



**AGENDA
HARBOR AND WATERWAYS BOARD MEETING
MONDAY, SEPTEMBER 23, 2019
5:00 PM
DESTIN CITY HALL BOARDROOM**

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**
- 2. APPROVAL OF MINUTES**
 - A) August 23, 2019 Minutes**
- 3. PUBLIC COMMENTS**
- 4. NEW BUSINESS**
 - A) 936 Bambi Drive, Shelby and Jennifer Smith, Proposed ±56 ft extension to include a boathouse and two (2) catwalks.**
 - B) 2020 Work Plan - Goals and Objectives**
- 5. OLD BUSINESS**
- 6. COMMITTEE MEMBER REPORTS**
- 7. DIRECTOR'S REPORT**
- 8. NEXT MEETING DATE: TBD**
- 9. ADJOURNMENT**

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)

**MINUTES
HARBOR AND WATERWAYS BOARD MEETING
DESTIN CITY HALL 5:00 P.M. – AUGUST 26, 2019**

1. CALL TO ORDER:

Chairman Trammell called the Destin Harbor and Waterways Board meeting to order at approximately 5:00 p.m. on Monday, August 26, 2019 at Destin City Hall.

2. ROLL CALL:

Member Present:

Matt Trammell
Richard Hoey
Casey Jones
Jim Green
Bill McKissick
Guy Tadlock
Quinten Selby

Staff:

Kim Montgomery, Deputy City Clerk
Dawn McDonald, Planner
Louis Zunguze, Community Development Dir.
Kyle Bauman, City Attorney
David Bazylak, Code Compliance
Joey Forgione, Code Compliance Manager

3. APPROVAL OF MINUTES:

➤ **April 22, 2019**

Board member Jones moved to approve of the April 22, 2019 minutes as written with Board member Hoey providing the second; the motion passes with a 7-0 vote.

4. PUBLIC COMMENT: None

5. NEW BUSINESS: None

6. OLD BUSINESS:

A. 821 Cross Street, Stan Shipp, Property Owner

- *Request for the removal and replacement of (1) 4' X 41' existing dock with (1) 8' X 41' dock. The total project footprint is ±328 total square feet.*

Ms. McDonald informed the members that they are only approving the dock replacement portion, which is to remove the 4' x 41' dock and replace it with the 8' x 41' dock; adding that the work has already been done and this is an after-the-fact permit approval. Additionally, she informed the members that the request meets all the requirements of the Land Development Code's Marina Siting and the Coastal Element in the Comprehensive Plan and staff recommends approval.

The Chairman asked if the adjacent property owners were properly notified. According to Mrs. McDonald; staff actually notified all the property owners in the surrounding homes for this particular project request. The Chairman asked about the boat ramp that was a part of the previous request last year. According to Ms. McDonald, that is part of the upland permit application and is not something that they are required to review.

Board member Jones made the motion to recommend City Council approve the after-the-fact permit request for the removal of (1) 4' x 41' existing dock with (1) 8' x 41' dock; the total sq. footage being ±328 located at 821 Cross Street. Board member Hoey provided the second to the motion.

Mr. Robert King of 820 Cross Street stated that he received the notice well in advance; even though the project has already been constructed. He then stated that since the request is already constructed he feels that they need to just move on. The Chairman explained they are aware of that and this is just a process they must follow.

The Chairman closed the public and called for the vote. **The motion passed with a vote of 7-0.**

7. MEMBER REPORTS:

A. Mr. Hoey -- Discussion of Article 11.05.00. Marina Siting, Land Development Code, and recommended changes to the existing Code.

Board member Hoey spoke of how self-certification on the State's website has become more prevalent and how about 75% of the projects they have reviewed have been self-certifications. He spoke of how a lot of mistakes are could potentially be made by people not knowing the location of the riparian lines and feels that if they can look at the code and make some changes to the language to make it clear; then possibly mistakes could be avoided for riparian rights issues and suggests the following:

- Adding to section 11.05.01(B) where a letter of concurrence would be required at the time of application; if the project does not comply with the 25/10-foot setback requirements from the effective adjacent property owner.
- If a letter of concurrence from adjacent property owners to be submitted with the application then the project request would not have to come before the Harbor & Waterways Board.
- Self-Certification reconstruction permit where the project would have to be built in the exact location of the previous marine construction.

Chairman Trammell spoke of situations of concern where the setback waiver couldn't come into play such as a past request where the project request property was on 30-feet wide and those exemptions would have to be reviewed by the Board. As well as with a rebuild, how they would address a rebuild with a structure that may extend out further. He also would like to review the requirements for the drawings noting that they don't have to be engineered drawings, but they must be to scale, they must have the dimensions, they must show how long the docks are, location of the slips, as well as general number of pilings. Adding that those requirements would also help staff tremendously.

The Chairman asked the City Attorney what he recommends they do regarding the proposed language in the Code. According to Mr. Bauman, he suggests they send their recommendations to council who can direct staff to revise the language in the code. He also suggested that they have a representative to attend the meeting when this discussion is on the agenda to answer any questions that Council may have.

There was a brief discussion about how the board thought the entire Marina Siting Code was being rewritten. According to Mr. Zunguze, he is working on a timeline for that work plan for this coming year and will coordinate with Chairman Trammell when staff is ready to present this to Council so they can in turn direct staff on any revisions they feel need to be made to the language in the Code. And then at that point, it will be brought back to this board for input before going back to Council for their consideration. However, he added that they are currently reconciling the Zoning Map and the Future Land Use Map to

bring them into compliance with each other and after that is finished staff will start working to revamp the entire Land Development Code.

There was a brief discussion about the permitting and inspecting process after construction is finalized as well as at what point is marine construction considered commercial.

Ms. McDonald informed the members the current process and steps and added that the city has a new software system that will be put into place soon that will enable staff with a better tracking system starting at the beginning of the application process to the end.

Board member Tadlock asked what defines the difference between a residential and commercial marine project. According to Ms. McDonald, it's as simple as checking a box in the application process, as well as the location and zoning of the project, and all the proposed uses should all be clearly stated in the application for the project.

The Chairman suggested to the members to read the Marina Siting Code and their handbook and bring any questions or comments they may have to bring back to their next meeting for discussion.

8. COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR'S REPORT:

➤ Harbor Capacity Study

Mr. Zunguze explained that they are getting closer to the funding for the Capacity Study and expects to hear from the Army Corp of Engineers next month.

He then informed the members that Ms. McDonald's last day of employment with the city is this Friday and wished her well on her endeavors. He then introduced Traci Goodheart, who will be taking over some of the duties.

The members discussed the No-Wake Zone violations they have witnessed this past summer season in the harbor. Mr. Bazylak informed the members that staff has discussed a MOU with the County but explained that he cannot cite anyone for violations in the harbor or Crab Island. Adding that he does have jurisdiction in Joe's Bayou and Indian Bayou.

Mr. Forgione explained that he would have an end-of-the year Action Report to present on what the Division did for the year.

The Chairman welcomed new member Quintin Selby to the Board.

9. MEETING DATES:

- **Next Meeting:** September 23, 2019

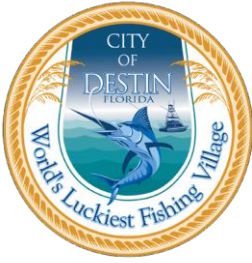
9. ADJOURNMENT:

With there being no further discussion, the meeting adjourned at 6:20 p.m.

Adopted and approved this _____ day of _____ 2019.

Matt Trammell, Chairman

Kim Montgomery, Deputy City Clerk



COMMUNITY DEVELOPMENT DEPARTMENT

AGENDA ITEM

HARBOR & WATERWAYS BOARD MEETING DATE: September 23, 2019**TYPE OF AGENDA ITEM:** Staff Report and Recommendation

TO: Harbor & Waterways Board**THRU:** Kyle Bauman, City Attorney
Louis Zunguze, Community Development Director
Lauren Witt, Principal Planner**FROM:** Traci Goodhart, Planner**DATE:** September 6, 2019**SUBJECT:** Single-Family Residential Marine Construction Proposed at 936 Bambi Drive

REQUEST: The subject property located on Choctawhatchee Bay currently has a ± 132 ft. dock. The applicant is requesting approval to construct a ± 56 ft. extension that will include a boathouse and two (2) catwalks. The contractor has submitted plans that include the removal of ± 37 ft. of the existing dock to accommodate the addition of a boathouse and two (2) catwalks. The proposed addition and existing dock will have a total footprint of ± 330 sq. feet and will not exceed the maximum allowable length (i.e., 156 ft.) established in *Article 11*.

DISCUSSION: Per *Article 11.05.01.M., City of Destin Land Development Code*, the maximum length allowed for a dock located on Choctawhatchee Bay is equal to 1.5 times the width of the property at the mean high-water line, or 200 feet, whichever is less. The width of this property at the mean high-water line is approximately 104 feet. The proposed dock is 156 feet long, and is the maximum length allowed.

The proposed dock also meets the requirements of *Article 11.05.01.S., City of Destin Land Development Code*, as it includes the required 25-foot riparian setback from the adjacent property owner.

Additionally, the proposal addresses the following City standards:

- A. Link to Strategic Goals /Objectives:** 1) Enhance Quality of Life. 2) Improve Public Use of Beach, Waterways and Harbor. 3) Enhance and Preserve Heritage and Environment.

B. Effect on Budget (EOB): There is not any anticipated effect on the budget. Additionally, there is no staff requirement for this project.

C. Level of Service (LOS): The City of Destin shall not incur any expense or revenue as a result of this Ordinance.

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.

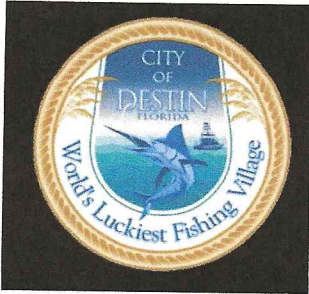
CONCLUSION: The application has been reviewed and approved by the Florida Department of Environmental Protection (FDEP). Additionally, City staff reviewed the application and determined that the plans comply with the City's Land Development Code and Comprehensive Plan.

RECOMMENDATION: Staff recommends approval of the single-family residential marine construction project, (1) boathouse and (2) 4' x 55' catwalks, proposed at 936 Bambi Drive subject to the applicant meeting all applicable City permit requirements.

RECOMMENDED MOTION: I move that the Harbor & Waterways Board recommends approval to City Council of the proposed single-family residential marine construction project located at 936 Bambi Drive, subject to the applicant meeting all applicable City permit requirements.

Exhibits:

- A. Harbor & Waterways Board Application, dated July 30, 2019**
- B. Revised site plans for proposed project, dated September 3, 2019**
- C. Florida Department of Environmental Protection - Notice of Intent, dated August 9, 2019.**



City of Destin
Community Development Department
Planning & Zoning Division
City of Destin Annex
4100 Indian Bayou Trail
Destin, Florida 32541
Phone (850) 837-4242 • Fax (850) 460-2171
planning@cityofdestin.com

APPLICATION for HARBOR BOARD

Harbor Board meets the 4th Monday of each month, all applications must be submitted at least one month prior.

Description of work: Construct boathouse

1. APPLICANT INFORMATION:

Name: Shelby Smith

Mailing Address: 936 Bambi Ln

Phone: 870 931 8004

Fax: _____

Email: shelbyelite@gmail.com

2. PROPERTY TO BE REVIEWED:

Street Address: 936 Bambi Ln

Parcel ID #: _____

- 3. FEE:** **\$50.00 Residential** **Cash, Check, MasterCard or Visa**
 \$100.00 Commercial

Fees must be paid when submitting an application.

4. ADDITIONAL DOCUMENTATION REQUIRED:

- a. Complete detailed drawings and site plan.
- b. Adjacent property owner mailing information.

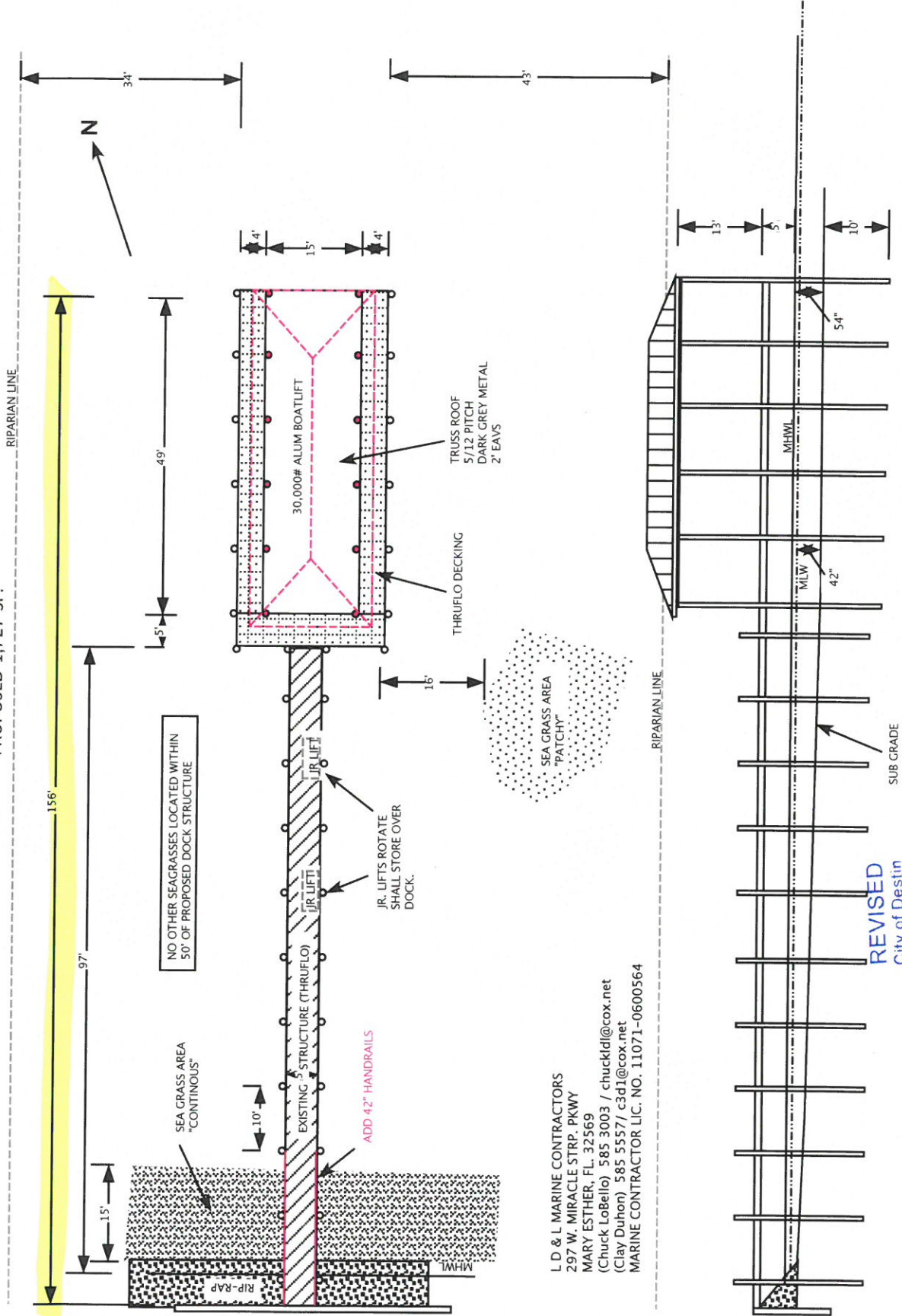
State and Federal permits required prior to submission for Harbor Board approval. Association approval (if applicable) shall accompany a completed application for a building permit, provided no additional slips are created. (Article 11.05.01B., Land Development Code).

APPLICANT'S SIGNATURE: _____

DATE: 8/8/19

SMITH DOCK PLAN 936 BAMBI

PROPOSED 1,727 SF.



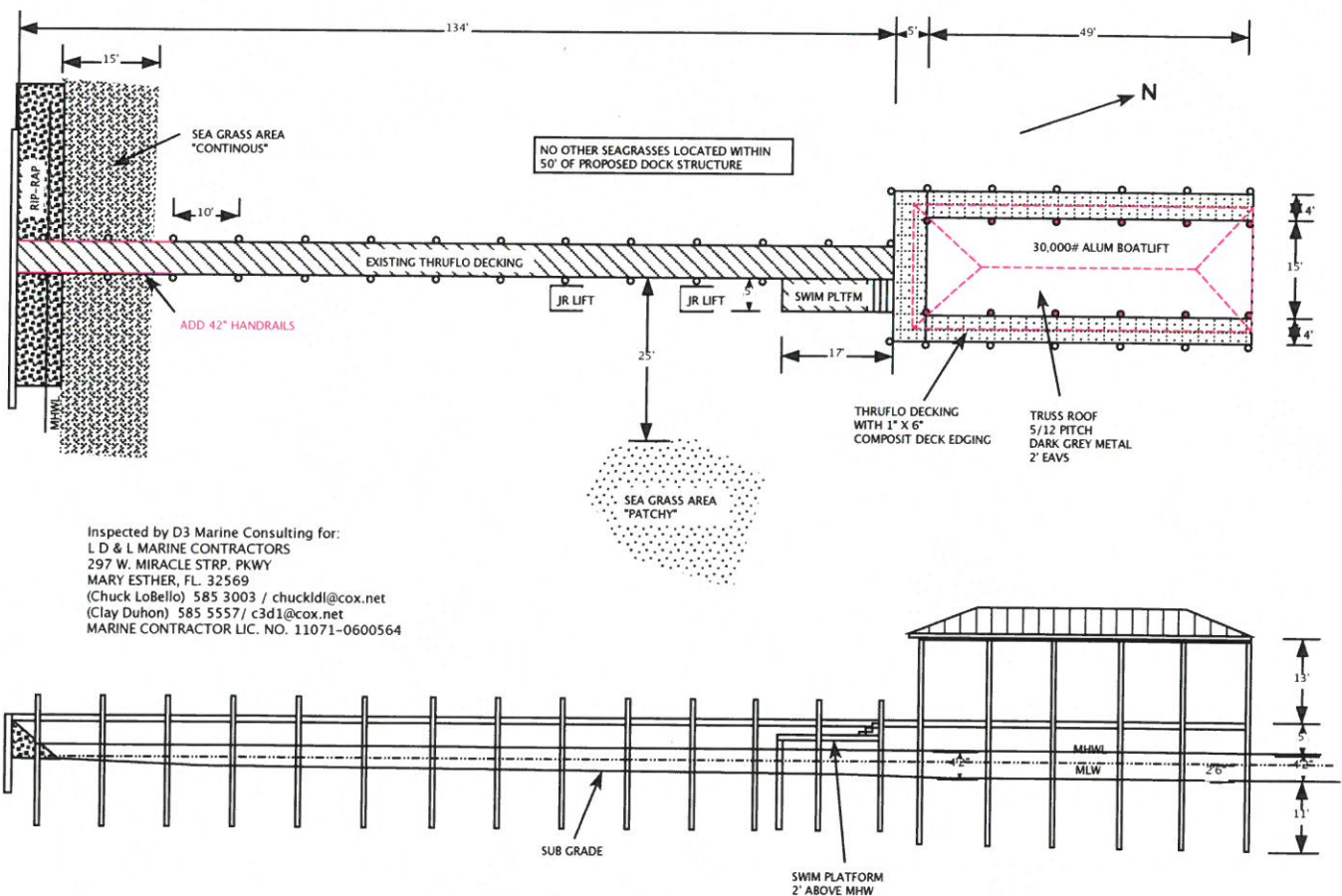
L.D. & L. MARINE CONTRACTORS
297 W. MIRACLE STR. PKWY
MARY ESTHER, FL. 32569
(Chuck LoBello) 585 3003 / chuckldl@cox.net
(Clay Duhon) 585 5557 / c3d1@cox.net
MARINE CONTRACTOR LIC. NO. 11071-0600564

REVISED
City of Destin

SEP 3 2019

Building Department

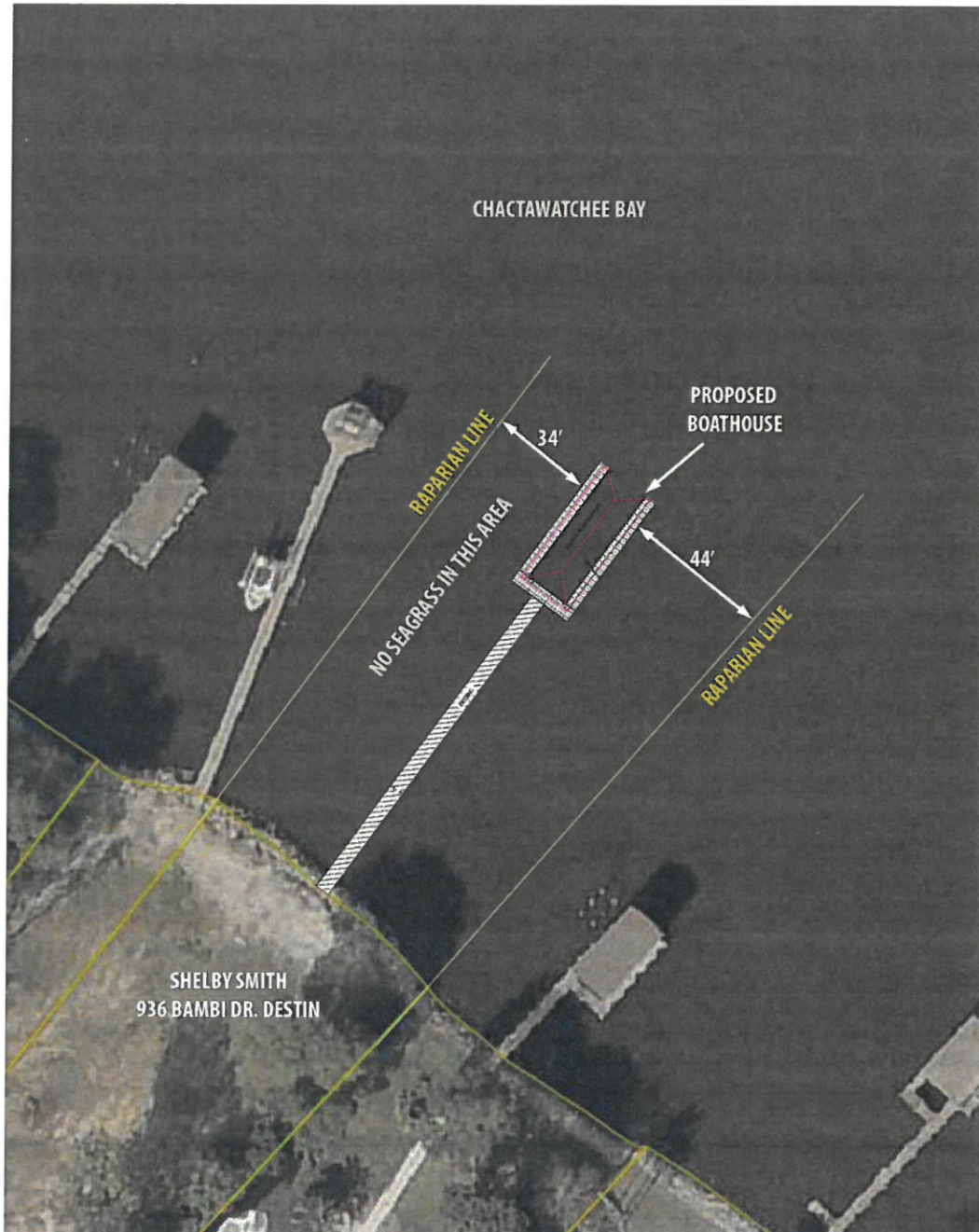
SMITH DOCK PLAN 936 BAMBI 1,997 SF.



RECEIVED

JUL 30 2019

Building Division



RECEIVED

JUL 30 2019

Building Division



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

August 9, 2019

Shelby Smith
936 Bambi Dr
Destin, Florida 32541
shelbyelite@gmail.com

File No.: 0345682-002-EG/46, Okaloosa County

Dear Mr. Smith:

On June 25, 2019, we received your notice of intent to use a General Permit (GP) pursuant to Rule 62-330.427, Florida Administrative Code (F.A.C.) to construct a 115 square-foot grated terminal platform with covered boatlift and 2 grated catwalks as an addition to an existing dock with 1,912 square feet total structure upon completion within Choctawhatchee Bay, Class 2 Florida Waters, Conditionally Approved Shellfish Harvesting Area. The project is located at 936 Bambi Dr, Destin, Florida 32541, Parcel No. 002S22100600000010, in Section 18, Township 2 South, Range 22 West of Okaloosa County; at approximately 30°25'2.271" North Latitude, 86°29'12.69" West Longitude.

Your intent to use a general permit has been reviewed by Department staff for three types of authorization: (1) regulatory authorization, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal authorization. The authority for review and the outcomes of the reviews are listed below. Please read each section carefully.

Your project did not qualify for the federal authorization, therefore additional authorization must be obtained prior to commencement of the proposed activity. This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

1. Regulatory Review – Approved

Based on the forms, drawings, and documents revised with your notice, it appears that the project meets the requirements for the General Permit under Rule 62-330.427, F.A.C. Any activities performed under a general permit are subject to general conditions required in Rule 62-330.405, F.A.C. (attached) and the specific conditions of Rule 62-330.427, F.A.C. (attached). Any deviations from these conditions may subject the permittee to enforcement action and possible penalties.

Please be advised that the construction phase of the GP must be completed within five years from the date the notice to use the GP was received by the Department. If you wish to continue this GP beyond the expiration date, you must notify the Department at least 30 days before its expiration.

Authority for review – Part IV of Chapter 373, Florida Statutes (F.S.), Title 62, F.A.C., and in accordance with the operating agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C.

2. Proprietary Review – Granted

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapters 253 and 258, F.S. and Chapters 18-20 and 18-21, F.A.C.

The activity appears to be located on sovereign submerged lands owned by the Board of Trustees. The activity is not exempt from the need to obtain the applicable proprietary authorization. As staff to the Board of Trustees, the Department has reviewed the activity described above and has determined that the activity qualifies for a Letter of Consent under Section 253.77, F.S. to construct and use the activity on the specified sovereign submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

During the term of this Letter of Consent you shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), F.A.C. If such interest is terminated or the Board of Trustees determines that such interest did not exist on the date of issuance of this Letter of Consent, this Letter of Consent may be terminated by the Board of Trustees at its sole option. If the Board of Trustees terminates this Letter of Consent, you agree not to assert a claim or defense against the Board of Trustees arising out of this Letter of Consent.

Please be advised that any use of sovereign submerged lands without specific prior authorization from the Board of Trustees will be considered a violation of Chapter 253, F.S. and may subject the affected upland riparian property owners to legal action as well as potential fines for the prior unauthorized use of sovereign land.

Authority for review – Chapter 253, F.S., Chapter 18-21, F.A.C., and Section 62-330.075, F.A.C., as required.

3. Federal Review – SPGP Not Approved

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the Corps. You must apply separately to the Corps using their APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at: <https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book>.

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

Additional Information

Please retain this general permit. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S. and Chapter 18-14, F.A.C.

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 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

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

Extension of Time

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

If you have any questions regarding this matter, please contact Lyndsey Benton at the letterhead address, at (850)595-0603, or at Lyndsey.Benton@FloridaDEP.gov

EXECUTION AND CLERKING

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Lyndsey Benton
Environmental Specialist
Submerged Lands and Environmental Resources Program

Attachments:

1. Rule 62-330.427, F.A.C., 2 pages
2. General Conditions for All General Permits, Rule 62-330.405, F.A.C., 3 pages
3. Special Consent Conditions for Use of Sovereignty Submerged Lands, 1 page
4. General Consent Conditions for Use of Sovereignty Submerged Lands, 1 page
5. Project Drawings, 2 pages

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:

Chuck Lobello, chuckldl@cox.net
Okaloosa County, mmartinez@co.okaloosa.fl.us jautrey@co.okaloosa.fl.us
sbitterman@co.okaloosa.fl.us propertyappraiser@okaloosapa.com

FILING AND ACKNOWLEDGMENT

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



Clerk

August 9, 2019
Date

62-330.427 General Permit for Docks, Piers and Associated Structures.

(1) A general permit is granted to any person to construct, extend, or remove a dock or pier and associated structures as described below:

(a) A private, single-family pier or dock with up to two boat lifts that, together with all existing structures on the shoreline of the property, does not exceed a total area of 2,000 square feet over surface waters. Such a structure:

1. Shall not accommodate the mooring of more than two vessels, either in the water or on a boat lift. Solely for purposes of this general permit, up to two personal watercraft as defined in section 327.02(33), F.S., may be moored in lieu of either or both allowable vessels of another type.

These limits shall not apply to the mooring, storage or other use of the dock or pier by:

a. Non-motor-powered vessels less than 16 feet in length that are stored on or under the dock or pier, or within an authorized mooring area; or
b. Personal watercraft, dinghies or similar small vessels that are stowed out of the water, upon a larger parent vessel that is moored at the dock in compliance with this general permit.

2. Shall be located such that all areas used for vessel mooring and navigational access already provide a minimum depth of two feet below the mean low water level for tidal waters, or two feet below the expected average low water depth for non-tidal waters as determined based on best available information for the water body at the project location; and

3. May include a roof over the vessel mooring areas, boat lifts, and terminal platform, or any portions thereof, subject to the applicable provisions of chapters 253 and 258, F.S., and the rules adopted thereunder. Portions of such roofs that overhang beyond the edge of decked portions of the pier or dock shall be included in the calculation of the total square footage of over-water structure allowed under paragraph (1)(a), above.

(b) A public fishing pier that does not exceed a total area of 2,000 square feet provided the structure is designed and built to discourage boat mooring by elevating the fishing pier to a minimum height of five feet above mean high water or ordinary high water, surrounding the pier with handrails, and installing and maintaining signs that state "No Boat Mooring Allowed."

(2) This general permit shall be subject to the following specific conditions:

(a) Construction or extension of the boat lift, boat mooring locations, or terminal platform, shall not occur over submerged grassbeds, coral communities or wetlands. However, the access walkway portion of the pier may traverse these resources provided it is elevated a minimum of five feet above mean high water or ordinary high water, contains handrails that are maintained in such a manner as to prevent use of the access walkways for boat mooring or access, and does not exceed a width of six feet, or a width of four feet in Aquatic Preserves;

(b) There shall be no structures enclosed by walls, screens, or doors on any side;

(c) The dock or pier will not facilitate vessel rentals, charters, or serve any other commercial purpose;

(d) There shall be no fish cleaning facilities, boat repair facilities or equipment, or fueling facilities on the structures authorized by this general permit. In addition, no overboard discharges of trash, human or animal waste, or fuel shall occur from any structures authorized by this general permit;

(e) This general permit shall not authorize the construction or extension of more than one dock or pier per parcel of land or individual lot. For the purposes of this general permit, multi-family living complexes shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property; and

(f) Notwithstanding any other provisions of this general permit, the design, construction and operation of the dock or pier and associated vessels shall not conflict with any manatee protection plan approved and adopted under section 379.2431(2)(t), F.S.

Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.4131, 373.414(9), 373.416, 373.418, 373.426, 403.814(1) FS. History—New 10-3-95, Formerly 62-341.427, Amended 10-1-13, 6-1-18.

62-330.405 General Conditions for All General Permits.

The following general permit conditions are binding upon the permittee and are enforceable under chapter 373, F.S. These conditions do not apply to the general permit for stormwater management systems under section 403.814(12), F.S.

- (1) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit and may subject the permittee to enforcement action and revocation of the permit under chapter 373, F.S.
- (2) The general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit; and it does not authorize any violation of any other applicable federal, state, local, or special district laws (including, but not limited to, those governing the “take” of listed species).
- (3) The general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit.
- (4) The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution that violates state water quality standards.
- (5) Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of state-owned or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required consent, lease, easement, or other form of authorization authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned lands.
- (6) The authorization to conduct activities under a general permit may be modified, suspended or revoked in accordance with chapter 120, F.S., and section 373.429, F.S.
- (7) The general permit is not transferable to a new third party. To be used by a different permittee, a new notice to use a general permit must be submitted in accordance with rule 62-330.402, F.A.C. Activities constructed in accordance with the terms and conditions of a general permit are automatically authorized to be operated and maintained by the permittee and subsequent owners in accordance with subsection 62-330.340(1), F.A.C. Any person holding the general permit, persons working under the general permit, and owners of land while work is conducted under the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted project, activity, or the real property at which the permitted project or activity is located.
- (8) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to ensure conformity with the plans and specifications approved by the general permit.
- (9) The permittee shall maintain any permitted project or activity in accordance with the plans submitted to the Agency and authorized in the general permit.
- (10) A permittee’s right to conduct a specific activity under the general permit is authorized for a duration of five years.

(11) 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 implemented and maintained immediately prior to, during, and after construction as needed to stabilize all disturbed areas, including other measures specified in the permit to prevent adverse impacts to the water resources and adjacent lands. Erosion and sediment control measures shall be installed and maintained 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)*, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, available at http://publicfiles.dep.state.fl.us/DEAR/Stormwater_Training_Docs/erosion-inspectors-manual.pdf.

(12) Unless otherwise specified in the general permit, temporary vehicular access within wetlands during construction shall be performed using vehicles generating minimum ground pressure to minimize rutting and other environmental impacts. Within forested wetlands, the permittee shall choose alignments that minimize the destruction of mature wetland trees to the greatest extent practicable. When needed to prevent rutting or soil compaction, access vehicles shall be operated on wooden, composite, metal, or other non-earthen construction mats. In all cases, access in wetlands shall comply with the following:

- (a) Access within forested wetlands shall not include the cutting or clearing of any native wetland tree having a diameter four inches or greater at breast height;
- (b) The maximum width of the construction access area shall be limited to 15 feet;
- (c) All mats shall be removed as soon as practicable after equipment has completed passage through, or work has been completed, at any location along the alignment of the project, but in no case longer than seven days after equipment has completed work or passage through that location; and
- (d) Areas disturbed for access shall be restored to natural grades immediately after the maintenance or repair is completed.

(13) Barges or other work vessels used to conduct in-water activities shall be operated in a manner that prevents unauthorized dredging, water quality violations, and damage to submerged aquatic communities.

(14) The construction, alteration, or use of the authorized project shall not adversely impede navigation or create a navigational hazard in the water body.

(15) Except where specifically authorized in the general permit, activities must not:

- (a) Impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands; or
- (b) Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to section 373.042, F.S., or a Works of the District established pursuant to section 373.086, F.S.

(16) If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee

shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities 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 the proper authorities notified in accordance with section 872.05, F.S.

(17) The activity must be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed, and must comply with any applicable District special basin and geographic area criteria.

(18) The permittee shall comply with the following when performing work within waters accessible to federally- or state-listed aquatic species, such as manatees, marine turtles, smalltooth sawfish, and Gulf sturgeon:

(a) All vessels associated with the project shall operate at "Idle Speed/No Wake" at all times while in the work area and where the draft of the vessels provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

(b) All deployed siltation or turbidity barriers shall be properly secured, monitored, and maintained to prevent entanglement or entrapment of listed species.

(c) All in-water activities, including vessel operation, must be shut down if a listed species comes within 50 feet of the work area. Activities shall not resume until the animal(s) has moved beyond a 50-foot radius of the in-water work, or until 30 minutes elapses since the last sighting within 50 feet. Animals must not be herded away or harassed into leaving. All onsite project personnel are responsible for observing water-related activities for the presence of listed species.

(d) Any listed species that is killed or injured by work associated with activities performed shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1(888)404-3922 and ImperiledSpecies@myFWC.com.

(e) Whenever there is a spill or frac-out of drilling fluid into waters accessible to the above species during a directional drilling operation, the FWC shall be notified at ImperiledSpecies@myfwc.com with details of the event within 24 hours following detection of the spill or frac-out.

(19) The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any activity authorized by the general permit.

(20) The permittee shall immediately notify the Agency in writing of any submitted information that is discovered to be inaccurate.

Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.044, 373.118(1), 373.129, 373.136, 373.406(5), 373.413, 373.4131, 373.414(9), 373.4145, 373.416, 373.422, 373.423, 373.429, 403.814(1) FS. History—New 10-3-95, Amended 10-1-07, Formerly 62-341.215, Amended 10-1-13, 6-1-18.

Special Consent Conditions

1. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
2. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
3. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
4. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.
5. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

General Conditions for Authorizations for Activities on State-Owned Submerged Lands:

All authorizations granted by rule or in writing under rule 18-21.005, F.A.C., except those for geophysical testing, shall be subject to the general conditions as set forth in paragraphs (a) through (j) below. The general conditions shall be part of all authorizations under this chapter, shall be binding upon the grantee, and shall be enforceable under chapter 253 or 258, part II, F.S.

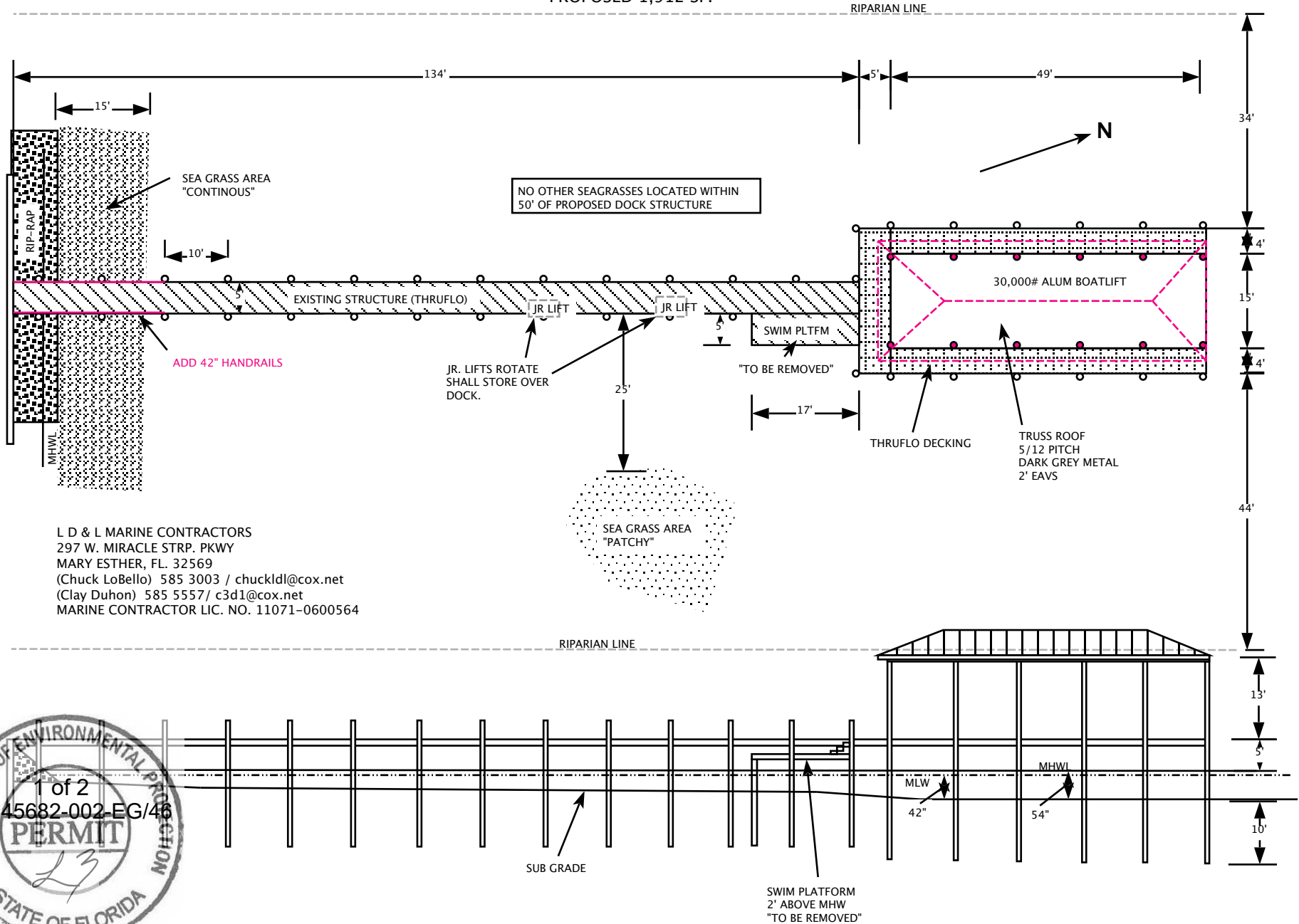
- (a) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.
- (b) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.

- (c) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in sections 253.04 and 258.46, F.S., or chapter 18-14, F.A.C.
- (d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.
- (e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C.
- (f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.
- (g) Structures or activities shall not create a navigational hazard.
- (h) Activities shall not interfere with the public easement for traditional uses of the sandy beaches provided in section 161.141, F.S.
- (i) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.
- (j) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(g), F.A.C., or any other applicable law.

Rulemaking Authority 253.03(7), 253.73 FS. Law Implemented 253.001, 253.03, 253.141, 253.0347, 253.665, 253.71, 253.68, 253.72, 253.74, 253.75, 253.77 FS. History—New 3-27-82, Amended 8-1-83, Formerly 16Q-21.04, 16Q-21.004, Amended 12-25-86, 1-25-87, 3-15-90, 8-18-92, 10-15-98, 12-11-01, 10-29-03, 12-16-03, 3-8-04, 10-27-05, 4-14-08, 9-1-09, 3-21-19.

SMITH DOCK PLAN 936 BAMBI

PROPOSED 1,912 SF.



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