



FLORIDA DEPARTMENT OF Environmental Protection

South District
PO Box 2549
Fort Myers FL 33902-2549
SouthDistrict@FloridaDEP.gov

DEP #21-0256

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

BEFORE THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: Bay Street Dock Association/ LGI
Dock 44

OGC Case No. 19-1471

Petition for *Variance* from
Provisions of Rule[s] 62-330.302(1), F.A.C.

DEP File No.: 311115-006

ORDER GRANTING PETITION FOR VARIANCE

On July 18, 2019, Bay Street Dock Assoc., Inc., Petitioner, filed a petition with the Florida Department of Environmental Protection (Department) requesting a section 120.542, Florida Statutes, variance from the requirements of Rule 62-330.302(1), Florida Administrative Code (F.A.C.). Rule 62-330.302(1) F.A.C., requires compliance with the additional dock criteria in Section 10.2.5 of Volume I of the Applicant's Handbook for docks location in Class II waters which are either approved or conditionally approved for shellfish harvesting. The condition limits the number of slips at a multi-family dock to no more than 10. The Petitioner seeks a variance in order to allow for the addition of a temporary slip for a water taxi.

Notice of receipt of the petition was published in the Florida Administrative Register on September 12, 2019. No public comment was received.

BACKGROUND AND APPLICABLE REGULATORY CRITERIA

1. To modify an existing 10-year sovereignty submerged lands lease for a private residential 16-slip docking facility to expand the lease area from 6,047 square feet to 7,057.87 square feet for 1 temporary water taxi/ferry slip
2. The activities authorized by this variance are located at 8846 Bay Street, Little Gasparilla Island, Florida 33946, in Section 15, Township 42 South, Range 20 East in Charlotte County, at Latitude 26° 50' 6.0028" Longitude: 82° 17' 28.35".

The applicable rules state in pertinent part: "*or no more than ten vessels moored and no more than ten slips constructed in total at a private residential multi-family, commercial, or governmental dock at any time*" AH Handbook Volume I 10.2.5(a)1

THE VARIANCE OR WAIVER WILL MEET THE UNDERLYING PURPOSE OF
THE STATUTE

Section 120.542(2), Fla. Stat., states “variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.” The variance procedure is intended to provide relief from unreasonable, unfair, and unintended results in unique cases.

Rule 62-330.302(1), Florida Administrative Code (F.A.C.) states that in addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting **will comply with the additional criteria in section 10.2.5 of Volume I.**

Statute is designed to protect water used for shellfish harvesting by limiting the number of vessels in the area.

The Petitioner demonstrated that the purpose of the underlying statute has been achieved since the proposed slip is only temporary and necessary for residents to be able to leave the island which is un-abridged during an emergency.

Letter dated September 23, 2019 from the Florida Department of Agriculture and consumer Services states as follows “The proposed project consists of adding 252 square feet for a ferry landing to an existing, previously permitted multi-slip dock. The project is in the conditionally approved waters of the Lemon Bay Shellfish Harvesting Area (SHA#56). The location of the project is identified on the attached figure (Figure 1). Construction will take place by barge that drafts 12 inches and will only be used in waters greater than 12 inches. No demolition will take place and turbidity curtains will be used to preserve water quality standards during construction. If completed as proposed, the construction will not require re-classification or temporary closure of the closest shellfish harvesting area.

SUBSTANTIAL HARDSHIP TO THE PETITIONER and
VIOLATIONS OF PRINCIPLES OF FAIRNESS

“Substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. “Principles of fairness” are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. Section 120.54(2), Florida Statutes.

Petitioner requests a variance or waiver of the strict application of Rule 62-330.302, F.A.C., because applying the rules for licensure application would be unreasonable, unfair, and would create an unintended result, a substantial hardship.

The Petitioner demonstrated that that literal application of the rule would affect the Petitioner in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

In the event of an emergency evacuation, it is imperative that the vulnerable members of the community are provided safe and timely access to an escape from a natural disaster event. These events are likely as this area is a barrier island and susceptible to significant damage from a hurricane or severe storm

THEREFORE, IT IS ORDERED:

Based on the foregoing reasons, the Petitioner has demonstrated that it has met the requirements for a variance of 62-330.302, F.A.C. PETITIONERS REQUEST FOR A VARIANCE IS GRANTED.

This variance shall remain in effect for the duration of the permitted facility.

All activities shall be implemented following the plans, specifications and performance criteria approved by associated permits. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S. You (the petitioner) are required to publish at your own expense the enclosed notice of this variance. The notice is required to be published one time within 30 days, in the legal advertisements section of a newspaper of general circulation in the area affected. For the purpose of this rule, “publication in a newspaper of general circulation in the area affected” means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. The applicant shall provide proof of publication to:

Department of Environmental Protection
Submerged Lands & Environmental
Resource Protection
South District
PO Box 2549
Fort Myers, FL. 33902
SouthDistrict@floridadep.gov

The proof of publication shall be provided to the above address within seven days of publication. Failure to publish the notice and provide proof of publication within the allotted time shall be grounds for denial of the variance or waiver.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the request for a variance or waiver.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, telephone number, and any e-mail address of the petitioner; the name, address, telephone number, and any e-mail address of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing must be filed within 21 days of receipt of this written notice. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

DONE AND ORDERED this _____ day of _____ 2021 in Lee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Megan Mills
Permitting Program Administrator

Attachments:

Notice of Publication
Site Plan

Copies furnished to:

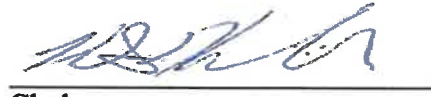
Petitioner
Joint Administrative Procedures Committee

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this Order, including all copies, were mailed before the close of business on April 16, 2021, to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

April 16, 2021
Date

SHEET INDEX:

- SHEET 1 NOTES AND VICINITY MAP
- SHEET 2 FIELD SURVEY EXISTING CONDITIONS
- SHEET 3 DOCK DETAIL
- SHEET 4 SUBMERGED LAND LEASE SKETCH
- SHEET 5 SUBMERGED LAND LEASE DESCRIPTION

VICINITY MAP:
NOT TO SCALE



SPECIFIC PURPOSE SURVEY OF:

THIS IS A FIELD SURVEY OF SUBMERGED LANDS LYING UNDER A PORTION OF LITTLE GASPARILLA SOUND (ALSO KNOWN AS PLACIDA HARBOR), SAID SUBMERGED LANDS LYING ADJACENT AND EASTERLY OF BAY STREET AS SHOWN ON GASPARILLA SHORES SHORES SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 71, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA

SURVEYORS NOTES:

THIS IS NOT A BOUNDARY SURVEY.

THE FIELD SURVEY WAS CONDUCTED ON 5/29/15, 6/3/2015. & 1/9/2020

THE SURVEY AS SHOWN HEREON WAS MADE WITHOUT BENEFIT OF ABSTRACT OF TITLE, AND THEREFOR THE UNDERSIGNED AND STRAYER SURVEYING AND MAPPING, INC. MAKE NO GUARANTEES OR REPRESENTATIONS REGARDING INFORMATION SHOWN HEREIN PERTAINING TO EASEMENTS, CLAIMS OF EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, OVERLAPS, BOUNDARY LINE DISPUTES, AGREEMENTS, RESERVATIONS OR OTHER SIMILAR MATTERS WHICH MAY APPEAR IN THE ABSTRACT, BUT IF THE SAME, OR ANY OF THEM ACTUALLY (IS) ARE IN EXISTENCE ON THE LAND SURVEYED, THEN IN THAT EVENT, THE SAME (IS) ARE SHOWN HEREON.

THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULT OF A SURVEY PERFORMED ON THE INDICATED DATE AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS AT THAT TIME.

ALL ELEVATIONS SHOWN HEREON ARE BASED ON THE N.A.V.D. 1988 VERTICAL DATUM, UNLESS OTHERWISE SPECIFIED. ELEVATIONS ARE BASED ON A COASTAL MONUMENT BENCHMARK #R-49 ELEVATION = 5.66' N.A.V.D. 88

THE SAFE UPLAND LINE ELEVATION WAS DETERMINED FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION TIDAL DATUM ELEVATION REQUEST FORM COMPLETED BY LAMAR EVERS. THE SAFE UPLAND LINE ELEVATION DETERMINED WAS 0.50 FEET N.A.V.D. 88.

THE COASTAL MONUMENT COORDINATES ARE PER COASTAL CONSTRUCTION CONTROL BOOK 2 PAGE 1, PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA AND WERE CONVERTED INTO THE N.A.D. 83 COORDINATE BASIS.

BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH AND COORDINATES SHOWN HEREON ARE BASED ON FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE AS REFERENCED TO NAD(83)-(2011)-(Epoch 2010.0000) AND WAS LOCATED USING THE FLORIDA PERMANENT REFERENCE NETWORK WITH REAL TIME KINEMATIC GPS.

SURVEY IS NOT VALID UNLESS ALL SHEETS (SHEET 1 TO 5) ARE PRESENT.

SUBJECT PARCEL LIES WITHIN AN AQUATIC PRESERVE WITH A TOTAL OF 33 LINEAR FEET OF SHORELINE CONSISTING OF MANGROVES AND WOOD FINGER DOCK. THE SHORELINE 1000 FEET EACH WAY OF THE SUBJECT PARCEL IS ALSO NATURAL MANGROVES WITH FINGER DOCKS EXTENDING OUT.

CERTIFIED TO:

THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

REVISION:

- 3/15/16: RE-REVISE LEASE AREA PER CLIENT REQUEST-R.S.S.
- 1/21/20: REVISE LEASE AREA & ADD NEW DOCK-E.B.B.
- 5/20/20: REV. PER F.D.E.P.-D.J.S.
- 7/2/20: REV. FERRY LANDING WIDTH

THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE "STANDARDS OF PRACTICE FOR SURVEYS" SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS & MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND IS NOT INTENDED TO MEET ANY OTHER MUNICIPAL OR NATIONAL STANDARD OR REQUIREMENT UNLESS NOTED.

STRAYER SURVEYING & MAPPING, INC.
LICENSED SURVEYOR BUSINESS NO. 6639

SHEET 1 OF 5

DATE OF FIELD SURVEY
5/29/15, 6/3/15 & 1/9/20



742 Shamrock Boulevard
Venice, Florida 34293
(941) 496-9488
(941) 624-4900
Fax (941) 497-6186

www.strayersurveying.com

FIELD BOOK: 646

PAGE: 54

CHECKED BY: R.S.S.

DRAWN BY: E.B.B.

FILE #: 15-04-61

ROBERT B. STRAYER, JR.

FLORIDA SURVEYOR & MAPPER REG'N #5027

"NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF

A FLORIDA LICENSED SURVEYOR AND MAPPER."

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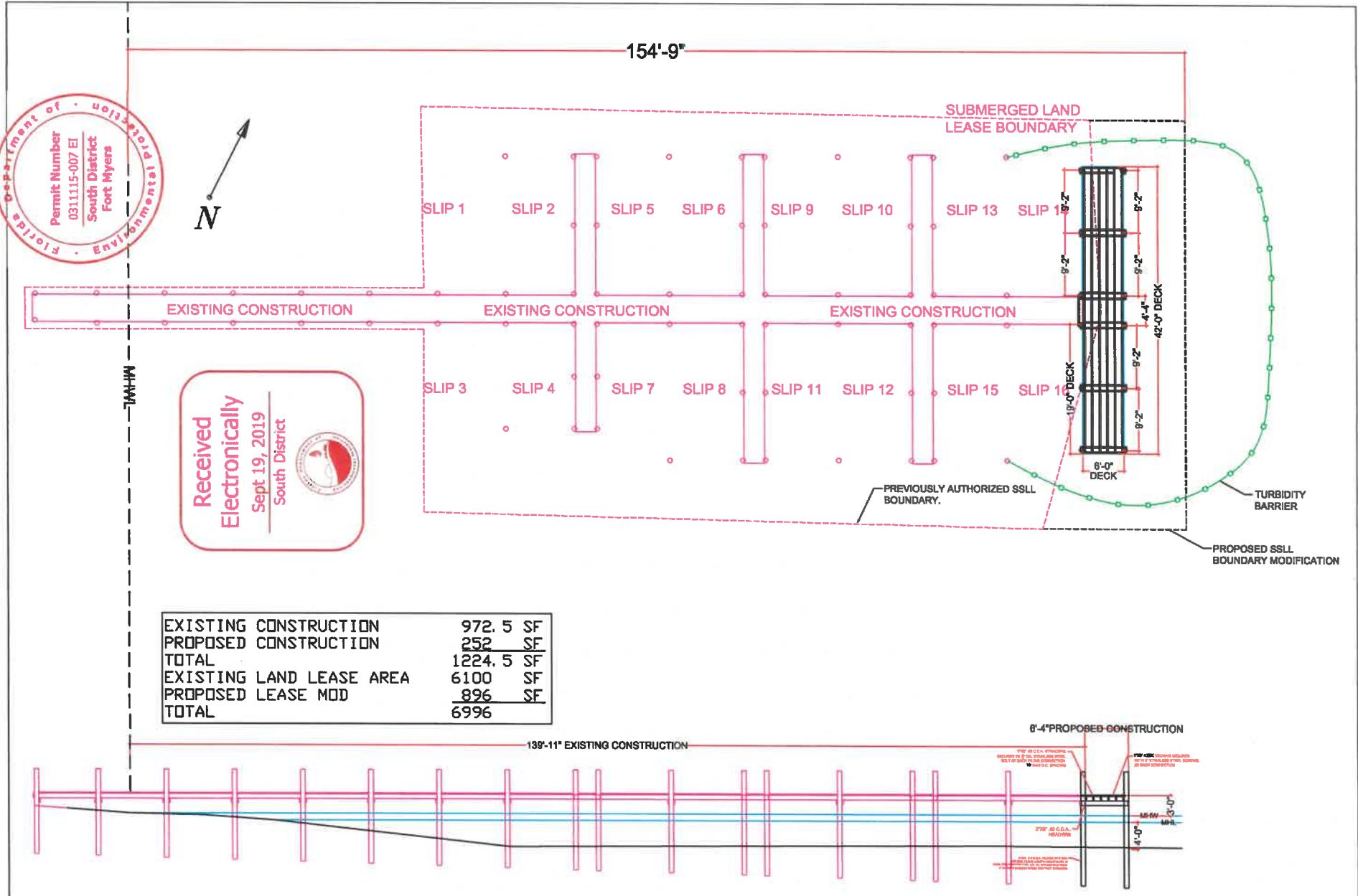
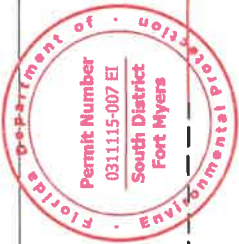
Received
 Electronically
 July 17, 2018
 South District



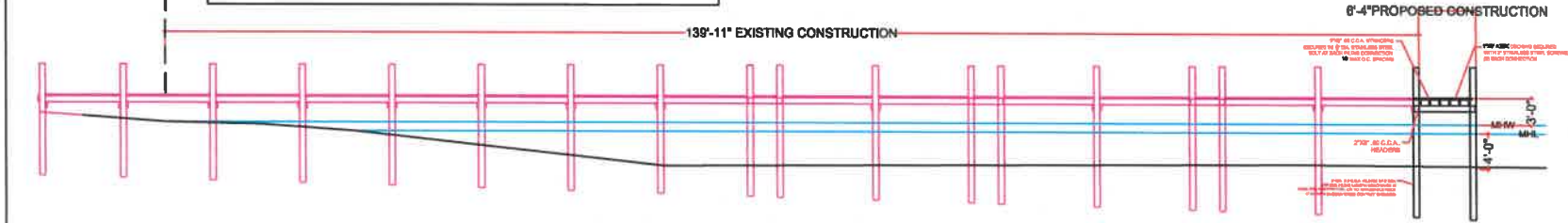
NEW PROPOSED

Florida Department of Environmental Protection
 Home Address
 BELLINGHAM
 South District
 Fort Myers
 11101 Highway 17, North





EXISTING CONSTRUCTION	972.5 SF
PROPOSED CONSTRUCTION	252 SF
TOTAL	1224.5 SF
EXISTING LAND LEASE AREA	6100 SF
PROPOSED LEASE MOD	896 SF
TOTAL	6996



INNOVATIVE MARINE STRUCTURES LLC

7571 SAWYER CIRCLE
 PORT CHARLOTTE, FLORIDA 33981
 941-697-7000

REV	DESCRIPTION	DATE	BY

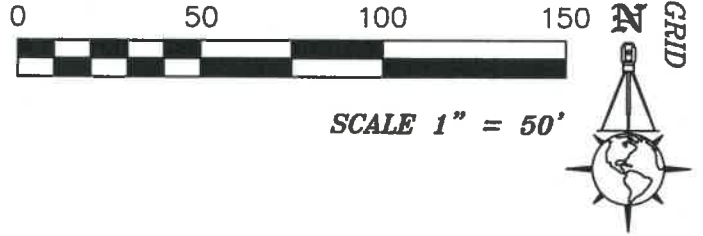
**8846 BAY STREET
 PLACIDA, FL. 33946**

DOCK FOR BAY STREET DOCK 44 ASSOCS.

SCALE: NOTED	DRAWN BY: TJL	DATE: 07/08/2018	DWG NO. SHEET	REV 1
			S-1	

LEGEND

- ⊗ = 5/8" IRON ROD FOUND (I.D. NOTED)
- ⊙ = NAIL & DISK (I.D. NOTED)
- N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
- L.B. = LICENSED SURVEYOR BUSINESS
- L.S. = LAND SURVEYOR
- (M) = MEASURED DIMENSION
- (C) = CALCULATED DIMENSION
- (P) = PLAT DIMENSION
- (TYP.) = TYPICAL
- I.D. = IDENTIFICATION
- R/W = RIGHT OF WAY



LOT 16, BLOCK B
GASPARILLA SHORES
PLAT BOOK 4, PAGE 71

T.B.M.
ELEV. = 0.83' NAVD88
FOUND IRON ROD LB #3943
"WITNESS CORNER"

BAY STREET
30' PUBLIC R/W

LOT 16, BLOCK C
GASPARILLA SHORES
PLAT BOOK 4, PAGE 71

SAFE UPLAND LINE
ELEVATION 0.5' (NAVD88)
JAN. 9, 2020
(SEE NOTE ON COVER)

DOCK #44
WOOD DOCK
(SEE DETAIL)

T.B.M.
ELEV. = 2.54' NAVD88
SET NAIL & DISK
L.B. #6639

WOOD PILING
(TYP.)

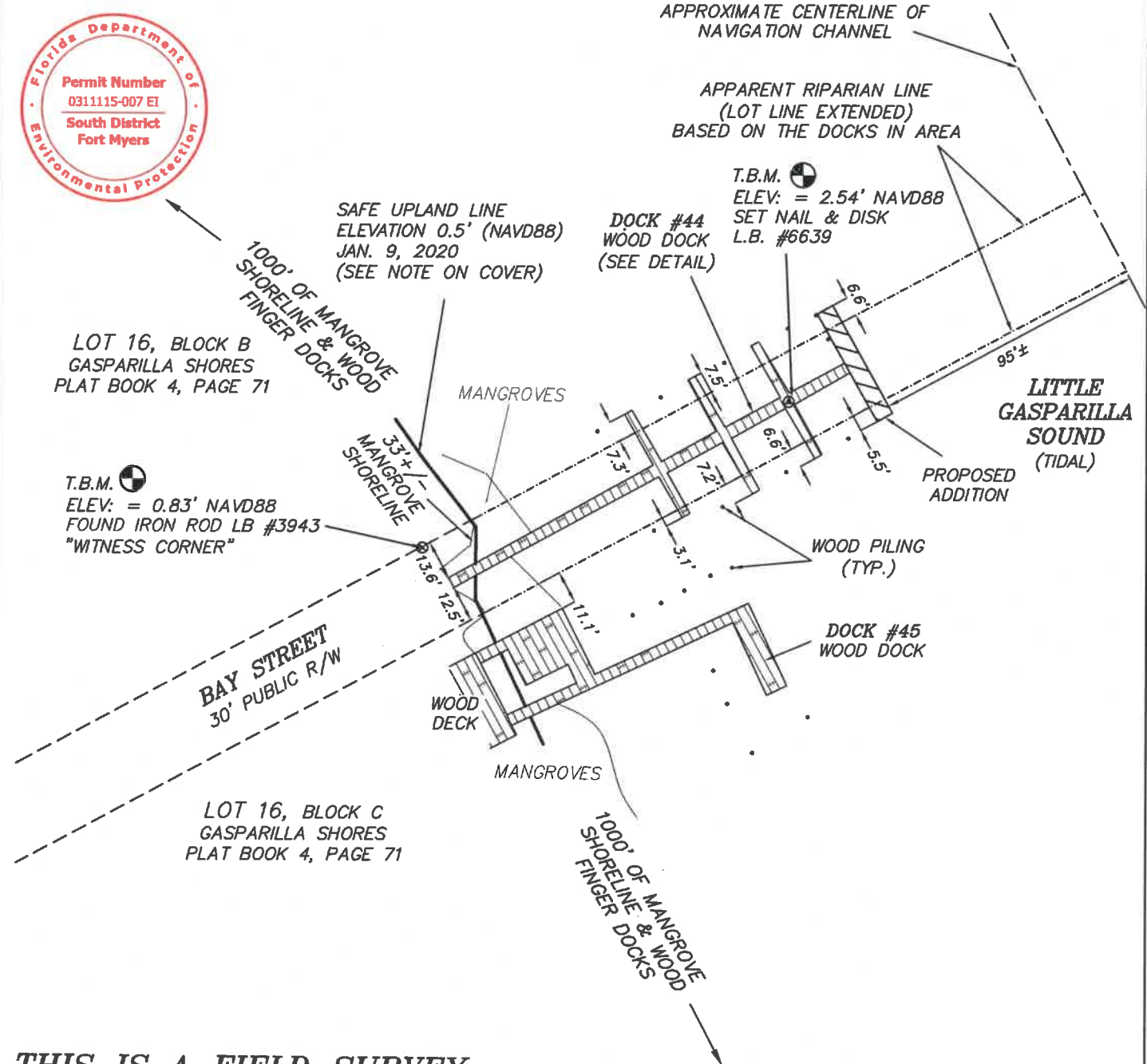
DOCK #45
WOOD DOCK

APPROXIMATE CENTERLINE OF
NAVIGATION CHANNEL

APPARENT RIPARIAN LINE
(LOT LINE EXTENDED)
BASED ON THE DOCKS IN AREA

LITTLE
GASPARILLA
SOUND
(TIDAL)

PROPOSED
ADDITION



**THIS IS A FIELD SURVEY
EXISTING CONDITIONS**

SHEET 2 OF 5
FILE #15-04-61
742 Shamrock Boulevard
Venice, Florida 34293
(941) 496-9488
(941) 624-4900
Fax (941) 497-6186
www.strayersurveying.com

EST. 1987
STRAYER
SURVEYING & MAPPING, INC.



0 20 40



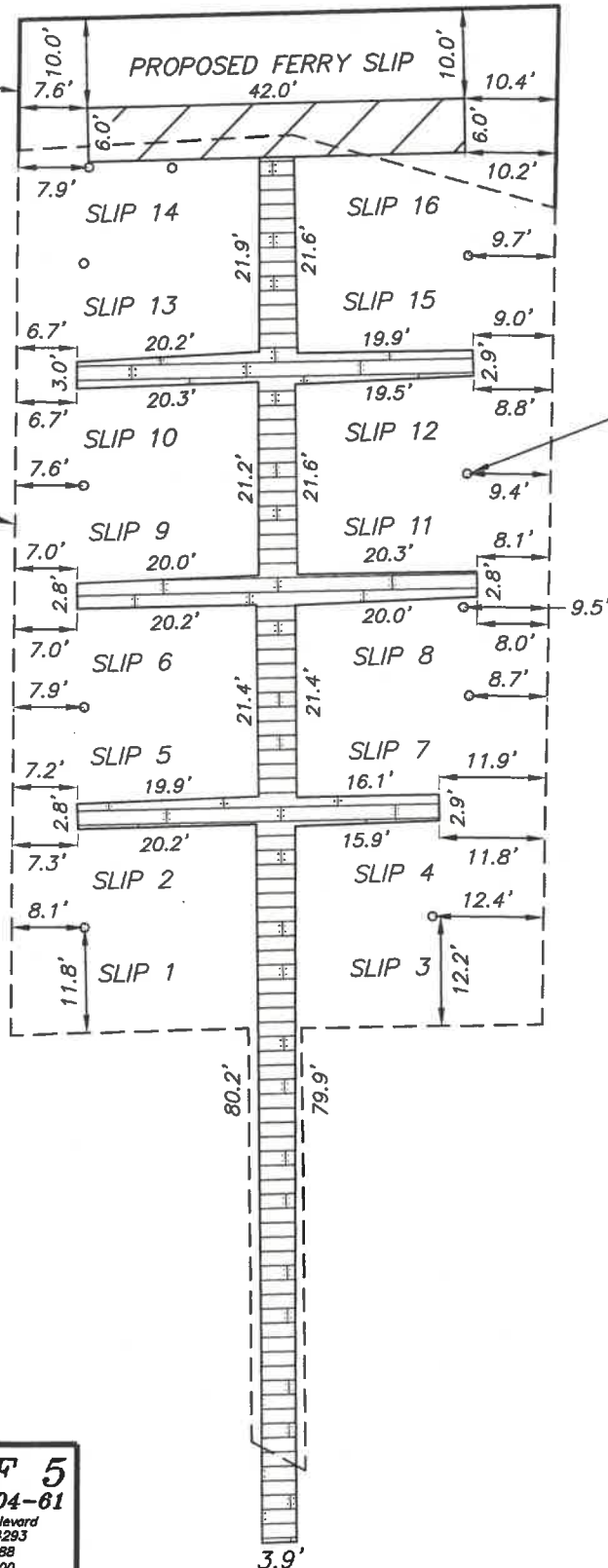
SCALE 1" = 20'

LITTLE GASPARILLA SOUND
 (TIDAL)

PROPOSED
 SUBMERGED LAND
 LEASE MODIFICATION

EXISTING
 SUBMERGED LAND
 LEASE LINE

WOOD PILING
 (TYP.)



DOCK #44 DETAIL

SHEET 3 OF 5

FILE #15-04-61

742 Shamrock Boulevard
 Venice, Florida 34293
 (941) 496-9488
 (941) 624-4900
 Fax (941) 497-6186



www.strayersurveying.com

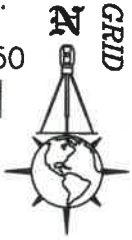
LEGEND

- ⊗ = 5/8" IRON ROD FOUND (I.D. NOTED)
- ⊙ = NAIL & DISK (I.D. NOTED)
- N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
- L.B. = LICENSED SURVEYOR BUSINESS
- L.S. = LAND SURVEYOR
- (M) = MEASURED DIMENSION
- (C) = CALCULATED DIMENSION
- (TYP.) = TYPICAL
- I.D. = IDENTIFICATION
- P.O.B. = POINT OF BEGINNING
- P.O.C. = POINT OF COMMENCEMENT

SECTION 15, TOWNSHIP 42 S., RANGE 20 E.



SCALE 1" = 50'



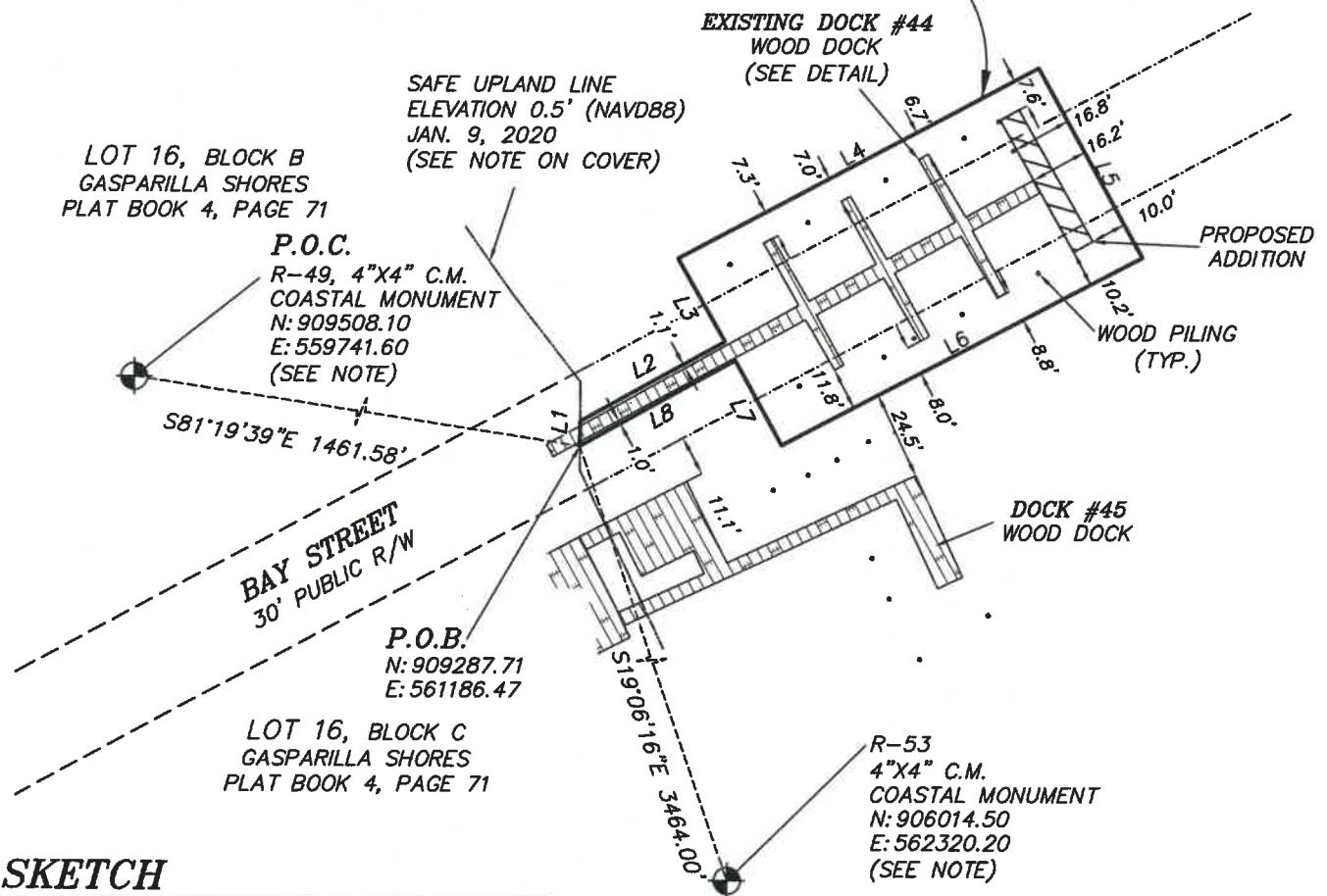
LINE TABLE

LINE	BEARING	DISTANCE
L1	N00°15'28" E	6.87'
L2	N61°06'04" E	46.17'
L3	N29°43'42" W	26.46'
L4	N62°04'41" E	113.71'
L5	S28°53'56" E	60.09'
L6	S62°28'46" W	113.41'
L7	N28°53'56" W	26.84'
L8	S61°06'04" W	49.46'



LITTLE GASPARILLA SOUND
(TIDAL)
ALSO KNOWN AS PLACIDA HARBOR

SUBMERGED LAND LEASE
7,057.87 Sq. Feet ±



SKETCH

SHEET 4 OF 5

FILE #15-04-61

742 Shamrock Boulevard
Venice, Florida 34293
(941) 486-9488
(941) 624-4900
Fax (941) 487-6186



www.strayersurveying.com

Notice for Newspaper Publication

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION NOTICE OF
ORDER GRANTING VARIANCE

The Department of Environmental Protection gives notice of its determination pursuant to section 120.542, Florida Statutes, in File No. 311115-006 to grant a variance to from Rule 62-330.302(1), F.A.C. Florida Administrative Code (F.A.C.), in order to Bay Street Dock Association/ LGI Dock 44 To modify an existing 10-year sovereignty submerged lands lease for a private residential 16-slip docking facility to expand the lease area from 6,047 square feet to 7,057.87 square feet for 1 temporary water taxi/ferry slip at 8846 Bay Street, Little Gasparilla Island, Florida 33946, in Section 15, Township 42 South, Range 20 East in Charlotte County, at Latitude 26° 50' 6.0028" Longitude: 82° 17' 28.35".

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

In accordance with rule 62-110.106(3) of the Florida Administrative Code, petitions for an administrative hearing must be filed within 21 days of publication of this notice or receipt of

written notice, whichever occurs first. However, any person who has previously asked the Department for notice of this agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it.

A person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time.

Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation is not available in this proceeding.

On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, this process may result in a modification of the agency action or even a denial of the request for a variance or waiver.

A copy of the Order may be obtained by contacting: [name of person], Department of Environmental Protection, MS [###], [address], Florida [zip code]; telephone [number]; [e-mail] during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.