



**AGENDA  
HARBOR AND WATERWAYS BOARD MEETING  
MONDAY, JUNE 22, 2020  
5:00 PM  
DESTIN CITY HALL ANNEX COUNCIL CHAMBERS**

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**
- 2. APPROVAL OF MINUTES**
  - A) February 24, 2020**
  - B) September 25, 2018**
- 3. PUBLIC COMMENTS**
- 4. NEW BUSINESS**
  - A) Sunshine & Public Records Law Refresher**
  - B) 4156 Belcourt Drive**
  - C) 510 Calhoun Avenue**
- 5. OLD BUSINESS**
  - A) Marina Siting Proposed Amendments**
- 6. COMMITTEE MEMBER REPORTS**
- 7. DIRECTOR'S REPORT**
  - A) Civic Clerk Email Distribution**
- 8. NEXT MEETING DATE: July 27, 2020**
- 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 OF THE  
HARBOR AND WATERWAYS BOARD MEETING  
DESTIN CITY HALL, FEBRUARY 24, 2020 - 5:00 P.M.**

**1. CALL TO ORDER:**

Chairman Trammell called the Destin Harbor and Waterways Board meeting to order at approximately 5:00 p.m. on Monday, February 24, 2020 at Destin City Hall.

**2. ROLL CALL:**

**Member Present:**

Matt Trammell  
Richard Hoey  
Guy Tadlock  
Bill McKissick  
Casey Jones  
Quinten Selby in at 5:15 p.m.

**Members Absent**

Jim Green

**Staff:**

Kim Montgomery, Deputy City Clerk  
Traci Goodhart, Planner  
Lauren Witt, Planning Manager  
Steven Bauman, City Attorney

**3. APPROVAL OF MINUTES: January 27, 2020**

**Board member Tadlock moved to approve of the January 27, 2020 minutes as written with Board member Jones providing the second; the motion passes with a 5-0 vote with Board member Selby not being present for the vote.**

**4. PUBLIC COMMENT:**

Mr. Davis stated he would provide comment when the item is discussed, he is representing the property owner.

**5. NEW BUSINESS:**

**A) Michelle Millikan, Property Owner**

***437 Calhoun Avenue - Marine Construction Permit application for one (1) 18' x 28' Boathouse over an existing boatlift, with two (2) catwalks; one (1) 8' x 24' catwalk and one (1) 4' x 15'.***

Mrs. Goodhart explained this is being brought back before the Board from being tabled at their last meeting because of the adjacent property owner having concerns about their view being blocked. Adding that there have been no changes made to the proposed project.

The Chairman spoke how the project is relatively straight forward request for a modification to an existing dock by adding a boat house. And how the adjacent neighbor attended their last meeting and requested for the Board to table the motion so they could have more time to reach out to the neighboring property owner. And the board unanimously agreed, by a motion, to table the request to their next meeting. The Chairman spoke of how he informed the applicant's

neighbors what all would have to take place in regard to a new permitting application process and the additional cost associated for the property owner to get approved for a new permit as well as the additional time it would take.

He then opened the public to provide comment.

Mr. Donald Davis of Pensacola, Florida who is the General Manager for What's Up Docks added that the proposed project is not any larger than the footprint of the existing dock with the addition of a boathouse over an existing lift which will only a few feet higher.

It was noted that the adjacent neighbors that expressed concerns are not present at this meeting. The Chairman asked if the notifications were sent for this meeting. Mrs. Goodhart stated that she did mail them out.

***Motion by Board member Jones to bring the item, 437 Calhoun Avenue Marine Construction request off the table, with Board member Hoey providing the second. Board member McKissick pointed out a typo of the address on the agenda and confirmed that the address is 437 and not 457. Mrs. Goodhart replied that is correct, it is 437 Calhoun Ave. A roll call vote of 5-0 was taken with Board member Selby not being present for the vote.***

***Board member Jones made the motion to recommend City Council approve the request from Michelle Millikan, Property Owner of 437 Calhoun Avenue for the Marine Construction Permit application for one (1) 18' x 28' Boathouse over an existing boatlift, with two (2) catwalks; one (1) 8' x 24' catwalk and one (1) 4' x 15' subject to the applicant meeting all applicable required permits. Board member McKissick provided the second.***

Mr. Hoey brought to everyone's attention that there is a disparity in the location of the property lines on the submittal and the drawings compared to the FDEP drawings and questioned if, in fact the project falls within the 25-foot setback rule.

The Chairman asked staff if there is a requirement for a 25-foot setback for the city. According to Mrs. Goodhart, there is not. Adding that it is suggested for riparian rights but not required. Board member Hoey suggested they should look at the Code.

According to the applicant's representative, Mr. Davis stated that the owners are permitted a complete tear out and rebuild into the configuration of the supplied drawing. However, in lieu of saving money; they chose to build the boathouse over the existing lift. And doing so, opens the riparian line view. The Chairman asked for clarification that they are requesting to build the cover over the existing boat lift? Mr. Davis responded affirmatively that is what will be built and the sides will be left open.

Board member Tadlock asked if the plan is to put the cover over the existing boat lift would the rest of the existing dock that goes out into the water be removed or remain? According to Mr. Davis, it will remain.

Mrs. Goodhart pointed out it's included in the drawings in relation to that piece.

Board member Hoey suggested everyone read 11.05.01 (C)-A

The Chairman read from the Code, *"No dock or vessel shall be placed within the 25-foot setback of a property line without providing prior written notification to the adjacent landowners and requesting their response. Any objections received from the adjacent owners will be considered by the Harbor Board and their recommendation to City Council."* Adding that he does not feel that they are violating the code since the adjacent property owners have been properly notified.

According to Mr. Hoey, the riparian line must be appropriately drawn and based upon what he is seeing, it could be a contention. Adding he would still like to see some kind of feedback from the adjacent property owner that this is an acceptable riparian line as depicted.

According to Mr. Bauman, this meeting was their opportunity to show up and they are not present.

The Chairman spoke of how he appreciated their concern, but they were in attendance at the last meeting, this was publicly noticed, and they have been given ample opportunity to come to the city if they had any additional issue with the project. And at this point, the owner has been has already been held up a month.

Board member Tadlock pointed out that as Mr. Hoey said, there is a discrepancy in the drawings for the angle of the property lines relative to the County Property Appraiser mapping system. Also being that the boat covering is going to be on the existing slip, which to him, looks to be longer than the drawings. And asked what the exact square footage is. Adding that the drawings are somewhat different than what is planned to be built. He asked Mr. Davis if that is correct.

The Applicant's representative, Mr. Davis stated for the record, that they are. Board member then asked Mr. Davis if the total square footage will be less than 1,000 square feet, for which Mr. Davis replied that, "Yes, it would." Board member Tadlock asked if the terminal end of the dock would be increasing at all. According to Mr. Davis it would not.

The Chairman agreed that its frustrating that staff did not receive accurate drawings of what is being built. And although the last thing he would want to do is to hold them up for their permit.

He agrees, it's a very straightforward request and should have accurate drawings showing exactly what is going to be built.

Board member Tadlock stated that he would be satisfied with field corrected drawings on file with the city.

The Chairman pointed out that normally, he would too. However, Mr. Hoey brought up a good point and this is now no longer consistent with the permit.

***The Chairman called for the vote and it failed with a 4-2 vote. With Chairman Trammell, Board members Hoey, Tadlock and Selby voting no and Board members McKissick and Jones voting yet.***

The Chairman asked if there are any additional motions on the request.

Mr. Hoey asked haven't they based their approval in the past if corrected drawings are submitted the project could go forward without having to come before them again. Mrs. Goodhart agreed that is a correct statement.

***The Chairman made the motion to recommend approval of the project to City Council contingent upon:***

- 1. Revised drawings being submitted to staff. And staff concurring that they are consistent to the Land Development Code.***
- 2. Either an updated permit or correspondence from the State allowing the contractor to operate under the existing permit. Board member Hoey providing the second.***

According to Mr. Davis, they are under the 1,000 square foot exempt rule and moving the boat house a few feet inland. So, if scaled out, the riparian lines from the northeast corner of the building on the drawings, it's 25-feet. He will have them redrawn and contact the State to provide staff a letter.

***The Chairman called for the vote and the motion passed.***

Chairman Trammell informed the applicant's representative, Mr. Davis that if he provides an updated drawing and a letter from FDEP saying he can continue under the current permit and provide it to staff, he should be able to go before Council for approval relatively quickly.

**6. OLD BUSINESS:**  
**None**

**7. MEMBER REPORTS:**

Chairman Trammell informed the members that the East Pass Dredging should commence later this week, weather dependent and should take anywhere between 30-40 days. And asked the members to get the word out for everyone to stay safely away from the construction.

Board member Tadlock spoke of how he would like to avoid any similar situations such as what took place with the drawings for the request, not being exactly what is being proposed, before they are brought before the board.

Board member Hoey stated that he goes to the FDEP website for every project that is on the agenda prior to the meetings to check and make sure what they are requesting is exactly what the State has permitted. Adding that he has found where some of the paperwork that was submitted to the FDEP is not the same that's submit to the city.

The Chairman asked what steps they should take if they happen to notice that someone is not building their project to the specifications that they were approved for.

According to Mrs. Witt, they should contact the Code Compliance Department to report anything they feel is not permitted, who will work with the planning staff.

## **8. DIRECTOR'S REPORT:**

### ***A. Marina Siting Ordinance - LPA February 27, 2020***

Mrs. Witt explained that this has been continued to a later Local Planning Agency meeting. Adding that staff realized there is currently not a requirement in the Land Development Code that requires docking facilities for Commercial Marine Businesses and staff would like to get their feedback and incorporate it into the ordinance. Staff will bring it to them at their next meeting in March to review and provide comments.

### **B. Requirements for Commercial Marine Businesses to have dedicated docking facilities**

The Chairman asked what the general definition for a Commercial Marine Business is.

Mrs. Witt provided them with an example of a Livery Vessel Operation with an address on the bay, there is nothing in the Code that says they also should have dedicated docking facilities for their business and Staff is trying to close that loophole in the Code.

The Chairman spoke of how he is aware that there are quite a few business owners who own private property in residential areas of the city that tend to have a conflict with the other residential uses.

Board member Tadlock asked for clarification, if a business is operating in the harbor they need to show proof they have dock space available or a lease of boat slips?

According to Mrs. Witt staff hasn't gone that far into the details at this point. Staff is looking into larger commercial marine businesses but will be adding multiple definitions with specificity.

Mrs. Goodhart added that they are looking at all commercial vessels that provide a service to the public and are required to provide docking facilities regardless if they are owner occupied or a tenant leasing the facilities. Adding that it's important to have them clearly outlined in the Land Development Code.

Board member McKissick asked if someone is operating a business out of their home and it's on the water and they have a dock, are they able to do so? According to Mrs. Witt, it has to fall under the home occupation criteria. However specifically with water related businesses; they cannot have customers coming to their home in a residential area.

Mrs. Witt explained that applications for the Harbor Steering Committee are being reviewed by staff before selections are made. Also, staff is finalizing the survey with the ACOE and their representative will be coming in 2-weeks.

Chairman Trammell asked they provide the Board with an update at their March meeting.

**9. MEETING DATES: March 23, 2020**

**ADJOURNMENT:**

With there being no further discussion, the meeting adjourned at 6:00 p.m.

Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Matt Trammell, Chairman

\_\_\_\_\_  
Kim Montgomery, Deputy City Clerk

# DRAFT

## MINUTES HARBOR AND WATERWAYS BOARD MEETING DESTIN CITY HALL 5:00 P.M. – SEPTEMBER 24, 2018

### 1. CALL TO ORDER:

Chairman Trammell called the Destin Harbor and Waterways Board meeting to order at approximately 5:00 p.m. on Monday, September 24, 2018 at Destin City Hall.

### 2. ROLL CALL:

#### Member Present:

Matt Trammell  
Casey Jones  
Guy Tadlock  
Richard Hoey

#### Member Absent:

Michael Doughty  
Mark Meyer

#### Staff:

Kim Montgomery, Deputy City Clerk  
Dawn McDonald, Planner  
Kyle Bauman, City Attorney Associate

### 3. APPROVAL OF MINUTES:

#### ➤ August 27, 2018

Board member Tadlock made the motion to approve the August 27, 2018 as corrected with Board member Jones providing the second. The motion passes with a 4-0 vote.

### 4. OLD BUSINESS:

#### ➤ 4156 Belcourt Drive

The following were sworn in by the Deputy City Clerk for testimony.

- Mr. Bethea, 4156 Belcourt Drive
- Ron Maddox, Professional Land Surveyor – Expert witness in land surveying for Mr. David Theriaque

Mr. Bethea produced an enlarged riparian survey for the members showing the property lines and riparian lines for the properties on Belcourt Drive and explained that no matter where he puts his structure the neighbor will see the dock from his property.

Mr. David Theriaque, Attorney for Coach Miles, the adjacent property owner explained to the members that he has asked Mr. Ron Maddox to attend the meeting as an expert witness in land surveying to provide testimony. He then handed out a three ring binder he has submitted into the record as evidence, briefly explained the three tabs are as follows:

- Mr. Ron Maddox's report
- Dr. Gibson rewrite
- Mr. Maddox's resume

Mr. Ron Maddox explained his career background in mapping and surveying for the Florida Department of Environmental Protection. He also explained that he was mentored by Dr. Gibson, who created the guidelines for riparian rights. And in regards to this project, the following should be considered:

- the straight shoreline
- the open water
- the channel that runs off to the right

And as a result of those, they must go out perpendicular, as all the other docks are that are already built nearby; as well as all up and down Choctaw Bay, in order to get to deeper water.

Mr. Bauman suggested the members accept Mr. Maddox as a professional surveyor in the form of a motion.

**Motion by Board member Hoey, seconded by Board member Tadlock to accept Mr. Maddox's testimony as an expert in establishing and evaluating riparian lines. With no discussion, the Chairman called for the vote and the motion passed 4-0.**

Mr. Bethea asked Mr. Maddox if what he presented was in odds to his interpretation. According to Mr. Maddox they are not because they are generalized conclusions. He then provided an example when there is an uneven shoreline and you have a deep water channel you apportion the distance of the deep water to the distance along the shoreline; without anything looking parallel. He used a confined river with a channel with the riverbanks going the same direction as the channel as another example and stated that it's logical to go out into the channel. He then pointed out on the enlarged survey at the property line and explained it cannot be projected out or they would too far to the north.

Mr. Theriaque referred the members to his three ring binder that he handed out to the Board members and explained that the key issues they have with Mr. Bethea's project is:

- The length of the dock
- Determination if the project was in Choctaw Bay or Indian Bayou
- Location of the riparian lines

He then reviewed each of his exhibits in the binder and referenced two cases that went to the Florida Supreme Court that proved property owners have the right to an obstructed view over the water. As well as referring to 11.05.01 of the Land Development Code (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* and in letter (T) of that same section, *No dock shall unreasonably interfere with the riparian rights of others*. In addressing the Board he stated with that evidence and the evidence provided by the expert witness that the riparian lines belong perpendicular to Coach Miles' property. As well as the determination that the property is located in Indian Bayou and not Choctawhatchee Bay the dock has to be built shorter and with that, they are requesting a denial of the application.

In Mr. Bethea's rebuttal, he explained that he tried to work with Coach Miles and Mr. Theriaque after the initial meeting in May; and testified that after asking multiple times to meet and try to come to an agreement, the only response he received from either was that he needed to sign a letter of concurrence; which he couldn't do without their input. He also spoke of contacting Mr. Spray with FDOT and asked him what was his determination is for the location of his request. According to Mr. Bethea; Mr. Spray's response was that he would not have permitted the application request if it was not located in Choctawhatchee Bay. Mr. Bethea then stated that if he understands it correctly, Coach Miles is in agreement to allow him to build his dock 20-feet off his riparian line and the required setback and go out perpendicular from the property line and not the channel.

According to Mr. Theriaque, as he previously indicated; if Mr. Bethea is in an agreement to settle on the perpendicular line and go off 20-feet from Coach Miles' riparian line with the setback then they may be able to come to an agreement however, they feel that the dock still needs to be shortened.

The City Attorney Associate asked the two if they would like to take break and try to come to an agreement. Both sides agreed to a 5-minute break.

Chairman Trammell informed both parties that they can take a break however, what the Board approves or disapproves at this hearing; sets nothing as to what may be required for FDEP or the Corps of Engineers.

**\*\*The meeting adjourned for a 5-minute break\*\***

The Chairman reconvened the meeting and asked if the two parties had come to an agreement.

According to Mr. Theriaque, they were unable to come to an agreement but did state for the record that they are still willing to accept a perpendicular and move 25-feet off the riparian line.

Mr. Bethea stipulated that in his opinion, because of the way he and Coach Miles properties are situated, his design is the only sensible way for either to design a project and be able to get to deep water quicker.

Mr. Theriaque stated for the record that Mr. Bethea is not authorized to state what option is best for Coach Miles but is completely comfortable with and the evidence is clear; that it should be a perpendicular line. He stated that this request is not fair to Coach Miles to be looking at what's proposed with this application from his property. The request is not just a dock, it's a boatlift with fish-cleaning station, and a terminus in the middle and recommends denial based on the two issues:

- The project is located in Indian Bayou and therefore the length of the dock is too long and needs to be shortened and;
- The lines that are depicted on GCT's survey are a right angle rather than perpendicular to the shoreline and respectfully submit that DEP doesn't consider whether it's Choctawhatchee or Indian Bayou when they issue their permits.

The Chairman opened the hearing to public with no one coming forward, he then closed the public portion. He then reminded everyone present that their role is to make recommendations to City Council based upon the Land Development Code requirements. He spoke of how the applicant has received a permit from DEP and the Corps of Engineers and they've received the same information regarding whether the project is located in Indian Bayou or Choctawhatchee Bay. He explained that staff was supplied that information and did not feel strongly enough to overturn what was submitted by DEP. He did point out that they are required to look at what's best for the city and has to follow the code. He also spoke of how they need to be somewhat objective and thinks the applicant has done a good job of avoiding natural resources. He then pointed out that they do have a signed and sealed riparian survey from the applicant's surveyor. And then according to Mr. Theriaque, they have an opinion that is in conflict and would essentially push the dock into nearly 100% of the seagrass beds and into much shallower water. He also spoke of the Land Development Code they are held to; as Mr. Theriaque pointed out, *No dock shall adversely interfere with the riparian rights of the neighboring owner.* And mentioned how that is a difficult charge for them since the applicant is not a licensed surveyor nor are any of the board members.

## DRAFT

Board member Tadlock asked Mr. Bethea if there would be any bearings on his project if he went off the 45-feet as was suggested by Coach Miles. According to Mr. Bethea, he has it where it is because of the seagrasses that are present and FDEP has very strict rules on for constructing into grasses.

According to Board member Hoey of the two issues, the one regarding where it is located has been solved with a professional survey showing it is located in Choctawhatchee Bay. The issue is, the conflicting riparian rights and if there are any options. He suggested that they were to look at all of the docks already in the area, 3-feet is enough for navigational waters. He also spoke of how in the permit, there are directions on what methods can be used to build his dock if he cannot avoid going into the seagrasses. Therefore, he does not feel that there is a conflict with riparian rights.

The Chairman agreed with the location of the project and it is very clear that the majority of Mr. Bethea's property is located in Choctawhatchee Bay but in his opinion; there is an issue of riparian rights. And as a Board what they need to focus on is; do they feel the proposed dock will meet the Code in regards to the riparian rights.

The City Attorney Assoc. Mr. Bauman suggested they first determine if the project is in fact located in Choctawhatchee Bay or Indian Bayou.

The Chairman suggested looking at the survey, go to the northern most portion of the properties and from there draw a connecting line to the apex of the landform immediately southeast which would split and the seaward portion of the dock which would be in Choctawhatchee Bay and the landward portion would be in Indian Bayou.

Board member Tadlock stated that he could accept the project if it was built in the line of perpendiculars.

**On a motion by Board member Tadlock to recommend City Council accept the permit as submitted with the length of the dock as designed is acceptable since a portion of it is located in Choctawhatchee Bay. However, it would have to be relocated based on the line of perpendiculars of the shoreline rather than what is proposed in the drawings of the riparian lines; as referenced in Mr. Maddox's report. The Chairman seconded the motion for discussion.**

In discussion, the Chairman asked Mr. Theriaque if his client would be willing to accept the proposed motion regarding the riparian line concerns. According to Mr. Theriaque, the location is acceptable. However, he is not sure about the length, since that was never discussed. After another lengthy discussion regarding whether the project is in the bay or the bayou and if Coach Miles would accept the length; the Chairman asked Board member Tadlock would be willing to withdraw his motion.

**Board member Tadlock withdrew his motion.**

Board member Jones suggested Mr. Theriaque contact Coach Miles regarding the length of the dock.

According to Board member Hoey, the length of the dock has nothing to do with the riparian lines and is something that has been established by the city and the permit. He explained that an application will have to be refiled with new drawings that shows the riparian lines perpendicular to the shoreline.

## DRAFT

Mr. Theriaque agreed that the riparian line is separate from the length. The issue is the disagreement about Bayou verses Bay and stated that the length is acceptable. However, Mr. Bethea will need to revise the DEP permit because the location of the dock is going to have to be shifted towards the Bay. Adding that right now the location is within Coach Miles perpendicular lines.

The Chairman Trammell informed Mr. Bethea that his chances of obtaining the same permit are very good if the dock area and length does not change but that he may need to mitigate for the seagrasses.

**Board member Hoey moved to recommend that City Council accept the State of Florida's edict per the and find that the proposed dock for this permit is located in Choctawhatchee Bay; with Board member Jones providing the second. On a roll call vote of 5-0, the motion passed unanimously.**

**\*\*The Chairman recessed the meeting for a quick break to allow Mr. Theriaque to call his client\*\***

According to Mr. Theriaque, he was able to reach Coach Miles and in an effort to be the good neighbor he will agree to not challenge the length if the location is 25-feet or more setback from the perpendicular riparian line that was depicted in Mr. Ron Maddox's report.

The City Attorney Associate asked Mr. Bethea if he was agreeable to that statement. Mr. Bethea stated for the record that he would accept it.

**Motion by Board member Tadlock to conditionally recommend to City Council approve the request with the length of dock, as designed, so long as it is relocated within the riparian lines as referenced in Mr. Maddox's report; and the dock remains 25-feet north of the southern Maddox riparian line for Lot 7. Board member Hoey provided the second. The motion passed 4-0.**

### 5. NEW BUSINESS:

#### ➤ 101 Calhoun Avenue – Captain Leonard Destin Park

According to Ms. McDonald, the property for the park is owned by the Trust for Public Lands and briefly described the request and stated that staff recommends approval.

The Chairman stated that he has gone to the site and the old dock has already been removed and the pilings for the new dock are already installed. He asked why the construction has commenced without coming before this Board for the approval first. There was a discussion about why this was overlooked and how the applicant may not have understood that their building permit would satisfy the requirements.

**Board member Tadlock made the motion to continue the hearing of this project to their next meeting with the Chairman providing the second.**

In discussion, Jerry of Breeze Boat Lifts spoke of how he sees this happening all the time and feels that something needs to be done to stop it. Pointing out that it is unfair to the few that follow the rules.

Board member Tadlock asked if staff was going to go to the property and red flag it to stop that portion of the construction until they receive their proper authorization.

The Chairman asked that the applicants attend their next meeting so that the Board can ask any questions that may come up.

➤ **Signage for No Discharge in the Harbor**

According to Board member Tadlock, some time ago the city approached the Holiday Isle HOA to put up signage in the canals and their side of the harbor siting the no discharge of fish carcasses and other discharging issues that are addressed the Code. However, he has noticed that there is no longer a sign at the mouth of the Harbor and feels that one needs to be placed in that location again.

According to the Chairman, he does not feel any action needs to be done with this tonight, but he would add it to his is list of Harbor and Waterways Issues list to address with City Council.

➤ **Intern for Water Quality Issues**

According to Ms. McDonald, this is just something she would like for the members to consider bring in a student to help them with some of the issues that they are concerned with. The Chairman stated that he would add that to his list and address it with City Council.

There was additional discussion about the harbor saturation and how a study may be necessary. As well as a discussion about straightening the channel out for safety purposes. The Chairman stated that he would add these to his report to Council as well.

With there being no further discussion, the meeting adjourned at 7:30 p.m.

Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
Matt Trammell, Chairman

\_\_\_\_\_  
Kim Montgomery, Deputy City Clerk

## Sunshine Law Handout

**Anchors Smith Grimsley, PLC**  
**Kyle S. Bauman, Esq.**  
**City of Destin City Attorney**

Office #: (850) 863-4064  
Cell #: (850) 585-4775  
email: kbauman@asglegal.com

**Last Updated: June 2020**

---

***\*\*\* This Handout is intended to be used as a basic overview of the Sunshine Law and no Board or Council Member should rely on it when taking specific actions which may be impacted by the Sunshine Law. Please contact me and City staff if you have specific questions before taking action and we will respond to you as quickly as possible. \*\*\****

---

**The 2018 Government in the Sunshine Manual can be found at:**

[http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AXJGEU/\\$file/2018+Government+in+the+Sunshine+Manual.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AXJGEU/$file/2018+Government+in+the+Sunshine+Manual.pdf)

**Laws can be found at:**

<http://leg.state.fl.us/>

---

### WHAT IS THE SUNSHINE LAW?

- Two interrelated but separate laws are colloquially referred to as the “Sunshine Law”:
  - **(1) Public Records Act** – Chapter 119, Fla. Stat. (2018)
    - Primary Purpose: Provide the public “a right to access to the records of the state and local governments as well as to private entities acting on their behalf.”
    - [http://leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0100-0199/0119/0119ContentsIndex.html&StatuteYear=2018&Title=%2D%3E2018%2D%3EChapter%20119](http://leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0119/0119ContentsIndex.html&StatuteYear=2018&Title=%2D%3E2018%2D%3EChapter%20119)
  - **(2) Government in the Sunshine Law** – § 286.011, Fla. Stat. (2018); Art. I, § 24, Fla. Const.
    - Primary Purpose: Provide the “public a right of access to governmental proceedings of public boards or commissions at both the state and local levels.”
    - [http://leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0200-0299/0286/Sections/0286.011.html](http://leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0200-0299/0286/Sections/0286.011.html)
- Florida has arguably the broadest, most “public-friendly,” laws in the entire country and you immediately became subject to these laws the second you were appointed to this Board.

## THE PUBLIC RECORDS ACT

- Lengthy statute, but application to advisory boards is relatively simple.
- General Rule: Any record you generate or receive in connection with your role on a City board is a public record and any member of the public has the right to request to view these records at any time. See Inf. Op. to Nicoletti, November 18, 1987.
- What is a “public record”?
  - “All materials used or received in connection with official business *used to perpetuate, communicate, or formalize knowledge.*”
  - “Public Records” are very broad, essentially including *any* written document and most non-written material. For example:
    - Physical documents such as: “papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software.” § 119.011(12), Fla. Stat. (2018).
    - Electronic documents such as: emails, documents generated in word processing software (including this Handout!), text messages, etc.
- Are there any exemptions?
  - Yes, there are lengthy exemptions listed in the statute, however, most of these will **not** apply to advisory boards. These exemptions are sometimes complex and heavily litigated.
  - Therefore, if the City receives a public records request and City staff asks you to turn over public records related to the particular subject contained in that request, do **not** try to determine by yourself whether the document is (a) a public record; and (b) whether an exemption is applicable. Instead, contact my office and City staff and allow us the opportunity to review the record.
  - **If the “public record” is located on my personal device is it exempted?**
    - **NO! This is a common misconception. Just because something is located only on your personal device does not mean that it is exempt.** The inquiry is whether the item is “used to perpetuate, communicate, or formalize knowledge” relating to City business, and where this information is located is irrelevant.
- What happens if I violate the Public Records Act?
  - **Knowing Violations** are a first degree misdemeanor, punishable by removal from office, up to one year in prison, and/or a \$1000 fine.
  - “Non-knowing Violations” are non-criminal but still subject to a \$500 fine.
- Rules of Thumb: When you generate or receive any document relating to your position, always presume that the document is a “public record” that will eventually be subject to the public’s view. Also, if you generate receive a “public record,” retain it and **do not** destroy it to ensure compliance with the Public Records Act.

## GOVERNMENT IN THE SUNSHINE LAW

- Shorter statute, but it has generate tons of litigation and its application to advisory boards is more impactful than the Public Records Law.
- Basic Sunshine Law Requirements:
  - (1) “Meetings” of public boards or commissions must be open to the public;
  - (2) Reasonable notice of these meetings must be given to the public; and
  - (3) Minutes of the meetings must be taken, promptly recorded, and open to public inspection.
  - Most of these you do not need to worry about because City staff ensures compliance. Your primary concern is making sure that “meetings” do not take place outside publicly noticed meetings.
- What is a “meeting”?
  - The Sunshine Law defines “meeting” very broadly to include:
    - (a) informal meetings of two or more members; and
    - (b) electronic communications between two or more members regarding any foreseeable matter which could come before the board.
- Examples of specific scenarios:
  - One member sends a text message to another board member saying he is “against agenda item 2(b).”
    - This is an obvious but important example of strictly forbidden actions.
  - One board member sends an email to another board member’s husband stating that he is “against agenda item 2(b).”
    - Also likely a violation. You cannot use an intermediary to do indirectly what you cannot do directly.
  - One board member sends an email to City staff explaining why they are “against agenda item 2(b).”
    - Because staff are not elected or appointed officials, this communication is likely ok. If, however, you have reason to believe staff might disclose this information to other board members, then it is a violation.
  - One board members emails strictly factual information regarding item 2(b) to other board members.
    - Likely, it is technically ok to share strictly factual information directly with each other, however, because of how the information could be interpreted it is strongly discouraged. The better practice is to ask staff to include the information in the Agenda material.
  - Two board members carpool to a meeting.
    - This is ok, so long as you do not discuss any matter which foreseeably could come before the board.
    - However, because of the possible appearance of impropriety, these types of actions are discouraged.
  - Two board members are at the same charity event.
    - This is ok, so long as you do not discuss any matter which foreseeably could come before the board with the other board member.
  - The board took official action on agenda item 2(b) at a publicly noticed meeting. After the meeting, two board members discuss agenda item 2(b).

- Because boards have the inherent authority to change their positions on items at any time it is “reasonably foreseeable” that the item might come before the board again and, therefore, this type of action is strongly discouraged.
- What happens if I violate the Government in the Sunshine Law?
  - **Knowing Violations** can result in 2<sup>nd</sup> degree misdemeanor charges, with penalties up to 60 days in jail and up to a \$500 fine.
  - **“Not-knowing” Violations** are non-criminal but still subject to a fine of up to \$500.
  - Also, failure to comply could **void the board’s actions** relating to the subject matter of the violation.
- **Rules of Thumb:** Always err on the side of caution and, outside of publicly noticed meetings, do not engage in any discussions or communications with other elected or appointed officials regarding pending matters before your board or any reasonably foreseeable matter that might come before your board. Also, generally it is ok for you to privately communicate with City staff and City attorneys regarding such matters provided there are no other elected or appointed city officials present or copied on the communication.

# RESOLUTION 19-27

The City of Destin's Enhanced Public Records  
Policy

# BRIEF HISTORY OF THE CITY'S PUBLIC RECORDS POLICIES

- ④ In addition requirements set forth in Florida Statutes, the City has had in place additional, internal requirements and protocols since 2009 relating to public records and how to handle public record requests. These policies help ensure that the law is adhered to and that the City's goal of full transparency is met.
- ④ See, Operating Instruction ADM-05; Operating Instruction ADM-35; Operating Instruction ADM-56.
- ④ These policies were legally sufficient and represented more stringent requirements than those in place at most state agencies and local governments. In fact, most state agencies and local governments do not have any written policy in place and rely strictly on Chapter 119, Florida Statute. See, The Florida Public Records Act in the Era of Modern Technology, Ralph A. DeMeo and Lauren M. DeWeil (Florida Bar Journal, Vol. 92, No. 9).

# BRIEF HISTORY OF THE CITY'S PUBLIC RECORDS POLICIES

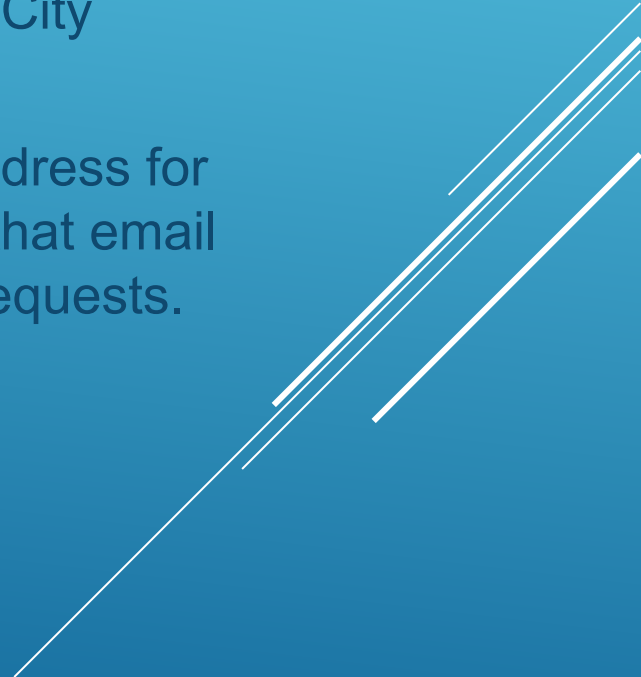
- ④ While legally sufficient, the City's internal Public Records Policies were disjointed and located in separate locations, making compliance more difficult than necessary.
- ④ The attorneys and City staff identified this as an area that could be strengthened and made more efficient by adopting a new policy containing all internal requirements in a single location and strengthening mechanisms already in place beyond those found in Chapter 119, Florida Statutes.
- ④ On November 4, 2019, the attorneys and City staff presented Resolution 19-27 for Council's consideration and Council adopted the Resolution in its entirety.
- ④ Resolution 19-27 is substantially similar to the City of Tallahassee's policy, which legal scholars believe is the "model template for other agencies and local governments to adapt and apply." The Florida Public Records Act in the Era of Modern Technology, Ralph A. DeMeo and Lauren M. DeWeil (Florida Bar Journal, Vol. 92, No. 9)

# EMAILS -- DO'S AND DON'TS FOR APPOINTED OFFICIALS

## Do's

- ④ Use your @cityofdestin email address for all correspondence relating to City business. (D.05).
- ④ If you receive an email at your private email address, then immediately transfer it to your @cityofdestinemail address. (D.05)

## Don'ts

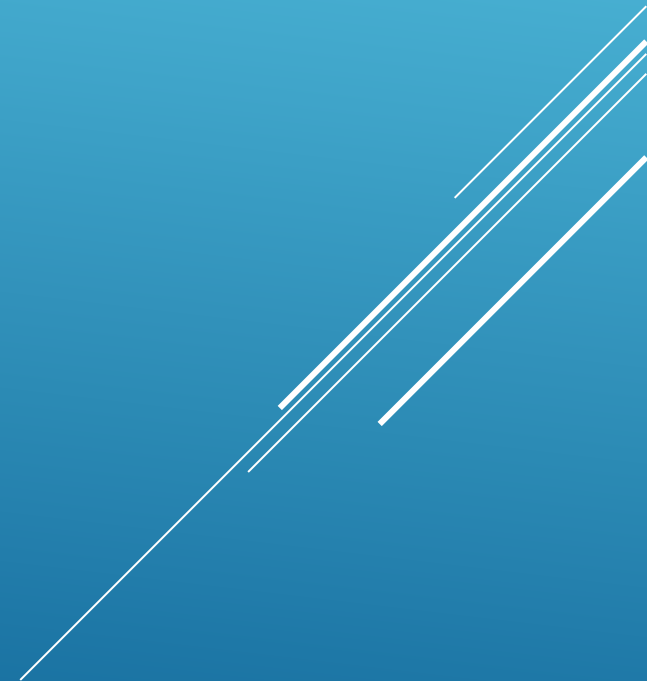
- ④ Use any other email address for any correspondence relating to City business. (D.05)
  - ④ Using your private email address for City business may subject that email address to public records requests.
- 
- Three parallel white lines of varying lengths and slopes are positioned in the bottom right corner of the slide, extending from the right edge towards the center.

# TEXT MESSAGING & OTHER FORMS OF INSTANT, WRITTEN COMMUNICATION (E.G., DIRECT MESSAGES ON FACEBOOK, TWITTER, INSTAGRAM, SKYPE, ETC.) -- DO'S AND DON'TS FOR APPOINTED OFFICIALS

## Do's

- ④ If you receive or send a text message from your private phone, then you must transmit the text message to your @cityofdestin email address. (D.06)

## Don'ts



# SOCIAL MEDIA ACCOUNTS -- DO'S AND DON'TS FOR APPOINTED OFFICIALS

## Do's

- ④ If you maintain social media accounts, then you must maintain all public records relating to your board or committee on such accounts. (D.07).
- ④ If you maintain accounts and the City receives a public records request, then you must thoroughly search your account and produce any responsive material to the City Clerk. (D.07)

## Don'ts

- ④ Delete any social media account relating to the business of your board or committee. (D.07, E.01)
- ④ Delete any public or private message that you may have created or received from any individual or entity relating to the business of your board or committee. (D.07, E.01).

COMMENTS/QUESTIONS

A series of several thin, white, parallel diagonal lines extending from the bottom right towards the top right of the slide, adding a modern, geometric design element.



**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](mailto:planning@cityofdestin.com)

**APPLICATION for HARBOR BOARD**

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

Description of work: construct dock/boat house and boatlift

**1. APPLICANT INFORMATION:**

Name: BILL SMITH  
Mailing Address: 295 PALMAS INN WAY STE 104 PMB 234 HUMACAO  
Phone: 256 708 4473 Fax: N/A Puerto Rico 00791  
Email: bill@billsmithbuickgmc.com

**2. PROPERTY TO BE REVIEWED:**

Street Address: ~~295~~ 4156 BELLCOURT DR., DESTIN  
Parcel ID #: \_\_\_\_\_

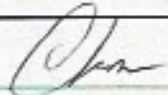
3. **FEE:** \$50.00 Residential Cash, Check, MasterCard or Visa  
\$100.00 Commercial

Fees must be paid when submitting an application.

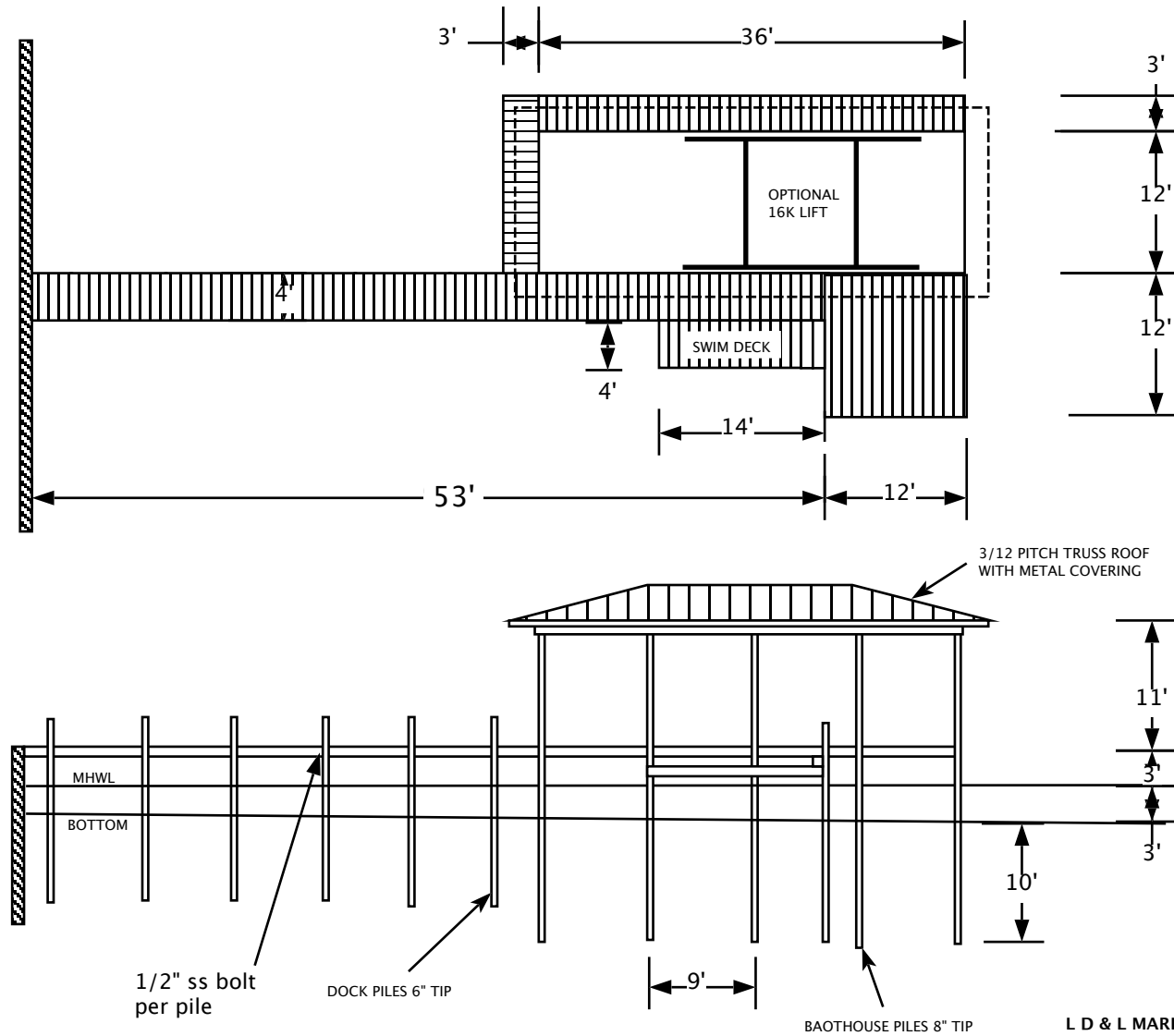
**4. ADDITIONAL DOCUMENTATION REQUIRED:**

- Complete detailed drawings and site plan.
- 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: 2/14/20

BILL SMITH 1.0K.  
4156 BELLCOURT DR.  
997 SF.



**L D & L MARINE CONTRACTORS**  
297 W. MIRACLE STRP. 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

**Riparian Rights Allocation Report**  
**Regarding Consolidated Environmental Resource Permit**  
**and Sovereignty Submerged Lands Authorization**  
**Permit No: 0360547-001-EI, Dated 2/15/2018**

This report was conducted pursuant to a request for opinion regarding the location of riparian rights lines extending into sovereignty lands from upland properties, one of which is a parcel of land which is subject of the above-referenced permit. In addition to the permit, the subject lands are shown on a survey by Gustin, Cothorn and Tucker, Inc., and Identified as Map #180405 dated 8/10/2018 (GCT survey). The survey depicts purported riparian lines of Lots 7 through 10 of Estates at Indian Pointe Subdivision. I was asked to review the location of riparian rights allocation as presented on the survey and permit and offer an opinion regarding the location of riparian lines, particularly the common riparian line between Lot 7 and Lot 8. I have reviewed the following information:

- 1) Subject Survey referenced above
- 2) Subject Permit referenced above
- 3) Plat of Estates at Indian Pointe, Plat Book 24, Page 73-74, Public Records of Okaloosa County
- 4) Current and historic hydrographic charts and topographic maps
- 5) Aerial Photographs dated 1955, 1974, 2007, 2016 from the University of Florida Map and Imagery Library, Florida Department of Transportation (DOT) Aerial Photographic Archives
- 6) Florida Department of Environmental Protection (DEP), Board of Trustees Land Document System (BTLDS) Map Direct
- 7) Map data from the Florida Department of Revenue (DOR)
- 8) Guidelines for Allocation of Riparian Rights: 2013 report sponsored by the DEP Bureau of Survey and Mapping (BSM) conducted by University of Florida Geomatics Professor Dr. David Gibson

Dr. Gibson prepared Guidelines for Allocation of Riparian Rights in 2013, sponsored by BSM. This document updated a previous publication done for BSM in 1986, and together has been relied upon by surveyors for decades to apply commonly acceptable procedures for establishing equitable riparian lines for leasing and other purposes for activities on sovereignty lands. Dr. Gibson has studied and applied past cases and has testified many times regarding riparian lines, has held seminars to professional surveyors and other consultants and permit review staff. I have spoken with Dr. Gibson many times regarding the development of the 2013 report while I was at BSM. My report applies the recommendations provided in Dr. Gibson's report, with the primary goal to provide equitable allocation to all properties. Attached herewith is Dr. Gibson's 2013 Report.

Additionally I have relied upon the location information of upland boundaries and bathymetry data (water depths) depicted on the GCT survey for the purpose of assessing the appropriate location of riparian lines.

Figure 1 is an overview of the area showing parcel mapping from DOR to obtain a general understanding of the configuration of docks in the area. Parcel GIS data from DOR is overlaid onto 2016 DOT aerial photograph.



Figure 1 – General Overview – 2016 Aerial Photograph

The subject lands are located on an indentation along the southerly shoreline of Choctawhatchee Bay at the entrance of Indian Bayou. The upland parcels are platted lots radiating in a northeasterly to southeasterly direction from the Belcourt Drive cul-de-sac to the mean high water line. Figure 2 is a more detailed image of the shoreline configuration showing the boundaries of the subject parcels, bathymetry (water depths), thalweg (lowest part of channel) and marked channel location digitized from the GCT survey and geo-referenced to a 2016 aerial photograph. Also digitized and shown are riparian lines as depicted on the GCT Survey.

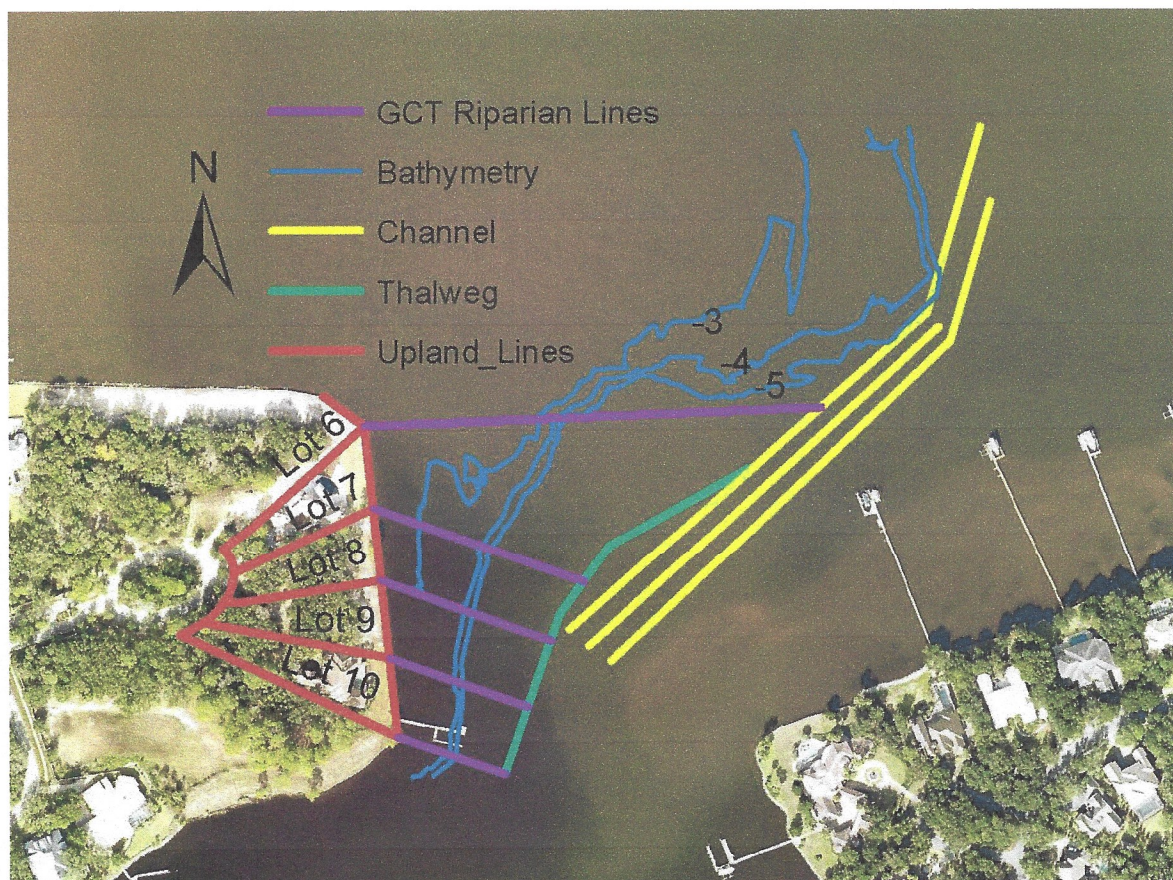


Figure 2 – Detailed View – 2016 Aerial Photograph  
GCT's Riparian Lines Shown

The most northerly riparian line shown on the GCT survey, located between Lot 6 and 7 is shown to be almost due east. A note on the GCT survey states: "For feasibility and accommodation for Lot 6, the owner of Lot 7 agrees to the placement of the northern riparian line." Since I don't know the consideration(s) for the location of the northern riparian line, and it appears to be an arrangement between the adjacent parties, the direction of a common riparian line of equitable distribution was not addressed in this report. Although the shoreline at the subject lots run generally northerly and southerly, the riparian lines on the GCT survey between Lots 7 and 8 and those to the south are projected southeasterly, appearing to generally conform to a direction perpendicular to the thalweg and/or the line of deep water. All of the lines shown continue well into the deep water channel, beyond where riparian lines should be constructed.

Of the configurations provided for in Dr. Gibson's report, other than the most northern and most southern riparian line, the perpendicular to shore methodology fits best. An example that most closely reflects the conditions in this case is described and shown at the bottom of page 5 and top of page 6. While in some cases a channel or line of deep water can be used to construct the riparian lines, in this case the channel diverges from the subject shoreline, running northeasterly and away from the subject parcels. In this scenario the dominant method is to construct perpendiculars to the shoreline, beginning at the common upland property lines at the mean high water and ending at the line of deep water. The exception is the direction shown on the most southerly riparian line. In this case at the southeast corner of Lot 10, the shore turns abruptly southwest. In that case I am in agreement with the direction depicted on the survey, but as with all the lines shown on the GCT survey, the line should end at the line of deep water. Figure 3 shows the addition of the riparian lines perpendicular to shore for the middle three lines, all lines ending at the line of deep water.

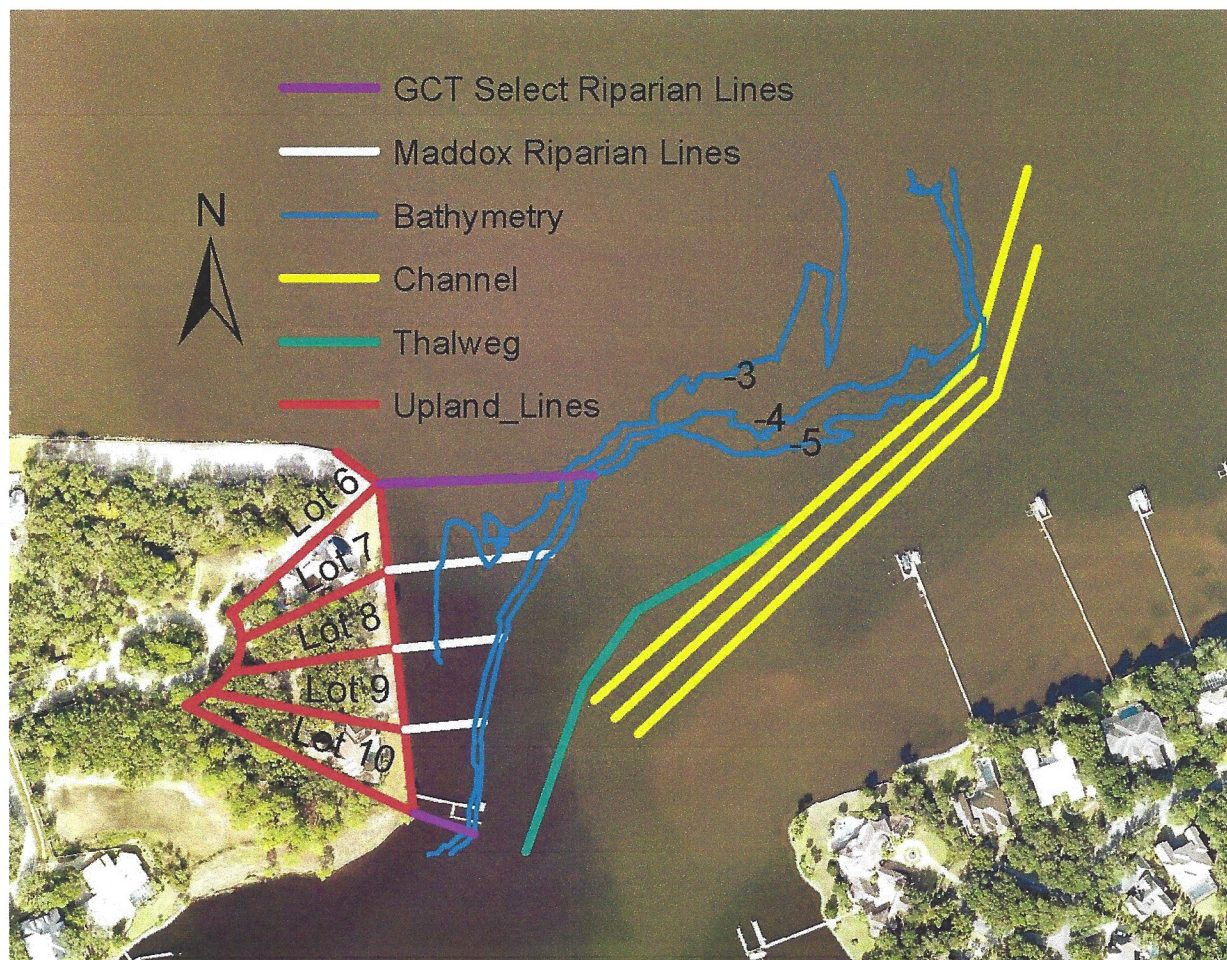


Figure 3 – Detailed View – 2016 Aerial Photograph  
Maddox's Riparian Lines Shown

Within limitations of the source data, it is my opinion that the riparian lines located perpendicular to the shoreline extending to the line of deep water at the southern boundaries of Lots 7, 8 and 9 as shown on Figure 3 above is the most equitable location of the riparian lines.

*Rod A. Maddox*

Rod A. Maddox, PSM 3994, Date 9/19/2018  
Maddox Land Research and Consulting, LLC  
5126 Maddox Road  
Tallahassee Florida 32303



## **Guidelines for Allocation of Riparian Rights**

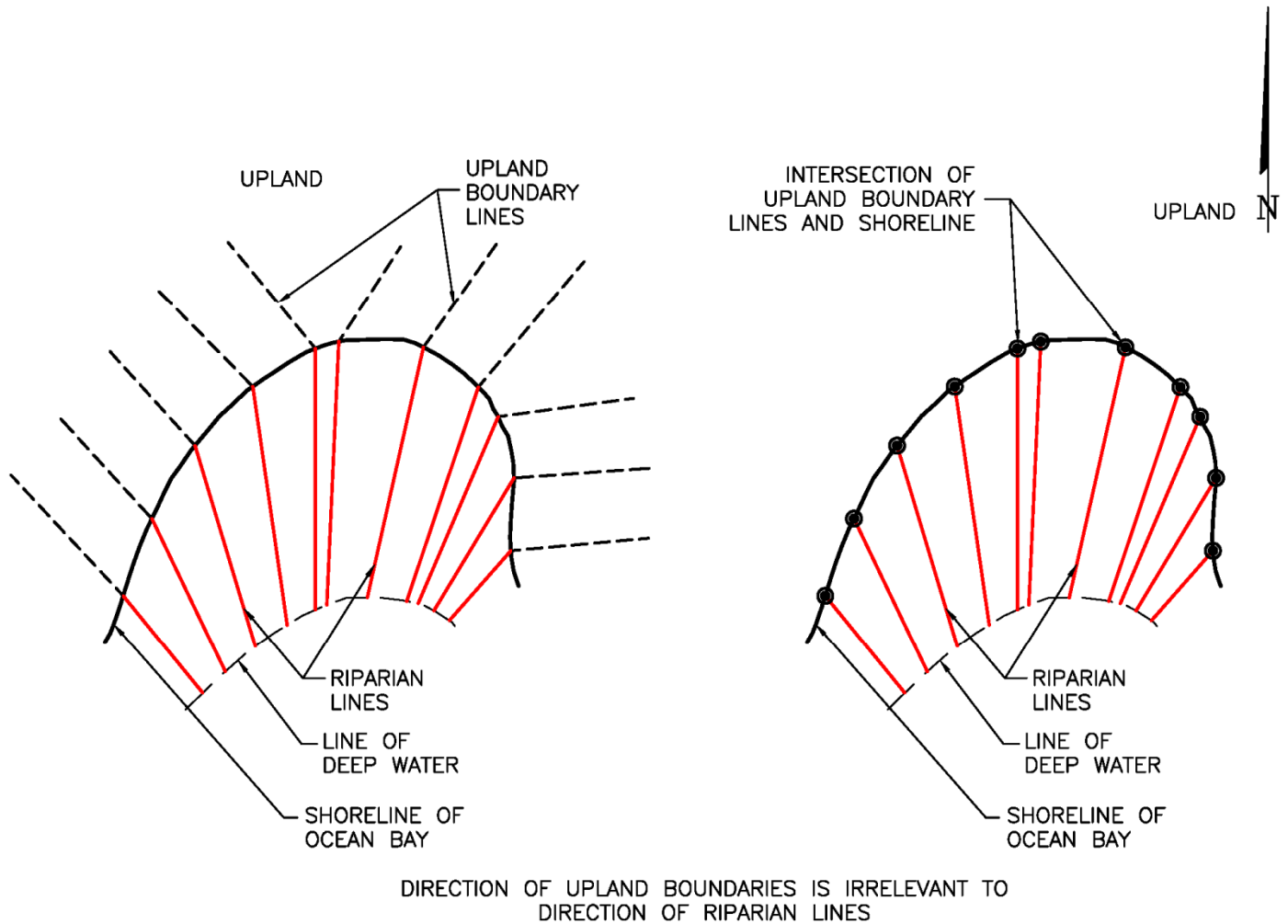
### **The 1985 and 2009 Studies**

In 1985 and again in 2009, the Bureau of Survey and Mapping sponsored a study of the effect of shoreline and channel geometry on the division of riparian rights. This study was prepared by Dr. David Gibson, Associate Professor at the University of Florida. The research was intended to analyze existing methods for making allocations of riparian rights together with a study of different shoreline configurations. The result was a set of recommended guidelines.

This document concentrates on the two riparian right “equities” of dominant interest among waterfront owners: (1) right of ingress/egress to navigable waters – the right to build a dock out to deep water, (2) right of view out to the edge of the main navigational channel (view). The following are conclusions from the studies and examples of riparian rights allocations.

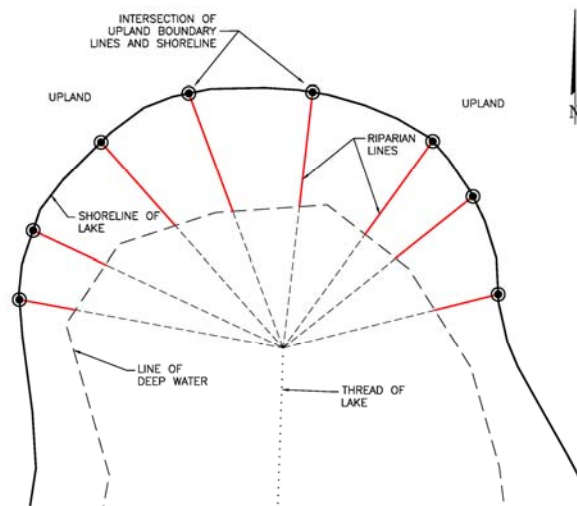
### **Conclusions from Literature Study**

1. Docking is a near-shore consideration and is limited by the line of deep water (line of navigability or line of navigation). The great weight of research indicates that when docking is the primary issue, courts will usually apportion the space between the shore and the line of navigability.
2. In considering docking when the shore is relatively straight on a large body of water (one without a nearby channel or thread), such as the ocean, a large lake, ocean bay or wide river, the dominant construction makes division lines perpendicular with the general direction of the shore extended to the line of navigable water. The shore’s general direction requires smoothing of smaller indentations and projections, and perpendiculars are constructed with the “smoothed” shore from the place where the side lot line hits the Mean High Water Line or Ordinary High Water Line.
3. Along a river without a marked channel and the opposite bank is in proximity to the area of concern, the dominant technique is to construct riparian lines perpendicular with the stream’s thread (median). The stream’s thread should be found as the median line of the water surface half way between the banks during ordinary stages of water height.
4. Along a river or other water body with a nearby marked navigation channel and a regular shore, most courts construct perpendiculars with the nearest channel edge as opposed to the thread. It appears that the proximity of a channel edge, or any other similarly established outer line, will most likely be used by courts for the apportionment using perpendiculars if the shore is relatively straight.
5. The direction of upland boundaries is largely ignored when apportioning riparian rights. The public’s mistaken belief that riparian lines are on the extension of their side upland lines is the most frequent cause of riparian disputes. Instead, the water body must be **equitably apportioned** as if all waterfront owners were standing on the shore looking out over the water body – see example below.



6. When the shore is irregular in the form of a cove or projection into an ocean, ocean bay, lake or river, most courts apportion the line of deep water to divide riparian rights as opposed to any perpendicular method – see example above.

7. Methods of apportionment designed for the whole water body, such as the center point method in lakes, thread of lakes, perpendiculars to channels or threads, should be used mainly for those riparian rights that require apportion of the entire water surface. They may also be used to determine direction but not the terminus of near-shore division lines when they give substantially the same apportionment as a near-shore method. This would be true in round lakes with concentric water depth contour lines, along rivers with parallel banks and parallel channel, and along long lakes with consistent water depth contours – see example below.



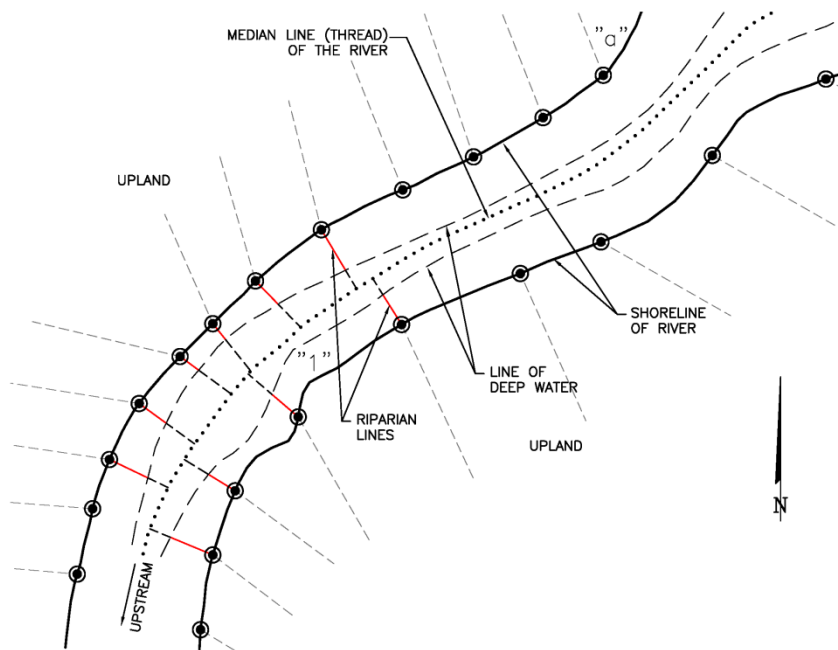
8. The apportionment of the line of deep water is the most universal technique for division of riparian rights that will give the same solution as more traditional techniques in many cases and will follow dominant national case law where the shore is irregular.

### **Recommended Procedures and Water Body Classifications**

In explaining allocation procedures, reference will be made to several sketches which were constructed to show numerous cases of water boundaries. It is presumed that the main considerations are docking, view and access to navigation channels. It should be noted that the upland boundaries of the lots surrounding the water are shown only as very light dashed lines for the reasons stated in no. 5 above.

**River, No Marked Channel, Parallel Banks – Perpendicular with Median Line** In the river example below, the water body would be classified as (1) being a narrow river where the opposite bank is of a consideration and (2) as having generally parallel banks without deep coves and projections.

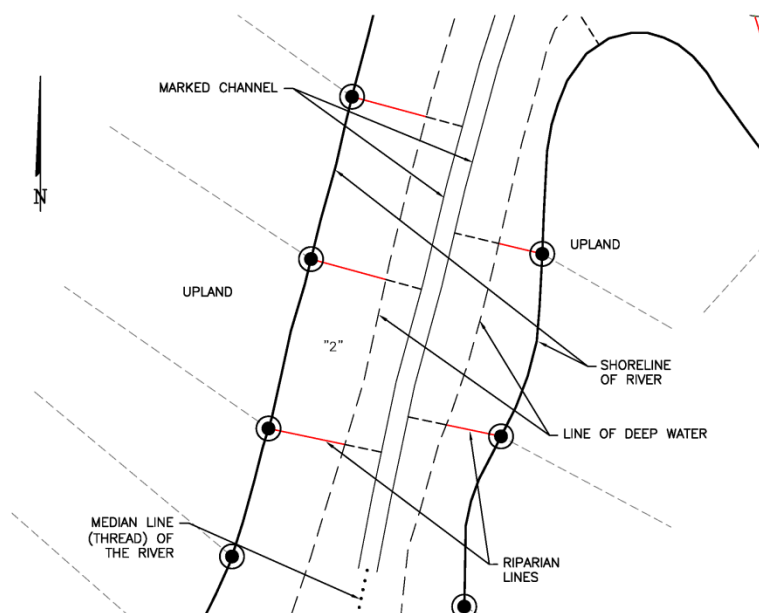
The main technique to be applied here is the “perpendicular with the stream’s thread” method. The banks being the limit of water at its ordinary stage would be determined. A median line would be constructed exactly midway between the banks at their ordinary stage of water. Perpendiculars would be constructed at the thread and produced back to the shore points. Docking and access rights would stop at the line of deep water – see example below.



For example, at area “1”, the red riparian line is the “docking” line shown perpendicular with the dotted median line stopping at the line of deep water. The dashed extension of the riparian line is the “view” line out to the median line. These lines are: not on the extension of the upland side line, not perpendicular with the water boundary, or not perpendicular with the line of deep water.

Other docking and view riparian lines are shown in the neighborhood. This same technique would be used on the entire river upstream of point “a”. None of the coves are deep and no inequity would result.

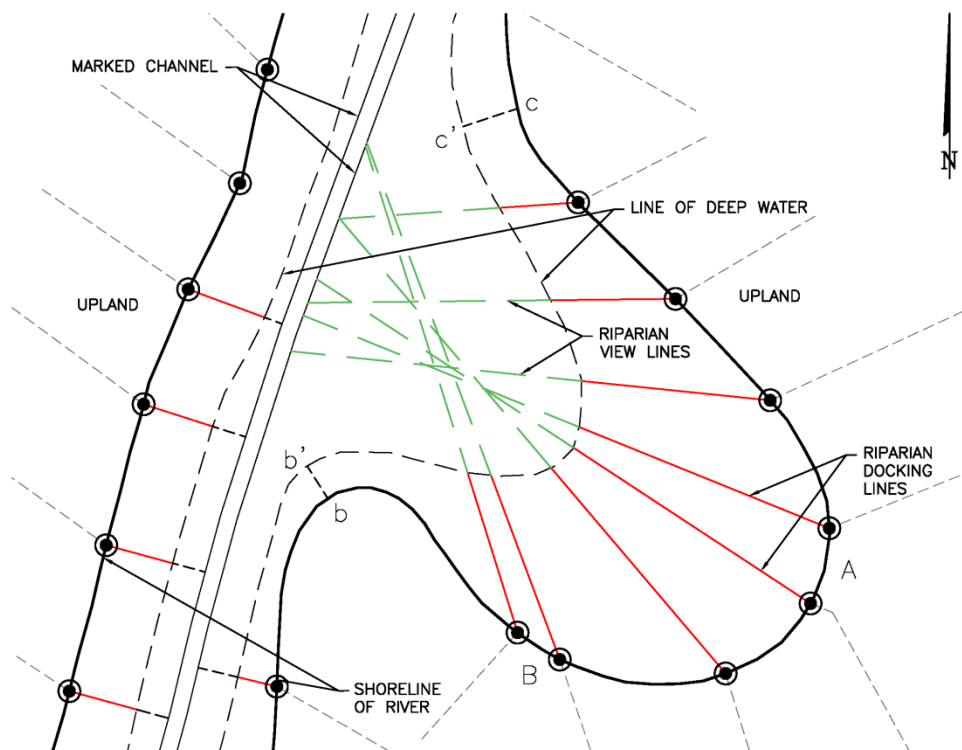
**River, Marked Channel, Parallel Banks – Perpendicular with the Channel Line** Downstream of the above example a maintained and marked channel exists that would take over from the thread for the apportionment base line. The channel probably has an east and west edge, and perpendiculars would be constructed at the nearest edge and run back to shore – see example below.



For example, at area “2” above, perpendiculars are constructed at the nearest channel edge and run back to shore.

**Deep Cove on One Bank – Apportion Line of Navigability** The deep cove on the east bank in the following example requires special treatment. Inequities are obvious; if the typical solution of extending the lot lines is applied, persons “A” and “B” would be entirely cut off from navigable water and the channel. If the previous technique of perpendiculars from the channel were applied, then person “B” would receive nothing. Therefore, the line of navigability should be apportioned.

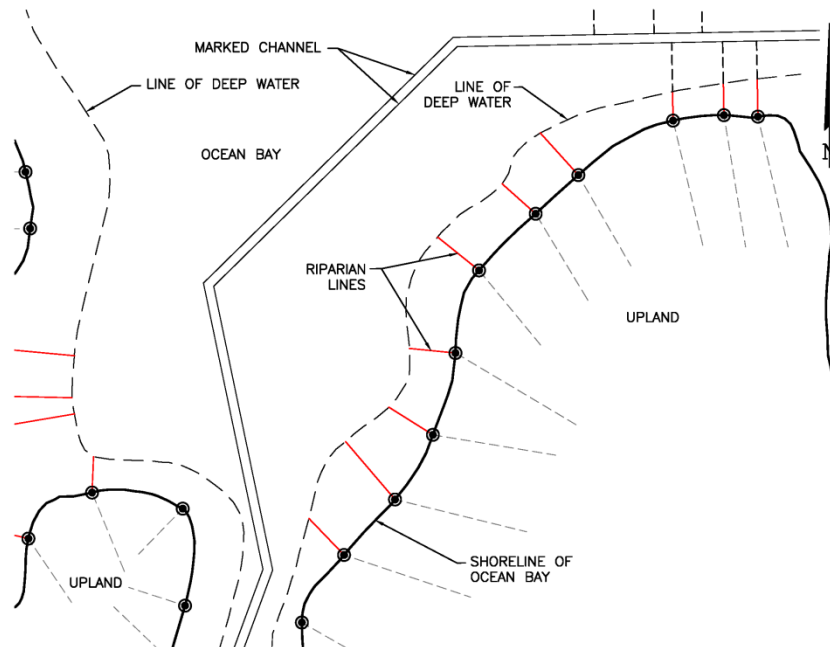
Finding the cove limits (headland points) would be a critical decision. The headlands of the cove would be identified as points “b” and “c” the places where the east river bank departs its generally parallel course and enters the cove. As a general rule the “45 degree method” can be used to find the headlands –where the shore first departs at a 45 degree angle from the general direction of the water body.



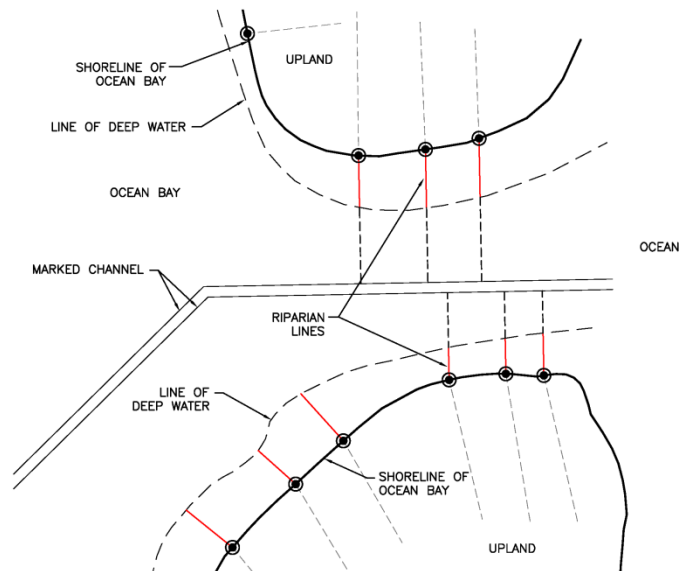
Points b' and c' would be established directly opposite the headland shore points using perpendiculars with the line of navigability. Between b' and c', the line of navigability would be divided in proportion to frontage. For example if the total distance b' to c' on the “outer line” is only 700 ft and the shore frontage from b to c is 1000 ft then each foot of shore frontage only receives 0.70 ft on the outer line – equitable apportionment. Straight lines would run back to shore points. The view zones would be the extension of the docking lines out to the channel line, (however view zones are not exclusive and they may overlap).

**Large Water Body -- Perpendicular with Shore** Northerly of the above example, on the east side of the ocean bay, the shore and the marked channel are diverging from each other. Since docking is a near-shore

consideration, then a near-shore solution is called for. The dominant method is to construct perpendiculars with the generalized shore, projecting these riparian lines out to the line of deep water.



**Inlet Channel – Perpendicular with Channel Line** At the inlet of the ocean bay, the proximity of the channel is now the important consideration, and perpendiculars would be dropped from it as shown.



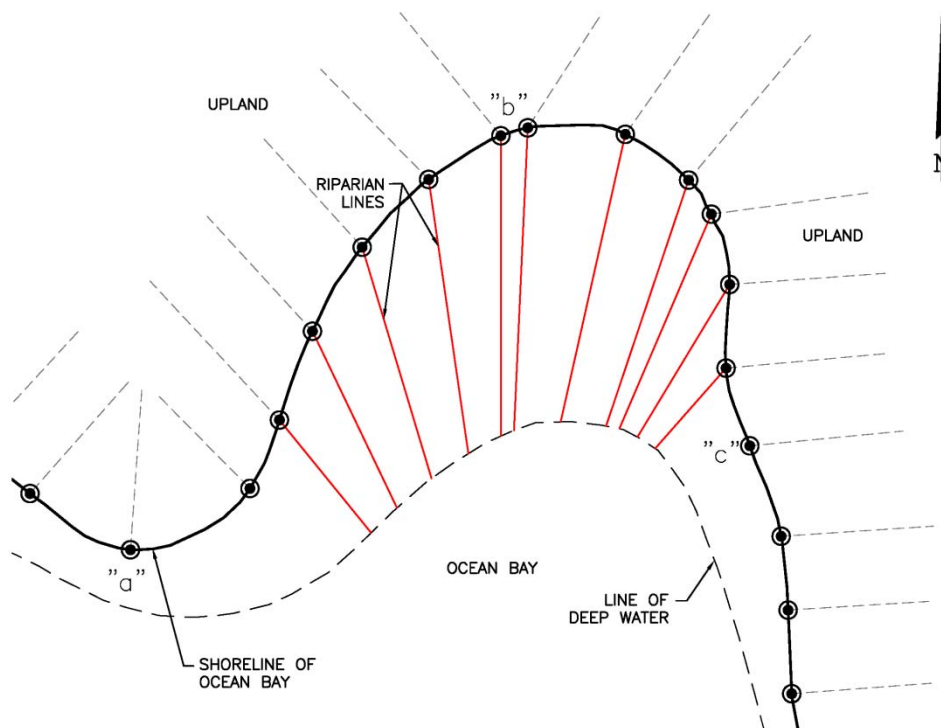
## Coves

**Large Bay Cove – Apportion Line of Navigability** Around the ocean bay, the dominant construction is perpendicular with the generalized shore direction, projecting these out to the line of deep water.

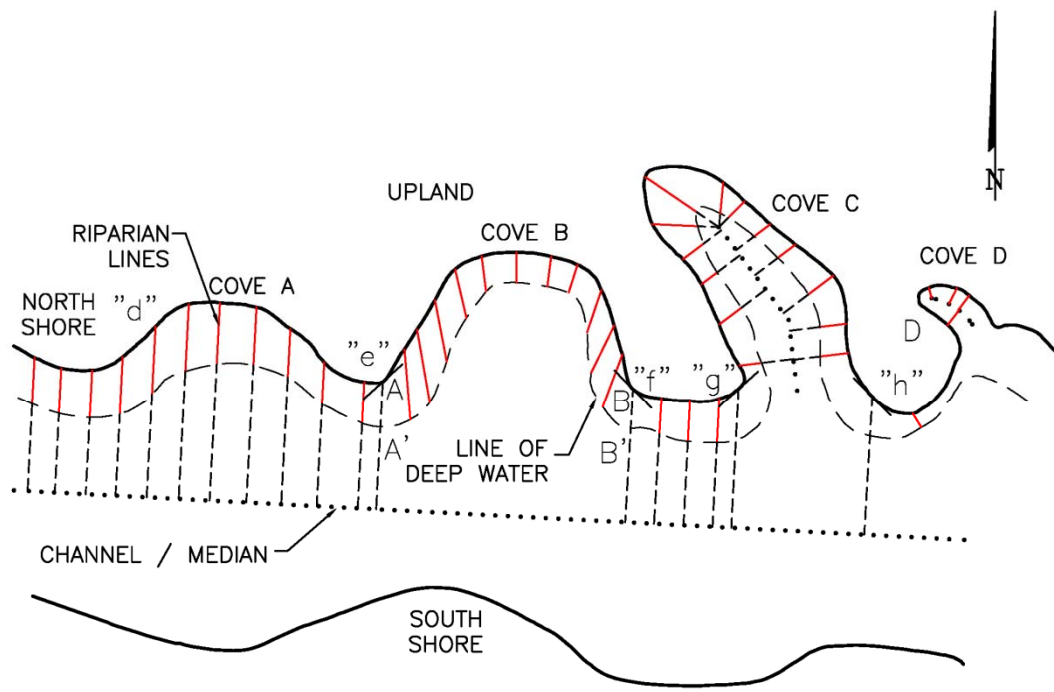
However, the large cove on the north side of the bay calls for apportioning the line of navigability. The main question would be determining the apportionment limits. There is a well-defined headland on the cove's west end at "a," but on the east side the cove's beginning is not so well defined.

As a guideline for thought, there is no use apportioning lots in which a more basic method works; therefore, start at the point of greatest inequity, point "b" in this case, and go in each direction until straight-line projections will intersect the line of navigability at nearly right angles well clear of the problem area, such as at "c" in this case. Apportionment between "a" and "c" will give each owner a portion of the line of deep water for constructing a dock.

A problem is noticed for owner "b". Due to small frontage, that lot will receive a very small portion of deep water frontage, perhaps not enough on which to build a dock without conflict with adjoiners. This is a situation for the neighbors or courts to address. The surveyor should not attempt to solve this situation. Instead, the surveyor should rely on geometric construction principles. After the "theoretical" riparian lines are determined, let the owners negotiate a solution (riparian boundary agreement or license) or let the courts decide an equitable solution.



Commercial marina leasing has now made the allocation of the entire water body a consideration. Consider the water body shown in the following figure. It could be a river, a long lake, or intra-coastal waterway and a marked channel is present, therefore, the dominant riparian construction is perpendicular with the channel. The north shore is undulating with three "coves" to investigate: a (A) "shallow cove," not indented enough to require a cove method apportionment, a (B) "deep cove," requiring a cove apportionment, and (C & D) "hidden coves" which departs to form its own geometry. The deep water line, shown as a dashed line, illustrates that cove C contains deep water while cove D does not.



**Shallow Cove A** is called "shallow" because the intersection between the shore and riparian lines are at 45 degrees or less throughout the cove. This "45 degree rule" is presented here for consideration. At a location such as "d" where the shore and riparian line are at 45 degrees, the width of the riparian zone is 0.71 times the frontage distance, but these zone widths still give sufficient width for dock building out to the deep water line (dashed) and leasing/view out to the channel line. In the Florida case *Hayes v Bowman*, this angle was about 55 - 60 degrees which caused a reduced riparian zone width 0.85 times the lot frontage. Therefore, it was recognized that the riparian zone width may be significantly less than the riparian frontage width.

**Deep Cove B** begins at location "e" where the angle exceeds 45 degrees. This is the beginning of a deep cove B calling for a cove apportionment. The beginning points on the cove are A and A'. The end of the cove at point "f" is identified as points B and B', where the channel perpendicular and the shore make an angle of 45 degrees. The deep water line from A' to B' is apportioned according to relative shore frontages between A and B.

**Hidden Cove C** begins at "g" and ends at "h", again using the 45 degree rule. However, since this cove has its own geometry separate from the main water body, each riparian parcel fronts on this cove (not on the main water body). Therefore, perpendiculars are constructed with the cove's median lines. At the north end of the cove, a center point is chosen at the deep water end, and riparian lines are connected with the central point for parcels northwest of that point. This allocates the line of deep water between those riparian owners.

In **Hidden Cove D** apportionment of the line of navigability would give the lot at "D" no deep water frontage. Courts could treat this cove as a separate shallow water body. Since it is shallow, the owners could have the riparian right of ingress/egress only to the shallow waters for small boats, but not to the line of deeper water.

They could also have the right of view to the cove's median line as shown. However, to solve this question, courts would have to address the issues involved and therefore it is outside of the scope of this report.

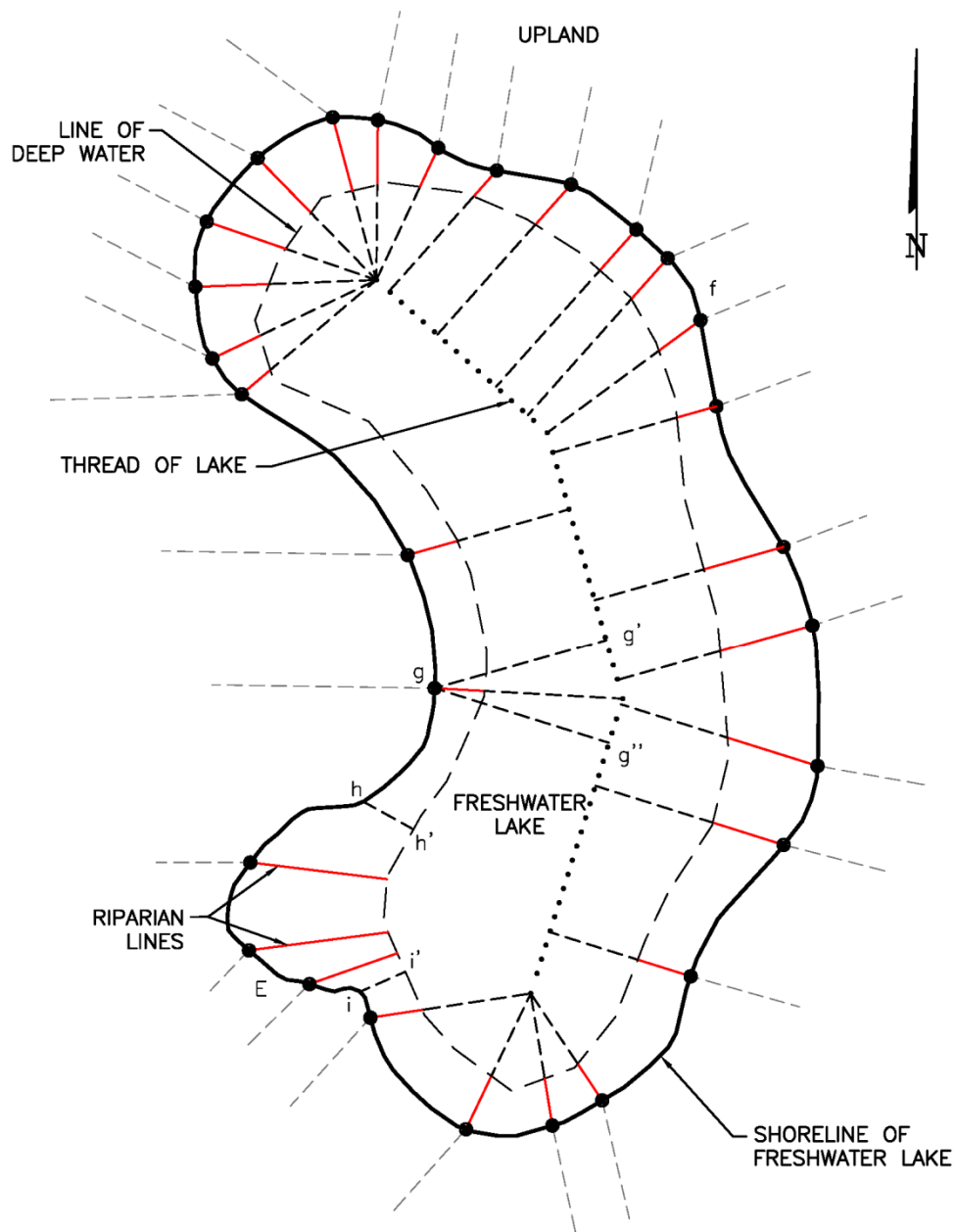
Of course, outside hidden cove D, riparian owners have clear access to deep water as shown.

**Long Fresh Water Lake – Radials to End Center Points – Perpendicular with the Median Line (Thread)** To apportion riparian rights in a "long lake", the traditional approach would establish center points in the semi-circular lake ends together with a thread midway between the banks. Around the lake ends, lines would radiate from center points to shore points, and along the thread, perpendiculars would be constructed and run back to shore points.

However, several geometric problems are encountered. At point "f", it's impossible to drop a perpendicular to either line of the thread. Therefore an equitable approach would be to extend the riparian line to the angle point in the thread as shown.

Similarly, at point "g" on the west shore, two perpendiculars are possible, each dropped to a different line of the thread. Which one? Again an equitable approach would be to draw the riparian line to the angle point in the thread.

At parcel "E" there is a deep cove, and a perpendicular with the thread construction would be inequitable. This should then be apportionment of the line of deep water by the cove method with headlands identified at points "h" and "i."



**SUMMARY STATEMENTS** – Please note that this document presents guidelines for a wide range of riparian situations. However, there are always unique situations that need to be addressed. The courts require that the allocation be “equitable” for the whole neighborhood. The geometric method, if extended up and down the shore, should be equitable for the whole neighborhood of riparian owners. In addition to a survey map of the parcel, it is recommended that a surveyor submit a riparian “report” that depicts the equity when the allocation is applied to the whole neighborhood.

## **DISCLAIMER**

All information contained is for general informational purposes only and subject to change without notice. Neither the Department nor the Board of Trustees of the Internal Improvement Trust Fund makes any representations or warranties of any kind express or implied, with respect to the content, quality, completeness, accuracy, or reliability of any information contained within regarding allocation of riparian rights. Neither the Department nor the Board of Trustees of the Internal Improvement Trust Fund assumes any legal liability for the content, quality, accuracy or completeness of the information. Any reliance you place on this information is therefore strictly at your own risk. In no event will the Department or Board of Trustees of the Internal Improvement Trust Fund be liable for any loss or damages, whether direct, indirect, general, consequential, incidental, exemplary or special, arising from your use of the information provided within regarding allocation of riparian rights.

## MEMORANDUM OF AGREEMENT

THIS MEMORADUM OF AGREEMENT ("Agreement") is made and entered into on this 6 day of ~~January~~ <sup>February</sup> 2019, by and between PROVIDENT INVESTMENTS, LLC, and LOT 8 THE ESTATES, LLC, a Florida limited liability company.

### **RECITALS:**

WHEREAS, Provident Investments, LLC, is the owner of certain real property located at 4156 Belcourt Drive, Destin, Florida, and identified as Parcel Number 00-2S-22-4600-0000-0070, and also known as Lot 7 in the Estates at Indian Pointe ("Lot 7"); and

WHEREAS, Lot 8 The Estates, LLC, is the owner of certain real property located at 4153 Belcourt Drive, Destin, Florida, and identified as Parcel Number 00-2S-22-4600-0000-0080, and also known as Lot 8 in the Estates at Indian Point ("Lot 8"); and

WHEREAS, Provident Investments, LLC, and Lot 8 The Estates, LLC, desire to resolve their dispute regarding the location of the riparian line between Lot 7 and Lot 8 and the design and location of a private, residential, single-family dock and boat lift proposed to serve Lot 7; and

WHEREAS, Provident Investments, LLC, and Lot 8 The Estates, LLC, desire to enter into this Agreement for the purposes of resolving their dispute.

NOW, THEREFORE, in consideration of the terms and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Provident Investments, LLC, and Lot 8 The Estates, LLC (collectively, the "Parties"), intending to be legally bound, agree as follows:

1. **Recitals.** The above-referenced recitals are true and correct and are hereby incorporated into this Agreement for all purposes.

2. **Terms of Agreement.** In connection with the Parties' mutual execution of this Agreement and the covenants and terms herein, the Parties agree as follows:

A. The riparian line between Lot 7 and Lot 8 shall be located perpendicular to the shoreline extending to the deep water at the southern boundaries of Lots 7 and 8, as depicted on Exhibit "A," which is attached hereto ("Riparian Line").

B. Within five (5) days of the Effective Date of this Agreement, Provident Investments, LLC, shall provide a revised survey, that reflects the location of the Riparian Line as required in Paragraph 2.A. above, to the Florida Department of Environmental Protection, the City of Destin, Florida, and Lot 8 The Estates, LLC.

C. Provident Investments, LLC, shall comply with the twenty-five (25) foot setback from the Riparian Line mandated by Rule 18-21.004(3)(d), *Florida Administrative Code*. Nothing in this Agreement shall be construed as a waiver by Lot 8 The Estates, LLC, of such twenty-five (25) foot setback.

D. Lot 8 The Estates, LLC, shall not object to the pending applications before the Florida Department of Environmental Protection and the City of Destin, Florida, for the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7, provided the design and location of such dock and boat lift are identical to the design and location of such dock and boat lift depicted on the Permit Drawings that are attached hereto as Exhibit "B."

E. All references to a "settlement line" in the Permit Drawings that are attached hereto as Exhibit "B," shall be construed as the Riparian Line. All references to a "riparian line" in the Permit Drawings that are attached hereto as Exhibit "B," shall be null and void.

3. **Authority.** Each Party represents and warrants, with respect to itself, that the execution and delivery of this Agreement has been authorized by all necessary action of each Party, and that this Agreement constitutes the legal, valid, and binding agreement of each Party, enforceable in accordance with its terms.

4. **Governing Law; Venue.** This Agreement shall be construed, interpreted, enforced, and governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this Agreement shall be in Okaloosa County, Florida.

5. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs, assigns, agents, trustees, and representatives of the Parties.

6. **Non-Waiver.** Failure by the Parties to insist upon the strict performance of any of the terms, conditions, or provisions of this Agreement shall not be deemed to be a waiver of such terms, conditions, and provisions, and any Party, notwithstanding such failure, shall have the right hereafter to insist upon the strict performance of any or all such terms and conditions of this Agreement as set forth herein.

7. **Mutual Releases.**

A. Provident Investments, LLC, hereby waives and releases, acquits, satisfies, and forever discharges Lot 8 The Estates, LLC, including its legal representatives, insurance carriers, successors, heirs, and assigns thereof (collectively, "Lot 8 The Estates, LLC's Related Parties"), from any and all claims, counterclaims, defenses, actions, causes of action,

suits, controversies, agreements, promises, and demands whatsoever which Provident Investments, LLC, ever had or now has, in law or in equity, for, upon, or by any reason of any matter, cause, or thing whatsoever in direct connection with the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, Provident Investments, LLC, covenants with and warrants to Lot 8 The Estates, LLC, including the Lot 8 The Estates, LLC's Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets by Provident Investments, LLC, against Lot 8 The Estates, LLC, including the Lot 8 The Estates, LLC's Related Parties, with regard to the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 that are not included in and covered by this Agreement. The release set forth in this provision does not apply to any rights granted by or arising from this Agreement.

- B. Lot 8 The Estates, LLC, hereby waives and releases, acquits, satisfies, and forever discharges Provident Investments, LLC, including its legal representatives, insurance carriers, successors, heirs, and assigns thereof (collectively, "Provident Investments, LLC's Related Parties"), from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever which Lot 8 The Estates, LLC, ever had or now has, in law or in equity, for, upon, or by any reason of any matter, cause, or thing whatsoever in direct connection with the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, Lot 8 The Estates, LLC, covenants with and warrants to Provident Investments, LLC, including the Provident Investments, LLC's Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets by, against Provident Investments, LLC, including the Provident Investments, LLC's Related Parties, with regard to the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 that are not included in and covered by this Agreement. The release set forth in this provision does not apply to any rights granted by or arising from this Agreement.

8. **Construction; Headings.** The Parties acknowledge that they participated in the negotiation and drafting of the terms of this Agreement and acknowledge that no provision shall be strictly construed against one party or the other based solely on draftsmanship. The Parties have entered into this Agreement without duress, coercion, or under undue influence of any kind, and are motivated by a desire to arrive at a fair and reasonable agreement with regard to the Parties' dispute. The Parties acknowledge that they have been represented by counsel in connection with the negotiation of the terms of this Agreement and that they enter into this Agreement freely and voluntarily, and only after consultation with their respective counsel. All sections and descriptive headings in this Agreement are inserted for convenience only, and shall

neither affect the construction or interpretation hereof, nor add or subtract from the meaning of the contents of each section.

9. **Interpretation.** This Agreement shall be read and interpreted in such a manner as to give all provisions their ordinary and customary meaning, and all words, terms, and phrases not otherwise specifically defined by a capitalized term or otherwise shall have the same meaning and interpretation as customarily used among lay persons. The terms “hereby,” “hereof,” “herein,” “hereto,” “hereunder,” and any similar terms refer to this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. All words, terms, and phrases specifically defined by a capitalized term shall apply throughout this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.

10. **Entire Agreement; Amendments.** This Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter hereof. No representations have been made, either express or implied by the Parties, other than those expressly set forth in this Agreement. This Agreement or any part hereof may not be changed, amended, waived, discharged, or terminated except by an instrument in writing, executed by all Parties.

11. **Enforcement; Remedies.** The Parties shall have all equitable and legal remedies available under Florida law to enforce the terms and conditions of this Agreement, and the terms of this Agreement shall be specifically enforceable in court. In the event of any dispute hereunder or any action to interpret or enforce this Agreement, any provision hereof, or any matter arising herefrom, the prevailing party shall be paid by the non-prevailing party the reasonable attorneys’ fees and costs incurred in enforcing its rights and remedies, whether incurred at the pre-trial, trial, or appellate levels, including any fees and costs incurred in determining the amount of awardable fees.

12. **Severability.** If any part of this Agreement is found invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effectuated. To that end, this Agreement is declared severable.

13. **Disclaimer of Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any other third person or entity any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof, other than as expressly stated herein.

14. **Notices.** All notices and other communications required hereunder shall be in writing and shall be delivered personally, or by registered or certified mail, return receipt requested, postage prepaid, or by Federal Express or other nationally recognized overnight

commercial delivery service, fees prepaid for next day delivery. Such notices shall be deemed to have been received: (i) upon delivery, if personally delivered; (ii) upon the earlier of actual receipt or the third day after mailing, if mailed by registered or certified United States mail, return receipt requested, postage prepaid; and (iii) upon the earlier of actual receipt or the next business day if sent by Federal Express or other nationally recognized overnight commercial delivery service, if fees are prepaid for next day delivery. The addresses for delivery of such notices shall be as follows:

(a) To Provident Investments, LLC

Provident Investments, LLC  
c/o James Bethea  
1598 Ochsner Boulevard, Suite 100  
Covington, Louisiana 70433

With a copy to:

Michelle Anchors, Esquire  
Keefe, Anchors and Gordon, P.A.  
2113 Lewis Turner Boulevard, Suite 100  
Fort Walton Beach, Florida 32547

(b) To Lot 8 The Estates, LLC:

Lot 8 The Estates, LLC  
16000 Dallas Parkway, Suite 300  
Dallas, Texas 75248

With a copy to:

David A. Theriaque, Esquire  
S. Brent Spain, Esquire  
Theriaque & Spain  
433 North Magnolia Drive  
Tallahassee, Florida 32308

or to such other address as any party hereto shall from time to time designate to the other party by notice in writing as herein provided.

15. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the Parties hereto and all of which shall constitute one and the same agreement. The Parties hereto further agree that each Party shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding, and enforceable as between them and as against third parties.

16. **Effective Date.** This Agreement shall become effective upon the date of execution by the last of the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in a manner sufficient to bind them on the day and year identified above.

WITNESSES

PROVIDENT INVESTMENTS, LLC

Gretchen Watson  
Print Name: Gretchen Watson

By: WILL C BETHA

Its: Mgr Wm C. BETHA

Terry M. Anderson  
Print Name: TERRY M. ANDERSON

Date: 2-6-19

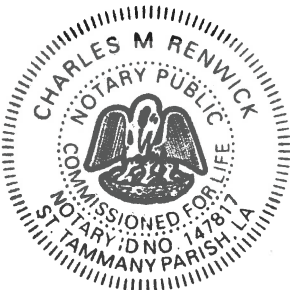
STATE OF Louisiana

COUNTY OF St. Tammany

The foregoing instrument was acknowledged before me this 6 day of February 2019, by William Betha, as Manager of Provident Investments, LLC. Said person (check one) ☒ is personally known to me or ☐ produced Louisiana License as identification.

Charles Renwick  
(Notary Seal)

Printed Name: Charles Renwick  
Notary Public, State of Louisiana  
Commission No. 147817  
My commission expires: Does not expire



WITNESSES

LOT 8 THE ESTATES, LLC, a Florida limited liability company

Erin Dunston  
Print Name: Erin Dunston

By: Les Miles

Hannah Tourhillott  
Print Name: Hannah Tourhillott

Its: \_\_\_\_\_

Date: 2/20/2019

STATE OF Kansas

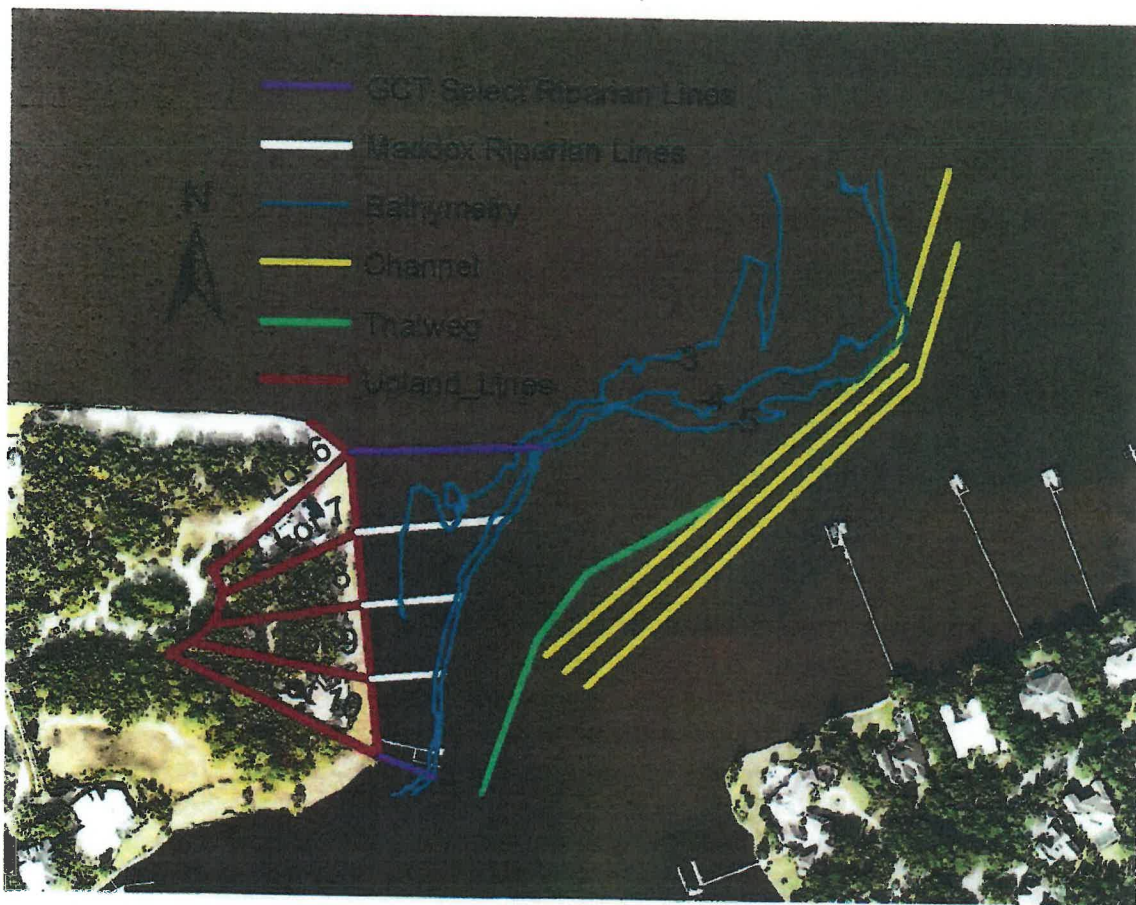
COUNTY OF Douglas

The foregoing instrument was acknowledged before me this 20 day of January 2019, by Les Miles, as owner of Lot 8 The Estates, LLC, a Florida limited liability company. Said person (check one) G is personally known to me or G produced \_\_\_\_\_ as identification.

Tracey Dillon  
(Notary Seal)

Printed Name: Tracey Dillon  
Notary Public, State of Kansas  
Commission No. 1123072  
My commission expires: May 16, 2020





**Figure 3 – Detailed View – 2016 Aerial Photograph  
Maddox's Riparian Lines Shown**

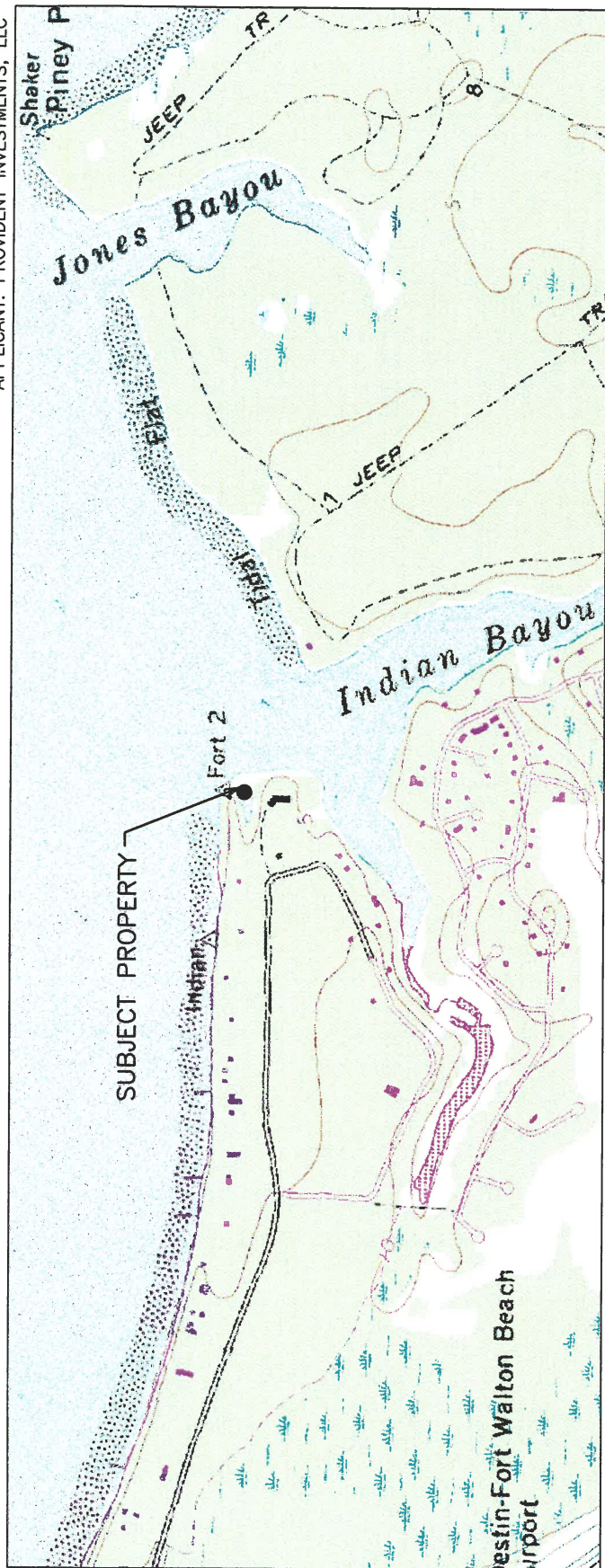
Within limitations of the source data, it is my opinion that the riparian lines located perpendicular to the shoreline extending to the line of deep water at the southern boundaries of Lots 7, 8 and 9 as shown on Figure 3 above is the most equitable location of the riparian lines.

*Rod A. Maddox*

Rod A. Maddox, PSM 3994, Date 9/13/2018  
Maddox Land Research and Consulting, LLC  
5126 Maddox Road  
Tallahassee Florida 32303



*RA-1*



DIRECTIONS TO THE SITE FROM DOWNTOWN PENSACOLA: HEAD EAST ON BAYFRONT PARKWAY AND CONTINUE ONTO US-98E (PENSACOLA BAY BRIDGE). IN 44.4 MILES, TURN LEFT ONTO CALHOUN AVE, THEN TURN RIGHT NTO SIBERT AVE. IN 0.8 MILES, TURN RIGHT ONTO KELLY STREET. IN 1.1 MILES, TURN LEFT ONTO MAIN STREET. IN 0.7 MILES, TURN RIGHT ONTO INDIAN TRAIL. IN 1.6 MILES, TURN LEFT ONTO BELCOURT DRIVE. THE SUBJECT PROPERTY WILL BE AT THE END OF THE ROAD. PLEASE CALL 850-453-4700 WITH ANY QUESTIONS.

### SUBJECT PROPERTY

LOT 7 ESTATES AT INDIAN POINTE

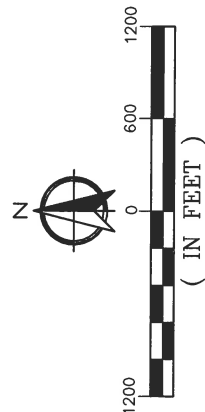
PARCEL ID#  
00-2S-22-4600-0000-0070  
PROPERTY OWNER  
PROVIDENT INVESTMENTS LLC  
1598 OCHSNER BLVD, SUITE 100  
COVINGTON, LA 70433

### PROJECT LOCATION

4156 BELCOURT DRIVE  
DESTIN, FL 32541  
LAT: 30.406133°  
LONG: -86.452293°

### INDEX OF SHEETS

| SHEET NO. | DESCRIPTION                       |
|-----------|-----------------------------------|
| 1         | SITE LOCATION MAP                 |
| 2         | EXISTING SITE CONDITIONS          |
| 3         | PLAN VIEW DEPICTED ONTO AN AERIAL |
| 4         | PLAN VIEW OF PROPOSED DEVELOPMENT |
| 5         | DOCK PROFILE (TYPICAL)            |
| 6         | DOCK DETAILS (TYPICAL)            |



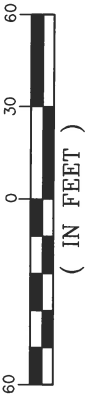
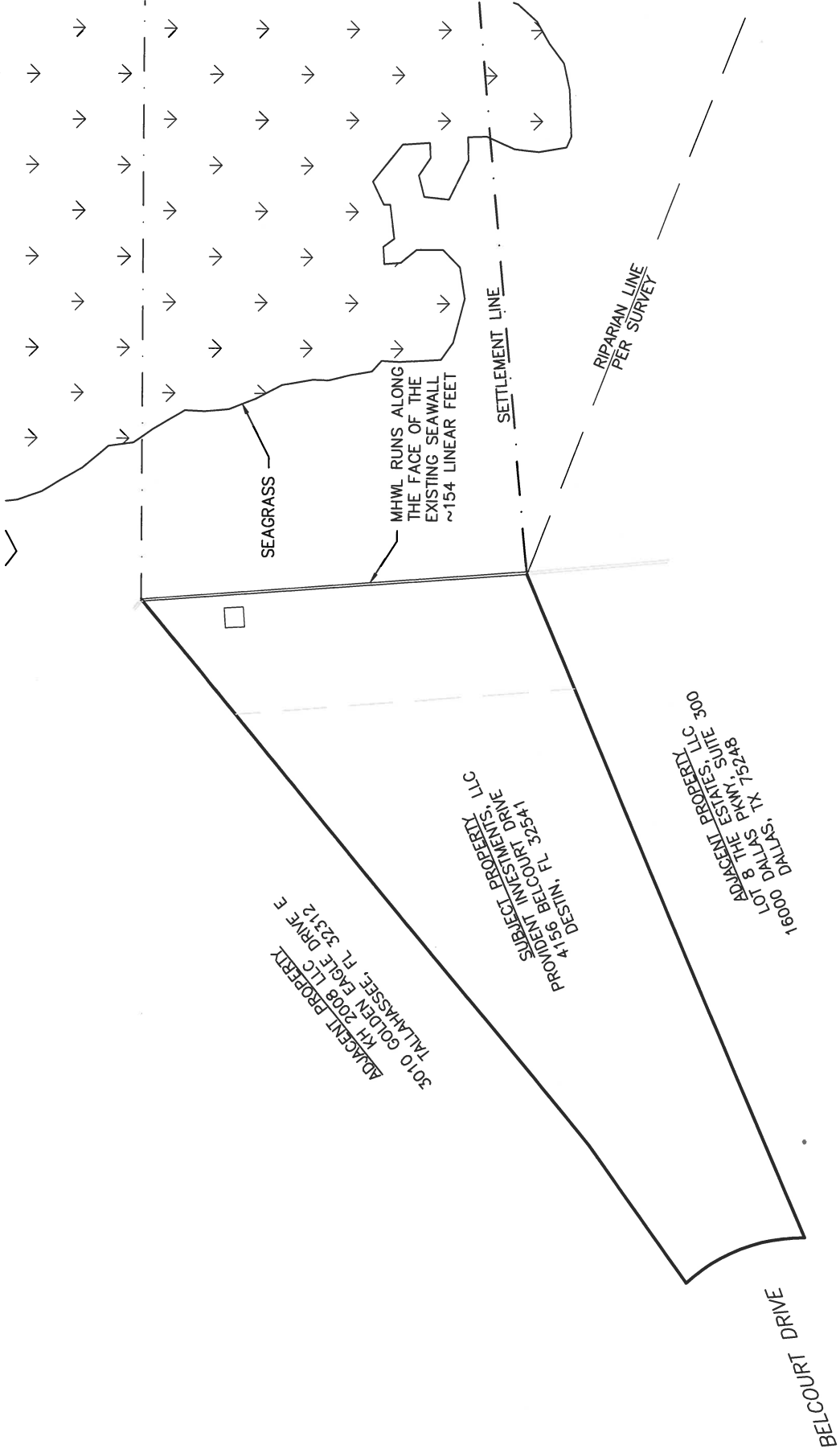
|                                          |                                        |
|------------------------------------------|----------------------------------------|
| <b>WETLAND SCIENCES</b><br>A CORPORATION | PROJECT NAME: 4156 BELCOURT DRIVE DOCK |
|                                          | SITE LOCATION MAP                      |
|                                          | PROJECT NO.: 2017-817                  |
|                                          | DRAWN BY: CEP DATE: 11/13/2018         |
| SHEET: 1 OF 6                            |                                        |

### ENVIRONMENTAL CONSULTANTS

3308 GULF BEACH HIGHWAY  
PENSACOLA, FLORIDA 32507  
TEL: 850.453.4700  
WETLANDSCIENCES@GMAIL.COM

DATE

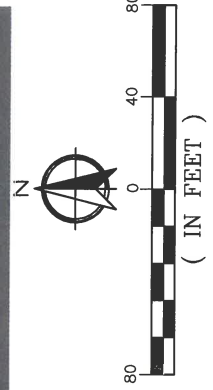
APPLICANT: PROVIDENT INVESTMENTS, LLC



|                                         |                                        |                  |
|-----------------------------------------|----------------------------------------|------------------|
| <b>WETLAND SCIENCES</b><br>INCORPORATED | PROJECT NAME: 4156 BELCOURT DRIVE DOCK |                  |
|                                         | EXISTING SITE CONDITIONS               |                  |
|                                         | PROJECT NO.:                           | 2017-817         |
|                                         | DRAWN BY: CEP                          | DATE: 11/10/2018 |
| SHEET: 2 OF 6                           |                                        |                  |

|                                  |  |
|----------------------------------|--|
| <b>ENVIRONMENTAL CONSULTANTS</b> |  |
| 3308 GULF BEACH HIGHWAY          |  |
| PENSACOLA, FLORIDA 32507         |  |
| TEL: 850.453.4700                |  |
| WETLANDSCIENCES@GMAIL.COM        |  |

DAT



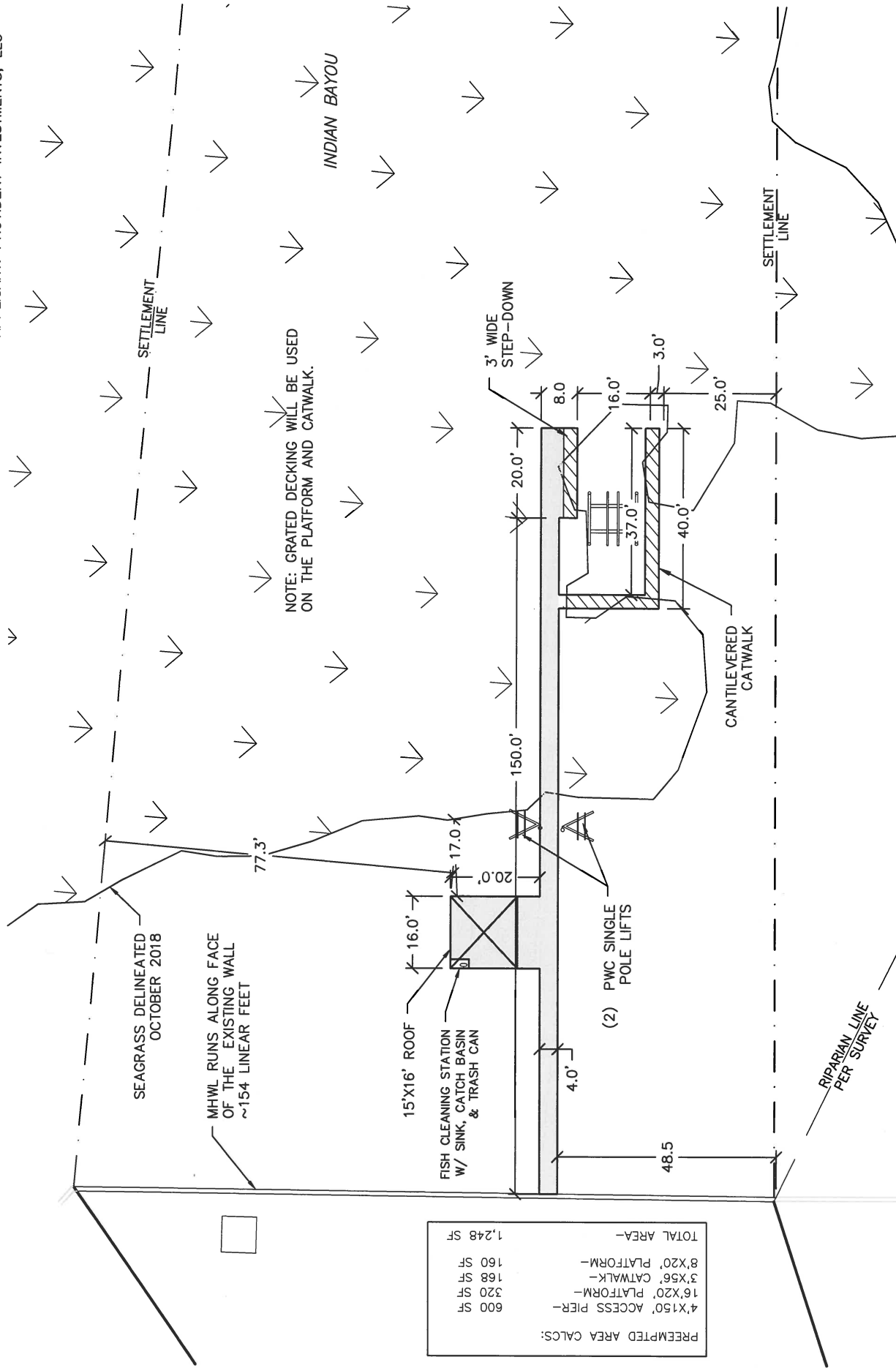
|                                        |
|----------------------------------------|
| PROJECT NAME: 4156 BELCOURT DRIVE DOCK |
| DRAFT DRAWING TWO                      |
| PROJECT NO.: 2017-817                  |
| DRAWN BY: CEP                          |
| DATE: 12/03/2018                       |
| SHEET: 3 OF 6                          |

ENVIRONMENTAL CONSULTANTS  
3308 GULF BEACH HIGHWAY  
PENSACOLA, FLORIDA 32507  
TEL: 850.453.4700  
WETLANDSCIENCES@GMAIL.COM

**WETLAND**  
**SCIENCES**  
INCORPORATED

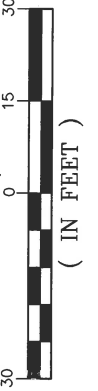
DAT

APPLICANT: PROVIDENT INVESTMENTS, LLC



PREEMPTED AREA CALCUS:

|                      |          |
|----------------------|----------|
| 4'X150' ACCESS PIER- | 600 SF   |
| 16'X20' PLATFORM-    | 320 SF   |
| 3'X56' CATWALK-      | 168 SF   |
| 8'X20' PLATFORM-     | 160 SF   |
| TOTAL AREA-          | 1,248 SF |



WETLAND SCIENCES INCORPORATED

ENVIRONMENTAL CONSULTANTS

3308 GULF BEACH HIGHWAY  
PENSACOLA, FLORIDA 32507  
TEL: 850.453.4700  
WETLANDSCIENCES@GMAIL.COM

PROJECT NAME: 4156 BELCOURT DRIVE DOCK

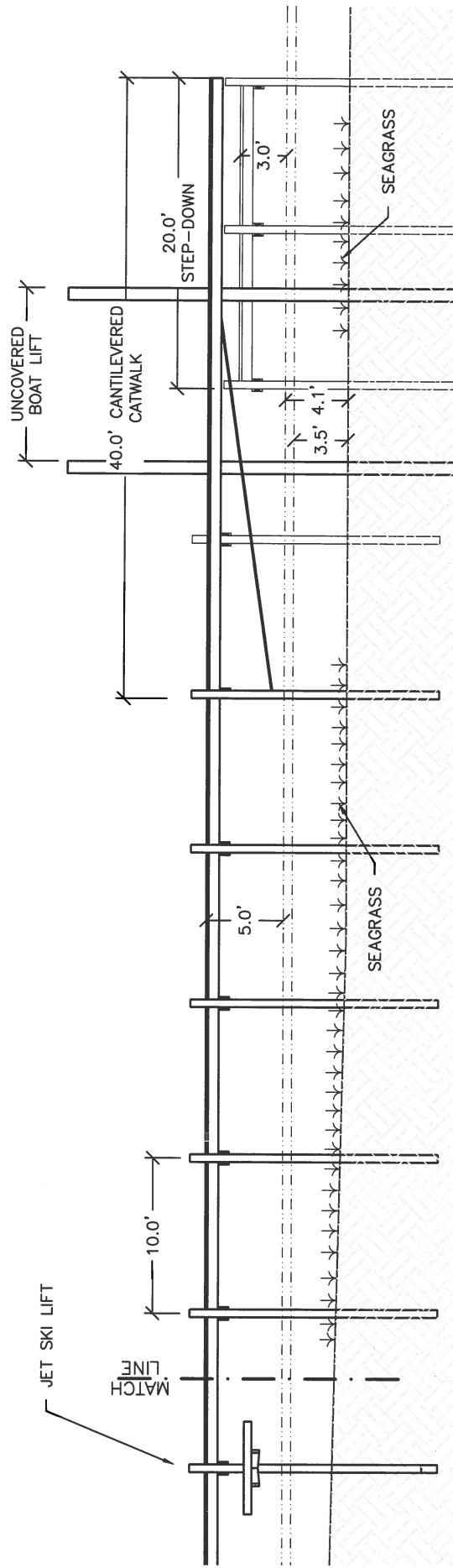
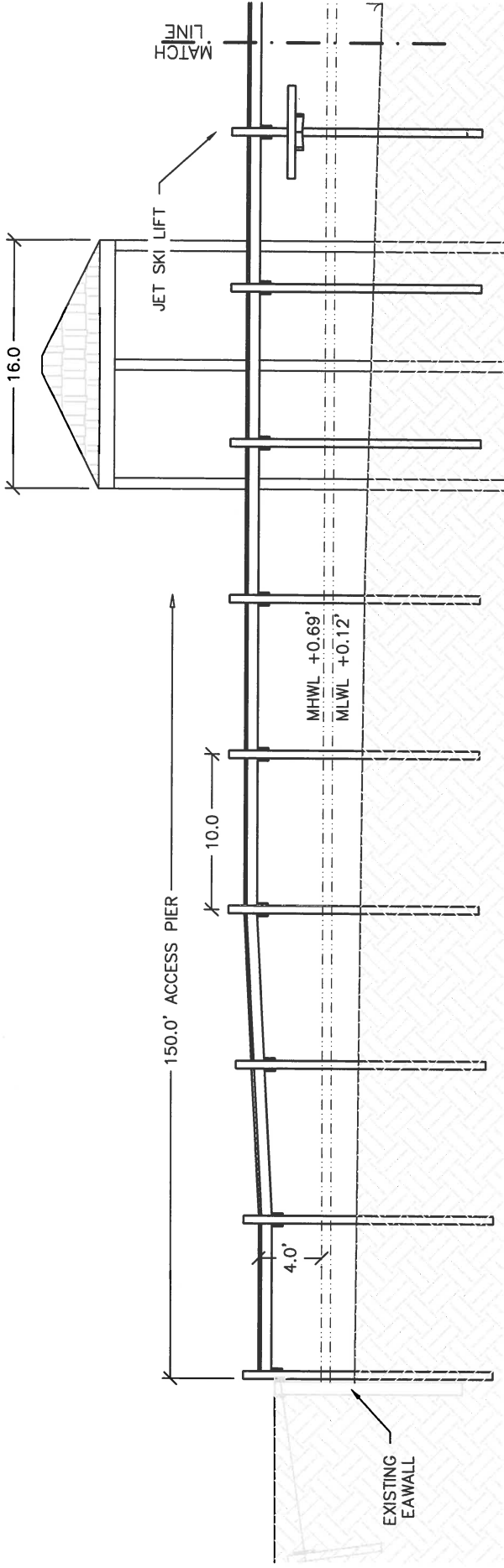
PLAN VIEW OF PROPOSED DOCK

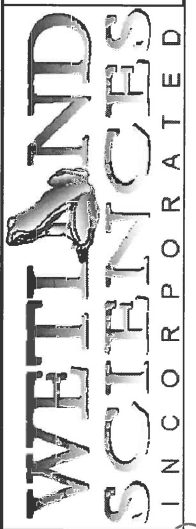
PROJECT NO.: 2017-817

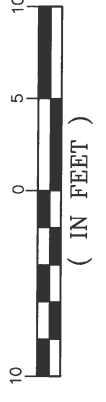
DRAWN BY: CEP DATE: 12/03/2018

SHEET: 4 OF 6

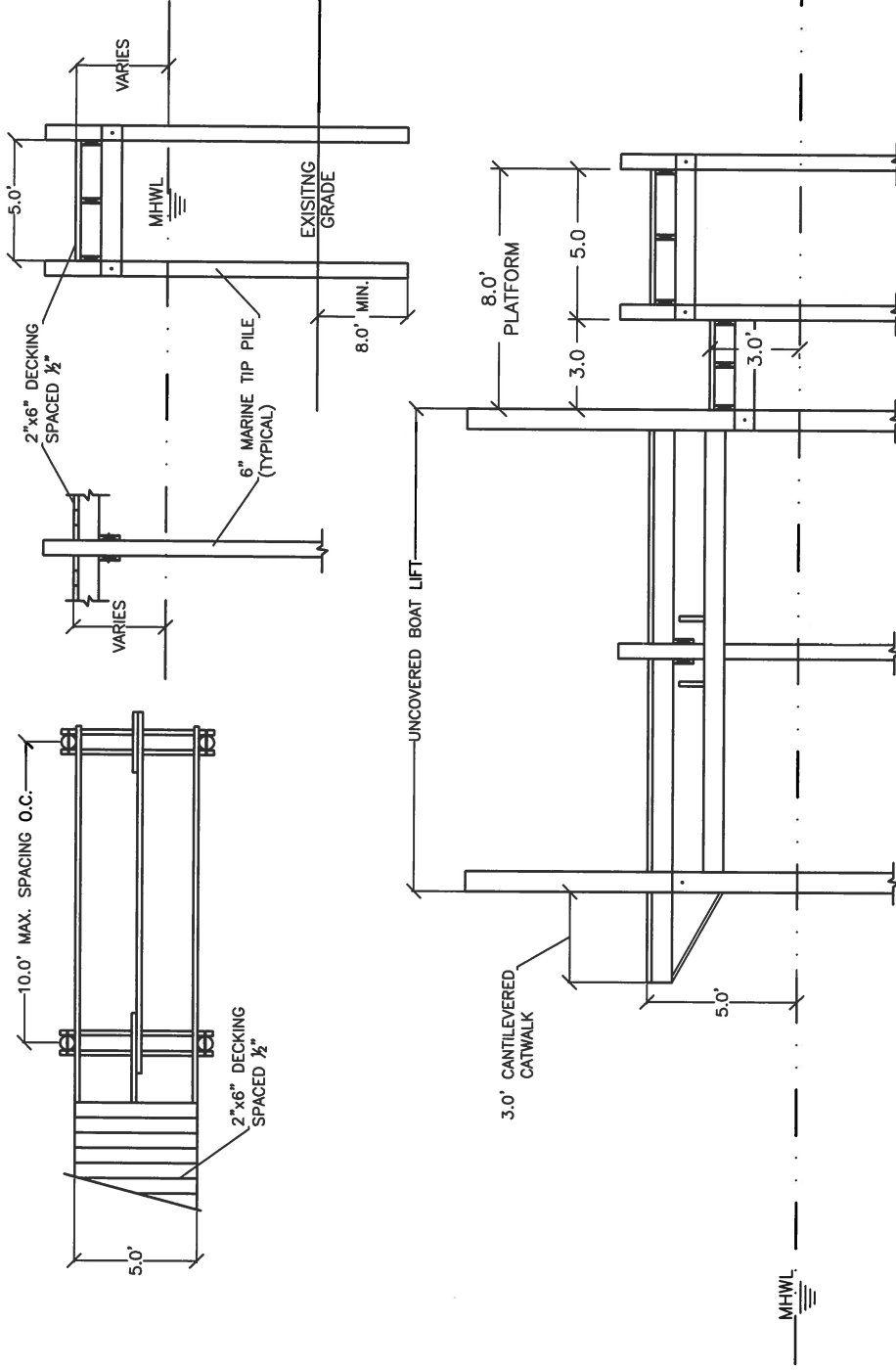
DAT



|                                                                                       |                                        |                  |
|---------------------------------------------------------------------------------------|----------------------------------------|------------------|
|  | PROJECT NAME: 4156 BELCOURT DRIVE DOCK |                  |
|                                                                                       | DOCK PROFILE (TYPICAL)                 |                  |
|                                                                                       | PROJECT NO.:                           | 2017-817         |
|                                                                                       | DRAWN BY: CEP                          | DATE: 12/04/2018 |
|                                                                                       | SHEET: 5 OF 6                          |                  |



NOTE: GRATED DECKING WILL BE USED ON THE 8'X20' PLATFORM AND CATWALK



|                                         |                                        |                  |
|-----------------------------------------|----------------------------------------|------------------|
| <b>WETLAND SCIENCES</b><br>INCORPORATED | PROJECT NAME: 4156 BELCOURT DRIVE DOCK |                  |
|                                         | DOCK DETAILS (TYPICAL)                 |                  |
|                                         | PROJECT NO.: 2017-817                  | DATE: 12/04/2018 |
|                                         | DRAWN BY: CEP                          | SHEET: 6 OF 6    |

ENVIRONMENTAL CONSULTANTS  
 3308 GULF BEACH HIGHWAY  
 PENSACOLA, FLORIDA 32507  
 TEL: 850.453.4700  
 WETLANDSCIENCES@GMAIL.COM

DMT

**FLORIDA DEPARTMENT OF  
Environmental Protection**

**Ron DeSantis**  
Governor

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

**Jeanette Nuñez**  
Lt. Governor

**Noah Valenstein**  
Secretary

**Receipt for Submission**

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

**02/20/2020**

Self-Certification File No.: **0385012001EE**

File Name: **4156 Belcourt Dr Destin, FL 32541 - Self Cert Exempt Dock with Boat Lift(s) (General)**

Dear **Charles LoBello**: On **02/20/2020** you used the Florida Department of Environmental Protection's electronic Self Certification Process to certify compliance with the terms and conditions of the Federal State Programmatic General Permit (SPGP) Self Certification Process for a project at private, single-family residence located at:

LAT - Degrees: **30** Minutes: **24** Seconds: **21.3057**  
LONG - Degrees: **-86** Minutes: **27** Seconds: **8.7058**  
SITE ADDRESS: **4156 Belcourt Dr Destin, FL 32541**  
COUNTY: **Okaloosa**

For:  
**Bill Smith**  
**297 W Miracle Strip Pkwy Mary Esther, FL 32569**

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 V-R1, 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](mailto: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 25, 2021, unless construction commenced or a contract to construct was executed before July 25, 2021, in which case the time limit for completing the work authorized by the SPGP ends at midnight, July 25, 2022. 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](https://floridadep.gov/sites/default/files/SLERC_contacts_web_map_01-2017_0.pdf).

For further information, contact the Corps directly at:

<http://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 problems with the attached documents, please call the ERP Coordinator at (850) 245-8495 or by e-mail at [ERP\\_eApps@dep.state.fl.us](mailto:ERP_eApps@dep.state.fl.us).

Sincerely,  
Florida Department of Environmental Protection.

**Attachments:**

FDEP Terms and Conditions

SPGP Terms and Conditions

Project Design Criteria



FLORIDA DEPARTMENT OF  
Environmental Protection

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

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Noah Valenstein**  
Secretary

---

**TERMS AND CONDITIONS**

Self Certification File No.: **0385012001EE**

**Construction Conditions:**

**Private residential single family docks are subject to the following criteria in accordance with [Section 403.813\(1\)\(b\), F.S.](#) The dock to be constructed:**

1. Has 1,000 square feet or less over water surface (includes adjacent wetlands) in accordance with Chapter 62-340, F.A.C.;
2. Is constructed on or held in place by pilings and is constructed so as not to involve filling or dredging other than that necessary to install the pilings;
3. Will not substantially impede the flow of water, cause water pollution, or create a navigational hazard;
4. Is used **ONLY** for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia;
5. Is the sole dock on the parcel; and
6. Must not be subject to any conservation easement or restrictive covenant of record prohibiting the activity.

**Boat lifts are subject to the following additional conditions:**

1. Is to be installed in a proposed slip or, at or adjacent to the waterward end of the dock;
2. With other mooring will not result in the mooring of more than two vessels (including jet skis);
3. Will not substantially impede the flow of water, cause water pollution, or create a navigational hazard;
4. Will not be located in areas prohibited for mooring by a previously issued permit or other form of authorization issued by a local government;

**General Conditions for Sovereignty/State-Owned Submerged Lands Authorizations:**

**Any use of sovereignty/state-owned submerged lands is subject to the following general conditions that are binding upon the applicant and are enforceable under [Chapters 253, F.S.](#) or [258, F.S.](#)**

1. Sovereignty/state-owned submerged lands may be used 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 will constitute a violation. Violation of the authorization will result in suspension or revocation of the applicant's use of the sovereignty/state-owned submerged lands unless cured to the satisfaction of the Board of Trustees of the Internal Improvement Trust Fund (Board).
2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty/state-owned submerged

lands or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.

3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S. or Chapter 18-14, F.A.C.
4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will 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.;
6. Structures or activities will not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
7. Structures or activities will not create a navigational hazard.
8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.
10. The applicant agrees to indemnify, defend and hold harmless the Board and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty/state-owned submerged lands or the applicant's use and construction of structures on sovereignty/state-owned 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.
11. Failure by the Board to enforce any violation of the authorization or waiver by the Board of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure or waiver prevent the Board from enforcing the waived or unenforced provision in the event of a future violation of that provision.
12. 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 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.
13. All costs incurred by the Board 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 in writing of any change of address at least ten days before the change becomes effective.
14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant of record that prohibits the activity.

#### **Manatee Conditions:**

**The following conditions are intended to protect manatees from direct project effects; THESE CONDITIONS APPLY ONLY IN WATERS THAT ARE ACCESSIBLE TO MANATEES:**

1. All personnel associated with the project will be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee will advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project will operate at 'Idle Speed/No Wake' at all times

- while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers will be made of material in which manatees cannot become entangled, will be properly secured, and will be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
  4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be 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.
  5. Any collision with or injury to a manatee will be reported immediately to the FWC Hotline at 1-888-404-FWCC. 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.
  6. Temporary signs concerning manatees will be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used (see MyFWC.com). One sign which reads Caution: Boaters must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for 'Idle Speed/No Wake' and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

### **Self-Certification Requirements:**

#### **The user agrees to the following:**

1. The information provided herein is true and accurate.
2. **Construction of the project must be completed within one year from the self-certification date.** If the project cannot be completed within that time frame, or the project is to be modified, the Department must be contacted for authorization requirements.
3. Any substantial modifications in the plans for this project must be submitted to the Department for review, as changes may result in a permit being required.
4. This self-certification will automatically expire if site conditions materially change; if the terms, conditions, and limitations of the self-certification are not followed; or if the governing statutes or rules are amended before the project is completed.
5. Department personnel will be allowed to enter the property for purposes of inspecting the project for compliance with the terms and conditions of this self-certification.



## FLORIDA DEPARTMENT OF Environmental Protection

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

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Noah Valenstein**  
Secretary

---

### CONDITIONS FOR DEPARTMENT OF THE ARMY SELF-CERTIFIED STATE PROGRAMMATIC GENERAL PERMIT FOR A PROJECT AT A PRIVATE, SINGLE-FAMILY RESIDENCE

Self Certification File No.: **0385012001EE**

#### **Verification that the project meets the Project Design Criteria:**

You have verified that the project meets the Project Design Criteria (attached in a separate document), and have authorized FDEP to send a copy of this verification to the Corps on your behalf.

#### **General Conditions:**

1. The time limit for completing the work authorized on July 26, 2021.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner on the enclosed form 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.
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.

#### **Further Information:**

1. 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.
2. 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.
3. 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.
  4. 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 3 above).
    - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.
  5. 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 CER 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.
  6. 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.
  7. 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 U.S. Army 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, relocation or alteration.

#### **Manatee Conditions:**

1. All personnel associated with the project will be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee will advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project will operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers will be made of material in which manatees cannot become entangled, will be properly secured, and will be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.

4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be 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.
5. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at **ImperiledSpecies@myFWC.com**.
6. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads Caution: Boaters must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [MyFWC.com/manatee](http://MyFWC.com/manatee). Questions concerning these signs can be sent to the email address listed above.



# Community Development

## Planning Division

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-654-1119 | Fax: 850-460-2171 | [www.cityofdestin.com](http://www.cityofdestin.com)

June 8, 2020

**Subject: Notice of Public Hearing – 4156 Belcourt Drive  
New Dock and Boatlift**

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 the removal and expansion of an existing dock. **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, June 22, 2020.** 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. No action is required on your part.**

1. Name of Owner: Bill Smith
2. Name of Agent: Not Applicable
3. Address of Project: 4156 Belcourt Drive
4. Parcel ID Number: 00-2S-22-4600-0000-0070
5. Project Description: New dock and boatlift. Total project footprint ±1000 square feet.

If you have any questions, please do not hesitate to call me (850) 654-1119.

Sincerely,



Traci Goodhart  
Planner

cc: Project File, Letter Log & Receptionists

RECEIVED  
City of Destin

FEB 18 2020

Building Department



**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 4<sup>th</sup> Monday of each month, all applications must be submitted at least one month prior.

Description of work: Remove and Replace Dock

**1. APPLICANT INFORMATION:**

Name: Mike Buckingham  
Mailing Address: 510 Calhoun Ave  
Phone: 259-6533 Fax: \_\_\_\_\_  
Email: Mikebuck211@Adl.Com

**2. PROPERTY TO BE REVIEWED:**

Street Address: 510 Calhoun Ave  
Parcel ID #: 00-25-22-0104-0000-0020

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

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: 2-18-20



FLORIDA DEPARTMENT OF  
Environmental Protection

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

Ron DeSantis  
Governor

Jeanette Nuñez  
Lt. Governor

Noah Valenstein  
Secretary

---

**TERMS AND CONDITIONS**

RECEIVED  
City of Destin

FEB 18 2020  
Building Department

Self Certification File No.: **0384769001EE**

**Construction Conditions:**

**Private residential single family docks are subject to the following criteria in accordance with Section 403.813(1)(b), F.S. The dock to be constructed:**

1. Has 1,000 square feet or less over water surface (includes adjacent wetlands) in accordance with Chapter 62-340, F.A.C.;
2. Is constructed on or held in place by pilings and is constructed so as not to involve filling or dredging other than that necessary to install the pilings;
3. Will not substantially impede the flow of water, cause water pollution, or create a navigational hazard;
4. Is used ONLY for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia;
5. Is the sole dock on the parcel; and
6. Must not be subject to any conservation easement or restrictive covenant of record prohibiting the activity.

**General Conditions for Sovereignty/State-Owned Submerged Lands Authorizations:**

**Any use of sovereignty/state-owned submerged lands is subject to the following general conditions that are binding upon the applicant and are enforceable under Chapters 253, F.S. or 258, F.S.**

1. Sovereignty/state-owned submerged lands may be used 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 will constitute a violation. Violation of the authorization will result in suspension or revocation of the applicant's use of the sovereignty/state-owned submerged lands unless cured to the satisfaction of the Board of Trustees of the Internal Improvement Trust Fund (Board).
2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty/state-owned submerged lands or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.
3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S. or Chapter 18-14, F.A.C.
4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will 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.;

6. Structures or activities will not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
7. Structures or activities will not create a navigational hazard.
8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.
10. The applicant agrees to indemnify, defend and hold harmless the Board and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty/state-owned submerged lands or the applicant's use and construction of structures on sovereignty/state-owned 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.
11. Failure by the Board to enforce any violation of the authorization or waiver by the Board of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure or waiver prevent the Board from enforcing the waived or unenforced provision in the event of a future violation of that provision.
12. 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 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.
13. All costs incurred by the Board 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 in writing of any change of address at least ten days before the change becomes effective.
14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant of record that prohibits the activity.

#### **Manatee Conditions:**

**The following conditions are intended to protect manatees from direct project effects; THESE CONDITIONS APPLY ONLY IN WATERS THAT ARE ACCESSIBLE TO MANATEES:**

1. All personnel associated with the project will be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee will advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project will operate at 'Idle Speed/No Wake' at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers will be made of material in which manatees cannot become entangled, will be properly secured, and will be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be 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.

5. Any collision with or injury to a manatee will be reported immediately to the FWC Hotline at 1-888-404-FWCC. 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.
6. Temporary signs concerning manatees will be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used (see MyFWC.com). One sign which reads Caution: Boaters must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for 'Idle Speed/No Wake' and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

**Self-Certification Requirements:**

RECEIVED  
City of Destin

FEB 18 2020

Building Department

**The user agrees to the following:**

1. The information provided herein is true and accurate.
2. **Construction of the project must be completed within one year from the self-certification date.** If the project cannot be completed within that time frame, or the project is to be modified, the Department must be contacted for authorization requirements.
3. Any substantial modifications in the plans for this project must be submitted to the Department for review, as changes may result in a permit being required.
4. This self-certification will automatically expire if site conditions materially change; if the terms, conditions, and limitations of the self-certification are not followed; or if the governing statutes or rules are amended before the project is completed.
5. Department personnel will be allowed to enter the property for purposes of inspecting the project for compliance with the terms and conditions of this self-certification.



# Community Development

## Planning Division

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-654-1119 | Fax: 850-460-2171 | [www.cityofdestin.com](http://www.cityofdestin.com)

February 21, 2020

**Subject: Notice of Public Hearing – 510 Calhoun Avenue  
Removal and expansion of existing dock**

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 the removal and expansion of an existing dock. **The Application will be heard by the Harbor and Waterways Board at 5:00 p.m. at Destin City Hall, 4200 Indian Bayou Trail on Monday, March 23, 2020.** 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. No action is required on your part.**

1. Name of Owner: Mike Buckingham
2. Name of Agent: Not Applicable
3. Address of Project: 510 Calhoun Avenue
4. Parcel ID Number: 00-2S-22-0410-0000-0020
5. Project Description: This is an application for approval of the removal and expansion of an existing dock. Total project footprint ±1000 square feet.

If you have any questions, please do not hesitate to call me (850) 654-1119.

Sincerely,



Traci Goodhart  
Planner

cc: Project File, Letter Log & Receptionists

FIGURE 1  
LOCATION MAP  
MICHAEL BUCKINGHAM  
RESIDENTIAL DOCK

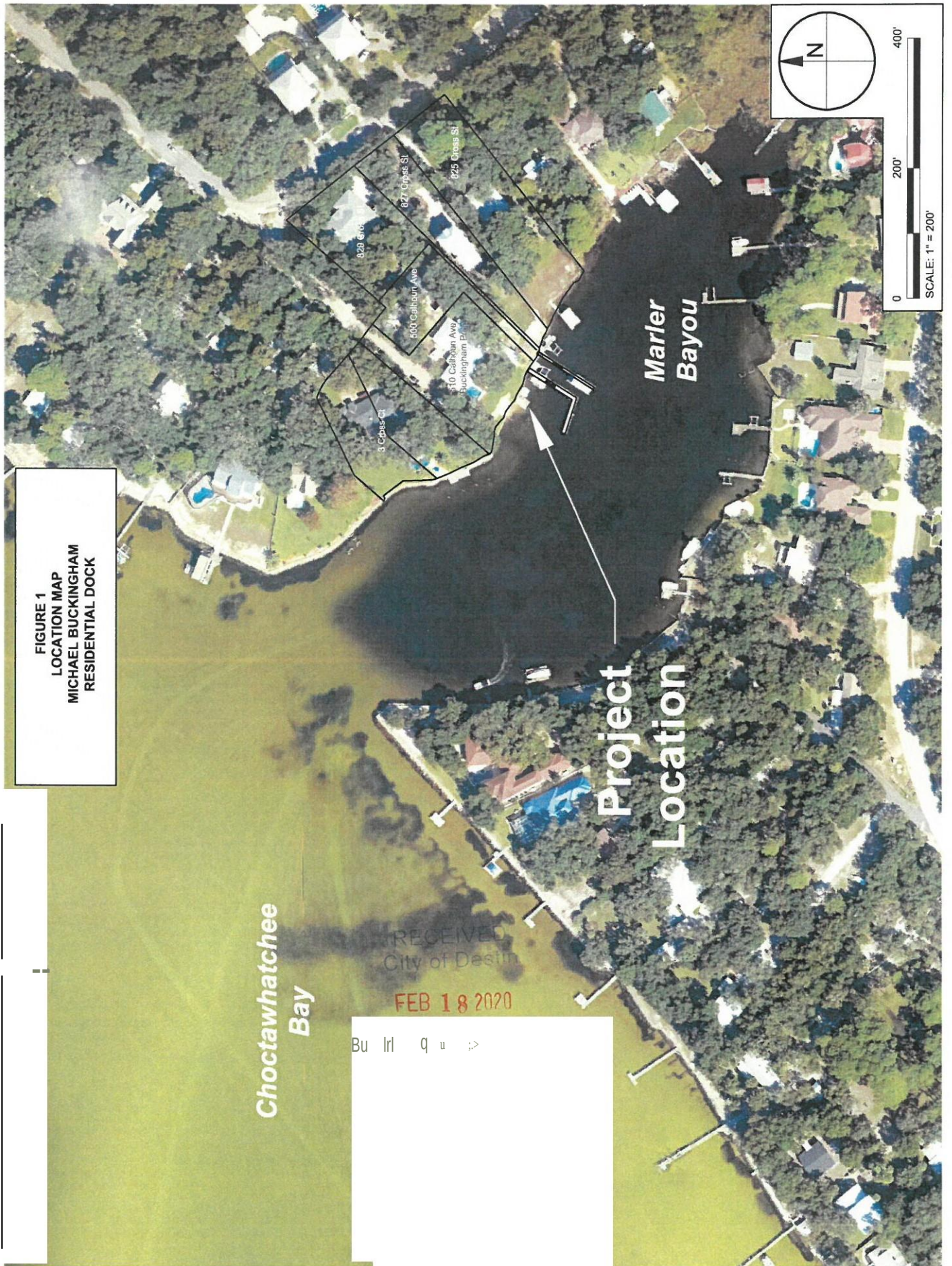


FIGURE2  
EXISTING CONDITIONS  
MICHAEL BUCKINGHAM  
RESIDENTIAL DOCK

Marler  
Bayou

Buckingham Dock:

Phillips Dock:

3 Cross Ct

500 Calhoun Ave

510 Calhoun Ave  
(Buckingham Property)

829 Cross St

827 Cross St

825 Cross St

Building  
FEB 19 2020  
REC'D  
City of Bayou



0 80' 160'  
SCALE: 1" = 80'

FIGURE 2A  
EXISTING CONDITIONS  
MICHAEL BUCKINGHAM  
RESIDENTIAL DOCK

RECEIVED  
City of Destin  
FEB 18 2020  
Building Department

Buckingham Dock:  
~14'W x 19'L  
~266 SF Total  
1 Slip (20' x 10')

Phillips Dock:  
885 SF Total  
2 Slips Total

*Marler  
Bayou*

EB

0 40' 80'

SCALE: 1" = 40'

FIGURE 3  
PROPOSED CONDITIONS  
MICHAEL BUCKINGHAM  
RESIDENTIAL DOCK

RECEIVED  
City of Destin  
FEB 18 2020  
Building Department

Buckingham Dock:  
600 SF Total  
1 Slip (26' x 42')

Phillips Dock:  
593 SF Removed

Phillips Dock:  
292 SF Total Remaining  
2 Slips Total  
(No Slip Changes)



0 40' 80'  
SCALE: 1" = 40'

11.05.00. - Marina siting.

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:

- A. 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.
- 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.
- 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.
- C. No fish carcasses and debris shall be discharged into the Harbor or waterways of Destin.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- J. No dock shall be constructed which permits the docking of a live-aboard unless such vessel has an operable holding tank.
- K. No boat shall be moored in the Harbor or waterways of Destin such that constitutes a hazard to navigation.

- 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.
- N. 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.
- 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.
- P. No heated or cooled water may be emitted into the Harbor, waterways, or the Harbor canals other than from a boat.
- Q. No pier shall extend more than six feet into a canal right-of-way.
- 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.
- 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.
- T. No dock shall unreasonably interfere with the riparian rights of others.
- 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.
- V. No commercially operated boat docking facilities shall be permitted or operated unless equipped with firefighting facilities as specified by the City.
- W. No construction shall be allowed which violates any provision of the Standard Building Code, as adopted by the City.
- 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.
- 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.
- 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.

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. The Harbor and Waterways Board shall review all timely received applications 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' from adjacent riparian 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 issuance 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 accompany a completed application for the proposed project. The project will be subject to all current regulations of the City, and must meet the minimum side setback requirements for said zoning districts.

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 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 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 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:

- 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.

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.

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.

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.

## 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.

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:

- A. 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.
- 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.
- C. No fish carcasses and debris shall be discharged into the Harbor or waterways of Destin.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- J. No dock shall be constructed which permits the docking of a live-aboard unless such vessel has an operable holding tank.
- K. No boat shall be moored in the Harbor or waterways of Destin such that constitutes a hazard to navigation.
- 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.
- N. 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.
- 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.
- P. No heated or cooled water may be emitted into the Harbor, waterways, or the Harbor canals other than from a boat.
- Q. No pier shall extend more than six feet into a canal right-of-way.
- 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.
- 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.
- T. No dock shall unreasonably interfere with the riparian rights of others.
- 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.
- V. No commercially operated boat docking facilities shall be permitted or operated unless equipped with firefighting facilities as specified by the City.
- W. No construction shall be allowed which violates any provision of the Standard Building Code, as adopted by the City.
- 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.
- 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.
- 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.

- 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.

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. The Harbor and Waterways Board shall review all timely received applications 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 issuance 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 accompany a completed

application for the proposed project. The project will be subject to all current regulations of the City, and must meet the minimum side setback requirements for said zoning districts.

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 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 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 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:

- 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.

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.

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.

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: \_\_\_\_\_