



Planning and Zoning Board
Jarvis Hall 4505 N. Ocean Drive 33308

Planning and Zoning Board

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Wednesday, February 2, 2022, 6:00 PM
Jarvis Hall 4505 N. Ocean Drive 33308

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. APPROVAL OF MINUTES

- 3.a. October 6, 2021 Minutes
[October 2021 Minutes-UNAPPROVED.pdf](#)

4. PUBLIC COMMENTS

5. NEW BUSINESS

- 5.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 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 .
[2021-V-01 STAFF REPORT 4403 W Tradewinds-FINAL.pdf](#)
[Ex 1 Application Plans Narrative Aerials.pdf](#)
[Exhibit 2 Public Notice, Notice Requirements and Public Comments-FINAL.pdf](#)
[EX 3- Citizen Participation Summary.pdf](#)
[Ex 4- Variance Requirements.pdf](#)

6. OLD BUSINESS

7. UPDATES/BOARD MEMBER COMMENTS

8. 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.

NON APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD MEETING MINUTES
LIVE STREAMED FROM JARVIS HALL
Wednesday, October 6, 2021

1. CALL TO ORDER

Chair David Chanon called the Planning and Zoning (P&Z) Board meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at approximately 6:00PM.

ROLL CALL

Planner Susan Levin called the roll and members present were Chair David Chanon, Alan Bluestein, Ron Piersante, Charles Wayne Dillistin, 1st Alternate Patricia Omana, and 2nd Alternate Karen Sylvester. The absentee member was Vice Chair Christina Buerosse. Also present were Interim Town Manager Linda Connors, Town Attorney James White, Acting Development Services Director Jhanelle Campbell, Planner Susan Levin and Town Consultant Megan Small.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. APPROVAL OF MINUTES

a. Planning & Zoning (P&Z) Meeting Minutes – June 2, 2021-AMENDED

Board Member Piersante made a motion to approve the minutes of the amended P&Z regular meeting of June 2, 2021. The motion was seconded by Board Member Sylvester. The motion carried 5-0.

b. Planning & Zoning (P&Z) Meeting Minutes – September 15, 2021

Board Member Piersante made a motion to approve the minutes of the P&Z regular meeting of September 15, 2021 as presented. The motion was seconded by Board Member Omana. The motion carried 5-0.

4. PUBLIC COMMENTS

Barbara Cole, resident, clarified that what she said at the last Planning and Zoning Board Meeting was incorrect because she thought that the 2nd reading for 4112 El Mar Drive was going to be on September 28, 2021 but in actuality, it would probably be on October 12, 2021. She urged the board members to send their public comments in representing themselves and not representing the Board in order to clarify why their vote on September 1, 2021 for grandfathering was different than their vote on July 7th when it was voted to let the single-family home go forward. For the record, there were no other public comments at this time.

5. NEW BUSINESS

6. OLD BUSINESS

a. Ordinance 2021-10

An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 30 “Unified Land Development Regulations”, Section 30-11, “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.

Town Attorney Jeffrey White read the agenda item's title for Ordinance 2021-10 into the record. Acting Development Services Director Jhanelle Campbell said that she would do a recap of what transpired for this agenda item from the September 15, 2021 P&Z Meeting. She started by giving the background stating that the proposed ordinance addressed issues raised at the April 27, 2021 Town Commission Meeting. The conversations stemmed from the approval of a specialty shop which sold tobacco paraphernalia. The Town Commission directed Staff to review the list of permitted uses in the B-1 and B-1-A districts and to recommend an amendment to specifically eliminate smoke shops as a permitted use. Staff reviewed the entire section of the Code to ensure the regulations reflected the current conditions of the Town and current preferences of the community. She informed that on page 16 of the board packet and also on the screen were the list of proposed amendments. As she was going through the list, she was asked if this was about a cigar shop and she answered it was not. Ms. Campbell further answered that there were two shops in Lauderdale-By-The-Sea that currently sold tobacco paraphernalia as currently defined in this proposed ordinance and it also defined tobacco paraphernalia store. This also established a list of uses in the B-1-A zoning district that were proposed to be eliminated and what was being added to this zoning district. It clarified music store and added supplemental regulations for message therapist. A requirement was added calling for a written report to the Commission by the Town Manager when similar uses were approved as permitted or conditional uses. She explained that food and other pet supplies would be allowed but not the selling of live animals in stores coming into Town after the adoption of the proposed ordinance.

In the B-1 zoning district, cigar stores were restored. Tobacco paraphernalia in a cigar store could not exceed 5% of inventory. Mr. Bluestein spoke about gun stores and was told that anything not listed as permitted were not allowed in the zoning district. She answered Mr. Dillistin this has always been the rule. She explained what else was added as well as what was eliminated for permitted use in this zoning district and clarified music store and regulations for message therapists. She also explained what was added and eliminated as conditional use in this zoning district. It added supplemental regulations for pet store as a conditional use and supplemental regulations for message therapist as permitted use.

Acting Development Services Director Campbell further stated that tobacco paraphernalia stores, if this ordinance was adopted, that exist in the Town now, would have to cease operations in the Town within a year of adoption with the ability to seek an extension. From the last meeting, Board Member Sylvester suggested moving market and party supply stores to a conditional use and Ms. Campbell and Mr. White explained why Staff was not in favor of that. She then asked that in a specialty shop, if someone wanted to sell scarves, would that be allowed. She was told that there were clothing stores. Then when she asked about selling honey, she was told that there were grocery stores and fruit/produce stores. Chair Chanon asked why Staff was proposing to eliminate market, party supply and sundry stores and Ms. Campbell explained that they were duplicative in nature to other stores already allowed and Mr. White explained further. Board Member Dillistin asked why number 5 in the proposed list was being changed because it was previously set up in 2009. Town Attorney White said it was not being changed as it was already there but added a provision for the Town Manager to put in writing a determination that was made to help preserve, in a historical nature, decision making for both Staff and the Town Commission. For clarity, lines 197-207 in the proposed ordinance were discussed. Under paraphernalia, Mr. Dillistin wanted to know where Kratom type stuff came in and also can we take out 5% of tobacco paraphernalia inventory in a cigar store. He was told that Kratom would not fall under

paraphernalia. He further stated that he heard people did not want any type of paraphernalia sold and giving a percentage allowed paraphernalia in Town. Town Attorney White said 5% was a starting point that could be moved up or down. Board Member Dillistin felt that any percentage would be hard for the Town to control and this Board was just a recommending body. Town Attorney White explained that even though he was a board member, he had the right to go in front of the Town Commission as a resident and state his opinion. Also, the Board could have a spokesperson state on the record at a Town Commission Meeting when this was being considered, the board's recommendations and reasons. The chair called for public comments.

Barbara Cole, resident, said that for years we tried to bring west of A1A up to A1A standards. She felt that the Town Manager or designee should consult with the Town Commission on any proposal regarding similar uses, prior to authorizing the use as similar to any such usage in the B-1-A zoning district. As this was what happened, the Town Commission was informed after the fact about two smoke shops and one head shop who was coming in to the west side of A1A. It was known for years what we tried to bring in, and the Commission needed to be informed before anything was accepted. Item #5 on the Table for Proposed Amendments did not state informing the Commission prior to acceptance. Her other problem was the extension for the head shop (not knowing what else to call it). There was a Doggie Shop that was given an extension until they decided to go out of business to stop selling dogs. Compared to tobacco paraphernalia stores that only have one year to cease business, she wanted to know if we could retroactively do this to the Doggie Shop.

Adam Steinberg, attorney, said that he represented Grateful J's and its owner, Jay Work, who was here this evening. His landlord, Robert, was also in attendance. First order of business was to thank the Town for the suspension of this ordinance at the last meeting together with their quick replies, because it was the start of Yom Kippur. He started by explaining what Grateful J's was. This "mom and pop" business was around since 1995. Jay and Robert understood that some people did not like what he sold. Attorney Steinberg looked up on the internet how cigars could be utilized as a "blunt". Also, some gas stations sold the same products as Grateful J's sold plus other products that his client would not sell. His client was a good man involved in local charities and he did not want to ruin L-B-T-S. He was hoping to figure out a conciliatory way to have him continue to operate. He opened five months ago in L-B-T-S and spent in hard costs and personal time six figures in money. He was losing between \$3,000 and \$4,000 a month until this new business becomes profitable. A one year amortization would not work as that store would not be profitable. He has six other stores and never got into any trouble with any of them. It would take about four years to become profitable. He suggested grandfathering Grateful J's in. He did not know how not grandfathering would service the public because your residents would now have to go to a gas station to buy instead of in a nice, clean store. Two stores in Town did not make a proliferation of these types of stores. Just talk to him about concerns and they would try to work it out. Give his client a chance to be a good neighbor. The chair called for board questions.

Board Member Bluestein asked if the Town was aware of what type of store Jay was opening. Attorney Steinberg said the Town was fully aware and there had not been any indication of increased crime in the area. Also, it was safer to smoke out of a water pipe than to smoke cigarettes. Board Member Sylvester asked why Grateful J's wanted to come into L-B-T-S. From his understanding, this is a lovely Town with business opportunities. It was a great location. Board Member Piersante wanted to know why he located across the street from the same type of store which was bigger. We were a small Town. The only thought Mr. Piersante had was the owner was hoping for the tourists to arrive and the attorney said that was what an owner did. He answered Mr. Piersante that Jay never had problems with his other stores and he did not sell anything illegal. The Town had to let him know that he was not wanted here instead of welcoming

him. Even though he was losing money to start this business, he now had to also pay him for representation tonight.

Ken Brenner, resident, said this was a small Town. In 2010, the Commission was trying to come up with an ordinance that was restrictive in its nature regarding medical marijuana and to sure up that this type of business would not come in. They were trying to maintain a quality of life, integrity, and a vision as residents wanted to see in our Town. There was no problem with the business model but they did not want this type of business in their Town. There needed to be in place something that would let Staff know to bring certain types of businesses before the Town Commission before they would be allowed to open a store and residents could speak up about this. Chair Chanon agreed with Mr. Brenner's comments and Ms. Cole's comments. He asked Staff if the language today in the proposed ordinance plus a modification in #5 accomplished what Mr. Brenner referenced.

Town Attorney White asked the Board to look at Staff's memo in their packet and the historical footnote regarding medical marijuana. Board Member Sylvester asked if the Town Manager or designee consulted with the Town Commission prior to this being brought forward. Chair Chanon said that it was deemed a specialty shop which was allowed in 2009 and this type of store fell under that. Now we were eliminating tobacco paraphernalia in this ordinance. Acting Development Services Director Campbell answered Board Member Sylvester that the Town Commission was not notified in advance that this store was opening as it opened under specialty shop which was a permitted use. It was reported after the fact.

Board Member Dillistin said that this had nothing to do with Grateful J's or this Board. He felt that the Town messed this up and they needed to fix it. He just wanted the Town Commission to understand that we needed things in place so that this would not happen again. The residents did not want these types of shops in Town. Board Member Dillistin also felt that any store should not carry tobacco paraphernalia. It should be 0% and not 5% of inventory. He cited roll paper being sold in gas stations. Board Member Sylvester felt that no business owner should be in a position like the owner of Grateful J's. Town Attorney White explained again that the Town Commission wanted something with options that would address concerns voiced by the community, residents, business centers, public, etc. He informed the Board that they could vote on the different components in order to make their recommendation to the Town Commission. Chair Chanon asked about amortization and Town Attorney White said that was part of the proposed ordinance that we were asked to make recommendations on. Chair Chanon felt that he did not have enough facts about amortization and felt certain that they would end up in litigation with a business that we welcomed. He wanted to prohibit businesses that we did not want. We need to fix this as it related to Code to prohibit uses that we did not want going forward. He did not feel that he could make a decision as to how this affected the two existing businesses in Town, one being Grateful J's and the other Hollywood Tobacco was in L-B-T-S since 2020. Board Member Sylvester reminded that the puppy store was also a business that would be affected. Why grandfather one, Hollywood Tobacco, and not Grateful J's. Board Member Omana also felt that you could not grandfather one business and not the other two or two businesses and not the third. Board Member Bluestein also voiced that this should be consistent.

Chair Chanon spoke about Grateful J's marketing and non-conforming signage. We need to enforce our signage criteria and eliminate a lot of the window stickers and other things not allowed per Code. He did not support amortization and we did welcome them in. However, a solution must be figured out amicably. Enforcing signage criteria would clean up the Town. Acting Development Services Director Campbell said that the wall signage was applied for and approved. The window signage needed to be addressed. However, during COVID, we relaxed

our enforcement of sign violations. The Town started reviewing all of them to get everyone back into compliance. Several businesses have signage that was currently not permitted and were in the process of being rectified. Chair Chanon wanted to know if they could make a decision on what they have enough information on without making a decision on what they did not have enough facts about (e.g., the treatment of the two or three businesses we just talked about). Board Member Sylvester wanted to add somewhere on lines 202 to 206ish in the proposed ordinance language something like that the Town Manager to use judgment when a business may or may not fall within the approved items and that it may or may not fit within the intent of the written document to bring it forward to the Town Commission. Chair Chanon said that this happened because specialty shops were allowed but we were eliminating them now. Town Attorney White spoke about the specialty shop definition. Broad definitions were a problem and this was about being more specific. Board Member Dillistin said anything could have fallen under specialty shop. Chair Chanon said that was what happened and that was why specialty shop was being eliminated.

Board Member Bluestein wanted to know when someone made an application, was it just the name of the store or did they put down what the store did. Acting Development Services Director Campbell answered that they did write down what they were intending to sell. Town Attorney White explained the process when someone came into Town wanting to open a business. He spoke about the Business Tax Receipt (BTR) and licensing. As part of that review, they would make an application triggering a zoning review to make sure it was permitted as a permitted use. Board Member Bluestein asked what description Grateful J's gave and was told gifts, smoking accessories, clothing, beachwear, candles, and incense. Chair Chanon would like to bifurcate and have the language proposed by Staff and then separately decide whether or not we felt equipped to specifically address amortization and other ways of dealing with the affected, three businesses. They brought the Table of Proposed Amendments back on the screen so they could start one by one. Board Member Sylvester thought going down to 0% paraphernalia would be difficult because gift stores and gas stations sell paraphernalia also.

Chair Chanon asked if there was a consensus as to leaving a percentage in or to abort having any percentage of tobacco paraphernalia. It was decided to follow the order of the Table of Proposed Amendments starting with definitions (items #1 and #2).

#1. Define Tobacco Paraphernalia

Board Member Dillistin made a motion to approve tobacco paraphernalia as written and proposed by Staff.

Before there was a second, **Ken Brenner**, resident, commented about a checklist that was more restrictive to let the Town know ahead of time before there was a problem. We need to know if this business had other locations and what was sold in each, including L-B-T-S. Before Staff blankly gives a BTR, let the Commission weigh in prior to this process. We were a small Town and more checks and balances were important. Board Member Sylvester understood why the application was approved now because candles, incense, etc. were listed for Grateful J's. We needed to know what percentage were for candles, incense, etc. versus smoking accessories.

Board Member Bluestein asked what the Town's opinion was before Grateful J's opened and Board Member Dillistin felt that they did not want head shops and smoke shops. Acting Development Services Director Campbell reminded that the two stores were approved as specialty shops. She directed the Board to go back to the Staff Report in the backup material. Interim Town Manager Linda Connors said that at the 2009 meeting, the Town Commission was to eliminate some language that would prohibit certain smoke shops. The ordinance that came

out of that 2009 meeting, deleted language that would have allowed this but they did not add language that would give somebody in 2020 (even in 2010 or 2011) the knowledge that the language had been eliminated. Usually when ordinances were written, you eliminate something and then put in some type of definition. So we would have had the definition of specialty shop. It was added but with no definition of specialty shop which could have shown what could be sold and what could not be sold in specialty shops. That would have given Staff the ability to look in the Code and know what could be classified as specialty shops. That was why we were proposing to eliminate the definition of specialty shop and proposing to add definitions so that Staff could follow the Code very easily. If our present Staff was not here in 2009, they would not know what was eliminated from the Code. An ordinance established rules and regulations for the Town while giving Staff the direction on how to move forward. The problem in the ordinance was the use of specialty shop because the use of specialty shop without a definition was a very broad definition. Without a clear definition, it was very hard to talk to an owner who had a passion for their business and was so excited about opening their business. That is what happened. Going forward, once you have one use that was approved, then the next use could be approved also. Our Legal staff and Development Services staff looked very hard to eliminate those loopholes and the first loophole to eliminate was specialty shop without a definition. This category was really too broad. The other thing done was to add definitions so we know exactly what a store was. That was also why we were proposing the definition of tobacco paraphernalia. A cigar store would now be different than a tobacco shop. Hopefully, the definition would help clarify. She also understood that 5% inventory was problematic to some. Staff was tasked to work with businesses as much as they could. Actions that you take for one business could possibly affect all businesses. If you wanted to bring a business to the Town Commission for their approval, it would add time to the review of applications. This had to be timely and moving because business owners were investing money in the Town. The longer it took to open a business the more money was spent and the more difficult it would be to open that business. Right now the ordinance stated that the Town Manager would confer with the Town Commission (could be through phone calls and not just at a Commission Meeting) but the Town Manager could not be a go between.

Barbara Cole, resident, said Grateful J's application did not state tobacco paraphernalia. Anyone who was here around 2009 knew the effort being put in to the west side and what we wanted to bring. She would like the members of this Board to state in front of the Town Commission about adding in the extra step for every business coming in. If it slowed the process down by two weeks, so be it. We need to stop what was happening now. These stores have shown that. We just had the manager of the Blue Moon talk about bringing in water taxis and bringing up the west side and now we were going to have two or three stores that were not what we wanted over there.

Attorney Adam Steinberg, on behalf of Grateful J's, said that he appreciated the comments. Ms. Cole stated that on the application it stated tobacco accessories but we all know that meant tobacco paraphernalia. The business owner asked the Town about opening a smoke shop and was told that was fine. He did not sneak his way into this Town. People looking out for public health and welfare traveled to his store. He mentioned a list of diseases/disabilities that people have who come to the store to buy what was offered. Now you were going to tell them they could not buy here anymore. He said that the Town Manager said they were doing this ordinance to govern behavior going forward. He hoped that the Board would consider grandfathering in the existing, affected businesses. He knew that Grateful J's wall signage was compliant but if the window signage was not, his client would take it down. As there was no further public comments, it was closed.

Chair Chanon went back to the Table of Proposed Amendments starting with definitions (items #1 and #2).

Definitions

#1. Define Tobacco Paraphernalia

Consensus was 5–0 for tobacco paraphilia definition as drafted. *(Passed)*

#2. Define Tobacco Paraphernalia Store

Board Discussion: Wayne Dillistin was against 5% tobacco paraphernalia inventory

Ron Piersante was for 5% tobacco paraphernalia inventory

Karen Sylvester was for 5% tobacco paraphernalia inventory

Alan Bluestein was for 2% tobacco paraphernalia inventory

Consensus was 4-1 (Wayne Dillistin opposed – he wanted 0%) for 5% inventory as drafted. *(Passed)*

B-1-A

#3. Eliminate Uses From Permitted Uses: beauty schools, dental laboratory, market, party supply store, specialty shop, sundries store, trade/business school

Consensus was 5–0 as drafted. *(Passed)*

#4. Changes To Permitted Uses: adds medical/dental office, clarifies music store, refers to supplemental regulations for massage therapist.

Consensus was 5–0 as drafted. *(Passed)*

#5. Required Written Report To Commission When Similar Uses Are Approved As Permitted Or Conditional Uses

Board Discussion: Karen Sylvester asked to add an “and” at the end of the statements to show that all three had to be from lines 199 to 207 in the proposed ordinance; add the word *and* plus a *semicolon* at the end of points 1 and 2.

Consensus was 5–0 as amended to include the word **and** plus a **semicolon** at the end of points 1 and 2. *(Passed)*

#6. Eliminates conditional uses: car wash/outdoor hand wash, pet store

Board Discussion: Karen Sylvester wanted to know why pet stores were being eliminated. Interim Town Manager Connors explained about the long history in packed Commission meetings about the treatment of dogs in kennels, pet stores. The Town was just eliminating live animals but still having pet supply stores. Ms. Sylvester saw a large, profitable pet store in the Downtown and Town Attorney White said they would be allowed as a conditional use (they have conditions). Interim Town Manager Connors clarified that store would remain. They have been here a very long time. Just not adding additional stores in Town. Ms. Sylvester recommended that they be treated the same as the paraphernalia stores. Chair Chanon felt this was fair. Interim Town Manager Connors explained that the paraphernalia stores were being treated differently from the pet store because it was established and doing business in Town 10 or 11 years and the paraphernalia stores have been here for a much shorter time. Chair Chanon was not in favor of pet stores but it was a big draw. Board Member Piersante reminded about puppy mills and that the pet store here complies with every condition. Board Member Sylvester wanted to know why we could not have others comply with conditions. Town Attorney White spoke about the problem of selling dogs and cats. Interim Town Manager Connors said that this recommendation was to not allow any more pet stores but to allow the one here about eleven years. Based on history, Chair Chanon was in favor and called for consensus.

Consensus was 3-2 (Karen Sylvester and Alan Bluestein opposed) as drafted. *(Passed)*

#7. Adds supplemental regulations for massage therapists

Consensus was 5–0 as drafted. *(Passed)*

Board Member Alan Bluestein left the room and the remaining board members discussed that they had no issues with the way number 8, number 9, and number 10 were drafted. Upon Mr. Bluestein's return, he was informed about this discussion and he said that he also did not have any issues. They unanimously agreed to vote on the remaining three items.

B-1

#8. Adds the following permitted uses: cigar store, medical/dental office
Eliminates the following uses from permitted uses: beauty schools, market, party supply store, specialty shop, sundries store, trade/business school.
Makes the following changes to permitted uses: clarifies music store, refers to supplemental regulations for massage therapist.

Consensus was 5-0 as drafted. *(Passed)*

#9. Eliminates from conditional uses: call center, car wash/outdoor hand wash

Consensus was 5-0 as drafted. *(Passed)*

#10. Adds supplemental regulations to pet store as a conditional use.

Adds supplemental regulations to massage therapist as a permitted use.

Consensus was 5-0 as drafted. *(Passed)*

Chair Chanon said it was ambitious to tackle the tobacco stores that were in Town now that would not comply with new Code once this was adopted. He felt woefully unprepared to say whether they would go through amortization or otherwise. He would like to personally understand the legal basis. In case there was forthcoming litigation, he wanted to understand generally what we would be liable for. We also said there needed to be a focus on enforcing signage criteria. Board Member Sylvester thought Grateful J's went through the proper procedures, got the proper approvals, and we should grandfather them as suggested for the pet store. If the public did not want them there, they should not frequent them. Board Member Dillistin felt that it should remain the way it was and let the Commission determine what was appropriate, as it stated. He did not have enough knowledge to state what was right and what was wrong. They made the mistake and let them fix it. It had nothing to do with this Board. Board Member Dillistin, Board Member Sylvester and Chair Chanon agreed that this was not a P&Z issue. The chair felt that the Town needed to establish a business approach to handle the problem of eliminating the store. Discussion ensued and Town Attorney White pointed out the language in the proposed ordinance starting on line 654 (Amortization of tobacco paraphernalia stores in B-1 zoning districts).

Town Attorney White spoke about such items as local government regulations, no longer permitting a certain use, grandfathering, etc. He explained that amortization was a valid and legal regulation if you wanted to no longer allow a certain type of business. He said you should allow them to stay a certain period of time (amortization period) for them to recoup their economic investment. This window of time varies. It provided for procedure that if they need an extension of time, they come to Town and avail themselves of that. If the Board was interested in amortization, then they could continue this conversation. Chair Chanon wanted to know why this had to be part of the Code. If that was case law and the process, why did it need to be in the Code and Town Attorney White stated that you need to codify the process and announce to the world that you were going to do this. The chair said it sounded like there was clear precedent case law on how this would be dictated. He did not want to take any tools off the table for the Town Commission and he wanted them to decide how best to handle this. Interim Town Manager Connors asked if he did not want to make a recommendation but would rather leave that to the Town Commission. She explained the three options (1) you wanted amortization in there, (2) you did not want to amortize, and (3) you did not want to make a decision about it.

Board Member Sylvester said that in her personal opinion, if she were a mediator who saw a business was approved and then five months later wanted them amortized out, she did not think the Town would win. Board Member Dillistin said we could not do this if it was not in the Code and Interim Town Manager Connors said they would have to do it if it were in the Code. Town Attorney White said that we defined a paraphernalia store and if that definition was approved, it defined what this business was. The second part would be if you allow them to stay in nonconformity use. Interim Town Manager Connors explained that one of the regulations for nonconformity use was you could not expand your use. You could only keep the size you have. Board Member Piersante asked if the Town counted on this Board to make a recommendation. Chair Chanon answered that he wanted to approve what the Board voted on in terms of the changes and vote no for amortization because he did not have enough facts on hand. He needed to understand why the application showed tobacco accessories which was probably 90% of revenue for the business and listed so many other things like souvenirs, clothing and candles as if they were the same percentage. All those things needed to be taken into consideration and then a decision made from a business standpoint. We did not have the information at hand to decide if we wanted to amortize, cut them a check, or grandfather them in. We did approve the changes tonight but would eliminate amortization for now. Board Member Sylvester said this was hindsight and if business owners and approvers had the information we had today, it probably would not be good. We did not want to encourage more business owners that we welcomed and let them spend time and then out with them. That was not right. She questioned why business owners would invest in our community if we did that to them. She was also not in favor of amortization. Board Member Dillistin said he heard from many people and he would have to go for amortization to be used as a tool. Board Member Alan Bluestein was not for amortization and Board Member Piersante was for including amortization here. Therefore, the consensus was 3-2 for not in favor of including amortization in the proposed ordinance.

Board Member Sylvester made a motion to recommend to the Town Commission (1) approval of the drafted language with the Board's recommendation in the Table of Proposed Changes and (2) elimination of the amortization section in the proposed ordinance. The motion was seconded by Chair Chanon. The motion carried by roll call vote 3-2 (Board Member Piersante and Board Member Dillistin opposed).

7. UPDATES/BOARD MEMBER COMMENT N/A

8. ADJOURNMENT

Board Member Piersante made a motion to adjourn at approximately 8:21PM. The motion was seconded by Board Member Bluestein. The motion carried 5-0.

Chair David Chanon

ATTEST:

Date Accepted: _____

Acting Development Services Director Jhanelle Campbell



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 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:

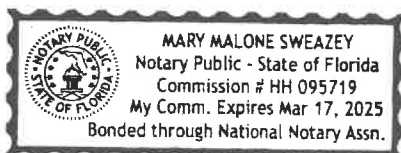
County:

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:

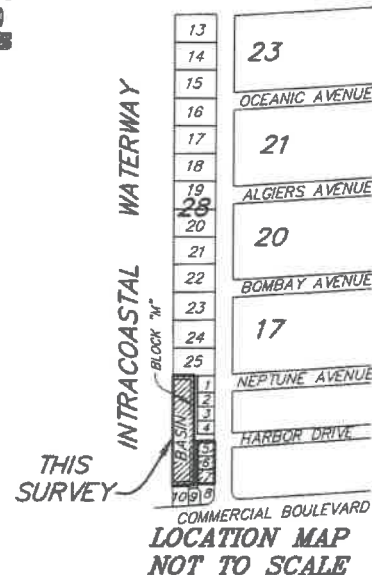
HORIZONTAL ACCURACY:

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:

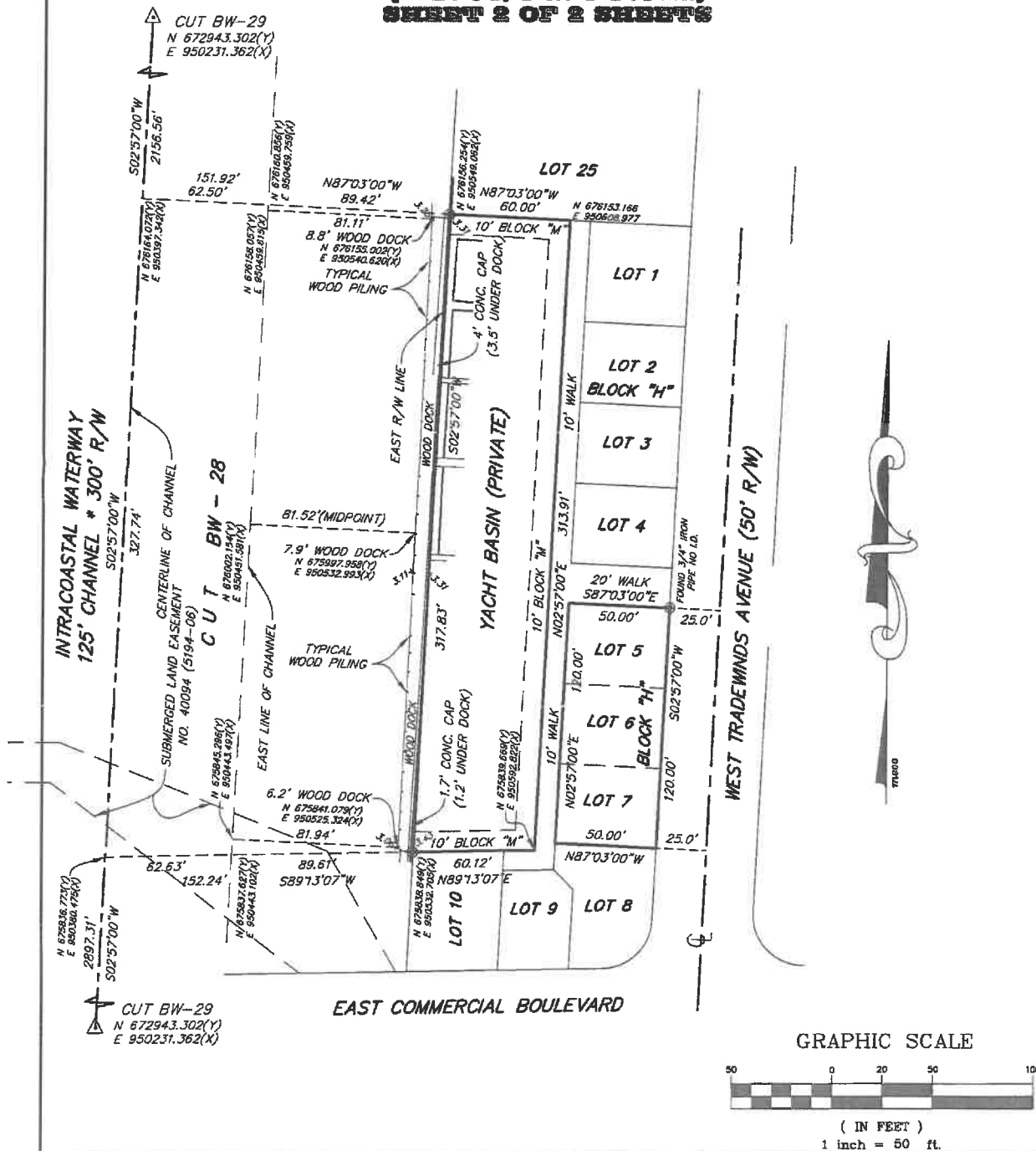
C: JMMjr/2020/V5430(XY)



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

REF DWG: O-140A

CHECKED BY:

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?

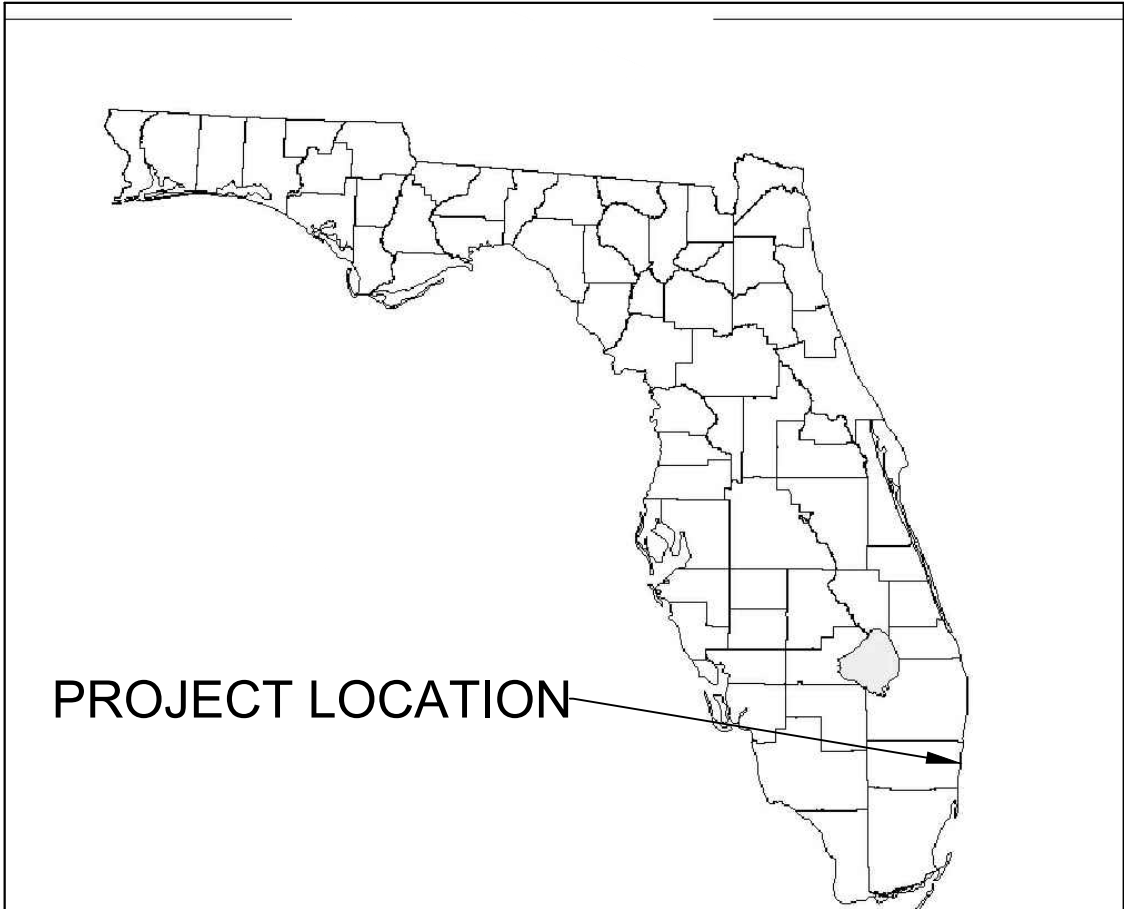
The granting of the variance does not change the usage of the dock but brings the height up so the dock is not flooded by high tides and diminishes the strong wave action caused by passing boats. The construction of the proposed dock makes the supports stronger by using concrete and the additional width 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

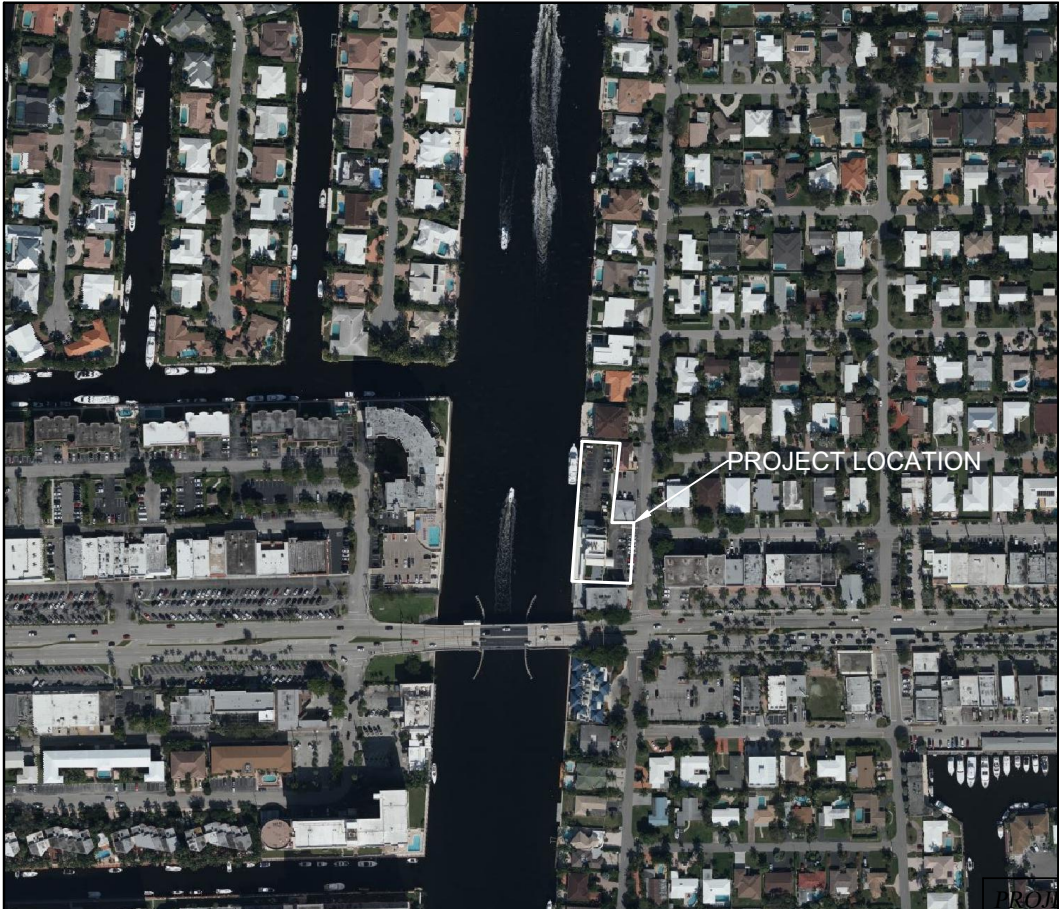
SHEET 2: EXISTING
CONDITIONS

SHEET 3: PROPOSED
CONDITIONS

SHEET 4: SECTION A

SHEET 5: SECTION B

SHEET 6: DETAILS



VICINITY AERIAL (N.T.S.)

PROJECT ENGINEER:
**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
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Pompano Beach, FL 33060
Tel: (954) 545-1740
Fax: (954) 545-1721

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PE 52733, EB 26829

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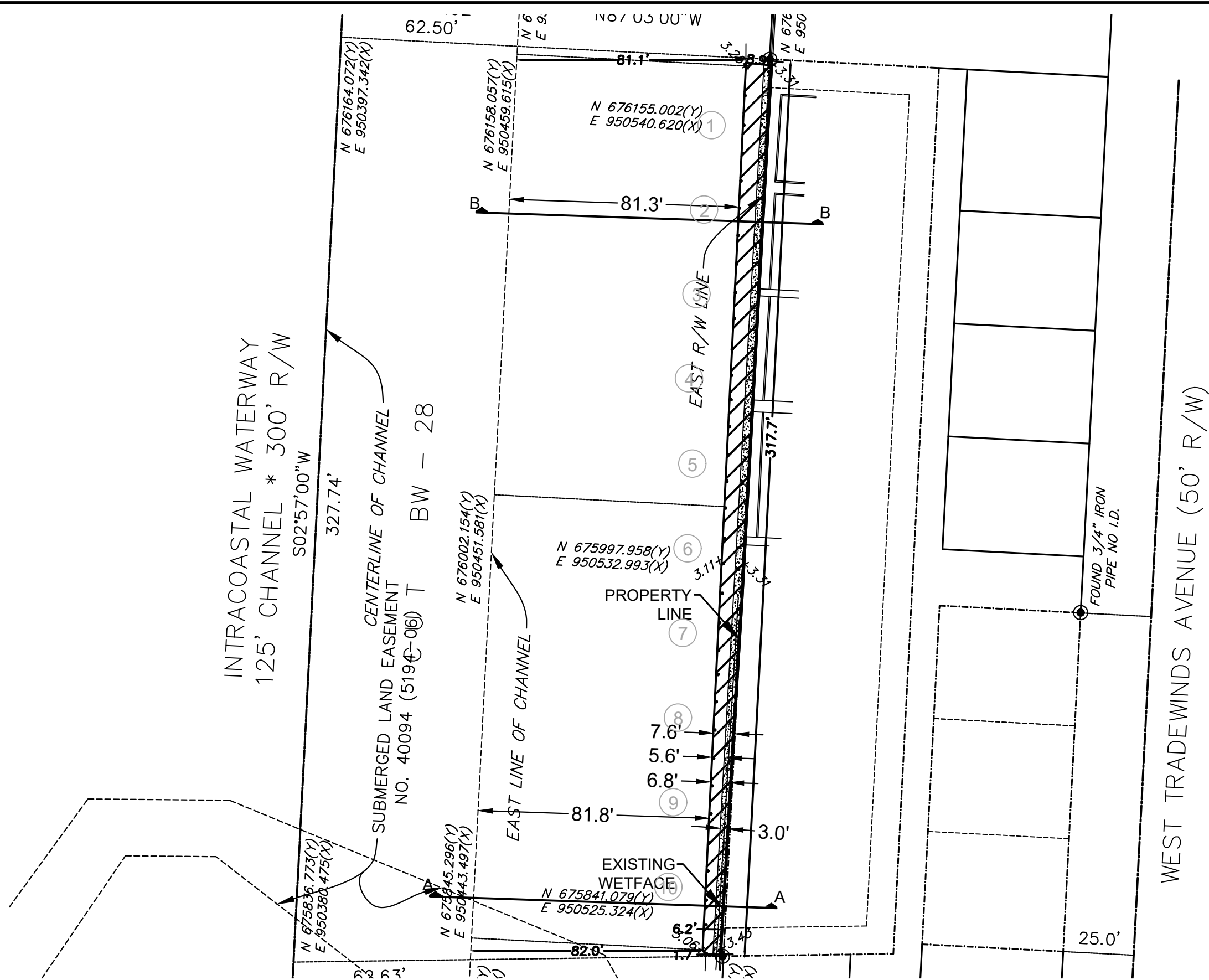
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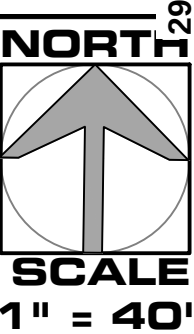
4403-4405 TRADEWINDS AVE

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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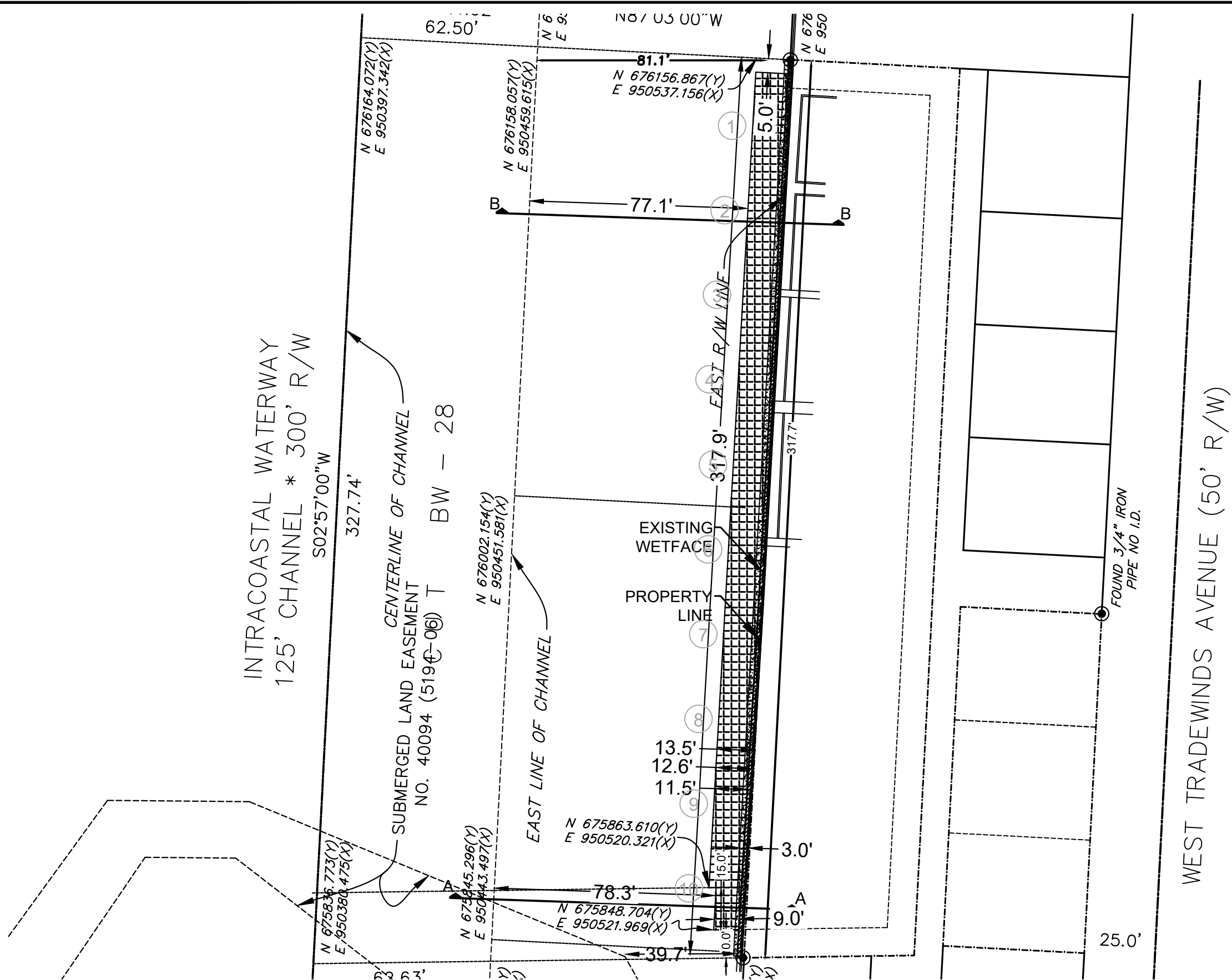
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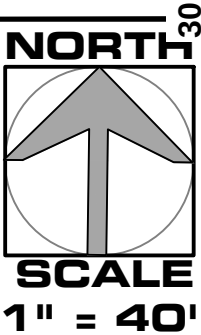
PREPARED FOR:
4403 TRADEWINDS, INC.

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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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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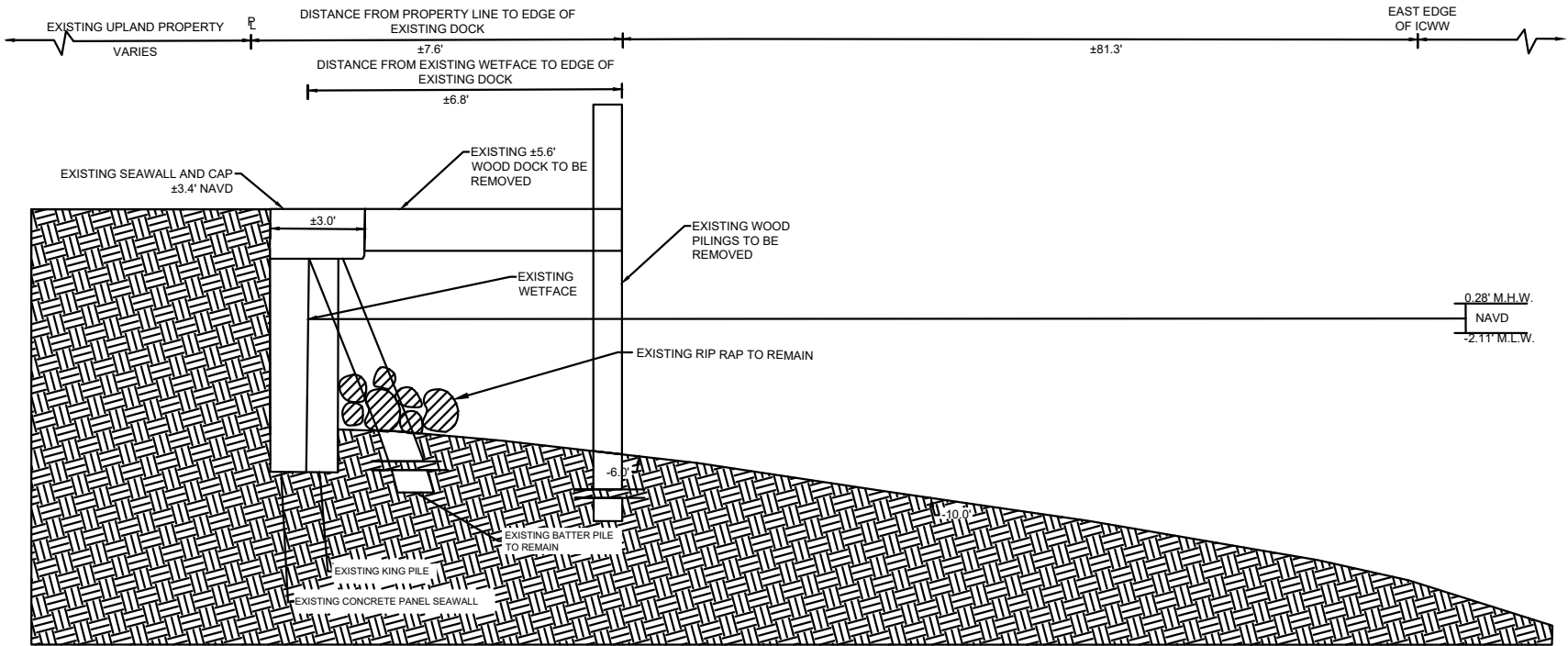
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PROPOSED CONDITIONS

Date: 12/23/2020	Sheet : 3	of : 6
Proj No.: 20-0077		

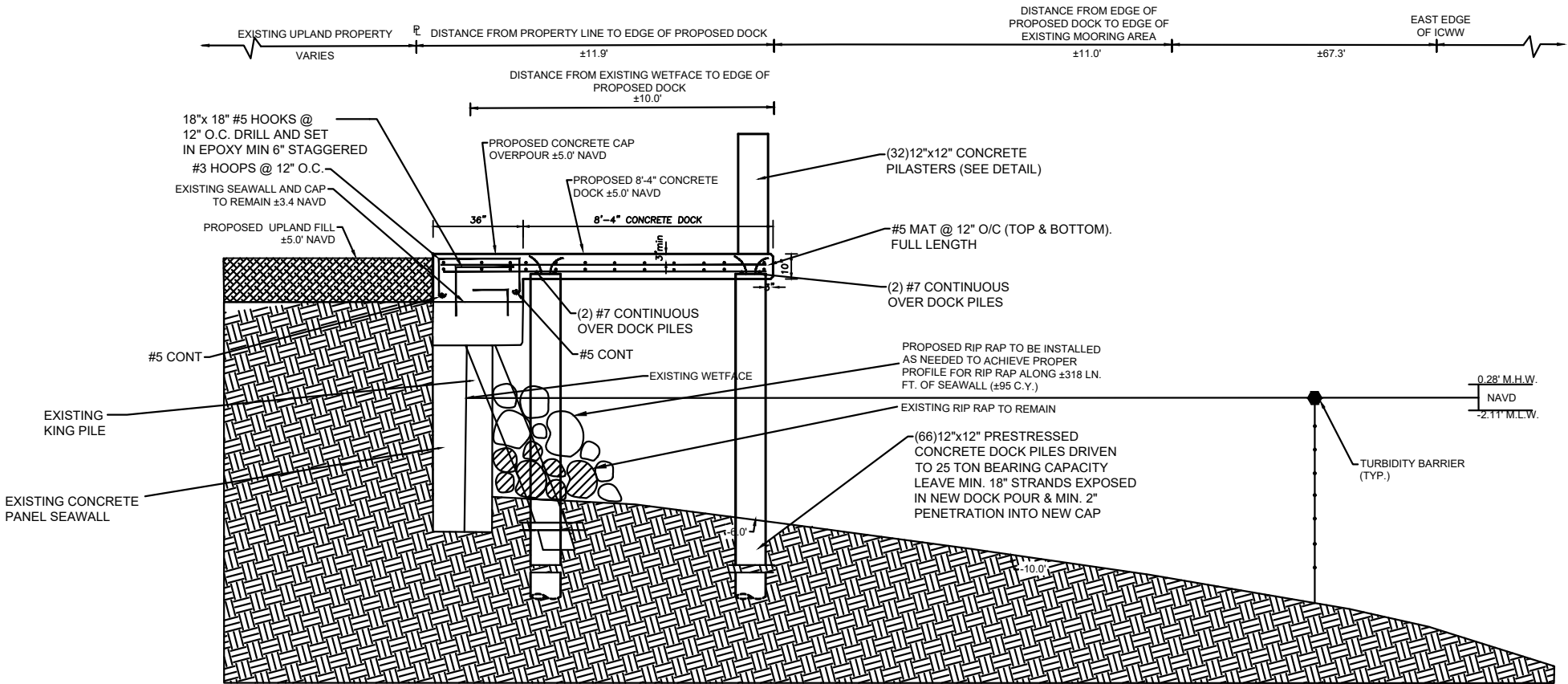
EXISTING CONDITIONS A-A (TYP.)

N.T.S.



PROPOSED CONDITIONS A-A (TYP.)

N.T.S.



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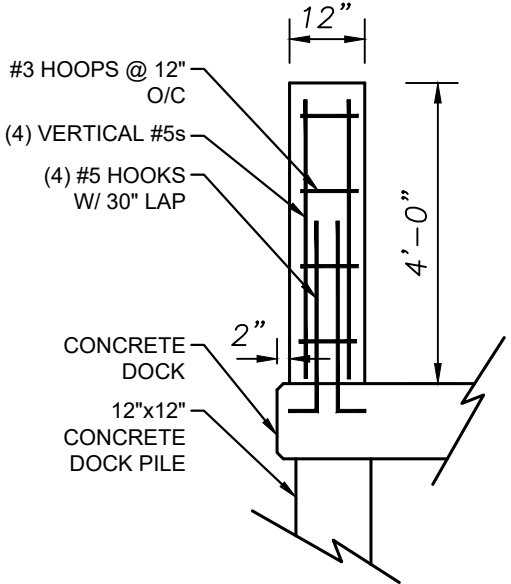
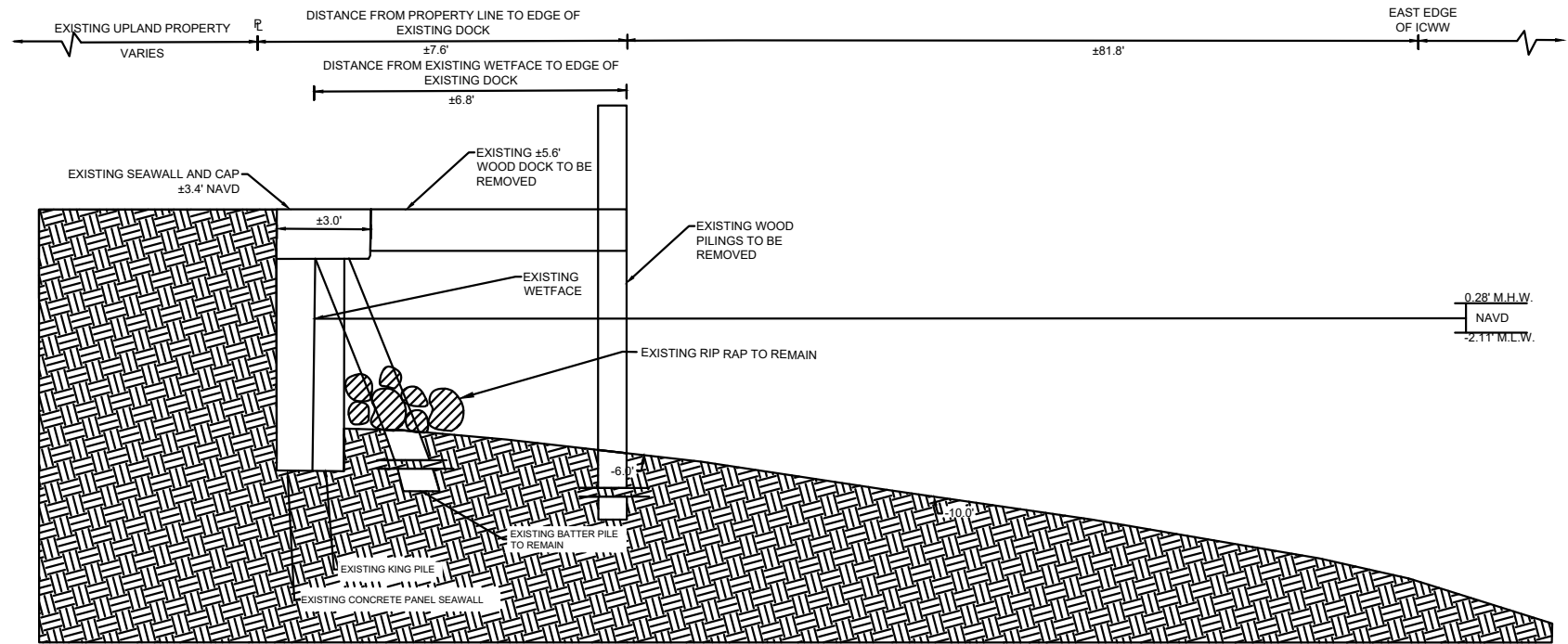
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SECTION A

Date: 12/23/2020	Sheet : 4	of : 6
Proj No.: 20-0077		

EXISTING CONDITIONS B-B (TYP.)

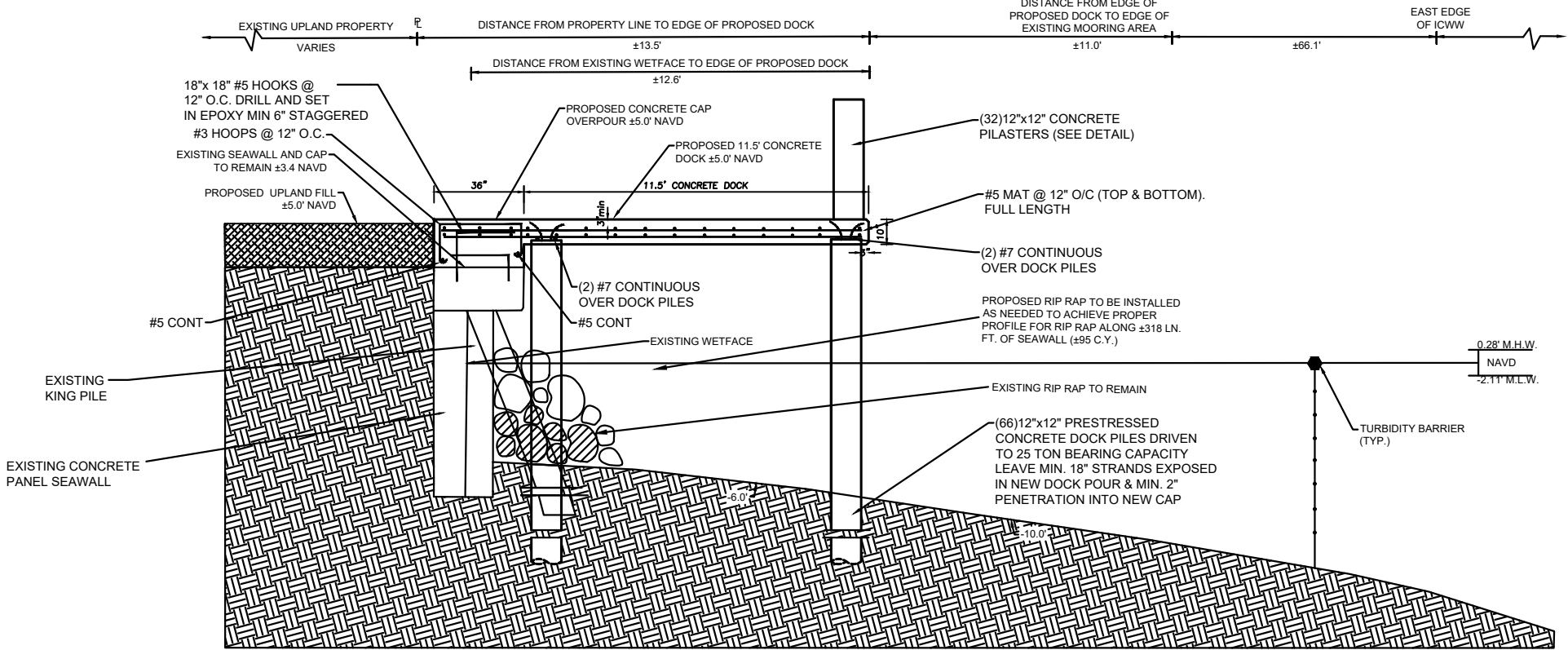
N.T.S.



PILEASTER DETAIL
Scale: 3/8" = 1'

PROPOSED CONDITIONS B-B (TYP.)

N.T.S.



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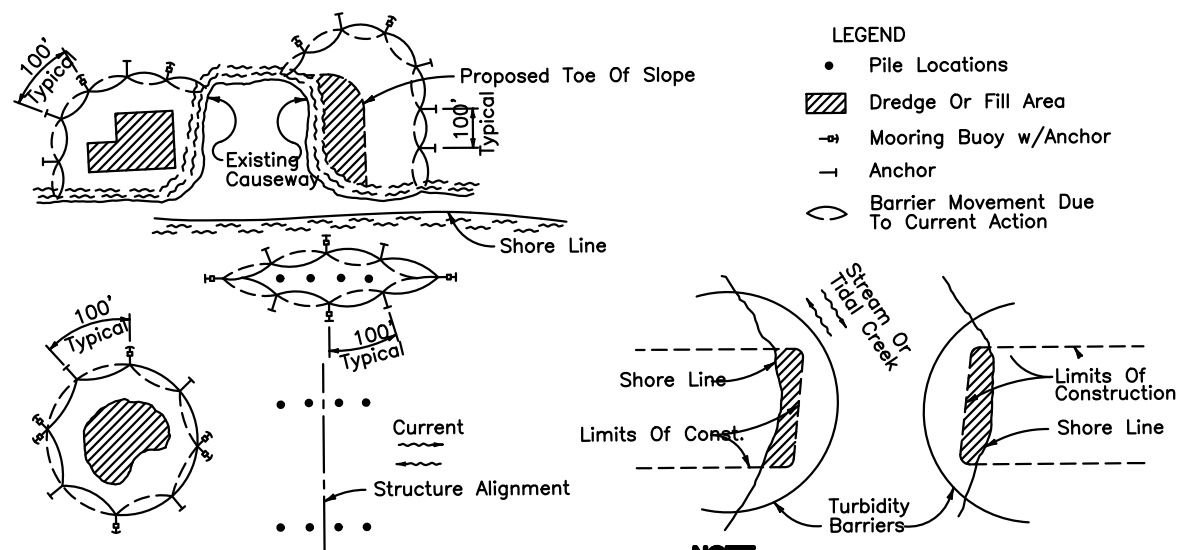
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4403-4405 TRADEWINDS AVE

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SECTION B

Date: 12/23/2020	Sheet : 5	of : 6
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NOTES

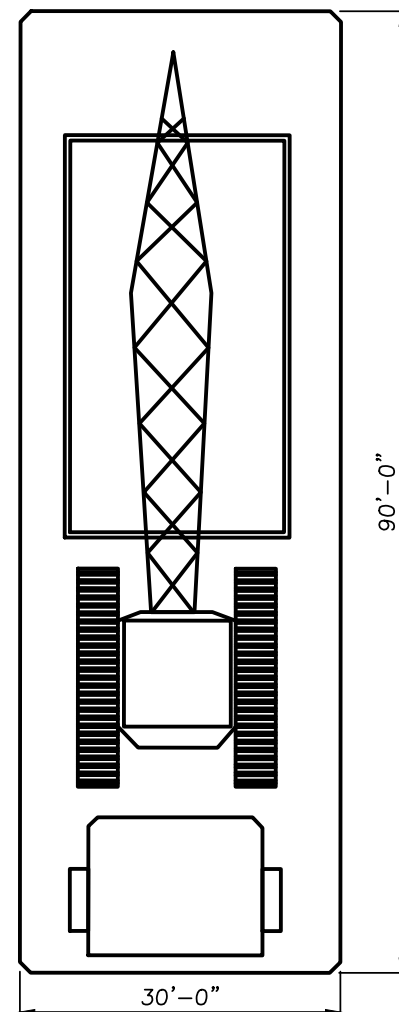
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of anchors dependant on current velocities.
3. Deployment of barrier around pile location may vary to accommodate construction operations.
4. Navigation may require segmenting barrier 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 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 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. 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.
11. Do not scale drawings for dimensions.
12. Contractor or customer to pay for all permit fees, inspections, and testing required.
13. Contractor to verify location of existing utilities prior to commencing work.
14. Contractor is responsible for all means, methods, and procedures of work.
15. Contractor to obtain all permits as necessary from all local, state, and federal agencies.
16. Contractor to properly fence and secure area with barricades.
17. Any deviation and/or substitution from the information provided herein shall be submitted to the Engineer for approval prior to commencement of work.
18. 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.
19. All new materials and/or patchwork shall be provided to match existing materials and/or adjoining work where practical except as specifically noted herein.
20. Licensed contractor shall use all possible care to protect all existing materials, surfaces, and furnishings from damage during all phases of construction.
21. The licensed contractor to install and remove all shoring and bracing as required for the proper execution of the work.
22. All new work and/or materials shall conform to all requirements of each administrative body having jurisdiction in each pertaining circumstance.
23. Licensed contractor to verify location of existing utilities prior to commencing work.
24. All elevations shown refer to national geodetic vertical datum(NGVD) of 1929.
25. 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.

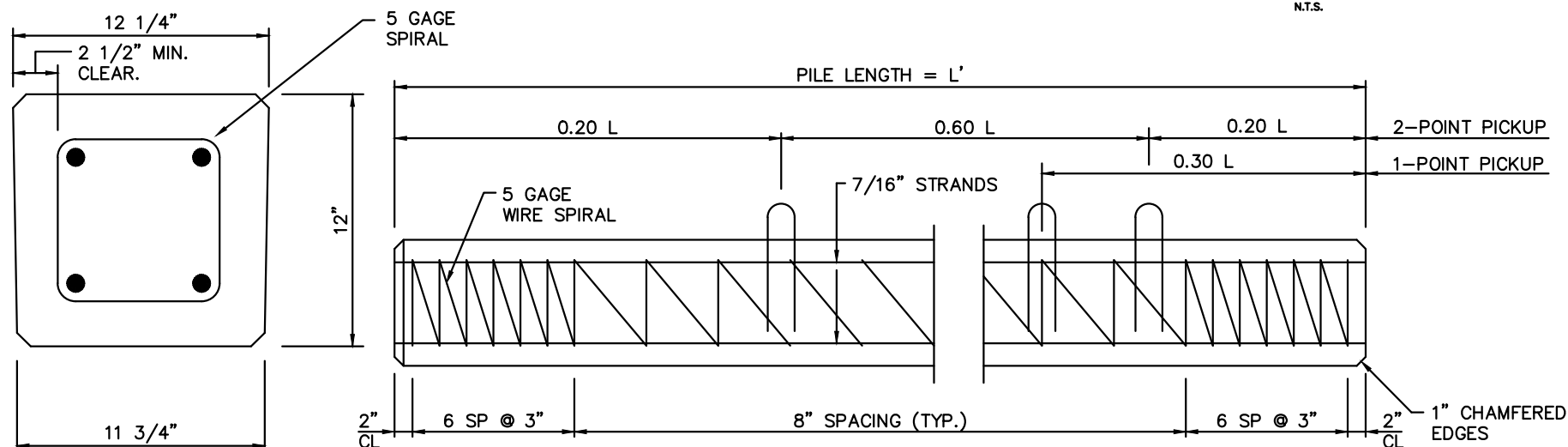
PILE NOTE:

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	Sheet : 6	of : 6
Proj No.: 20-0077		

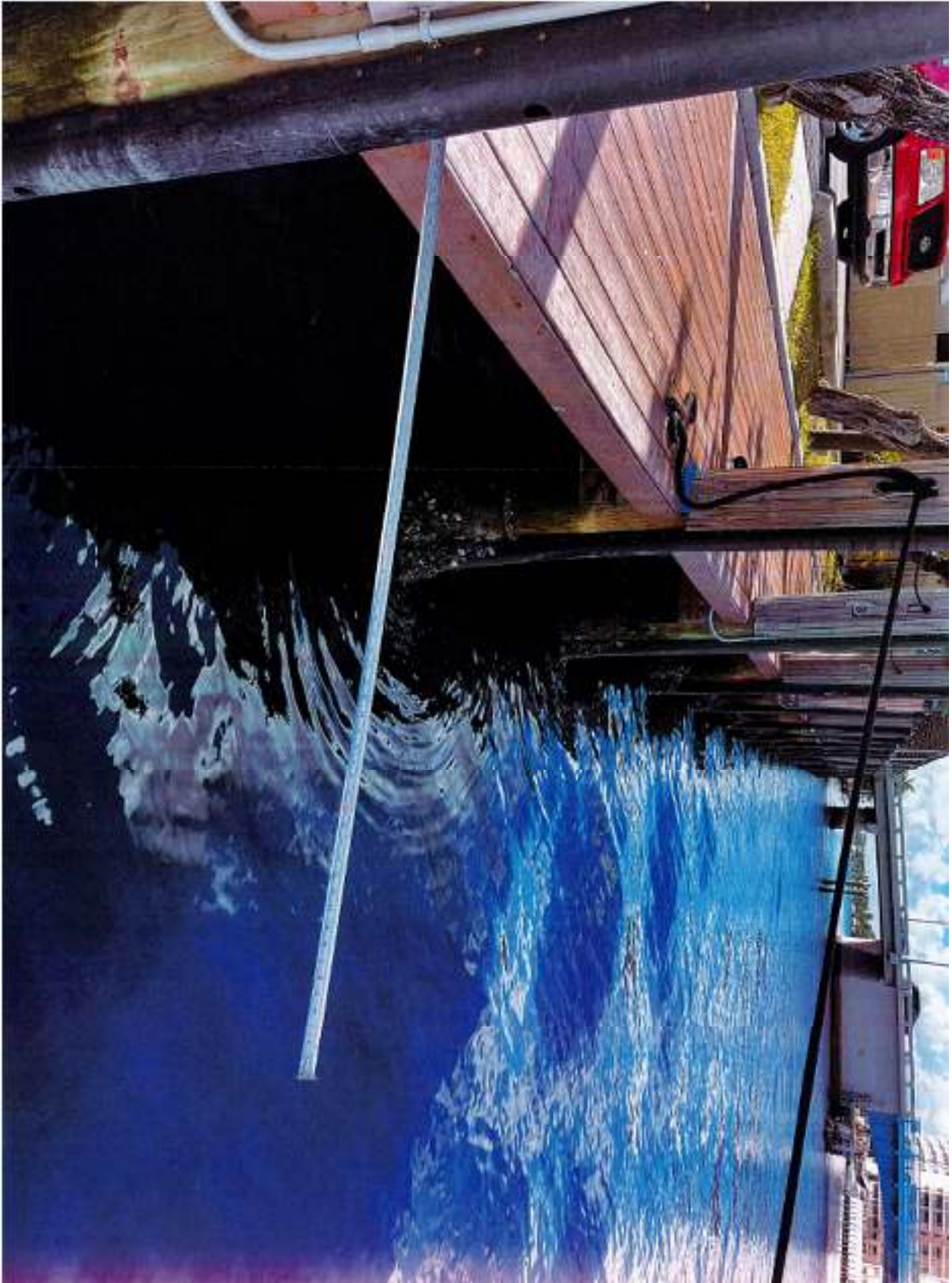


Aerial Photo Showing Dock

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 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:

The “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.

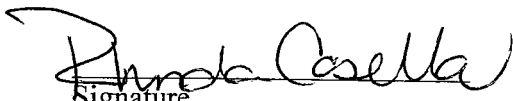
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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.

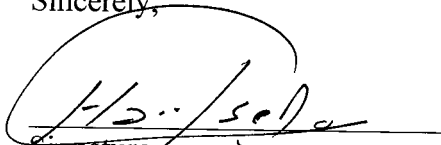
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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.

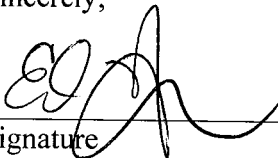
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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

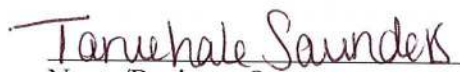
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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 McLarty
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

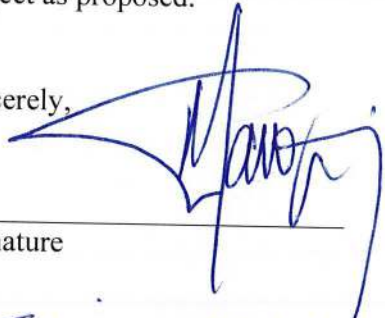
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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

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

Ann Sandgrist Harmony Hair & spa
Name/Business Owner

262 Commercial Blvd

L. B. T. S.

Address

10/8/21
Date

4403 Tradewinds, Inc.

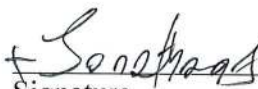
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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 El Mar Dr
Lauderdale By The Sea FL
Address

10/11/21
Date

4403 Tradewinds, Inc.

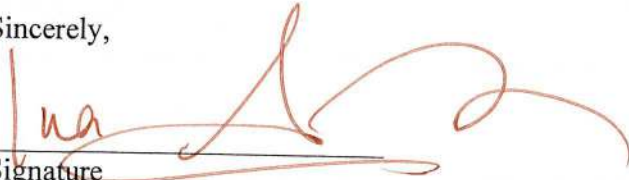
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

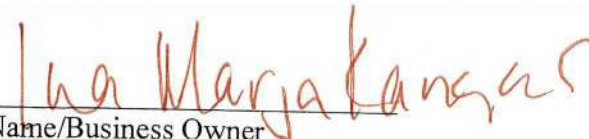
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

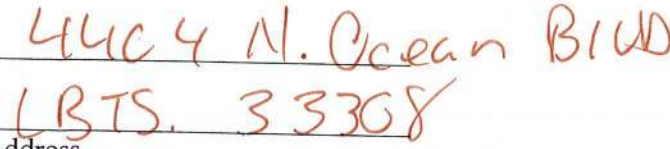
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Signature


Name/Business Owner


Address


Date

4403 Tradewinds, Inc.

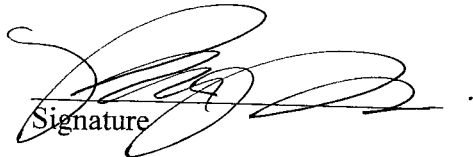
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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Sincerely,


Signature

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

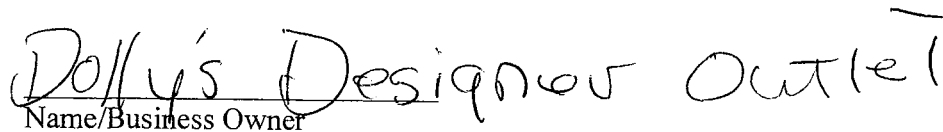
RE: 4403-4405 Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

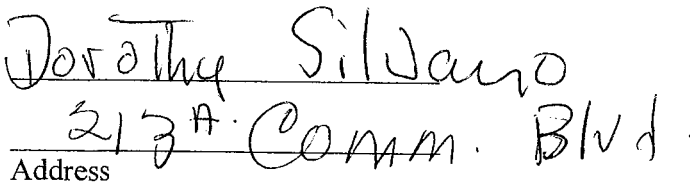
Dear Ms. Jo Ann Hoffman,

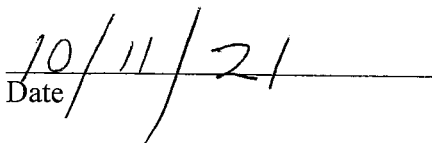
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Sincerely,


Signature


Name/Business Owner


Address


Date

4403 Tradewinds, Inc.

Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

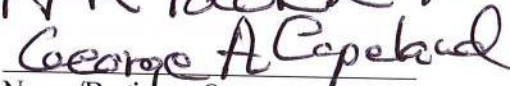
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Sincerely,


Signature

TFR Tackle INC

Name/Business Owner

228 Commercial Blvd.
Lauderdale By The Sea FL
Address

10/8/2021
Date

4403 Tradewinds, Inc.

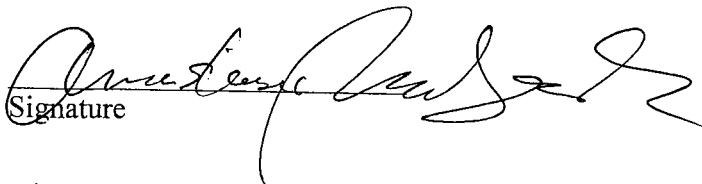
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4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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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.

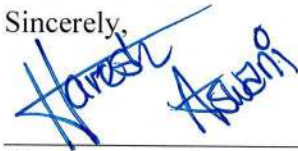
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Lauderdale By The Sea, FL 33308

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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
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on date noted using a SHA-1 authentication
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714 East McNeil Road
Pompano Beach, Florida 33060
tel: 954.782.1100
fax: 954.782.1108
www.thechappellgroup.com

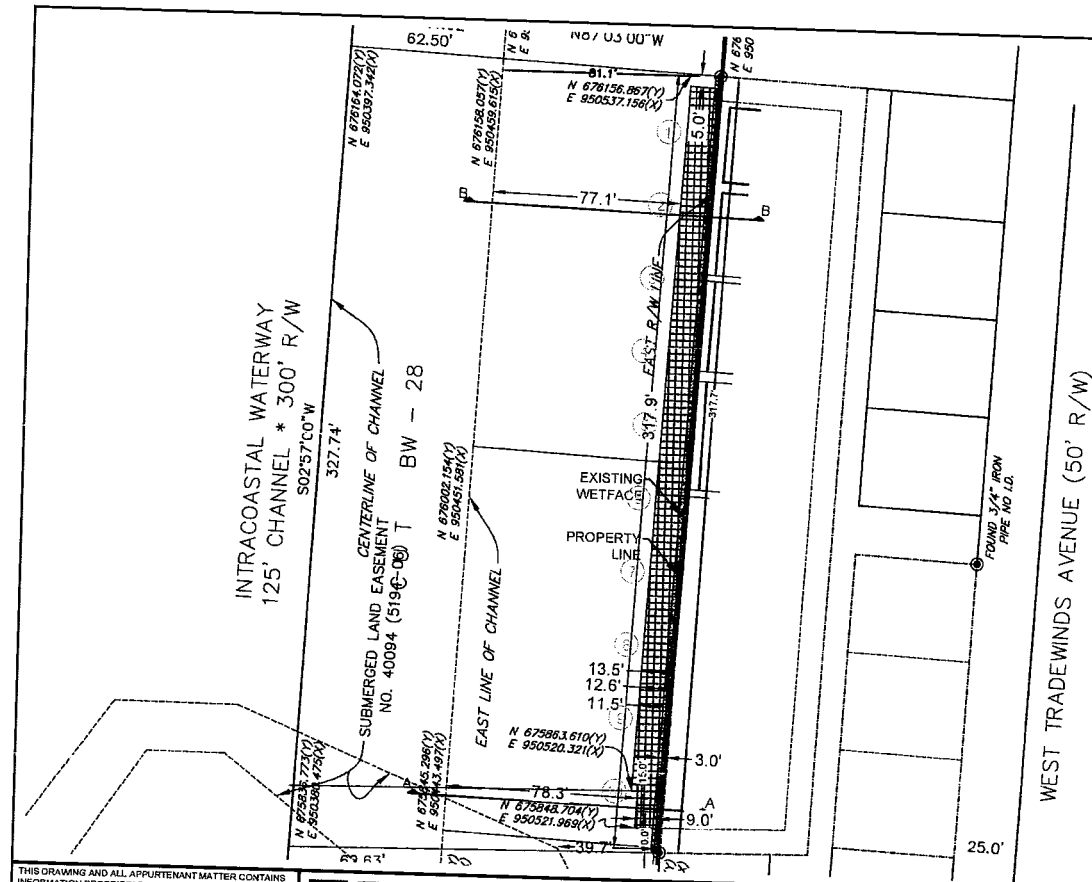
- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys

4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

COVER

Date: 2/10/2021	Sheet: 1	of: 6
Proj No: 20-0077		



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) 545-1740
 Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

John Onstner
 PE 52733, EB 26R29

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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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 714 East McNab Road
 Pompano Beach, Florida 33060
 tel: 954.782.1108
 fax: 954.782.1106
www.thechappellgroup.com

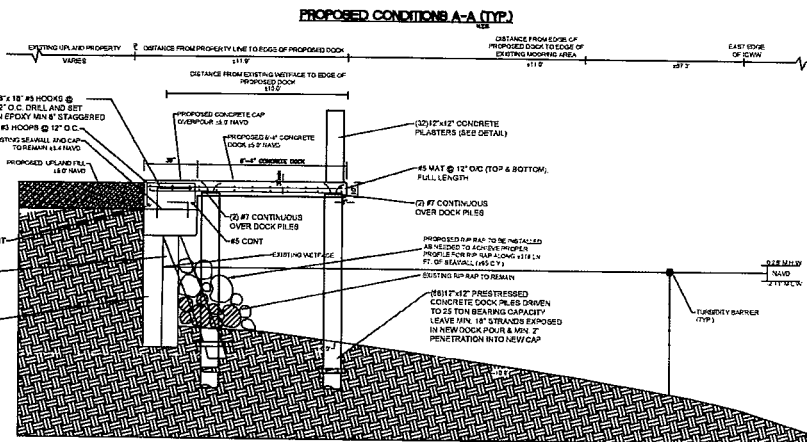
- Environmental Consultants
- Marina & Wetland Permitting
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4403-4405 TRADEWINDS AVE

PREPARED FOR:
 4403 TRADEWINDS, INC.

PROPOSED CONDITIONS

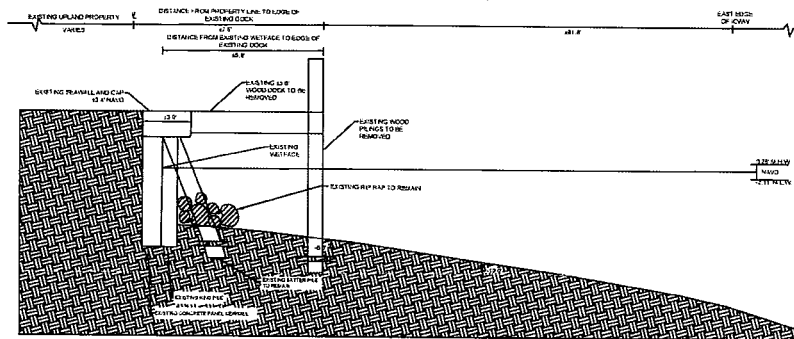
Date:	Sheet:	of:
12/23/2020	3	6
Proj No:	20-0077	



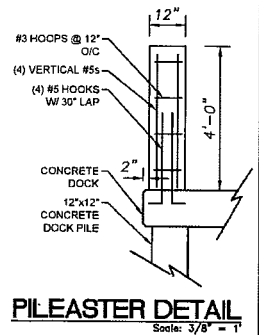
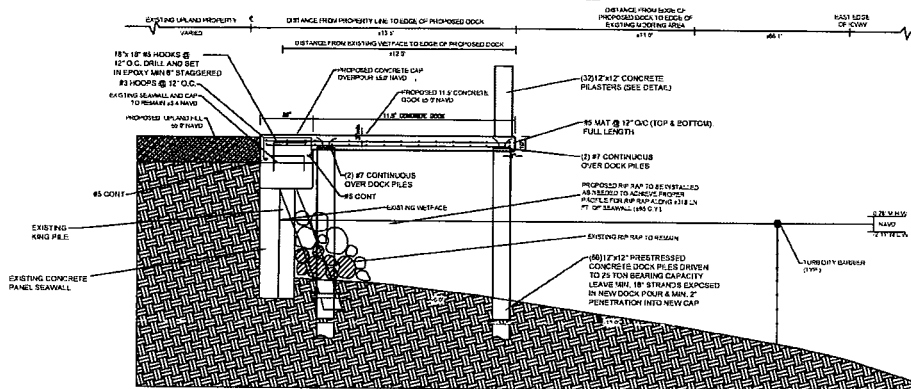
John Oniskar
PE 52733, EB 26829

Sheet : 4	of :
--------------	------

EXISTING CONDITIONS B-B (TYP.)



PROPOSED CONDITIONS B-B (TYP.)



This document has been electronically signed and sealed by John H. Onstater, 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

SEAL / SIGNATURE / DATE

John Onstater
PE 52735, EB 26829

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714 East McNab Road
Pompano Beach, Florida 33060
Tel: (954) 745-1100
Fax: (954) 702-1100
www.thechappellgroup.com

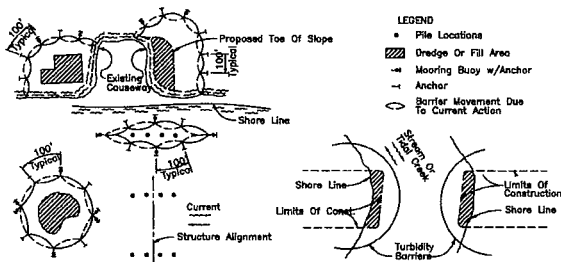
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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

SECTION B

Date: 12/23/2020	Sheet: 5	of: 6
Proj No.: 20-0077		

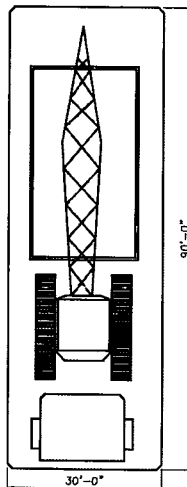


- NOTES:**
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
 2. Number and spacing of anchors dependent on current velocities.
 3. Deployment of barrier around pile location may vary to accommodate construction operations.
 4. Navigation may require engineering barrier during construction operations.
 5. For additional information see Section 104 of the Standard Specifications.

NOTE: 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.

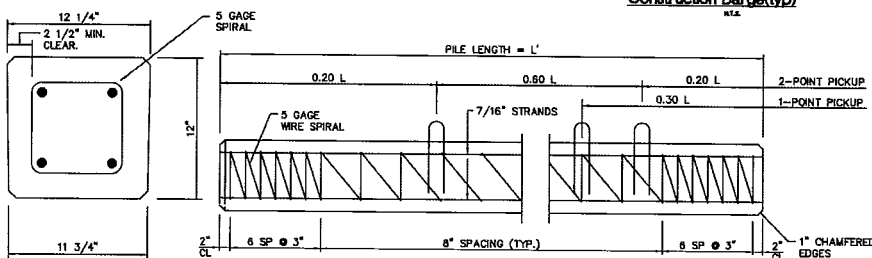
Turbidity Barrier

N.T.S.



Construction Barge (typ)

N.T.S.



Concrete Pile Detail

N.T.S.

PILE NOTE

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, plan 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 cutting.

CONCRETE NOTE

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 step 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 NOTE

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

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John Omsizer
PE 52735, EB 26829

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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.

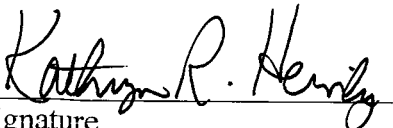
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

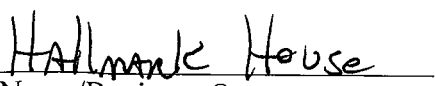
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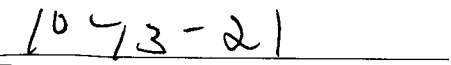
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Sincerely,


Signature


Name/Business Owner


Address


Date

4403 Tradewinds, Inc.

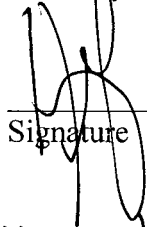
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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.

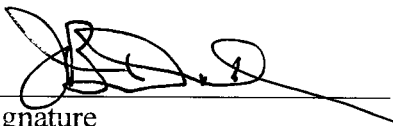
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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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
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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
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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
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Sincerely,

Signature

Name/Business Owner

Address

Date

SITE CLASS

FT LAND

10/3/21

4403 Tradewinds, Inc.

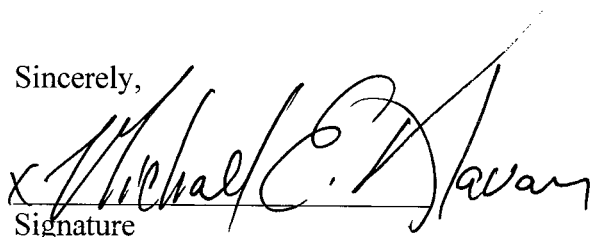
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

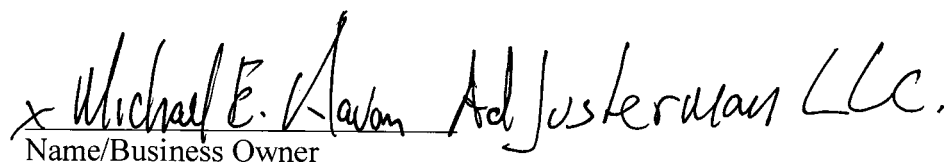
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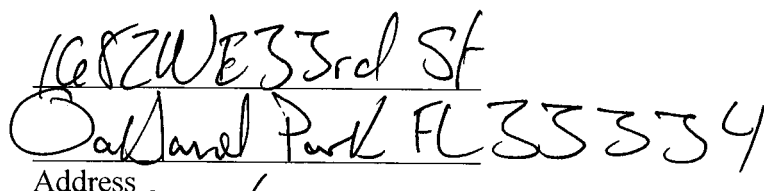
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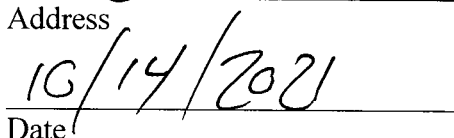
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Sincerely,

x 
Signature

x  Ad Justerman LLC.
Name/Business Owner


Address


Date

4403 Tradewinds, Inc.

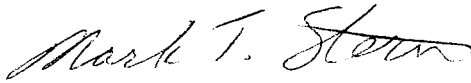
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4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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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.

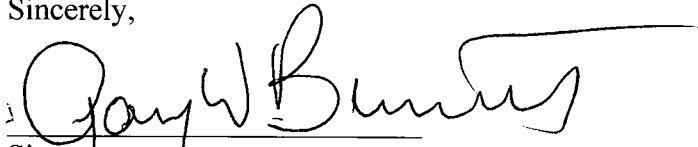
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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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
Lauderdale-By-The-Sea Variance Request

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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.

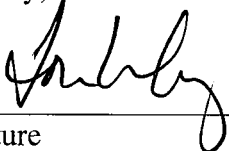
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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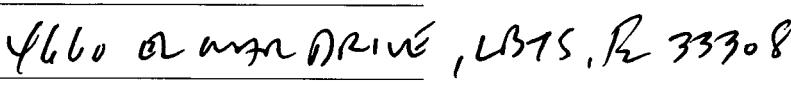


Signature

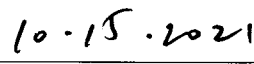


Name/Business Owner





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.

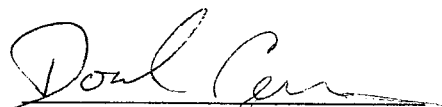
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

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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.

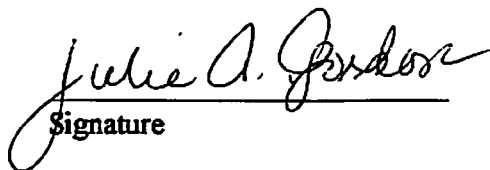
Ms. Jo Ann Hoffman
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4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

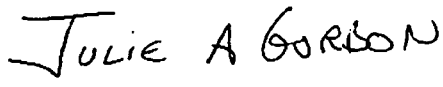
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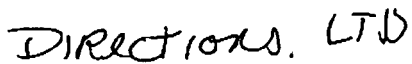
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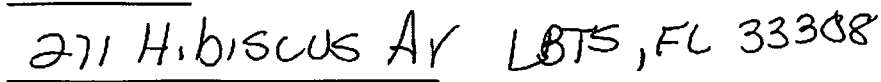
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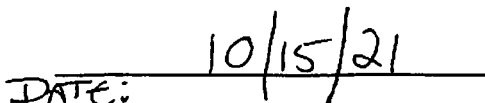
Sincerely,


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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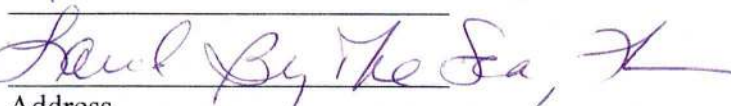
Sincerely,



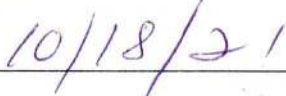
Signature



Name/Business Owner



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

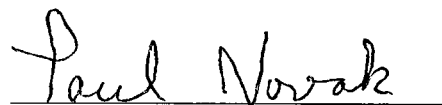
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Sincerely,



Signature



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

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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.

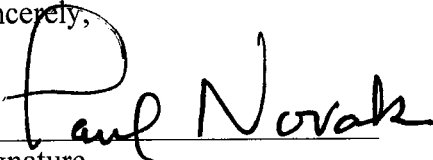
Ms. Jo Ann Hoffman
4403 Tradewinds, Inc.
4403-4405 Tradewinds Avenue
Lauderdale By The Sea, FL 33308

RE: 4403-4405 Tradewinds Avenue
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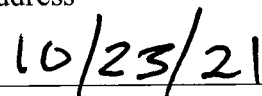
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Sincerely,


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

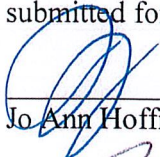
Dear Homeowners, Property Owners and Interested Parties:

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.

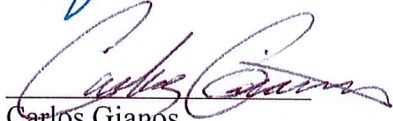
Pursuant to the recent Town Ordinance 2021-11 Amending Chapter 30 "Unified Land Development Regulation," Article V "Zoning" to Create Section 30-114, "Citizen Participation Required," the applicant for a variance is required to conduct a minimum of one public meeting with residents, property owners and 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.

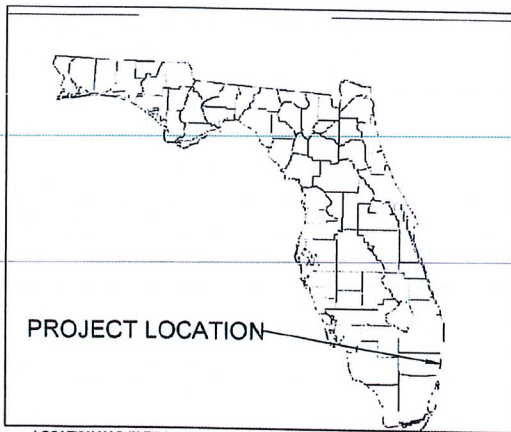

Jo Ann Hoffman

12/8/2021
Date of Notice


Carlos Gians

12/8/2021
Date of Notice

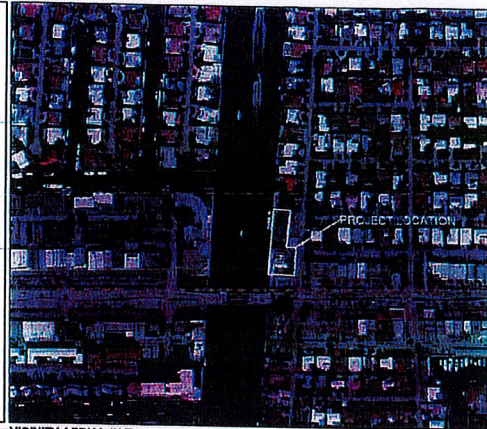
4403-4405 TRADEWINDS AVE PLAN SET



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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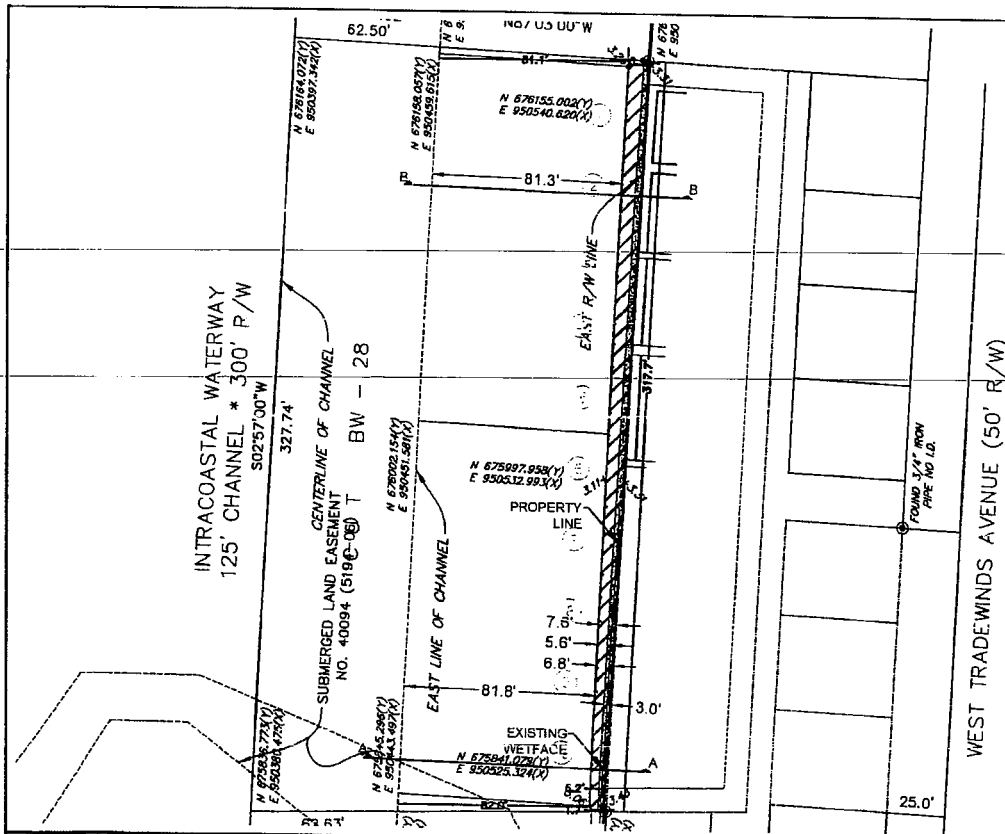
4403-4405 TRADEWINDS AVE

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'



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 351 S. Cypress Road, Suite 105
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 Tel: (954) 343-1740
 Fax: (954) 343-1721

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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.

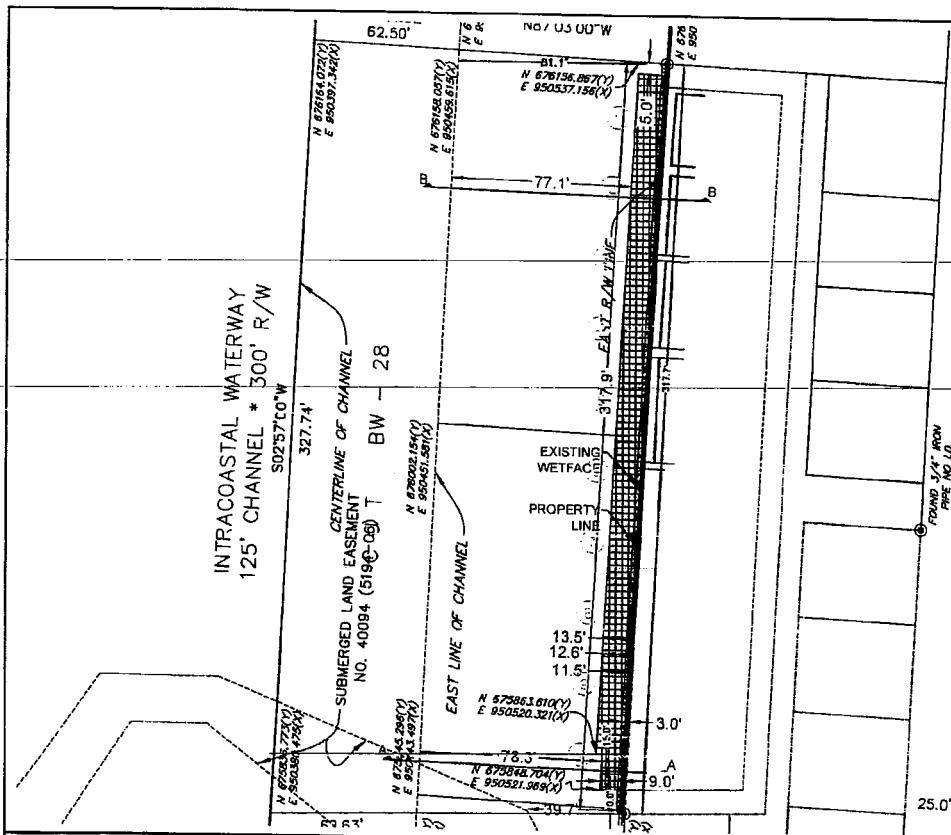
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4403-4405 TRADEWINDS AVE
 PREPARED FOR:
 4403 TRADEWINDS, INC.

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
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 Fax: (954) 545-1721

SEAL SIGNATURE DATE

John Oniskar
 PE 57351, 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.

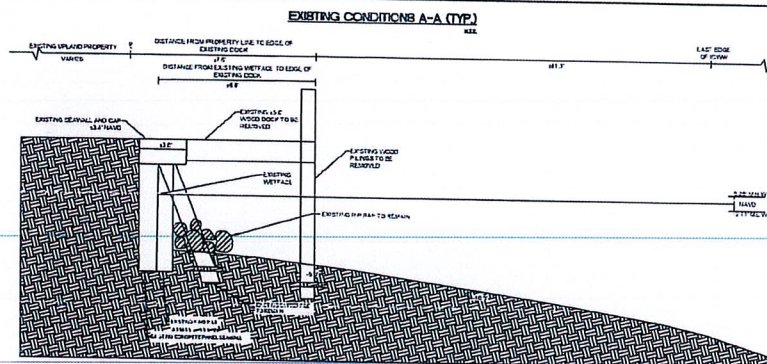
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4403-4405 TRADEWINDS AVE
 PREPARED FOR:
 4403 TRADEWINDS, INC.

PROPOSED CONDITIONS		
Date: 12/23/2020	Sheet: 3	of: 6
Proj No.: 20-0077		



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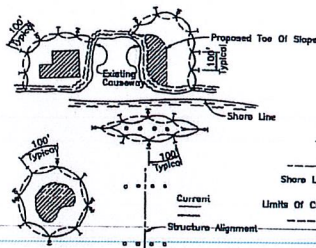
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4403-4405 TRADEWINDS AVE

SECTION A

Date: 12/23/2020	Sheet : 4	of : 6
Proj No.: 20-0077		



NOTES

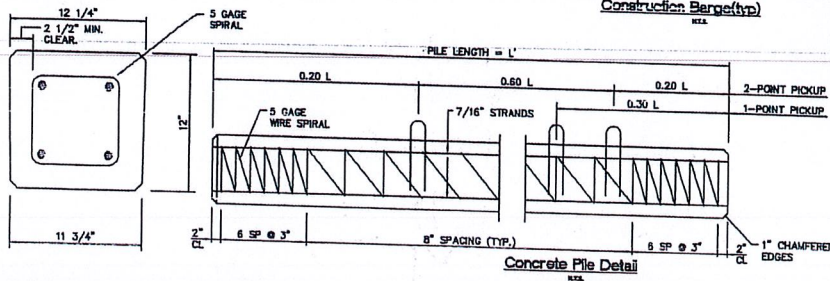
1. Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.
2. Number and spacing of divers dependent on current velocities.
3. Deployment of barrier around pile location may vary to accommodate construction operations.
4. Modifications may require engineering barrier during construction operations.
5. For additional information see Section 104 of the Standard Specifications.

NOTES

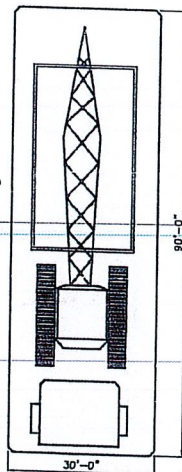
1. Turbidity barriers for flowing streams and tidal creeks may be either floating, or skirted types, or any combination of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractor's option unless otherwise specified in 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

MSA



Concrete Pile Detail



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 vibration 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 piles must penetrate strata offering high resistance to driving, the attached engineer of record or special inspector may require removal 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 shoring used for pile construction 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 alternate direction by having the longitudinal steel around the corner 45 bar diameter.
7. For rebar of deflection, cracked, or loose concrete, the rebar 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. The rate of concrete repair with sulfate-resistant cement cover.
8. A 1" deep control joint shall be located in second bay of every other pile location, or maximum 20' O/C spacing.
9. 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 heavy bodied bituminous paint or water-white methacrylate lacquer.
10. Concrete pile concrete shall attach 6000 psi compressive strength in 28 days.
11. Concrete piles shall be reinforced with (4) #4 in-top strands, 270 Mpa, and #5 spiral ties.
12. Concrete piles shall be 17'x17" square, 20 feet minimum length.
13. Concrete piles shall be driven to a minimum bearing capacity of 25 tons.

GENERAL NOTES

1. Construction to follow 2014 Florida Building Code, 9th 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 unexcused 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 surround all in 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.

PILE INFO

CONCRETE COMPRESSION STRENGTH:
5000 PSI @ 28 DAYS
5000 PSI @ 90 DAYS
SPIRAL TO BE ASTM A-618 TIGHT HAND-DRAWN WIRE
STRANDS - USE FOUR 7/16" (270MPa) LOW ALLOY STEEL STRANDS 415-87 ULTIMATE TENSILE STRENGTH TO BE 230 KIPS EACH
1-POINT PICKUP-MAXIMUM L = 50'
2-POINT PICKUP-MAXIMUM L = 65'

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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 Omsizer
PE 52733, EB 26K29

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4403-4405 TRADEWINDS AVE

PREPARED FOR:
4403 TRADEWINDS, INC.

DETAILS

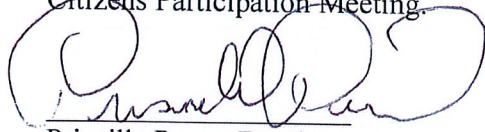
Date: 12/23/2020	Sheet: 6	of: 6
Proj No: 20-0077		

AFFIDAVIT OF MAILING

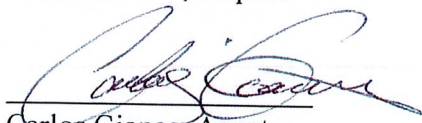
RE: 4403-4405 West Tradewinds Avenue
Lauderdale-By-The-Sea Variance Request

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 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
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 TRSTEE
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
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CODY, DENA M CODY, WILLIAM D JR
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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
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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
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
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ERNST, VALERIE MARIA VALERIE MARIA ERNST
REV TR
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SPRING LAKE, NJ 7762

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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
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
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FISCHELE,CHRISTIAN
7 RUE CHERBULLEZ
*GENEVA, CH



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LUFFER, CHARLES SEGAL, CAROLE
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FORT LAUDERDALE, FL 33308

HALKIAS, ELAINE C
5100 DUPONT BLVD #7I
FORT LAUDERDALE, FL 33308

NARDINI, IVO
5100 DUPONT BLVD # 7J
FORT LAUDERDALE, FL 33308

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

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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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 Lavonia Miller	5100 Dupont Blvd Ft Lauderdale 33308	
Rat. Vicki Sprungstead	5100 Dupont Blvd 4C	
Robert Taylor	5100 Dupont	

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)