



**AGENDA
HARBOR AND WATERWAYS BOARD MEETING
MONDAY, SEPTEMBER 26, 2022
5:30 PM
DESTIN CITY HALL ANNEX COUNCIL CHAMBERS**

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**
- 2. APPROVAL OF MINUTES**
- 3. OLD BUSINESS**
- 4. NEW BUSINESS**
 - A) Draft Land Development Code Marina Siting Section of the Draft Article 4 – Zoning Districts, Overlays, and on-site regulations.**
 - B) Single-Family Residential Marine Construction Proposed at 155 Calhoun Avenue**
 - C) Commercial Marine Construction Proposed at 105 and 109 Calhoun Avenue**
- 5. COMMITTEE MEMBER REPORTS**
- 6. PUBLIC COMMENTS** (Comments from the public on any matters considered at the meeting, or on any matters not on the agenda)
- 7. NEXT MEETING DATE: October 24, 2022**

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the City Clerk at (850) 837-4242 at least 48 hours prior to the hearing. If a person decides to appeal any decision made with respect to any matter considered at such meeting, such person will need a record of the proceeding and for such purpose may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. (Sec. 286.0105, Florida Statutes)

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: September 26, 2022
BOARD/COMMITTEE: Harbor & Waterways Board
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 4.A.

TO: Harbor & Waterways Board

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kyle Bauman, City Attorney

FROM: Steve O'Connor, Principal Planner

DATE: September 16, 2022

SUBJECT: Draft Land Development Code Marina Siting Section of the Draft Article 4 – Zoning Districts, Overlays, and on-site regulations.

I. BACKGROUND: Over the past three (3) years, the City has diligently and judiciously undertaken the task of updating and aligning the City's Comprehensive Plan with the Future Land Use Map and the Zoning Map. That task is now complete. The City now needs to update and align the City's Land Development Code (LDC) with the recent changes to the Comprehensive Plan.

To accomplish this task, on April 5, 2021, Staff brought the Scope of Work and Budget to completely rewrite the Land Development Code for approval to the City Council, both of which were approved unanimously. Since that time, Staff has worked with the consultants of 3TP to diligently and systematically move forward with drafting the new LDC. To provide overall context to the HWB regarding the Staff's approach to the LDC rewrite, the Staff would like to take this opportunity to provide both a framework and methodology for the LDC update. The discussion tonight seeks input and direction from the HWB on the proposed Marina Siting language.

II. DISCUSSION: Framework:

First, the updated Code will include only the regulations necessary to implement the City's Comprehensive Plan and meet Florida Statutes. As such, all design-related requirements will be provided in a "**Design Manual**" to be developed as part of the LDC rewrite.

Second, the regulations will be grouped by zoning district, and the Planning Areas will be the guiding elements of the new rules. In addition, the LDC rewrite will involve rearranging

the existing language into a new format.

Article 4: Zoning Districts, Overlays, and on-site regulations

As stated earlier, the LDC Rewrite Project is a complete reorganization and update to the development standards and regulations for the City of Destin. Currently, the **Marina Siting** is located in *Article 11 – Coastal Management and Conservation*. The reorganization of the regulations has taken all procedural processes and placed them in **Article 2 – Administration. Meaning**, all marine projects' application review and approval by the Harbor and Waterways Board (HWB) is proposed to be located there. While the specific development standards are proposed to be placed in *Section 4.11 – Marina Siting of Article 4 - Zoning Districts, Overlays, and on-site regulations*.

Section 4.11 – Marina Siting

This discussion focuses on the proposed Marina Siting specific regulations and development standards. The attached Section 4.11 lists all the development standards that an applicant must meet when proposing a residential or commercial dock. The language included in the proposed Marina Siting Section 4:11 is significantly less than what is currently in *11.05.00 – Marina Siting* due to the reorganization of the LDC and pulling the application procedures from the current Marina Siting regulations to the new Code.

The intent of the discussion is to find out if there are any elements or regulations the Board considers to be missing or need to be improved for stronger regulations or clarity, regarding the development of marine facilities. This can include new requirements to meet state or federal regulations for marine facilities, such as fuel abatement plans, max length, slip densities, etc.

- A. Link to Strategic Goals / Objectives:** 1) Enhance Quality of Life
2) Enhance and Preserve Heritage and Environment.
- B. Effect on Budget (EOB):** There is no anticipated effect on the budget.
- C. Level of Service (LOS):** There is no anticipated effect on the LOS.
- D. Legislative Sponsor:**

III. CONCLUSION: Staff is seeking the Board's recommendation of the proposed development regulations for marine facilities as presented in *Section 4.11 – Marina Siting* of the draft Article 4 of the LDC. Any recommendations the Board provides will be incorporated into a report for the Local Planning Agency (LPA) and City Council's consideration and review before going back to the consultants for final draft development.

STAFF RECOMMENDATION: Staff recommends the Harbor & Waterways Board forward a positive recommendation to City Council for the proposed Marina Siting language.

IV. RECOMMENDED MOTION: I move that the Harbor & Waterways Board recommend City Council approve the proposed language of Section 4.11 – Marina Siting of the Draft *Article IV – Zoning Districts, Overlays, and on-site regulations* as presented.

Attachments:

ITEM # 2022-5807

1. Section 4.11 - Marina Siting
2. Ordinance 20-06-LC Marina Siting
DRAFT - With comments
3. Section 2.13.04 - Marine Construction
Permits
4. Section 4.11 - Marina Siting

Section 4.11 Marina Siting

This article establishes and regulates procedures and standards by which the City controls and regulates development, construction, and activities within and contiguous to the Harbor and waterways of Destin.

Section 4.11.01 Marina/Dock Standards

A. General Regulations.

1. No person shall construct or add to an existing dock, seawall, bulkhead, mooring or piling, modify an existing submerged land lease, or conditions thereto, or conduct dredge or fill operations in, or contiguous to, the Harbor or waterways of Destin without first obtaining the proper authorization from the appropriate federal, state and City agencies.
2. The addition or modification of a boat lift or pilings within an existing legal and conforming boat slip shall not require the review of the Harbor and Waterways Board or the City Council. Rather, a copy of the U.S. Army Corps of Engineers permit, DEP permit, and a homeowner's association approval (if applicable) shall accompany a completed application for a building permit, provided no additional slips are created.
3. No fuel or oil shall be willfully or knowingly discharged in the Harbor or waterways of Destin. No dock which sells fuel or oil shall be constructed, operated or maintained in the Harbor or waterways of Destin unless an oil abatement plan, in accordance with Coast Guard guidelines, is available at each dock. The Destin Harbor and Waterways Board shall review and recommend approval or disapproval of each oil abatement plan to the City Council, which shall have approval authority. Each existing dock which sells fuel or oil shall develop and have approved an oil abatement plan acceptable to the City. All new docks which sell fuel or oil shall develop and have an approved oil abatement plan, which is acceptable to the City, prior to receiving a building permit from the City.

Recommendation: Move items 2 and 3 to Article II – Procedures for Marine Construction.

4. No dock shall be constructed which permits the commercial docking of boats with on-board toilets unless such the dock is equipped with a sewage pump-out.
5. No dock shall be constructed which permits the docking of a live-aboard unless such vessel has an operable holding tank.
6. No commercially operated boat docking facilities shall be permitted or operated unless equipped with firefighting facilities as specified by the City.

B. Dimensional Requirements.

1. The following table includes the maximum dock length allowed for any new dock construction or modifications. For the purpose of this subsection, lots may be combined with neighboring lots, however no dock may exceed the limitations outlined in this section:

Dock Location	Maximum Length Allowed
Any waterfront property not adjacent to Choctawhatchee Bay or zoned South Harbor Mixed Use (SHMU)	The width of the lot at the mean high-water line, or 20% of the width of the adjacent waterway at the place the pier is located, whichever is less.
Waterfront property with uplands zoned South Harbor Mixed Use (SHMU)	1.5 times the width of the lot at the mean high-water line, or 20% of the width of the adjacent waterway at the place the pier is located, whichever is less.
Waterfront property adjacent to Choctawhatchee Bay.	1.5 times the width of the lot at the mean high-water line, or 200 feet, whichever is less.

Waterfront Property with less than 50 feet of waterfront shoreline.	No individual dock is allowed, unless parallel to the shoreline. Docks may be allowed if lots are combined with neighboring lots in accordance with section xx.
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2. No dock shall be constructed or modified such that slip density exceeds one slip per eight lineal feet of waterfront footage except that, on canals, no lot may have more than one slip per 45 linear feet of waterfront. However, all lots riparian to a canal shall be entitled to at least two slips on the canal.
3. No pier shall extend more than six feet into a canal right-of-way.
4. No dock or vessel shall be placed within the 25-foot setback of a property line without providing prior written notification to the adjoining landowners and requesting their response. Any objections received from the adjoining property owners will be considered by the Harbor and Waterways Board in their recommendations to the City Council.
5. No dock shall unreasonably interfere with the riparian rights of others.
6. Shorelines shall require protection from erosion as determined by the City.

Recommendation: Delete Item 5 (covered by item 4) and specify what specifically may be required in Item 6.

C. Design Requirements

1. No dock of 100 feet or longer shall be constructed unless a white navigation/security night-light is installed at the furthest point seaward on said dock and such light is to be illuminated continuously from dusk to dawn every night of the year. All existing docks 100 feet or longer shall install and operate a navigation/security light pursuant to this subsection. Each light shall be installed within 90 days after adoption of this Code.
2. Where multiple slips extend from the shore and on multiple-slip docks and for any slip in a canal, aerators or circulation devices shall be required as determined by the City. Such devices shall be required where it is determined that circulation is deemed to be interfered with by the proposed facilities.
3. No person who maintains or operates a dock shall allow or permit the disposal of fish carcasses, litter, waste petroleum products or other pollutants into the Harbor or waterways of Destin. Trash disposal receptacles shall be anchored to each dock to ensure compliance with the provisions of this article.

ORDINANCE NO. 20-06-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA AMENDING SECTION 11.05.00 OF THE LAND DEVELOPMENT CODE; AMENDING REGULATIONS FOR MARINA SITING; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. AUTHORITY.

The authority for enactment of this Ordinance is Article 1, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Part II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City Council in providing for the health, safety and welfare of its citizens finds that the City should modify the regulations for marina siting; and

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted comprehensive plan and is in the best interests of the City and its citizens; and

WHEREAS, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol * represents sections of the Land Development Code that have been skipped and remain unchanged.**

SECTION 3. AMENDMENT OF LAND DEVELOPMENT CODE SECTION 11.05.00.

Section 11.05.00 of the Land Development Code is hereby amended as follows:

11.05.00. - Marina siting.

Section 4.11 11.05.01. *General regulations; prohibitions.* This article establishes and regulates procedures and standards by which the City controls and regulates development, construction and activities within and contiguous to the Harbor and waterways of Destin. The following regulations and prohibitions shall apply to the Harbor and waterways of Destin:

Section 4.11

No person shall construct or add to an existing dock, seawall, bulkhead, mooring or piling, modify an existing submerged land lease, or conditions thereto, or conduct dredge or fill operations in, or contiguous to, the Harbor or waterways of Destin without first obtaining the proper authorization from the appropriate federal, state and City agencies.

Section 4.11

B. All new commercial docks, marinas, upland cuts, and proposed single-family marine construction projects of 1000 square feet or more shall require approval from the Harbor and Waterways Board and City Council. The addition or modification of a boat lift or pilings within an existing legal and conforming boat slip shall not require the review of the Harbor and Waterways Board or the City Council. Rather, a copy of the U.S. Army Corps of Engineers permit, DEP permit, and a homeowner's association approval (if applicable) shall accompany a completed application for a building permit, provided no additional slips are created.

Move to Code of Ordinances

C. No fish carcasses and debris shall be discharged into the Harbor or waterways of Destin.

Move to Code of Ordinances

D. No person who maintains or operates a dock shall allow or permit the disposal of fish carcasses, litter, waste petroleum products or other pollutants into the Harbor or waterways of Destin. Trash disposal receptacles shall be anchored to each dock to ensure compliance with the provisions of this article.

Move to Code of Ordinances and to Section 2.13.04

E. No fuel or oil shall be willfully or knowingly discharged in the Harbor or waterways of Destin. No dock which sells fuel or oil shall be constructed, operated or maintained in the Harbor or waterways of Destin unless an oil abatement plan, in accordance with Coast Guard guidelines, is available at each dock. The Destin Harbor and Waterways Board shall review and recommend approval or disapproval of each oil abatement plan to the City Council, which shall have approval authority. Each existing dock which sells fuel or oil shall develop and have approved an oil abatement plan acceptable to the City. All new docks which sell fuel or oil shall develop and have an approved oil abatement plan, which is acceptable to the City, prior to receiving a building permit from the City.

Section 4.11

F. No new or existing dock shall be constructed or modified such that the length of any pier as completed is greater than 20 percent of the width of the Harbor or waterway at the place where the pier is located, or out 200 feet, whichever is less, except in Choctawhatchee Bay.

Section 4.11

G. No piling(s) shall be added to the waterward end of any pier which piling(s) would make the total length of the dock more than 200 feet, or 20 percent of the waterway, whichever is less, except in Choctawhatchee Bay.

Move to Code of Ordinances

H. No vessel shall be moored or docked on the waterward end of any pier of the maximum legal length, as determined pursuant to subsection F above, for more than 72 hours.

Section 4.11

I. No dock shall be constructed which permits the commercial docking of boats with on-board toilets unless such the dock is equipped with a sewage pump-out.

Section 4.11

J. No dock shall be constructed which permits the docking of a live-aboard unless such vessel has an operable holding tank.

Move to Code of Ordinances

K. No boat shall be moored in the Harbor or waterways of Destin such that constitutes a hazard to navigation.

Section 4.11

L. No dock shall be constructed such that it constitutes a hazard to navigation.

M. Excepting docks connected to uplands zoned SHMU, or those located on Choctawhatchee Bay, no dock shall be longer than the width, at the mean high-water line, of the lot to which the dock is attached.

1. For those docks connected to uplands zoned SHMU, or those located on Choctawhatchee Bay, a dock may be constructed to a length of 1.5 times the width of the property at the mean high-water line, provided the length of the dock not exceed the maximum length established by paragraphs F and G above.
2. For the purpose of this subsection, lots may be combined with neighboring lots. However, no dock may exceed the limitations specified in subsection F above.

Section 4.11 N. No dock shall be constructed or modified such that slip density exceeds one slip per eight linear feet of waterfront footage except that, on canals, no lot may have more than one slip per 45 linear feet of waterfront. However, all lots riparian to a canal shall be entitled to at least two slips on the canal.

Move to Code of Ordinances O. No boat or vessel, entering into, exiting or operating within the Destin Harbor shall operate at such speed that would create a wake that endangers other boats or vessels, swimmers or other persons within the Destin Harbor, or would contribute to any adjacent land erosion.

Move to Code of Ordinances P. No heated or cooled water may be emitted into the Harbor, waterways, or the Harbor canals other than from a boat.

Section 4.11 Q. No pier shall extend more than six feet into a canal right-of-way.

Move to Code of Ordinances R. No discharge of water shall contain phosphorous or any other substance likely to cause a violation of the water quality standards specified in Chapter 17-302, Florida Administrative Code.

Section 4.11 S. No dock or vessel shall be placed within the 25-foot setback of a property line without providing prior written notification to the adjoining landowners. ~~and requesting their response.~~ Any objections received from the adjoining property owners will be considered by the Harbor and Waterways Board in their recommendations to the City Council.

Section 4.11 T. No dock shall unreasonably interfere with the riparian rights of others. Any objections received from the adjoining property owners will be considered by the Harbor and Waterways Board in their recommendations to the City Council.

Section 4.11 U. No dock of 100 feet or longer shall be constructed unless a white navigation/security night-light is installed at the furthest point seaward on said dock and such light is to be illuminated continuously from dusk to dawn every night of the year. All existing docks 100 feet or longer shall install and operate a navigation/security light pursuant to this subsection. Each light shall be installed within 90 days after adoption of this Code.

Section 4.11 V. No commercially operated boat docking facilities shall be permitted or operated unless equipped with firefighting facilities as specified by the City.

Section 4.11 W. No construction shall be allowed which violates any provision of the Standard Building Code, as adopted by the City.

Section 4.11 X. No electrical or water service upon any dock shall be installed unless a permit is obtained from the Planning Department and Building Department for that service.

Move to Code of Ordinances Y. No person, while operating a boat within the or waterways of Destin shall allow or permit the disposal of fish carcasses, litter, waste, petroleum products or other pollutants into the Harbor or waterways of Destin from such boats.

Section 4.11 Z. No lot, or multi-contiguous lots, with less than 50 feet of waterfront footage shall be allowed individual docks, unless they are parallel to the shoreline. However, docks may be allowed under the provisions of subsection 11.05.01.M.2. Any objections received from the adjoining property

owners will be considered by the Harbor and Waterways Board in their recommendations to the City Council.

Section 4.11 X. Commercial marine businesses located in South Harbor Mixed Use (SHMU) and/or Calhoun Mixed Use (CMU), that operate or rent passenger vessels must provide designated docking facilities, whether privately owned or leased.

Section 2.13.04 11.05.02. *Permitting procedures.* The following procedures shall be adhered to by persons desiring to construct a new dock or add to, alter or remodel, add riprap to, or reconstruct an existing dock:

- A. Persons desiring to construct a new dock or add to, alter, remodel, add riprap to, or reconstruct an existing dock shall apply for and obtain a permit and other authorization from the City prior to construction.
- B. Each applicant shall designate the location of his property on the or waterways of Destin and attach this to the building permit application and must complete the City application form(s).
- C. Application shall be made by filing with the City, the City's permit application form and a copy of the joint application form used by the United States Army Corps of Engineers, and the Florida Department of Environmental Protection, the requirements of which are expressly adopted herein as they existed on the effective date of this Code, and as they are hereafter amended by said respective agencies.
- D. A building permit shall be obtained from the City prior to beginning construction, in accordance with City ordinances.
- E. If the dock is to have more than two slips for commercial use or for use by persons other than the owner, the applicant/owner shall supply a certified copy, from the Okaloosa County Tax Appraiser, of all names, addresses, and property I.D. numbers of the owners of adjacent waterfront property.
- F. City Staff ~~The Harbor and Waterways Board~~ shall review all timely received applications. Applications that meet the requirement of 11.05.01.B will be reviewed at the next regularly scheduled Harbor and Waterways Board meeting. The City Council shall take final action on the application within 30 days of receipt of all state and federal permits and the Board's recommendation.
- G. Marinas having ten or more slips and/or non-residential docking facilities shall require a public hearing before the City Council prior to approval. A marina having ten or more slips and/or non-residential docking facilities shall be denied if the City Council determines that the proposed development does not meet the criteria outlined in this section and, further if the proposed development is adverse to the public's interest.

Criteria for marinas and/or non-residential docking facilities:

- 1. Land use compatibility. The applicant shall demonstrate that the proposed development, including its proposed scale and intensity, traffic-generating characteristics, and off-site impacts are compatible and harmonious with adjacent land use and will not adversely impact land use activities in the immediate vicinity. The proposed development shall meet or exceed the requirements outlined in Article 7.12.00, City's Land Development Code.

2. Proper use of mitigative infrastructure. The applicant shall demonstrate the proposed development and site plan have been designed to incorporate mitigative techniques needed to prevent adverse impacts to surface waters. The proposed development shall meet or exceed the requirements outlined in Article 10.03.00, City's Land Development Code.
 3. Hazardous waste. The proposed development shall not generate hazardous waste or require use of hazardous materials in its operation without use of city-approved mitigative techniques designed to prevent any adverse impacts to adjacent surface waters. The development shall include best management principles and practices and must comply with the requirements outlined in Article 11.09.00, City's Land Development Code.
- H. Building permits must be obtained within one year of final approval by the City Council or the approval expires and must be resubmitted for reconsideration by both the Harbor and Waterways Board and City Council. The project will be subject to all current regulations of the City.
- I. The application must be signed by the title of record owner(s) or any long-term lessee of the abutting upland property.
- J. Applications for permission for dock or upland cut construction shall include scaled drawings, ~~prepared and certified by a land surveyor or architect, if requested by the Harbors and Waterways Board at the public hearing,~~ and said plans shall include at a minimum:
1. Boundary Survey or Plat, to include:
 - i. Location of the mean high-water line
 - ii. Linear feet of water frontage
 2. Accurate measurements for depth and width in several locations in the vicinity of the proposed dock, in addition to:
 - i. Linear feet and/or total square footage of the proposed project
 - ii. Boathouse height, if applicable
 - iii. Identification of environmentally sensitive areas, if applicable (i.e., sea grasses)
 2. Channels, shoals, obstructions, docks, markers, and proposed improvements.
 3. Accurate location of the applicant's shoreline, and the opposing shoreline with corresponding measurements, if applicable (i.e., Destin Harbor, Joe's Bayou, Indian Bayou)
 4. Riparian ~~lines~~ setbacks (i.e., 25' adjacent property lines)
 5. Other site-specific information.
- K. In water bodies of less than 100 feet in width, owners of property on the opposing shore to the proposed construction shall be provided with written notification of the proposed construction. Any objections received will be provided to the Harbor and Waterways Board and the City Council.

- L. Where multiple slips extend from the shore and on multiple-slip docks and for any slip in a canal, aerators or circulation devices shall be required as determined by the City. Such devices shall be required where it is determined that circulation is deemed to be interfered with by the proposed facilities.
- M. Shorelines shall require protection from erosion as determined by the City.
- N. A net positive environmental benefit (NPEB), equal to 25 percent of the cost of construction shall be made to the City of Destin by the applicant prior to issuance of a building permit for each construction project authorized by this Article, which is located within the Destin Harbor.
- O. No permit shall be issued by the City until the applicant obtains all authorizations and permits from federal and state agencies, and until the required NPEB funds are paid, if applicable.
- P. All applicants shall apply to the City and must receive preliminary approval for the proposed construction prior to taking any other action. Preliminary approval shall be considered for projects meeting the criteria outlined in 11.05.01.B by the City Council after review and recommendations of the Harbor and Waterways Board. If the application is for joint ownership of a dock, the applicant must obtain written permission from all title of record owners and long-term lessees of the abutting upland property. Upon approval of all appropriate federal and state agencies, final approval from the City Council shall be obtained before a permit is issued.
- Q. The following procedures shall apply to transferring permits:
 - 1. The permit is not transferable without the written consent of the City, which consent shall not be unreasonably withheld. The City Manager, or his designee, shall determine transferability upon recommendation of the Board. The decision may be appealed to the City Council.
 - 2. Whenever, during a construction project, a permittee transfers title of record to the abutting upland property or leases that property by long-term lease, a request by the original permittee shall be made to the City to transfer the permit. Forms for this purpose may be obtained from the City. Failure to apply for such a transfer within 30 days from the date the abutting upland property is sold or conveyed by long-term lease will result in an additional fee being charged to the original permittee by the City.
 - 3. At the time of transfer, all construction shall be inspected for compliance with the City's minimum plumbing, electrical and structural requirements and for compliance with the conditions of the existing permit. Fees for said inspections are set forth in Article 18 of this Code. All deficiencies shall be corrected prior to final transfer of the dock.
- R. All construction in the Harbor and waterways of Destin shall require a permit from the City.
- S. The applicant shall be responsible for personal injury or property damage which arises from construction and use of the project to the extent provided by common law.
- T. The City shall retain the right to revoke any permit issued under this Article if the health, safety or welfare of any person or property is in jeopardy, or for any other good cause. If the applicant fails to remove such structure within the time specified upon revocation of the permit, the City shall have the right to immediately remove the same at the cost and expense of the applicant. Good cause shall include, but not be limited to, violation of any permit conditions, or any provision of this Article.
- U. Upon completion of a dock, or other structure requiring a construction permit, a final inspection shall be conducted by the City. After the final inspection is complete, a certificate of occupancy will be issued which shall be a permanent permit for such dock or structure.

V. The addition or modification of an upland cut shall require the review of the Harbor and Waterways Board and City Council. A copy of the U.S. Army Corps of Engineers permit, DEP permit, and a homeowner's association approval (if applicable) shall be required at the time of permit issuance. The project will be subject to all current regulations of the City, and must meet the minimum side setback requirements for said zoning districts.

W. Written notice shall be provided to adjacent property owners in accordance with Article 2.17.00, Land Development Code.

11.05.03. *Inspection and repairs.* All construction shall be inspected by the City Building Inspector for compliance with applicable building codes. The permittee shall be responsible for the condition and repair of permitted docks and failure to maintain said docks in a safe condition shall constitute grounds for revocation of the permit.

11.05.04. *Permit revocation.* The City reserves full right, power and authority to revoke a permit at any time for good cause. In the event that permittee fails to remove said structure within the time specified upon revocation of the permit, the City shall have the right to immediately remove same at the cost and expense of the permittee. Good cause shall include, but not be limited to, violation of any permit condition, or any provision of this ordinance.

11.05.05. *Liveaboards.* Except in an emergency, no person(s) shall live aboard any boat in Harbor and waterways of Destin for a period exceeding 48 hours without notifying the Code Compliance Department Environmental Officer, or other City official as designated by the City Manager, and receiving a registration permit. In cases of an emergency, such notification shall be given to the Code Compliance Department Environmental Officer within three hours after the immediate emergency situation ceases. Proof that each live-aboard boat has an operable holding tank must be furnished to the Code Compliance Department Environmental Officer at time of notification. All liveaboards must comply with all applicable regulations of the U.S. Coast Guard, Florida Marine Patrol, and City of Destin.

11.05.06. *Joint ownership docks.* Permits may be granted for joint ownership of a dock at the common riparian boundary, subject to the following conditions:

- A. No permits shall be granted to persons other than the title of record owner or long-term lessee of the abutting upland property.
- B. The permit application must be signed by the owner of record or long-term lessee of all abutting upland property having access to the facility.
- C. The permit shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations and conditions set forth in the permit and this ordinance.
- D. The regulations for setbacks apply to joint ownership docks with the exception that docks may be extended over the common property lines.

11.05.07. *Permit for maintenance and cosmetic improvements.* The City Manager, or his designee, may issue permits within the Harbor and waterways of Destin for which maintenance or cosmetic improvement is accomplished to existing facilities. No permit shall be issued for facilities which do not conform to the standard Harbor drawings and the adopted marina siting requirements.

11.05.08. *Registration of structures.* All existing docks, seawalls and bulkheads located within the Harbor and waterways of Destin shall be registered with the City as follows:

Section 2.13.04

**Move to Code
of Ordinances**

Section 2.13.04

Section 2.13.04

- A. The title of record or long-term lessee of all existing structures at the time of adoption of this ordinance shall register such structure with the City within 90 days after adoption of this ordinance.
- B. Each structure shall be re-registered upon any change in ownership or long-term lessee of the abutting upland property.
- C. The City shall be notified upon the expiration of an existing long-term lease by the title of record owner of the abutting upland property.
- D. The City shall be notified by the title of record owner and long-term lessee of the abutting upland property upon the destruction of 50 percent of the replacement value of the structure. The City shall maintain a registration of all docks, seawalls and bulkheads located within the Destin Harbor.

Section 2.13.04 11.05.09. *Exceptions.* Exceptions from the provisions of Section 11.05.01 are as follows:

- A. The Board of Adjustment may approve an exception for docks and pilings to be extended beyond the limits allowed in paragraphs M and N of Section 11.05.01 provided that, in addition to the criteria listed in Section 2.25.03.G, the following criteria is also met:
 - 1. That site-specific environmental conditions would impede placement of slips near or next to the shoreline.
 - 2. That site specific environmental conditions exist that prohibit dredging.
 - 3. That the proposed layout of the dock and pilings does not create a hazard to navigation.
 - 4. That no additional slips are obtained than would otherwise fit into a dock of the maximum size allowed without the exception.
- B. Properties located in the South Harbor Mixed Use zoning district ~~that propose development under Tier 1 or 2 development standards~~ are exempt from the provisions prescribed in paragraphs F, G, M and N of Section 11.05.01 provided they meet all of the following criteria:
 - 1. An approved submerged land lease from FDEP is submitted.
 - 2. An approval from the Army Corps of Engineers stating that the length of docks and pilings will not create a risk to navigation is submitted.
 - 3. This provision only applies to properties with only non-residential uses and mixed uses that contain non-residential uses and short-term residential uses.
 - 4. This provision does not apply to developments that contain long-term residential uses.
 - 5. A minimum ten percent of the total number of the slips in the project are set aside for fare carrying boats and that another minimum ten percent of the total slips are set aside for transient boats that are open to the public (to promote non-automobile travel). "Project" as used herein shall mean the entire number of slips tied to the uplands and not the total number of slips past 200 feet from the uplands. A minimum of 50 percent of the transient slips must be reserved for non-rental users. The remainder of the total ten percent may be reserved for short-term rental users. A loading and unloading area or slip must be reserved for use by a water taxi. This area or slip must be clearly marked by signage stating that it is reserved for the water taxi.
 - 6. For Tier 1 developments, all of the requirements listed in Section 7.09.03.F.7 must be met.

- C. Properties located in the Calhoun Mixed Use zoning district ~~that propose development under Tier 1 or 2 development standards~~ are exempt from the provisions prescribed in paragraphs M and N of Section 11.05.01 provided they meet all of the following criteria:
1. An approved submerged land lease from FDEP is submitted.
 2. An approval from the Army Corps of Engineers stating that the length of docks and pilings will not create a risk to navigation is submitted.
 3. A minimum ten percent of the total number of the slips in the project are set aside for fare carrying boats and that another minimum ten percent of the total slips are set aside for transient boats that are open to the public (to promote non-automobile travel). "Project" as used herein shall mean the entire number of slips tied to the uplands and not the total number of slips past 200 feet from the uplands. A minimum of 50 percent of the transient slips must be reserved for non-rental users. The remainder of the total ten percent may be reserved for short-term rental users. A loading and unloading area or slip must be reserved for use by a water taxi. This area or slip must be clearly marked by signage stating that it is reserved for the water taxi.
 4. For Tier 1 developments, all of the requirements listed in Section 7.09.03.F.7 must be met.

Section 2.13.04 11.05.10. *Reconstruction of existing facilities.* For existing facilities which are damaged by accidents, vandalism, ordinary wear and tear or acts of God, the provisions of paragraphs F, G, M, and N of Section 11.05.01 shall not be applicable to reconstruction so long as the damaged facilities are reconstructed in the same or lesser dimensions and so long as the construction permit is applied for from the City within six months of the sustaining damage.

Move to the new Citation Authority 11.05.11. *Penalties.* Any person found in violation of this article shall be punished by a fine not exceeding \$500.00 or imprisoned for a term not exceeding 60 days or by both such fine and imprisonment. Each day any violation of any provision of this Code continues shall constitute a separate offense.

(Ord. No. 152.40, § 3, 8-6-01; Ord. No. 05-13-LC, § 13, 8-22-05; Ord. No. 07-21-LC, §§ 17, 18, 5-7-07; Ord. No. 07-46-LC, § 3, 12-17-07; Ord. No. 09-01-LC, § 3, 2-17-09)

Editor's note— As of June 1, 1997, this section (§ 11.05.04 excepted) is superseded by Ord. No. 87.1 (codified as City Code Ch. 5, art. III). See appendix B hereto.

SECTION 4. INCORPORATION INTO LAND DEVELOPMENT CODE. This ordinance shall be incorporated into the City of Destin's Land Development Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be

deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS _____ DAY OF _____, 2020.

By: _____
Gary Jarvis, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____

Section 2.13.04 Marine Construction Permits

- A. Marine construction projects are required to be reviewed in accordance with Section 2.08 prior to obtaining a marine construction permit, if applicable. All categories of marine construction are required to obtain a building permit from the City. Any recommendation for approval or approval by the Harbor and Waterways Board or City Council does exempt the applicant from the requirement of obtaining a building permit from the City and/or other state and federal agencies.
- B. Permitting Procedures. The following procedures shall be adhered to by persons desiring to construct a new dock or add to, alter or remodel, add riprap to, or reconstruct an existing dock:
 1. Persons desiring to construct a new dock or add to, alter, remodel, add riprap to, or reconstruct an existing dock shall apply for and obtain a permit and other authorization from the City prior to construction.
 2. Each application shall be complete and include all required supplemental items as indicated in the City's application checklists.
 3. Application shall be made by filing with the City, the City's permit application form and a copy of the joint application form used by the United States Army Corps of Engineers, and the Florida Department of Environmental Protection, the requirements of which are expressly adopted herein as they existed on the effective date of this Code, and as they are hereafter amended by said respective agencies.
 4. A building permit shall be obtained from the City prior to beginning construction, in accordance with City ordinances.
 5. A net positive environmental benefit (NPEB), equal to 25 percent of the cost of construction shall be made to the City of Destin by the applicant prior to issuance of a building permit for each construction project authorized by this Article, which is located within the Destin Harbor.
 6. No permit shall be issued by the City until the applicant obtains all authorizations and permits from federal and state agencies, and until the required NPEB funds are paid, if applicable.
 7. All construction in the Harbor and waterways of Destin shall require a permit from the City.
 8. The applicant shall be responsible for personal injury or property damage which arises from construction and use of the project to the extent provided by common law.
 9. Upon completion of a dock, or other structure requiring a construction permit, a final inspection shall be conducted by the City. After the final inspection is complete, a certificate of completion or occupancy will be issued which shall be a permanent permit for such dock or structure.
 10. Joint ownership docks. Permits may be granted for joint ownership of a dock at the common riparian boundary, subject to the following conditions:
 - i. No permits shall be granted to persons other than the title of record owner or long-term lessee of the abutting upland property.
 - ii. The permit application must be signed by the owner of record or long-term lessee of all abutting upland property having access to the facility.
 - iii. The permit shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations and conditions set forth in the permit and this ordinance.
 - iv. The regulations for setbacks apply to joint ownership docks with the exception that docks may be extended over the common property lines.
 11. Permit for maintenance and cosmetic improvements. The City Manager, or his designee, may issue permits within the Harbor and waterways of Destin for which maintenance or

cosmetic improvement is accomplished to existing facilities. No permit shall be issued for facilities which do not conform to the standard Harbor drawings and the adopted marina siting requirements.

12. Inspection and repairs. All construction shall be inspected by the City Building Inspector for compliance with applicable building codes. The permittee shall be responsible for the condition and repair of permitted docks and failure to maintain said docks in a safe condition shall constitute grounds for revocation of the permit.
13. Permit revocation. The City reserves full right, power and authority to revoke a permit at any time for good cause. In the event that permittee fails to remove said structure within the time specified upon revocation of the permit, the City shall have the right to immediately remove same at the cost and expense of the permittee. Good cause shall include, but not be limited to, violation of any permit condition, or any provision of this ordinance.

Section 4.11 Marina Siting

This article establishes and regulates procedures and standards by which the City controls and regulates development, construction, and activities within and contiguous to the Harbor and waterways of Destin.

Section 4.11.01 Marina/Dock Standards

A. General Regulations.

1. No person shall construct or add to an existing dock, seawall, bulkhead, mooring or piling, modify an existing submerged land lease, or conditions thereto, or conduct dredge or fill operations in, or contiguous to, the Harbor or waterways of Destin without first obtaining the proper authorization from the appropriate federal, state and City agencies.
2. The addition or modification of a boat lift or pilings within an existing legal and conforming boat slip shall not require the review of the Harbor and Waterways Board or the City Council. Rather, a copy of the U.S. Army Corps of Engineers permit, DEP permit, and a homeowner's association approval (if applicable) shall accompany a completed application for a building permit, provided no additional slips are created.
3. No fuel or oil shall be willfully or knowingly discharged in the Harbor or waterways of Destin. No dock which sells fuel or oil shall be constructed, operated or maintained in the Harbor or waterways of Destin unless an oil abatement plan, in accordance with Coast Guard guidelines, is available at each dock. The Destin Harbor and Waterways Board shall review and recommend approval or disapproval of each oil abatement plan to the City Council, which shall have approval authority. Each existing dock which sells fuel or oil shall develop and have approved an oil abatement plan acceptable to the City. All new docks which sell fuel or oil shall develop and have an approved oil abatement plan, which is acceptable to the City, prior to receiving a building permit from the City.

Recommendation: Move items 2 and 3 to Article II – Procedures for Marine Construction.

4. No dock shall be constructed which permits the commercial docking of boats with on-board toilets unless such the dock is equipped with a sewage pump-out.
5. No dock shall be constructed which permits the docking of a live-aboard unless such vessel has an operable holding tank.
6. No commercially operated boat docking facilities shall be permitted or operated unless equipped with firefighting facilities as specified by the City.

B. Dimensional Requirements.

1. The following table includes the maximum dock length allowed for any new dock construction or modifications. For the purpose of this subsection, lots may be combined with neighboring lots, however no dock may exceed the limitations outlined in this section:

Dock Location	Maximum Length Allowed
Any waterfront property not adjacent to Choctawhatchee Bay or zoned South Harbor Mixed Use (SHMU)	The width of the lot at the mean high-water line, or 20% of the width of the adjacent waterway at the place the pier is located, whichever is less.
Waterfront property with uplands zoned South Harbor Mixed Use (SHMU)	1.5 times the width of the lot at the mean high-water line, or 20% of the width of the adjacent waterway at the place the pier is located, whichever is less.
Waterfront property adjacent to Choctawhatchee Bay.	1.5 times the width of the lot at the mean high-water line, or 200 feet, whichever is less.

Waterfront Property with less than 50 feet of waterfront shoreline.	No individual dock is allowed, unless parallel to the shoreline. Docks may be allowed if lots are combined with neighboring lots in accordance with section xx.
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2. No dock shall be constructed or modified such that slip density exceeds one slip per eight lineal feet of waterfront footage except that, on canals, no lot may have more than one slip per 45 linear feet of waterfront. However, all lots riparian to a canal shall be entitled to at least two slips on the canal.
3. No pier shall extend more than six feet into a canal right-of-way.
4. No dock or vessel shall be placed within the 25-foot setback of a property line without providing prior written notification to the adjoining landowners and requesting their response. Any objections received from the adjoining property owners will be considered by the Harbor and Waterways Board in their recommendations to the City Council.
5. No dock shall unreasonably interfere with the riparian rights of others.
6. Shorelines shall require protection from erosion as determined by the City.

Recommendation: Delete Item 5 (covered by item 4) and specify what specifically may be required in Item 6.

C. Design Requirements

1. No dock of 100 feet or longer shall be constructed unless a white navigation/security night-light is installed at the furthest point seaward on said dock and such light is to be illuminated continuously from dusk to dawn every night of the year. All existing docks 100 feet or longer shall install and operate a navigation/security light pursuant to this subsection. Each light shall be installed within 90 days after adoption of this Code.
2. Where multiple slips extend from the shore and on multiple-slip docks and for any slip in a canal, aerators or circulation devices shall be required as determined by the City. Such devices shall be required where it is determined that circulation is deemed to be interfered with by the proposed facilities.
3. No person who maintains or operates a dock shall allow or permit the disposal of fish carcasses, litter, waste petroleum products or other pollutants into the Harbor or waterways of Destin. Trash disposal receptacles shall be anchored to each dock to ensure compliance with the provisions of this article.

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: September 26, 2022
BOARD/COMMITTEE: Harbor & Waterways Board
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 4.B.

TO: Harbor & Waterways Board

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kyle Bauman, City Attorney
Steve O'Connor, Principal Planner

FROM: Sae More, Planner

DATE: September 16, 2022

SUBJECT: Single-Family Residential Marine Construction Proposed at 155 Calhoun Avenue

I. BACKGROUND: Charles Lobello, of Lobello, Duhon, Lobello, on behalf of Sam Perman has submitted an application for Harbor and Waterways Board review for the construction of a residential dock, consisting of one (1) 175' x 4' pier with a 24' x 8' terminal landing, and one (1) 4'x16' finger pier, comprising a total of ±996 square feet.

II. DISCUSSION: The applicant requests Harbor and Waterways Board approval for single-family marine construction located at 155 Calhoun Avenue, located within the Choctawhatchee Bay, a Class II Florida Waterbody.

The proposed marine construction project meets the following requirements of **Section 11.05.00, City of Destin Land Development Code (LDC)**, in addition to providing the 25-foot riparian setback,

- **11.05.01.A** – Construction of new dock
- **11.05.01.C, 11.05.01.D** – Waste Disposal into the Harbor and Waterways of Destin
- **11.05.01.F, 11.05.01.G, and 11.05.01.M** – Length of the pier

COMPREHENSIVE PLAN CONSISTENCY: The proposed marine construction project is consistent with Coastal Management Element Goal 6-1, Coastal Management Element Objective 6-1.1, and Coastal Management Element Policy 6-1.1.3: Protect Coastal and Estuarine Environmental Quality and the Shoreline.

- A. **Link to Strategic Goals / Objectives:** Enhance Quality of Life
- B. **Effect on Budget (EOB):** There is no anticipated effect on the budget.
- C. **Level of Service (LOS):** There is no anticipated effect on the LOS.
- D. **Legislative Sponsor:**

III. CONCLUSION: The applicant provided a receipt of submittal from Florida Department of Environmental Protection (FDEP) of Self-Certification, File #0424960001EE. City Staff reviewed the application and determined that the plans comply with City Codes and regulations. Specifically, the proposed dock complies with ***LDC Section 11.05.01.M, Marina Siting***, and the Coastal Management Element of the City's Comprehensive Plan (***Coastal Management Element Policy 6-1.1.3***).

STAFF RECOMMENDATION: Staff recommends approval of the single-family marine construction project proposed at 155 Calhoun Avenue, consisting of one (1) 175' x 24' pier with a 24' x 8' terminal landing, and one (1) 4'x16' finger pier, comprising a total of ±996 square feet, subject to the applicant meeting all applicable City permit requirements.

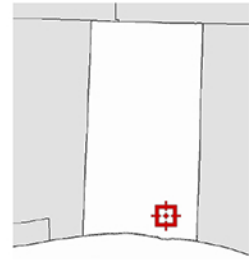
IV. RECOMMENDED MOTION: I move that the Harbor & Waterways Board recommend City Council approval of the single-family marine construction project located at 155 Calhoun Avenue, subject to the applicant meeting all applicable City permit requirements.

Attachments:

1. A. Site Plan
2. B. Proposed dock details
3. C. FDEP Self-Certification, Permit No 0424960001EE
4. D. Agent Affidavit
5. E. Abutter Notice

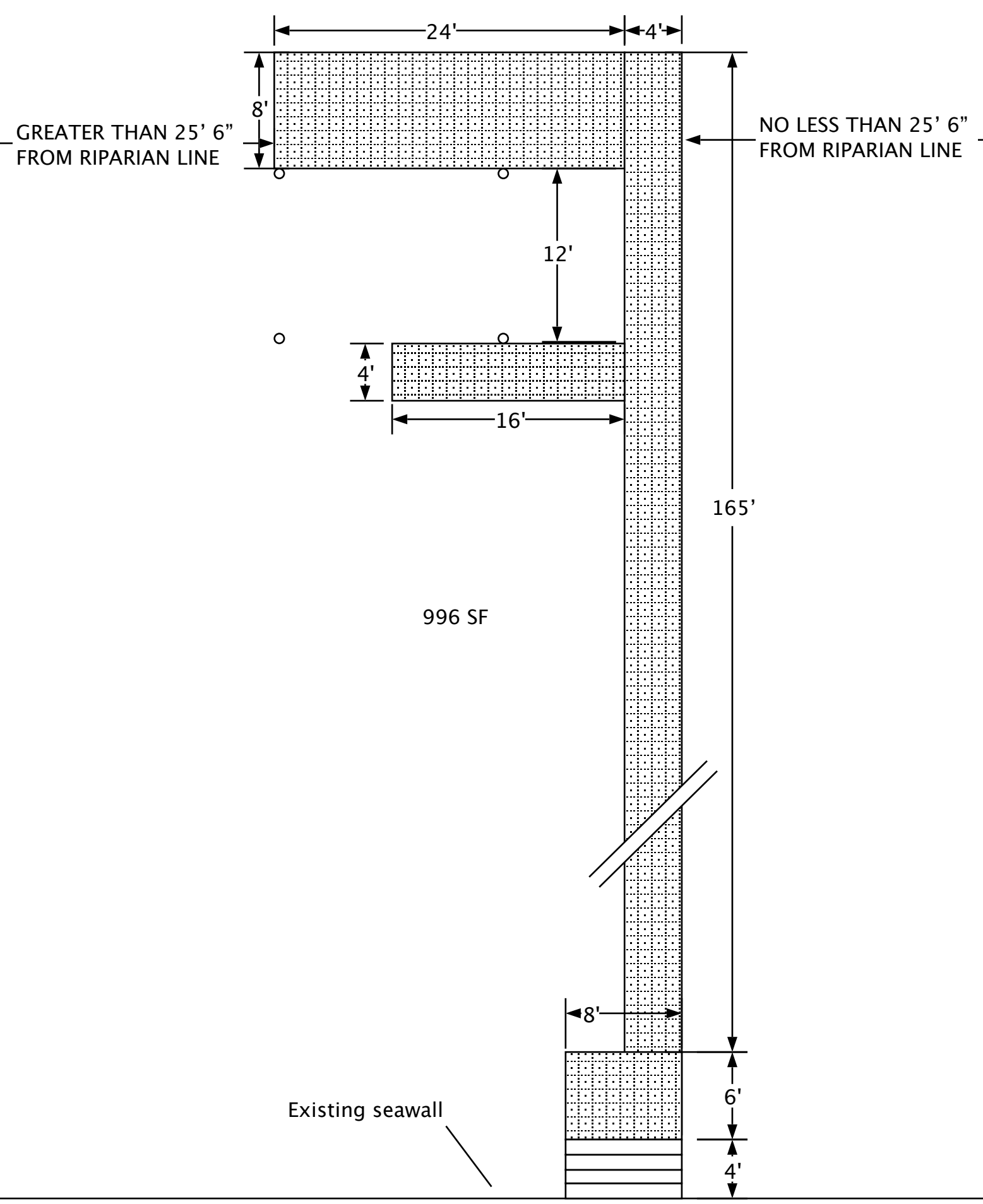


Overview



Legend

- Parcels
- Roads
- City Labels



Subject: FDEP ERP Self-Certification Receipt
Date: Thu, Aug 11, 2022 at 10:49
From: no-reply@dep.state.fl.us
To: ldlmarineprojects@gmail.com
Cc: ERP.SELFCERTS@dep.state.fl.us, SPGP@usace.army.mil,
NMFS.SER.PROGRAMMATICREVIEW@noaa.gov,
NWD_ERP_APPLICATIONS@floridadep.gov



**FLORIDA DEPARTMENT OF
Environmental Protection**

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Shawn Hamilton
Secretary

Receipt for Submission

**SELF-CERTIFICATION FOR A PROJECT AT A
PRIVATE, RESIDENTIAL SINGLE-FAMILY DOCK**

08/11/2022

Self-Certification File No.: **0424960001EE**

File Name: **155 Calhoun Ave Destin, FL 32541 - Self Cert Exempt Dock with Boat Lift(s)
(General)**

Dear **Chuck LeBello**: On **08/11/2022** you used the Florida Department of Environmental Protection's electronic Self Certification Process to certify compliance with the terms and conditions of the Single-Family Dock ERP Exemption Self Certification Process for a project at private, single-family residence located at:

LAT - Degrees: **30** Minutes: **24** Seconds: **10.0998**
LONG - Degrees: **-86** Minutes: **30** Seconds: **40.1537**
SITE ADDRESS: **155 Calhoun Ave Destin, FL 32541**
COUNTY: **Okaloosa**

For:
Shirley Perman
155 Calhoun Ave. Destin, FL 32541

You have certified that the project you propose to construct at the above location meets all the conditions of the Self-Certification Process. A project that is built in conformance to those conditions (attached for reference) will:

1. Qualify for a regulatory exemption under Section 403.813(1)(b) of the Florida Statutes (F.S.) and Chapter 62-330, Florida Administrative Code (F.A.C.). As such, it is exempt from the need to obtain a DEP Environmental Resource Permit.;
2. Qualify for Consent by Rule or Letter of Consent (as applicable) under Chapter 253, F.S. and Chapter 18-21, F.A.C. (and Chapter 258, F.S. and Chapter 18-20, F.A.C., if applicable), when the project is located on submerged lands owned by the State of Florida.

Your Self-Certification is based solely on the information you provided under this process and applies only to the statutes and rules in effect when your certification was completed. The certification is effective only for the specific project proposed, and only if the project is constructed, operated, and maintained in conformance with all the terms, conditions, and limitations stated in the Self-Certification Process. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required.

You have acknowledged that this Self Certification will automatically expire if:

1. Construction of the project is not completed within one year from the self-certification date;
2. site conditions materially change;
3. the terms, conditions, and limitations of the Self Certification are not followed; or
4. the governing statutes or rules are amended before construction of the project.

Completion of the Self Certification constitutes your authorization for Department or Corps personnel to enter the property for purposes of inspecting for compliance.

Receipt of this Self-Certification constitutes authorization to use sovereignty/state-owned submerged lands, as required by rule 18-21.005, F.A.C.

The authorization must be visibly posted during all construction activities.

In waters that are accessible to manatees, obtain information on your mandatory Manatee Protection sign by [clicking here](#).

FEDERAL STATE PROGRAMMATIC GENERAL PERMIT (SPGP)

You have certified that the project you propose to construct at the above location meets all the conditions of the SPGP Self-Certification Process and will be built in conformance to those conditions (attached for reference). Your proposed activity as certified is in compliance with the SPGP program. U.S. Army Corps of Engineers (Corps) Specific conditions apply to your

project, attached. **No further permitting for this activity is required by the Corps. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.**

Notifications to the Corps. For all authorizations under this SPGP VI, including Self-Certifications, the Permittee shall provide the following notifications to the Corps:

1. Commencement Notification. Within 10 days before the date of initiating the work authorized by this permit or for each phase of the authorized project, the Permittee shall provide a written notification of the date of commencement of authorized work to the Corps
2. Corps Self-Certification Statement of Compliance form. Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the "Self-Certification Statement of Compliance" form (attached) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self-Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.
3. Permit Transfer. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date the enclosed form.
4. Reporting Address. The Permittee shall submit all reports, notifications, documentation, and correspondence required by the general and special conditions of this permit to the following address.
 1. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL, 32232-0019.
 2. For electronic mail: SAJ-RD-Enforcement@usace.army.mil (not to exceed 10 MB). The Permittee shall reference this permit number, SAJ-2015-2575 on all submittals.

This SPGP Self-Certification is based solely on the information you provided under this process and applies only to the statutes and rules in effect when your certification was completed. You have recognized that your certification is effective only for the specific project proposed, and provided the project is constructed, operated, and maintained in conformance with all the terms, conditions, and limitations stated in the SPGP Self-Certification Process. This Self-Certification will not apply if any substantial modifications are made to the project. You agree to contact the Department for review of any plans to construct additional structures or to modify the project, as changes may result in a permit being required.

You have acknowledged that this Self-Certification will automatically expire if:

1. construction of the project is not completed by midnight, July 27, 2026, unless construction commenced or a contract to construct was executed before July 27, 2026, in which case the time limit for completing the work authorized by the SPGP ends at midnight, July 27, 2027. However, in no case can construction continue for more than one year beyond the Self-Certification date;
2. site conditions materially change;
3. the terms, conditions, and limitations of the Self-Certification are not followed; or
4. the governing statutes or rules are amended before construction of the project.

Completion of the Self-Certification constitutes your authorization for Department or Corps personnel to enter the property for purposes of inspecting for compliance.

If you have any questions, please contact your local Department District Office. Contact information can be found at:

https://floridadep.gov/sites/default/files/SLERC_contacts_web_map_01-2017_0.pdf.

For further information, contact the Corps directly at:

<https://www.saj.usace.army.mil/Missions/Regulatory.aspx>. When referring to your project, please use the SPGP Self-Certification file number listed above.

Authority for review - an agreement with the U.S. Army Corps of Engineers entitled Coordination Agreement between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection State Programmatic General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

ADDITIONAL INFORMATION

This Self-Certification Process does not relieve you from the responsibility of obtaining other permits or authorizations from other agencies (federal, state, Water Management District, or local) that may be required for the project. Failure to obtain all applicable authorizations prior to construction of the project may result in enforcement.

If you have any questions or issues with the attached documents, please contact your local Department District Office:

Northwest District

NWD_ERP_Applications@FloridaDEP.gov

Sincerely,

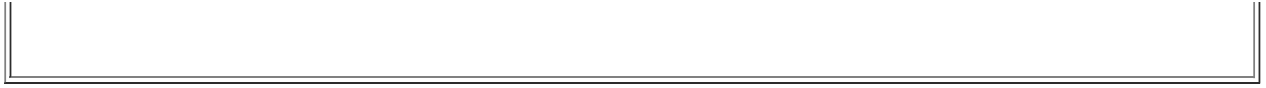
Florida Department of Environmental Protection.

Attachments:

FDEP Terms and Conditions

SPGP Terms and Conditions

Project Design Criteria



**AGENT AFFIDAVIT
SPECIAL POWER OF ATTORNEY**

KNOWN ALL MEN BY THESE PRESENTS, THAT I, Shirley Perman 2013 Trustee am presently the owner and/or leaseholder at 155 Calhoun Ave. Destin, FL and desiring to execute a Special Power of Attorney, have made, constituted and appointed, and by these presents do make, constitute and appoint LDL Construction (Charles Lobello) whose address is 297 W. Miracle Strip Pkwy County of Okaloosa State of Florida my Attorney-in-Fact to act as follows, GIVING AND GRANTING unto said attorney full power to act as my agent in any and all matters pertaining to: New dock and boat slip.

FURTHER, I do authorize the aforesaid Attorney-in-Fact to perform all necessary acts in the execution of the aforesaid authorization with the same validity as I could effect if personally present. Any act or thing lawfully done hereunder by the said attorney shall be binding on myself and my heirs, legal and personal representative, and assigns.

PROVIDED; however, that any and all transactions conducted hereunder for me or for my account shall be transacted in my name, and that all endorsements and instruments executed by the said attorney for the purpose of caring out the foregoing powers shall contain my name, followed by that of my said attorney and the designation "Attorney-in-Fact."

OWNER

Shirley Perman, Trustee
Signature

Shirley Perman, Trustee
Printed Name

STATE OF Florida

COUNTY OF Okaloosa

The foregoing instrument was acknowledged before me by means of physical presence or online

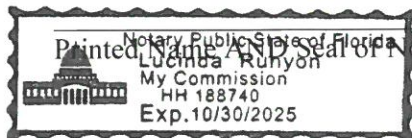
notarization, this 6 day of September, 2022, by

Shirley Perman
(name of person acknowledging)

[Signature]
Signature of Notary

Personally known OR Produced Identification

Type of Identification Produced _____





Community Development Planning Division

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-654-1119 | Email: planning@cityofdestin.com

September 16, 2022

**Subject: Notification of Application Submittal – Single-Family Residential Boat Dock –
155 Calhoun Ave**

Dear Property Owner:

The purpose of this letter is to notify you of the Marine Construction Permit received by the Community Development Department. The Marine Construction application seeks Harbor and Waterways Board approval for construction of a single-family residential dock, comprising approximately 996 square feet. **The Application will be heard by the Harbor and Waterways Board at 5:00 p.m. at Destin City Hall Annex, 4100 Indian Bayou Trail on Monday, September 26, 2022.** As an owner of property located adjacent of this project, *Article 2.17.00 of the Destin Land Development Code (LDC)* requires a written notice providing you the following information.

This notice is for informational purposes only. Please provide any feedback (positive or negative) to Staff at planning@cityofdestin.com. Citizens are also encouraged to attend the public hearing at the date/time listed above.

1. Name of Owner: Sam Perman
2. Name of Agent: Charles Lobello, Lobello, Duhon, Lobello
3. Address of Project: 155 Calhoun Ave
4. Parcel ID Number: 00-2S-22-0630-0000-14B2
5. Project Description: The proposed project includes the construction of a residential dock, consisting of one (1) 175' x 4' pier with a 24' x 8' terminal landing, and one (1) 4'x16' finger pier, comprising a total of ±996 square feet.
6. Location of Application Package: To request a digital copy of the application package be sent to you, please call the City Clerk at (850) 837-4242 or fill out a Public Records Request (PRR) online: <http://www.cityofdestin.com/forms.aspx?fid=121>

If you have any questions or concern regarding this letter, please do not hesitate to call (850) 654-1119 option 2 or email at planning@cityofdestin.com.

Sincerely,

Sae More

Sae More
Planner



CC: Louis Zunguze, MURP, Community Development Director
Planning Division
Community Development Department Project File

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: September 26, 2022
BOARD/COMMITTEE: Harbor & Waterways Board
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 4.C.

TO: Harbor & Waterways Board

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kyle Bauman, City Attorney
Steve O'Connor, Principal Planner

FROM: Sae More, Planner

DATE: September 16, 2022

SUBJECT: Commercial Marine Construction Proposed at 105 and 109 Calhoun Avenue

I. BACKGROUND: Candi Gray of Emerald Coast Permitting, Inc., on behalf of Wayne Lung of Heron's Nest LLC, has submitted an application for Harbor and Waterways Board review for the construction of a 26-slip commercial marina consisting of one (1) 392' x 8' access pier, one (1) 171' x 9' terminal platform, six (6) 30' x 4' finger piers, four (4) 25' x 3' finger piers, and two (2) 21' x 3' finger piers, comprising a of total ±5,821 square feet. The marina is also proposing to provide a Water Taxi Boarding Area.

II. DISCUSSION: The applicant requests the Harbor and Waterways Board recommend approval for a commercial marine construction project located at 105 and 109 Calhoun Avenue, located within the Choctawhatchee Bay, a Class II Florida Waterbody. The proposed marine construction project meets the following requirements of ***Land Development Code (LDC) Section 11.05.00***, in addition to providing the 25-foot riparian setback on the south side of the dock,

- *11.05.01.A – Construction of new dock*
- *11.05.01.C, 11.05.01.D – Waste Disposal into the Harbor and Waterways of Destin*
- *11.05.01.N – Slip density*
- *8.09.03.A.9.d - Water taxi stop*

The applicant has requested a Variance from the ***LDC Section 11.05.01.M***, regarding the

maximum length of dock allowed. The maximum length allowed along the Choctawhatchee Bay is 1.5 feet per linear foot of water frontage. The plans show 208 feet of waterfront allowing for a 312' long pier. The proposed project is proposing a 392' long pier. The excess length is due to an identified environmentally sensitive area of sea grass withing the first 100+/- feet of the pier. The variance will be heard before the Board of Adjustment on October 5, 2022.

There are inconsistencies in the requested number of slips illustrated on the "revised" site plan submitted to the City versus the site plan submitted to the Florida Department of Environmental Protection (FDEP) and the United States Corps of Engineers (USACE). The number of slips on the approved USACE and FDEP plans are thirty-three (33). However, the applicant is requesting twenty-six (26). Twenty-five (25) commercial slips plus one (1) transient slip identified as a "Transient Mooring Area." This transient mooring area is considered a slip and therefore shall only allow for one (1) transient vessel at a time.

It is worth noting there are two existing docks at the site and portions of both structures exist within 25' of the riparian lines. The dock to the south will retain one boast slip or lift as identified on the site plan. The dock to the north is identified to have the existing boat lift removed. However, the dock layout is remaining untouched.

COMPREHENSIVE PLAN CONSISTENCY: The proposed marine construction project is consistent with **Coastal Management Element Goal 6-1, Coastal Management Element Objective 6-1.1.**

- A. Link to Strategic Goals / Objectives:** Economic Development & Revitalization
- B. Effect on Budget (EOB):** There is no anticipated effect on the budget.
- C. Level of Service (LOS):** There is no anticipated effect on the LOS.
- D. Legislative Sponsor:**

III. CONCLUSION: The applicant provided permits from both Florida Department of Environmental Protection (FDEP), Permit No. 0317602-002-EI/46 and U.S Army Corps (USACE) of SAJ-2019-03226 (SP-SWA).

City staff has reviewed the application and determined that the plans comply with City codes and regulations, aside from the Variance requested for the maximum length of the dock.

STAFF RECOMMENDATION: Staff recommends approval of the 25-slip commercial marina, also proposed to include a Water Taxi Boarding Area and 1 transient mooring slip, proposed at 105 & 109 Calhoun Avenue. The project consists of one (1) 392' x 8' access pier, one (1) 171' x 9' terminal platform, six (6) 30' x 4' finger piers, four (4) 25' x 3' finger piers, and two (2) 21' x 3' finger piers, comprising a of total ±5,821 square feet, subject to the decision of the Board of Adjustment on the variation from the maximum permitted length of the dock, as well as the following conditions:

1. Conditioned upon the Board of Adjustment's approval for the requested 392' pier length.
2. Signs shall be posted along the existing docks that state "No Moring" along the length of

the dock where there is no approved or identified slip per the submitted site plan.

3. Conditioned upon only one (1) transient vessel moored at any time in the area identified as “Transient Mooring Area” on the site plans.

4. No vessels utilized at the Heron’s Nest marina shall have on-board toilets, per *LDC 11.05.01.I*, unless addressed within the Development Order process.

5. The Water Taxi Stop area shall meet all the standards for a Water Taxi Stop per *8.09.03.A.9.d – Water Taxi Stop*.

6. The proposed dock shall install a white navigation/security night-light installed at the furthest point seaward on said dock and such light is to be illuminated continuously from dusk to dawn every night of the year and it shall be installed prior to the issuance of a Certificate of Completeness (CC) per *LDC 11.05.01.U*.

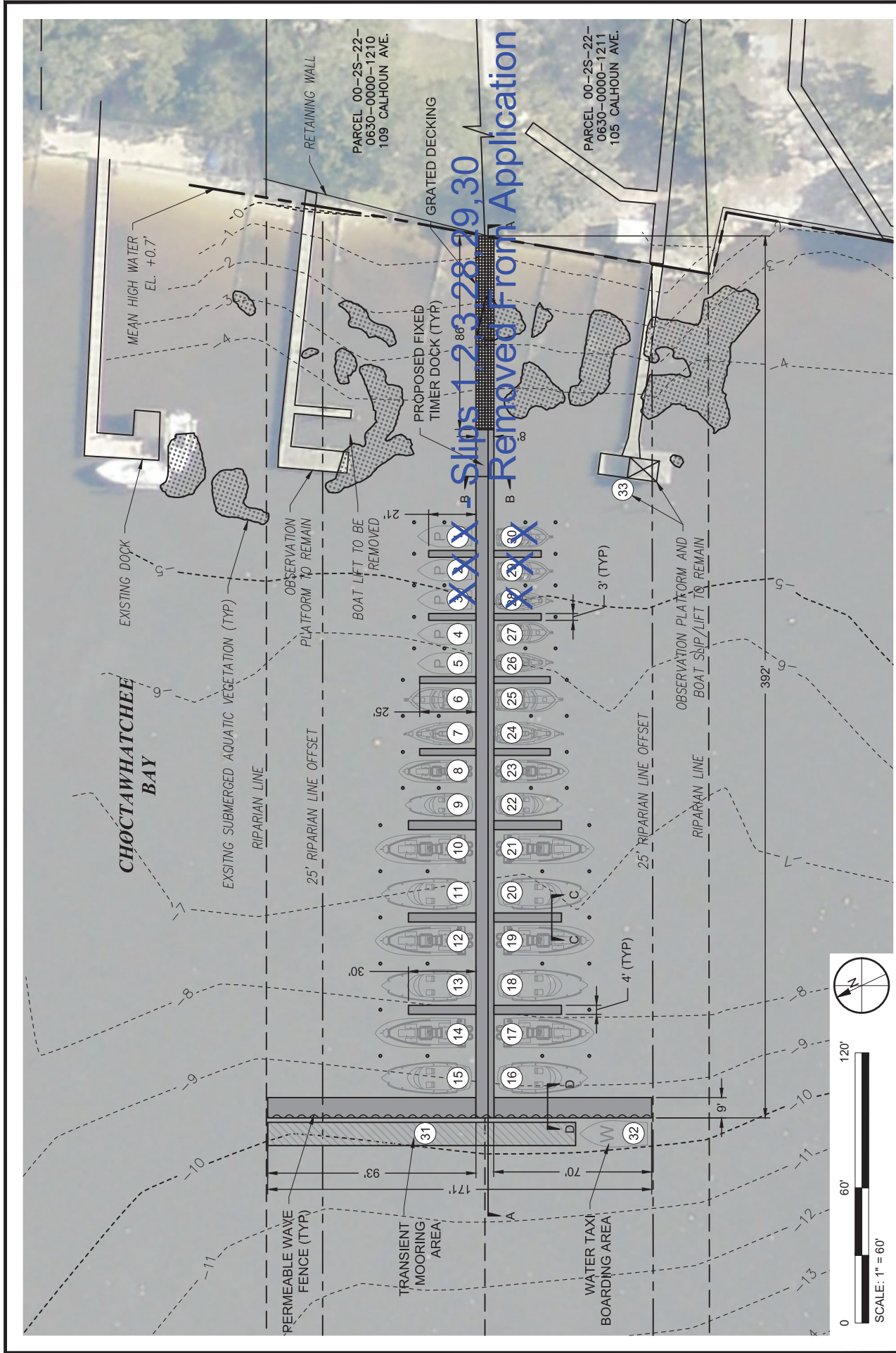
7. The proposed dock shall provide appropriate firefighting equipment and facilities as specified by the Fire Marshall per *LDC 11.05.01.V*.

8. At the time of marine construction permit application submittal the applicant shall provide the City with revised and approved plans from FDEP and USACE reflecting 25 slips, plus one transient slip and the water taxi boarding area. The plans shall not deviate from the approved dimensions as presented or as approved by the Harbor and Waterways Board, the Board of Adjustment, or City Council.

IV. RECOMMENDED MOTION: I move that the Harbor and Waterways Board recommend City Council approval of the Commercial Marine Construction project located at 105 and 109 Calhoun Avenue, subject to the recommended Staff conditions and all applicable Federal, State, and City permit requirements.

Attachments:

1. A. Revised Site Plan
2. B. FDEP
3. C. USACE
4. D. Cost Estimate
5. E. Abutter Notice





FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, FL 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Permittee/Authorized Entity:

Heron's Nest, LLC
c/o Wayne Lung
600 4th Street
Destin, Florida 32541, Okaloosa County
WLung@embarqmail.com

Heron's Nest Marina

Authorized Agent:

Duncan Greer
4300 Legendary Drive, Suite C246
Destin, Florida 32541
DGreer@tayloengineering.com

Environmental Resource Permit

**State-owned Submerged Lands Authorization – Granted Pending Document
Execution**

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Okaloosa County
Permit No.: 0317602-002-EI/46
Lease File No.: 460355891

Permit Issuance Date: May 18, 2020
Permit Construction Phase Expiration Date: May 18, 2025

Consolidated Environmental Resource Permit and Sovereignty Submerged Lands Authorization

Permittee/Grantee: Heron's Nest, LLC
Permit No: 0317602-002-EI/46

PROJECT LOCATION

The activities authorized by this permit and sovereignty submerged lands authorization are located at 105 and 109 Calhoun Ave, Destin, Florida 32541, Parcel IDs 00-2S-22-0630-0000-1210 and 00-2S-22-0630-0000-1211, in Section 00, Township 02 South, Range 22 West in Okaloosa County, at 30°23'55.72" North Latitude, 86°30'49.18" West Longitude.

PROJECT DESCRIPTION

The permittee is authorized to construct a new 33-slip commercial marina. The marina facility will be constructed in addition to two existing piers and will include a designated water-taxi slip. Handrails and "No Mooring" signs will be installed adjacent to the areas not authorized for mooring on all three piers and the existing mooring pilings will be removed. The project is located within Choctawhatchee Bay, a Class II Florida Waterbody, Prohibited Shellfish Harvesting Area. Those activities include the preemption of 29,299 square feet of state-owned sovereignty submerged lands. Authorized activities are depicted on the attached exhibits.

AUTHORIZATIONS

Heron's Nest Marina

Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the appropriate form of proprietary authorization is a lease. Based on the information submitted, we have begun processing your application to use sovereign submerged lands (460355891). Please contact Wade Dandridge at (850)595-0655 for additional information.

The final documents required to execute the lease will be sent to the lessee by the Department's Division of State Lands for execution. The Department intends to issue the lease, upon satisfactory execution of those documents, including payment of required fees and compliance with the conditions in the attached permit. **You may not begin construction of the activities described until you receive a copy of the executed lease from the Department.**

Federal Authorization

Your proposed activity as outlined on your application and attached drawings **does not qualify** for federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the U.S. Army Corps of Engineers (Corps). You must apply separately to the Corps using the federal application form (ENG 4345). More information about Corps permitting may be found online in the Jacksonville District Regulatory Division Sourcebook. **Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.**

Authority for review – an agreement with the Corps entitled “Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit,” Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

Coastal Zone Management

Issuance of this authorization also constitutes a finding of consistency with Florida’s Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

Water Quality Certification

This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this activity may be required by other federal, state, regional, or local entities including but not limited to local governments or municipalities. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

PERMIT CONDITIONS

The activities described must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit and sovereignty submerged lands authorization, as described.

SPECIFIC CONDITIONS – ADMINISTRATIVE/EMERGENCIES

1. The construction phase expires at 11:59 p.m. on the date indicated on the cover page of this permit.
2. For emergencies involving a serious threat to the public health, safety, welfare, or environment, the emergency telephone contact number is (800) 320-0519 (State Warning Point). The Department telephone number for reporting nonthreatening problems or system malfunctions is (850) 595-0663, day or night.
3. The mailing address for submittal of forms for the “Construction Commencement Notice”, “As-Built Certification ...”, “Request for Conversion of Stormwater Management Permit Construction Phase to Operation and Maintenance Phase”, or other correspondence is FDEP, SLERP, 160 West Government St, Suite 308, Pensacola, FL 32502.

SPECIFIC CONDITIONS – PRIOR TO ANY CONSTRUCTION

4. All contractors involved in this permitted activity shall be provided copies of this permit in its entirety. A copy shall remain onsite at all times during the activities.
5. Prior to the initiation of any work authorized by this permit, floating turbidity screens with weighted skirts that extend to within 1 ft. of the bottom shall be placed around the active construction areas of the site. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not exceed 29 NTU’s above background levels. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there are no violations of state water quality standards outside of the turbidity screens.
6. The existing mooring pilings located at the facility outside the Sovereign Submerged Lands Lease area shall be removed.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

7. Best management practices for erosion control shall be implemented and maintained at all times during construction to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Rule 62-302, F.A.C. Methods shall include, but are not limited to the use of staked hay bales, staked filter cloth, sodding, seeding, and mulching; staged construction; and the installation of turbidity screens around the immediate project site.
8. This permit does not authorize the construction of any additional structures not illustrated on the permit drawings. Examples of additional structures include but are not limited to walkways, awnings, enclosed sides and covers over slip areas, finger piers, step-down stairs, storage closets and decking.
9. There shall be no stock piling of tools, materials, (i.e., lumber, pilings, riprap, and debris) within wetlands, along the shoreline within the littoral zone, or elsewhere within waters/waters of the state.

10. All watercraft associated with the construction of the permitted structure shall only operate within waters of sufficient depth so as to preclude bottom scouring and prop dredging.

11. Construction equipment shall not be repaired or refueled in wetlands or elsewhere within waters of the state.

12. Pilings within areas containing seagrasses shall be spaced at least ten feet apart and shall be installed by vibrating, pounding or hand-auguring them in place. Jetting of pilings within seagrass areas shall be prohibited.

13. To protect benthic and wetland resources when present, the elevation of the decking shall be a minimum of five feet above mean high water. The section of the access pier that traverses seagrasses shall be constructed of grated decking.

14. Mooring is prohibited along both sides of the access pier and along the waterward face of dock structures adjacent to non-leased Sovereign Submerged Lands. Handrails shall be constructed to eliminate access by boaters, installed concurrently with dock construction, and shall be maintained for the life of the facility. "No Mooring" signs shall be posted along the waterward face of dock structures in these areas. The signs must be installed prior to occupancy.

15. Any damage to wetlands or surface waters outside of the authorized impact areas as a result of construction shall be immediately reported to the Department at (850)595-8300 and repaired by reestablishing the pre-construction elevations and replanting vegetation of the same species, size, and density as that in the adjacent areas. The restoration shall be completed within 30 days of completion of construction, and the Department shall be notified of its completion within that same 30-day period.

16. All cleared vegetation, excess lumber, scrap wood, trash, garbage and any other type of debris shall be removed from wetlands/waters of the state within 14 days of completion of the work authorized in this permit.

SPECIFIC CONDITIONS – OTHER LISTED SPECIES

17. This permit does not authorize the permittee to cause any adverse impact to or “take” of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of “take” and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a “take” permit cannot be issued. Requests for further information or review can be sent to FWCConservationPlanningServices@MyFWC.com.

SPECIFIC CONDITIONS – OPERATION AND MAINTENANCE ACTIVITIES

18. Waterborne craft moored over sovereign submerged lands at the docking facility, on either a temporary or permanent basis, shall not extend beyond the limits of the sovereignty submerged land lease. The slip sizes shown on the attached permit drawings and on the survey to be attached to the sovereignty submerged land lease indicate a length over all (LOA) for the slips designated. The permittee shall take all measures necessary to ensure all boats moored over sovereign

submerged lands at the docking facility are completely within the limits of the submerged land lease.

19. Boat maintenance or repair activities requiring removal of a vessel from the water, or removal of any major portions of the vessel, including the engine, for purposes of routine repair or maintenance on site, shall be prohibited for the life of the facility, except where removal is necessitated by emergency conditions which have resulted in or can result in the sinking of a vessel. Specifically prohibited shall be hull painting, and any discharges or release of oils or greases associated with engine and hydraulic repairs, and related metal-based bottom paints associated with hull scraping, cleaning, and painting.

20. In-the water hull scraping and any abrasive process is prohibited at the authorized facility. In-the-water soft cleaning with brushes, sponges, or towels is approved at the authorized facility. The use of detergents during soft cleaning is prohibited at the authorized facility.

21. All vessels that moor, dock, or otherwise use the permitted docking facility shall be maintained in a fully operational condition.

22. There shall be no boat repair facilities on any structure that is over the water.

23. Overboard discharges of trash, human or animal waste, or fuel shall not occur at the dock.

24. There shall be a minimum 12-inch clearance between the deepest draft of the vessels (with the motor in the down position) and the bottom of the waterbody at mean low water so as to preclude bottom scouring or prop dredging.

25. The waterward corners of the docks shall be marked by a sufficient number of reflectors so as to be visible from the water at night by reflected light. The reflectors shall not be green or red in color.

26. The dock structures shall be inspected by the permittee at least once per year and shall be maintained in a functional condition for the life of the structures.

27. If the structures become abandoned, the permittee shall be responsible for submitting an application for a permit to remove the structure from sovereign submerged lands and shall be responsible for the subsequent removal of the structure.

28. To protect benthic and wetland resources when present, the elevation of the decking shall be maintained at a minimum of five feet above mean high for the life of the facility.

29. All future authorized replacement pilings for support of the docking structures shall be spaced at least ten feet apart and shall be installed by vibrating, pounding or hand-auguring them in place. Jetting of pilings within seagrass areas shall be prohibited.

GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual* (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex – "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
 - b. For all other activities – "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
 - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru

12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.

- b. Within 30 days of submittal of the as-built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

9. This permit does not:

- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
- b. Convey to the permittee or create in the permittee any interest in real property;
- c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
- d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.

12. The permittee shall notify the Agency in writing:

- a. Immediately if any previously submitted information is discovered to be inaccurate; and
- b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.

14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such

discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.

16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.

18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until a subsequent order of the Department. Because the administrative hearing process is designed to formulate final agency action, the subsequent order may modify or take a different position than this action.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, 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, or via electronic correspondence at Agency_Clerk@FloridaDEP.gov. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant to Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

Extension of Time

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

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

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

Thank you for applying to the Submerged Lands and Environmental Resource Permit Program. If you have any questions regarding this matter, please contact Wade Dandridge at the letterhead address, at (850)595-0655, or at Wade.Dandridge@FloridaDEP.gov

EXECUTION AND CLERKING

Executed in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Elizabeth Mullins Orr
Interim Director

EMO:wd

Attachment:

Project Drawings and Design Specs., 8 pages

Copies of 62-330 forms may be obtained at: <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/forms-environmental-resource>

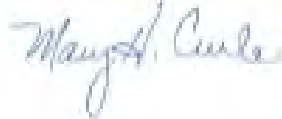
CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

Kimberly R. Allen, DEP, Kim.Allen@FloridaDEP.gov
Wade Dandridge, DEP, Wade.Dandridge@FloridaDEP.gov
Department of Community Affairs, Ray.Eubanks@deo.myflorida.com,
DCPPermits@deo.myflorida.com
Okaloosa County, mmartinez@co.okaloosa.fl.us, jautrey@co.okaloosa.fl.us,
sbitterman@co.okaloosa.fl.us, propertyappraiser@okaloosapa.com
City of Destin, planning@cityofdestin.com, LWitt@cityofdestin.com

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.



May 18, 2020

Clerk

Date



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
PENSACOLA REGULATORY OFFICE
41 NORTH JEFFERSON STREET, SUITE 301
PENSACOLA, FLORIDA 32502

June 30, 2020

Regulatory Division
Pensacola Permits Section
SAJ-2019-03226(SP-SWA)

Wayne Lung
Heron's Nest, LLC.
600 4th Street
Destin, Florida 32541

Dear Mr. Lung:

The U.S. Army Corps of Engineers (Corps) is pleased to enclose the Department of the Army permit, which should be available at the construction site. Work may begin immediately but the Corps must be notified of:

- a. The date of commencement of the work,
- b. The dates of work suspensions and resumptions of work, if suspended over a week, and
- c. The date of final completion.

This information should be mailed to the Enforcement Section of the Regulatory Division of the Jacksonville District at saj-rd-enforcement@usace.army.mil. The Enforcement Section is also responsible for inspections to determine whether Permittees have strictly adhered to permit conditions.

IT IS NOT LAWFUL TO DEVIATE FROM
THE APPROVED PLANS ENCLOSED.

Sincerely,

A handwritten signature in cursive script, reading "Shawn H. Zinszer".

for

Shawn H. Zinszer
Chief, Regulatory Division

Enclosures

DEPARTMENT OF THE ARMY PERMIT

Permittee: Wayne Lung
Heron's Nest, LLC.
600 4th Street
Destin, Florida 32541

Permit No: SAJ-2019-03226 (SP-SWA)

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The project is to construct a 32-slip commercial marina. The marina shall consist of the following structures: one 383-foot by 8-foot main access pier; one 171-foot by 9-foot terminal platform with a permeable wave fence constructed along the waterward face; six 30-foot by 4-foot finger piers; four 25-foot by 3-foot finger piers and four 21-foot by 3-foot finger piers, for a total of 5,869 square feet. An 86-foot by 8-foot section of the access pier that crosses over 106 square feet of submerged aquatic vegetation (SAV) shall be constructed of grated decking, elevated a minimum of four (4) feet above mean high water line (MHWL).

Project Location: The project will affect waters of the United States associated with Choctawhatchee Bay. The project site is located approximately 1.25 nautical miles north of East Pass at 105 and 109 Calhoun Avenue, Destin, Okaloosa County Florida.

Directions to site: From Destin, travel north on Calhoun Avenue from U.S. Highway 98 for approximately 0.20 mile. The project site is on the west side of the road along the shoreline of Choctawhatchee Bay.

Approximate Central Coordinates: Latitude: 30.398842°
Longitude: -86.513781°

Permit Conditions

General Conditions:

PERMIT NUMBER: SAJ-2019-03226
PERMITTEE: Heron's Nest, LLC.
PAGE 2 of 11

1. The time limit for completing the work authorized ends on **June 4, 2025**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Reporting Address: The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:

a. For electronic mail (preferred): SAJ-RD-Enforcement@usace.army.mil (not to exceed 15 MB).

PERMIT NUMBER: SAJ-2019-03226
PERMITTEE: Heron's Nest, LLC.
PAGE 3 of 11

b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

The Permittee shall reference this permit number, SAJ-2019-03226 (SP-SWA), on all submittals.

2. Commencement Notification: Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed "Commencement Notification" Form (Attached).

3. As-Built Certification: Within 60 days of completion of the work authorized by this permit, the Permittee shall submit as-built drawings of the authorized work and a completed "As-Built Certification By Professional Engineer" (attached) form to the Corps. The as-built drawings shall be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint, as shown on the permit drawings, with transparent overlay of the work as constructed in the same scale as the permit drawings on 8½-inch by 11-inch sheets. The plan view drawing should show all "earth disturbance," including wetland impacts and water management structures.

b. A list of any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the attached "As-Built Certification By Professional Engineer" form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or "As-Built Certification By Professional Engineer" form does not constitute approval of any deviations by the Corps.

c. Include the Department of the Army permit number on all sheets submitted.

4. Notice of Permit: The Permittee shall complete and record the attached "Notice of Department of the Army Authorization" form with the Clerk of the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property within the county of the authorized activity. Within 90 days from the effective date of this permit, the Permittee shall provide a copy of the recorded Notice of Permit to the Corps clearly showing a stamp from the appropriate official indicating the book and page at which the Notice of Permit is recorded and the date of recording.

PERMIT NUMBER: SAJ-2019-03226
PERMITTEE: Heron's Nest, LLC.
PAGE 4 of 11

5. Assurance of Navigation and Maintenance: The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

6. Turbidity Barriers: Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend to within 1 foot of the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained until the authorized work has been completed and all suspended and erodible materials have been stabilized. Turbidity barriers shall be removed upon stabilization of the work area.

7. Project Design Criteria (PDCs) for In-Water Activities: The Permittee shall comply with the attached National Marine Fisheries Service's "PDCs for In-Water Activities" dated November 20, 2017.

8. Daylight Hours: All activities must be completed during daylight hours.

9. Educational Signs: Signs must be posted in a visible location(s), alerting users of listed species in the area susceptible to vessel strikes and hook-and-line captures. The most current version of the signs that must be downloaded and sign installation guidance are available at:

(http://sero.nmfs.noaa.gov/protected_resources/section_7/protected_species_education_al_signs/index.html). The signs required to be posted by area are stated below:

a. All projects in Florida shall use the Save Sea Turtle, Sawfish, and Dolphin sign. These signs shall include contact information to the sea turtle and marine mammal stranding networks and smalltooth sawfish encounter database.

b. On the east coast of Florida, projects located within the St. John's River and those occurring north of the St. Johns River to the Florida-Georgia line shall post the Report Sturgeon sign. On the west coast of Florida, projects occurring from the Cedar Key, Florida north to the Florida-Alabama line.

10. Monofilament Recycling Bins: Monofilament recycling bins must be provided at the docking facility to reduce the risk of turtle or sawfish entanglement in, or ingestion of, marine debris. Monofilament recycling bins must:

a. Be constructed and labeled according to the instructions provided at <http://mrrp.myfwc.com>.

b. Be maintained in working order and emptied frequently (according to <http://mrrp.myfwc.com> standards) so that they do not overflow.

11. Lighting: If lighting is necessary, then turtle-friendly lighting shall be installed. Turtle-friendly lighting is explained and examples are provided on the Florida Fish and Wildlife Conservation Commission website:

<http://myfwc.com/wildlifehabitats/managed/sea-turtles/lighting/>

12. Construction Location: Project construction shall take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.

13. Manatee Conditions: The Permittee shall comply with the attached "Standard Manatee Conditions for In-Water Work – 2011".

14. Sea Turtle and Smalltooth Sawfish Conditions: The Permittee shall comply with the attached National Marine Fisheries Service's "Sea Turtle and Smalltooth Sawfish Construction Conditions" dated March 23, 2006.

15. Agency Changes/Approvals: Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Pensacola Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.

16. Cultural Resources/Historic Properties:

a. No structure or work shall adversely affect impact or disturb properties listed in the *National Register of Historic Places* (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics,

PERMIT NUMBER: SAJ-2019-03226
PERMITTEE: Heron's Nest, LLC.
PAGE 6 of 11

stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Section 404 of the Clean Water Act (33 U.S.C. 1344)

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

PERMIT NUMBER: SAJ-2019-03226
PERMITTEE: Heron's Nest, LLC.
PAGE 8 of 11

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

PERMIT NUMBER: SAJ-2019-03226
PERMITTEE: Heron's Nest, LLC.
PAGE 9 of 11

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Wayne Lung
(PERMITTEE)

6-12-2020
(DATE)

Wayne Lung
(PERMITTEE NAME-PRINTED)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Shayne Hayes
(DISTRICT ENGINEER)

30 June 2020
(DATE)

for Andrew D. Kelly, Jr.
Colonel, U.S. Army
District Commander

PERMIT NUMBER: SAJ-2019-03226
PERMITTEE: Heron's Nest, LLC.
PAGE 10 of 11

PERMIT TRANSFER

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

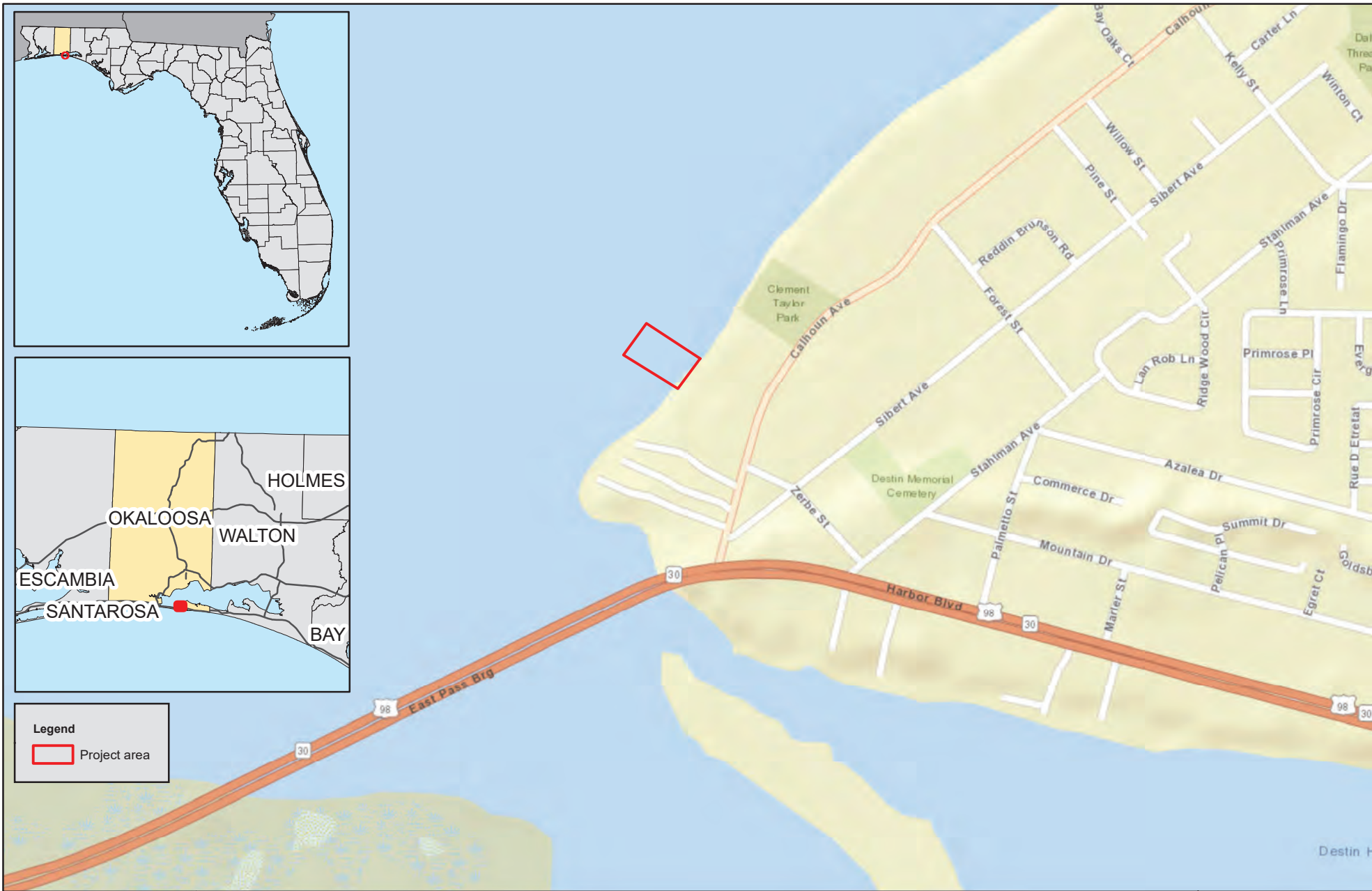
(ADDRESS)

(CITY, STATE, AND ZIP CODE)

PERMIT NUMBER: SAJ-2019-03226
PERMITTEE: Heron's Nest, LLC.
PAGE 11 of 11

***Attachments to Department of the Army
Permit Number SAJ-2019-03226***

1. PERMIT DRAWINGS: Nine (9) pages.
2. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit. Thirteen (13) pages.
3. COMMENCEMENT NOTIFICATION FORM: One (1) page.
4. PRELIMINARY JURISDICTION FORM: Three (3) pages.
5. AS-BUILT CERTIFICATION FORM: Two (2) pages.
6. NOTICE OF PERMIT FORM: Two (2) pages.
7. PROJECT DESIGN CRITERIA (PDCs) FOR IN-WATER ACTIVITIES: Three (3) pages.
8. MANATEE CONDITIONS: One (1) page.
9. SEA TURTLE AND SMALLTOOTH SAWFISH CONDITIONS: One (1) page.



Legend

Project area

ESA SCHEDA

All data within this map are supplied as is, without warranty. This product has not been prepared for legal, engineering, or survey purposes. Users of this information should review or consult the primary data sources to ascertain the usability of the information.

Figure 1 - Project Location Map

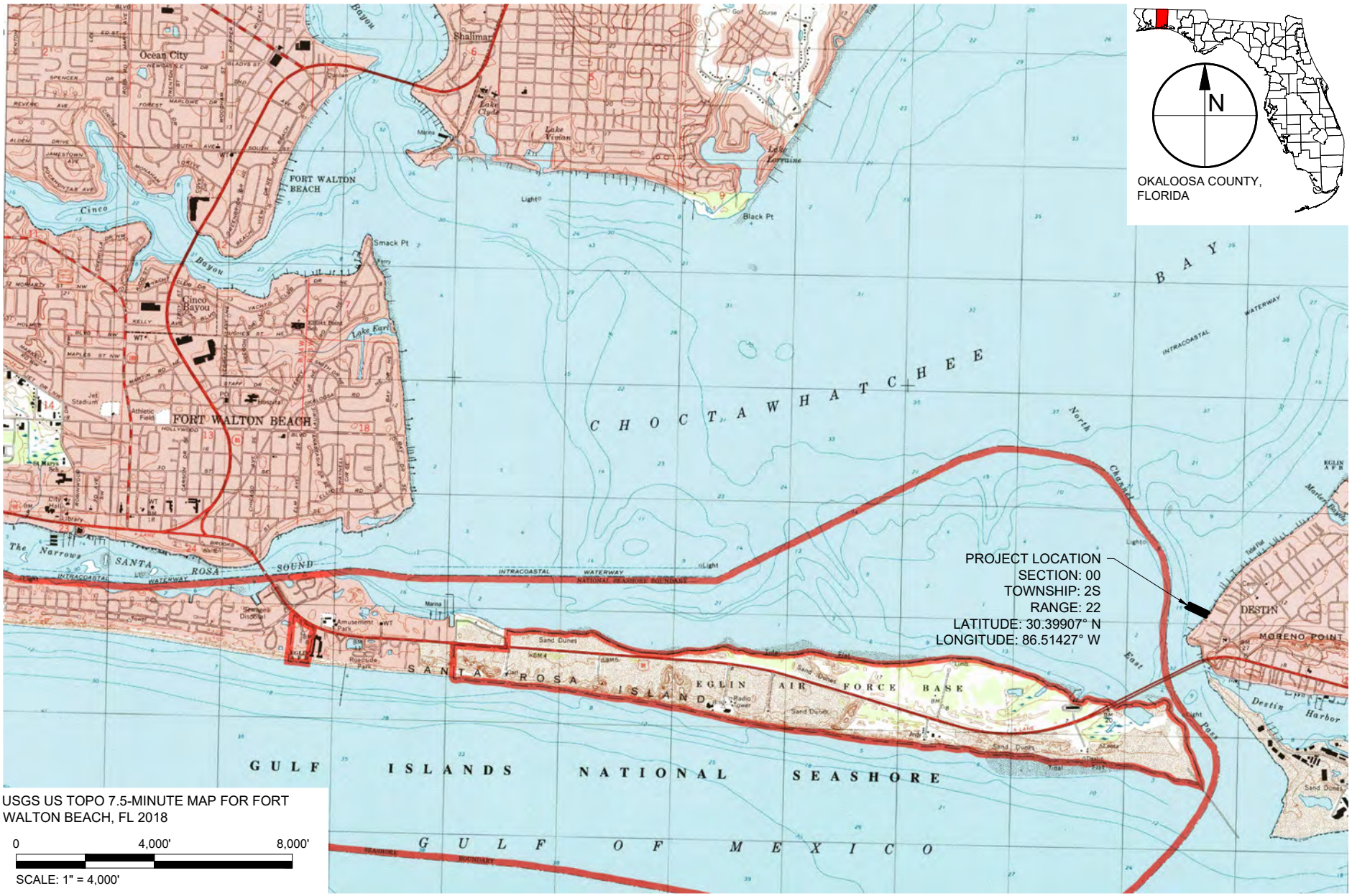
Heron's Nest SAV Survey
Okaloosa County, Florida



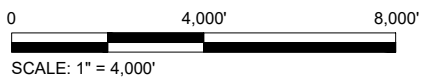
Data Source:
ESA Scheda
Imagery Source:
ESRI World Street Map

Coordinate System:
NAD 1983 Florida
State Plane North

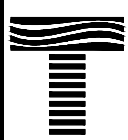




USGS US TOPO 7.5-MINUTE MAP FOR FORT WALTON BEACH, FL 2018



PROJECT LOCATION
 SECTION: 00
 TOWNSHIP: 2S
 RANGE: 22
 LATITUDE: 30.39907° N
 LONGITUDE: 86.51427° W



TAYLOR ENGINEERING INC.

4300 LEGENDARY DRIVE
 SUITE C246
 DESTIN, FLORIDA 32541
 CERTIFICATE OF AUTHORIZATION # 4815

FIGURE 1
 LOCATION MAP
 HERON'S NEST MARINA
 DESTIN, FLORIDA

PROJECT	C2018-051
DRAWN BY	AF/CAS
SHEET	1 of 8
DATE	JULY 2019

SEAL

DRAFT

DUNCAN GREER P.E. #83306

DATE

CATHY SHELL X:\SYSTEMS\PROJECTS\C2018-051_HERONSNEST\PERMIT\C2018-051-P-LOCATION.DWG 7/31/2019 3:24:07 PM

GENERAL NOTES:

1. DRAWING REFERENCES FLORIDA STATE PLANE NORTH, NORTH AMERICAN DATUM OF 1983 (NAD83).
2. ALL ELEVATIONS REFERENCE THE 1988 NORTH AMERICAN VERTICAL DATUM (NAVD88). ELEVATIONS IN FEET UNLESS NOTED OTHERWISE (U.N.O.).
3. AERIAL IMAGERY OBTAINED FROM FDOT, OKALOOSA COUNTY (2016), U.N.O. AERIAL IMAGERY DISPLAYED HEREON FOR INFORMATIONAL PURPOSES ONLY. NO PHOTOGRAPHIC ACCURACY IS IMPLIED BY THESE MAPS.
4. PARCEL BOUNDARIES, EXISTING SUBMERGED LAND LEASE BOUNDARY, AND MEAN HIGH WATER ELEVATION AND LOCATION PROVIDED BY RARE EARTH SURVEYING & MAPPING, FIELD DATE JUNE 1, 2017.
5. BATHYMETRIC CONTOURS PROVIDED BY RARE EARTH SURVEYING & MAPPING, FIELD DATE FEBRUARY 23, 2011.
6. CONSTRUCTION SHALL NOT VIOLATE STATE WATER QUALITY STANDARDS.
7. SUBMERGED AQUATIC VEGETATION EXTENTS LOCATED BY ESA SCHEDA ON SEPTEMBER 13, 2018.
8. NO LIVE-A-BOARDS ARE PROPOSED.
9. NO FUELING FACILITIES OR SEWAGE PUMP-OUTS ARE PROPOSED AT THIS FACILITY.
10. WATER, POWER, AND FIRE SUPPRESSION SYSTEMS NOT SHOWN FOR CLARITY.
11. MATERIALS ARE SUBJECT TO CHANGE. PILE EMBEDMENT, DIMENSIONS, AND SPACING WILL BE DETERMINED DURING FINAL DESIGN.
12. DOCK PILINGS WILL BE WRAPPED TREATED TIMBER OR OTHERWISE MADE FROM NON-LEACHING MATERIALS.
13. TURBIDITY CURTAINS SHALL BE LOCATED AND REPOSITIONED BY THE CONTRACTOR USING BEST MANAGEMENT PRACTICES TO ASSURE WATER QUALITY STANDARDS ARE MAINTAINED THROUGHOUT CONSTRUCTION.

PROPOSED DOCK PLAN:

1. COMMERCIAL (PERMANENT) SLIPS
 - 1.1. EXISTING: 2
 - 1.2. PROPOSED INCREASE FROM EXISTING : 24
 - 1.3. TOTAL PROPOSED COMMERCIAL SLIPS: 26
2. PUBLIC MOORING SLIPS
 - 2.1. EXISTING: 0
 - 2.2. TOTAL PROPOSED PUBLIC SLIPS: 5
 - 2.3. TOTAL PROPOSED TRANSIENT PUBLIC MOORING: 137 LF
3. FIXED TIMBER DOCK AREA
 - 3.1. EXISTING: 1,628 SF
 - 3.2. PROPOSED INCREASE FROM EXISTING: 5,869 SF
 - 3.3. TOTAL PROPOSED FIXED TIMBER DOCK AREA: 7,497 SF
4. SOVEREIGN SUBMERGED LAND LEASE AREA
 - 4.1. EXISTING: 0 S.F.
 - 4.2. PROPOSED INCREASE FROM EXISTING: 29,400 S.F. (0.675 ACRES)
 - 4.2.a. PARCEL #00-2S-22-0630-0000-1210 : 15,149 SF (0.348 ACRES)
 - 4.2.b. PARCEL #00-2S-22-0630-0000-1211: 14,251 SF (0.327 ACRES)
 - 4.3. TOTAL PROPOSED SOVEREIGN SUBMERGED LAND LEASE AREA: 29,400 S.F. (0.675 ACRES)

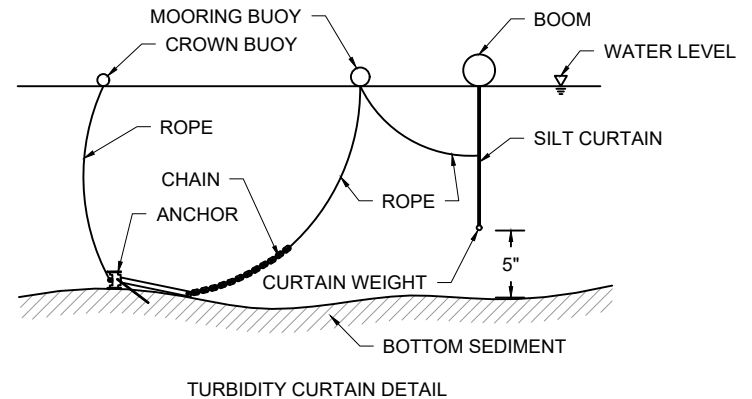
SLIP SCHEDULE			
SLIP ID	SLIP SIZE	USAGE	QTY
1 - 5	25'	PUBLIC	5
6 - 9	30'	COMMERCIAL	4
10 - 21	40'	COMMERCIAL	12
22 - 25	30'	COMMERCIAL	4
26 - 30	25'	COMMERCIAL	5
31	137'	TRANSIENT	1
32	35'	WATER TAXI (TRANSIENT)	1
33	25'	COMMERCIAL	1

NOAA VDATUM
TIDAL DATUM REFERENCE
LATITUDE: 30.39907° N
LONGITUDE: 86.51427° W

MHHW ———— 0.690'
MHW ———— 0.685'

MTL ———— 0.440'

MLW ———— 0.195'
MLLW ———— 0.186'
NAVD 88 ———— 0.000'



TAYLOR ENGINEERING INC.
4300 LEGENDARY DRIVE
SUITE C246
DESTIN, FLORIDA 32541
CERTIFICATE OF AUTHORIZATION # 4815

FIGURE 2
GENERAL NOTES
HERON'S NEST MARINA
DESTIN, FLORIDA

PROJECT	C2018-051
DRAWN BY	AF/CAS
SHEET	2 of 8
DATE	JULY 2019

SEAL

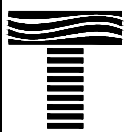
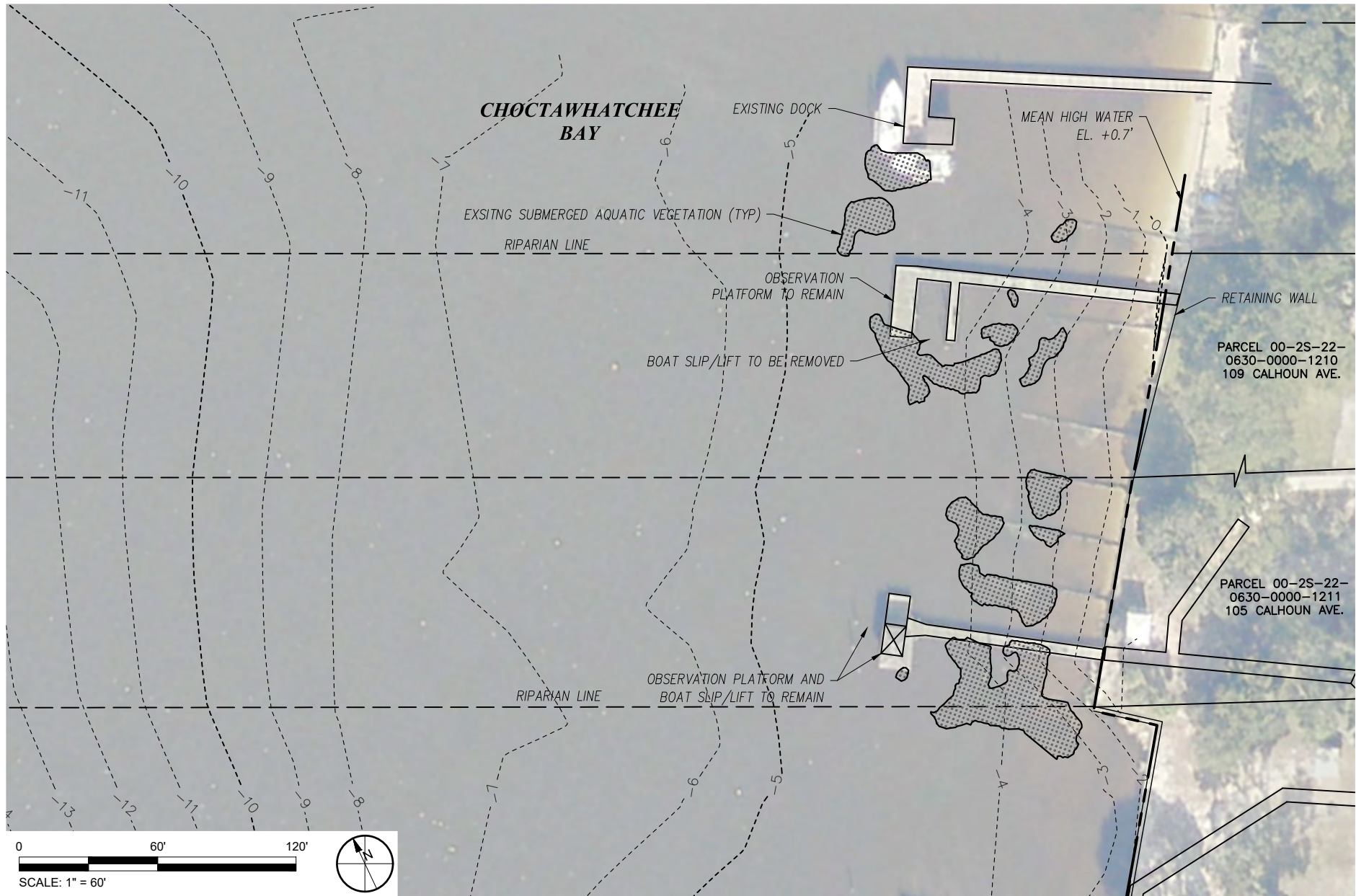
DRAFT

DUNCAN GREER P.E. #83306

DATE

CATHY SHELL X:\SYSTEMS\PROJECTS\C2018-051_HERONSNEST\PERMIT\C2018-051-P-NOTES.DWG 7/31/2019 3:24:09 PM

C:\HY_SHELL_X\SYSTEMS\PROJECTS\C2018-051_HERONS\NET\PERMIT\C2018-051-P-EXISTING.DWG 7/9/2019 3:24:18 PM



TAYLOR ENGINEERING INC.

4300 LEGENDARY DRIVE
SUITE C246
DESTIN, FLORIDA 32541
CERTIFICATE OF AUTHORIZATION # 4815

FIGURE 3
EXISTING SITE CONDITIONS
HERON'S NEST MARINA
DESTIN, FLORIDA

PROJECT	C2018-051
DRAWN BY	AF/CAS
SHEET	3 of 8
DATE	JULY 2019

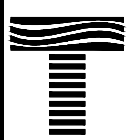
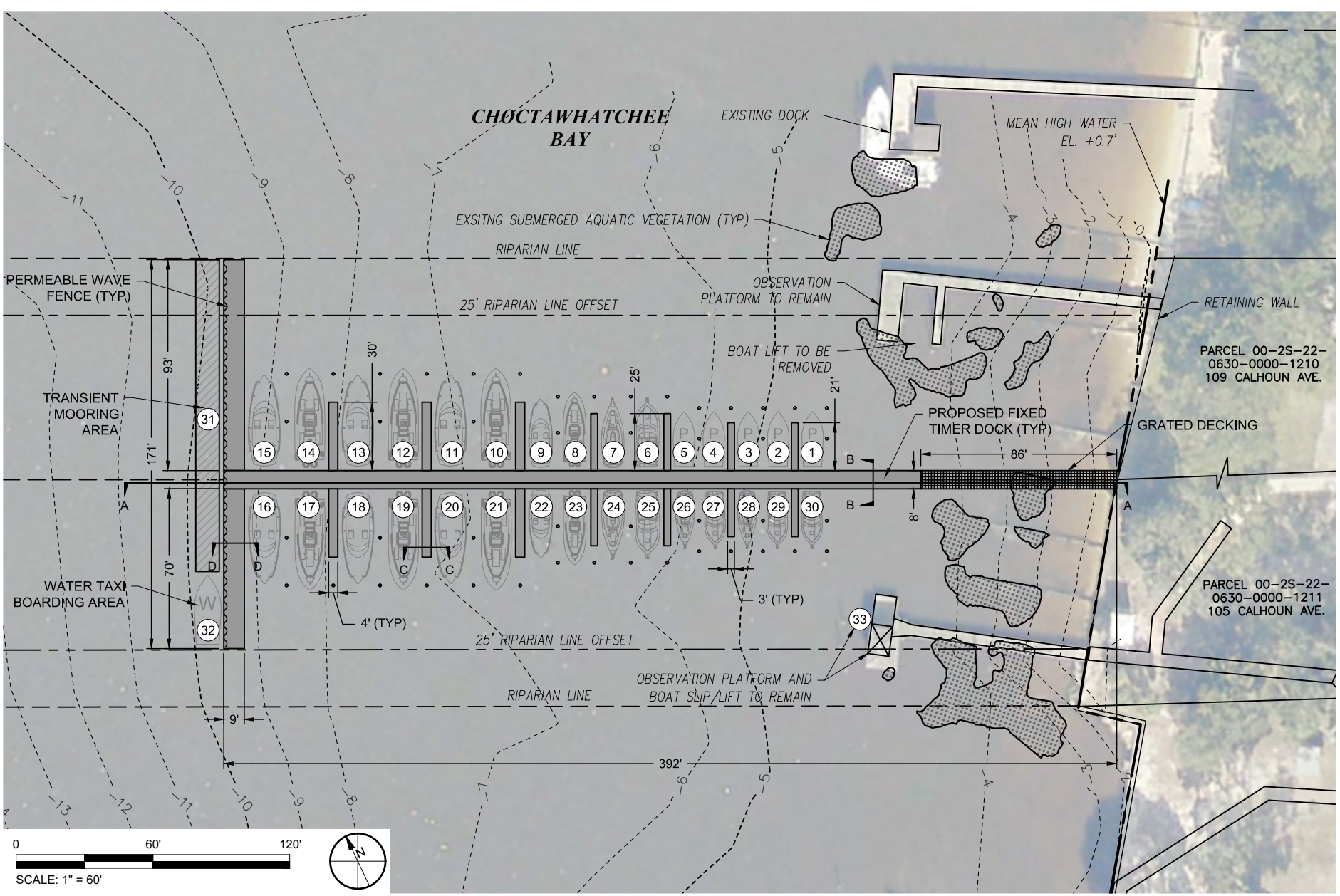
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DUNCAN GREER P.E. #83306

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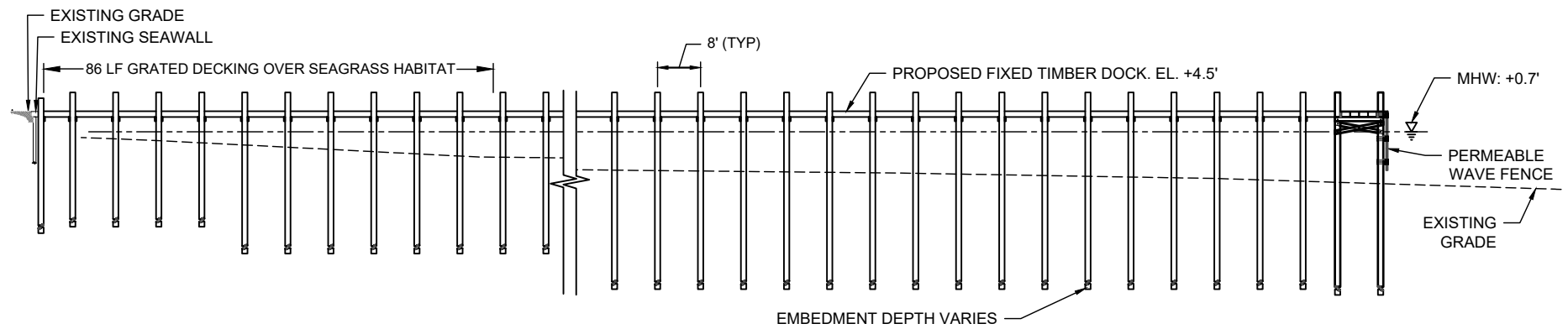
4300 LEGENDARY DRIVE
SUITE C246
DESTIN, FLORIDA 32541
CERTIFICATE OF AUTHORIZATION # 4815

FIGURE 4
PROPOSED SITE PLAN
HERON'S NEST MARINA
DESTIN, FLORIDA

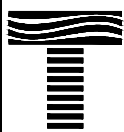
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A
FIG 4 DOCK PROFILE
 SCALE: 1" = 30'



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4300 LEGENDARY DRIVE
 SUITE C246
 DESTIN, FLORIDA 32541
 CERTIFICATE OF AUTHORIZATION # 4815

FIGURE 5
 DOCK PROFILE
 HERON'S NEST MARINA
 DESTIN, FLORIDA

PROJECT	C2018-051
DRAWN BY	AF/CAS
SHEET	5 of 8
DATE	JULY 2019

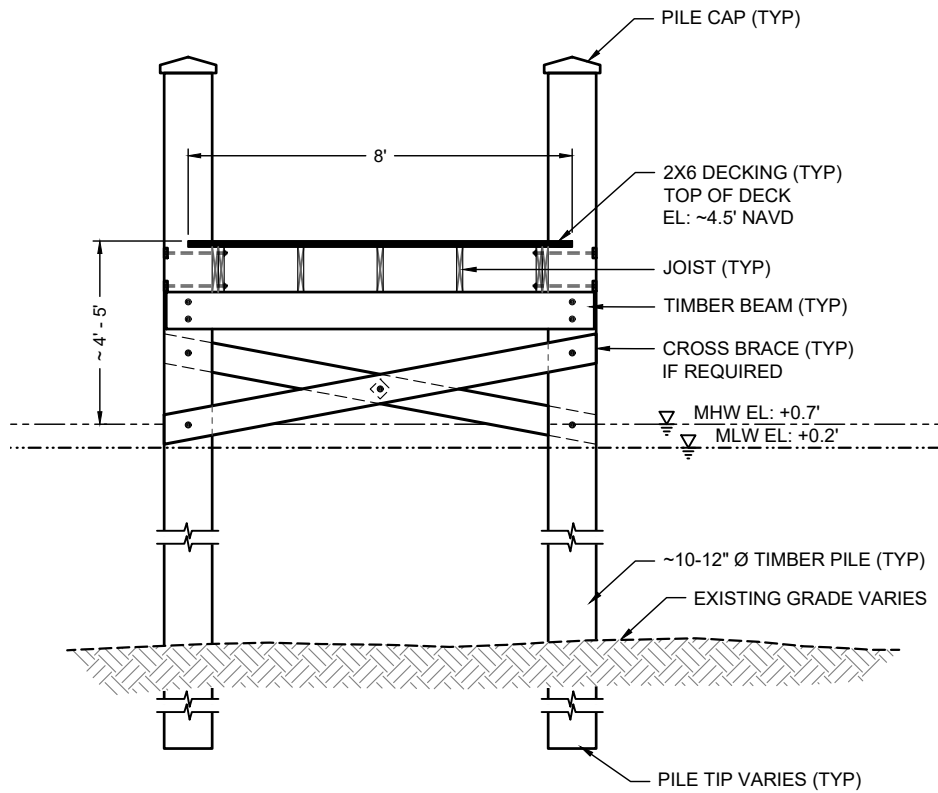
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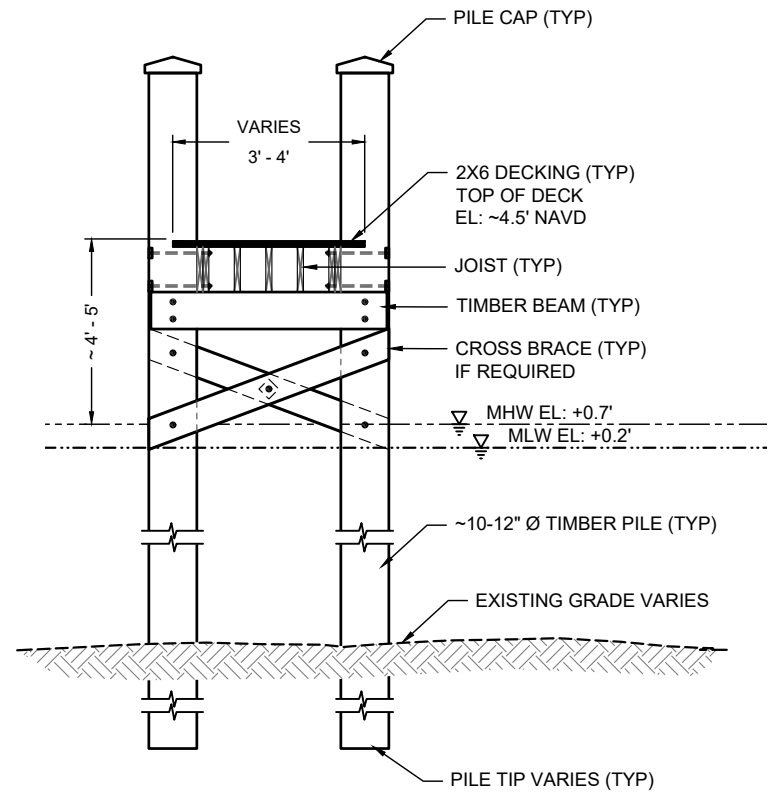
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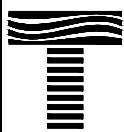
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B TYPICAL DOCK SECTION
 FIG 4 SCALE: 1" = 4'



C TYPICAL FINGER PIER SECTION
 FIG 4 SCALE: 1" = 4'



TAYLOR ENGINEERING INC.

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 DESTIN, FLORIDA 32541
 CERTIFICATE OF AUTHORIZATION # 4815

FIGURE 6
 TYPICAL DOCK SECTIONS
 HERON'S NEST MARINA
 DESTIN, FLORIDA

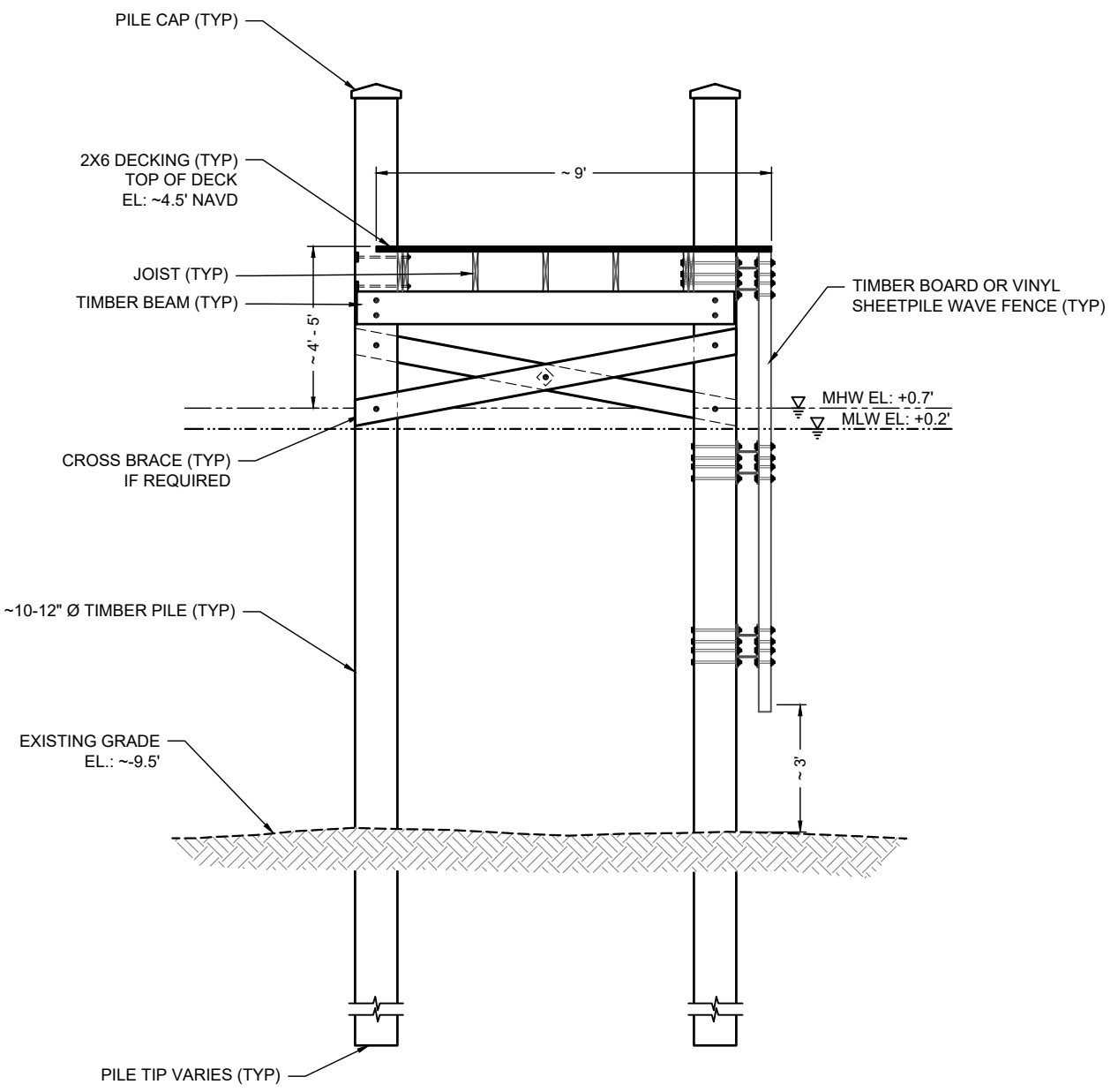
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DATE	JULY 2019	


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D PERMEABLE WAVE FENCE
 FIG 4 SCALE: 1" = 4' 

TAYLOR ENGINEERING INC.
 4300 LEGENDARY DRIVE
 SUITE C246
 DESTIN, FLORIDA 32541
 CERTIFICATE OF AUTHORIZATION # 4815

FIGURE 7
 PERMEABLE WAVE FENCE
 HERON'S NEST MARINA
 DESTIN, FLORIDA

PROJECT	DRAWN BY	SHEET	DATE
C2018-051	AF/CAS	7 of 8	JULY 2019

SEAL

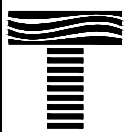
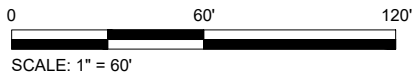
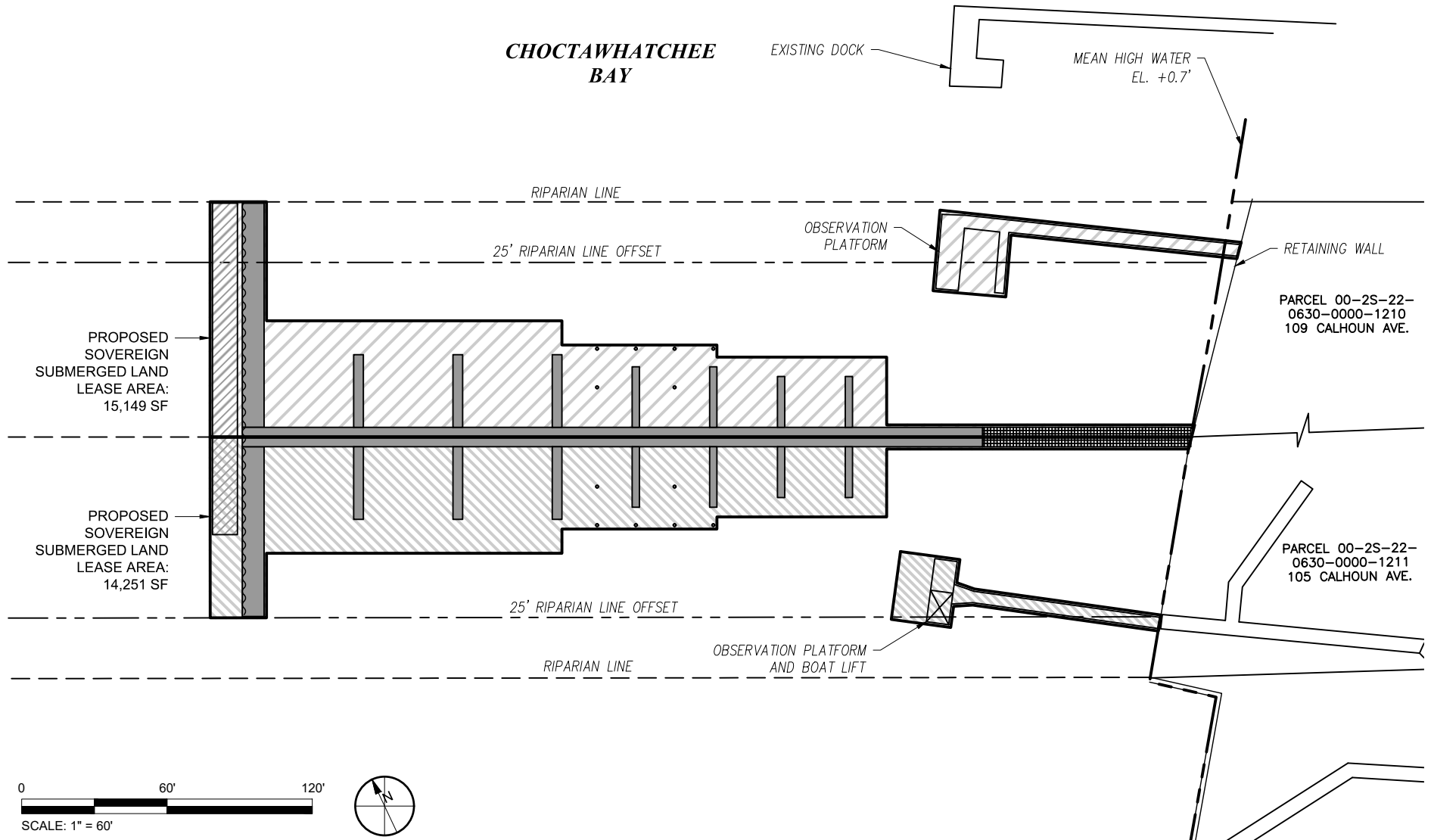
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CHOCTAWHATCHEE BAY



TAYLOR ENGINEERING INC.

4300 LEGENDARY DRIVE
SUITE C246
DESTIN, FLORIDA 32541
CERTIFICATE OF AUTHORIZATION # 4815

FIGURE 8
PROPOSED SOVEREIGN SUBMERGED LAND LEASE BOUNDARY
HERON'S NEST MARINA
DESTIN, FLORIDA

PROJECT	C2018-051
DRAWN BY	AF/CAS
SHEET	8 of 8
DATE	JULY 2019

SEAL

DRAFT

DUNCAN GREER P.E. #83306

DATE



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, FL 32502

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Permittee/Authorized Entity:

Heron's Nest, LLC
c/o Wayne Lung
600 4th Street
Destin, Florida 32541, Okaloosa County
WLung@embarqmail.com

Heron's Nest Marina

Authorized Agent:

Duncan Greer
4300 Legendary Drive, Suite C246
Destin, Florida 32541
DGreer@tayloengineering.com

**Environmental Resource Permit
State-owned Submerged Lands Authorization – Granted Pending Document
Execution**

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Okaloosa County
Permit No.: 0317602-002-EI/46
Lease File No.: 460355891

Permit Issuance Date: May 18, 2020
Permit Construction Phase Expiration Date: May 18, 2025

Consolidated Environmental Resource Permit and Sovereignty Submerged Lands Authorization

Permittee/Grantee: Heron's Nest, LLC
Permit No: 0317602-002-EI/46

PROJECT LOCATION

The activities authorized by this permit and sovereignty submerged lands authorization are located at 105 and 109 Calhoun Ave, Destin, Florida 32541, Parcel IDs 00-2S-22-0630-0000-1210 and 00-2S-22-0630-0000-1211, in Section 00, Township 02 South, Range 22 West in Okaloosa County, at 30°23'55.72" North Latitude, 86°30'49.18" West Longitude.

PROJECT DESCRIPTION

The permittee is authorized to construct a new 33-slip commercial marina. The marina facility will be constructed in addition to two existing piers and will include a designated water-taxi slip. Handrails and "No Mooring" signs will be installed adjacent to the areas not authorized for mooring on all three piers and the existing mooring pilings will be removed. The project is located within Choctawhatchee Bay, a Class II Florida Waterbody, Prohibited Shellfish Harvesting Area. Those activities include the preemption of 29,299 square feet of state-owned sovereignty submerged lands. Authorized activities are depicted on the attached exhibits.

AUTHORIZATIONS

Heron's Nest Marina

Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the appropriate form of proprietary authorization is a lease. Based on the information submitted, we have begun processing your application to use sovereign submerged lands (460355891). Please contact Wade Dandridge at (850)595-0655 for additional information.

The final documents required to execute the lease will be sent to the lessee by the Department's Division of State Lands for execution. The Department intends to issue the lease, upon satisfactory execution of those documents, including payment of required fees and compliance with the conditions in the attached permit. **You may not begin construction of the activities described until you receive a copy of the executed lease from the Department.**

Federal Authorization

Your proposed activity as outlined on your application and attached drawings **does not qualify** for federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the U.S. Army Corps of Engineers (Corps). You must apply separately to the Corps using the federal application form (ENG 4345). More information about Corps permitting may be found online in the Jacksonville District Regulatory Division Sourcebook. **Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.**

Authority for review – an agreement with the Corps entitled “Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit,” Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

Coastal Zone Management

Issuance of this authorization also constitutes a finding of consistency with Florida’s Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

Water Quality Certification

This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this activity may be required by other federal, state, regional, or local entities including but not limited to local governments or municipalities. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

PERMIT CONDITIONS

The activities described must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit and sovereignty submerged lands authorization, as described.

SPECIFIC CONDITIONS – ADMINISTRATIVE/EMERGENCIES

1. The construction phase expires at 11:59 p.m. on the date indicated on the cover page of this permit.
2. For emergencies involving a serious threat to the public health, safety, welfare, or environment, the emergency telephone contact number is (800) 320-0519 (State Warning Point). The Department telephone number for reporting nonthreatening problems or system malfunctions is (850) 595-0663, day or night.
3. The mailing address for submittal of forms for the “Construction Commencement Notice”, “As-Built Certification ...”, “Request for Conversion of Stormwater Management Permit Construction Phase to Operation and Maintenance Phase”, or other correspondence is FDEP, SLERP, 160 West Government St, Suite 308, Pensacola, FL 32502.

SPECIFIC CONDITIONS – PRIOR TO ANY CONSTRUCTION

4. All contractors involved in this permitted activity shall be provided copies of this permit in its entirety. A copy shall remain onsite at all times during the activities.
5. Prior to the initiation of any work authorized by this permit, floating turbidity screens with weighted skirts that extend to within 1 ft. of the bottom shall be placed around the active construction areas of the site. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not exceed 29 NTU’s above background levels. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there are no violations of state water quality standards outside of the turbidity screens.
6. The existing mooring pilings located at the facility outside the Sovereign Submerged Lands Lease area shall be removed.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

7. Best management practices for erosion control shall be implemented and maintained at all times during construction to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Rule 62-302, F.A.C. Methods shall include, but are not limited to the use of staked hay bales, staked filter cloth, sodding, seeding, and mulching; staged construction; and the installation of turbidity screens around the immediate project site.
8. This permit does not authorize the construction of any additional structures not illustrated on the permit drawings. Examples of additional structures include but are not limited to walkways, awnings, enclosed sides and covers over slip areas, finger piers, step-down stairs, storage closets and decking.
9. There shall be no stock piling of tools, materials, (i.e., lumber, pilings, riprap, and debris) within wetlands, along the shoreline within the littoral zone, or elsewhere within waters/waters of the state.

10. All watercraft associated with the construction of the permitted structure shall only operate within waters of sufficient depth so as to preclude bottom scouring and prop dredging.

11. Construction equipment shall not be repaired or refueled in wetlands or elsewhere within waters of the state.

12. Pilings within areas containing seagrasses shall be spaced at least ten feet apart and shall be installed by vibrating, pounding or hand-auguring them in place. Jetting of pilings within seagrass areas shall be prohibited.

13. To protect benthic and wetland resources when present, the elevation of the decking shall be a minimum of five feet above mean high water. The section of the access pier that traverses seagrasses shall be constructed of grated decking.

14. Mooring is prohibited along both sides of the access pier and along the waterward face of dock structures adjacent to non-leased Sovereign Submerged Lands. Handrails shall be constructed to eliminate access by boaters, installed concurrently with dock construction, and shall be maintained for the life of the facility. "No Mooring" signs shall be posted along the waterward face of dock structures in these areas. The signs must be installed prior to occupancy.

15. Any damage to wetlands or surface waters outside of the authorized impact areas as a result of construction shall be immediately reported to the Department at (850)595-8300 and repaired by reestablishing the pre-construction elevations and replanting vegetation of the same species, size, and density as that in the adjacent areas. The restoration shall be completed within 30 days of completion of construction, and the Department shall be notified of its completion within that same 30-day period.

16. All cleared vegetation, excess lumber, scrap wood, trash, garbage and any other type of debris shall be removed from wetlands/waters of the state within 14 days of completion of the work authorized in this permit.

SPECIFIC CONDITIONS – OTHER LISTED SPECIES

17. This permit does not authorize the permittee to cause any adverse impact to or “take” of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of “take” and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a “take” permit cannot be issued. Requests for further information or review can be sent to FWCConservationPlanningServices@MyFWC.com.

SPECIFIC CONDITIONS – OPERATION AND MAINTENANCE ACTIVITIES

18. Waterborne craft moored over sovereign submerged lands at the docking facility, on either a temporary or permanent basis, shall not extend beyond the limits of the sovereignty submerged land lease. The slip sizes shown on the attached permit drawings and on the survey to be attached to the sovereignty submerged land lease indicate a length over all (LOA) for the slips designated. The permittee shall take all measures necessary to ensure all boats moored over sovereign

submerged lands at the docking facility are completely within the limits of the submerged land lease.

19. Boat maintenance or repair activities requiring removal of a vessel from the water, or removal of any major portions of the vessel, including the engine, for purposes of routine repair or maintenance on site, shall be prohibited for the life of the facility, except where removal is necessitated by emergency conditions which have resulted in or can result in the sinking of a vessel. Specifically prohibited shall be hull painting, and any discharges or release of oils or greases associated with engine and hydraulic repairs, and related metal-based bottom paints associated with hull scraping, cleaning, and painting.

20. In-the water hull scraping and any abrasive process is prohibited at the authorized facility. In-the-water soft cleaning with brushes, sponges, or towels is approved at the authorized facility. The use of detergents during soft cleaning is prohibited at the authorized facility.

21. All vessels that moor, dock, or otherwise use the permitted docking facility shall be maintained in a fully operational condition.

22. There shall be no boat repair facilities on any structure that is over the water.

23. Overboard discharges of trash, human or animal waste, or fuel shall not occur at the dock.

24. There shall be a minimum 12-inch clearance between the deepest draft of the vessels (with the motor in the down position) and the bottom of the waterbody at mean low water so as to preclude bottom scouring or prop dredging.

25. The waterward corners of the docks shall be marked by a sufficient number of reflectors so as to be visible from the water at night by reflected light. The reflectors shall not be green or red in color.

26. The dock structures shall be inspected by the permittee at least once per year and shall be maintained in a functional condition for the life of the structures.

27. If the structures become abandoned, the permittee shall be responsible for submitting an application for a permit to remove the structure from sovereign submerged lands and shall be responsible for the subsequent removal of the structure.

28. To protect benthic and wetland resources when present, the elevation of the decking shall be maintained at a minimum of five feet above mean high for the life of the facility.

29. All future authorized replacement pilings for support of the docking structures shall be spaced at least ten feet apart and shall be installed by vibrating, pounding or hand-auguring them in place. Jetting of pilings within seagrass areas shall be prohibited.

GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual* (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex – "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
 - b. For all other activities – "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
 - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru

12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.

- b. Within 30 days of submittal of the as-built certification, the permittee shall submit “Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity” [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

9. This permit does not:

- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
- b. Convey to the permittee or create in the permittee any interest in real property;
- c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
- d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.

12. The permittee shall notify the Agency in writing:

- a. Immediately if any previously submitted information is discovered to be inaccurate; and
- b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.

14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such

discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.

16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.

18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until a subsequent order of the Department. Because the administrative hearing process is designed to formulate final agency action, the subsequent order may modify or take a different position than this action.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, 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, or via electronic correspondence at Agency_Clerk@FloridaDEP.gov. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant to Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

Extension of Time

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

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

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

Thank you for applying to the Submerged Lands and Environmental Resource Permit Program. If you have any questions regarding this matter, please contact Wade Dandridge at the letterhead address, at (850)595-0655, or at Wade.Dandridge@FloridaDEP.gov

EXECUTION AND CLERKING

Executed in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Elizabeth Mullins Orr
Interim Director

EMO:wd

Attachment:

Project Drawings and Design Specs., 8 pages

Copies of 62-330 forms may be obtained at: <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/forms-environmental-resource>

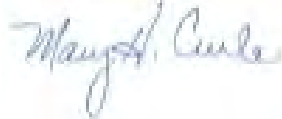
CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

Kimberly R. Allen, DEP, Kim.Allen@FloridaDEP.gov
Wade Dandridge, DEP, Wade.Dandridge@FloridaDEP.gov
Department of Community Affairs, Ray.Eubanks@deo.myflorida.com,
DCPPermits@deo.myflorida.com
Okaloosa County, mmartinez@co.okaloosa.fl.us, jautrey@co.okaloosa.fl.us,
sbitterman@co.okaloosa.fl.us, propertyappraiser@okaloosapa.com
City of Destin, planning@cityofdestin.com, LWitt@cityofdestin.com

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.



May 18, 2020

Clerk

Date

COMMENCEMENT NOTIFICATION

*Within ten (10) days of initiating the authorized work, submit this form via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-2019-03226 (SP-SWA)

2. **Permittee Information:**

Name: _____

Email: _____

Address: _____

Phone: _____

3. **Construction Start Date:** _____

4. **Contact to Schedule Inspection:**

Name: _____

Email: _____

Phone: _____

Signature of Permittee

Printed Name of Permittee

Date

**PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM
(RGL 16-01 Appendix 2)**

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 13 SEP 2019

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Wayne Lung
Heron's Nest, LLC.
600 4th Street
Destin, Florida 32541

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville District;
Heron's Nest, LLC; SAJ-2019-03226.

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

State: FL **County:** Okaloosa **City:** Mary Esther
Center Coordinates: Latitude: 30.398842° **Longitude:** -86.513781°
Name of nearest waterbody: Choctawhatchee Bay

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination. Date: 13 SEP 2019
- Field Determination. Date(s):

**TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE"
SUBJECT TO REGULATORY JURISDICTION.**

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e. wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e. Section 404 or Section 10/404)
1	30.398842°	-86.513781°	5,869 ft ²	Bay Bottom & Surface Waters	10

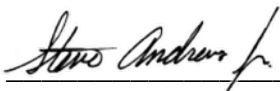
- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring “pre-construction notification” (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) that the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant’s acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as is practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there “*may be*” waters of the U.S. and/or that there “*may be*” navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:
Map: _____
- Data sheets prepared/submitted by or on behalf of the PJD requestor.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: _____
- Corps navigable waters' study: _____
- U.S. Geological Survey Hydrologic Atlas: _____
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: _____
- Natural Resources Conservation Service Soil Survey. Citation: _____
- National wetlands inventory map(s). Cite name: _____
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____
- 100-year Floodplain Elevation is: _____ (NGVD of 1929)
- Photographs: Aerial (Name & Date): Google Earth (current).
or Other (Name & Date): _____
- Previous determination(s). File no. and date of response letter: _____
- Other information (please specify): The project site is within Choctawhatchee Bay which is a TNW and is navigable in-fact.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

 13 SEP 2019
Signature and date of
Regulatory staff member
completing PJD

Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining
the signature is impracticable)¹

¹ Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

*Within sixty (60) days of completion of the authorized work, submit this form and one set of as-built engineering drawings via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, but not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-3131.*

1. Department of the Army Permit Number: SAJ-2019-03226 (SP-SWA)

2. Permittee Information:

Name: _____

Address: _____

3. Project Site Identification (physical location/address):

4. As-Built Certification: I hereby certify that the authorized work, including any mitigation required by Special Conditions to the permit, has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

Signature of Engineer

Name (*Please type*)

(FL, PR, or VI) Reg. Number

Company Name

City

State

ZIP

(Affix Seal)

Prepared by:

Permittee: _____

Address: _____

Phone: _____

NOTICE OF DEPARTMENT OF THE ARMY AUTHORIZATION

TAKE NOTICE the United States Army Corps of Engineers (Corps) has issued a permit or verification SAJ-2019-03226 to Wayne Lung/Heron's Nest, LLC (Permittee) on June 4, 2020, authorizing work in navigable waters of the United States in accordance with Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403) on a parcel of land known as Folio/Parcel ID: _____ located at 105 and 109 Calhoun Avenue, Latitude: 30.398842°; Longitude: -86.513781°, Destin, Okaloosa County, Florida.

Within 30 days of any transfer of interest or control of said property, the Permittee must notify the Corps in writing of the property transfer by submitting the completed permit transfer page included with the issued permit or verification. The subject permit or verification concerns only that portion of the property determined to fall within the jurisdiction of the Corps and this notice is applicable only to those portions of the subject property in, over, under, or affecting navigable waters of the United States.

Conditions of the Permit/Verification: The permit or verification is subject to General Conditions and Special Conditions which may affect the use of the work authorized in Choctawhatchee Bay. Accordingly, interested parties should closely examine the entire permit or verification, all associated applications, and any subsequent modifications.

To obtain a copy of the authorization in its entirety submit a written request to:
U.S. Army Corps of Engineers
Regulatory Division - Special Projects & Enforcement Branch
Post Office Box 4970
Jacksonville, Florida 32232-0019

Questions regarding compliance with these conditions should be directed to:
U.S. Army Corps of Engineers
Enforcement Section
Post Office Box 4970
Jacksonville, Florida 32232-0019

Conflict Between Notice and Permit

This Notice of Authorization is not a complete summary of the issued permit or verification. Provisions in this Notice of Permit shall not be used in interpreting the permit or verification provisions. In the event of conflict between this Notice of Permit and the permit or verification, the permit or verification shall control.

This Notice is Not an Encumbrance

This Notice is for informational purposes only. It is not intended to be a lien, encumbrance, or cloud on the title of the premises.

Release

This Notice may not be released or removed from the public records without the prior written consent of the Corps.

This Notice of Authorization is executed on this _____ day of _____, _____. This document is being submitted for recordation in the Public Records of Okaloosa County, Florida as part of the requirement imposed by the authorization SAJ-2019-03226 issued by Corps.

Permittee:

Address:

Phone: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or has produced _____ as identification.

Notary Public (seal)

Print

My Commission Expires _____

**U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological
Opinion (JaxBO) Project Design Criteria (PDCs) for In-Water Activities**

November 20, 2017

- 1) **(AP.7.) Education and Observation:** The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:
http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html
- 2) **(AP.8.) Reporting** of interactions with protected species:
 - a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to takereport.nmfs@noaa.gov and SAJ-RD-Enforcement@usace.army.mil.
 - b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email Sawfish@MyFWC.com
 - c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email nmfs.ser.sturgeonnetwork@noaa.gov
 - d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
 - e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.
- 3) **(AP.9.) Vessel Traffic and Construction Equipment:** All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:
 - a) *Construction Equipment:*
 - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
 - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
 - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of

construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.

b) *All Vessels:*

- i) Sea turtles: Maintain a minimum distance of 150 ft.
- ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
- iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
- iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
- v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
- vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
- vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

- 4) **(AP.10.) Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:

- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
- c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
- d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
- e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm

Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):

- i) Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
 - ii) The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cableline). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.
- 5) **(AP.11.) Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.
- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
 - b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
- c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
- e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
- f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.
- g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006

O:\forms\Sea Turtle and Smalltooth Sawfish Construction Conditions.doc





E M E R A L D
C O A S T
P E R M I T T I N G
I N C O R P O R A T E D

September 13, 2022

City of Destin – Community Development
4100 Indian Bayou Trail
Destin, FL 32541

Attn: Sae More
Planner

Re: **109 & 105 Calhoun Avenue – Dock Extension – COST ESTIMATE**
Harbor & Waterways Board Approval - (HWB-000851-2022)
Destin, FL

On behalf of applicant Heron’s Nest, LLC, please consider this our statement of COST ESTIMATE: \$283,777.00.

X Candi L. Gray

Candi L. Gray
President



Community Development Planning Division

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-654-1119 | Email: planning@cityofdestin.com

September 16, 2022

Subject: Notification of Application Submittal – Commercial Marine Construction –105 and 109 Calhoun Ave

Dear Property Owner:

The purpose of this letter is to notify you of the Marine Construction Permit received by the Community Development Department. The Marine Construction application seeks Harbor and Waterways Board approval for construction of a commercial docking facility, comprising approximately 5,869 square feet. **The Application will be heard by the Harbor and Waterways Board at 5:00 p.m. at Destin City Hall Annex, 4100 Indian Bayou Trail on Monday, September 26, 2022.** As an owner of property located adjacent of this project, *Section 2.17.00 of the Destin Land Development Code (LDC)* requires a written notice providing you the following information.

This notice is for informational purposes only. Please provide any feedback (positive or negative) to Staff at planning@cityofdestin.com. Citizens are also encouraged to attend the public hearing at the date/time listed above.

1. Name of Owner: Wayne Lung of Heron's Nest LLC
2. Name of Agent: Candi Gray of Emerald Coast Permitting, Inc.
3. Address of Project: 105 and 109 Calhoun Avenue
4. Parcel ID Number: 00-2S-22-0630-0000-1211 and 00-2S-22-0630-0000-1210
5. Project Description: Construction of a 25-slip commercial marina consisting of one (1) 392' x 8' access pier, one (1) 171' x 9' terminal platform, six (6) 30' x 4' finger piers, four (4) 25' x 3' finger piers, and two (2) 21' x 3' finger piers, comprising a of total ±5,821 square feet. The marina is also proposing to provide a Water Taxi Boarding Area and Transient Mooring Area.
6. Location of Application Package: To request a digital copy of the application package be sent to you, please call the City Clerk at (850) 837-4242 or fill out a Public Records Request (PRR) online: <http://www.cityofdestin.com/forms.aspx?fid=121>

If you have any questions or concern regarding this letter, please do not hesitate to call (850) 654-1119 option 2 or email at planning@cityofdestin.com.

Sincerely,

Sae More

Sae More
Planner



CC: Louis Zunguze, MURP, Community Development Director
Planning Division
Community Development Department Project File

