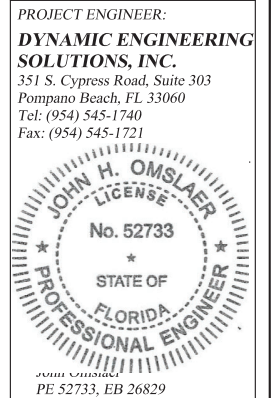
PROPOSED CONDITIONS B-B (TYP.)



PILEASTER DETAIL
Scale: 3/8" = 1'

John H Omslaer
Digitally signed by John H Omslaer
DN: c=US, st=FL, ou=Pompano
Beach, o=Dynamic Engineering
Solutions, Inc., cn=John H Omslaer,
email=des_incbellsouth.net
Date: 2021.03.29 09:34:52 -0400

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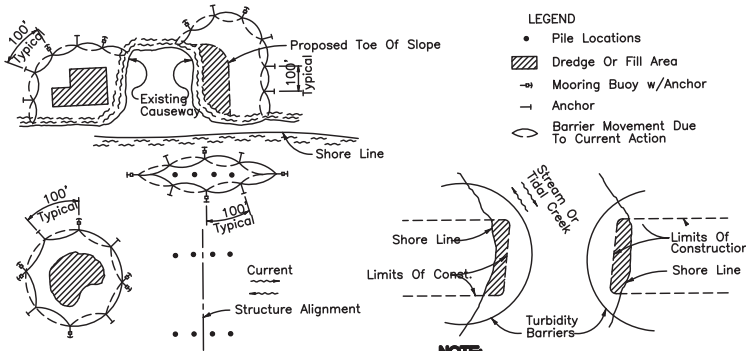
- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

SECTION B

Date: 12/23/2020	Sheet : 5	of : 6
Proj No.: 20-0077		



NOTES

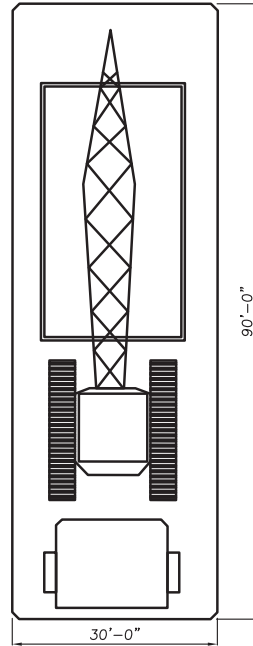
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of anchors dependant on current velocities.
3. Deployment of barrier around pile location may vary to accommodate construction operations.
4. Navigation may require segmenting barrier during construction operations.
5. For additional information see Section 104 of the Standard Specifications.

NOTE

Turbidity barriers for flowing streams and tidal creeks may be either floating, or staked types, or any combinations of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractor's option unless otherwise specified in the plans. However, payment will be under the pay item(s) established in the plans for Floating Turbidity Barrier and /or Staked Turbidity Barrier. Posts in staked turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.

Turbidity Barrier

N.T.S.



Construction Barge(typ)

N.T.S.

PILE DRIVING NOTES

1. Pile driving operations shall be observed by a special inspector, including test piles sufficient to determine the approximate length required to meet design capacity.
2. Piles shall be driven using an approved cushion block consisting of material so arranged so as to provide the transmission of the hammer energy.
3. Piles shall be driven to required capacity a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
4. Piles shall be driven with a drop hammer or gravity hammer provided the weight of the hammer is no less than 3000 pounds, and the fall of the hammer shall not exceed 6 feet.
5. Piles shall be driven with a variation of not more than $\frac{1}{4}$ " per foot from the vertical, or from the batter line indicated, with a maximum variation of the head of the pile from the position shown on the plans of not more than 3 inches.
6. Where piling must penetrate strata offering high resistance to driving, the structural engineer of record or special inspector may require that the piles be set in pre-drilled or punched holes. The piles shall reach their final penetration by driving.

CONCRETE NOTES

1. Concrete shall conform to ACI 318 (latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi at 28 days with a maximum water-cementitious materials ratio, by weight, normal aggregate concrete of 0.40.
2. Owner shall employ and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM.
3. Licensed contractor is responsible for the adequacy of forms and shoring and for safe practice in their use and removal.
4. Concrete cover shall be 3" unless otherwise noted on approved drawings.
5. Reinforcing steel shall be in conformance with the latest version of ASTM A615 Grade 60 specifications. All reinforcement shall be placed in accordance with ACI 315 and ACI Manual of Standard Practice.
6. Splices in reinforcing bars shall not be less than 48 bar diameters and reinforcing shall be continuous around all corners and changes in direction. Continuity shall be provided at corners and changes in direction by bending the longitudinal steel around the corner 48 bar diameters.
7. For repair of defective, cracked, or loose concrete, the areas must be cut out and the rebar must be cleaned by sandblasting, coated with zinc, and repaired with at least three inches of epoxy/concrete mix of gunnite concrete with sulfate-resistant cement cover.
8. A 1" deep control joint shall be sawcut in seawall cap at every other pile location, or maximum 20' O/C spacing.
9. Per section 2003.8.4.4 of the 2010 Florida Building Code, all aluminum in contact with concrete shall be protected with alkali-resistant coatings, such as heavy bodied bituminous paint or water-white methacrylate lacquer.
10. Construction to follow 2014 Florida Building code, 5th Edition and amendments as applicable and all local, state, and federal laws.
11. Contractor shall verify the existing conditions prior to commencement of the work. Any conflicts or omissions between existing conditions or the various elements of the working drawings shall be brought to the attention of the Engineer prior to the commencement of the work. Contractor and all subcontractors are responsible for all lines, elevations, and measurements in connection with their work.
12. Do not scale drawings for dimensions.
13. Contractor or customer to pay for all permit fees, inspections, and testing required.
14. Contractor to verify location of existing utilities prior to commencing work.
15. Contractor is responsible for all means, methods, and procedures of work.
16. Contractor to obtain all permits as necessary from all local, state, and federal agencies.
17. Contractor to properly fence and secure area with barricades.
18. Any deviation and/or substitution from the information provided herein shall be submitted to the Engineer for approval prior to commencement of work.
19. All unanticipated or unforeseen demolition and/or new construction conditions which require deviation from the plans and notes herein shall be reported to the Engineer prior to commencement of work.
20. All new materials and/or patchwork shall be provided to match existing materials and/or adjoining work where practical except as specifically noted herein.
21. Licensed contractor shall use all possible care to protect all existing materials, surfaces, and furnishings from damage during all phases of construction.
22. The licensed contractor to install and remove all shoring and bracing as required for the proper execution of the work.
23. All new work and/or materials shall conform to all requirements of each administrative body having jurisdiction in each pertaining circumstance.
24. Licensed contractor to verify location of existing utilities prior to commencing work.
25. All elevations shown refer to national geodetic vertical datum (NGVD) of 1929.
26. Turbidity Barriers are to surround all in water construction areas during all construction activities.

CONCRETE PILE NOTES

1. Concrete pile concrete shall attain 6000 psi compressive strength in 28 days.
2. Concrete piles shall be reinforced with (4) #8" lo-lax strands, 270 kips, and #5 spiral ties.
3. Concrete piles shall be 12"x12" square, 20 feet minimum length.
4. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.

PILE NOTE:

CONCRETE COMPRESSIVE STRENGTH:
3000 PSI • RELEASE
5000 PSI • DRIVING

SPIRAL TO BE ASTM A-82 TIGHT HARD-DRAWN WIRE
STRANDS - USE FOUR 7/16" (270K) LOW RELAXATION ASTM 416-87 UNCOATED 7-WIRE STRANDS TENSIONED TO 2.33 KIPS EACH

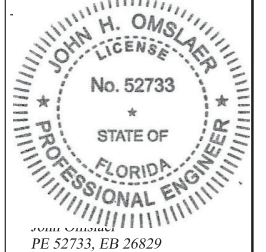
1-POINT PICKUP-MAXIMUM L = 50'
2-POINT PICKUP-MAXIMUM L = 62'

John H. Omslaer
Digitally signed by John H. Omslaer
DN: c=US, o=J.H. Omslaer, ou=Pompano Beach, ou=DYNAMIC ENGINEERING SOLUTIONS, INC., cn=John H. Omslaer, email=jho@desolutions.com
Date: 2021.03.29 09:35:46 -0400

This document has been electronically signed and sealed by John H. Omslaer, P.E. on date noted using a SHA-1 authentication code. Printed copies are not considered signed and sealed and SHA-1 authentication code must be verified on any electronic copies per Rule 62-30.060, F.A.C.

PROJECT ENGINEER:

DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721



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- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- TSE Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

DETAILS

Date: 12/23/2020	Sheet: 6	of: 6
Proj No.: 20-0077		



Town of Lauderdale-By-The-Sea
Development Services Department

To: Planning & Zoning Board

Thru: Jhanelle Campbell, Development Services Director

From: Jhanelle Campbell, Development Services Director

Date: January 27, 2022

Meeting Date: February 2, 2022

New Business: Case Number 2021-V-01: 4403 Tradewinds Inc. (Applicant) – Requests a variance to Section 30-311(c) of the Town’s Code Ordinances (the “Town Code”), to permit construction of a boat dock to extend into the Intracoastal Waterway at a maximum distance of between 11.4 feet to 13.5 feet from the property line, where the Town Code currently provides that a boat dock may be constructed or erected to extend into the Intracoastal Waterway at a maximum distance of eight (8) feet .

On September 27, 2021, 4403 Tradewinds Inc. (the “Applicant”), submitted a variance request (**Exhibit 1**) for the property located at 4403 W Tradewinds Avenue (the “Property”). Pursuant to Town Code Section 30-127, “Variance Procedures and Requirements,” the Applicant is seeking a variance from Section 30-311(c) of the Town Code to permit construction of a boat dock to extend into the Intracoastal Waterway at a maximum distance of between 11.4 feet to 13.5 feet from the Property line, where the Town Code currently provides that a boat dock may be constructed or erected to extend into the Intracoastal Waterway at a maximum distance of eight (8) feet. The Property is generally located on the west side of West Tradewinds Avenue adjacent to the Intracoastal Waterway, north of Commercial Boulevard, and within close proximity to the intersection of Commercial Boulevard and West Tradewinds Avenue, as further shown and depicted on the aerial location map referenced below as (Figure 1)

The Applicant has paid the appropriate fee and submitted their completed Application, including all required documents and plans. Notice was sent to all property owners within 300 feet on January 21, 2022, and the Property has been posted and the public hearing(s) has been advertised pursuant to Section 30-139 of the Town Code (**Exhibit 2**). At the time of agenda publication, staff has received one response to the notice (**Exhibit 2**).

Citizen Participation

The Dock Variance Application was initially scheduled to move forward onto the December 7, 2021 Planning and Zoning Board (the “PZB”) meeting agenda for review and consideration. However, that meeting was cancelled pursuant to the recent adoption of Ordinance 2021-11 (the “Citizens Participation Ordinance”) amending Chapter 30 “Unified Land Development Regulation,” Article V “Zoning” to create Section 30-114, “Citizens Participation Required.” is code section requires that a public meeting be held by the Applicant before the Application can be presented to the PZB. Once the Citizen Participation meeting requirements have been satisfied pursuant to the procedures set forth within Section 30-114 of



Figure 1-Location of Property

the Town Code, a report must be submitted to the Town for review at least twenty-one (21) days prior to the PZB meeting. This Application was submitted prior to adoption of the Ordinance, but is still subject to the citizen participation notice and meeting requirements per our Town Attorney's office. As a result of these requirements, the Applicant was unable to meet the December or January PZB meeting agenda deadlines.

A Citizen Participation meeting was held on December 28, 2021 in Jarvis Hall and a Citizens Participation Meeting Summary Report (**Exhibit 3**) was submitted and filed with the Development Services Department more than the requisite twenty-one (21) days prior to the scheduled PZB meeting, in accordance with the adopted Citizen Participation Ordinance (Ordinance No. 2021-11).

Description of the Existing Site

The Property is zoned B-1 and includes a mixed use, with professional offices and a restaurant. There are parking areas on the east and north sides of the Property. The Property is generally located on the west side of West Tradewinds Avenue adjacent to the Intracoastal Waterway, north of Commercial Boulevard, and within close proximity to the intersection of Commercial Boulevard and West Tradewinds Avenue.

Background

The building on the Property was constructed in 1972. Since then, the dock has been used by those utilizing the Property, including patrons of the restaurant arriving by boat. According to the Applicant, the existing dock has suffered damage to the wood dock itself as well as the support structure over the years. In addition, the Applicant advises of ongoing issues with the enforcement of a "No Wake" zone in the area. Failure to observe the "No Wake" zone has exacerbated the deterioration of the dock and seawall. As a result, the dock and seawall are required to be repaired and rebuilt. In order to continue using the dock, the Applicant is proposing to rebuild the dock and its supporting structure and add rip rap boulders. This repair includes having a dock that extends into the Intracoastal Waterway more than the maximum eight (8) feet allowed by the Town Code, which required the Applicant to submit a Variance Application.

It should be noted that the Applicant discusses a proposal to have a water taxi stop at this location. However, it is important to note, that this Variance Application is solely related to the variance request seeking expansion/replacement of the boat dock for additional width to extend into the Intracoastal Waterway, providing additional rip rap boulders underneath the proposed dock that will provide added protection and aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats, people, and the boat dock. Additionally, by constructing additional rip rap boulders underneath, the proposed dock will provide critical and significant habitat for marine life. More importantly, the dock will provide additional safety for those patrons of the restaurant that are get on and off their boats. The intent of the variance request seeking expansion/replacement of the boat dock is for various reasons including:

1. The public health, safety and welfare of Town residents and visitors;
2. Wave reduction;
3. Shoreline erosion, and
4. To help foster and continue environmental efforts to ensure a clean and safe Intracoastal Waterway within the Town and the State's Atlantic Intercoastal Waterway System.

Staff's evaluation and analysis outlined within this PZB Staff Report is based solely on specific facts, circumstances the merits of the variance request, and is not based on the potential future uses on the Property in the future.

Variance Request

Section 30-311(c) of the Town Code currently provides that a boat dock may be constructed or erected to extend into the Intracoastal Waterway at a maximum of eight (8) feet from the Property line. The Variance Application seeks to allow the proposed dock to be constructed between 11.4 feet to 13.5 feet from the Property line into the Intracoastal Waterway.

Criteria and Analysis

Section 30-127 (**Exhibit 4**) of the Town Code provides that a variance application shall be evaluated by considering the following criteria. Please note that the Applicant's response is taken directly from the application. For the full narrative from the Applicant, please see **Exhibit 1**.

1. *Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.*

Applicant statement:

The proposed dock has been approved by the U.S. Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection (FDEP; Permit No. 06-395244-002-EM), and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337). These environmental agencies also take into consideration navigation along the Intracoastal Waterway when reviewing applications and permit issuance. The Intracoastal Waterway is a Federal channel and requires approval from the ACOE Navigation District to construct proposed construction, which has been reviewed and granted. The proposed structure also adheres to the Florida Department of Environmental Protection requirement stating that no docks or vessels can exceed 25% the width of the waterway. The addition of rip rap boulders underneath the proposed dock will aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats, people, and the dock. In addition, rip rap provides a robust environment for marine species in the surrounding waters. The proposed dock and riprap will provide significant marine habitat while protecting vessels and passengers from the excessive wakes experienced along this portion of the Intracoastal Waterway. The proposed dock complies with the current five (5) foot setback on the north and south of the dock as required by the town code.

This section of the Intracoastal Waterway is marked as an "Idle Speed No Wake" zone ("750 feet north of the East Commercial Boulevard Bridge" 68D-24.008 Broward County Boating Restricted Areas). However, the small existing wood dock has previously experience damage to not only the dock, but damage to boats from passing wakes that could have led to injuries. Previously, the dock acted as a location for passengers to board the Fort Lauderdale Water Taxi; unfortunately, these damages terminated the use of the dock facilities due to unsafe conditions. These incidents demonstrate that the no wake zone is not being enforced or adhered to; thus, resulting in the need for the riprap to absorb the waver energy and a 9-11.5' concrete wide dock.

Staff findings:

There are no other properties on the intracoastal waterway with commercial uses in the Town that include a dock for the use by the establishments' patrons. As asserted by the Applicant, the Property's proximity to the Bridge, the fact that multiple boats traverse the waterway adjacent to the Property when the Bridge is up, and failure of boaters to observe the "Idle Speed No Wake" zone has taken a toll on the existing dock and infrastructure. These factors create special conditions that impact the reasonable use of the land. The ability to upgrade both the dock and its supporting infrastructure will allow the Applicant to provide a safer area for customers to dock watercraft and access the Property. In addition, expansion of the dock reduces the impact of passing boats and moving water on the dock.

This criterion has been met.

2. *The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.*

Applicant Statement:

The 8-foot dock rule applies in Lauderdale-By-The-Sea in residential areas, where the canal is typically small in width. These residential areas typically have a canal that is about 100 feet wide, whereas, in the portion of the Intracoastal Waterway that this proposed dock along this commercial property is located, the canal is

approximately 300 feet wide. As such this property is a marked exception to the other properties which are largely residential, and are on a much narrower canal.

Staff Findings:

The proximity of the dock to the Bridge, the use of the dock by multiple boats over the course of the day, and the fact that this is likely the only commercial property in the Town that uses the dock to service customers on the Intracoastal going to businesses on the Property qualify as circumstances that few if any properties can claim as an issue.

This criterion has been met.

3. *The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.*

Applicant Statement:

The existing dock has been deemed as a hazard for boats to moor and dock safely without the modification listed in the proposed plans. Additionally, the code states that "boat docks...may be constructed or erected to extend into any waterway a distance of ten percent of the width of the waterway or distance of eight feet, whichever is less, as measured from the recorded property line" (Sec 30-311 (2)a). As the property line is located approximately 0.8-1.4' landward of the existing wetface, this would only allow for the addition of a 7.2' dock. The maximum of a 7.2' or 8' wide dock would not allow for the addition of riprap as it would extend past the dock creating a hazard for mooring vessels and their passengers. Here the riprap is needed to absorb the excessive wakes experienced along this heavily traveled Intracoastal Waterway. In addition, the code mandated 8' wide from property line prevents the applicant from safe mooring on the ICW, pedestrian access, boat disembarkment, and water taxi access at this location.

Staff Findings:

The literal interpretation of the Code would mean that the dock could only extend into the Intracoastal Waterway a maximum of eight (8) feet. While it could be an inconvenience for the Property owner, it would not render the dock unusable. However, it would not be useable for a purpose that would serve the existing businesses.

This criterion has been met.

4. *The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.*

Applicant Statement:

The hardship is not self-created. The property is located approximately 100 feet to the north of the East Commercial Boulevard Bridge where heavy boat traffic is frequently experienced. Large commercial vessels and other tall boats are required to wait for the bridge to open for safe passage leading to boat congestion in the surrounding area. Attempting to moor on a small dock during these times has proven difficult and dangerous and could lead to life threatening situations that a larger dock with more rip rap would prevent.

Staff Findings:

Staff agrees that the hardship is not self-created.

This criterion has been met.

5. *The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Applicant Statement:

If an 8 foot dock is provided for in a 100 foot wide canal then a 24 foot dock should be provided in a 300 foot wide waterway. We are not seeking that. We are only seeking an additional 5 foot to allow for the rip rap to break up the wake action from the boat traffic travelling up and down the Intracoastal Waterway which runs the entire length of the United States rather than a few feet inland. The extension will not be injurious to the neighborhood but will add an additional barrier of protection to neighboring properties from wave action and enhance the property appearance. The proposed structures will look modern and sophisticated similar to the docking facilities at Shooters Waterfront restaurant, which has an active water taxi service.

Additional special circumstances all involving safety for our community include:

- A wider structurally safe dock will improve pedestrian access along the dock for people to disembark, better boat access and a structurally safer area for a water taxi or large vessel.
- The variance allows the proposed seawall and dock to have increased structural integrity, height, and strength.
- The variance allows the safe usage of the restaurant property which now spaces tables 6 feet apart to prevent the spread of covid. Just as the City has wisely allowed restaurants in the town to use parking spaces for outdoor dining, the restaurant dock expansion will facilitate the town's intent to space restaurant dining in this location as well.
- Due to the structural dock improvements and additional width the property will provide a unique service to the Town for outdoor/waterfront dining and increase access to the town by the introduction of a new water taxi service stop which will provide a new east west corridor connection from this gateway property in the town on the ICW to the restaurant/retail corridor and ultimately the beach/AIA entertainment areas.

Staff Findings:

The additional width for the dock at a commercial establishment will not have an impact on neighboring properties nor will it be detrimental to the public welfare. Based on the information provided by the Applicant, the variance will allow for safer conditions on the dock, especially in case of rough water. Furthermore, the proposed dock would eliminate the setback non-conformity that currently exists. The existing dock extends to each property line where the proposed will be setback at a distance of five (5) feet on each end of the property per Town Code.

This criterion has been met.

6. *The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.*

Applicant Statement:

The granting of the variance does not change the usage of the dock but brings the height up so the dock is not flooded by high tides and diminishes the strong wave action caused by passing boats. The construction of the proposed dock makes the supports stronger by using concrete and the additional width better for the purpose of usage as a dock.

Staff Finding: The proposed use (a dock) is permitted. As previously stated, the use of the dock for a water taxi is not part of this application.

This criterion has been met.

7. *Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.*

Applicant Statement:

The failure to grant the variance will maintain the property unusable for boats and the water taxis to dock safely as the small dock exhibits inadequate space for loading and unloading passengers and for the amount of riprap needed to reduce the wave energy.

Staff Finding: Financial hardship is not a basis for granting the variance.

This criteria has been met.

STAFF RECOMMENDATIONS: Staff believes that the Applicant has justified the grant of the variance based on the requirements of the Town Code. The criteria to grant the request have been met.

The Board should list its findings and conclusions to support their recommendation to the Town Commission.

The variance request is scheduled for the February 22, 2022 Town Commission meeting.

Exhibits:

1. Zoning Variance Application, Narrative ,Plans for Proposed Dock
2. Public Notice, Notice Requirements and Public Comments
3. Citizen Participation Summary and Sign In Sheet
4. Variance Criteria

LAUDERDALE•BY•THE•SEA

VARIANCE APPLICATION



4501 N. OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FL 33308
(954)-640-4210
ZONING@LBTS-FL.GOV
M-F 8:30-4:30 PM

For Administrative Purpose Only

Application Number: 2021-V-01
BTR #: _____
Date Application Submitted: 9-27-21
Date Application Found Complete: 10/7/21
Pre-Application Meeting Date: _____
Non-Refundable Application Fee: \$900 } pd 9/27/21
Cost Recovery Fee: \$400

LAUDERDALE•BY•THE•SEA

VARIANCE APPLICATION

In accordance with the Town of Lauderdale-By-The-Sea Unified Land Development Regulations applications for a Variance may be made under Section 30-127 and Section 30-112.

Section A: Items for Submittal

Note: Please submit digital copies with the application via email or thumb drive

- The Fee for Variance + Deposit (See Fee Schedule)
- Completed and notarized Universal Development Application
- Survey of site signed and sealed by a licensed surveyor, dated no more than 12 months prior to the submission date
- An approved site plan and development order for the property, if existing
- Any other application specific information as required by the Development Services Director or designee.
- Completion of Section B, noted below

Section B: Variance Consideration Criterion

Note: An application shall be evaluated by the criteria noted in Section 30-127. Please provide a response to each question below.

1. Are there special conditions and circumstances existing that affect the land, structure or building involved preventing the reasonable use of such land, structure or building?
2. Are there circumstances which cause the hardship peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district?
3. Does the literal interpretation of the provisions of the applicable regulation result in a hardship upon the owner, as distinguished from a mere inconvenience?
4. How is the hardship not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations?
5. Is a variance the minimum that will make possible the reasonable use of the property and the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will the variance not be injurious to the neighborhood or otherwise detrimental to the public welfare?
6. How does the grant of the variance not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies?
7. Will failure to grant the variance render the property unusable as a permitted use in the zoning district in which the property lies?

If a resubmittal is requested, please submit the amended documents, the previous comments received from the Town, and the applicant's response to those comments.



Need assistance or clarification?
Please contact us at (954)-640-4210 or email Zoning@lbts-fl.gov

In accordance with Section 30.111-30.113 of the Town's Unified Land Development Regulations: Development applications are required to be provided before any development permit is issued. Please refer to the Town's website to obtain a copy of the corresponding Application Checklist and Fee Schedule.

Check appropriate application and block:

- | | |
|---|---|
| ☐ Appeal of Administrative Decision | ☐ Historic Designation |
| ☐ Site Plan | ☐ Certificate of Appropriateness |
| ☐ Site Plan Level 1 Modification | ☐ Zoning Relief |
| ☐ Site Plan Level 2 Modification | ☐ Rezoning |
| ☐ Conditional Use _____ | ☐ Right-of-Way Vacation |
| ☐ Conditional Use Modification _____ | ☐ Comprehensive Plan Amendment |
| ☐ Administrative Adjustment _____ | ☐ Payment in Lieu of Parking |
| ☒ Variance _____ | ☐ Parking Reduction _____ |
| ☐ Plat _____ | ☐ Other: _____ |
| ☐ Architectural Review _____ | |

Project Name: 4403 Tradewinds Inc.

Folio Numbers: 494318070010

Street Address: 4403 W. Tradewinds Ave. LRTS

Legal Description: All of Block M B Yacht Basin Unit B Plat Book 31

Name of Property Owner: 4403 Tradewinds, Inc. / Jo Ann Hoffman Property Owner's Phone #: 954-937-1191 Pg 3

Address of Property Owner: 4403 W. Tradewinds Ave LRTS FL 33308

Property Owner's Email Address: joann@joannhoffman.com + carlos@joannhoffman.com

Name of Applicant: Jo Ann Hoffman Applicant's Phone #: 954-937-1191

Applicant's Address: 4403 W. Tradewinds Ave LRTS, FL 33308

Applicant Email Address: joann@joannhoffman.com + carlos@joannhoffman.com

Name of Agent (e.g. Contractor Representing the Project): The Chappell Group

Agent's Email Address: tyler@thechappellgroup.com Agent's Phone #: 954-782-1908

Agent's Address: 714 E. McNab Rd Pompano Beach, FL 33060

Land Use Plan Designation: Business/Retail Zoning District: B-1

Existing Use of the Subject Property: Dock

Proposed Use of the Subject Property: Dock

DEVELOPMENT APPLICATION SIGNATURE SECTION

Property Owner

Print Name of Property Owner: 4403 TRADEWINDS INC Date: 9-24-21 Jo Ann Hoffman

Signature of Property Owner: [Signature]

State of Florida:

County: Broward

SWORN AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this day 24th of September, 2021.

The person signing is ☒ personally known to me or has ☐ produced identification

Print Notary Name: Carlos Gianos My Commission Expires: [Signature]

Notary Signature: [Signature]

Applicant

Print Name of Property Owner: Jo Ann Hoffman of 4403 TRADEWINDS INC Date: 9-24-21

Signature of Property Owner: [Signature]

State of Florida:

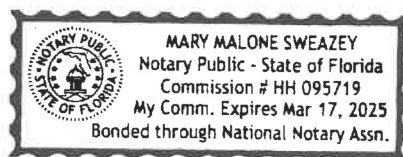
County:

SWORN AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this day 24 of Sept, 2021.

The person signing is ☒ personally known to me or has ☐ produced identification

Print Notary Name: Mary Malone Sweazey My Commission Expires: [Signature]

Notary Signature: Mary Malone Sweazey





McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
 1700 N.W. 64th STREET, SUITE 400, FORT LAUDERDALE, FLORIDA 33301
 PHONE: (954) 763-7611 * EMAIL: OFFICE@MECO400.COM

**SPECIAL PURPOSE LOCATION SURVEY
 TO ACCOMPANY REQUEST FOR ARMY CORPS OF
 ENGINEERS PERMIT
 THE INTRACOASTAL WATERWAY ADJACENT TO
 PORTION OF BLOCK "H", ALL OF BLOCK "M" AND YACHT
 BASIN (PRIVATE), SILVER SHORES SECTION OF
 LAUDERDALE BY THE SEA, UNIT "B"
 (P.B. 31, PG. 3 B.C.R.)
 SHEET 1 OF 2 SHEETS**

COORDINATE AND ELEVATION NOTES:

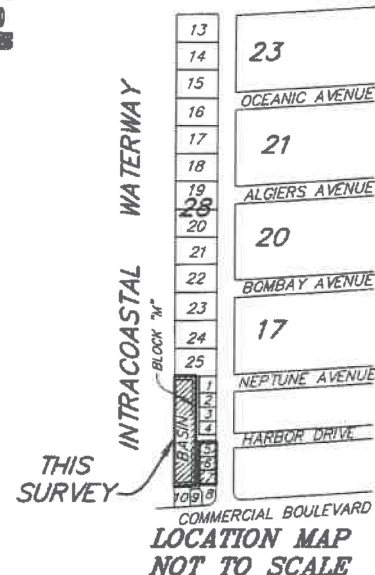
HORIZONTAL ACCURACY:

The channel location as shown hereon refers to U.S. ARMY CORPS OF ENGINEERS (ACOE) 10ft Project Control Map, File 8B-24,258, Sheets 15 of 20. The Channel Cut Reference Stations bearings and coordinates have been transformed to the North American Datum 1983 High Accuracy Reference Network (NAD83(HARN)) as furnished by the ACOE. The coordinates shown on the property are from control that was shot in the field by using the Global Positioning System (GPS) and meet or exceed the one (1) foot tolerance requirements of the ACOE.

VERTICAL ACCURACY:

The Elevations shown hereon refer to National Geodetic Vertical Datum 1988 (NVAD 88) as converted using Verticon 3.2 software, utilizing National Geodetic Survey Bench Mark #AD5854 (ELEVATION = 10.20) with a Latitude of 26°11'25.4"N and Longitude of 80°05'44.5"W and meet or exceed the 0.5 foot vertical tolerance requirements of the ACOE and are indicated thus:

3.11±



UPLAND LEGAL DESCRIPTION:

Lot 3 TO 6, Block "H", All of Block "M" and Yacht Basin (private), SILVER SHORES SECTION OF LAUDERDALE BY THE SEA, UNIT "B", according to the plat thereof, as recorded in Plat Book 31, Page 3, of the public records of Broward County, Florida.

Said land situate, lying and being in Section 18, Township 49 South, Range 43 East, Town of Lauderdale by the Sea, Broward County, Florida.

GENERAL NOTES:

- 1) This survey reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by McLaughlin Engineering Company.
- 2) Underground improvements if any not located.
- 3) This drawing is not valid unless sealed with an embossed surveyors seal.
- 4) Survey information does not infer Title or Ownership.
- 5) The purpose of this survey is to establish the horizontal and vertical positioning of improvements, whether proposed or existing, within the Intracoastal Waterway using the criteria established in that certain Memorandum for Record (CESAJ-RD (1200a)) Dated July 18, 2013.

CERTIFICATION:

We hereby certify that this survey meets the Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17.05 Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Dated at Fort Lauderdale, Florida, this 1st day of September, 2020.
 Revised to add Submerged Land Easement this 22nd day of October, 2020.

McLAUGHLIN ENGINEERING COMPANY

JAMES M. McLAUGHLIN JR.
 Registered Land Surveyor No. 4497
 State of Florida.

FIELD BOOK NO. EFB-GPS & PRINT

11" X 17"

DRAWN BY: JMMjr

JOB ORDER NO. V-5430

REF DWG: 0-140A

CHECKED BY: _____

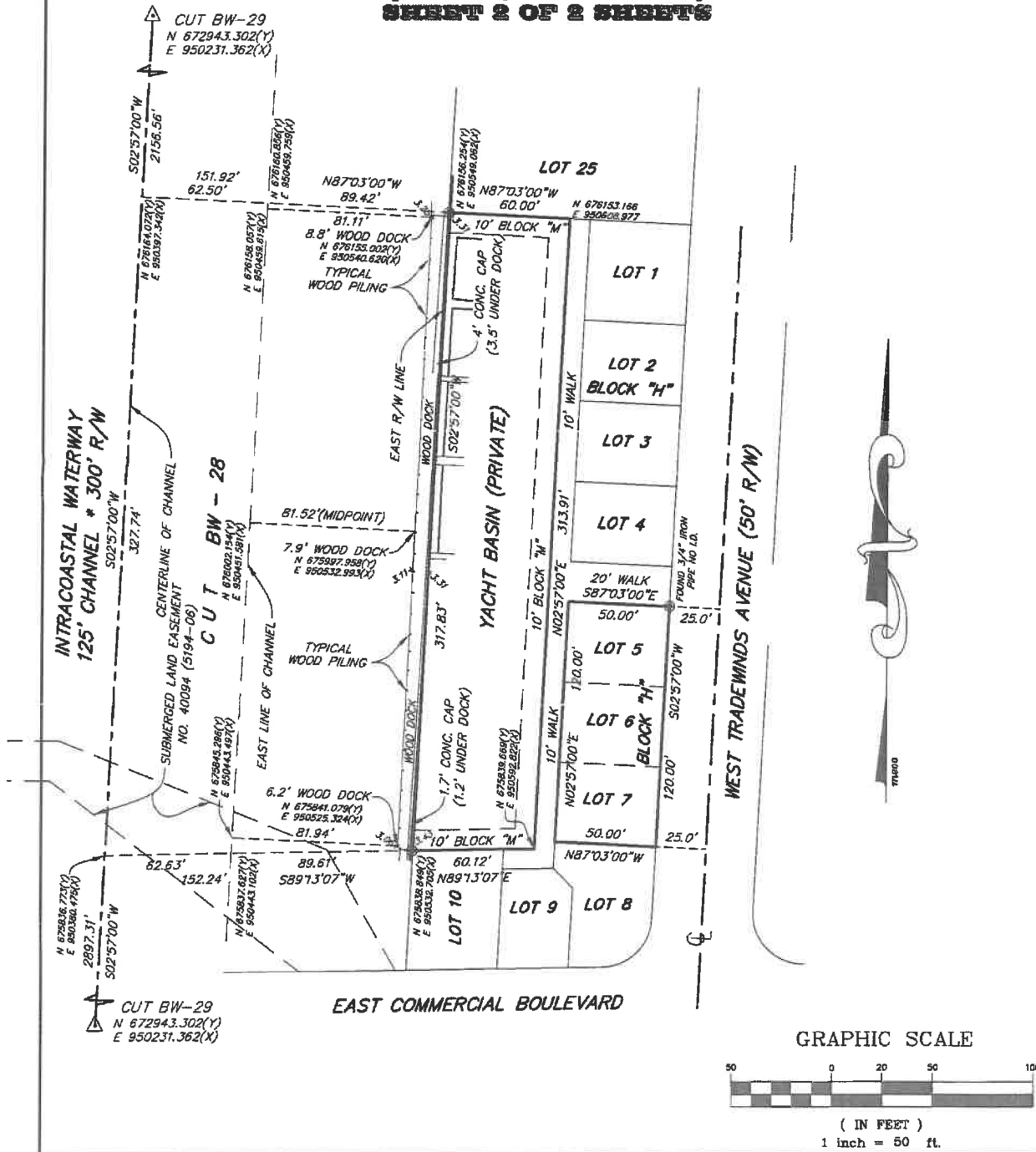
C: \JMMjr/2020/V5430(XY)



McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W. 64th STREET, SUITE 400, FORT LAUDERDALE, FLORIDA 33301
PHONE: (954) 763-7611 * EMAIL: OFFICE@MECO400.COM

X-Y COORDINATE SURVEY
TO ACCOMPANY REQUEST FOR ARMY CORPS OF
ENGINEERS PERMIT
THE INTRACOASTAL WATERWAY ADJACENT TO
PORTION OF BLOCK "H", ALL OF BLOCK "M" AND YACHT
BASIN (PRIVATE), SILVER SHORES SECTION OF
LAUDERDALE BY THE SEA, UNIT "B"
(P.B. 31, PG. 3 B.C.R.)
SHEET 2 OF 2 SHEETS



FIELD BOOK NO. EFB & PRINT

11" x 17"

DRAWN BY: JMMjr

JOB ORDER NO. V-5430

CHECKED BY:

REF DWG: 0-140A

C: \JMMjr\2020\V5430(XY)

9-22-21

Section B: Variance Consideration Criteria

Dear Mayor, Town Manager and Commissioners,

On behalf of 4403 Tradewinds Inc, we have applied for a variance per the attached plan to allow a concrete dock that extends a range of 11.4' to 13.5' from the property line along the property at 4403 Tradewinds Inc. There are multiple special circumstances for this variance which meet the criteria under Section B of the Variance application:

[1] Are there any special conditions and circumstances existing that affect the land, structure or building involved preventing the reasonable use of such land, structure or building?

The proposed dock has been approved by the U.S. Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection (FDEP; Permit No. 06-395244-002-EM), and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337). These environmental agencies also take into consideration navigation along the Intracoastal Waterway when reviewing applications and permit issuance. The Intracoastal Waterway is a Federal channel and requires approval from the ACOE Navigation District to construct proposed construction, which has been reviewed and granted. The proposed structure also adheres to the Florida Department of Environmental Protection requirement stating that no docks or vessels can exceed 25% the width of the waterway. The addition of rip rap boulders underneath the proposed dock will aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats, people, and the dock. In addition, rip rap provides a robust environment for marine species in the surrounding waters. The proposed dock and riprap will provide significant marine habitat while protecting vessels and passengers from the excessive wakes experienced along this portion of the Intracoastal Waterway. The proposed dock complies with the current five (5) foot setback on the north and south of the dock as required by the town code.

This section of the Intracoastal Waterway is marked as an "Idle Speed No Wake" zone ("750 feet north of the East Commercial Boulevard Bridge" 68D-24.008 Broward County Boating Restricted Areas). However, the small existing wood dock has previously experience damage to not only the dock, but damage to boats from passing wakes that could have led to injuries. Previously, the dock acted as a location for passengers to board the Fort Lauderdale Water Taxi; unfortunately, these damages terminated the use of the dock facilities due to unsafe conditions. These incidents demonstrate that the no wake zone is not being enforced or adhered to; thus, resulting in the need for the riprap to absorb the waver energy and a 9-11.5' concrete wide dock.

[2] Are there any circumstances which cause the hardship peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district?

The 8-foot dock rule applies in Lauderdale-By-The-Sea in residential areas, where the canal is typically small in width. These residential areas typically have a canal that is about 100 feet wide, whereas, in the portion of the Intracoastal Waterway that this proposed dock along this commercial property is located, the canal is approximately 300 feet wide. As such this property is a marked exception to the other properties which are largely residential, and are on a much narrower canal.

[3] Does the literal Interpretation of the Provisions of the applicable regulation result in a hardship upon the owner, as distinguished from a mere inconvenience?

The existing dock has been deemed as a hazard for boats to moor and dock safely without the modification listed in the proposed plans. Additionally, the code states that "boat docks... may be constructed or erected to extend into any waterway a distance of ten percent of the width of the waterway or distance of eight feet, whichever is less, as measured from the recorded property line" (Sec 30-311 (2)a). As the property line is located approximately 0.8-1.4' landward of the existing wetface, this would only allow for the addition of a 7.2' dock. The maximum of a 7.2' or 8' wide dock would not allow for the addition of riprap as it would extend past the dock creating a hazard for mooring vessels and their passengers. Here the riprap is needed to absorb the excessive wakes experienced along this heavily traveled Intracoastal Waterway. In addition, the code mandated 8' wide from property line prevents the applicant from safe mooring on the ICW, pedestrian access, boat disembarkment, and water taxi access at this location.

[4] How is the hardship not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations?

The hardship is not self-created. The property is located approximately 100 feet to the north of the East Commercial Boulevard Bridge where heavy boat traffic is frequently experienced. Large commercial vessels and other tall boats are required to wait for the bridge to open for safe passage leading to boat congestion in the surrounding area. Attempting to moor on a small dock during these times has proven difficult and dangerous and could lead to life threatening situations that a larger dock with more rip rap would prevent.

[5] Is a variance the minimum that will make possible the reasonable use of the property and the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will the variance not be injurious to the neighborhood or otherwise detrimental to the public welfare?

If an 8 foot dock is provided for in a 100 foot wide canal then a 24 foot dock should be provided in a 300 foot wide waterway. We are not seeking that. We are only seeking an additional 5 foot to allow for the rip rap to break up the wake action from the boat traffic travelling up and down the Intracoastal Waterway which runs the entire length of the United States rather than a few feet inland. The extension will not be injurious to the neighborhood but will add an additional barrier of protection to neighboring properties from wave action and enhance the property appearance. The proposed structures will look modern and sophisticated similar to the docking facilities at Shooters Waterfront restaurant, which has an active water taxi service.

Additional special circumstances all involving safety for our community include:

1. A wider structurally safe dock will improve pedestrian access along the dock for people to disembark, better boat access and a structurally safer area for a water taxi or large vessel.
2. The variance allows the proposed seawall and dock to have increased structural integrity, height, and strength.
3. The variance allows the safe usage of the restaurant property which now spaces tables 6 feet apart to prevent the spread of covid. Just as the City has wisely allowed restaurants in the town to use parking spaces for outdoor dining, the restaurant dock expansion will facilitate the town's intent to space restaurant dining in this location as well.
4. Due to the structural dock improvements and additional width the property will provide a unique service to the Town for outdoor/waterfront dining and increase access to the town by the introduction of a new water taxi service stop which will provide a new east west corridor connection from this gateway property in the town on the ICW to the restaurant/retail corridor and ultimately the beach/AIA entertainment areas.

[6] How does the grant of the variance not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies?

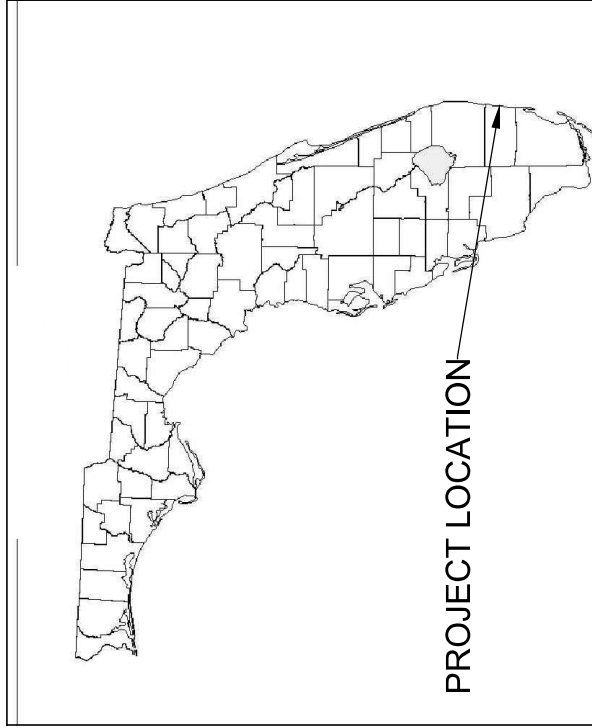
The granting of the variance does not change the usage of the dock but brings the height up so the dock is not flooded by high tides and diminishes the strong wave action caused by passing boats. The construction of the proposed dock makes the supports stronger by using concrete and the additional width better for the purpose of usage as a dock.

[7] Will failure to grant the variance render the property unusable as a permitted use in the zoning district in which the property lies?

The failure to grant the variance will maintain the property unusable for boats and the water taxis to dock safely as the small dock exhibits inadequate space for loading and unloading passengers and for the amount of riprap needed to reduce the wave energy.

4403-4405 TRADEWINDS AVE PLAN SET

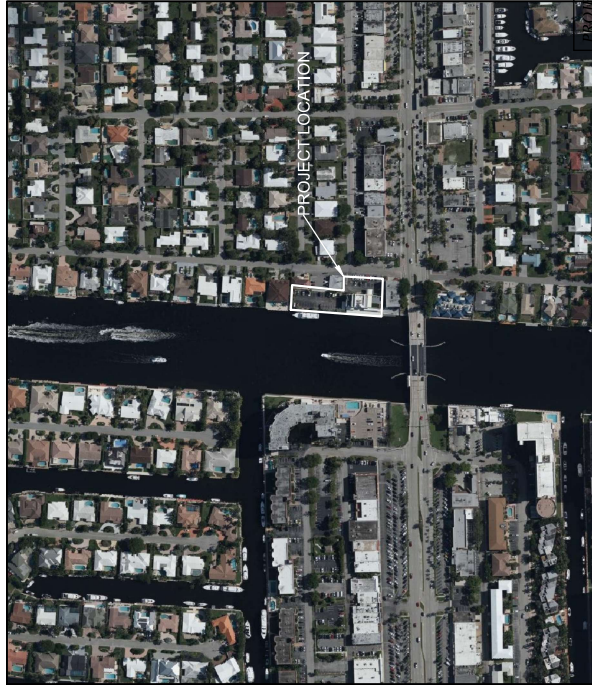
Proposed Plans



PROJECT LOCATION

LOCATION MAP (N.T.S.)

DRAWING INDEX	
SHEET 1: COVER	
SHEET 2: EXISTING CONDITIONS	
SHEET 3: PROPOSED CONDITIONS	
SHEET 4: SECTION A	
SHEET 5: SECTION B	
SHEET 6: DETAILS	



VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Onslauer
PE 52733, EB 26829

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THE Chappell GROUP
714 East McNab Road
Pompano Beach, Florida 33060
Tel: 954.782.1908
Fax: 954.782.1108
www.thechappellgroup.com

- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

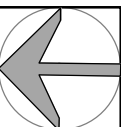
4403-4405 TRADEWINDS AVE
PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

Date: 2/10/2021	Sheet: 1	of: 6
Proj No.: 20-0077		

371

NORTH



SCALE
1" = 40'

EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'

PROJECT ENGINEER:
DYNAMIC ENGINEERING
SOLUTIONS, INC.
3351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omslaer
PE 52733, EB 26829

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LEGEND

- SUBJECT SITE (0.57 AC)**
EXISTING CONCRETE PANEL SEAWALL TO REMAIN (#318 LN. FT.)
PROPOSED CONCRETE CAP OVERPOUR (#318 LN. FT.; #636 SQ. FT. OVERWATER)
PROPOSED CONCRETE MARGINAL DOCK (#3,468 SQ. FT.)
EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY
MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN
AS NAVD88. TOTAL OVERWATER SQUARE
FOOTAGE IS APPROXIMATELY 4,104SQ. FT.

PROPOSED CONDITIONS

Date: 12/23/2020	Sheet : 3	of: 6
Proj No.: 20-0077		

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

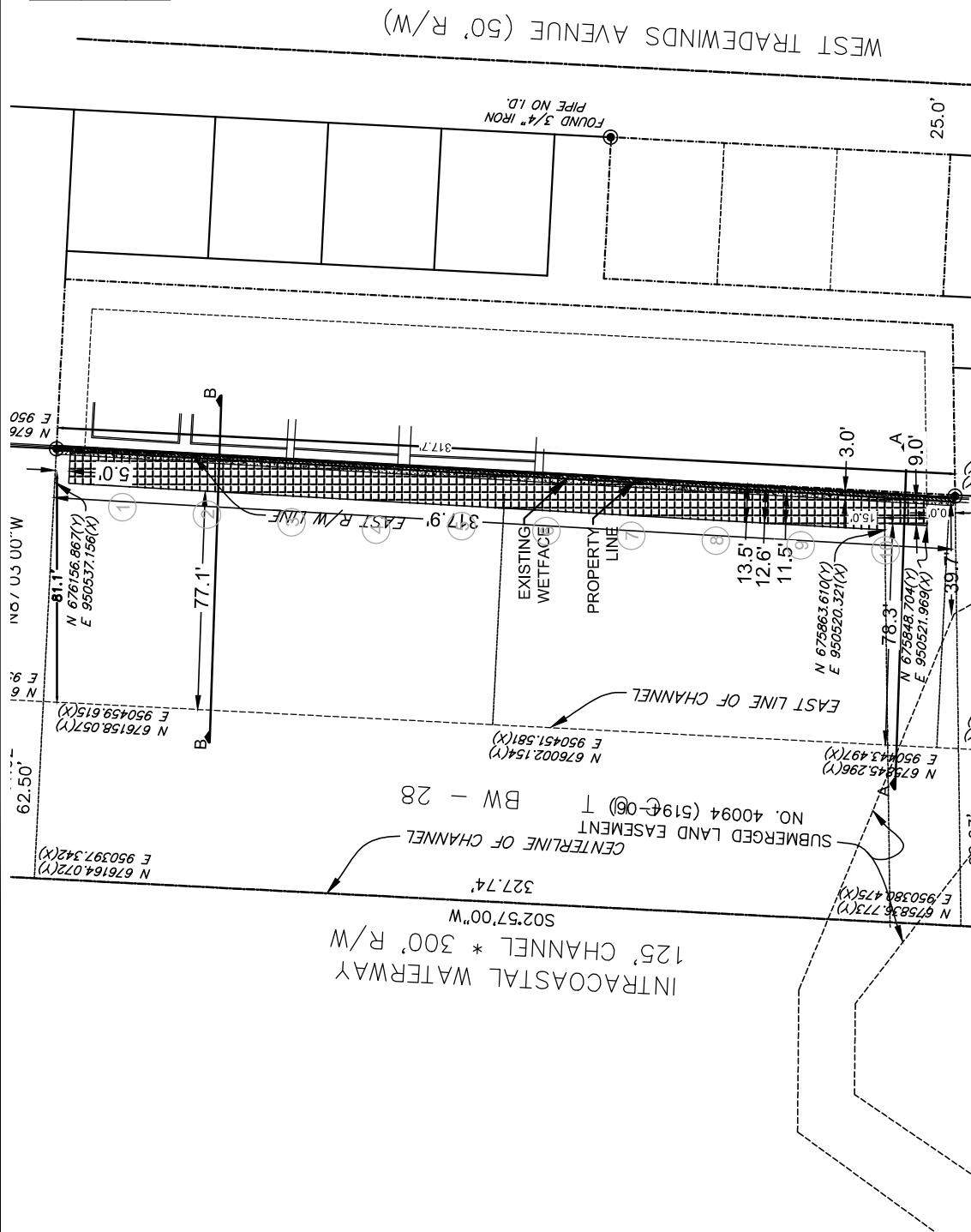
THE Chappell GROUP
114 East McNabb Blvd.
INC.

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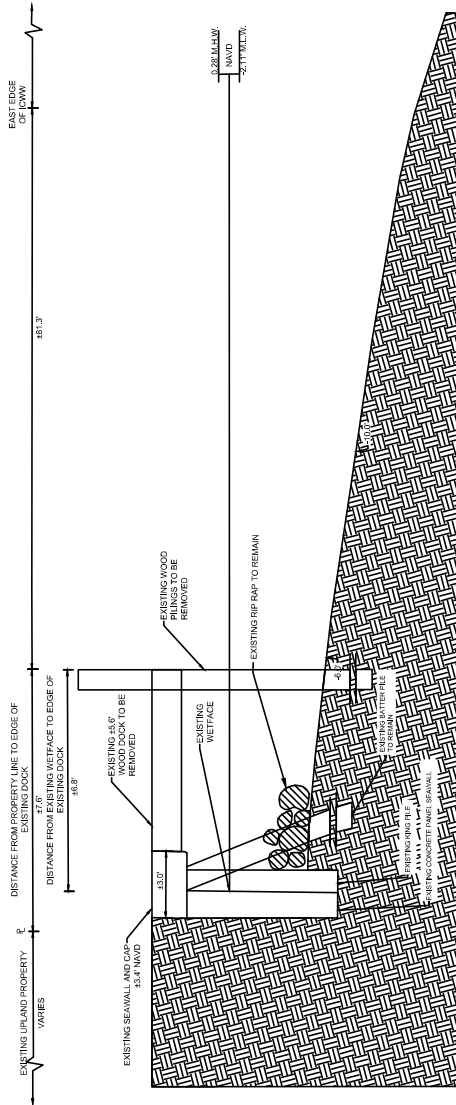
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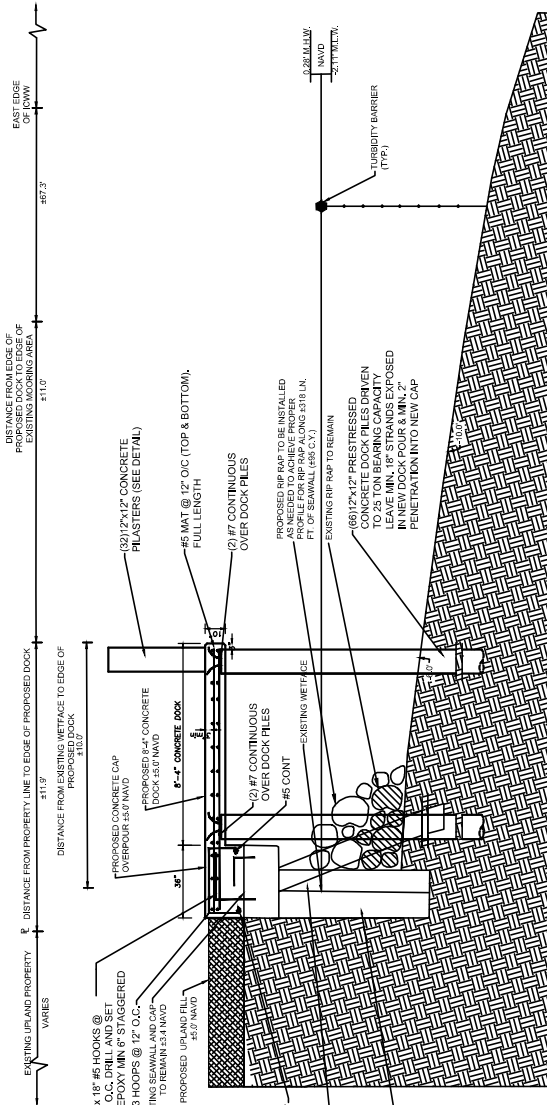
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EXISTING CONDITIONS A-A (TYP.)



PROPOSED CONDITIONS A-A (TYP.)



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 351 S. Cypress Road, Suite 303
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 Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Onslaker
 PE 52733, EB 26829

4403-4405 TRADEWINDS AVE

- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
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SECTION A

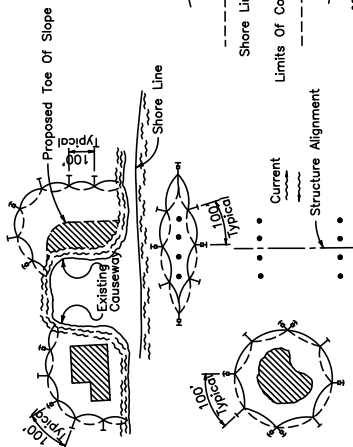
Date: 12/23/2020
 Sheet: 4 of: 6
 Proj No.: 20-0077

PREPARED FOR:
 4403 TRADEWINDS, INC.



John Omslaer
PE 52733, EB 26829

12/20/2020	5	6
Proj No.:		
Co.:		



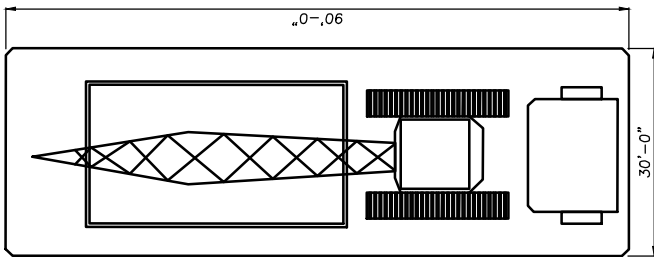
- NOTE:**
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
 2. Number and spacing of water depth.
 3. Deployment of barrier around pile location may vary to accommodate construction operations.
 4. Navigation may require segmenting barrier during construction.
 5. For additional information see Section 104 of the Standard Specifications.

Turbidity Barrier

N.T.S.

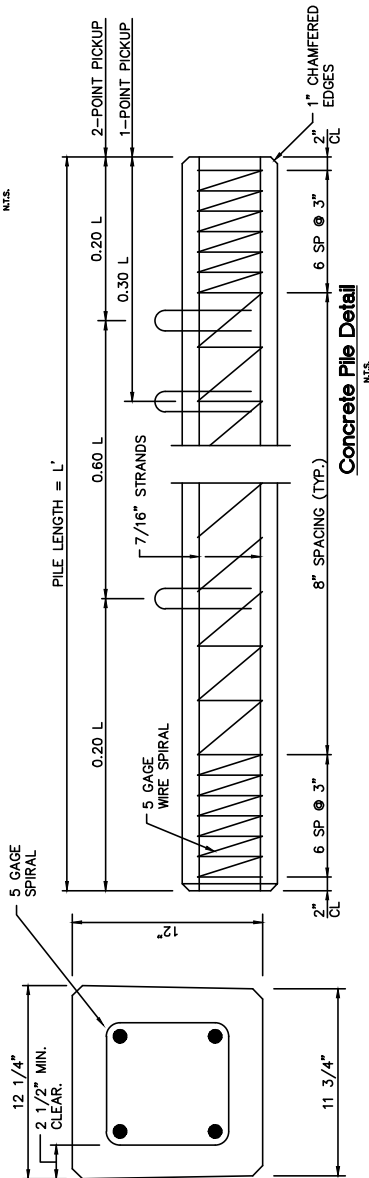
NOTE:

Turbidity barriers for flowing streams and tidal creeks may be either floating, or staked types, or any combination of types that will suit site conditions. The barrier type(s) will be at the Contractor's option unless otherwise specified in the plans. However, payment will be under the pay item(s) established in the plans for floating barriers. Barrier Posts in staked turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.



Construction Barge(typ)

N.T.S.



Concrete Pile Detail

N.T.S.

PILE DRIVING NOTES

1. Pile driving operations shall be observed by a special inspector, including test piles sufficient to determine the approximate length of the pile.
2. Piles shall be driven using an approved cushion block consisting of the material so arranged so as to provide the transmission of the hammer energy.
3. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
4. Piles shall be driven with a drop hammer or gravity hammer and the weight of the hammer shall not exceed 3000 pounds.
5. The fall of the hammer shall not exceed 6 feet.
6. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
7. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
8. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
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16. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
17. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
18. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
19. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
20. Piles shall be driven to a required capacity of a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.

CONCRETE NOTES

1. Concrete shall conform to ACI 318 (latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi at 28 days with a maximum water-cementitious materials ratio, by weight, of 0.45.
2. Owner shall employ and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM C 1702.
3. With ASTM, Contractor is responsible for the adequacy of forms and shoring and for safe practice in their use and removal.
4. Concrete cover shall be 3" unless otherwise noted on approved drawings.
5. Reinforcing steel shall be in conformance with the latest version of ASTM A 601, Grade 60.
6. Splices in reinforcing bars shall not be less than 48 bar diameters and reinforcing shall be continuous around all corners and changes in direction.
7. For repair of defective, cracked, or loose concrete, the areas must be removed and replaced with a concrete repair material, such as a mix of gunite concrete with sulfate-resistant cement cover.
8. A 1" deep control joint shall be sawcut in seawall cap at every other pile location, or maximum 20' O/C spacing.
9. For additional information see Section 104 of the Standard Specifications for aluminum in contact with concrete shall be protected with alkali-resistant coatings, such as heavy bodied bituminous paint or water-white methacrylate lacquer.

CONCRETE PILE NOTES

1. Concrete pile concrete shall attain 6000 psi compressive strength in 28 days.
2. Concrete pile shall be reinforced with (4) #8 o-lax strands, 270 kips, and #5 spiral ties.
3. Concrete piles shall be 12"x12" square, 20 feet minimum length.
4. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.

FILE NOTE:

CONCRETE COMPRESSIVE STRENGTH: 5000 PSI @ RELEASE 5000 PSI @ DRIVING
SPRAL TO BE ASTM A-82 TIGHT HARD-DRAWN WIRE
STRANDS - USE FOUR 7/16" (270K) LOW RELAXATION ASTM 416-87 UNCOATED 7-WIRE STRANDS TENSIONED TO 2.33 KIPS EACH
1-POINT PICKUP-MAXIMUM L = 50'
2-POINT PICKUP-MAXIMUM L = 62'

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GENERAL NOTES

1. Construction to follow 2014 Florida Building code, 5th Edition and amendments as applicable and all local, state, and federal codes.
2. Contractor shall verify the existing conditions prior to commencement of the work. Any conflicts or omissions between existing conditions or the various elements of the existing conditions shall be brought to the attention of the Engineer prior to the commencement of the work. Contractor and all subcontractors are responsible for all lines, elevations, and measurements in connection with their work.
3. Contractor shall be responsible for all lines, elevations, and measurements in connection with their work.
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6. Contractor shall be responsible for all lines, elevations, and measurements in connection with their work.
7. Contractor shall be responsible for all lines, elevations, and measurements in connection with their work.
8. Contractor shall be responsible for all lines, elevations, and measurements in connection with their work.
9. Contractor shall be responsible for all lines, elevations, and measurements in connection with their work.
10. Contractor shall be responsible for all lines, elevations, and measurements in connection with their work.
11. All new materials and/or patchwork shall be provided to match existing materials and/or patchwork where practical except as specifically noted herein.
12. Licensed contractor shall use all possible care to protect all existing materials, surfaces, and furnishings from damage during the construction of the work.
13. The licensed contractor to install and remove all shoring and bracing as required for the proper execution of the work.
14. All new work and/or materials shall conform to all requirements of each administrative body having jurisdiction in the project area.
15. Licensed contractor to verify location of existing utilities prior to commencing work.
16. All elevations shown refer to national geodetic vertical datum.
17. Turbidity Barriers are to surround all in water construction areas during all construction activities.

PROJECT ENGINEER:

DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omslaer
PE 52733, EB 26829

4403-4405 TRADEWINDS AVE

PREPARED FOR:

4403 TRADEWINDS, INC.

Environmental Consultants
Manna & Wetland Permitting
Mitigation Design & Monitoring
TSE Species Surveys

THE Chappell GROUP
714 East McNab Road
Pompano Beach, Florida 33060
Tel. 954.792.1908
Fax. 954.792.1108
www.thechappellgroup.com

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DETAILS

Date: 12/23/2020

Sheet: 6

of: 6

Proj No.: 20-0077

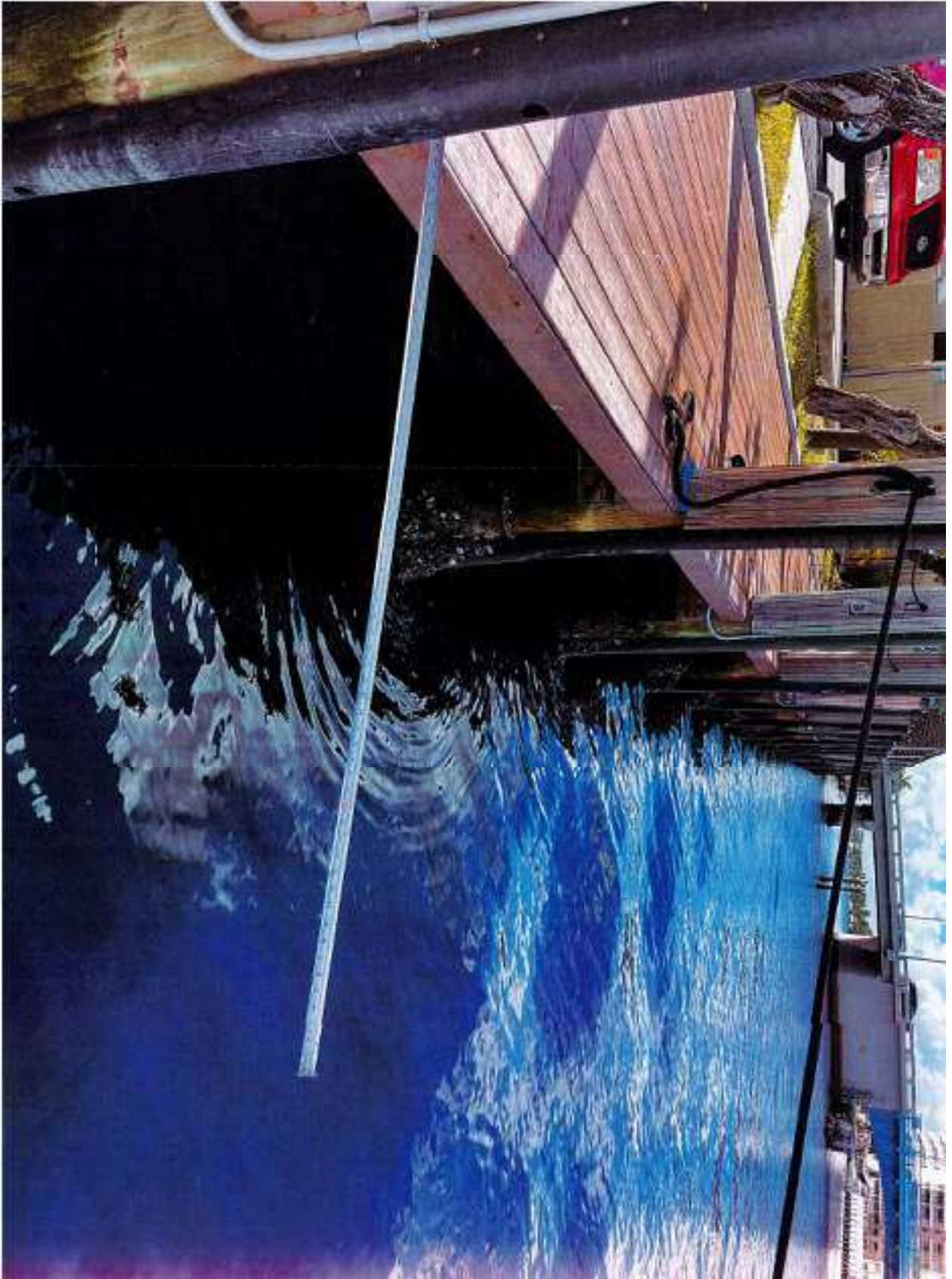


Aerial Photo Showing Dock

DOCK PHOTOGRAPHS









Notice of Public Quasi-Judicial Hearing - Town of Lauderdale-By-The-Sea, Florida

NOTICE IS HEREBY GIVEN that the Town of Lauderdale-By-The-Sea will hold public hearing(s) on the request below at **Jarvis Hall, 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida, 33308**, as follows:

Planning & Zoning Board	February 2, 2022	6:00 PM
Town Commission	February 22, 2022	6:30 PM

The following request shall be considered during the above referenced public hearing(s), which any person may attend and/or speak at regarding:

Application Number: 2021-V-01
Applicant: 4403 Tradewinds Inc.
Legal Description: SILVER SHORES SEC OF LAUDERDALE BY THE SEA UNIT B 31-3 B PAR
 MARKED YACHT BASIN-PRIVATE& LOTS 5,6 & 7 BLK H & ALL BLK M
Site Address: 4403 W Tradewinds Avenue
Zoning District: B-1

Request: Pursuant to Town Code Section 30-127, “Variance Procedures and Requirements,” the Applicant requests a variance to Section 30-311(c) of the Town’s Code Ordinances, to allow a dock to extend between 11.4 feet to 13.5 feet into the Intracoastal Waterway from the property line.

THE AGENDA PACKET AND RELATED MATERIALS CONCERNING THE REQUEST IS AVAILABLE FOR REVIEW AND INSPECTION AT THE TOWN CLERK’S OFFICE, 4501 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA, DURING REGULAR BUSINESS HOURS. ADDITIONALLY, THE AGENDA PACKET, INCLUDING MATERIALS RELATED TO THE REQUEST IS AVAILABLE FOR REVIEW THE FRIDAY BEFORE THE MEETING ON THE TOWN’S WEBSITE AT WWW.LBTS-FL.GOV.

PURSUANT TO TOWN CODE SECTION 30-140, THE APPLICATION WILL BE PRESENTED AND CONSIDERED AT THE MEETINGS ON THE DATES SET FORTH ABOVE. AFFECTED PERSONS WILL BE ALLOWED TO PRESENT EVIDENCE AT THE PUBLIC HEARING(S), BRING FORTH WITNESSES, AND CROSS EXAMINE WITNESSES PROVIDED NOTIFICATION AND FILING OF SUCH INFORMATION IS MADE WITH THE TOWN CLERK PRIOR TO THE ABOVE PUBLIC HEARING(S).

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE WITH RESPECT TO ANY MATTER CONSIDERED AT THE PUBLIC HEARING(S), HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO ENSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORDS INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICAN WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THESE PROCEEDINGS SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO DAYS PRIOR TO THE MEETING AT (954) 640-4210 FOR ASSISTANCE.

You may also submit written comments to:

Town Clerk
 4501 Ocean Drive
 Lauderdale-By-The-Sea, Florida 33308

Sec. 30-139. Notice of Public Hearings.

- (a) *Generally.* When an application for development approval is subject to a public hearing, the DSD shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:
 - (1) Applicant's name;
 - (2) The date, time, and place of the public hearing;
 - (3) A description of the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by State law;
 - (4) The nature, scope and purpose of the proposal being noticed;
 - (5) The Town departments where the public may inspect the application, staff report and related materials during normal business hours;
 - (6) A statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application; and
 - (7) Other information as may be required by law.
- (b) *Mailed notice.*
 - (1) Where mailed notice is required, pursuant to Table XXX, it shall be provided to all property owners within a 300 foot radius of the subject property, and shall include the subject property owner(s) and Town Development Services Department.
 - (2) Distances for purposes of mailed notice requirements shall be measured from the perimeter of the property subject to development approval, except that where the owner of the subject property owns contiguous property, the distance shall be measured from the perimeter of the boundary of the contiguous property.
 - (3) Property owners shall be determined by the ad valorem tax records of Broward County.
 - (4) The DSD shall prepare the written notice and provide said notice to the Town Clerk who shall be responsible for mailing the notices.
 - (5) Mailed notice shall be deemed given when a notice has been properly addressed, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service.
 - (6) Notice by mailing is a courtesy only and no action taken by the Town shall be voided by the failure of any individual property owner to receive such notice.
- (c) *Published notice.* When the provisions of this chapter require published notice, the DSD shall provide that the notice be:
 - (1) Published in the non-legal section of the local newspaper of general circulation that has been selected by the Town and in accordance with applicable Florida Statutes.
 - (2) Follow the timelines and ad type established in Table XXX in this article.
 - (3) For the purposes of this section and Table XXX:
 - a. "Display ad" shall be no less than two columns wide by ten inches long and the headline of the required notice shall be in a type no smaller than 18 point font size. If the ad is for a zoning map amendment, it shall also include a map pursuant to Florida Statutes 166.041(3)(c)2.

-
- b. "Standard ad" shall be in the legal ad section of the classified ads of the newspaper and shall be in a type no smaller than 5 point font size.
- (d) *Posted notice.* When the provisions of this chapter require that notice be posted on the property subject to the application, the DSD shall provide the required sign to the applicant who will be responsible for posting the property, as set forth below:
- (1) Signs shall be placed on the property that is the subject of the application in accordance with timelines prescribed in Table XXX in this article prior to a required or requested hearing.
 - (2) If the subject property fronts on more than one right-of-way, then a sign shall be posted facing each right-of-way.
 - (3) Signs shall be placed no more than five feet from the street or if there is a sidewalk, no more than two feet beyond the property side edge of the sidewalk, so that the lettering is visible from the street.
 - (4) If the sign is destroyed or removed from the property, the applicant is responsible for obtaining another sign from the Town and posting the new sign on the property.
 - (5) The sign shall remain on the property until final disposition of the application. This shall include any deferral, rehearing, appeal, or requirement for review or hearing by another body. The sign information shall be updated to include any additional public hearings or public hearing deferrals consistent with Table XXX.
 - (6) No less than five days prior to the public hearing, the applicant shall execute and submit to the Department an affidavit of proof of the posting of the public notice sign in accordance with the provisions of this section. Updates as provided in (5) above shall also require such affidavit. If the applicant fails to submit the required affidavit, the DSD may postpone the application until the next public hearing after the affidavit has been supplied.
- (e) *Town Website Posting.* Notice of all development applications shall be provided on the Town's Website no later than ten days prior to any public hearing related to the application. Website Notice is a courtesy only and no action taken by the Town shall be voided by the failure of such notice to be posted.
- (f) *Re-noticing.* All costs of re-noticing the public hearing shall be borne by the party failing to comply with the applicable notice requirements, requesting the deferral or continuance, or whose actions are responsible for the deferral or continuance which may require re-noticing of the hearing. Continuances to a date certain, announced at the originally noticed meeting, shall not require re-notice of the new public hearing date. Continuances to unspecified dates, substantive changes to an application request during the period an application has been continued, or more than two continuances on the application, shall require re-noticing for the new public hearing date.
- (g) *Development applications requiring public hearing.* Public hearings on applications for development permit approvals other than rezoning, including, but not limited to administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, vacations and variances shall be noticed as follows in accordance with Table XXX.
- (h) *Applicant bears burden of costs.* When the provisions of this chapter require that notice be provided, the costs of Town staff preparing the content of the notice and providing such notice shall be billed through cost recovery.
- (i) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements not in conflicting with the Florida Statutes.

Table XXX. Notice Requirements

Application Type	Florida Statute Reference	Board Notice Date (as applicable)	Commis- sion Notice Date	Type of Notice			Mailed 300'	Published (Ad Type)
				Website	Posted			
Other development permits: administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, variances		10 days	10 days	X	X		X	n/a
Administrative decisions: Architectural Review, Conditional Use Level 1 Modification, Site Plan Level 1 Modification				n/a	n/a		n/a	n/a
Comprehensive Development Master Plan - Text	163.3184	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X				X (Display)
Comprehensive Development Master Plan - Map	163.3184	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X	X		X	X (Display)
Land Development Code - Text Amendments changes to actual list of permitted, conditional, or prohibited uses within a zoning category).	166.041(3)(c)2	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X				X (Display)
Land Development Code - all other Text Amendments	166.041	10 days	10 days	X				X (Standard)

Zoning Map Change (chapter 30)—Town (less than 10 contiguous acres)	166.041(3)(c)1	10 days	30 days	X		X	X (Standard)
Zoning Map Change (chapter 30)—Town (10 or more contiguous acres)	166.041(3)(c)2	10 days	7 days - 1st public hrg 5 days - 2nd public hrg	X	X	X*	X* (Display, with map)
Zoning Map Change (chapter 30)—Owner	166.041(3)(a)	10 days	10 days	X	X	X	X (Standard)

(Ord. No. 2014-08, § 3, 7-7-2014)

(Supp. No. 38)

Created: 2021-12-03 09:54:10 [EST]

Jhanelle Campbell

From: stephen nagy <snagy10@hotmail.com>
Sent: Friday, January 28, 2022 12:48 PM
To: Jhanelle Campbell
Subject: V2021-V-01 – VARIANCE_CLE LBTS.pdf 4403 W. Tradewinds Response from Nagy 4423 W Tradewinds Ave.
Attachments: VARIANCE_CLE LBTS.pdf

[CAUTION] This external e-mail originated outside the Town. Do not open links or attachments unless you are certain they are safe.

Genelle: Attached is a summary of the case law which applies to variances in Fl. Please offer to planing zoning and the commission for review. There is no legal hardship as it relates to this case. Additionally, The proposed dock does not fit in with the neighborhood scheme. Regardless what the zoning board and the commission grants the town cannot legally defend granting of a variance permit for this proposed dock. Granting of this variance will subject the city to litigation preventing its construction.

An Employee of the Hoffman law firm has told me they are very influential in the city. Additionally, they conveyed arrogance by claiming they have plenty of lawyers and can get their way.

This is not an approvable variance as any dock is not necessary to use the property (see case law.) "The requisite hardship may not be found unless there is a showing that under present zoning, no reasonable use can be made of the property." Thompson v. Planning Commission, 464 So.2d 1231 (1 DCA 1985). Herrera v. Miami, 600 So.2d 561 (3DCA 1992). The property must be rendered unusable to be considered a hardship. The Hoffman Lawyers should know that.

Furthermore the variance request in nothing more than a selfish desire of the owner. It is not in harmony with and consistent with the purpose of the general zoning plan. Granting the variance must not adversely affect the zoning scheme as a whole. Granting of this variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951).

Please read and review the attached caselaw review on variances.

Furthermore, it will cause a hazard where boats que up for bridge opening at the Commercial Blvd bridge. The rest of us with conforming docks will be encumbered by limited line of sight. This is not legal and is morally wrong.

I will respond to the variance criteria submitted by the property owner:

1. There is no special condition cited. Everyone along the intercoastal deals with wave action. The fact that the "Old Wood Dock " was allegedly damaged only indicates it should be repaired or replaced. The "allegedly " damaged dock has been in continuous use without interruption albeit the owner claims it is damaged and unusable.

2. Incidentally the applicant repeatedly recites a preamble to all statements that the project has " already been approved by the Army Corps of engineers and the state FDEP." This statement is simply a fallacy in reasoning reason known as "False Association." This fallacy asserts that the qualities of one approval are inherently qualities of another. The City zoning regulations are exclusive of the other agencies. Applicant should stop repeating this assertion. I find it intellectually insulting. ACOE review for hazards to navigation. FDEP reviews environmental issues. The city, reviews compliance to building and zoning codes. All agencies are mutually exclusive.
3. Applicant simply doesn't want to abide by the city dock limits.
2. There are no Circumstances peculiar to the property. The applicant claims the intercoastal waterway is 300 feet wide and residential canals are usually 100 feet wide.
3. In fact the distance from the applicant property line and the federal channel is approximately 81 feet. The federal channel is well traveled and of more complex movement than a 100 foot wide residential canal. This further substantiates the need to adhere to the current 8' dock limit.

3. There is no hardship. The applicant claims the existing dock is a hazard. There is no submitted evidence to support this claim. If there are defects, they should be repaired or replaced. Perhaps a concrete dock in the same footprint conforming the code.

The Rip Rap claim of interfering with the mooring is False.

-- Rap below the surface does not reduce wave action. Rip Rap used as a shoreline barrier does absorb wave action. Shoreline Rip Rap in not proposed here.

-- The applicants plan only shows riprap along the foot of the existing seawall not extending to the existing wood dock edge. The proposed application does not depict rip rap as extending to the proposed dock profile. As such the claim an extended dock is necessary to prevent vessels from contacting the Rip Rap is false.

-- the Army Corp permit only permits a Rip Rap additional extension of 1.5 feet. I don't think there is any existing Rip Rap at the seawall. 95 cubic yards as proposed is an insignificant amount to require a dock 13.5 feet along a 318 foot wall.

The Rip Rap necessity and application claim is another fallacy in reasoning. This is know as a Red Herring Fallacy. This is a claim intended to mislead or distract from the relevant or important question.

The seawall absorbs the wave action. Rip Rap below the surface is only conducive to marine life and does not reduce wave action. The proposed Rip Rap does not extend to the edge of the existing dock nor the proposed extended dock. Please dont be fooled by the Rip Rap claim it is a Red Herring assertion.

4. Self created?? This answer is counter intuitive. Traffic waiting at the commercial blvd. bridge would indicate a smaller dock is conducive to safety. A larger dock would produce more congestion.

5. The existing use and existing dock size establish the minimum use has been achieved or exceeded. No variance is necessary to continue that use.

A enlarged dock will block the lines of sight of adjacent property owners. Larger and more numerous vessels will do the same.

The water taxi claim is bewildering. The fort Lauderdale water taxi does not go north to Lauderdale by the sea. It's northbound service limit is Oakland park blvd. The pompano water taxi is shut down.

6. Anybody can build a concrete dock. It just has to be only 8 feet wide.

7. The property can be used without any dock. In fact before Applicants ownership the existing parking lot was an inland marina. The property was reconfigured, marina land filled. A seawall, dock and parking lot were then constructed. Perhaps the Marina should be reinstalled in lieu of the parking lot or just rebuild the existing dock within city zoning limits.

This request is nothing more than a wish and desire of the owner. There is no hardship and must be Disapproved as legally insufficient to meet the criteria for a variance.

Stephen Nagy
4423- 4425 W. Tradewinds.
[\(954\) 816-8089](tel:9548168089)

FLORIDA LAW REGARDING VARIANCES

A Continuing Legal Education (CLE) Program presentation by

Updated by Ralf Brookes, Attorney Cape Coral Florida and
Henry Lee Morgenstern, Attorney, Gainesville Florida (2004)

A. Introduction to Variances

A variance is, generally, permission for a landowner to go outside the limits of the zoning code, and to build something which would otherwise be illegal under the terms of the zoning code or land development regulations.

The reason or rationale behind the law allowing variances at all is that in some situations, the literal application of the zoning code would create such a "hardship", that it would not allow any use of certain parcels of property whatsoever.

Without the flexibility to allow some reasonable use of the property, such totally prohibitive zoning would constitute inverse condemnation, subjecting the zoning authority to liability for a "taking". Askew v. Gables-by-the-Sea, Inc., 333 So.2d 56 (1 DCA 1976). Thus, the legal justifications for variances, and the threshold criteria for determination of a "taking", are closely related. (See, below, criteria for granting variances, when is it a taking not to allow a variance).

A variance is sometimes mistakenly believed to be simply a tool for allowing a more intense use than would otherwise be allowed. As such, it needs to be distinguished from a special exception or conditional use.

A "special exception" or conditional use is specifically authorized in that zone, but will be allowed only if specific, listed criteria for that special exception or conditional use are met. A variance is specifically prohibited in that zone, but will be allowed only if necessary to prevent a "taking", i.e., if no authorized use is reasonably possible in its place.

Boards of adjustment have sometimes been unclear on this distinction, granting variances as a convenient expedient to avoiding the zoning and land development regulations. The criteria for obtaining variances are theoretically very strict, and the grounds for overturning illegal variances relatively easy to prove if sufficient facts and discussion of a legal hardship is not placed in the record.

An Applicant's variance request must be reviewed on its own merits, rather than on the basis of previously approved variances in the jurisdiction. See City of Jacksonville v. Taylor, 721 So.2d 1212 (Fla. 1st DCA 1998). Previously issued variances do not establish controlling precedent or constitute a basis to sustain other variance applications.

B. Criteria for Granting Variances - Generally

Ordinances authorizing variances may be worded in different ways, and you should always read your specific language carefully. The standards must be definite, City of Miami v. Save Brickell Ave., 426 So.2d 1100 (3 DCA 1983), and the criteria must be mandatory, and not permissive (i.e., "shall consider criteria" means "must comply with criteria"), id.; Drexel v. City of Miami Beach, 64 So.2d 317 (Fla. 1953).

In 1985, local governments were given express authority to adopt variance criteria in their codes (most City's and County's adopted codifications of the existing law of variances with slight modifications in each locality). The repeal and replacement of Florida's standard zoning enabling act in 1985 when Florida's Growth Management Act of 1985 was adopted¹ did not diminish or substantially change the authority of local government or Florida law regarding variances, in fact previous Florida Law was codified in many local governments by ordinance. Both before and after 1985, the courts have followed long-established Florida law that a variance cannot be granted for self-created actions – and this requirement is codified in most city and county codes in Florida. Even after 1985, the courts have been very strict in their review of the hardship required to obtain a variance.

Generally, a variance is authorized if due to circumstances **unique to the applicant's property itself** and not shared by other property in the area, there exists an undue and unnecessary hardship created by the zoning regulations

1. The hardship cannot have been self-created.

The hardship criteria found in variance provisions has a long line of cases and has been strictly construed by the courts. Josephson v. Autrey, 96 So.2d 784 (Fla. 1957).

The criteria has been interpreted to mean three things:

a. A mere economic disadvantage due to the owner's preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. Burger King v. Metropolitan Dade County, 349 So.2d 210 (3 DCA 1977); Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981); Nance, supra; Crossroads Lounge v. City of Miami, 195 So.2d 232 (DCA 1967). If, however, the only allowable uses are economically impossible, then a variance would be allowed. Nance II.

b. Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959).

c. If a purchaser buys land with a condition creating a hardship upon it, the owner

is only entitled to such variance as his predecessor in title was entitled. If the owner participated in an affirmative act which created the hardship (such as by purchasing only a substandard piece of a larger lot), then the hardship should be ruled self-created. Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The requirement that a variance hardship cannot be self-created is required by most codes and Florida case law. In Re Kellogg, 197 F. 3rd 1116, 1121 (11th Cir. 1999). Josephson v. Autrey, 96 So.2d 784 (Fla. 1957) (superceded by statute *on other grounds* in *Grace v. Town of Palm Beach* 656 So.2d 945 (Fla. DCA 1995); Town of Ponce Inlet v Rancourt, 627 So.2d 586, 588 (Fla. DCA 1993).

Case law, as well as the Land Development Regulations control the degree of showing needed to support the approval of a variance from the express requirements of local regulations. The days of the “weeping variance” have been replaced by strict interpretation of what is required to show entitlement to a variance from local Code provisions under the case law. Town of Indialantic v. Nance, 400 So.2d 37 (5 DCA 1981), *affd.* 419 So.2d 1041; appealed again at 485 So.2d 1318 (5 DCA 1986), *rev. den.* 494 So.2d 1152.

Post 1985, the First District Court of Appeals in City of Jacksonville v. Taylor, 721 So.2d 1212 (Fla. 1st DCA 1998) Bernard v. Town Council of Palm Beach, 569 So.2d 853 (Fla. 4th DCA, 1990); Metropolitan Dade County v. Betancourt, 559 So. 2d 1237; Town of Indiatlantic v. Nance, 485 So.2d 1318 (Fla. 5th DCA 1986), *and* Town of Indiatlantic v. Nance (“Nance I”), 400 So.2d 2137 (Fla. 5th DCA 1981); Maturo v. City of Coral Gables, 619 So.2d 455 (Fla. 3rd DCA 1993); Herrara v. City of Miami, 600 So.2d 561 (Fla 3rd DCA 1992) *rev. denied* 613 So.2d 2 (Fla. 3rd DCA 1992). In Re Kellogg, 197 F. 3d 1116, 1121 (11th Cir. 1999).

Pre 1985 cases had similar holdings and include Blount v. City of Coral Gables, 312 So. 2d 208 (Fla. 3rd DCA 1975) (“Nor are the Blounts entitled to a variance from the above zoning ordinance...as the hardship was self-created because they knew of the restricted zoning ordinance.”)(*citing other Florida cases on this issue*); Clarke v. Morgan, 327 So.2d 769 (Fla. 1975); Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959); Coral Gables v. Geary, 383 So.2d 1127 (3 DCA 1980).

The purchase of property with zoning restrictions on the property will normally not constitute a hardship. Friedland v. Hollywood, 130 So.2d 306 (DCA 1961); Elwyn v. Miami, 113 So.2d 849 (3 DCA 1959). Namon v. DER 558 So. 2d 504 (Fla 3rd DCA 1990) and the cases cited therein address cases where property is purchased AFTER adoption of prohibitory regulations. The court in Namon recognized such pre-existing notice as applied to takings analysis in Florida cases, as follows:

“Appellants are deemed to purchase the property with constructive knowledge of the applicable land use regulations. Appellants bought unimproved property. A subjective expectation that the land could be developed is no more than an expectancy and does not

translate into a vested right to develop the subject property. *See Graham v. Estuary Properties, Inc.*, 399 So.2d 1374, 1382, 1383 (Fla.), *cert. denied sub nom. Taylor v. Graham*, 454 U.S. 1083, 102 S. Ct. 640, 70 L. Ed. 2d 618 (1981)

'...[a]n owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it was unsuited in its natural state and which [injures] the rights of others." *Namon* at 505, (original citation omitted) *see also Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1005, 104 S. Ct. 2862, 2874, 81 L.E.2d 815, 834 (1984).

"A 'reasonable investment-backed expectation' must be more than a 'unilateral expectation or an abstract need'; *Namon* citing *Claridge v. New Hampshire Wetlands Board*, 125 N.H. 745, 485 A.2d 287, 291 (1984)

"A person who purchases land with notice of statutory impediments to the right to develop that land can justify few, if any, legitimate investment-backed expectations of development rights which rise to the level of constitutionally protected property rights"; *cf. Elwyn v. City of Miami*, 113 So.2d 849, 852 (Fla. 3d DCA) "One who purchases property while it is in a certain known zoning classification, ordinarily will not be heard to claim as a hardship a factor or factors which existed at the time he acquired the property.", *cert. denied*, 116 849 (Fla. 1959).

Case law also indicates that a mere economic "disadvantage" or the owner's mere preference as to what he would like to do with the property is not sufficient to constitute a hardship entitling the owner to a variance. *Burger King v. Metropolitan Dade County*, 349 So.2d 210 (3 DCA 1977); *Metropolitan Dade County v. Reineng*, 399 So.2d 379 (3 DCA 1981); *Crossroads Lounge v. City of Miami*, 195 So.2d 232 (DCA 1967).

Neither purchase of property with zoning restrictions on it, nor reliance that zoning will not change, will constitute a hardship. *Friedland v. Hollywood*, 130 So.2d 306 (DCA 1961); *Elwyn v. Miami*, 113 So.2d 849 (3 DCA 1959).

If the owner participated in an affirmative act which created the hardship (such as by purchasing a substandard size lot), then the hardship should be ruled self-created. *Coral Gables v. Geary*, 383 So.2d 1127 (3 DCA 1980).

2. Consistency with neighborhood and scheme of regulations.

Granting the variance must not adversely affect the zoning scheme as a whole. Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." *Troup v. Bird*, 53 So.2d 717 (Fla. 1951).

"A variance should not be granted where the use to be authorized thereby will alter the essential character of the locality, or interfere with the zoning plan for the area and with rights of owners of other property."

Elwyn v. City of Miami, 113 So.2d 849 (Fla. 3rd DCA 1959).

3. No reasonable legal use can be made of the property without the variance.

Some cases go so far as to say no variance can be granted if the property can still be used without the variance. This approach incorporates, to some extent, the law of taking of property without just compensation, i.e., a variance can be granted and will not be overturned if no other reasonable use can be made of the property without a variance.

"The requisite hardship may not be found unless there is a showing that under present zoning, no reasonable use can be made of the property." Thompson v. Planning Commission, 464 So.2d 1231 (1 DCA 1985). Herrera v. Miami, 600 So.2d 561 (3DCA 1992).

The hardship must be such that it "renders it virtually impossible to use that land for the purpose or in the manner for which it is zoned." Hemisphere Equity v. Key Biscayne, 369 So.2d 996 (3 DCA 1979).

It is the land, and not the nature of the project, which must be unique and create a hardship. Nance, supra; Ft. Lauderdale v. Nash, 425 So.2d 578 (4 DCA 1982) (many other common violations in the neighborhood do not constitute a hardship); City of Miami v. Franklin Leslie, 179 So.2d 622 (3 DCA 1965).

When is Denial of a Variance a Taking?

A reasonable use of the property under existing zoning, requiring a denial of the variance, does not mean the owner's preferred use, or a use that will bring the owner an economic return. All that is required is a use beneficial to the owner and consistent with the zone. Metropolitan Dade Co. v. Betancourt, 559 So.2d 1237 (3 DCA 1990).

An extensive discussion of similar coastal setback beach ordinances and denial of a variance for construction seaward of such a setback appears under two, separate McNulty takings cases – the federal takings case of McNulty v. Town of Indian Lantic, 727 F Supp 604 (M.D. Fla. 1989) and the state court takings case of Town of Indian Lantic v McNulty, 400 So. 2d 1227 (Fla. 5th DCA 1981). The cases share common facts, the Town of Indian Lantic denied McNulty a variance for a 12-unit condominium on the beach under a similar coastal setback provision to the

line at bar resulting in both state and federal review.

"[A] diminution of property value does not, by itself, establish a taking Inability to use the property for production of an income stream or to make the highest and best use does not render the property without economically viable use". 727 F Supp 611.

The court found that when regulations seek to protect natural resources, the court should "hesitate to find a taking", comparing such regulations to "restraining... [a] public nuisance". 727 F Supp 614.

The McNulty state court decision noted that the "harm to be prevented [by beachfront construction] is substantial" and held that McNulty made an insufficient showing that a taking would occur if he were denied the variance. 400 So.2d 1227. In discussing the harm to be prevented, the state appellate court noted that:

"Through sad experience Florida has learned the importance of the barrier sand dunes which face its "high energy" beaches. The 'high energy beach' is a shore fronting the open ocean and dominated by sand and dunal features." Maloney and O'Donnell, *Drawing the Line at the Oceanfront*, 30 *Fla. L. Rev.* 383, 385 *n.19* (1978). Sand beaches and dunes comprise a very small and unstable part of Florida's coastal zone.

Forming a narrow band along the shores of the Atlantic Ocean and the Gulf of Mexico, they offer some of the state's most attractive and most hazardous locations for real estate development. Without adequate controls on construction and excavation, oceanfront development could destroy not only man-made structures but also beaches and dunes. Maloney and O'Donnell, *Drawing the Line at the Oceanfront*, 30 *Fla. L. Rev.* 383, 389 (1978).

Various local communities, like Indialantic, have adopted similar set back ordinances to protect the dunes, bluffs and natural vegetation of their beaches, and Chapter 161, Florida Statutes (1979), the "Beach and Shore Preservation Act," has as one of its stated purposes the protection and preservation of the "beach dune system. The "construction line" drawn pursuant to this State law was west or landward of the setback line of the Town as applied to McNulty's land. In any event, the State law contemplated that cities and counties could establish stricter setback lines than those set by the State. Sections 161.052(2)(b), 161.053(4), Fla. Stat. (1979). See § 163.3177(6)(d), (f) and (g), Fla. Stat. (1979).

There can no longer be any question that the "police power" may be exercised to protect and preserve the environment. Florida's Constitution expressly provides: It shall be the policy of the State to conserve and protect its natural resources and scenic beauty. Adequate provisions shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise. Art. V, § 7, Fla. Const. Other jurisdictions have reached a similar conclusion, without the benefit of an express constitutional provision.

The wetlands and coastal areas are places of critical concern because of their important role in protecting the inland regions against flooding and storm danger.”

The leading case on regulatory takings for environmental purposes is Graham v Estuary Properties, Inc., 399 So.2d 1374 (Fla. 1981). It states six criteria for considering "[w]hether a regulation is a valid exercise of the police power or a taking", and specifically holds that protection of the environment is a legitimate use of the police power. 399 So.2d at 1380-1381.

Graham has recently been applied in Lee County v Morales, 557 So.2d 652, 655-656 (2 DCA 1990) (rezoning not a taking unless no beneficial and reasonable uses remain); and Namon v DER, 558 So.2d 504 (3 DCA 1990) (no taking where owner was aware of development restrictions [fill permit], even if no construction or economic use can be made of the property; "if you bought a swamp you must have wanted a swamp").

4. **Other Code criteria.** Various codes may also include the following criteria (See, e.g., prior F.S. 163.170(8), repealed 1985):

- a. The granting of the variance will not accord applicant any special privileges;
- b. The variance is the minimum one for the reasonable use of the applicant's land;
- c. The grant of the variance will be harmonious and noninjurious to the surrounding land; and
- d. The variance will not be contrary to the public interest.

Most court cases have focused on the hardship (whether it is the result of unique physical characteristics of the land in question or whether it is really an impermissible self-created hardship). However, all variance standards must be met. The standards themselves must be definite, City of Miami v. Save Brickell Ave., 426 So.2d 1100 (3 DCA 1983), and the criteria must be mandatory, and not permissive (i.e., "shall consider criteria" means "must comply with criteria"), id.; Drexel v. City of Miami Beach, 64 So.2d 317 (Fla. 1953).

5. **Police Power Limits.** One case says that under the "arbitrary and unreasonable" test, where there is "no reasonably debatable relation to public health, safety or welfare" the court may be required to compel that a variance be granted. Metropolitan Dade County v. Reineng, 399 So.2d 379 (3 DCA 1981). The case's reasoning, moreover, is at odds with the clear holding of the Supreme Court one year later:

T]he "fairly debatable" test should be used to review legislative-type zoning enactments, while a variance seeker must demonstrate a "unique hardship" in order

to qualify for a variance."

Nance v. Town of Indialantic, 419 So.2d 1041 (Fla. 1982).

Amendments to Regulations that no longer make sense.

If the land development regulation no longer has a valid public purpose, or should be changed, the proper method is to *amend the zoning code or land development regulations* rather than grant numerous variances from the offending provision. Therefore, in some instances amending (or a recommendation to amend) the code may be more appropriate than granting variances each time the issue comes up.

6. Consistency with Comprehensive Plan.

Granting of a variance is illegal, and beyond the authority of any local administrative body, where the proposed variance is not shown to be in harmony with, and not "in derogation of the spirit, intent, purpose, or general plan of [the zoning] regulations." Troup v. Bird, 53 So.2d 717 (Fla. 1951). All development orders, including variances, must be consistent with duly adopted Comprehensive Plan policies, objectives and goals under Florida Statutes 163.3215 (which also establishes procedures to challenge variances on the grounds of consistency with comprehensive plan policies). Machado v. Musgrove, 519 So. 629 (Fla. 3rd DCA 1987). And the remedy awarded by courts if a development order is found to be inconsistent with a comprehensive plan policy can include demolition of offending structures. Pinecrest Lakes v Shidel, 795 So. 2d 191 (Fla. 4th DCA).

C. Use-Variances vs. Non-Use Variances

Some codes distinguish between "use" variances, and "non-use" or "area" variances. A "use" variance would be one where application was made for a non-permitted use, while "non-use" or "area" variances would apply to a permitted use, but allow laxity of a height, setback, lot size, or other dimensional rule.

Use variances are often expressly disallowed by code.

Use-Variances

The Florida Supreme Court, sitting en-banc, clearly set the limits on use variances in Josephson v. Autrey, 96 So.2d 784 (Fla. 1957). The court held that, while zoning boards could make adjustments in height, setback, side lot, and other area problems unique to the parcel, use variances would be improper if they created a wholly inconsistent use in the zone:

"To endow such a board with the authority to amend the zoning ordinance in particular instances by authorizing a use of property prohibited by the ordinance

itself would be to convey to the appeals board the authority to enact legislation, nullify the decision of the municipal legislative body, and in effect destroy the beneficial results to be obtained by comprehensive zoning. When circumscribed by reasonable bounds the appeals board serves a valid and useful purpose. If granted unrestricted power to amend the zoning ordinance by changing completely the authorized uses of the particular land, the effect would be to transfer the legislative powers of the municipality to this non-legislative administrative agency."

Although the strictness of this position was questioned in Clarke v. Morgan, 327 So.2d 769,772 (Fla. 1975), Josephson still is good law. See Walgreen v. Polk, 524 So.2d 1119 (2 DCA 88).

The cases which have allowed use variances have abided by the Josephson admonition. In addition to other variance criteria applicable to all variances (discussed below), an applicant for a use variance must also show that the proposed use is basically consistent with the neighboring uses in the area. Troup v. Bird, 53 So.2d 717 (Fla. 1951) (a lake in a residential area did not change the residential character of the area); Josephson v. Autrey, 96 So.2d 784 (Fla. 1957) (filling station not a consistent use in a motel zone); Metropolitan Dade Co v. Reineng Corp, 399 So.2d 379 (3 DCA 1981) (liquor store would "harmonize" with neighborhood); Monterey Development Co. v. Stuart Marine Center, Inc., 305 So.2d 245 (4 DCA 1974) (dry-dock boat storage consistent with marine area); Dade Co. v. Pepper, 168 So.2d 198 (3 DCA 1964) (junkyard consistent with industrial area).

II - THE ADMINISTRATIVE PROCEEDINGS BEFORE LOCAL GOVERNMENT

Typically, the applicant land owner will fill out a variance application. It will be reviewed by staff, and set for a hearing before whatever body is empowered to grant or deny variances in that jurisdiction, usually a Board of Adjustment.

A. Exhaustion of Administrative Remedies. To challenge a variance, someone with standing needs to appear and object, not only at the hearing on the variance application, but, if the variance is granted and being appealed, they must also object and use every "extra-judicial and administrative remedy which may provide the relief sought", or the later judicial appeal may be dismissed for failure to exhaust administrative remedies. City of Miami v. F.O.P., 378 So.2d 20 (3 DCA 1980).

Even parties with standing will lose their right to appeal if they do not personally appear and object at the administrative hearing. Battaglia Fruit Co. v. City of Maitland, 530 So.2d 940 (5 DCA 1988). A written objection entered into the record should suffice.

The Applicant must also exhaust his administrative remedies by asking for a variance

before claiming a taking. Mackay v DER. Under Herrera, this should mean that the owner needs to prove that he has been denied the minimum economically viable use.

. Burden of Proof. The burden to prove the existence of the required hardship and unique conditions is always on the applicant. Gomez v. City of St. Petersburg, 550 So.2d 7 (2 DCA 1989). Therefore, if the owner presents no evidence that the property cannot be used without the variance, there must be a denial. Herrera v. Miami, 600 So.2d 561 (3DCA 1992). The burden is more extensive than for a party seeking a permissible use by special exception. Cf. Gomez with Pollard v. Palm Beach City, 560 So.2d 1358 (4DCA 1990).

III- JUDICIAL REVIEW OF VARIANCE DECISIONS

A. Jurisdiction.

The Circuit Court has jurisdiction to review the action of the Board of Adjustment under the authority of Florida Constitution 1968, Article V, Section 5; Florida Rules of Appellate Procedure 9.030(c)(3) and 9.100; and Florida Rules of Civil Procedure 1.630.

B. Procedure.

A petition is filed under RAP 9.100 and RCP 1.630, within 30 days of the "rendition of the matter sought to be reviewed". "Rendition" is the date of the filing of the order of the zoning board in which it makes its findings, not the date of the hearing. RAP 9.020(g)

1. Petition. The Petition should contain:

- a. Statement of Jurisdiction
- b. Statement of Standing
- c. Statement of facts, all of which must be in the record
- d. Grounds of Objection
- e. All authorities and arguments of law
- f. Statement of relief sought

g. An appendix containing the record under Rule of Appellate Procedure 9.220 or the Rules of Civil Procedure 1.630 must be attached

2. Appendix. Must include everything from the record on which you will

refer or rely. Nothing outside the record presented at the hearing may be included.

A challenger should also provide the Court with copies of all ordinances on which the ruling was based. The Court cannot take judicial notice of ordinances or of amendments which were not brought before the zoning board. Nichols v. FIDC, 315 So.2d 238 (4 DCA 1975). F.S. 90.202(10) allows the court to take judicial notice of ordinances, but they must be published or first presented to the zoning board. Hill v State, 471 So.2d 567 (1 DCA 1985).

3. Filing. The petition and appendix are simply filed with the Court, no hearing or notice is required. Submit along with it a Motion for Summons in Certiorari and Order to Show Cause and proposed order (see sample forms, *infra*). If the Court finds you have made a prima facie case, it will issue what RCP 1.630(d) calls "a summons in certiorari", or RAP 9.100 calls an "order to show cause", giving the zoning board a reasonable time to respond. Oral argument may be requested under RAP 9.100(d)(3), but it is not required.

Since this is an appeal, and not a new proceeding, there is no discovery. The Court will only review the record created below.

4. Briefs. RAP 9.100 provides for a response by the board, and then a reply by the appellant, with a supplemental index if desired.

C. Standards for Judicial Review.

1. Circuit Court. The circuit court's certiorari review of an administrative action reviews 3 components:

- a. Whether procedural due process was followed;
- b. Whether the essential requirements of the law have been followed;
- c. Whether the decision was supported by competent substantial evidence. City of Deerfield Beach v. Vaillant, 419 So.2d 624 (Fla. 1982) However, the circuit court, like any other appellate court, may not reweigh the evidence or substitute its judgment for the administrative board's. If any competent substantial evidence was presented the decision must stand. Martin v. First Apostolic Church, 321 So.2d 471 (4 DCA 1975) [special exception to build church denied].

2. Court of Appeals. Vaillant holds that when the Court of Appeals reviews the circuit court (RAP 9.030(b)(2)(B)), it only may review the first two criteria. (a and b, above). The Court of Appeals theoretically may not reverse a circuit court on the basis of whether there was or was not competent evidence presented, so long as due process and the essential rules of law are followed. Gomez v. City of St. Petersburg, 550 So.2d 7 (2 DCA 1989).

3. Comprehensive Plan consistency. A challenge to a variance decision based on an alleged inconsistency with a particular comprehensive plan policy must be brought within 30 days pursuant to the statutory procedures set forth in Florida Statutes 163.3215. Comprehensive Plan inconsistency cases are held to different statutory procedures and a strict scrutiny standard.

e. Standing to seek judicial review of a variance in court

A person seeking to challenge a variance needs to show that the variance will have some effect on him different from the effect on the community at large, even if no different than upon others in his neighborhood. Carlos Estates v. Dade Co., 426 So.2d 1167 (3 DCA 1983). This has generally been held to mean landowners in the immediate neighborhood of the project. Hemisphere Equity v. Key Biscayne, 369 So.2d 996 (3 DCA 1979) (objectors have standing if they reside in "proximity" of project); Allapattah Community v. City of Miami, 379 So.2d 387 (3 DCA 1980) ("neighborhood" sufficient), but anyone in the same zoning district would seem to meet the Carlos Estates test.

Carlos Estates describes two subgroups in the Renard v. Dade County, 261 So.2d 832 (Fla. 1972) category 1 "special injury" classification (for standing to challenge violations of an existing zoning ordinance). Objections to variances (and special exceptions) follow the above rule. Objections to code violations by neighbors, however, according to Carlos Estates, requires "an impact unique to [the objector's] property". This distinction does not appear in Renard.

There is no rule that only landowners may object, thus a long term lease might suffice, but economic injury from business competition alone is not sufficient to create standing. Skaggs-Albertson v. Michels Pharmacy, Inc., 332 So.2d 113 (2 DCA 1976). But where the business is strictly regulated, such as with a liquor license, the economic injury does rise to the level of conferring standing. Skaggs-Albertson's v ABC Liquors, 363 So.2d 1082 (Fla. 1978).

The fact that someone is in the area required for notice is not conclusive as to standing. Battaglia Fruit v. Maitland, 530 So.2d 940 (5 DCA 1988).

Note that if you can find any grounds to challenge the variance as "void because not properly enacted", then any affected resident or citizen of the government unit has standing. Renard v. Dade County, 261 So.2d 832 (Fla. 1972); Upper Keys Citizens Coalition v. Wedel, 341 So.2d 1062 (3 DCA 1987); Save Brickell Ave., Inc. v City of Miami, 393 So.2d 1197 (3 DCA 1981).

Standing of Environmental and Citizens Groups.

In general, representative organizations have standing if they meet the criteria laid out in Florida Home Builders v. Dept of Labor, 412 So.2d 351, 353 (Fla. 1982):

- a. a "substantial number of its members, although not necessarily a majority"

would have standing in their own right,

- b. the interests it seeks to protect are genuine to the organization's purpose, and
- c. neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.
- d. The organization must have a “special injury” to a special interest that exceeds in degree the general interest in community good shared by the general public (i.e., inquire into what are the organizations special interests and what are the special impacts to those interests).

Upper Keys Citizens Assoc. v. Monroe Co., 467 So.2d 1018 (3 DCA 1985); Chabau v Dade County, 385 So.2d 129 (3 DCA 1980). An organization is often felt to be unable to meet the "special injury" requirement, which must still be followed. U.S. Steel Corp v. Save Sand Key, Inc., 303 So.2d 9 (Fla. 1974). See Friends of the Everglades, 595 So.2d 186; Sailboat Key, 306 So.2d 616; Exchange Investments, 481 So.2d 1223.

Challenges to variances based on an alleged inconsistency with a specific Comprehensive Plan policy in circuit court must demonstrate a basis under the statutory standing requirements of Florida Statutes 163.3215. Putnam County Environmental Council v. Putnam County, 757 So. 2d 590(Fla. 5th DCA 2000).

-----ENDNOTES-----

¹ In 1985, the entire zoning enabling act was repealed (not just variances). Chapter 85-55 Laws of Florida, p. 235 Section 20 acknowledges that the Growth Management Act of 1985 repealed §§163.160 through 163.315, Florida Statutes and replaced it with §§ 163.3161 and 163.3215, Florida Statutes (making comprehensive plan consistency and concurrency requirements more stringent), but did not remove any of the previous zoning enabling authority:

“Section 20. It is the intent of the legislature that the repeal of the sections 163.160 through 163.315, Florida Statutes, by this act shall not be interpreted to limit or restrict the powers of ...county officials, but shall be interpreted as a recognition of their broad statutory and constitutional powers to plan for and regulate the use of land. It is further the intent of the legislature to reconfirm that sections 163.3161 and 163.3215, Florida Statutes, have provided and do provide the necessary statutory direction and basis for municipal and county officials to carry out their comprehensive planning and land development regulation powers duties and responsibilities.”

The basic Florida Law of variances has not changed, as criteria for variances similar to Florida case law requirements has been incorporated into local Codes establishing similar variance criteria to be applied through slightly different procedures (Hearing Examiners v. Boards of Adjustment) for each County. But the ability to review and grant or deny variances, as well as the basic Florida law of variances, remains the same before and after 1985. *See, post-1985 cases cited above.* Since 1985, All development orders, including variances, must be consistent with duly adopted Comprehensive Plan policies, objectives and goals under the Growth Management Act of 1985, Florida Statutes 163.3215.

Lodging Association LBTS
October 11, 2021

To: LBTS Commissioners

Re: Water Taxi Stop at Blue Moon Restaurant

The hoteliers in Lauderdale by-the-Sea will be thrilled to be able to send our guests to the Blue Moon Restaurant to board the Water Taxi and experience our beautiful intracoastal waterway.

Most of our guests do not need a car when they stay in our walkable town. They will love being able to walk along Commercial Blvd. to a nearby Water Taxi stop. The walk will also bring traffic to the west of A1A businesses.

We look forward to this exciting addition to our Town.

Warmly,

Ellen Zavell

Ellen Zavell

President Lodging Association LBTS

4403 Tradewinds, Inc.

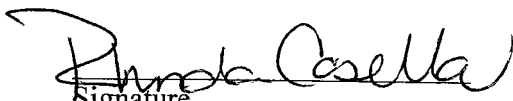
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

7-SIX VACATION SUPPLY CO
Name/Business Owner

4405 N. Ocean Dr
LBTS, FL
Address

10-11-21
Date

4403 Tradewinds, Inc.

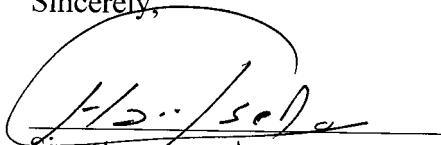
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

Haikel Sedouki
Name/Business Owner

235 Commercial Blvd. Lauderdale by the Sea.
Address
33308

10/04/2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

Gold Coast Scuba Steve Gagas
Name/Business Owner

259 Commercial Blvd. Suite 2
Lauderdale-By-The-Sea, FL 33308
Address

10/4/21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,



Signature

Frank Wojcik

Name/Business Owner

4419 W. Tradewinds Ave
Lauderdale By The Sea

Address

10/4/21

Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature Rocio Arana

Kadampa Meditation Fort Lauderdale
Name/Business Owner

4342 E Tradewinds Ave
Lauderdale by the Sea FL 33308
Address

10/08/2021
Date

4403 Tradewinds, Inc.

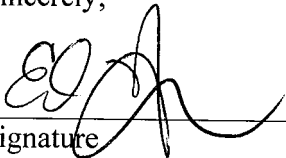
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

ED HUSS (GEN MGR)
Name/Business Owner

BEACH ACE HARDWARE

232 COMMERCIAL BLVD
Address

10/8/21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

Pedro Hernandez / Pedrito's Bike Shop
Name/Business Owner

230 Commercial Blvd. #1
Lauderdale By the Sea FL 33308
Address

10/8/2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

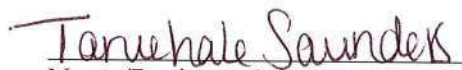
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

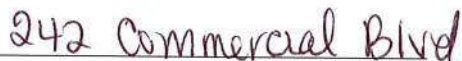
Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

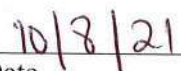
Sincerely,


Signature


Name/Business Owner



Address


Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

Austin McLarty
Name/Business Owner

Grateful J's - Never stopped Rackin.

250 A commercial Blvd, Lauderdale
Address ByThe Sea, FL 33308

10/8/21
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

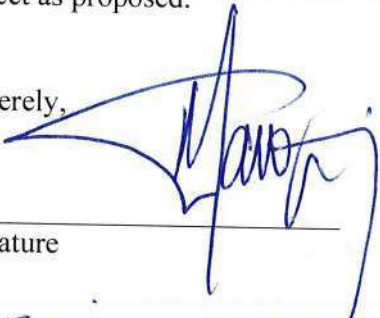
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

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Sincerely,

Signature


ERIC MAUGE

Name/Business Owner



FLORIDA PURCHASING AGENCY, INC.

262 Commercial Blvd.

Lauderdale by the sea, FL 33308

Address 954-776-5170

Date

10/8/2021

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,


Signature

Ann Sandgrist Harmony Hair & spa
Name/Business Owner

262 Commercial Blvd

L. B. T. S.
Address

10/8/21
Date

4403 Tradewinds, Inc.

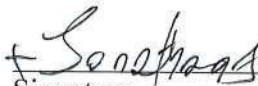
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

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Sincerely,


Signature

Sonathan S. Village Pump.
Name/Business Owner

4404 E. Mac Dr
Lauderdale By The Sea FL
Address

10/11/21
Date

4403 Tradewinds, Inc.

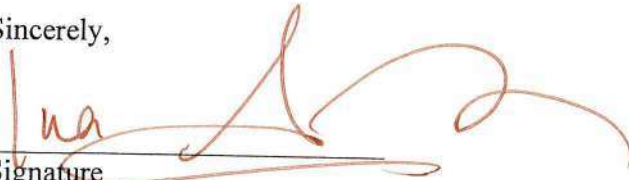
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

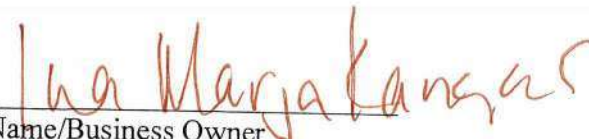
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,


Signature


Name/Business Owner

4404 N. Ocean Blvd
LBTS. 33308
Address

10/11/21
Date

4403 Tradewinds, Inc.

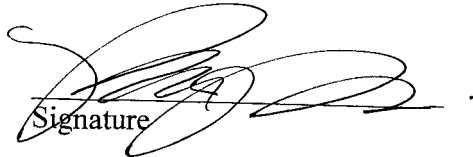
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,


Signature

Pamela J Rossi
Name/Business Owner

217 Commercial Blvd
Lauderdale By the Sea
Address

10/11/2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

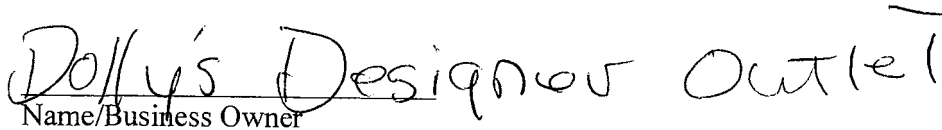
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

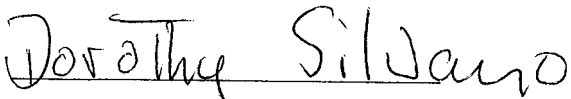
Dear Ms. Jo Ann Hoffman,

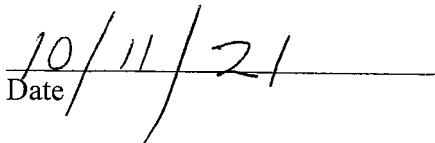
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Sincerely,


Signature


Name/Business Owner


213th Comm. Blvd.
Address


Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

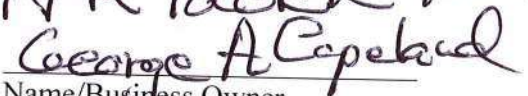
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,


Signature

TFR Tackle INC

Name/Business Owner

228 Commercial Blvd.
Lauderdale By The Sea FL
Address

10/8/2021
Date

4403 Tradewinds, Inc.

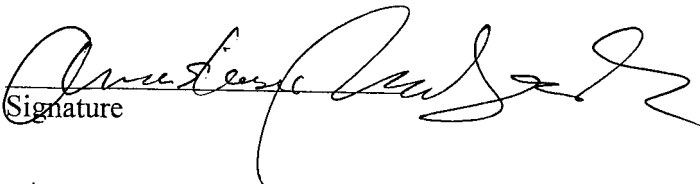
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

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Sincerely,


Signature

Anastasios Nikolaopoulos
Name/Business Owner

Boston Reef by the Sea
107A ~~Boston~~ Commercial Blvd
Address

10-11-21
Date

4403 Tradewinds, Inc.

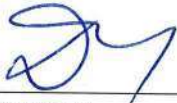
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

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Sincerely,



Signature

Dennis Gaff / Rees's Inc.

Name/Business Owner

4328 W. Ocean DR
4350 N. Ocean DR

228 Commercial Blvd

Address

10/11/21

Date

4403 Tradewinds, Inc.

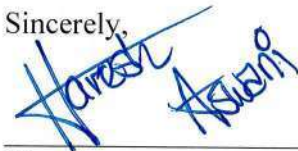
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

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Sincerely,



Signature

Haresh Aswani

Name/Business Owner

Beach King

234 Commercial Blvd. LBTS.

Address

10-08-2021.

Date

4403-4405 TRADEWINDS AVE PLAN SET



LOCATION MAP (N.T.S.)

DRAWING INDEX

SHEET 1: COVER

SHEET 2: EXISTING
CONDITIONS

SHEET 3: PROPOSED
CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:

**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
151 S. Cypress Road, Suite 203
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omslaker
PE 52733, EB 26829

This document has been electronically
signed and sealed by John H. Omslaker, P.E.
on date noted using a SHA-1 authentication
code. Printed copies are not considered
signed and sealed and SHA-1 authentication
code must be verified on any electronic
copies per Rule 62-30.006, F.A.C.

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THE Chappell GROUP INC.
714 East McNeel Road
Pompano Beach, Florida 33060
Tel: 954.782.1900
Fax: 954.782.1106 www.thechappellgroup.com

- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

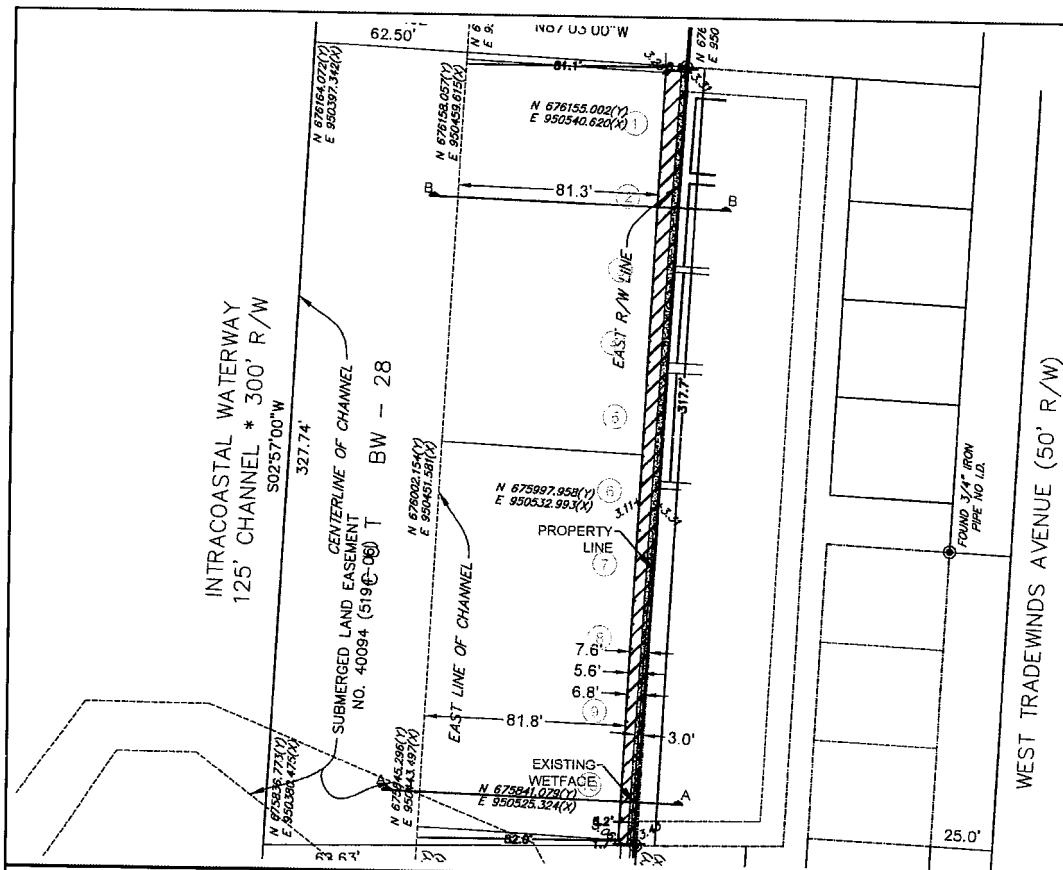
4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

Date:
2/10/2021
Proj No.:
20-0077

Sheet:
1
of:
6



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Onsdorff
PE 31733, EB 26829

This document has been electronically signed and sealed by John H. Onsdorff, P.E. on data noted using a SHA-1 authentication code. Printed copies are not considered signed and sealed and SHA-1 authentication code must be verified on any electronic copies per Rule 82-30.060, F.A.C.

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 L.N. FT.)
- EXISTING WOOD MARGINAL DOCK TO BE REMOVED (±2,440 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88.

THIS DRAWING AND ALL APPURTENANT MATTER CONTAINS INFORMATION PROPRIETARY TO THE CHAPPELL GROUP, INC. AND IS LOANED SUBJECT TO RETURN UPON DEMAND AND MUST NOT BE REPRODUCED, COPIED, LOANED, REVEALED, NOR LISTED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT IS SPECIFICALLY FURNISHED WITHOUT EXPRESSED WRITTEN CONSENT OF THE CHAPPELL GROUP, INC.
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THE Chappell GROUP
714 East McKee Road
Pompano Beach, Florida 33060
Tel: 954.782.1908
Fax: 954.782.1108
www.thechappellgroup.com

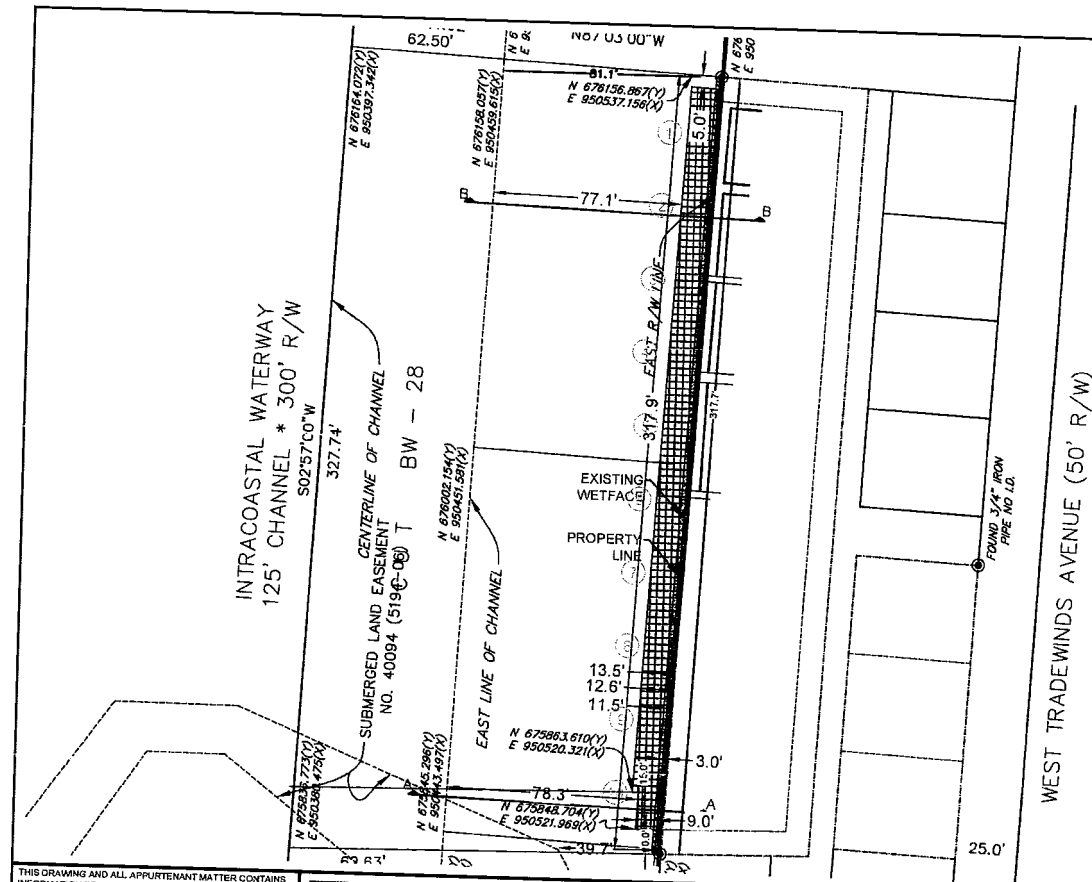
- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- TSE Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

EXISTING CONDITIONS

Date:	12/23/2020	Sheet:	2	of:	6
Proj No:	20-0077				



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
 331 S. Cypress Road, Suite 103
 Pompano Beach, FL 33060
 Tel: (954) 545-1710
 Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omsher
 PE 52733, EB 26829

This document has been electronically signed and sealed by John H. Omsher, P.E. on date noted using a SHA-1 authentication code. Printed copies are not considered signed and sealed and SHA-1 authentication code must be verified on any electronic copies per Rule 62-30.060, F.A.C.

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
- PROPOSED CONCRETE MARGINAL DOCK (±3,468 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,104SQ. FT.

THIS DRAWING AND ALL APPURTENANT MATTER CONTAINS INFORMATION PROPRIETARY TO THE CHAPPELL GROUP, INC. AND IS LOANED SUBJECT TO RETURN UPON DEMAND AND MUST NOT BE REPRODUCED, COPIED, LOANED, REVEALED, NOR LISTED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT IS SPECIFICALLY FURNISHED WITHOUT EXPRESSED WRITTEN CONSENT OF THE CHAPPELL GROUP, INC.
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THE Chappell GROUP
 714 East McNab Road
 Pompano Beach, Florida 33060
 tel: 954.789.1100
 fax: 954.789.1100
www.thechappellgroup.com

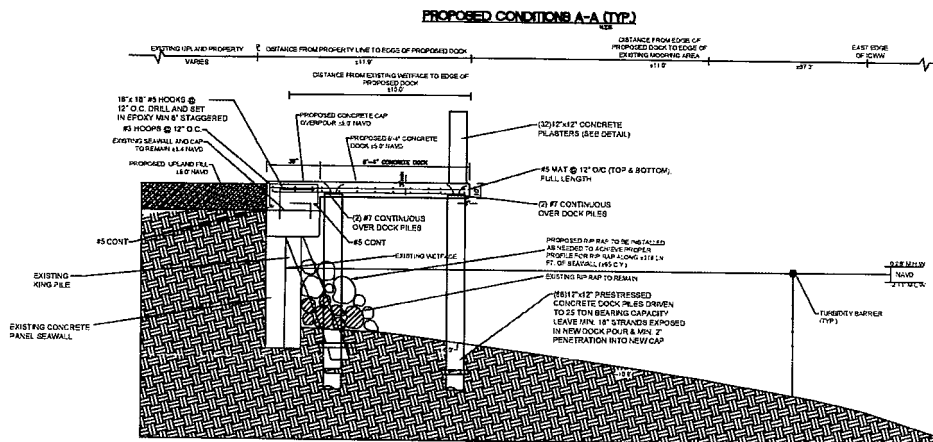
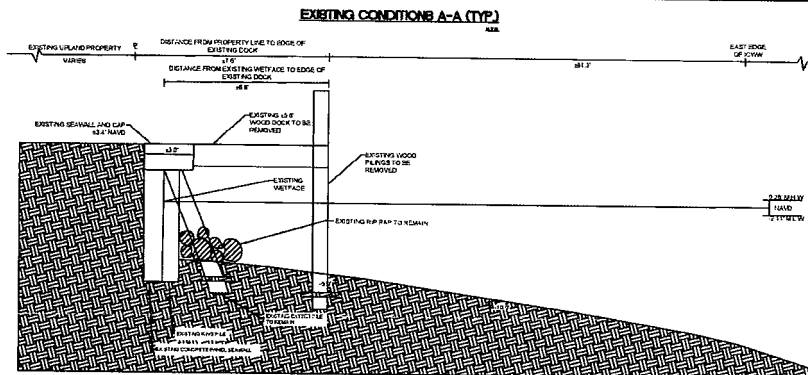
- Environmental Consultants
- Marina & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
 4403 TRADEWINDS, INC.

PROPOSED CONDITIONS

Date:	Sheet:	of:
12/23/2020	3	6
Proj No: 20-0077		



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PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
 351 S. Cypress Road, Suite 303
 Pompano Beach, FL 33060
 Tel: (954) 545-1740
 Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omstoter
 PE 53723, EB 26829

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THE Chappell GROUP INC.
 714 East McNelly Road
 Pompano Beach, Florida 33060
 tel: 954.782.1908
 fax: 954.782.1108
www.thechappellgroup.com

- Environmental Consultants
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- Mitigation Design & Monitoring
- T&E Species Surveys

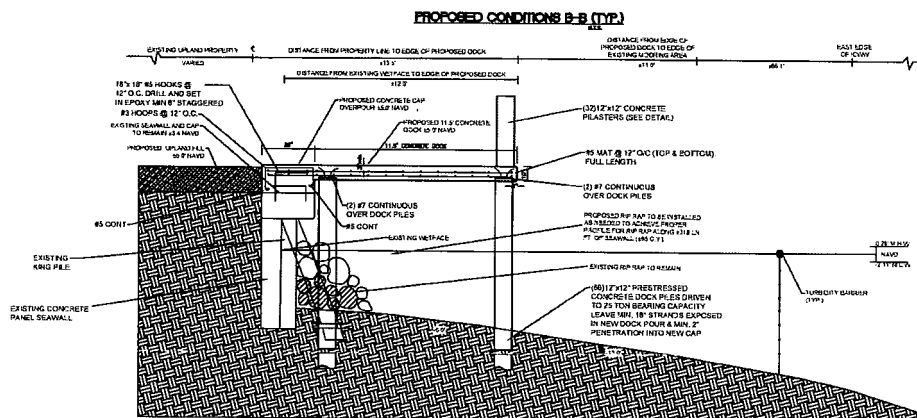
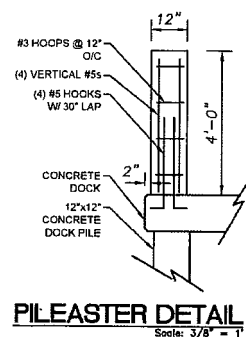
4403-4405 TRADEWINDS AVE

PREPARED FOR:
 4403 TRADEWINDS, INC.

SECTION A

Date:
 12/23/2020
 Proj No.:
 20-0077

Sheet: 4 of: 6



This document has been electronically signed and sealed by John H. Omsick, P.E. on date noted using a SHA-1 authentication code. Printed copies are not considered signed and sealed and SHA-1 authentication code must be verified on any electronic copies per Rule 62-30.060, F.A.C.

PROJECT ENGINEER:
DYNAMIC ENGINEERING
SOLUTIONS, INC.
351 S. Cypress Road, Suite 305
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Onusker
PE 52733, EB 26829

THIS DRAWING AND ALL APPURTENANT MATTER CONTAINS INFORMATION PROPRIETARY TO THE CHAPPELL GROUP, INC. AND IS LOANED SUBJECT TO RETURN UPON DEMAND AND MUST NOT BE REPRODUCED, COPIED, LOANED, REVEALED, NOR LISTED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT IS SPECIFICALLY FURNISHED WITHOUT EXPRESS WRITTEN CONSENT OF THE CHAPPELL GROUP, INC.
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THE Chappell GROUP INC.
714 East McNab Road
Pompano Beach, Florida 33069
tel. 954.782.1908
fax. 954.702.1108 www.thechappellgroup.com

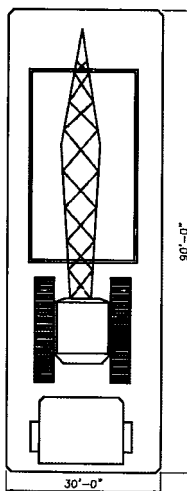
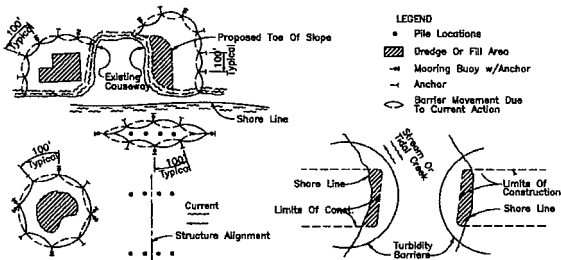
- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

SECTION B

Date: 12/23/2020	Sheet : 5	of
Proj No.: 20-0077		



PILE DRIVING NOTES

- Pile driving operations shall be observed by a special inspector, including test piles sufficient to determine the approximate length required to meet design capacity.
- Piles shall be driven using an approved cushion block consisting of material as arranged so as to provide the transmission of the hammer energy.
- Piles shall be driven to required capacity a minimum of 8 feet into rock or a minimum of 10 feet into piling material.
- Piles shall be driven with a drop hammer or gravity hammer provided the weight of the hammer is no less than 3000 pounds, and the fall of the hammer shall not exceed 8 feet.
- Piles shall be driven with a variation of not more than 1" per foot, from the vertical, or from the batter line indicated, with a maximum variation of the head of the pile from the position shown on the plans of not more than 3 inches.
- Where piling must penetrate strata offering high resistance to driving, the structural engineer of record or special inspector may require that the piles be set in pre-drilled or punched holes. The piles shall reach their final penetration by driving.

CONCRETE NOTES

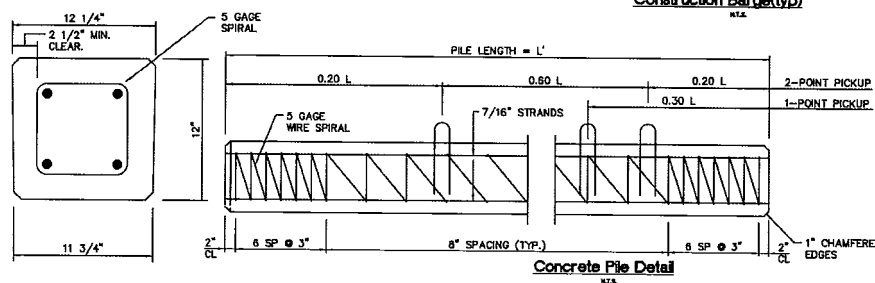
- Concrete shall conform to ACI 318 (latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi at 28 days with a maximum water-cementitious materials ratio, by weight, normal aggregate concrete of 0.40.
- Owner shall employ and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM.
- Licensed contractor is responsible for the adequacy of forms and churning and for safe practice in their use and removal.
- Concrete cover shall be 3" unless otherwise noted on approved drawings.
- Reinforcing steel shall be in accordance with the latest version of ASTM A615 Grade 60 specifications. All reinforcement shall be placed in accordance with ACI 318 and ACI Manual of Standard Practice.
- Splices in reinforcing bars shall not be less than 48 bar diameters and reinforcing shall be continuous around all corners and changes in direction. Continuity shall be provided at corners and changes in direction by bending the longitudinal steel around the corner 48 bar diameters.
- For repair of defective, cracked, or loose concrete, the areas must be cut out and the repair must be obtained by sandblasting, coated with zinc, and repaired with at least three inches of epoxy/concrete mix of gunite concrete with sulfate-resistant cement cover.
- A 1" deep control joint shall be sawcut in overall cap at every other pile location, or maximum 20' O/C spacing.
- Per section 2003.6.4 of the 2010 Florida Building Code, all aluminum in contact with concrete shall be protected with dual-resistant coatings, such as heavy bodied bituminous paint or water-white molybdena lacquer.

GENERAL NOTES

- Construction to follow 2014 Florida Building code, 5th Edition and amendments as applicable and all local, state, and federal laws.
- Contractor shall verify the existing conditions prior to commencement of the work. Any conflicts or omissions between existing conditions or the various elements of the working drawings shall be brought to the attention of the Engineer prior to the commencement of the work. Contractor and all subcontractors are responsible for all lines, elevations, and measurements in connection with their work.
- Do not scale drawings for dimensions.
- Contractor or customer to pay for all permit fees, inspections, and testing required.
- Contractor to verify location of existing utilities prior to commencing work.
- Contractor is responsible for all means, methods, and procedures of work.
- Contractor to obtain all permits as necessary from all local, state, and federal agencies.
- Contractor to properly fence and secure area with barricades.
- Any deviation and/or substitution from the information provided herein shall be submitted to the Engineer for approval prior to commencement of work.
- All unutilized or unforeseen deviation and/or new construction conditions which require deviation from the plans and notes herein shall be reported to the Engineer prior to commencement of work.
- All new materials and/or patchwork shall be provided to match existing materials and/or adjoining work where practical except as specifically noted herein.
- Licensed contractor shall use all possible care to protect all existing materials, surfaces, and furnishings from damage during all phases of construction.
- The licensed contractor to install and remove all shoring and bracing as required for the proper execution of the work.
- All new work and/or materials shall conform to all requirements of such administrative body having jurisdiction in each pertaining circumstance.
- Licensed contractor to verify location of existing utilities prior to commencing work.
- All measurements shown refer to national geodetic vertical datum (NGVD) of 1929.
- Turbidity barriers are to surround all in water construction areas during all construction activities.

CONCRETE FINISHES

- Concrete pile concrete shall attain 6000 psi compressive strength in 28 days.
- Concrete piles shall be reinforced with (4) #4 to-be strands, 270 ksi, and #5 spiral ties.
- Concrete piles shall be 12"x12" square, 20 feet minimum length.
- Concrete pile shall be driven to a minimum bearing capacity of 25 tons.



PILE NOTE

CONCRETE COMPRESSIVE STRENGTH: 5000 PSI @ RELEASE 5000 PSI @ DRIVING

SPIRAL TO BE ASTM A-62 TIGHT HARD-DRAWN WIRE

STRANDS - USE FOUR 7/16" (270K) LOW RELAXATION ASTM A186-87 UNCOATED 7-WIRE STRANDS TENSIONED TO 2.33 KIPS EACH

1-POINT PICKUP-MAXIMUM L = 50'

2-POINT PICKUP-MAXIMUM L = 50'

This document has been electronically signed and sealed by John H. Ornelas, P.E. on date noted using a SHA-1 authentication code. Printed copies are not considered signed and sealed and SHA-1 authentication code must be verified on any electronic copies per Rule 62-30.080, F.A.C.

PROJECT ENGINEER:

DYNAMIC ENGINEERING SOLUTIONS, INC.
151 S. Cypress Road, Suite 303
Pompano Beach, FL 33069
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Ornelas
PE 3233, EB 26829

THIS DRAWING AND ALL APPURTENANT MATTER CONTAINS INFORMATION PROPRIETARY TO THE CHAPPELL GROUP, INC. AND IS LOANED SUBJECT TO RETURN UPON DEMAND AND MUST NOT BE REPRODUCED, COPIED, LOANED, REVEALED, NOR LISTED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT IS SPECIFICALLY FURNISHED WITHOUT EXPRESSED WRITTEN CONSENT OF THE CHAPPELL GROUP, INC.
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THE Chappell GROUP
714 East McNeil Road
Pompano Beach, Florida 33062
Tel: 954.782.1808
Fax: 954.782.1108
www.thechappellgroup.com

- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- TSE Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

DETAILS

Date: 12/23/2020
Proj No.: 20-0077
Sheet: 6 of 6

4403 Tradewinds, Inc.

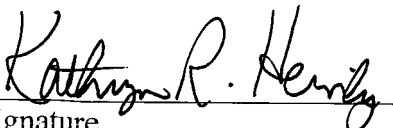
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

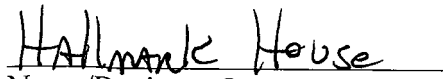
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

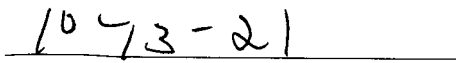
I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,


Signature


Name/Business Owner


Address


Date

4403 Tradewinds, Inc.

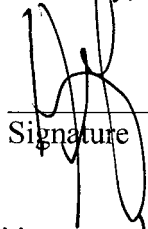
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,



Signature

Howard Goldberg

Name/Business Owner

1960 Ocean Mist Dr. LBTS

Address

10/13/21

Date

4403 Tradewinds, Inc.

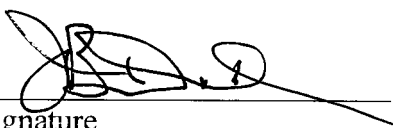
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,


Signature

JAMES B. DADSON

Name/Business Owner

4629 POINCIANA ST. APT 503
LBTS

Address

13 OCT 21

Date

4403 Tradewinds, Inc.

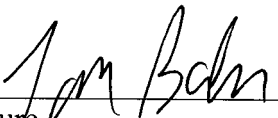
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,



Signature

1650 Wealth Mgt

Name/Business Owner

255 Commercial Blvd #201
LBTS, FL 33301

Address

10/14/21

Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,


Signature

Dr. Jean Pierre LLC
Virtual Vitality MD
Name/Business Owner

3038 W Federal Hwy
Address

Fort. Lauderdale FL 33306
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,

Signature

Name/Business Owner

Address

Date

SITE CAS OLAS

FT LAUD

10/3/21

4403 Tradewinds, Inc.

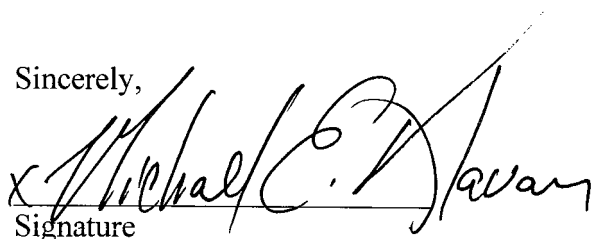
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

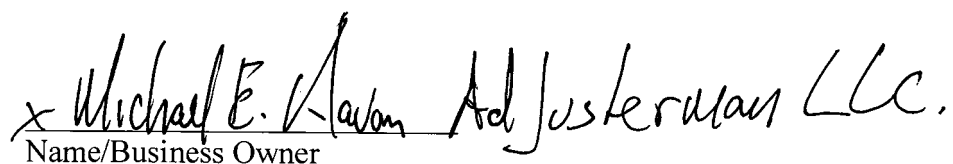
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

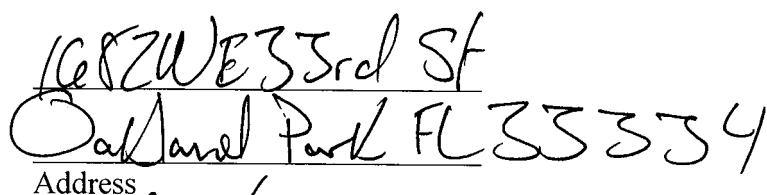
Dear Ms. Jo Ann Hoffman,

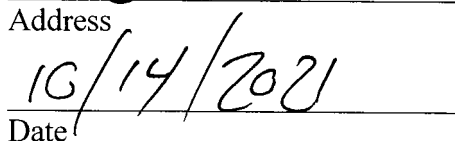
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Sincerely,

x 
Signature

x  Ad Justerman LLC.
Name/Business Owner


Address


Date

4403 Tradewinds, Inc.

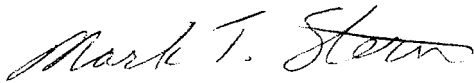
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

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Sincerely,



Signature

Mark T. Stern of The Law Offices of Mark T. Stern
Name/Business Owner

4326 E. Tradewinds Ave
Lauderdale By The Sea, FL 33308
10/14/2021

4403 Tradewinds, Inc.

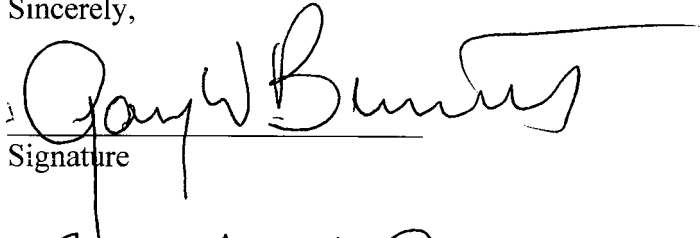
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,


Signature

GARY W. BURNETT
Name/Business Owner

269 Harbor Dr.
L.B.T.S.
Address

10/14/2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,


Signature

Ellen Zavell / Driftwood Beach Club
Name/Business Owner

4417 E1. Mar Dr.
L.B.T.S., FL. 33308
Address

10/14/21
Date

4403 Tradewinds, Inc.

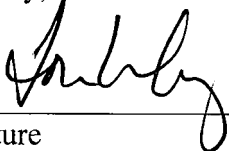
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

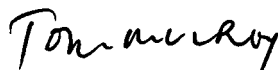
Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,

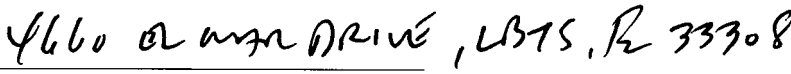


Signature

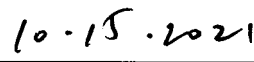


Name/Business Owner





Address



Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,



Signature

Ruth Stilwell, Owner
Name/Business Owner

Aerospace Policy Solutions, LLC
275 Commercial Blvd. Suite 210
Address

14/October 2021
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,



Signature

Blue Moon Fish Co.
Name/Business Owner

Blue Moon Fish Co.
4405 W. TRADEWINDS AVE.
Address

10/15/20
Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,


Signature

Dominick Casale
Name/Business Owner

Diamonds & doggies
111 Commercial Blvd. LBTS, FL 33308
Address

10/15/2021
Date

4403 Tradewinds, Inc.

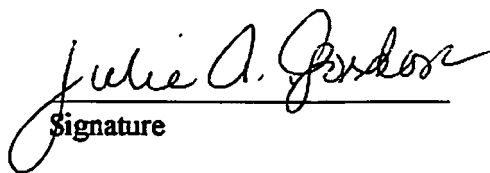
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

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Sincerely,


Signature

Julie A Gordon
Name/Business Owner

DIRECTIONS. LTD

271 Hibiscus Av LBS, FL 33308
Address

10/15/21
DATE:

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,



Signature



Name/Business Owner

4201 E L Mar DR

Laud By The Sea, FL

Address

10/18/21

Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

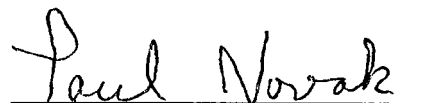
Dear Ms. Jo Ann Hoffman,

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Sincerely,



Signature



Name/Business Owner

HIGH NOON RESORT
4424 ELMAR DRIVE - LOTS

Address

10-18 - 2021

Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside/work or am a business owner/manager at the address below and support the project as proposed.

Sincerely,


Signature

Billy Jacks Shack
Name/Business Owner

218 Commercial Blvd SUT 102
LAUDERDALE BY THE SEA, FL 33308
Address

10/20/21
Date

4403 Tradewinds, Inc.

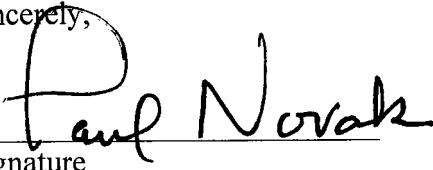
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Ms. Jo Ann Hoffman,

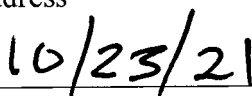
I have reviewed the attached plans (Attachment A), for the proposed project to install a concrete dock that exceeds 8' from the property line into the Intracoastal Waterway. I understand that the proposed project will require a variance through the Town of Lauderdale-By-The-Sea. Permitting through the environmental agencies has been completed (U.S. Army Corps of Engineers Permit No. SAJ-2020-04812, Florida Department of Environmental Protection Permit No. 06-395244-002-EM and Broward County Environmental Protection and Growth Management Department Permit No. DF20-1337). I reside at the address below and support the project as proposed.

Sincerely,


Signature

HIGH NOON RESORT
Name/Business Owner
4424 EL MAR DRIVE
LAUDERDALE BY THE SEA, FL. 33308

Address


Date

4403 Tradewinds, Inc.

RE: Citizens Participation Meeting Summary/4403 Tradewinds Dock Replacement and Expansion Variance

Dear Town of Lauderdale-By-the Sea

Please allow this correspondence to serve as the Citizens Participation Meeting Summary for the meeting held on December 29, 2021, at 6:30 p.m. at Jarvis Hall in Lauderdale by the Sea in accordance with Ordinance 2021-11 and in compliance with section 30-114.

On behalf of 4403 Tradewinds Inc., we have applied for a variance to allow a concrete docket that extends a range of 11.4' to 13.5' from the property line along the property at 4403 Tradewinds Inc, less the required setbacks on both sides of the property line. The proposed dock has been approved by the U.S Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection and Growth Management Department (06-395244-002-EM and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337). The Intracoastal Waterway is a Federal channel and requires approval from the ACOE Navigation District to construct this proposed dock, which has been reviewed and granted. The proposed structure also adheres to the Florida Department of Environmental Protection requirement stating that no docks or vessels can exceed 25% the width of the waterway. With the expansion/replacement of the dock, additional rip rap boulders underneath the proposed dock will aid in absorbing wave action created by passing boats and will absorb rough wakes that could lead to damage of moored boats, people, and the dock. In addition, by adding rip rap this will provide significant habitat for marine life, but most importantly protecting lives and provide for the safety of patrons of the restaurant while getting on and off their boats.

At the meeting on December 29, 2021, a sign-in sheet was placed at the front door. We requested that each interested party attending this meeting to sign-in. Attached is the patron sign-in sheet. There were additional people present but did not sign-in. The sign-in sheet evidences the participation of 12 attendees. In addition to the 12 participants, multiple city officials and employees were present. Mr. Carlos Gianos presented the variance plan and Ms. Jenna Robbins of the Chappell Group was present as an engineering consultant.

Participate Speaker #1: Linda Kay (Ladies Club) requested what are the intentions for the additional dock space. She also expressed hearsay that the dock expansion was to include 10 boat slips going into the Intracoastal waterways.

4403 Tradewinds, Inc., response: The intention of the requested additional dock space is for various reasons including health and safety, wave reduction, shoreline erosion, increase marine

habitat and conforming to patrons' desire for outdoor dining and social distancing as a result of COVID-19.

Participate Speaker #2: (Ladies Club) requested information regarding financial gain on behalf of 4403 Tradewinds, Inc., and inquired as to this becoming a potential water taxi stop. In addition, she inquired as to parking availability for the water taxi and increased diners. Lastly, she discussed the construction process and increased traffic/parking.

4403 Tradewinds Inc., response: The financial gain on behalf of 4403 Tradewinds, Inc., would potentially increase the value of the property. However, the property owner of 4403 Tradewinds, Inc., does not have any intention of selling the property at this time. The dock placement/expansion is a huge expense for the property owner being done for various reasons including life, safety, protection of the seawall and property from erosion and increased boat activity.

As a response to the inquiry regarding the dock to be used as a stop for the water taxi services, this is a potential future plan and no town approval and no contracts or agreements as to this have been drafted at this time.

As a response to the parking inquiry, the property has a valet service that would accommodate the additional patrons and there are various public parking spaces and lots available throughout Lauderdale by the Sea.

As a response to the construction project, it was stated by Ms. Jenna Robbins with Chappell Group that most of the construction equipment/personnel will be brought in and done from barges. There will however be occasional needs that would require workers to be onsite and require parking for these workers. The parking will be managed, and all efforts will be made to reduce traffic in the residential surrounding areas.

Participate Speaker #3: Greg Lanzon a resident of the Warwick Condos located across the canal inquired as to the reference of 77 feet on the proposed plans. In addition, he inquired regarding the number of increased tables of 30 and the additional noise due to the added outdoor seating. He also wanted to confirm the estimated time frame to complete dock.

4403 Tradewinds, Inc., response: Ms. Jenna Robbins from the Chappell Group explained the 77-foot marker on the plans was the eastern edge of the intercoastal waterways and no construction can be done inside the canal according to the Army Corp of Engineers.

As to the inquiry of the "30" additional tables, this again is hearsay and no plans or conversations as to the layout of the outdoor dining have been discussed other than adhering to social distancing guidelines and the desire of the restaurant to expand the table distancing. The restaurant also does not anticipate that the increased dock size will attribute to additional noise. The restaurant has and will continue to adhere to the town noise ordinances.

Participate Speaker #4: Roseann Minnet residence of Lauderdale by the Sea, inquired why all residents of Lauderdale by the Sea were not notified of the Citizens Participation Meeting, timing of Citizens Participation Meeting, parking issues, and impact of Lauderdale by the Sea as a whole.

4403 Tradewinds, Inc., response: In accordance with Town Ordinance 2021-11 and Section 30-114 the applicant must provide notice to the effected parties, residents and property owners that are located within a 300-foot radius of the subject property and proposed application. Representative of 4403 Tradewinds, Inc., properly adhered to the Town Ordinance including mailing requirements and posting of a sign of the Citizen Participation Meeting on the property. The date and time of the Citizens Participation Meeting was scheduled in in compliance with the Town Ordinance to meet the deadlines for this application to be heard at the meeting in February 2022. The parking issue response was previously discussed above.

Participate Speaker #5: Robert Taylor owner at 5100 Dupont Blvd, Ft. Lauderdale inquired as to the next steps and process of the Town of Lauderdale by the Sea for reviewing plans for variance and requested a display of the dock plans. In addition, Mr. Taylor inquired information regarding notification to the City of Ft. Lauderdale and corresponding permit number and reports to the U.S Army Corps of Engineers, Florida Department of Environmental Protection and Growth Management Department and Broward County Environmental Protection and Grown Management Department.

4403 Tradewinds, Inc., response: There are two upcoming public hearings to review the variance application prior to final approval from the Town Commission. These additional meeting are open to the public for attendance and comments. Ms. Jenna Robbins from the Chappell Group, responded as to the application process to the federal, state and county entities and verified that all required permits were issued in accordance within regulation. In addition, Ms. Robbins stated these reports are public record and are available online through each individual entity: U.S Army Corps of Engineers (ACOE; Permit No. SAJ-2020-04812), Florida Department of Environmental Protection and Growth Management Department (06-395244-002-EM and Broward County Environmental Protection and Growth Management Department (BCEPGMD; Permit No. DF20-1337). Notification to the City of Ft. Lauderdale was not a requirement needed to obtain any permits.

Participate Speaker #6: Ben Bittner: owner of 4420 W. Tradewinds Ave. inquired as to the range/address of dock replacement/expansion project and identity of owner of entities. In addition, he was concerned regarding the potential increased charter boat business, increased car/bus traffic, parking and increased noise from restaurant for residents.

4403 Tradewinds, Inc., response: the dock expansion project includes the property line from 4403-4405, however, inquiries were made as to the ownership of 4419. These properties are owned under various corporate entities of which Ms. Hoffman is a principal of. As for increased charter business, this will not have an increased impact from this project. Additionally, as for the concern regarding increased noise from the restaurant, this was addressed above, and the restaurant will act in accordance with the Towns Noise Ordinance. However, since Mr. Bittner is in close proximity to the restaurant, the property manager assured him to personally address any issues and concerns that arise. The property manager also provided Mr. Bittner with his personal cell phone to discuss

issues as they arise. The property manager attests that he will personally try to mitigate any issues that arise from the residents living near the property, including but not limited to parking and noise complaints.

Participate Speaking #7: Linda Kay (Ladies Club) reiterated issues regarding parking including valet services and potential reduction of public parking spaces that is utilized by the Ladies Club on Wednesday and Thursdays.

4403 Tradewinds, Inc., response: parking issues were previously addressed above, however, property manager stating that he will personally speak with the principals of the valet service and restaurant to alleviate and accommodate the Ladies Club members' parking issues.

Participate Speaker #8: Marie Connelly: resident of 2000 S. Ocean Blvd: inquired as to the date for the application for permits, new ownership of restaurant, further explanation of rip rap and requesting model or slide show presentation at future meetings.

4403 Tradewinds, Inc., response: the application process for the dock replacement/expansion to the various required entities have been taking place since 2019 when Ms. Hoffman and her property manager evaluated the present condition of the dock. New owners of the restaurant are a company by the name of Ark Restaurants. Ms. Jenna Robbins from the Chappell Group further explained the rip rap including is needed to absorb the wave energy from passing boat traffic thus the need for a wider dock to cover the rip rap that will be placed.

Participate Speaker #9: Vicki Springstead from the Warwick: first commented on the hard work that had gone into preparing and applying for this application including the Citizens Participation Meeting. In addition, she noted that the property had been great neighbors to the Warwick residents. She inquired as how the dock replacement/expansion project could potentially affect their seawall. Ms. Jenna Robbins from the Chappell Group responded that the rip rap from the wave energy produced from the noticeably increased boat traffic would dissipate the wave energy to both sides of the intercoastal.

In closing, the participants main concerns were lack of parking and the impact on the neighborhood and Town during the construction process. In order to mitigate these concerns representatives of 4403 Tradewinds, Inc., have had communications and understanding from the current valet service that they will accommodate the Women's Club and any other vehicles from the restaurant and construction workers during this process. In addition, some residents raised concerns about noise level with the increased dock. Mr. Gianos' communicated with these neighbors and advised that he will address any infrastructural processes concerning these entities. Additionally, managers of the Blue Moon Fish Company have agreed to adhere to the current statutes and ordinances regarding noise.

4403 Tradewinds, Inc.

RE: 4403-4405 West Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

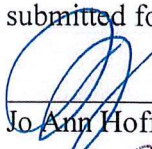
Dear Homeowners, Property Owners and Interested Parties:

The property located at 4403-4405 West Tradewinds Avenue is seeking to raise and extend its existing dock. We applied for a variance with the Town of Lauderdale- By-The Sea to construct a concrete dock with environmental rocks placed under the dock for both safety to reduce boat wakes and to assist with habitat resurgence.

Pursuant to the recent Town Ordinance 2021-11 Amending Chapter 30 "Unified Land Development Regulation," Article V "Zoning" to Create Section 30-114, "Citizen Participation Required," the applicant for a variance is required to conduct a minimum of one public meeting with residents, property owners and interested parties that may be affected by the proposed application.

Therefore, please allow this correspondence to serve as Notice of a Citizens Participation Meeting scheduled for December 28, 2021 at 6:30 p.m. at Jarvis Hall. Any interested parties are encouraged to attend this meeting.

Enclosed for your reference please find the plans for the dock on the Intracoastal Waterway submitted for 4403 Tradewinds Ave in Lauderdale-By-The Sea, Florida.

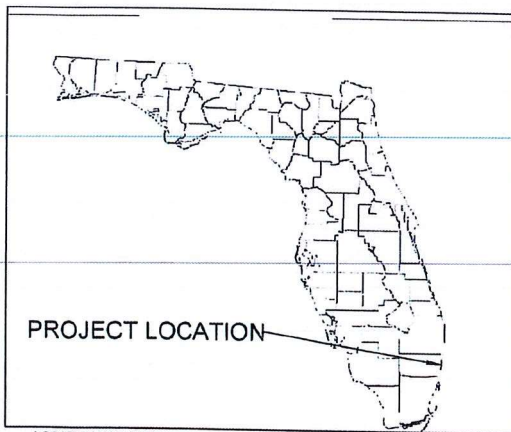

Jo Ann Hoffman

12/8/2021
Date of Notice


Carlos Gians

12/8/2021
Date of Notice

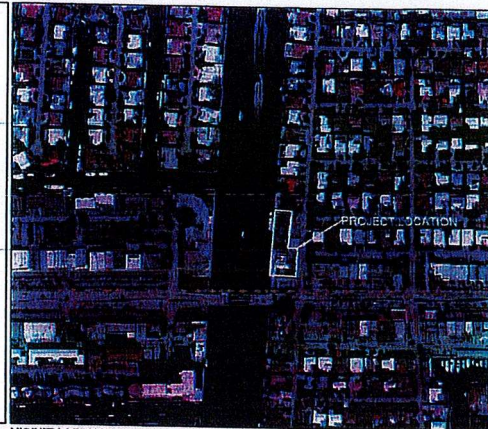
4403-4405 TRADEWINDS AVE PLAN SET



LOCATION MAP (N.T.S.)

DRAWING INDEX

- SHEET 1: COVER
- SHEET 2: EXISTING CONDITIONS
- SHEET 3: PROPOSED CONDITIONS
- SHEET 4: SECTION A
- SHEET 5: SECTION B
- SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:

DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL SIGNATURE DATE

John Dushoff
PE 52733, ED 26829

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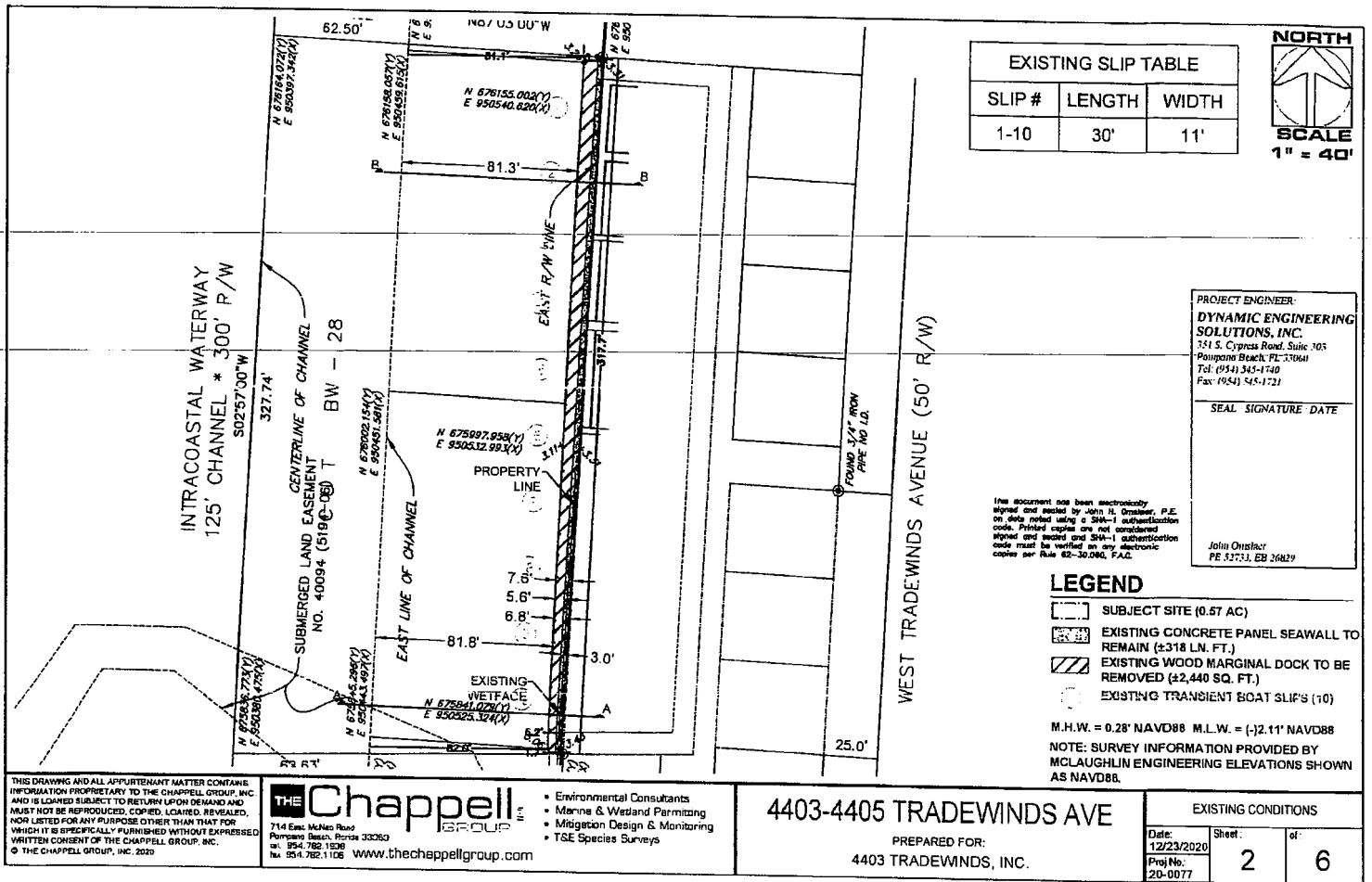
- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

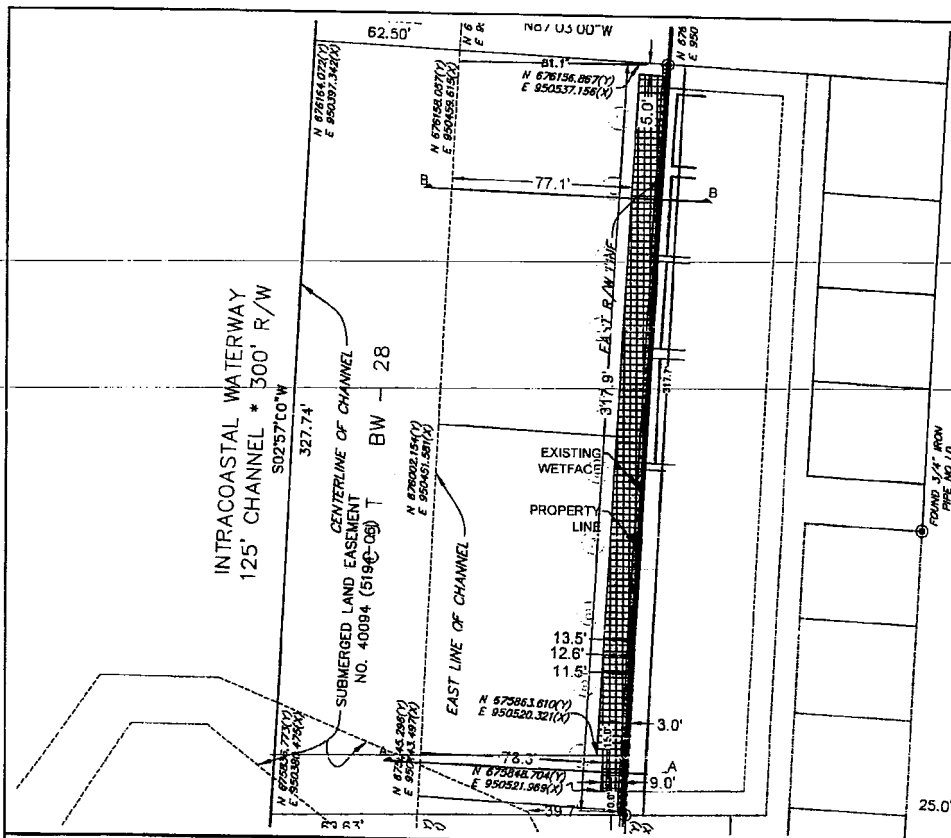
4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

Date: 2/10/2021	Sheet 1	of 6
Proj No.: 20-0077		





EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
 151 S. Cypress Road, Suite 105
 Pompano Beach, FL 33060
 Tel: (954) 345-1740
 Fax: (954) 345-1721

SEAL / SIGNATURE / DATE

John Omisner
 PE 52733, EB 26829

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LEGEND

- SUBJECT SITE (0.57 AC)
 - EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
 - PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
 - PROPOSED CONCRETE MARGINAL DOCK (±3,468 SQ. FT.)
 - EXISTING TRANSIENT BOAT SLIPS (10)
- M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88
 NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,104 SQ. FT.

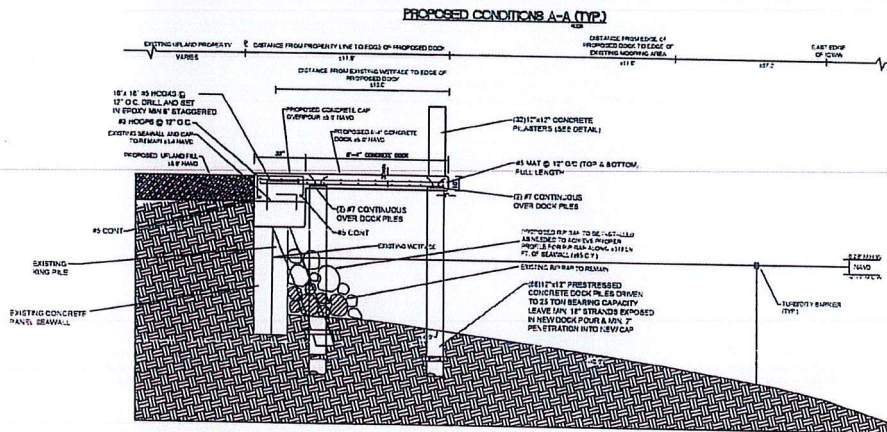
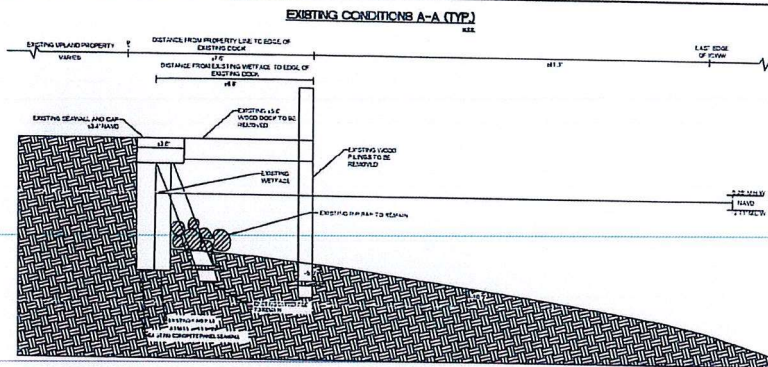
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- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE
 PREPARED FOR:
 4403 TRADEWINDS, INC.

PROPOSED CONDITIONS		
Date: 12/23/2020	Sheet: 3	of: 6
Proj No.: 20-0077		



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PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
 351 S. Cypress Road, Suite 303
 Pompano Beach, FL 33060
 Tel: (954) 545-1740
 Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Onusaker
 PE 32733, EB 26829

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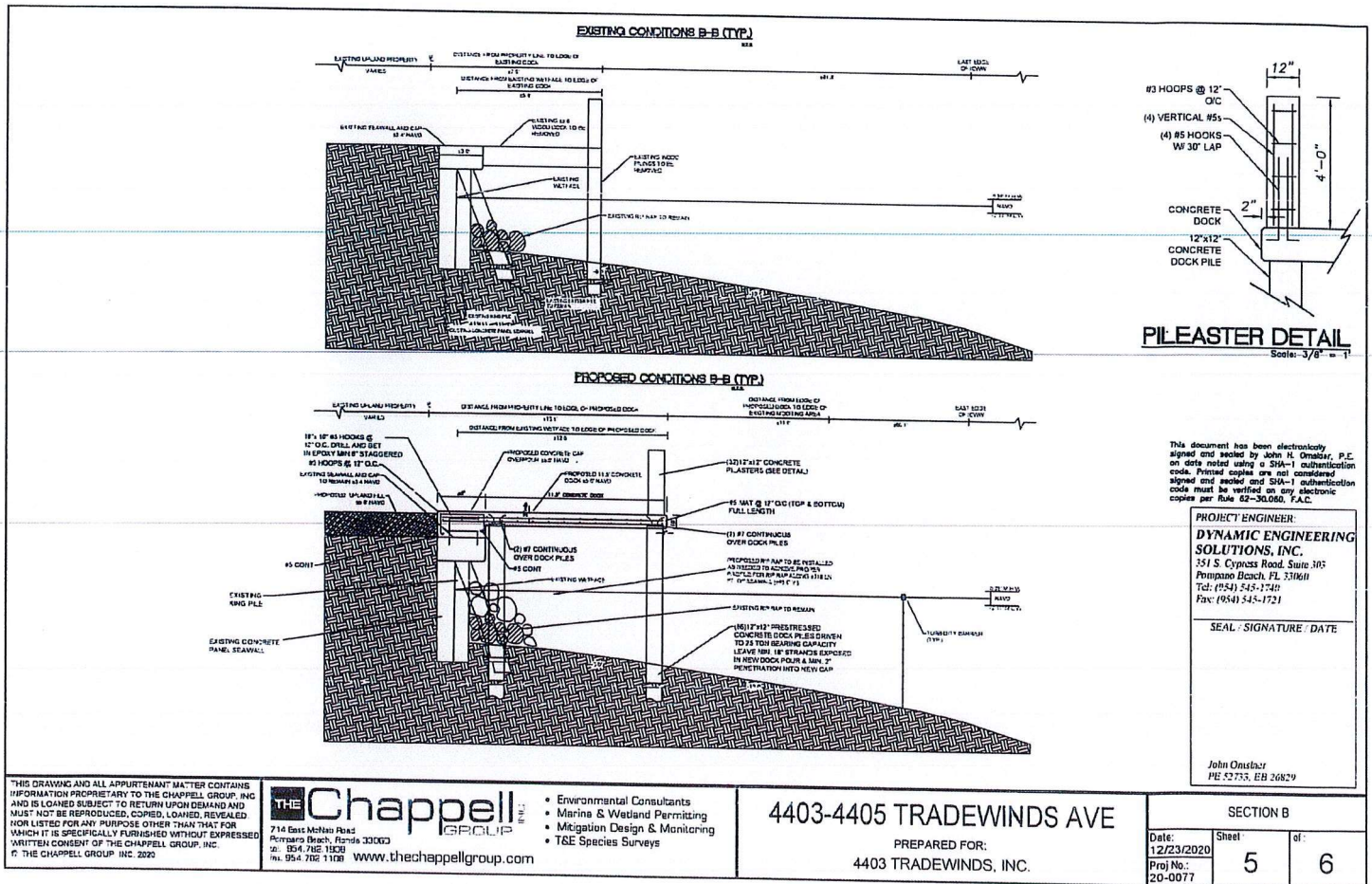
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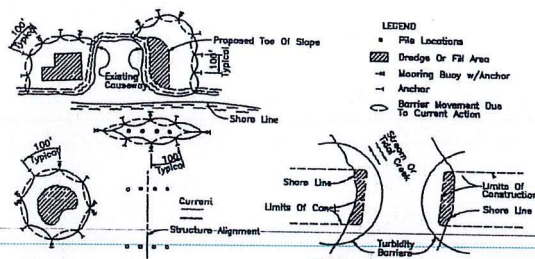
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4403-4405 TRADEWINDS AVE
 PREPARED FOR:
 4403 TRADEWINDS, INC.

SECTION A

Date: 12/23/2020	Sheet: 4	of: 6
Proj No: 20-0077		





NOTES

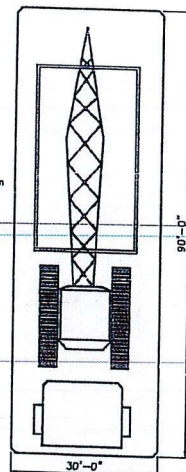
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of barriers dependent on current velocities.
3. Deployment of barrier around pile location may vary to accommodate construction operations.
4. Navigation may require augmenting barrier during construction operations.
5. For additional information see Section 104 of the Standard Specifications.

NOTE

Turbidity barriers for flowing streams and tidal channels may be either floating, or staked types, or any combination of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractor's option unless otherwise specified in the plans. However, payment will be under the pay item(s) established in the plans for floating turbidity barrier and/or staked turbidity barrier. Piles in staked turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.

Turbidity Barrier

N.E.A.



Construction Barge (typ)

N.E.A.

PILE DRIVING NOTES

1. Pile driving operations shall be observed by a special inspector, including test pile sufficient to determine the approximate length required to meet design capacity.
2. Piles shall be driven using an approved cushion block consisting of material so arranged as to provide the transmission of the hammer energy.
3. Piles shall be driven to required capacity a minimum of 5 feet into rock or a minimum of 10 feet into yielding material.
4. Piles shall be driven with a drop hammer or gravity hammer. The weight of the hammer is no less than 3000 pounds, and the fall of the hammer shall not exceed 6 feet.
5. Piles shall be driven with a variation of not more than 1" per foot from the vertical, or from the batter line indicated, with a maximum variation of the head of the pile from the position shown on the plans of not more than 2 feet.
6. Where piles must penetrate strata offering high resistance to driving, the attached engineer of record or special inspector may require that the pile be cut to 1'-0" critical or standard below. The pile shall meet this final penetration by driving.

CONCRETE NOTES

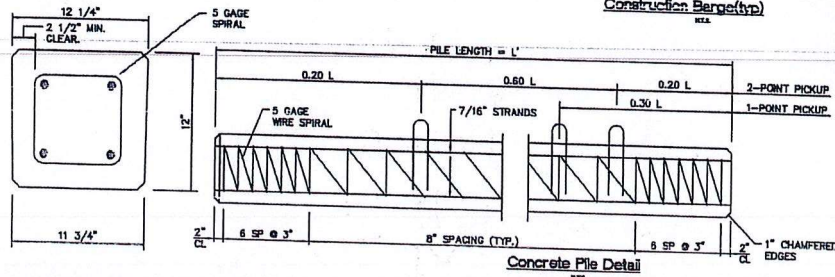
1. Concrete shall conform to ACI 318 (latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi weight-normal aggregate concrete of 6-40.
2. Owner shall supply and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM.
3. Licensed contractor is responsible for the adequacy of forms and curing and for safe practice in their use and removal.
4. Concrete cover shall be 3" unless otherwise noted on approved drawings.
5. Reinforcing steel shall be in accordance with the latest version of ASTM A615 Grade 60 specifications. All reinforcement shall be placed in accordance with ACI 318 and ACI Manual of Standard Practice.
6. Splices in reinforcing bars shall not be less than 48 bar diameters and reinforcing shall be continuous around all corners and through the entire length of the pile. Continuity shall be provided at corners and changes in direction by bending the longitudinal steel around the corner at 45°.
7. For repair of defective, cracked, or loose concrete, the area must be cut out and the repair must be checked by nondestructive, coated with a sealant and the repair must be covered by epoxy concrete.
8. A 1" deep control joint shall be placed in second cap of every other pile location, or maximum 30' O/C spacing.
9. Per section 2002.6.4 of the 2010 Florida Building Code, all minimum in contact with concrete shall be protected with clear-protective coatings, such as heavy bodied bituminous paint or water-white methacrylic lacquer.

GENERAL NOTES

1. Construction to follow 2014 Florida Building Code, 5th Edition and amendments as applicable and of local, state, and federal laws.
2. Contractor shall verify the existing conditions prior to commencement of the work. Any conflicts or omissions between existing conditions or the various elements of the working drawings shall be brought to the attention of the Engineer prior to the commencement of the work. Contractor and all subcontractors are responsible for all lines, elevations, and measurements in connection with their work.
3. Do not make drawings for dimensions.
4. Contractor is responsible for all means, methods, and procedures of work.
5. Contractor to verify location of existing utilities prior to commencing work.
6. Contractor to submit all permits as necessary from all local, state, and federal agencies.
7. Contractor to submit all permits as necessary from all local, state, and federal agencies.
8. Any deviation and/or substitution from the information provided herein shall be submitted to the Engineer for approval prior to commencement of work.
9. All construction or reinforcement demolition and/or new construction conditions which require deviation from the plans and notes herein shall be reported to the Engineer prior to commencement of work.
10. All new materials and/or subcontractors shall be provided to match existing materials and/or adjoining work where practical except as specifically noted herein.
11. Licensed contractor shall use of possible care to protect all existing materials, surfaces, and furnishings from damage during all phases of construction.
12. The licensed contractor to protect and remove all debris and debris as required for the proper execution of the work.
13. All new work and/or materials shall conform to all requirements of such administrative body having jurisdiction over performing construction.
14. Licensed contractor to verify location of existing utilities prior to commencing work.
15. All dimensions shown refer to national geographic vertical datum (NGVD) of 1929.
16. Turbidity Barriers are to be removed at the water construction areas during all construction activities.

CONCRETE PILE NOTES

1. Concrete pile concrete shall attach 6000 psi compressive strength in 28 days.
2. Concrete piles shall be reinforced with (4) #4 in-totals, 270 Mpa, and #5 spiral ties.
3. Concrete piles shall be 12"x12" square, 20 feet minimum length.
4. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.



Concrete Pile Detail

N.E.A.

PILE INFO

CONCRETE COMPRESSION STRENGTH:
5000 PSI @ RELEASE
6000 PSI @ DESIGN
SPIRAL TO BE #5 @ 12" O/C
HARD-DRAWN WIRE
STIRRUPS - USE FOUR 7/16" (270MPa) LOW RELAXATION WITH 415-57 UNCOATED 7-16" STRANDS TIED TO 2.53 KIPS EACH
1-POINT PICKUP-MAXIMUM L = 30'
2-POINT PICKUP-MAXIMUM L = 60'

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- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 305
Pompano Beach, FL 33060
Tel: (954) 545-1710
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Onstner
PE 52753, EB 16839

DETAILS

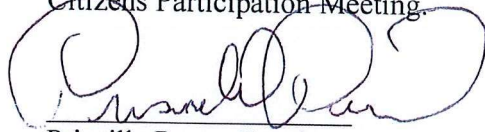
Date: 12/23/2020
Sheet: 6 of 6
Proj No.: 20-0077

AFFIDAVIT OF MAILING

RE: 4403-4405 West Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

Dear Town of Lauderdale-By-the Sea

UNDER OATH, I, Priscilla Perez, Esquire hereby certify that the attached address labels were affixed onto envelopes and proper postage stamped on December 10, 2021 for mailing of Notice of Citizens Participation Meeting.


Priscilla Perez, Esquire

12/10/2021
Date


Carlos Ganos, Agent

12/10/2021
Date

TIITF/STATE OF FLORIDA FL INLAND
NAVIGATION DISTRICT
1314 MARCINSKI RD
JUPITER, FL 33477

TOWN OF LAUDERDALE BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

BLENKE, ANNE M IRREV TR
TAYLOR, WILLIAM A TRSTEE ETAL
732 MIDDLE RIVER DR
FORT LAUDERDALE, FL 33304

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

PUBLIC LAND TOWN OF LAUDERDALE
BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

HOFFMAN TRADEWINDS LLC
4403 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

WOMANS CLUB OF LAUD-BY-THE-SEA
4411 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

VICNSONS REALTY GROUP LLC
218 SAN REMO DR
JUPITER, FL 33458

275 BLVD PARTNERS LP
71 MILLRUN CRES
*WOODBIDGE ON, CA L4H 1

MENNO, ROBERT
267 HARBOR DR
LAUDERDALE BY THE SEA, FL 33308

TIITF/STATE OF FLORIDA FL INLAND
NAVIGATION DISTRICT
1314 MARCINSKI RD
JUPITER, FL 33477

TOWN OF LAUDERDALE BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

4403 TRADEWINDS INC
4403 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

HOFFMAN TRADEWINDS LLC
4403 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

BLANCHAR, RICHARD
4401 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

VICNSONS REALTY GROUP LLC
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JUPITER, FL 33458

275 BLVD PARTNERS LP
71 MILLRUN CRES
*WOODBIDGE ON, CA L4H 1

FLORIDA DEPT OF TRANSPORTATION
OFFICE OF RIGHT OF WAY
3400 W COMMERCIAL BLVD
FORT LAUDERDALE, FL 33309

FPA HOLDINGS LLC
262 E COMMERCIAL BLVD # C
LAUDERDALE BY THE SEA, FL 33308

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

MDC BOX 1 REALTY INCOME CORP
11995 EL CAMINO REAL
SAN DIEGO, CA 92130

TOWN OF LAUDERDALE BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

HOFFMAN TRADEWINDS LLC
4403 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

TOWN OF LAUDERDALE BY THE SEA
4501 N OCEAN DR
LAUDERDALE BY THE SEA, FL 33308

VICNSONS REALTY GROUP LLC
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JUPITER, FL 33458

HIDALGO, MICHAEL A GARCIA, DORIS
262 NEPTUNE AVE # 1-2
LAUDERDALE BY THE SEA, FL 33308



MOMCHILOVA,VELIN H/E MOMCHILOV,KALINKA
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FORT LAUDERDALE, FL 33308

MARWOOD,CATHY & THOMAS
5100 DUPONT BLVD #5A
FORT LAUDERDALE, FL 33308

ERNST,VALERIE MARIA VALERIE MARIA ERNST
REV TR
13 JASON DR

ESPINOSA,CECILIA
5100 DUPONT BLVD #5B
FORT LAUDERDALE, FL 33308

BOLDUC,CHRISTIAN & VICTORIA
2741 NE 48 CT
LIGHTHOUSE POINT, FL 33064

KUSHELEVA,ELENA
83 DOGWOOD LN
STATEN ISLAND, NY 10305

MENNO,JOSEPH & THERESA M
264 NEPTUNE AVE
LAUDERDALE BY THE SEA, FL 33308

BURNETT,GARY W GARY W BURNETT TR
269 HARBOR DR
LAUDERDALE BY THE SEA, FL 33308

WALLER,ROBERT
268 NEPTUNE AVE
LAUDERDALE BY THE SEA, FL 33308

SCAUZILLO,ANGELO SCAUZILLO,MICHAEL
71 MILLRUN CRES
*WOODBIDGE ON, CA L4H 1

VLACH,ROSTISLAV
KAROVSKA 86
*OHROBEC 252 45, CZ

BARBARA FAM TR BARBARA,L &
BARBARA,J M TRSTEEES
4430 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

BARBARA,LOUIS & JAMETTE M BARBARA
FAMILY REV TR
4430 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

BITTNER,BENJAMIN J
4420 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

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EXETER, RI 02822

MA,SHUWEI
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M JR
4442 W TRADEWINDS AVE
LAUDERDALE BY THE SEA, FL 33308

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4443 W TRADEWINDS AVE
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GORDON,ROBERT & GAIL
4437 W TRADEWINDS AVE
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KRISTIN B BOWE REV TR BOWE,KRISTIN B
TRSTEE
15400 SWEETWATER CT
FORT MYERS, FL 33912

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3329 NE 18 ST
FORT LAUDERDALE, FL 33305

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LAUDERDALE BY THE SEA, FL 33308

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FORT LAUDERDALE, FL 33308

HAGE,THOMAS
5645 NETHERLAND AVE #3-C
BRONX, NY 10471

WILLIAM M LAUDERDALE REV TR
ROXANNA L LAUDERDALE REV TR ETAL
1175 MORTON AVE
ELGIN, IL 60120

JOHNSON,MIKAEL
1112 GARDEN ST
HOBOKEN, NJ 7030

PATANE,TAMMY H/E PATANE,CHYRINO A
5100 DUPONT BLVD #2E
FORT LAUDERDALE, FL 33308

ROBERT E LEWIS & JAMES B WATSON JR TR
5100 DUPONT BLVD #2F
FORT LAUDERDALE, FL 33308

LOSCHIAVO,BONNIE LEE
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FORT LAUDERDALE, FL 33308

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FORT LAUDERDALE, FL 33308

WALTER,CHRISTOPHER ROBERT
5100 DUPONT BLVD #2I
FORT LAUDERDALE, FL 33308

FUNCCIUS,HANS E FUNCCIUS,MICHELE A
3170 STATE ROUTE 32
KINGSTON, NY 12401

SHERWOOD,CAROL ANN
945 GREENSWARD LANE
DELRAY BEACH, FL 33445

HERNANDEZ,BRIAN
5100 DUPONT BLVD # 2-L
FORT LAUDERDALE, FL 33308

JEANNE E BALAS REV TR BALAS,JEANNE E
TRS ETAL
360 SNYDER RD
READING, PA 19605

BIANCARDI,JULIE JULIE BIANCARDI REV LIV
TR
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CODY, DENA M CODY, WILLIAM D JR
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O'BRIEN, DENNIS T & SANDRA M
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6418 AMBROSIA DR APT 5107
SAN DIEGO, CA 92124

CAPPELLO, DAWN M H/E CAPPELLO, JOSEPH
5100 DUPONT BLVD UNIT 3H
FORT LAUDERDALE, FL 33308

SIMORELLI, LIBERTA J LIBERTA J SIMORELLI REV
LIV TR
5100 DUPONT BLVD #3I
FORT LAUDERDALE, FL 33308

NILSEN, TOVE
5100 DUPONT BLVD #3J
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MING, ZHI HUI
37 GWENDOLEN AVE
*TORONTO ON, CA 0

DEL CARMEN O ALVARADO, KARELIA MCALEER, FELIX G
5050 BAYVIEW DR #2
FORT LAUDERDALE, FL 33308

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BACHRACH, BEVERLY S
5100 DUPONT BLVD UNIT 3N
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SCHENKEL, WILLIAM LLOYD SCHENKEL, ELIZABETH ANN
750 PLEASANT ST
EXCELSIOR, MN 55331

MITCHELL, JOHN M JR H/E MITCHELL, TERESA A
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FORT LAUDERDALE, FL 33308

VICTORY L SPRINGSTEAD TR SPRINGSTEAD, VICTORY L
TRS
5100 DUPONT BLVD APT 4C
FORT LAUDERDALE, FL 33308

ANGELOS, STEVE & MARIA
PO BOX 29
BALDWIN, MD 21013

DANIELLE R BUSH REV TR BUSH, DANIELLE R
TRSTEE
5100 DUPONT BLVD #4-E
FORT LAUDERDALE, FL 33308

FAVALORO, CHRISTOPHER
5100 DUPONT BLVD #4F
FORT LAUDERDALE, FL 33308

HECKER, NATALIE CLAIRE
5100 DUPONT BLVD UNIT 4G
FORT LAUDERDALE, FL 33308

GREAT LIFE HOLDINGS LLC CARIDI, NANCY &
TOMAT, GIOVANNI
18 PLACE MADEIRA
*KIRKLAND QC, CA 0

TAYLOR, MILA TAYLOR, ROBERT W
5100 DUPONT BLVD #4I
FORT LAUDERDALE, FL 33308

BUZZETTA, CATHERINE
5100 DUPONT BLVD #4J
FORT LAUDERDALE, FL 33308

SIMSIK, ZORAN & SVETLANA
1908 BEECHKNOLL AVE
*MISSISSAUGA ON, CA 0

MOMCHILOVA, VELIN H/E MOMCHILOV, KALINKA
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REV TR
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LIGHTHOUSE POINT, FL 33064

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ESPINOSA, CECILIA
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B & B CHERNEY FAMILY REV LIV TR
CHERNEY,BARRY J & BERYL TRS
497 MILFORD RD
DEERFIELD, IL 60015

CLEMENTE,JOSEPH & ANNA GIUSEPPE
& ANNA CLEMENTE REV TR
5100 DUPONT BLVD #5-G
FORT LAUDERDALE, FL 33308

JOHN R SLAMA REV LIV TR
SLAMA,JOHN R TRSTEE
5415 11 ST S
FARGO, ND 58104

GAVIN,JOAN M JOAN M GAVIN REV TR
5100 DUPONT BLVD APT 5I
FORT LAUDERDALE, FL 33308

AVVENTO,VIRGINIA AVVENTO IRREV TR
5100 DUPONT BLVD #5J
FORT LAUDERDALE, FL 33308

ROSS,JULIE A
5100 DUPONT BLVD APT 5K
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DESIMONE,LINDA C H/E
DESIMONE,JOHN A
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FORT LAUDERDALE, FL 33308

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9315 TRANS CANADA HWY
*ST LAURENT QC, CA 0

LICHOROWIC,SCOTT JR
5100 DUPONT BLVD #5N
FORT LAUDERDALE, FL 33308

MCQUEEN,PATRICK M
1915 HICKORY BARK LN
BLOOMFIELD HILLS, MI 48304

BURKE,APRIL LACHELLE
5100 DUPONT BLVD #6B
FORT LAUDERDALE, FL 33308

FERRY,F FRED FERRYREV TR
5100 DUPONT BLVD UNIT 6C
FORT LAUDERDALE, FL 33308

THOMAS,ROBERT MAHBUBANI,LATA
4 WINDWARD WAY
RED BANK, NJ 7701

ARTHUR B & SUZANNE HALL REV TR
HALL,ARTHUR B & SUZANNE TRS
2621 SYLVAN SHORES DR
WATERFORD, MI 48328

JENNIE M HARRIS TR HARRIS,JENNIE M
TRS
6260 NE 18 AVE APT 810
FORT LAUDERDALE, FL 33334

GREAT LIFE HOLDINGS LLC
9315 TRANS CANADA HWY
*SAINT LAURENT QC, CA 0

REILLY,BARBARA L
32 SMITH ST
BLUE POINT, NY 11715

DERINS,BRENT A
5100 DUPONT BLVD #6I
FORT LAUDERDALE, FL 33308

KRUMPE,MICHAEL J
5100 DUPONT BLVD #6J
FORT LAUDERDALE, FL 33308

BRANDOFINO,RALPH A
5100 DUPONT BLVD UNIT 6-K
FORT LAUDERDALE, FL 33308

CORREA ORLARTE,MARIA E MARIA E
CORREA ORLARTE REV TR
5100 DUPONT BLVD #6L
FORT LAUDERDALE, FL 33308

BROADBENT,DARRELL J
1-282 ERIE ST SOUTH
*LEAMINGTON ON, CA 0

KOURI,JAMES
3720 BOUL ST ELZEAR APT 1104
*LAVAL QC, CA 0

MMCLOY,THOMAS RITA HELEN
MCCLOY REV TR
5100 DUPONT BLVD #7A
FORT LAUDERDALE, FL 33308

POWERS,WARREN WADE II & RITA W
5100 DUPONT BLVD #7B
FORT LAUDERDALE, FL 33308

BAILLIEU CATTELL,CHERRILL
5100 DUPONT BLVD APT 7C
FORT LAUDERDALE, FL 33308

LANZON,GREGORY GREGORY C
LANZON REV TR
5100 DUPONT BLVD #7D
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7 RUE CHERBULLEZ
*GENEVA, CH



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LUFFER, CHARLES SEGAL, CAROLE
5100 DUPONT BLVD #7H
FORT LAUDERDALE, FL 33308

HALKIAS, ELAINE C
5100 DUPONT BLVD #7I
FORT LAUDERDALE, FL 33308

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5100 DUPONT BLVD # 7J
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CIRONE, NUNZIO CIRONE, MICHELA
15915 82 ST
HOWARD BEACH, NY 11414

NOURELDIN, RONALDO
6957 MISS MUFFET LN N
JACKSONVILLE, FL 32210

BULL, ROBERT
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RENIERO, BEATRIZ M RESNICH, SILVIO
MARIO
5100 DUPONT BLVD # 6J
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VIATORI MARTINEZ, ANTONIA
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SUNDEM, CHAD & BATINA
5116 ARDEN AVE
EDINA, MN 55424

CLAVEY, JOHN & CAROL
CLAVEY, JEFFREY & JODY
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FORT LAUDERDALE, FL 33308

ROHLER, PHILIP HUGHES, MARTIN
5100 DUPONT BLVD #8-D
FORT LAUDERDALE, FL 33308

SCAGLIONE, RONALD S
5100 DUPONT BLVD #8E
FORT LAUDERDALE, FL 33308

DESTEFANO, AUGUSTINE
DESTEFANO, PHYLLIS
104 S HONEYMAN RD
WHITEHOUSE STATION, NJ 8889

MAGRANE, KELLY CARPER, TAYANA
5971 NE 3 AVE
FORT LAUDERDALE, FL 33334

DUNAWAY, JEFFERY H H/E
DUNAWAY, THERESIA M
5100 DUPONT BLVD #8H
FORT LAUDERDALE, FL 33308

MARGARET A CULL REV TR
CULL, MARGARET A TRS
2745 AYRSHIRE DR
BLOOMFIELD, MI 48302

PALMER, MICHAEL W MEEKINS, GEORGE
DEWEY III
5100 DUPONT BLVD #8J
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ST HILAIRE, JACQUES
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FORT LAUDERDALE, FL 33308

GRANT, JANELLE H/E GRANT, ERVIN
5100 DUPONT BLVD # 8L
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GREGORY, STEVEN G
5100 DUPONT BLVD #8-M
FORT LAUDERDALE, FL 33326

BRUDER, PAUL A H/E BRUDER, ESILDA E
5100 DUPONT BLVD # 8N
FORT LAUDERDALE, FL 33308

METZGER, ELIZABETH M & NATHAN K
5100 DUPONT BLVD #9A
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SCHOLLER, RENEE
6218 VALLEY PARK DR
TOLEDO, OH 43623

SPERTELL, BEVERLY K
5100 DUPONT BLVD # 9C
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JAMES E WORDEN REV LIV TR
WORDEN, JAMES E TRSTEE
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JACKSON, MI 49204

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PINTO, STEVEN L
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5550 ISABELLA AVE #03 CSL
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TR
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STEAD,NICHOLAS
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DORRIS,DONNA
9 CANDLEWOOD DR
MANTUA, NJ 8051

MORNELLI,CONSTANCE &
MORNELLI,MARK
PO BOX 123
LITTLE FALLS, NY 13365

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MICHAEL & FAITH SCHOENFELD TR
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SECKULAR,PEGGY ANN
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713 HOWELL DR
BRIELLE, NJ 8730

BUSSY,PHILIPPE J YOUNG,WILLIAM R
191 MACKAY ST
*OTTAWA ON, CA K1M 2

HWANG,ING-SEI & HAU-MEI
3050 NE 47 ST
FORT LAUDERDALE, FL 33308

BUDASHEWITZ,PHILIP M
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PIEDRA,SANDRA
5100 DUPONT BLVD #10G
FORT LAUDERDALE, FL 33308

KLEIN,WALTER ASNIS,MARY
5100 DUPONT BLVD #10H
FORT LAUDERDALE, FL 33308

COSTELLO,PAULA C
5100 DUPONT BLVD #10-I
FORT LAUDERDALE, FL 33308

CRAWFORD,KRISTINE PETERSON
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FORT LAUDERDALE, FL 33308

FALLDORF,MARK B NOGUEIRA
FALLDORF,MARISOL
5100 DUPONT BLVD #10K
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14 ASTER AVE
MERRICK, NY 11566

HIGGINS,MONICA LYNN
HIGGINS,MICHAEL JAMES
5100 DUPONT BLVD #10M
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SAVARNO,EDWARD A HODDER,CALVIN
W
1096 WILLIAMS DR
BELLE VERNON, PA 15012

TSE FAM TR TSE,CHARLES K & CLARA M
TRS
5100 DUPONT BLVD #11D
FORT LAUDERDALE, FL 33308

STEPELTON,SEAN D SEAN D STEPELTON
TR
5100 DUPONT BLVD #11B
FORT LAUDERDALE, FL 33308

SEAN D STEPELTON TR
STEPELTON,SEAN D TRS
5100 DUPONT BLVD #11C
FORT LAUDERDALE, FL 33308

TSE,CHARLES K & CLARA M TSE FAM TR
ETAL
5100 DUPONT BLVD #11-D
FORT LAUDERDALE, FL 33308

DW DENNIN & AJ CURRERI REV TR
DENNEN,DAVID W TRS ETAL
5100 DUPONT BLVD APT 11F
FORT LAUDERDALE, FL 33308

HAGE,THERESA HAGE,THOMAS
55 KNOLLS CRESCENT
BRONX, NY 10463

MILROY,RICHARD & MELISSA
2710 NE 6 ST
POMPANO BEACH, FL 33062

MANGANO,CARMELINE
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FORT LAUDERDALE, FL 33308

CHANLER, JACK
5100 DUPONT BLVD APT 11M
FORT LAUDERDALE, FL 33326

KARRAS, MARIE
5100 DUPONT BLVD #11-N
FORT LAUDERDALE, FL 33308



**PUBLIC NOTICE
CITIZEN PARTICIPATION
MEETING**

CASE: 4403-4405 TRADEWINDS AVE.
DOCK VARIANCE

DATE: DEC. 28, 2021

TIME: 6:30PM

LOCATION: JARVIS HALL
4501 N. OCEAN DR.
LAUDERDALE BEACH, FL 33309

NAME	ADDRESS	PHONE NUMBER
Marie Connelly	2000 S. Ocean Blvd. LBTB, FL 33062	
Linda Kay Thompson	4477 W Trade Wind	
Ray Thompson	4477 Trade Winds	
Vicki Lynch	4411 W Trade Wind LBTB	
BEN BITTNER	4420 W TRADE WINDS	954 253 6963
Roseann Vincent	2006 S Ocean Blvd LBTB FL 33062	
GREE LAVER Regina Hahn Lavonne Miller	5100 Dupont Blvd Ft Lauderdale 33308	
Rat Vicki Sprungstead	5100 Dupont Blvd AC	
Robert Taylor	5100 Dupont	



**SITE PLAN MODIFICATION DEVELOPMENT ORDER
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA
Development Order 2022-V-01**

PROJECT NAME: 4403 Tradewinds Inc.

ADDRESS OF PROPERTY: 4403-4405 W Tradewinds Avenue

FOLIO #: 494318070010

PROPERTY OWNER: 4403 Tradewinds Inc.

APPLICANT: Jo Ann Hoffman

APPLICANT ADDRESS: 4403-4405 W Tradewinds Avenue

REQUEST: Pursuant to the Town's Code of Ordinances ("Town Code") Section 30-127 "Variance Procedures and Requirements," the Applicant requests a variance from Section 30-311(c) of the Town Code to permit construction of a boat dock to extend into the Intracoastal Waterway at a maximum distance between 11.4 feet to 13.5 feet from the property line, where the Town Code provides that a boat dock may be constructed or erected to extend into the waterway at maximum distance of eight (8) feet.

SECTION 1. FINDINGS. THIS MATTER came before the TOWN Commission of the TOWN of LAUDERDALE-BY-THE-SEA, Florida, on February 22, 2022 following due public notice, the TOWN Commission having considered the public testimony, evidence in the record, the testimony of the applicant, and the recommendation of Town Planning and Zoning Board, and administrative staff, finds that the application meet all the criteria of Section 30-127, which are as follows:

- 1) There are special conditions and circumstances affecting the land, structure, or building involved, preventing the reasonable use of such land, structure or building.
- 2) The circumstances, which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute marked exception to other properties in the district.
- 3) The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.
- 4) The hardship is not self-created or the result of, mere disregard for, or ignorance of the provisions of the regulations.
- 5) The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- 6) The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.
- 7) Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.

SECTION 2. APPROVAL. The request for a variance from Section 30-311 (c) of the Town Code—to permit construction of a boat dock to extend into the Intracoastal Waterway at a maximum distance between 11.4 feet to 13.5 feet from the property line, where the Town Code provides that a boat dock may be constructed or erected to extend into the waterway at maximum distance of eight (8) feet—is hereby APPROVED as shown on the plan, attached as **Exhibit 1**, except as modifications may be required by this approval or the Building Official.

SECTION 3. CONDITIONS. The APPROVAL granted herein is subject to the following conditions:

1. The applicant shall secure a building permit for the project within twelve months of the date of the development order approval.
2. The construction shall be in accordance with the submitted plans for the variance application entitled "4403-4405 Tradewinds Ave Plan Set" and incorporated into this document as **Exhibit 1** except as modifications may be required by the building permit review process.
3. The approved variance does not in any way create a right on the part of the applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Town for issuance of the approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.
4. All applicable state and federal permits shall be obtained before commencement of construction.
5. Prior to issuance of a building permit, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the Property in which the building permit is being issued. A building permit will not be issued until all outstanding debts to the Town are paid in full.

SECTION 4. VIOLATION OF CONDITIONS. Failure to adhere to the terms and conditions of this Development Order shall be considered a violation of the Town Code and persons found violating the conditions shall be subject to the penalties prescribed by the Town Code, including but not limited to, the revocation of any of the approval(s) granted in this Development Order. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town Code before it may commence construction or operation, and that the foregoing approval in this Development Order may be revoked by the Town at any time upon a determination that the Applicant is in non-compliance with the Town Code or the conditions of this Approval.

SECTION 5. APPEAL. In accordance with Section 30-113(f)(6) of the Town Code, the Applicant may appeal this decision to the Circuit Court of Broward County, Florida as provided by the Florida Rules of Civil Procedure.

SECTION 6. EFFECTIVE DATE. This Development Order shall become effective upon Approval by the Town Commission.

APPROVED this ____ day of February, 2022

MAYOR CHRIS VINCENT

ATTEST:

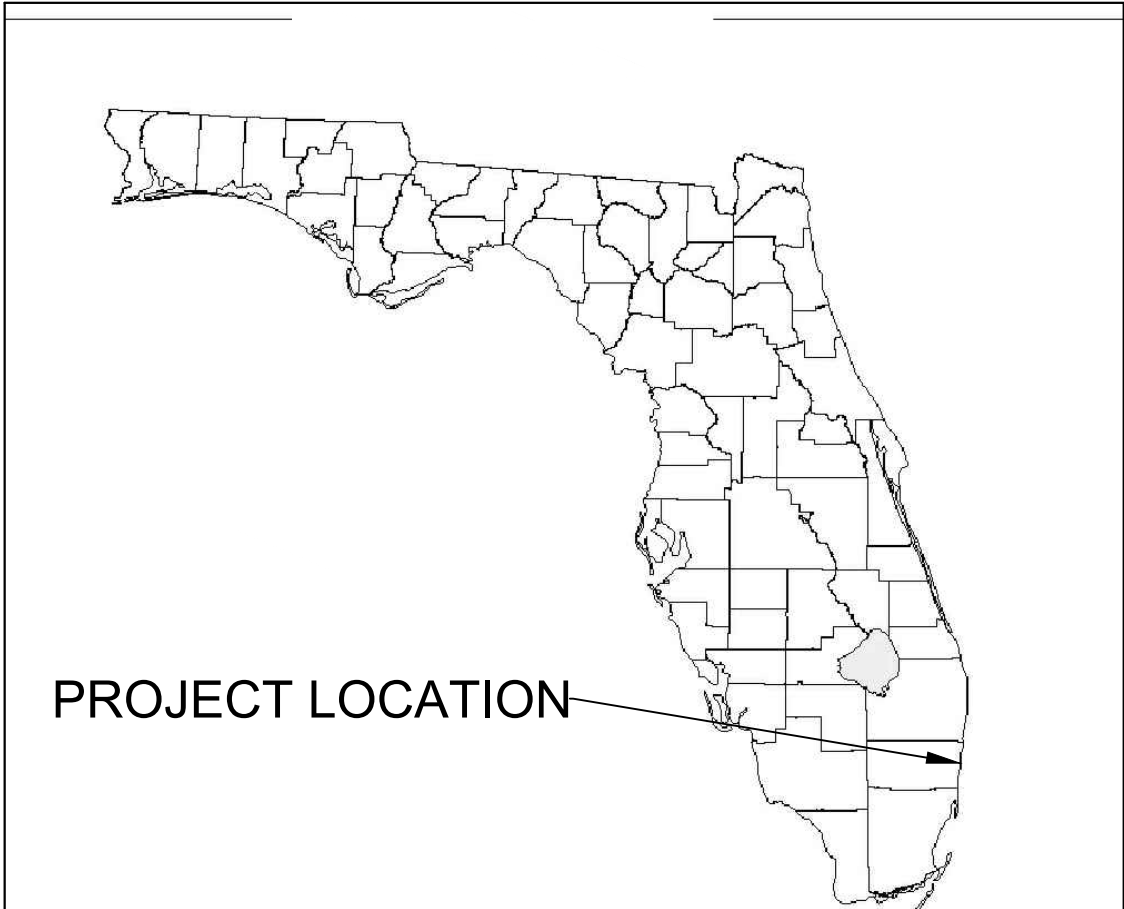
Town Clerk

Approved as to form:

Susan L. Trevarthen, Town Attorney

4403-4405 TRADEWINDS AVE PLAN SET

EXHIBIT 1



LOCATION MAP (N.T.S.)

DRAWING INDEX

SHEET 1: COVER

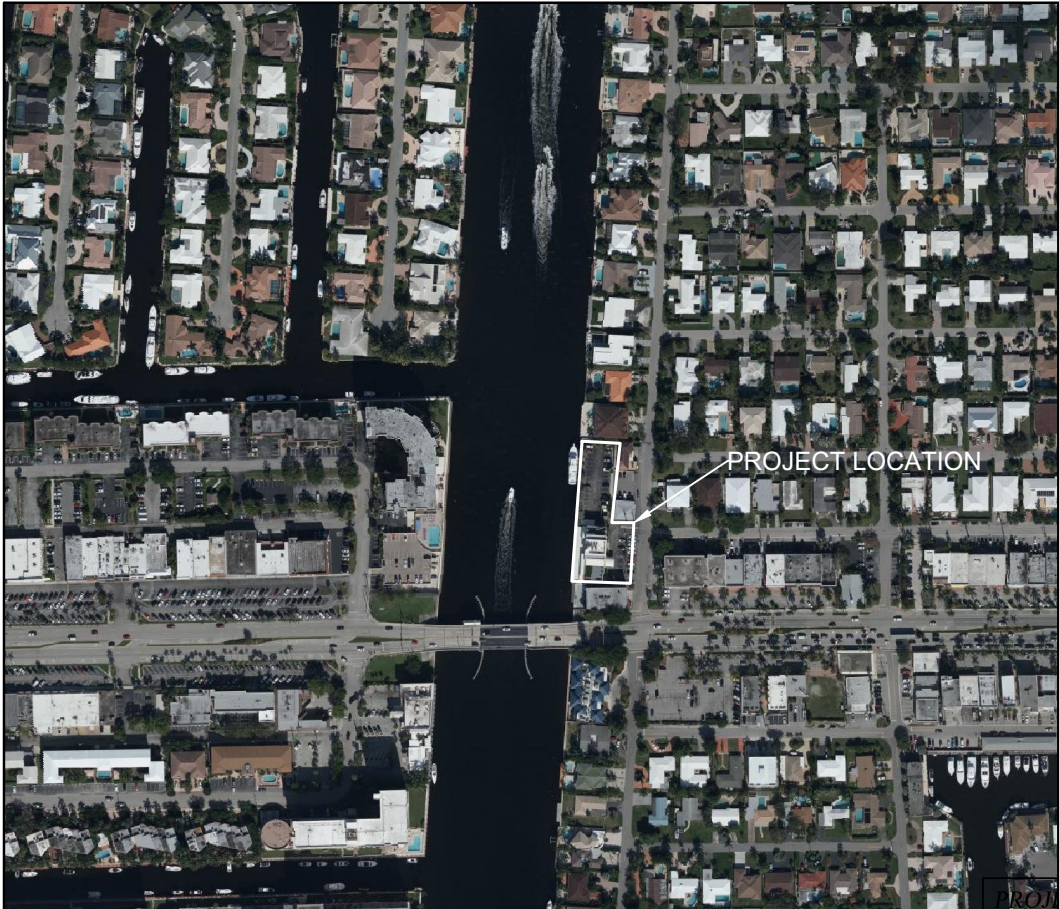
SHEET 2: EXISTING
CONDITIONS

SHEET 3: PROPOSED
CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:
**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Omslaer
PE 52733, EB 26829

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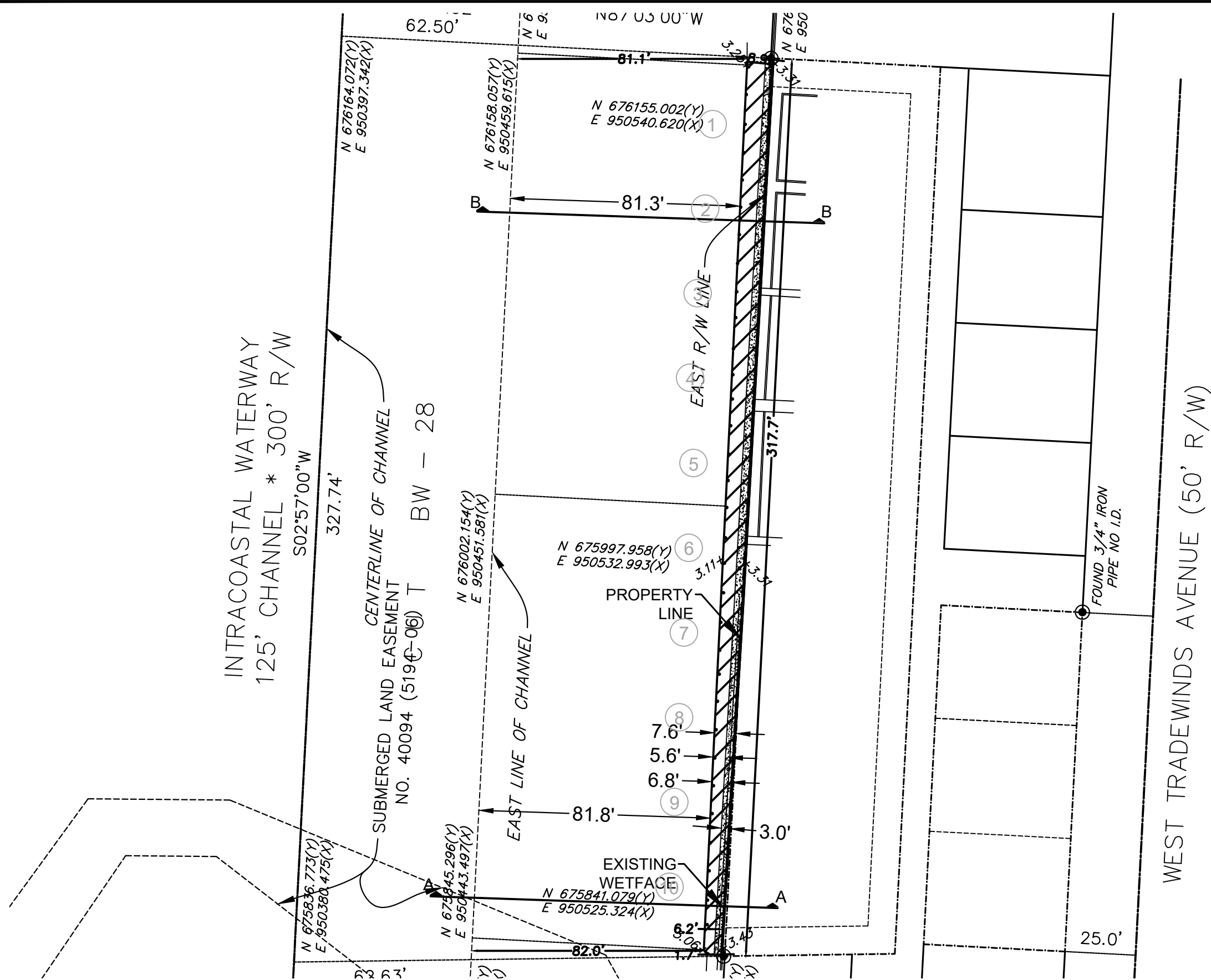
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4403-4405 TRADEWINDS AVE

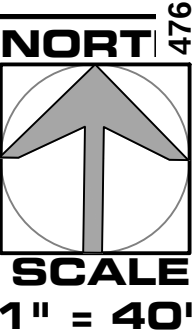
PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

Date: 2/10/2021	Sheet : 1	of : 6
Proj No.: 20-0077		



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



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LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- EXISTING WOOD MARGINAL DOCK TO BE REMOVED (±2,440 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88.

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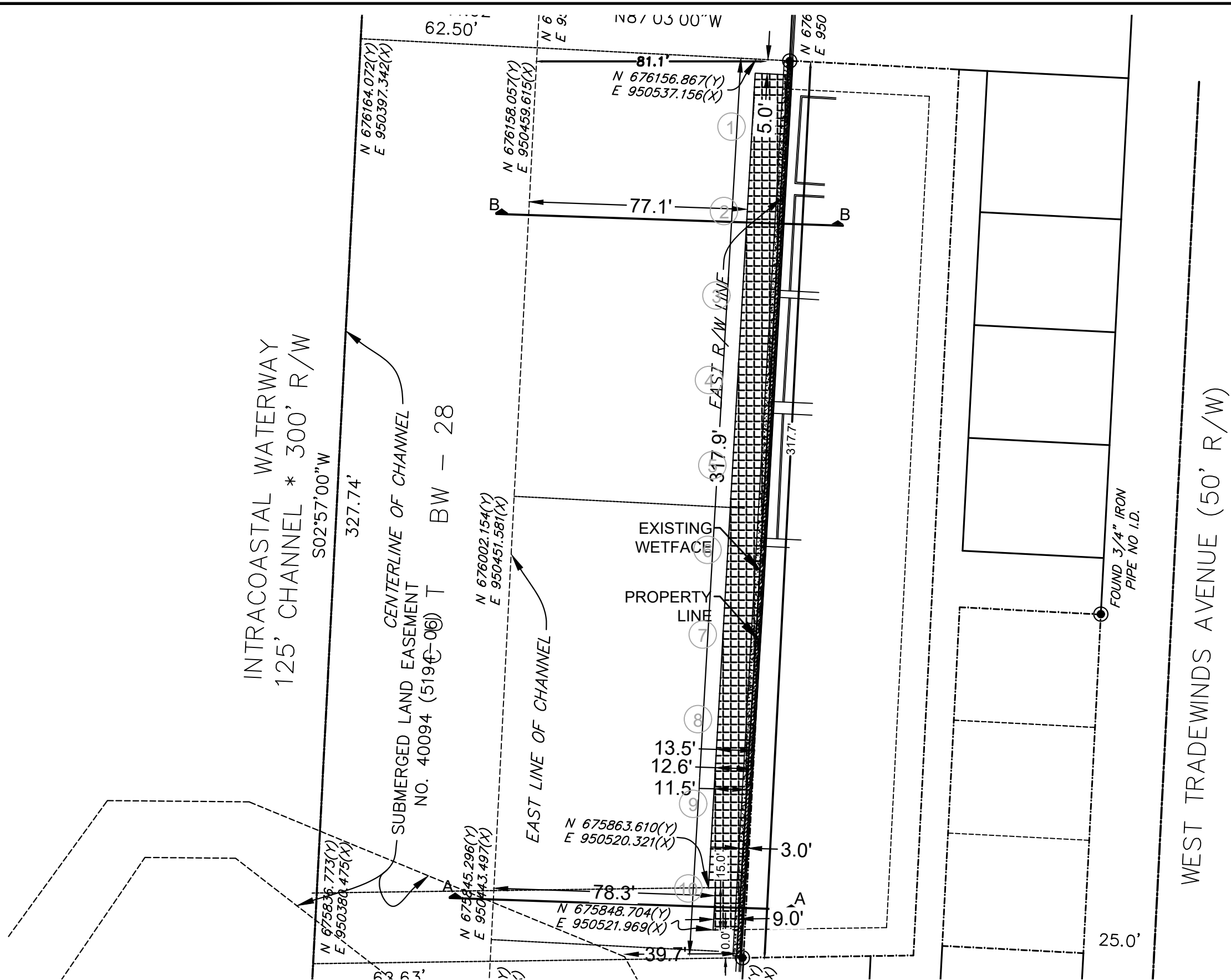
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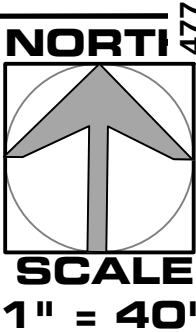
PREPARED FOR:
4403 TRADEWINDS, INC.

EXISTING CONDITIONS

Date: 12/23/2020	Sheet : 2	of : 6
Proj No.: 20-0077		



EXISTING SLIP TABLE		
SLIP #	LENGTH	WIDTH
1-10	30'	11'



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John Omslaer
PE 52733, EB 26829

LEGEND

- SUBJECT SITE (0.57 AC)
- EXISTING CONCRETE PANEL SEAWALL TO REMAIN (±318 LN. FT.)
- PROPOSED CONCRETE CAP OVERPOUR (±318 LN. FT.; ±636 SQ. FT. OVERWATER)
- PROPOSED CONCRETE MARGINAL DOCK (±3,468 SQ. FT.)
- EXISTING TRANSIENT BOAT SLIPS (10)

M.H.W. = 0.28' NAVD88 M.L.W. = (-)2.11' NAVD88

NOTE: SURVEY INFORMATION PROVIDED BY MCLAUGHLIN ENGINEERING ELEVATIONS SHOWN AS NAVD88. TOTAL OVERWATER SQUARE FOOTAGE IS APPROXIMATELY 4,104SQ. FT.

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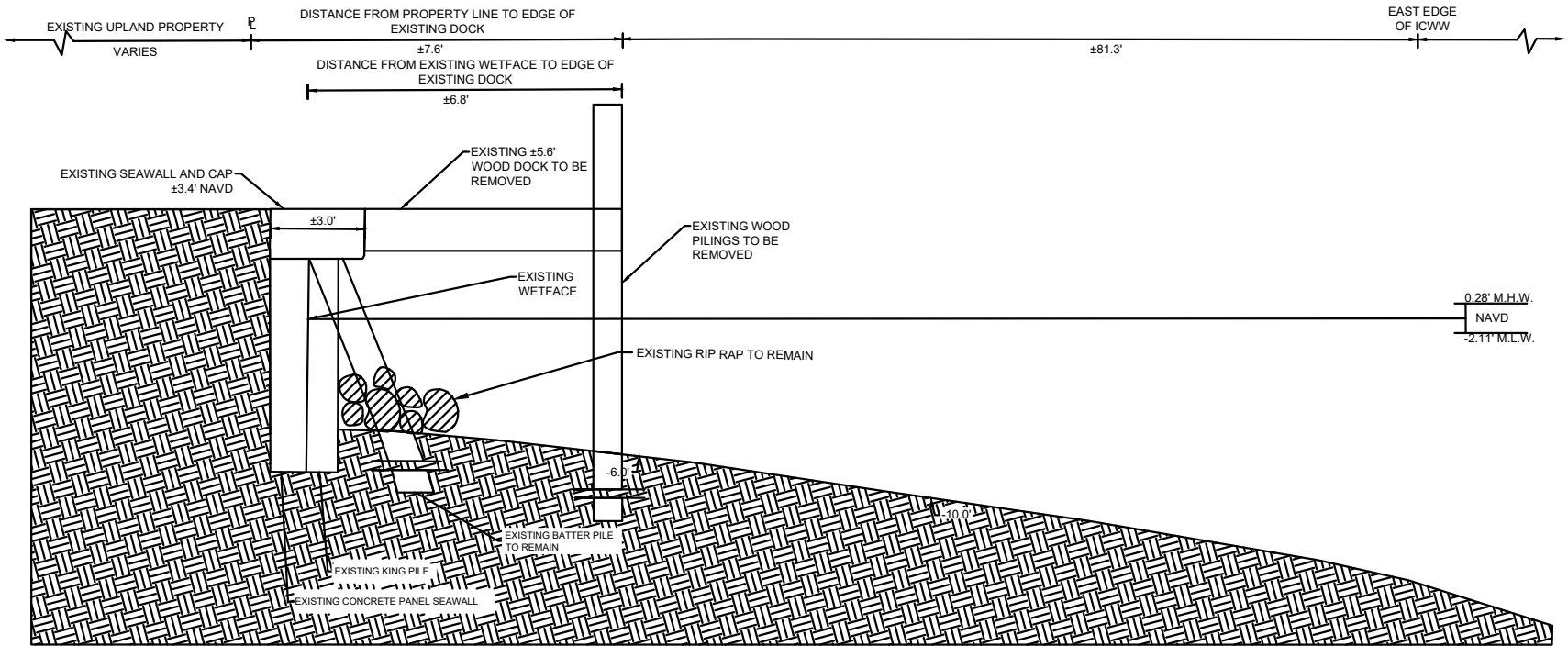
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PROPOSED CONDITIONS

Date: 12/23/2020	Sheet : 3	of : 6
Proj No.: 20-0077		

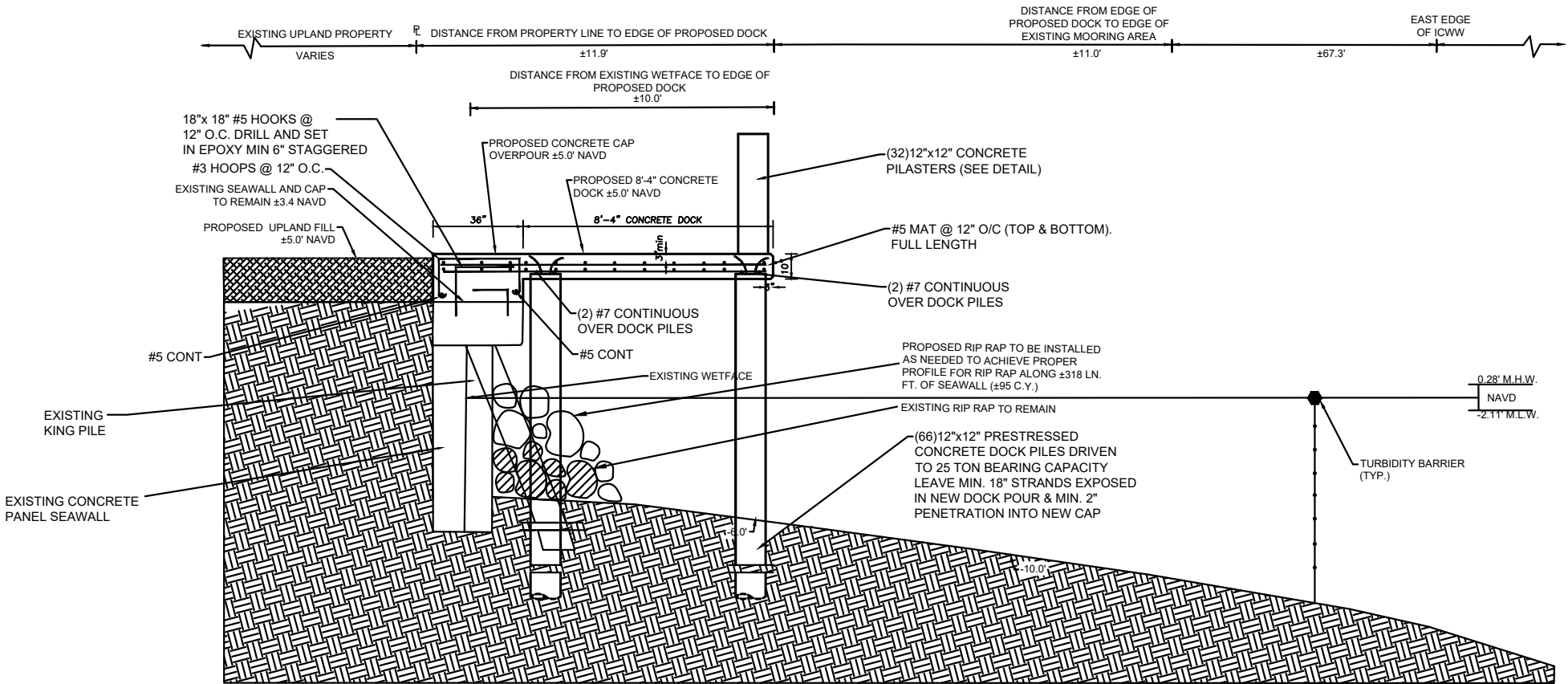
EXISTING CONDITIONS A-A (TYP.)

N.T.S.



PROPOSED CONDITIONS A-A (TYP.)

N.T.S.



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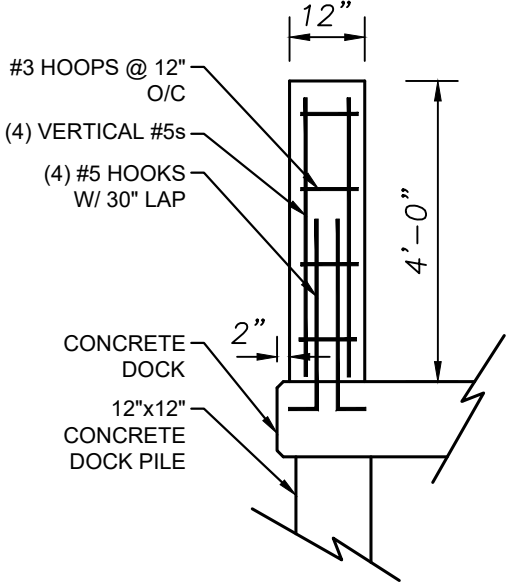
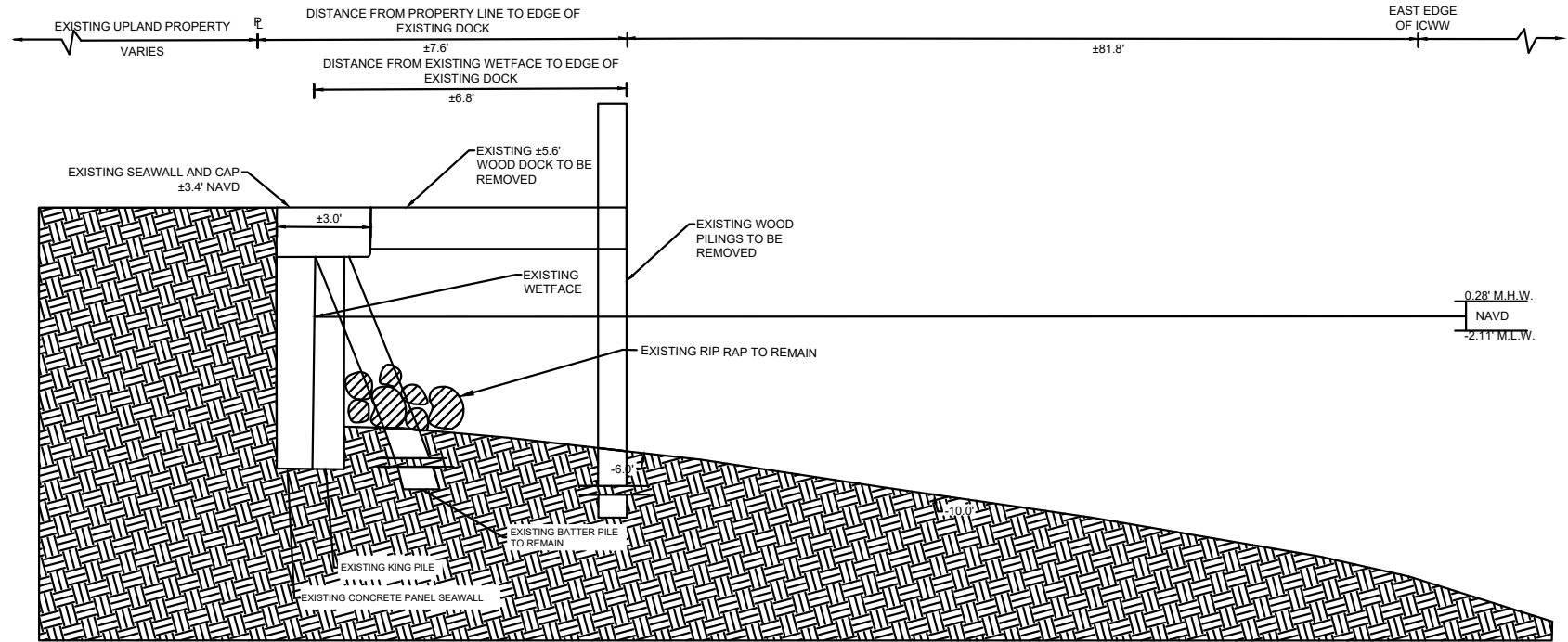
4403-4405 TRADEWINDS AVE

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SECTION A

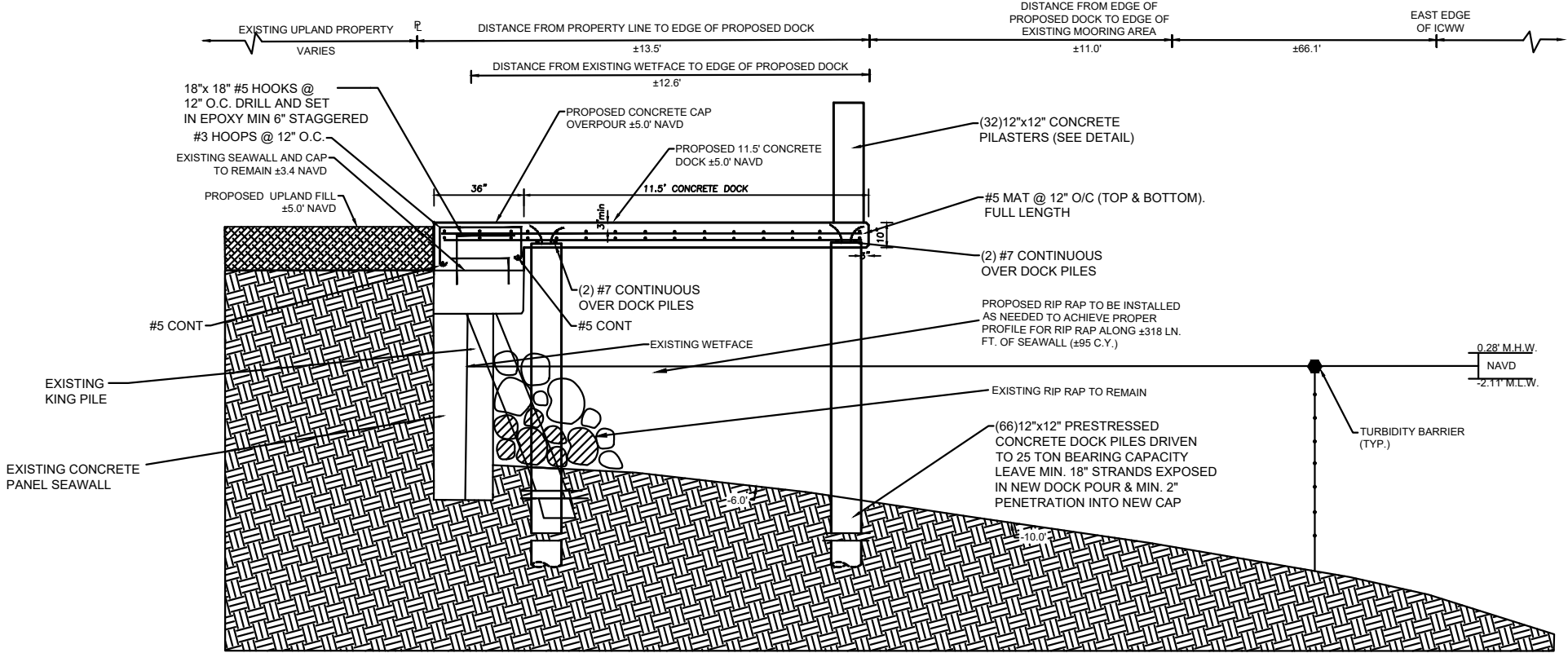
Date: 12/23/2020	Sheet : 4	of : 6
Proj No.: 20-0077		

EXISTING CONDITIONS B-B (TYP.)
N.T.S.



PILEASTER DETAIL
Scale: 3/8" = 1'

PROPOSED CONDITIONS B-B (TYP.)
N.T.S.



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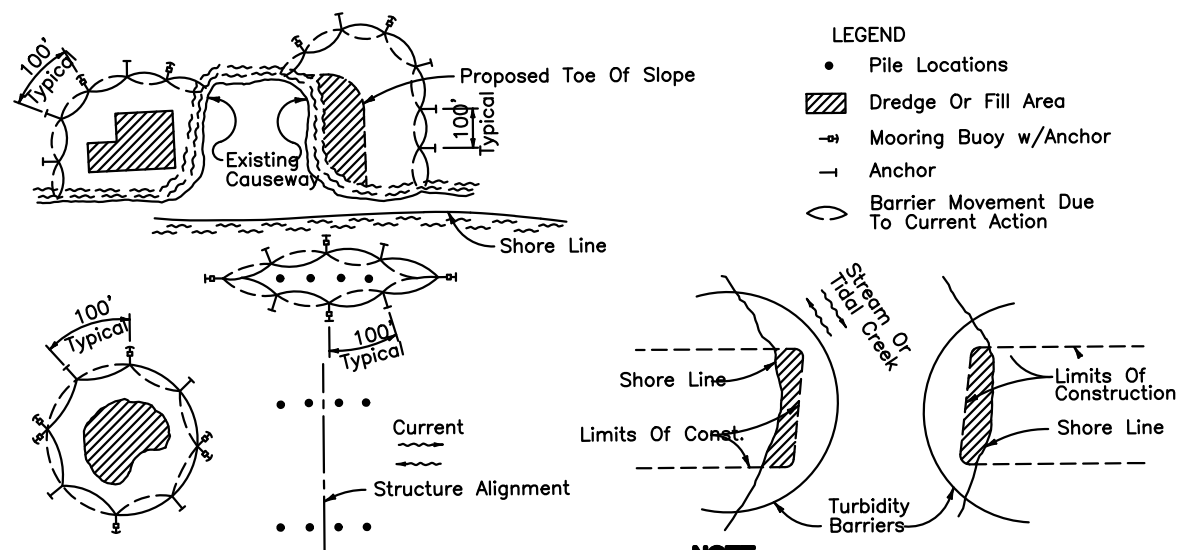
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SECTION B

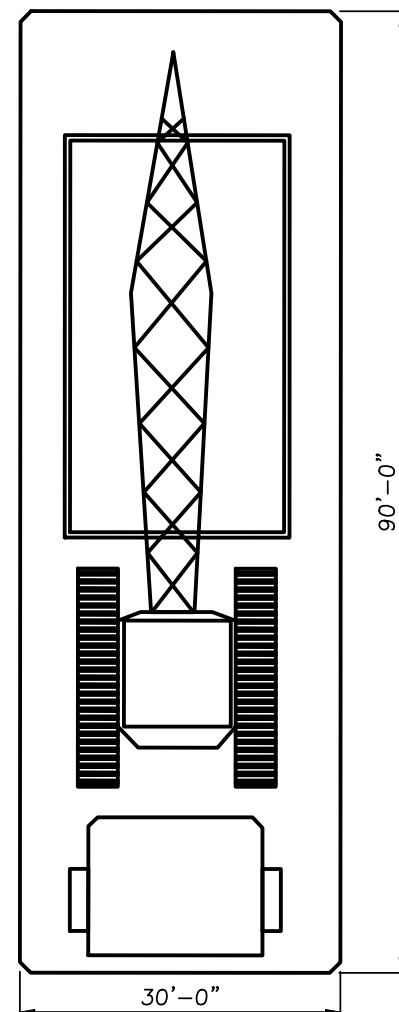
Date: 12/23/2020	Sheet : 5	of : 6
Proj No.: 20-0077		

**NOTES**

1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of anchors dependant on current velocities.
3. Deployment of barrier around pile location may vary to accommodate construction operations.
4. Navigation may require segmenting barrier during construction operations.
5. For additional information see Section 104 of the Standard Specifications.

Turbidity Barrier

N.T.S.

**Construction Barge(typ)**

N.T.S.

PILE DRIVING NOTES

1. Pile driving operations shall be observed by a special inspector, including test piles sufficient to determine the approximate length required to meet design capacity.
2. Piles shall be driven using an approved cushion block consisting of material so arranged so as to provide the transmission of the hammer energy.
3. Piles shall be driven to required capacity a minimum of 6 feet into rock or a minimum of 10 feet into yielding material.
4. Piles shall be driven with a drop hammer or gravity hammer provided the weight of the hammer is no less than 3000 pounds, and the fall of the hammer shall not exceed 6 feet.
5. Piles shall be driven with a variation of not more than $\frac{1}{4}$ " per foot from the vertical, or from the batter line indicated, with a maximum variation of the head of the pile from the position shown on the plans of not more than 3 inches.
6. Where piling must penetrate strata offering high resistance to driving, the structural engineer of record or special inspector may require that the piles be set in pre-drilled or punched holes. The piles shall reach their final penetration by driving.

CONCRETE NOTES

1. Concrete shall conform to ACI 318(latest edition) and shall be regular weight, sulfate resistant, with a design strength of 5000 psi at 28 days with a maximum water-cementitious materials ratio, by weight, normal aggregate concrete of 0.40.
2. Owner shall employ and pay for testing services from an independent testing laboratory for concrete sampling and testing in accordance with ASTM.
3. Licensed contractor is responsible for the adequacy of forms and shoring and for safe practice in their use and removal.
4. Concrete cover shall be 3" unless otherwise noted on approved drawings.
5. Reinforcing steel shall be in conformance with the latest version of ASTM A615 Grade 60 specifications. All reinforcement shall be placed in accordance with ACI 315 and ACI Manual of Standard Practice.
6. Splices in reinforcing bars shall not be less than 48 bar diameters and reinforcing shall be continuous around all corners and changes in direction. Continuity shall be provided at corners and changes in direction by bending the longitudinal steel around the corner 48 bar diameters.
7. For repair of defective, cracked, or loose concrete, the areas must be cut out and the rebar must be cleaned by sandblasting, coated with zinc, and repaired with at least three inches of epoxy/concrete mix of gunnite concrete with sulfate-resistant cement cover.
8. A 1" deep control joint shall be sawcut in seawall cap at every other pile location, or maximum 20' O/C spacing.
9. Per section 2003.8.4.4 of the 2010 Florida Building Code, all aluminum in contact with concrete shall be protected with alkali-resistant coatings, such as heavy bodied bituminous paint or water-white methacrylate lacquer.
10. All new materials and/or patchwork shall be provided to match existing materials and/or adjoining work where practical except as specifically noted herein.
11. Licensed contractor shall use all possible care to protect all existing materials, surfaces, and furnishings from damage during all phases of construction.
12. The licensed contractor to install and remove all shoring and bracing as required for the proper execution of the work.
13. All new work and/or materials shall conform to all requirements of each administrative body having jurisdiction in each pertaining circumstance.
14. Licensed contractor to verify location of existing utilities prior to commencing work.
15. All elevations shown refer to national geodetic vertical datum(NGVD) of 1929.
16. Turbidity Barriers are to surround all in water construction areas during all construction activities.

CONCRETE PILE NOTES

1. Concrete pile concrete shall attain 6000 psi compressive strength in 28 days.
2. Concrete piles shall be reinforced with (4) $\frac{7}{8}$ " lo-lax strands, 270 kips, and #5 spiral ties.
3. Concrete piles shall be 12"x12" square, 20 feet minimum length.
4. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.

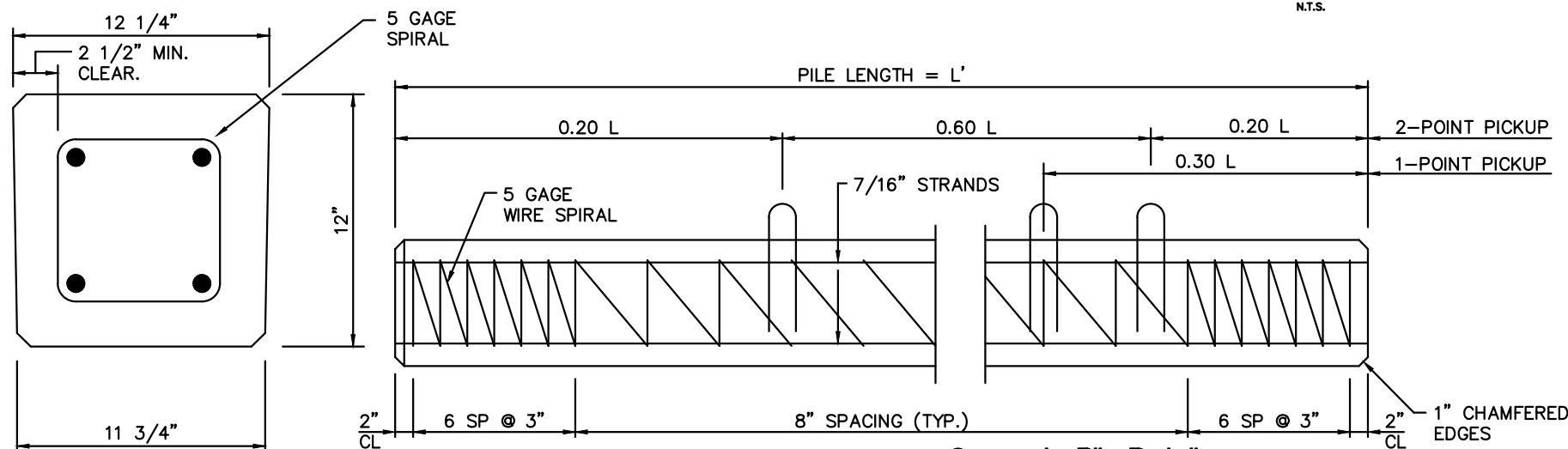
PILE NOTE:

CONCRETE COMPRESSIVE STRENGTH:
3000 PSI • RELEASE
5000 PSI • DRIVING

SPIRAL TO BE ASTM A-82 TIGHT HARD-DRAWN WIRE

STRANDS - USE FOUR 7/16" (270K) LOW RELAXATION ASTM 416-87 UNCOATED 7-WIRE STRANDS TENSIONED TO 2.33 KIPS EACH

1-POINT PICKUP-MAXIMUM L = 50'
2-POINT PICKUP-MAXIMUM L = 62'

**Concrete Pile Detail**

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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

DETAILS

Date:
12/23/2020
Proj No.:
20-0077

Sheet :

6

of :

6