



Town of Highland Beach

Notice of Public Meeting Protocol

The Town of Highland Beach is committed to serving the needs of the public while also working to ensure the safety and health of the town's staff, the community, and visitors alike.

That said, as an added layer of protection for the safety of all attending meetings in the Commission Chambers, the wearing of facial coverings or masks is required. Also, until further notice, Social distancing requirements and in-person meeting capacity limits remain in place. For those interested, Zoom Video Communications and telephone participation are offered.

The following information is guidance for preregistration for Zoom or telephone participation, and for viewing and providing public comments at the meeting:

ZOOM PARTICIPATION:

Online or Telephone Access – Access to the meeting will begin on the date and time of the meeting.

- To Join Meeting: All interested persons **must preregister** to participate by contacting Town Clerk Lanelda Gaskins at publiccomments@highlandbeach.us or by calling (561) 278-4548 no later than one (1) business day prior to the meeting date (**e.g. by 4:30 P.M. on a Monday if the meeting is scheduled for that Tuesday; and by 4:30 P.M.**).
- Meeting access information and instructions will be provided to those persons two hours prior to the meeting.
- The video camera display feature will only be enabled for Public Hearing Quasi-Judicial matters and during public comments only. The video camera display feature will be disabled for public use.

For additional information on using Zoom, please visit Zoom Support by clicking on the following link: <https://support.zoom.us/hc/en-us>.

Viewing Only - To view the meeting, preregistration is not required. The public can view the meeting on the following:

- Highland Beach TV Channel 99 online streaming on the Town's website and via Highland Beach YouTube at <https://www.youtube.com/channel/UCTAGr8WCa44Y3Q2Bb6UN2mw>.

PROVIDING PUBLIC COMMENT:

Persons desiring to provide public comments must do so by one of the methods listed below. Public comments will be limited to five minutes (three minutes for special Commission meeting items only) per person during the designated section of the agenda. If an interested person desires to provide a written public comment, all comments must be directed to Lanelda Gaskins, Town Clerk as follows:

TO SEND COMMENTS IN ADVANCE VIA EMAIL:

- To submit public comments, click on the link <https://mmportal6.teamunicode.com/> to go to the Agendas and Meeting webpage. At the top of the page click on “Public Comments” to submit your comments, or
- Submit your comments to publiccomments@highlandbeach.us.
- The Town will receive such public comments no later than two (2) hours prior to the meeting. If timely received, Town staff will read the public comment at the meeting.
- Live Zoom Video Participation - If attending via Zoom online, please follow Zoom instructions above. Once the meeting gets to the applicable public comment period, the host of the meeting will allow public participants (audio only) into the meeting from the waiting room, to provide live public comments.
- Live Zoom Telephone Participation - If attending via Zoom by telephone, please follow the instructions above. Once the meeting gets to the appropriate public comment period, the host of the meeting will allow public participants into the meeting from the waiting room, to provide live public comments.

Should you have any questions, please feel free to contact the Town Clerk’s Office at (561) 278-4548.

Published: 05.26.2021 / Updated 04.15.2022

AGENDA

PLANNING BOARD REGULAR MEETING



Thursday, May 12, 2022 At 9:30 AM

TOWN OF HIGHLAND BEACH, FLORIDA

3614 S. OCEAN BOULEVARD

HIGHLAND BEACH, FL 33487

Telephone: (561) 278-4548

Website: www.highlandbeach.us

TOWN HALL COMMISSION CHAMBERS

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE OF ALLEGIANCE**
4. **APPROVAL OF THE AGENDA**
5. **SWEARING IN OF THE PUBLIC**
6. **PUBLIC COMMENT** *(limited to five (5) minutes per speaker)*
7. **APPROVAL OF MINUTES**

A. March 10, 2022

8. **UNFINISHED BUSINESS**

A. None.

9. **NEW BUSINESS**

A. Development Application No. 20-0015 / Mark and Kim Kabbes

Application by Mark and Kim Kabbes for a special exception approval to install a 4,000-pound capacity boat lift for the property located at 4304 Intracoastal Drive.

B. Proposed Ordinance / New Property Right Element

An Ordinance of the Town Commission of the Town of Highland Beach, Florida amending the Town's Comprehensive Plan by adding a New Property Right Element; providing for severability; providing for conflicts; and providing for an effective date.

C. Town Commission direction on the Planning Board review process for proposed amendments to the Accessory Marine Facility regulations of the Town Code.

10. ANNOUNCEMENTS

May 17, 2022 - 1:30 P.M. Town Commission Meeting

May 24, 2022 - 1:30 P.M. Town Commission Special Meeting

May 30, 2022 - Town Hall Closed in Observance of Memorial Day

June 09, 2022 - Planning Board Regular Meeting

11. ADJOURNMENT

Any person that decides to appeal any decision made by the Planning Board with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record including testimony and evidence upon which the appeal is based. (State Law requires the above Notice. Any person desiring a verbatim transcript shall have the responsibility, at his/her own cost, to arrange for the transcript.) The Town neither provides nor prepares such record. There may be one or more Town Commissioners attending the meeting.

In accordance with the Americans with Disabilities Act (ADA), persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at (561) 278-4548 within a reasonable time prior to this meeting in order to request such assistance.

File Attachments for Item:

A. March 10, 2022



TOWN OF HIGHLAND BEACH TOWN PLANNING BOARD REGULAR MEETING MINUTES

**Town Hall / Commission Chambers
3614 South Ocean Boulevard
Highland Beach, Florida 33487**

**Date: March 10, 2022
Time: 9:30 AM**

1. CALL TO ORDER

Chairperson Goldenberg called the meeting to order at 9:30 AM.

2. ROLL CALL

Member Roger Brown
Member Brian DeMoss (virtually)
Member David Powell
Member Harry Adwar
Vice Chairperson Mendelson
Chairperson Eric Goldenberg
Town Attorney Leonard Rubin
Administrative Support Specialist Ganelle Thompson

ADDITIONAL STAFF PRESENT

Town Planner Ingrid Allen

3. PLEDGE OF ALLEGIANCE

The Board Members led the Pledge of Allegiance.

4. APPROVAL OF THE AGENDA

MOTION: Adwar/Powell - Moved to approve the agenda as presented, which passed unanimously 6 to 0.

5. SWEARING IN OF THE PUBLIC

Ms. Thompson swore in those giving testimony.

6. PUBLIC COMMENT

None.

7. APPROVAL OF MINUTES

A. January 13, 2022 Minutes

MOTION: Adwar/Powell- Moved to approve January 13, 2022 Minutes, which passed unanimously 6 to 0.

8. UNFINISHED BUSINESS

None.

9. NEW BUSINESS

A. Development Application No. 21-0013 / Richard D. Colton

Application by William R. Thomas, Unlimited Permit Services, Inc., for a special exception to install a 16,000-pound capacity boat lift on dock no. 9 for the property located at 2727 South Ocean Boulevard, Unit 701.

Chairperson Goldenberg read the title of Item 9.A. and asked the Board members if they had any ex parte communications to disclose? The Board members had no ex-parte communications. Chairperson Goldenberg opened the public hearing and called Town Planner Allen to present her recommendations regarding the application.

Town Planner Allen presented a PowerPoint Presentation of the Development Order depicting aerial photographs of the site plans, the property, the survey, and the proposed 16,000-pound capacity boat lift on dock no. 9. The applicant has obtained Florida Department of Protection and United States Army Corps of Engineers authorizations. She mentions that the applicant has indicated to staff that the superstructure components have not been finalized so they have not been superimposed in dimension on the plan sheet which is typically seen. Staff is requesting that the applicant place in the detail, the actual definition of Boat Lift for compliance purposes as provided in Section 30-131 of the Towns Code of Ordinances. She further explains that the code does not require the applicant to superimpose their lift. Staff believes this is a good way for an applicant to show compliance.

Ms. Allen advised that if the request receives the Planning Board's approval, the applicant will be required to obtain a building permit prior to initiation of construction from the Town of Highland Beach Building Department. According to Section 30-21(g) of the Town Code, the commencement of construction shall be initiated within two (2) years following the date of approval by the Planning Board. Staff recommends approval of the proposed special exception request.

After the presentation, there was a brief dialogue about what exactly is being approved and if there should be an inclusion of the superimposed components

on the plan. Town Planner Allen explained that because it was not a requirement of the Town, it was not necessary.

Chairperson Goldenberg asked the Board members if they had any questions. Hearing no further comments, Chairperson Goldenberg closed the public hearing and asked for a motion.

MOTION: Mendelson/Powell - Moved to approve Development Application No. 21-0013 as presented which passed on a 6 to 0 vote based upon roll call.

B. Development Application No. 21-0016 / Coronado at Highland Beach Condominium Association, Inc.

Application by B&M Marine Construction, Inc. for special exception approval to install nine (9) finger piers/docks totaling 1, 379 square feet and 19 mooring pilings for the property located at 3400 South Ocean Boulevard.

Chairperson Goldenberg read the title of Item 9.B. and asked the Board members if they had any ex parte communications to disclose? The Board members had no ex-parte communications.

Chairperson Goldenberg opened the public hearing and called Town Planner Allen to present her recommendations regarding the application.

Town Planner Allen presented a PowerPoint Presentation of the Development Order depicting aerial photographs of the site plans, the property, the survey, and the proposed nine (9) finger piers/docks totaling 1, 379 square feet and 19 mooring pilings. The applicant has obtained Florida Department of Protection and United States Army Corps of Engineers authorizations. She further explains that both agencies also included authorizations for nine boat lifts, one dual jet-ski lift, and two kayak lifts however, the development order application that the applicant submitted to the Town of Highland Beach which is development order 21-0016 does not include any of the previously mentioned lifts. The request is specifically for the nine (9) finger piers/docks and the 19 mooring pilings. Any future request will include a special exception approval by the Planning Board pursuant to Chapter 30 of the Town Code.

Ms. Allen advised that if the request receives the Planning Board's approval, the applicant will be required to obtain a building permit prior to initiation of construction from the Town of Highland Beach Building Department. According to Section 30-21(g) of the Town Code, the commencement of construction shall be initiated within two (2) years following the date of approval by the Planning Board. Staff recommends approval of the proposed special exception request.

After the presentation, there was a brief dialogue about the nature of the special exception. Town Planner Allen explained that this special exception specifically relates to Sections 30-36 in the zoning code.

Jon Cunningham (marine engineer) provided comments about the current height of the seawall.

Robert Gans Vice president of the Coronado Condominium Board and Board Liaison of the dock replacement project provided comments about the replacement of the docks.

Felix Martinez Seagate Condominium General Manager clarified that from his understanding, no boat lifts were being installed at this time. He also provided comments about the protection of the seawall at Seagate with the construction that will take place at Coronado Condominium.

Chairperson Goldenberg asked the Board members if they had any questions. Hearing no further comments, Chairperson Goldenberg closed the public hearing and asked for a motion.

MOTION: Mendelson/Powell - Moved to approve Development Application No. 21-0016 as presented which passed on a 6 to 0 vote based upon roll call.

C. Development Application No. 22-0002 / Anthony Delprete

Application by William R. Thomas, Unlimited Permit Services Inc., for a special exception approval to install a 296 square foot dock, a 25,000-pound capacity boat lift, and a 7,000-pound capacity dual jet-ski for the property located at 4326 Intracoastal Drive.

Chairperson Goldenberg read the title of Item 9.B. and asked the Board members if they had any ex parte communications to disclose? The Board members had no ex-parte communications.

Chairperson Goldenberg opened the public hearing and called Town Planner Allen to present her recommendations regarding the application.

Town Planner Allen presented a PowerPoint Presentation of the Development Order depicting aerial photographs of the site plans, the property, the survey, and the proposed 296 square foot dock, a 4 post-25,000-pound capacity boat lift, and a 7,000-pound capacity dual jet-ski lift. The applicant has obtained Florida Department of Protection and United States Army Corps of Engineers authorizations. She mentions that the applicant has indicated to staff that the superstructure components have not been finalized so they have not been superimposed in dimension on the plan sheet which is typically seen. Staff is requesting that the applicant place in the detail, the actual definition of Boat Lift for compliance purposes as provided in Section 30-131 of the Towns Code of Ordinances. She further explains that the code does not require the applicant to superimpose their lift. Staff believes this is a good way for an applicant to show compliance.

Ms. Allen advised that if the request receives the Planning Board's approval, the applicant will be required to obtain a building permit prior to initiation of construction from the Town of Highland Beach Building Department. According to Section 30-21(g) of the Town Code, the commencement of construction shall be initiated within two (2) years following the date of approval by the Planning Board. Staff recommends approval of the proposed special exception request.

After the presentation, there was a dialogue about the clearance of marine traffic.

Chairperson Goldenberg asked the Board members if they had any questions. Hearing no further comments, Chairperson Goldenberg closed the public hearing and asked for a motion.

MOTION: Powell/Mendelson - Moved to approve Development Application No. 22-0002 as presented which passed on a 6 to 0 vote based upon roll call.

10. ANNOUNCEMENTS

Chairperson Goldenberg read the announcements into the record and commented on Member Harry Adwar's Birthday.

March 15, 2022 - 1:30 P.M. Town Commission Meeting

April 14, 2022 - 9:30 A.M. Planning Board Regular Meeting

11. ADJOURNMENT

Chairperson Goldenberg called for a motion to adjourn the meeting at 10:07 A.M.

MOTION: Goldenberg/Demoss - Moved to adjourn the meeting.

APPROVED at the May 12, 2022, Planning Board Regular Meeting

Eric Goldenberg, Chairperson

ATTEST:

Transcribed by: Ganelle Thompson

Ganelle Thompson
Administrative Support Specialist

Date

File Attachments for Item:

A. Development Application No. 20-0015 / Mark and Kim Kabbes

Application by Mark and Kim Kabbes for a special exception approval to install a 4,000 pound capacity boat lift for the property located at 4304 Intracoastal Drive.



HIGHLAND BEACH BUILDING DEPARTMENT

3614 S. Ocean Boulevard
Highland Beach, FL 33487
Ph: (561) 278-4540

PLANNING BOARD STAFF REPORT

MEETING OF: May 12, 2022

TO: PLANNING BOARD

FROM: INGRID ALLEN, TOWN PLANNER

SUBJECT: APPLICATION BY MARK AND KIM KABBES FOR A SPECIAL EXCEPTION APPROVAL TO INSTALL A 4,000 POUND CAPACITY BOAT LIFT FOR A PROPERTY LOCATED AT 4304 INTRACOASTAL DRIVE (DO #20-0015).

I. GENERAL INFORMATION:

Applicant (Property Owner): Mark and Kim Kabbes
4304 Intracoastal Drive
Highland Beach, Fl. 33487

Applicant's Agent: Not applicable

Property Characteristics:

Comprehensive Plan Land Use: Single Family
Zoning District: RS, Residential Single Family
Parcel PCN#: 24-43-47-04-02-004-0190

Background:

On October 22, 2019, a Code Violation was issued to the property owner for installation of a boat lift without a permit (Case No. CR-19-0058).

Request and Analysis:

The Applicant is proposing to install a 4,000 pound capacity elevator boat lift at the property located at 4304 Intracoastal Drive.

The Applicant has obtained both Florida Department of Environmental Protection (FDEP) and US Army Corps of Engineers (USACOE) approval for the proposed boat lift. The corresponding file numbers for each agency are provided in the table below.

FDEP (FILE NO.)	ACOE (FILE NO.)
50-344029-002-EE	SAJ-2016-01427(GP-JKA)

Pursuant to Section 30-68(g)(6)d.2. of the Town Code, accessory marine facilities (which includes boat lifts) located in Single-family zoning districts shall provide a 25-foot side yard setback. According to the Applicant's submitted plan set, the proposed boat lift is compliant with this setback requirement.

The Applicant's boat lift plan sheet (2 of 3) provides the height of the superstructure of the boat along with the height of the boat lift pile; however, it does not reflect the boat in a lifted position. The plan sheet does provide the "maximum height of boat keel" and therefore at this maximum height, the proposed request is in compliance with the below definition of "boat lift" as provided in Section 30-131 of the Town Code.

Section 30-131 ("Definitions of terms") Boat lifts means the bottom of the keel of any boat shall not be hoisted greater than one foot above the minimum seawall elevation. In no case shall the lift be higher than the superstructure of the boat when lifted.

Section 30-68(h)(1)a. of the Town Code, states that the installation of a boat lift shall be subject to special exception approval by the Planning Board at an advertised public hearing. Section 30-36(a) of the Town code states that if the Planning Board is the final authority on the special exception, then it shall approve, approve with conditions, or deny the application.

Staff has reviewed the Applicant's proposed request and finds that the project is consistent with the Zoning Code (Chapter 30) including the special exception criteria of Section 30-36, were applicable, and the Town Comprehensive Plan.

Following an approval by the Planning Board and prior to initiation of construction, the Applicant will be required to obtain a building permit from the Town of Highland Beach Building Department. Pursuant to Section 30-21(g) of the Town Code, commencement of construction shall be initiated within two (2) years following the date of approval by the Planning Board.

II. Recommendation

Staff recommends approval of the installation of a proposed 4,000 pound capacity boat lift at the property located at 4304 Intracoastal Drive subject to the following condition and based on the plans date stamped received by the Building Department on March 25, 2022:

1. Pursuant to Section 30-131 of the Town Code, the proposed boat lift shall comply with the definition of “boat lifts” including that in no case shall the lift be higher than the superstructure of the boat when lifted.

The Applicant’s proposed request:

- ☒ **Meets Town of Highland Beach Zoning and other governmental agencies requirements.**
- ☐ **Meets Town of Highland Beach Zoning requirements; however, approvals are pending before the Town of Highland Beach will issue permits, with other governmental agencies as listed:**
- ☐ **Does not meet Town of Highland Beach Zoning requirements.**

Should you have any questions, please feel free to contact me at (561) 637-2012 or iallen@highlandbeach.us

**Ingrid Allen
Town Planner**

Attachments: Application
 Aerials
 FDEP approval
 ACOE approval
 Applicant Plans



TOWN OF HIGHLAND BEACH DEVELOPMENT APPROVAL APPLICATION

Application # _____

I request a hearing regarding the terms of the Zoning Ordinances of the Town of Highland Beach. This request relates to the property and zoning requirements set forth in this application.

PROPERTY INFORMATION ASSOCIATED WITH THIS APPLICATION	
Address: <u>4304 INTRACOASTAL DR HIGHLAND BEACH</u>	PCN: _____
Full Legal Description of the Property [as described in the deed] or reference to an attachment: <u>LOT 19 BLOCK 4 PLAT OF BELLIDO - SEE ATTACHED WARRANTY DEED</u>	
Zoning District: <u>RS</u>	What is the location of the installation? <input checked="" type="checkbox"/> Intracoastal Waterway (ICW) <input type="checkbox"/> Interior Canal/Basin <input type="checkbox"/> N/A

PROPERTY OWNER INFORMATION		
Name: <u>MARK AND KIM KARBES</u>	Phone: <u>202 255 8123</u>	Fax: _____
Mailing Address: <u>4304 INTRACOASTAL DR HIGHLAND BEACH, FL 33487</u>		
Email Address: <u>MKARBES@SEAKATCONSTRUCTION.COM</u>		

APPLICANT INFORMATION		
Name: <u>SAME AS OWNER</u>	Phone: _____	Fax: _____
Mailing Address: _____		
Email Address: _____		

ARCHITECT/DESIGNER INFORMATION		
Name: _____	Phone: _____	Fax: _____
Mailing Address: _____		
Email Address: _____		

Provide a detailed description of the project application (use additional pages if necessary):

INSTALLATION OF 4,000# ELEVATOR BOAT LIFT

I give permission to the members of the Town Commission, Planning Board and staff to inspect the property for the purpose of this application. I declare that all statements made herein are true, based upon the best available information. Willful false statements may jeopardize the validity of my application or any decision issued thereon. I have fully read the information outlining the Board procedures and application requirements. With this application, I am submitting the necessary supporting materials listed.

Applicant's Signature: [Signature] Date: 12-2-19 11-2-20

Building Department Use:

Date Application Received: _____ By: _____

- ☐ Plans meet Town of Highland Beach Zoning and other governmental agencies requirements.
- ☐ Plans meet Town of Highland Beach Zoning requirements, however, approvals are pending with other governmental agencies requirements.
- ☐ Plans do not meet Town of Highland Beach Zoning requirements.

Town Planner: _____ Date: _____

Received by the Town Clerk's Office:

Received By: _____ Date: _____

Date Public Notices Mailed: _____

Date Legal Advertisement Published: _____

I give permission to the members of the Town Commission, Planning Board and staff to inspect the property for the purpose of this application. I declare that all statements made herein are true, based upon the best available information. Willful false statements may jeopardize the validity of my application or any decision issued thereon. I have fully read the information outlining the Board procedures and application requirements. With this application, I am submitting the necessary supporting materials listed.

Applicant's Signature: [Signature] Date: 12-2-19 11-2-20

Building Department Use:

Date Application Received: _____ By: _____

- ☐ Plans meet Town of Highland Beach Zoning and other governmental agencies requirements.
- ☐ Plans meet Town of Highland Beach Zoning requirements, however, approvals are pending with other governmental agencies requirements.
- ☐ Plans do not meet Town of Highland Beach Zoning requirements.

Town Planner: _____ Date: _____

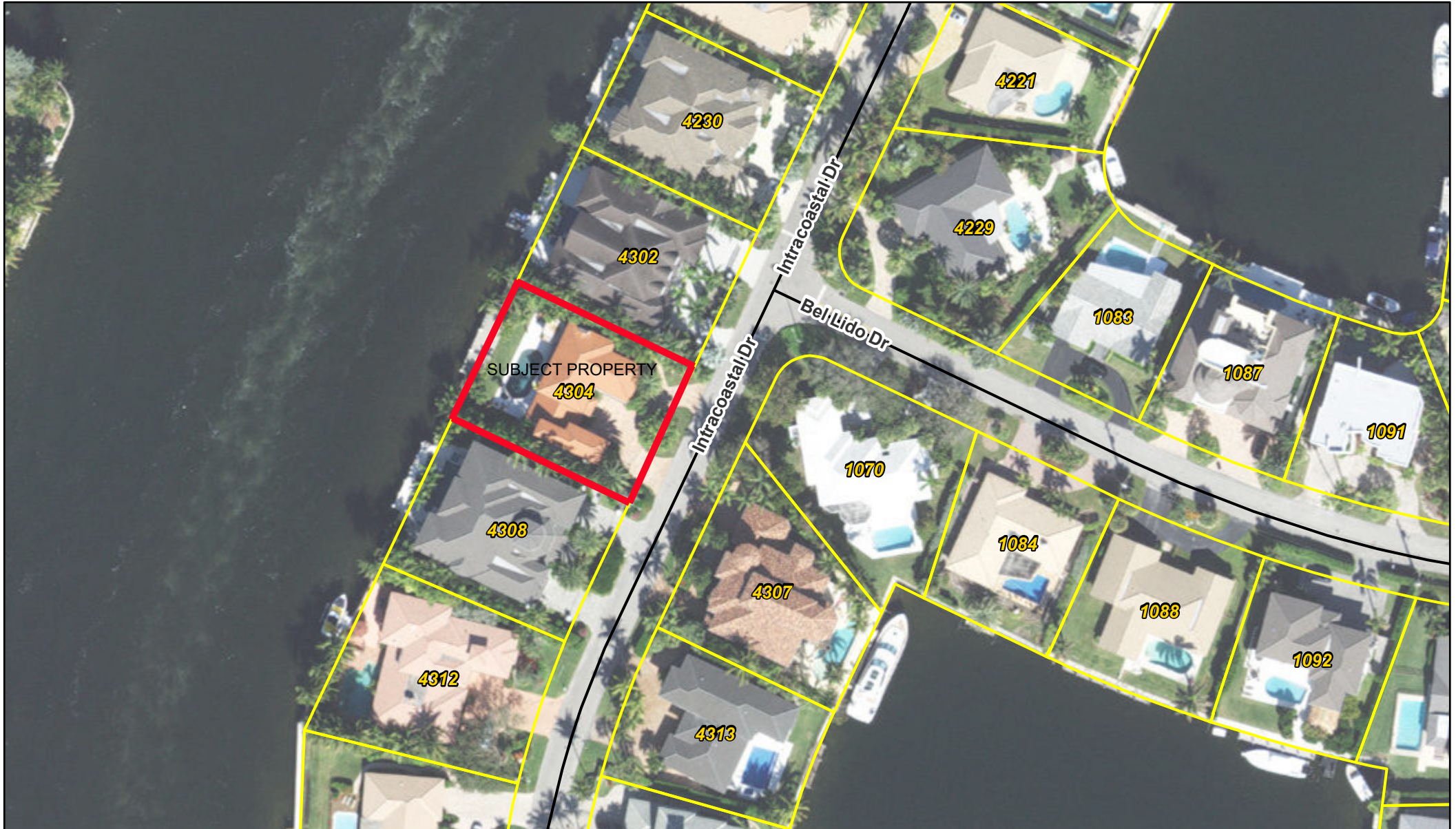
Received by the Town Clerk's Office:

Received By: Town Clerks office gj Date: 4/13/2022

Date Public Notices Mailed: 4/28/2022

Date Legal Advertisement Published: 5/4/2022

4304 Intracoastal Drive

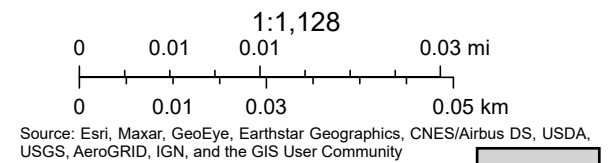


4/22/2022, 12:22:55 PM

• Highland Beach Address Points

▭ Highland Beach Parcels

— Streets Centerline



4304 Intracoastal Drive



Source: Palm Beach County Property Appraiser



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

June 5, 2020

Mark Kabbes
4304 Intracoastal Dr.,
Highland Beach FL 33487
Sent via e-mail: mkabbes@seakayconstruction.com

Re: File No.: 50-344029-002-EE
File Name: 4304 Intracoastal Dr.

Dear Mr. Kabbes:

On May 13, 2020, we received your request for verification of exemption to install a boatlift. The project is located in the Intracoastal Waterway, Class III Waters, adjacent to 4304 Intracoastal Dr., Highland Beach (Section 4, Township 47 South, Range 43 East), in Palm Beach County (Latitude N 26° 23' 59.63", Longitude W -80° 4' 10.00").

Your request has been reviewed to determine whether it qualifies for (1) regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

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

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

If you have any questions regarding this matter, please contact Brianna Vindiola at the letterhead address or at (561) 681-6678, Brianna.Vindiola@FloridaDEP.gov.

1. Regulatory Review – VERIFIED

Based on the information submitted, the Department has verified that the activity as proposed is exempt, under Chapter 62-330.051 (5)(h), Florida Administrative Code, from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

2. Proprietary Review- NOT REQUIRED

The activity does not appear to be located on sovereign submerged lands, and does not require further authorization under chapter 253 of the Florida Statutes, or chapters 18-20 or 18-21 of the Florida Administrative Code.

3. Federal Review - NOT APPROVED

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

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

Additional Information

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

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the

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

Petition for Administrative Hearing

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

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

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

Time Period for Filing a Petition

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

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

Extension of Time

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

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

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

Judicial Review

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

EXECUTION AND CLERKING

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Jeffrey Meyer
Environmental Manager
Southeast District

Enclosures:

Attachment A- Specific Exemption Rule
Project drawings, 4 pages

CERTIFICATE OF SERVICE

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

FDEP – Jeff Meyer, Brianna Vindiola
Mark Kabbes, Sea Kay Construction, mkabbes@seakayconstruction.com

Additional mailings:
Matt Mitchell, Palm Beach County, Environmental Resources, mmitchell@pbcgov.org

FILING AND ACKNOWLEDGMENT

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



Clerk

June 5, 2020
Date

Attachment A

62-330.051 Exempt Activities.

The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under chapters 253 and 258, F.S., as applicable.

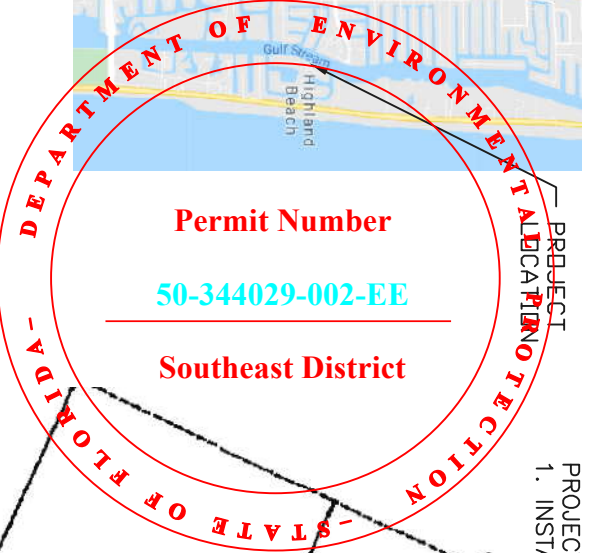
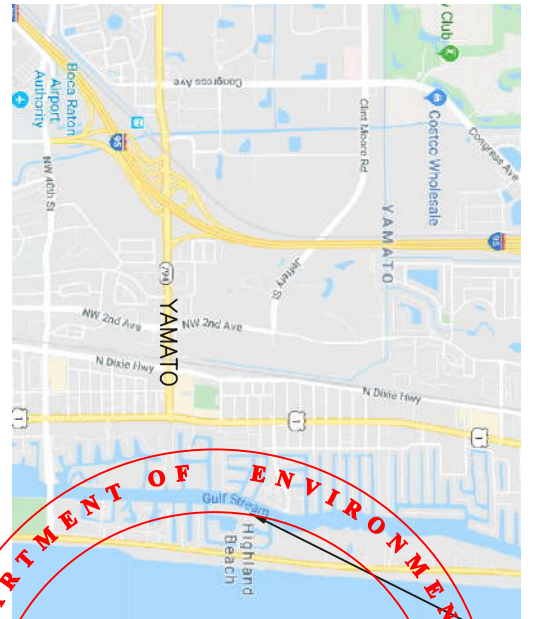
(5) Dock, Pier, Boat Ramp and Other Boating-related Work –

(h) The installation of a pile-supported boat lift within an existing mooring area at a docking facility that is legally in existence, provided:

1. Such installation does not conflict with a condition of a permit issued thereunder;
2. The boat lift does not include additional structures, such as platforms, cat walks, and roofs.

Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4131, 373.4145, 373.415, 403.813(1) FS. History—New 10-1-13, Amended 6-1-18

ATTACHMENT 1: SAJ-2016-01427

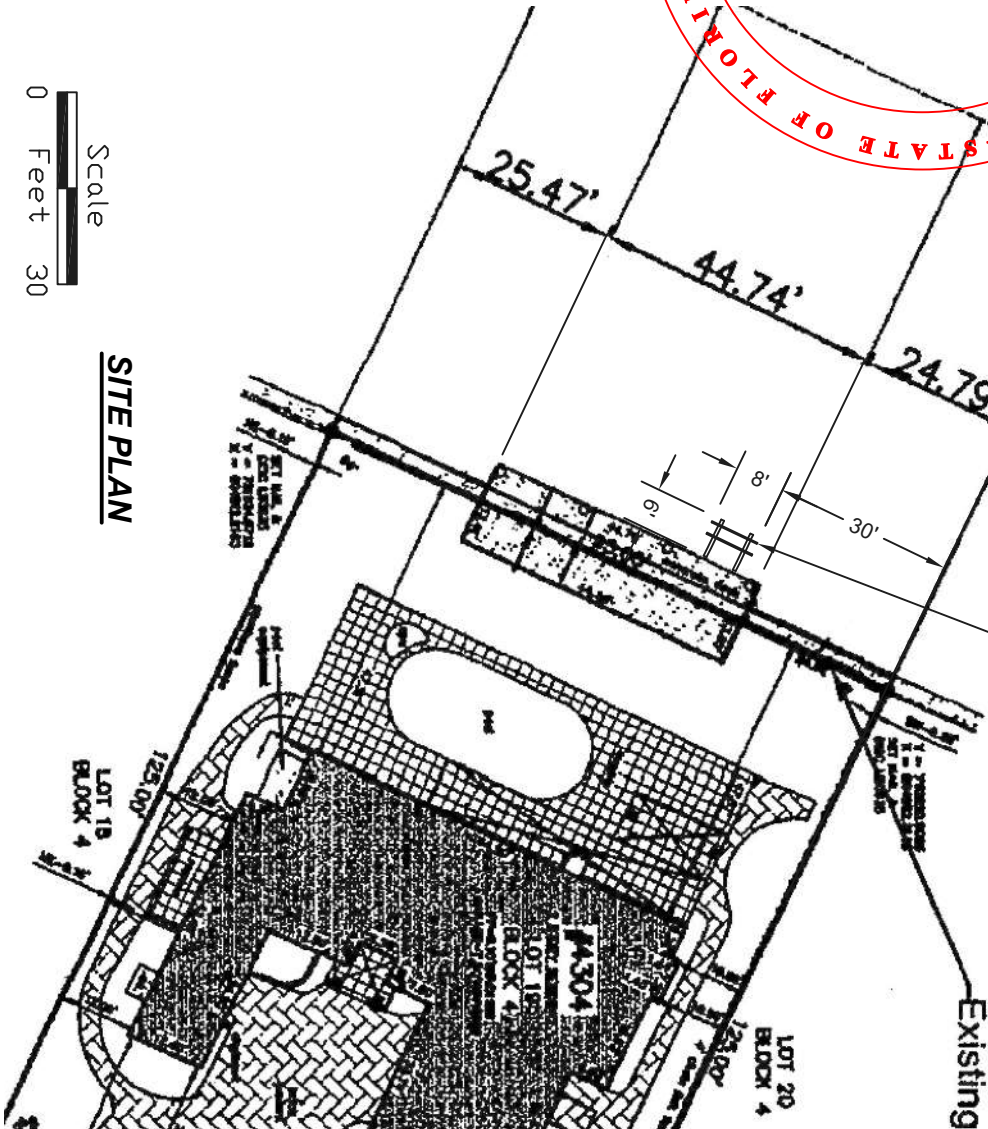


PROJECT SCOPE:
1. INSTALL BOAT LIFT

INSTALL 4,000#
ELEVATOR BOAT LIFT



AERIAL

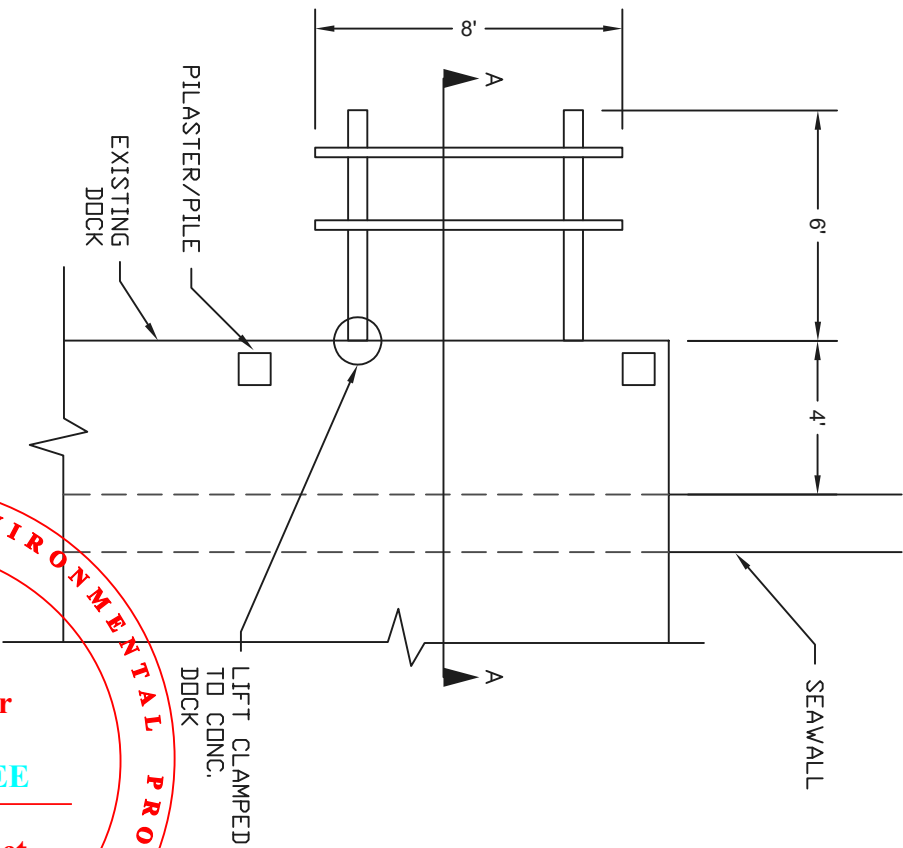


**MCR PROFESSIONAL
ENGINEERING, INC.**
OF: (561)863-3393
CERTIFICATE OF AUTHORIZATION # 26967
MICHAEL BABER, FL PE# 52575

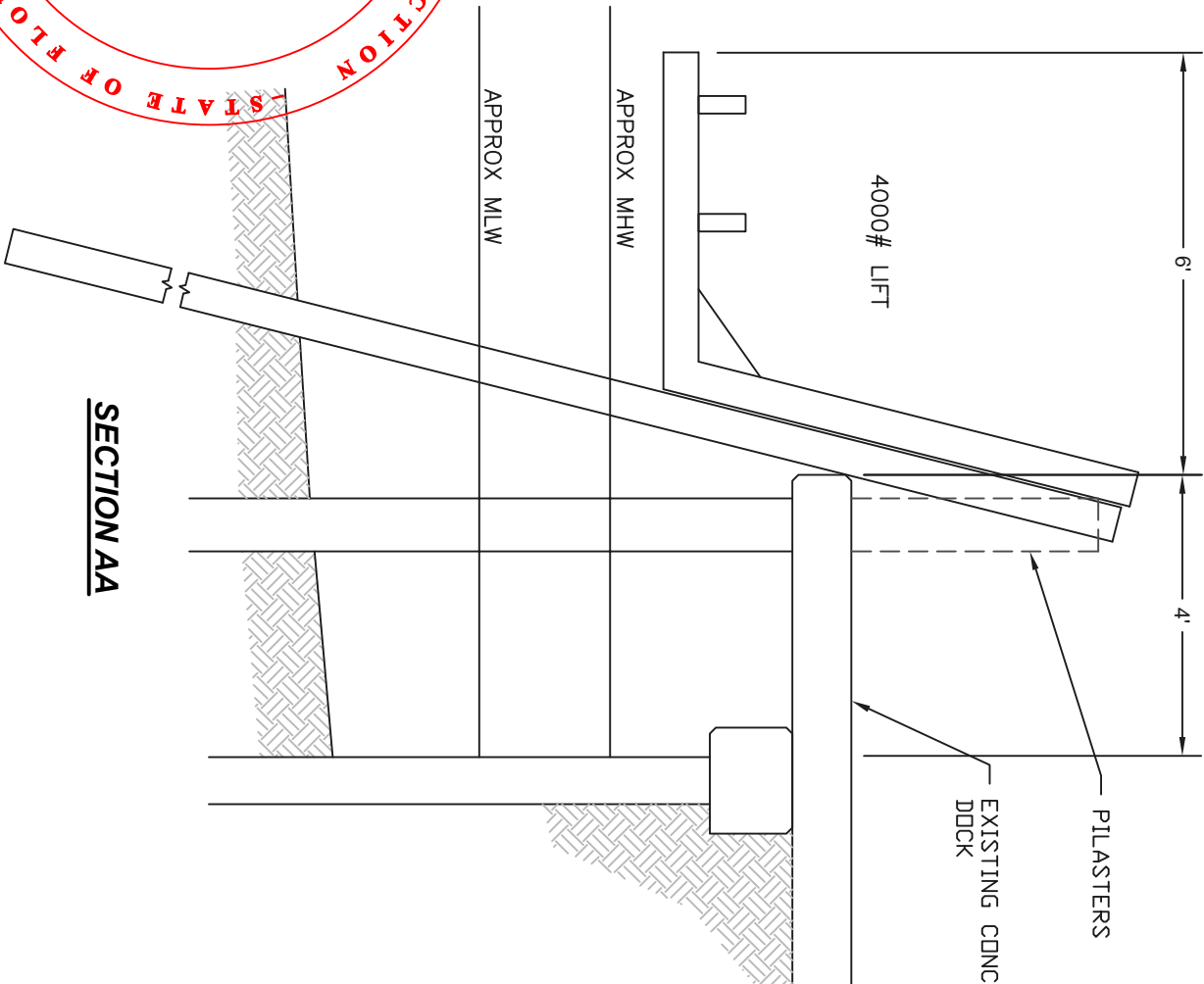
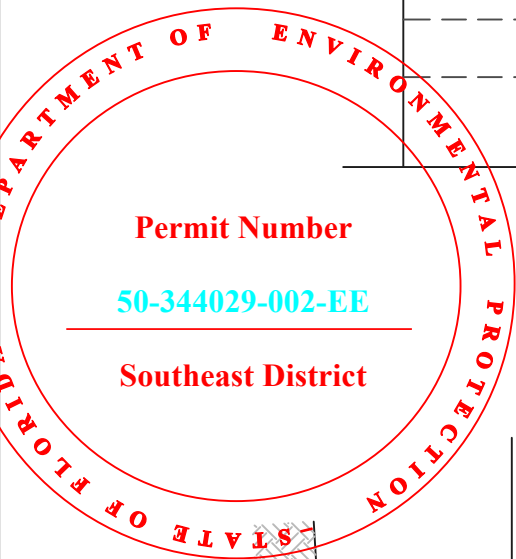
BOAT LIFT
KABBES RESIDENCE
4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL
FIVEDM
MARINE CONSTRUCTION
2950 NW COMMERCE PK DRIVE, UNIT 4
BOYNTON BEACH, FL 33426

DATE	REVISIONS
10/29/19	INITIAL DRAWINGS COMPLETED

SHEET 1 OF 2



PLAN VIEW



SECTION AA

**MCR PROFESSIONAL
ENGINEERING, INC.**

OF: (561)863-3393
CERTIFICATE OF AUTHORIZATION # 26967

MICHAEL BABER, FL PE# 52575

BOATLIFT

KABBES RESIDENCE
4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL

FIVEDM
MARINE CONSTRUCTION
2950 NW COMMERCE PK DRIVE, UNIT 4
BOYNTON BEACH, FL 33426

DATE

REVISIONS

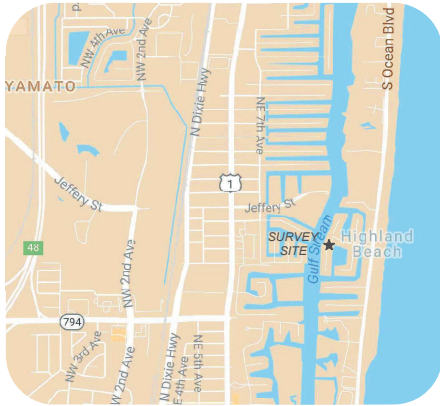
10/29/19

INITIAL DRAWINGS COMPLETED

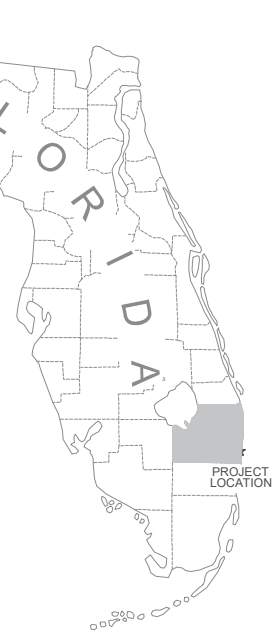
SHEET 2 OF 2

SPECIFIC PURPOSE SURVEY

LOT 19 BLOCK 4 of "BEL LIDO"
PLAT BOOK 25, PAGE 97
SECTION 4, TOWNSHIP 47 SOUTH, RANGE 43 EAST,
PALM BEACH COUNTY, FLORIDA



VICINITY MAPS
NOT TO SCALE



ABBREVIATIONS:

BCR	BROWARD COUNTY RECORDS
FND	FOUND
EXST	EXISTING
IRC	IRON ROD & CAP
(M)	MEASURED
NL/D	NAIL & DISK
(P)	PLAT
PB	PLAT BOOK
PG	PAGE
TYP	TYPICAL

SURVEY NOTES:

1. THIS IS A SPECIFIC PURPOSE SURVEY AS DEFINED IN THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE.
2. THIS SURVEY IS CERTIFIED TO KIM & MARK KABBES.
3. THIS SURVEY IS INTENDED EXCLUSIVELY FOR THE USE BY THOSE TO WHOM IT IS CERTIFIED. IT IS NOT TO BE USED BY OTHERS FOR CONSTRUCTION, PERMITTING, DESIGN OR ANY OTHER USE WITHOUT THE WRITTEN CONSENT OF TERRAQUATIC, INC.
4. THIS SURVEY, AND ANY REPRODUCTION THEREOF, IS NOT VALID WITHOUT AN ORIGINAL OR VERIFIED DIGITAL SIGNATURE AND SEAL OF A FLORIDA REGISTERED SURVEYOR. ADDITIONALLY, THIS SURVEY IS NOT VALID IF PRINTED BEARING A DIGITAL SIGNATURE AND SEAL.
5. OTHER THAN THOSE SHOWN ON THE REFERENCED PLAT, NO SEARCH OF THE PUBLIC RECORDS WAS PERFORMED FOR EASEMENTS, ENCUMBRANCES OR OTHER INSTRUMENTS OF RECORD WHICH MAY AFFECT THIS PARCEL OF LAND.
6. THIS MAP IS INTENDED TO BE DISPLAYED AT A SCALE OF 1 INCH = 20 FEET OR SMALLER.
7. UNDERGROUND UTILITIES WERE NOT LOCATED AS PART OF THIS SURVEY.
8. BEARING AND DISTANCES SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICA DATUM OF 1983, FLORIDA STATE PLANE, ZONE 901, TRANSVERSE MERCATOR PROJECTION IN THE U.S. SURVEY FOOT UNIT OF MEASUREMENT.
9. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF N24°53'36"E ALONG EAST LINE OF BLOCK 4.
10. UNLESS OTHERWISE NOTED, FIELD BEARINGS AND DISTANCES ARE CONSISTENT WITH THE RECORD PLAT.
11. THE SPECIFIC PURPOSE OF THIS SURVEY IS TO SHOW THE PROPOSED MARINE IMPROVEMENTS RELATIVE TO THE INTRACOASTAL WATERWAY CHANNEL.

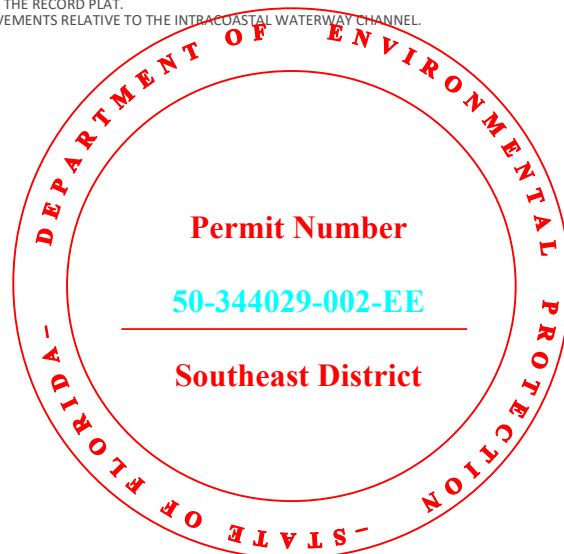
CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED SPECIFIC PURPOSE SURVEY OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS SURVEYED UNDER MY DIRECTION ON 11/26/19. I FURTHER CERTIFY THAT THIS SPECIFIC PURPOSE SURVEY MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTE 472.027.



Kenneth C. Jackson,
PSM 4549
2020.02.07 11:19:21
-05'00'

KENNETH C. JACKSON, PSM - FLORIDA REGISTRATION NUMBER 4549



PREPARED BY:
TERRAQUATIC, INC
1220 TANGELO TERR, UNIT A12
DELRAY BEACH, FL 33444
TELEPHONE: (561) 806-6085
CERTIFICATE OF AUTHORIZATION NO. 7324

SITE OWNER / ADDRESS
KIM & MARK KABBES
4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL 33487

TERRAQUATIC
SURVEYING AND MAPPING

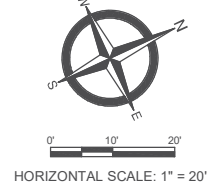
DRAWING: KABBES BNDY.dwg	DRAWN BY: BL		
SCALE: N/A	DATE: 2/7/20	JOB No.: 19-914	CHECKED BY: KC
REV:	SHEET 1 OF 2		

PB77
X: 960,507.46
Y: 751,923.96

CENTERLINE OF THE COE 125'
NAVIGATION CHANNEL CUT PB-75

PB76
X: 961,134.53
Y: 753,262.61

JACKSONVILLE TO MIAMI HARBOR
10 FOOT PROJECT CONTROL DATA
D.O. FILE NUMBER 8B-24-,258
D.P. 300' RIGHT-OF-WAY



INTRACOASTAL WATERWAY

EAST TOE OF THE COE 125' NAVIGATION CHANNEL CUT PB-75

POINT A
NW CORNER OF PROPOSED BOAT LIFT
X: 960,765.91' Y: 752,157.10'
N26° 23' 59.806" W80° 04' 10.085"

POINT B
SW CORNER OF PROPOSED BOAT LIFT
X: 960,763.39' Y: 752,151.65'
N26° 23' 59.753" W80° 04' 10.113"

NOTE: WATER DEPTH EXCEED -4' MLW
ALONG AND ADJACENT TO THE EXISTING
SEAWALL AND DOCK.

Permit Number

50-344029-002-EE

Southeast District

POINT A
POINT B
PROPOSED 4,000lb BOAT LIFT
6.0' 30.0'

S24°53'36"W 95.00'

FND DRILL HOLE

FND DRILL HOLE

EXST. CONCRETE DOCK TO REMAIN (TYP)

PROPERTY LINE (TYP)

4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL
IMPROVEMENTS NOT SHOWN

LOT 18

LOT 20

LOT 19
BLOCK 4

FND 5/8" IR @ PC
NO ID

N24°53'36"E
70.00'

FND 5/8" IR
NO ID

N24°53'36"E 95.00'

FND 5/8" IR
NO ID

BASIS OF BEARING: EASTERLY LINE OF BLOCK 4
ASSUMED BEARING OF N24°53'36"E

CENTERLINE
INTRACOASTAL DRIVE (P)
50' RIGHT OF WAY (P)

PREPARED BY:
TERRAQUATIC, INC

1220 TANGELO TERR, UNIT A12
DELRAY BEACH, FL 33444
TELEPHONE: (561) 806-6085

CERTIFICATE OF AUTHORIZATION NO. 7324

SITE OWNER / ADDRESS
KIM & MARK KABBES

4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL 33487

TERRAQUATIC
SURVEYING AND MAPPING

DRAWING: KABBES BNDY.dwg

SCALE: 1" = 20'

REV:

DATE: 2/7/20

JOB No.: 19-914

DRAWN BY: BL

CHECKED BY: KC

SHEET 2 OF 2



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS JACKSONVILLE DISTRICT,
4400 PGA BOULEVARD, SUITE 500
PALM BEACH GARDENS, FLORIDA 33410

February 20, 2020

Regulatory Division
South Branch
Palm Beach Gardens Permits Section
SAJ-2016-01427(GP-JKA)

Mark Kabbes
4304 Intracoastal Drive
Highland Beach, FL 33487
mkabbes@seakayconstruction.com

Dear Mr. Kabbes:

The U.S. Army Corps of Engineers (Corps) assigned your application for a Department of the Army permit, which the Corps received on December 10, 2020, the file number SAJ-2016-01427. A review of the information and drawings provided indicates that the proposed work would result in install an 8 foot by 6 foot elevator lift attached to the existing dock. The activities subject to this permit are authorized pursuant to authorities under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403). The project is located within the Intracoastal Waterway, Waters of the United States, adjacent to 4304 Intracoastal Drive, Section 4, Township, 47 South, Range 43 East, Highland Beach, Palm Beach County, Florida.

Your project, as depicted on the enclosed drawings, is authorized by Regional General Permit (GP) SAJ-20. This authorization is valid until **March 27, 2023**. Please access the Corps' Jacksonville District Regulatory Division Internet page to view the special and general conditions for SAJ-20, which apply specifically to this authorization. The Internet URL address is:

<http://www.saj.usace.army.mil/Missions/Regulatory.aspx>

Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Once there you will need to click on "Source Book"; and, then click on "General Permits." Then you will need to click on the specific SAJ permit noted above. You must comply with all of the special and general conditions of the permit; and, any project-specific conditions noted below, or you may be subject to enforcement action. The following project-specific conditions are included with this authorization:

1. **Reporting Address:** The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:
 - a. For electronic mail (preferred): SAJ-RD-Enforcement@usace.army.mil (not to exceed 15 MB).
 - b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, Florida 32232-0019.

The Permittee shall reference this permit number, SAJ-2016-01427 (GP-JKA), on all submittals.

2. **Commencement Notification:** Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed "Commencement Notification" Form (Attachment 2).
3. **Consent to Easement:** A portion of the authorized work may be located within the Federal right-of-way for identify Federal project and would require a Department of the Army Consent to Easement. By copy of this permit, the proposal is being forwarded to the Corps' Real Estate Division for action on the Consent to Easement. Failure to obtain the Consent to Easement or waiver invalidates this authorization. The Real Estate Division is responsible for issuing the Consent to Easement. Contact with Real Estate for questions or status updates can done at Post Office Box 4970, Jacksonville, Florida 32232-0019 or by telephone at 904-232-3727.
4. **As-Built Certification with X-Y Coordinates:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and complete the enclosed As-Built Certification Form to the Corps. The drawings shall be signed and sealed by a Florida registered professional engineer or a professional land surveyor registered in the state of Florida confirming the actual location of all authorized work/structures with respect to the Federal channel and within the Federal easement and include the following:
 - a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawings shall include the X & Y State Plane coordination points of the most waterward point of the structure. The drawings shall include the dimensions of the structure, depth of water (at mean low water) at the

waterward end of the structure, and the distance from the waterward end of the structure to the near design edge of the Federal channel.

- b. List of any deviations between the work authorized by this permit and the work as constructed. In the event the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the Corps.
 - c. The Department of the Army Permit number.
5. **Assurance of Navigation and Maintenance:** The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the 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 or alteration.
6. **Notice of Permit:** The Permittee shall complete and record the enclosed Notice of Department of the Army Permit (Attachment 4) with the Clerk of the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property within the county of the authorized activity. Within 90 days from the effective date of this permit the Permittee shall provide a copy of the recorded Notice of Permit to the Corps clearly showing a stamp from the appropriate official indicating the book and page at which the Notice of Permit is recorded and the date of recording.
7. **Federal Channel Setback:** The most waterward edge authorized project shall be constructed no more than 72.7 feet from the near edge of the federal channel as shown in Attachment 1.
8. **Manatee Conditions:** The Permittee shall comply with the "Standard Manatee Conditions for In-Water Work – 2011" (Attachment 5).

9. **Project Design Criteria (PDCs) for In-Water Activities:** The Permittee shall comply with National Marine Fisheries Service's "PDCs for In-Water Activities" dated November 20, 2017 (Attachment 6).
10. **Daylight Hours:** All activities must be completed during daylight hours.
11. **Construction Location:** Project construction shall take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.
12. **Cultural Resources:**
 - a. No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.
 - b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.
 - c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.
 - d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05

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

This authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Prior to the initiation of any construction, projects qualifying for this NWP/RGP permit must qualify for an exemption under section 403.813(1), F.S. or 373.406, F.S., or otherwise be authorized by the applicable permit required under Part IV of Chapter 373, F.S., by the Department of Environmental Protection, a water management district under section 373.069, F.S., or a local government with delegated authority under section 373.441, F.S., and receive Water Quality Certification (WQC) and applicable Coastal Zone Consistency Concurrence (CZCC) or waiver thereto, as well as any authorizations required for the use of state-owned submerged lands under Chapter 253, F.S., and, as applicable, Chapter 258, F.S. You should check State-permitting requirements with the Florida Department of Environmental Protection or the appropriate water management district.

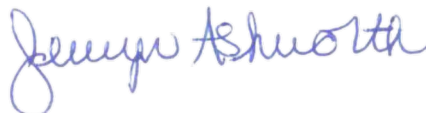
This authorization does not include conditions that would prevent the 'take' of a state-listed fish or wildlife species. These species are protected under sec. 379.411, Florida Statutes, and listed under Rule 68A-27, Florida Administrative Code. With regard to fish and wildlife species designated as species of special concern or threatened by the State of Florida, you are responsible for coordinating directly with the Florida Fish and Wildlife Conservation Commission (FWC). You can visit the FWC license and permitting webpage (<http://www.myfwc.com/license/wildlife/>) for more information, including a list of those fish and wildlife species designated as species of special concern or threatened. The Florida Natural Areas Inventory (<http://www.fnai.org/>) also maintains updated lists, by county, of documented occurrences of those species.

This authorization does not give absolute Federal authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above RGP(s), please contact Jerilyn Ashworth by telephone at 561-472-3516.

Thank you for your cooperation with our permit program. The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

Sincerely,



Jerilyn Ashworth
Project Manager

Enclosures

Copies Furnished:
CESAJ-RE
CESAJ-RD-E

GENERAL CONDITIONS
33 CFR PART 320-330

1. The time limit for completing the work authorized ends on the **dates identified in the letter.**
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 in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow a representative 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.

DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

PERMIT NUMBER: SAJ-2016-01427(GP-JKA)

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. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019 or by electronic mail at saj-rd-enforcement@usace.army.mil.

(TRANSFEREE-SIGNATURE)

(SUBDIVISION)

(DATE)

(LOT)

(BLOCK)

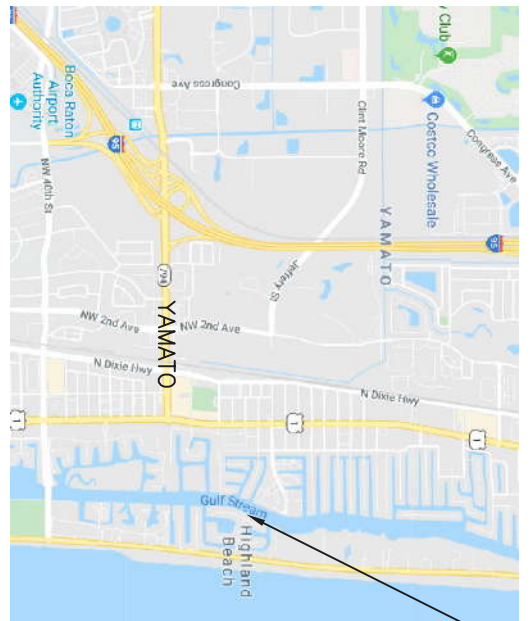
(NAME-PRINTED)

(STREET ADDRESS)

(MAILING ADDRESS)

(CITY, STATE, ZIP CODE)

ATTACHMENT 1: SAJ-2016-01427



PROJECT LOCATION

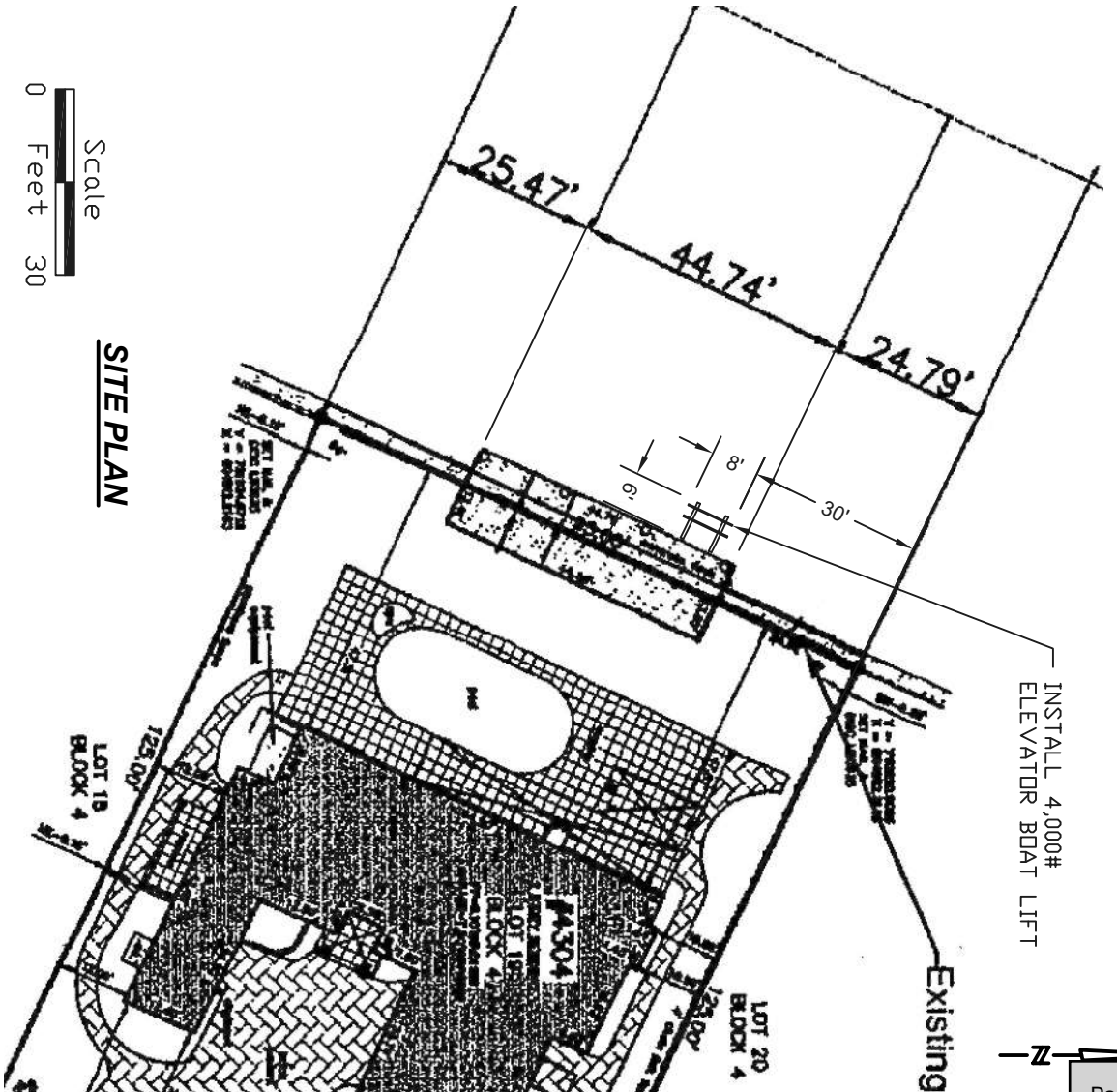
LOCATION MAP



PROJECT SITE

AERIAL

PROJECT SCOPE:
1. INSTALL BOAT LIFT



INSTALL 4,000#
ELEVATOR BOAT LIFT

Existing

N

**MCR PROFESSIONAL
ENGINEERING, INC.**

OF: (561)863-3393
CERTIFICATE OF AUTHORIZATION # 26967

MICHAEL BABER, FL PE# 52575

BOAT LIFT

KABBES RESIDENCE
4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL

FIVEDM
MARINE CONSTRUCTION
2950 NW COMMERCE PK DRIVE, UNIT 4
BOYNTON BEACH, FL 33426

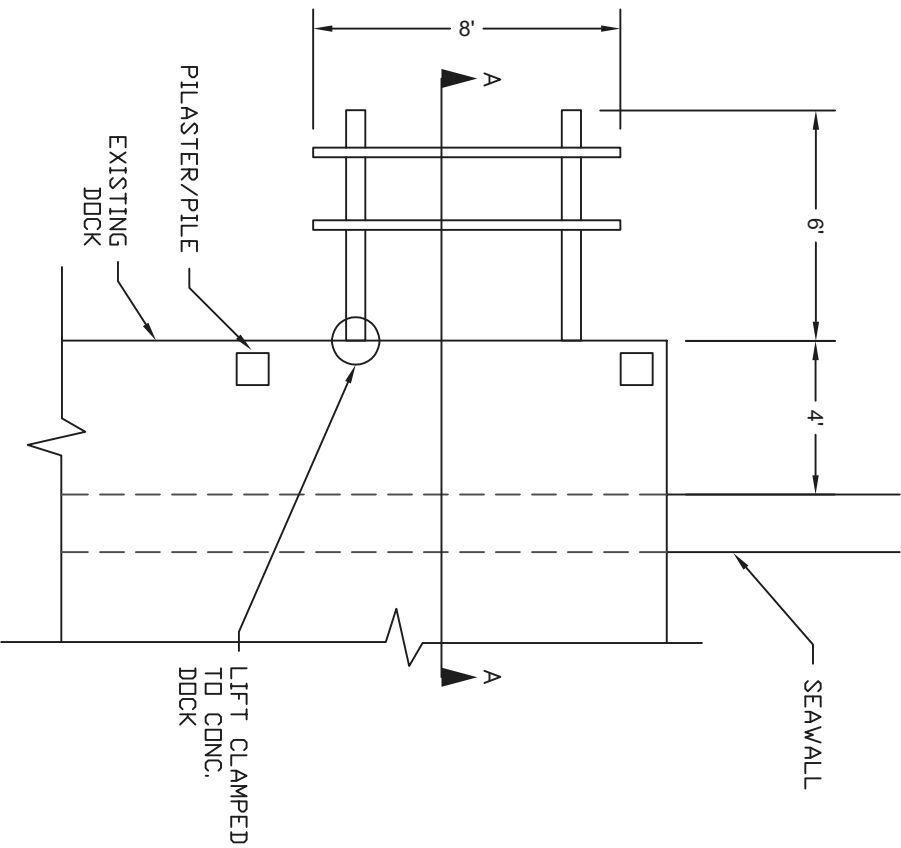
DATE REVISIONS

10/29/19 INITIAL DRAWINGS COMPLETED

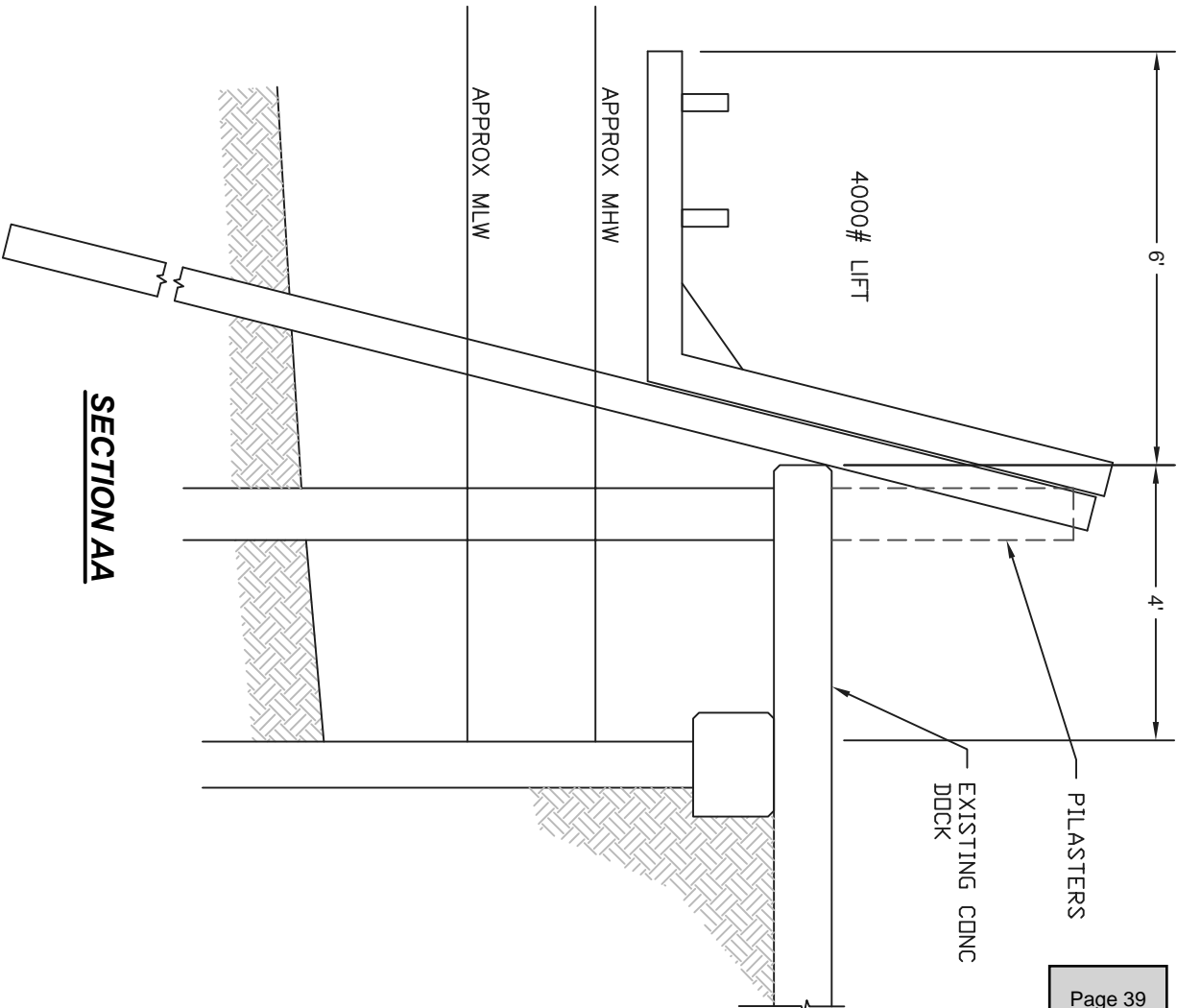
SHEET 1 OF 2

SITE PLAN

Scale
0 Feet 30



PLAN VIEW



**MCR PROFESSIONAL
ENGINEERING, INC.**

OF: (561)863-3393
CERTIFICATE OF AUTHORIZATION # 26967

MICHAEL BABER, FL PE# 52575

BOAT LIFT

KABBES RESIDENCE
4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL

FIVEDM
MARINE CONSTRUCTION
2950 NW COMMERCE PK DRIVE, UNIT 4
BOYNTON BEACH, FL 33426

DATE

REVISIONS

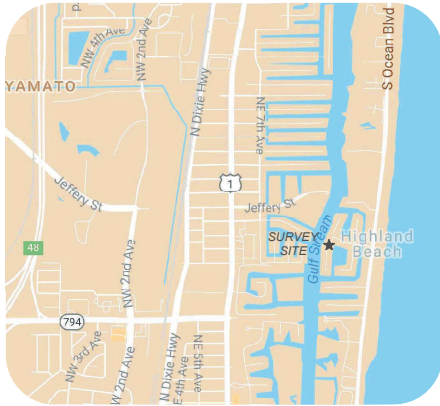
10/29/19

INITIAL DRAWINGS COMPLETED

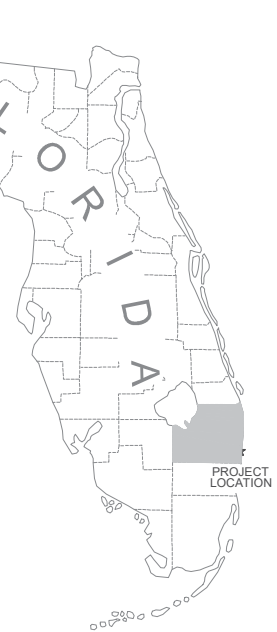
SHEET 2 OF 2

SPECIFIC PURPOSE SURVEY

LOT 19 BLOCK 4 of "BEL LIDO"
PLAT BOOK 25, PAGE 97
SECTION 4, TOWNSHIP 47 SOUTH, RANGE 43 EAST,
PALM BEACH COUNTY, FLORIDA



VICINITY MAPS
NOT TO SCALE



ABBREVIATIONS:

BCR	BROWARD COUNTY RECORDS
FND	FOUND
EXST	EXISTING
IRC	IRON ROD & CAP
(M)	MEASURED
NL/D	NAIL & DISK
(P)	PLAT
PB	PLAT BOOK
PG	PAGE
TYP	TYPICAL

SURVEY NOTES:

1. THIS IS A SPECIFIC PURPOSE SURVEY AS DEFINED IN THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE.
2. THIS SURVEY IS CERTIFIED TO KIM & MARK KABBES.
3. THIS SURVEY IS INTENDED EXCLUSIVELY FOR THE USE BY THOSE TO WHOM IT IS CERTIFIED. IT IS NOT TO BE USED BY OTHERS FOR CONSTRUCTION, PERMITTING, DESIGN OR ANY OTHER USE WITHOUT THE WRITTEN CONSENT OF TERRAQUATIC, INC.
4. THIS SURVEY, AND ANY REPRODUCTION THEREOF, IS NOT VALID WITHOUT AN ORIGINAL OR VERIFIED DIGITAL SIGNATURE AND SEAL OF A FLORIDA REGISTERED SURVEYOR. ADDITIONALLY, THIS SURVEY IS NOT VALID IF PRINTED BEARING A DIGITAL SIGNATURE AND SEAL.
5. OTHER THAN THOSE SHOWN ON THE REFERENCED PLAT, NO SEARCH OF THE PUBLIC RECORDS WAS PERFORMED FOR EASEMENTS, ENCUMBRANCES OR OTHER INSTRUMENTS OF RECORD WHICH MAY AFFECT THIS PARCEL OF LAND.
6. THIS MAP IS INTENDED TO BE DISPLAYED AT A SCALE OF 1 INCH = 20 FEET OR SMALLER.
7. UNDERGROUND UTILITIES WERE NOT LOCATED AS PART OF THIS SURVEY.
8. BEARING AND DISTANCES SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICA DATUM OF 1983, FLORIDA STATE PLANE, ZONE 901, TRANSVERSE MERCATOR PROJECTION IN THE U.S. SURVEY FOOT UNIT OF MEASUREMENT.
9. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF N24°53'36"E ALONG EAST LINE OF BLOCK 4.
10. UNLESS OTHERWISE NOTED, FIELD BEARINGS AND DISTANCES ARE CONSISTENT WITH THE RECORD PLAT.
11. THE SPECIFIC PURPOSE OF THIS SURVEY IS TO SHOW THE PROPOSED MARINE IMPROVEMENTS RELATIVE TO THE INTRACOASTAL WATERWAY CHANNEL.

CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED SPECIFIC PURPOSE SURVEY OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS SURVEYED UNDER MY DIRECTION ON 11/26/19. I FURTHER CERTIFY THAT THIS SPECIFIC PURPOSE SURVEY MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTE 472.027.



Kenneth C. Jackson,
PSM 4549
2020.02.07 11:19:21
-05'00'

KENNETH C. JACKSON, PSM - FLORIDA REGISTRATION NUMBER 4549

PREPARED BY:
TERRAQUATIC, INC
1220 TANGELO TERR, UNIT A12
DELRAY BEACH, FL 33444
TELEPHONE: (561) 806-6085
CERTIFICATE OF AUTHORIZATION NO. 7324

SITE OWNER / ADDRESS
KIM & MARK KABBES
4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL 33487

TERRAQUATIC
SURVEYING AND MAPPING

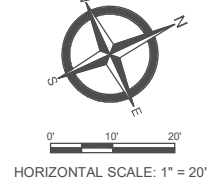
DRAWING: KABBES BNDY.dwg	DRAWN BY: BL		
SCALE: N/A	DATE: 2/7/20	JOB No.: 19-914	CHECKED BY: KC
REV:	SHEET 1 OF 2		

PB77
X: 960,507.46
Y: 751,923.96

CENTERLINE OF THE COE 125'
NAVIGATION CHANNEL CUT PB-75

PB76
X: 961,134.53
Y: 753,262.61

JACKSONVILLE TO MIAMI HARBOR
10 FOOT PROJECT CONTROL DATA
D.O. FILE NUMBER 8B-24-,258
D.P. 300' RIGHT-OF-WAY



INTRACOASTAL WATERWAY

EAST TOE OF THE COE 125' NAVIGATION CHANNEL CUT PB-75

POINT A
NW CORNER OF PROPOSED BOAT LIFT
X: 960,765.91' Y: 752,157.10'
N26° 23' 59.806" W80° 04' 10.085"

POINT B
SW CORNER OF PROPOSED BOAT LIFT
X: 960,763.39' Y: 752,151.65'
N26° 23' 59.753" W80° 04' 10.113"

NOTE: WATER DEPTH EXCEED -4' MLW
ALONG AND ADJACENT TO THE EXISTING
SEAWALL AND DOCK.

EXST. SEAWALL AND CAP TO REMAIN (TYP)

POINT B

POINT A

PROPOSED 4,000lb BOAT LIFT

FND DRILL HOLE

FND DRILL HOLE

EXST. CONCRETE DOCK TO REMAIN (TYP)

PROPERTY LINE (TYP)

LOT 18

4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL
IMPROVEMENTS NOT SHOWN

LOT 20

LOT 19
BLOCK 4

FND 5/8" IR @ PC
NO ID

N24°53'36"E
70.00'

BASIS OF BEARING: EASTERLY LINE OF BLOCK 4
ASSUMED BEARING OF N24°53'36"E

FND 5/8" IR
NO ID

N24°53'36"E 95.00'

FND 5/8" IR
NO ID

CENTERLINE
INTRACOASTAL DRIVE (P)
50' RIGHT OF WAY (P)

PREPARED BY:
TERRAQUATIC, INC
1220 TANGELO TERR, UNIT A12
DELRAY BEACH, FL 33444
TELEPHONE: (561) 806-6085
CERTIFICATE OF AUTHORIZATION NO. 7324

SITE OWNER / ADDRESS
KIM & MARK KABBES
4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL 33487

TERRAQUATIC
SURVEYING AND MAPPING

DRAWING: KABBES BNDY.dwg

DRAWN BY: BL

SCALE: 1" = 20'

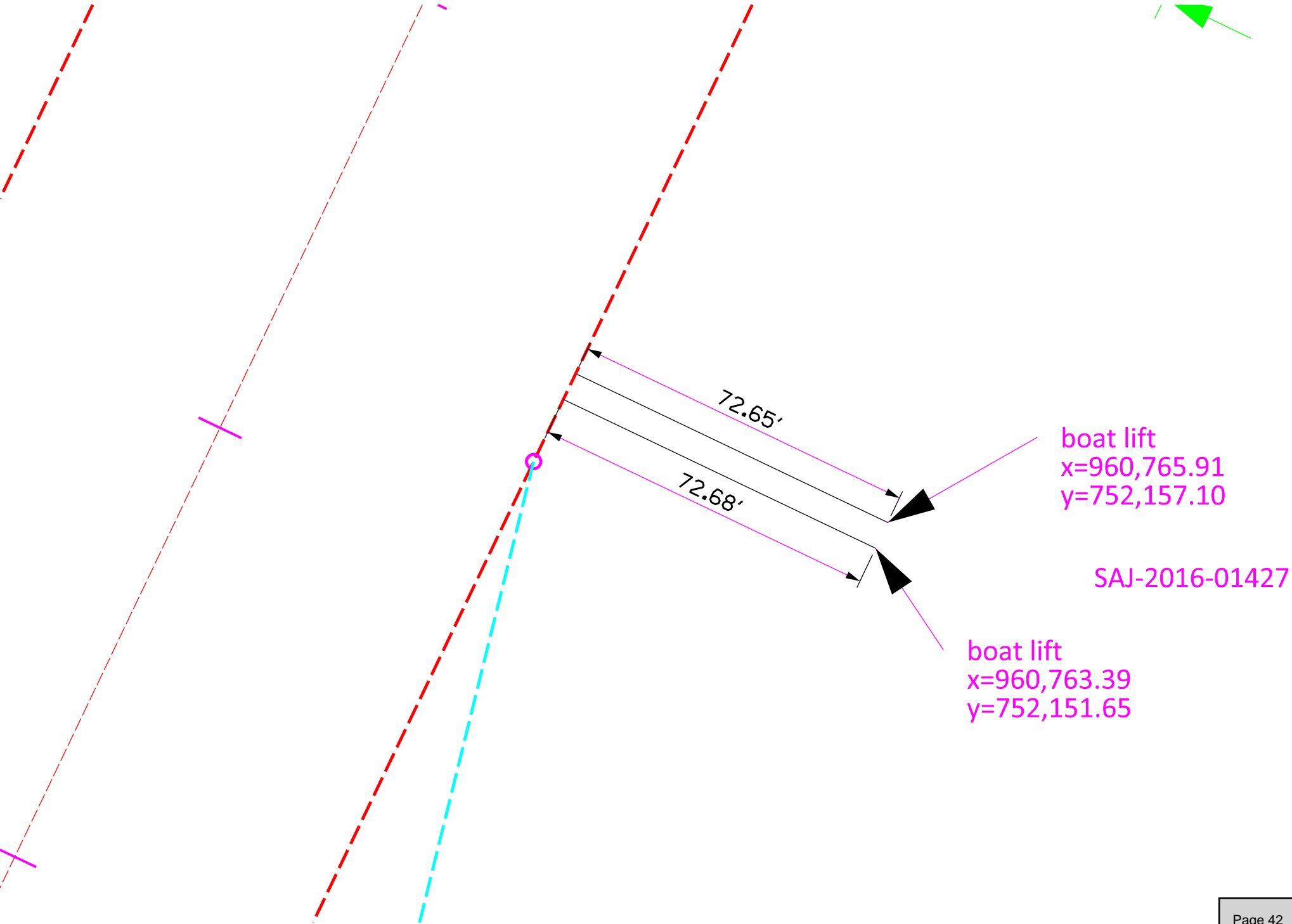
DATE: 2/7/20

JOB No.: 19-914

CHECKED BY: KC

REV:

SHEET 2 OF 2



ATTACHMENT 2: SAJ-2016-01427

COMMENCEMENT NOTIFICATION

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

1. **Department of the Army Permit Number:** SAJ-2016-01427(GP-JKA)

2. **Permittee Information:**

Name: _____

Email: _____

Address: _____

Phone: _____

3. **Construction Start Date:** _____

4. **Contact to Schedule Inspection:**

Name: _____

Email: _____

Phone: _____

Signature of Permittee

Printed Name of Permittee

Date

AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

*Within sixty (60) days of completion of the authorized work, submit this form and one set of as-built engineering drawings via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, but not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-3697.*

1. Department of the Army Permit Number: SAJ-2016-01427(GP-JKA)

2. Permittee Information:

Name: _____

Address: _____

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

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

Signature of Engineer

Name (*Please type*)

(FL, PR, or VI) Reg. Number

Company Name

City

State

ZIP

(Affix Seal)

Date

Telephone Number

Date Work Started:_____ Date Work Completed:_____

Identify any deviations from the approved permit drawings and/or special conditions (attach additional pages if necessary):

Prepared by:

Permittee: _____

Address: _____

Phone: _____

NOTICE OF DEPARTMENT OF THE ARMY PERMIT

TAKE NOTICE the United States Army Corps of Engineers (Corps) has issued a permit or verification SAJ-2016-01427 to Mark Kabbes (Permittee) on February 20, 2020, authorizing work in navigable waters of the United States in accordance with Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403) on a parcel of land known as Folio/Parcel ID: 24-43-47-04-02-004-0190, located at 4304 Intracoastal Drive, Section 4, Township, 47 South, Range 43 East, Highland Beach, Palm Beach County, Florida.

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

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

To obtain a copy of the authorization in its entirety submit a written request to:

U.S. Army Corps of Engineers
Regulatory Division - Special Projects & Enforcement Branch
Post Office Box 4970
Jacksonville, Florida 32232-0019

Questions regarding compliance with these conditions should be directed to:

U.S. Army Corps of Engineers
Enforcement Section
Post Office Box 4970
Jacksonville, Florida 32232-0019

Conflict Between Notice and Permit

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

This Notice is Not an Encumbrance

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

Release

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

This Notice of Authorization is executed on this _____ day of _____, _____. This document is being submitted for recordation in the Public Records of Palm Beach County, Florida as part of the requirement imposed by the authorization SAJ-2016-01427 issued by Corps.

Permittee:

Address:

Phone: _____

STATE OF FLORIDA
COUNTY OF _____

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

Notary Public

(seal)

Print

My Commission Expires _____

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK
2011

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

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

CAUTION: MANATEE HABITAT

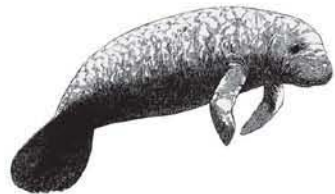
All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work
all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:



Wildlife Alert:

1-888-404-FWCC(3922)

cell *FWC or #FWC

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

November 20, 2017

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

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

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

b) *All Vessels:*

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

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

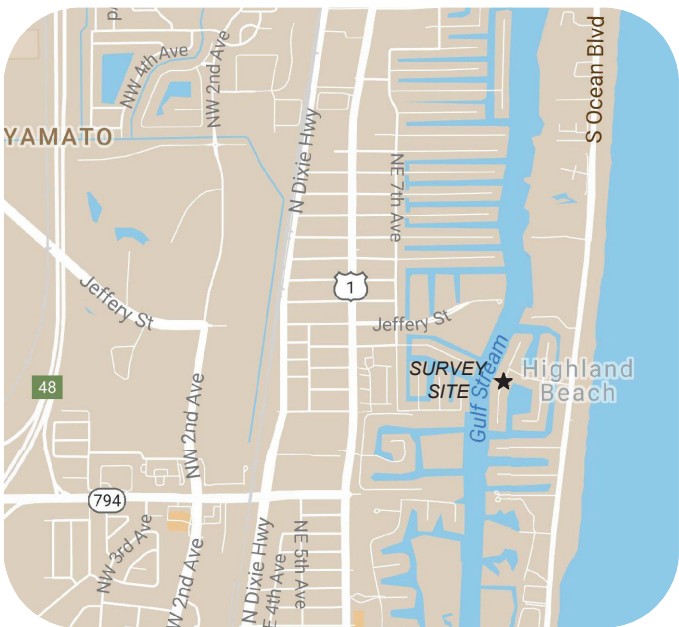
- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within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

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

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

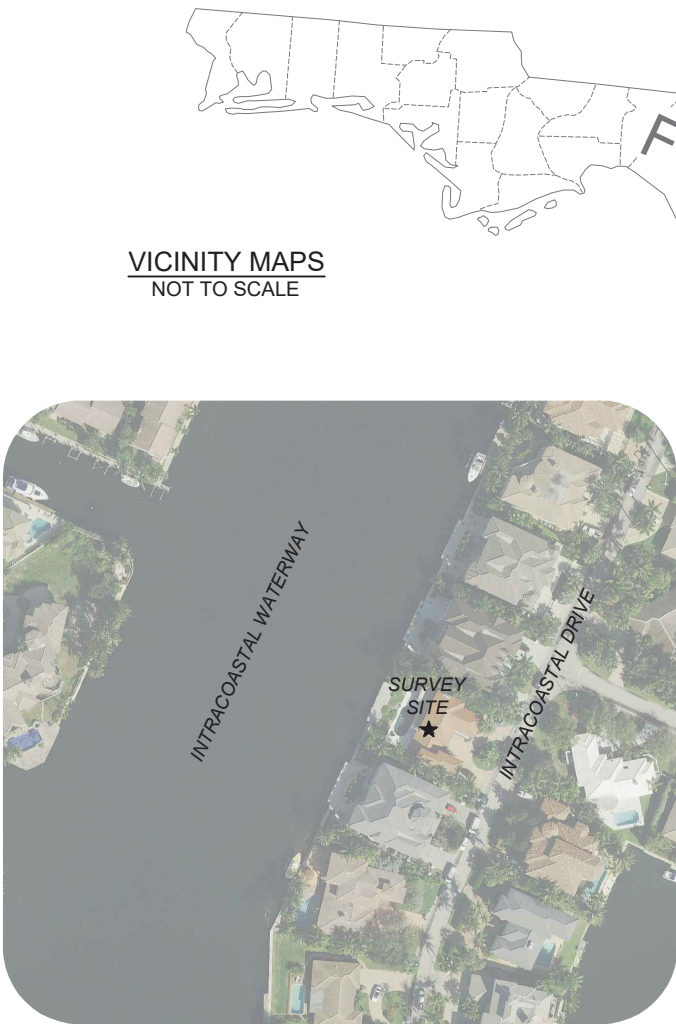
BOUNDARY SURVEY

LOT 19 BLOCK 4 of "BEL LIDO"
PLAT BOOK 25, PAGE 97
SECTION 4, TOWNSHIP 47 SOUTH, RANGE 43 EAST,
PALM BEACH COUNTY, FLORIDA



ABBREVIATIONS:

BCR	BROWARD COUNTY RECORDS
FND	FOUND
EXST	EXISTING
IRC	IRON ROD & CAP
(M)	MEASURED
NL/D	NAIL & DISK
(P)	PLAT
PB	PLAT BOOK
PG	PAGE
TYP	TYPICAL

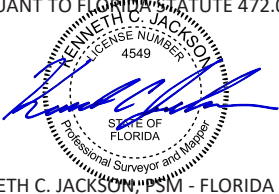


SURVEY NOTES:

- THIS IS A BOUNDARY SURVEY AS DEFINED IN THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE.
- THIS SURVEY IS CERTIFIED TO KIM & MARK KABBES.
- THIS SURVEY IS INTENDED EXCLUSIVELY FOR THE USE BY THOSE TO WHOM IT IS CERTIFIED. IT IS NOT TO BE USED BY OTHERS FOR CONSTRUCTION, PERMITTING, DESIGN OR ANY OTHER USE WITHOUT THE WRITTEN CONSENT OF TERRAQUATIC, INC.
- THIS SURVEY, AND ANY REPRODUCTION THEREOF, IS NOT VALID WITHOUT AN ORIGINAL OR VERIFIED DIGITAL SIGNATURE AND SEAL OF A FLORIDA REGISTERED SURVEYOR. ADDITIONALLY, THIS SURVEY IS NOT VALID IF PRINTED BEARING A DIGITAL SIGNATURE AND SEAL.
- OTHER THAN THOSE SHOWN ON THE REFERENCED PLAT, NO SEARCH OF THE PUBLIC RECORDS WAS PERFORMED FOR EASEMENTS, ENCUMBRANCES OR OTHER INSTRUMENTS OF RECORD WHICH MAY AFFECT THIS PARCEL OF LAND.
- THIS MAP IS INTENDED TO BE DISPLAYED AT A SCALE OF 1 INCH = 20 FEET OR SMALLER.
- UNDERGROUND UTILITIES WERE NOT LOCATED AS PART OF THIS SURVEY.
- BEARING AND DISTANCES SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICA DATUM OF 1983, FLORIDA STATE PLANE, ZONE 901, TRANSVERSE MERCATOR PROJECTION IN THE U.S. SURVEY FOOT UNIT OF MEASUREMENT.
- BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF N24°53'36"E ALONG EAST LINE OF BLOCK 4.
- UNLESS OTHERWISE NOTED, FIELD BEARINGS AND DISTANCES ARE CONSISTENT WITH THE RECORD PLAT.

CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED BOUNDARY SURVEY OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS SURVEYED UNDER MY DIRECTION ON 11/26/19. I FURTHER CERTIFY THAT THIS BOUNDARY SURVEY MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17 ADOPTED BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTE 472.027.



Digitally signed by Kenneth
C. Jackson, PSM 4549
Date: 2019.11.27 16:09:59
-05'00'

KENNETH C. JACKSON, PSM - FLORIDA REGISTRATION NUMBER 4549

PREPARED BY:
TERRAQUATIC, INC
1220 TANGELO TERR, UNIT A12
DELRAY BEACH, FL 33444
TELEPHONE: (561) 806-6085
CERTIFICATE OF AUTHORIZATION NO. 7324

SITE OWNER / ADDRESS
KIM & MARK KABBES
4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL 33487



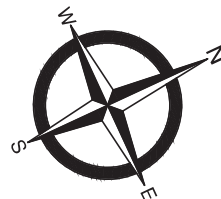
DRAWING: KABBES BNDY.dwg			DRAWN BY: BL
SCALE: N/A	DATE: 11/27/19	JOB No.: 19-914	CHECKED BY: KCJ
REV:			SHEET 1 OF 2

CENTERLINE OF THE COE 125'
NAVIGATION CHANNEL CUT PB-75

JACKSONVILLE TO MIAMI HARBOR
10 FOOT PROJECT CONTROL DATA
D.O. FILE NUMBER 8B-24-,258
D.P. 300' RIGHT-OF-WAY

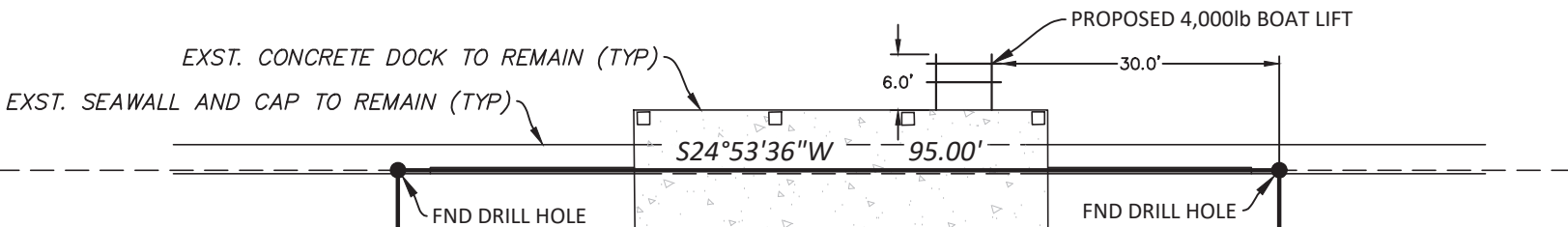
INTRACOASTAL WATERWAY

EAST TOE OF THE COE 125' NAVIGATION CHANNEL CUT PB-75



HORIZONTAL SCALE: 1" = 20'

62.5'

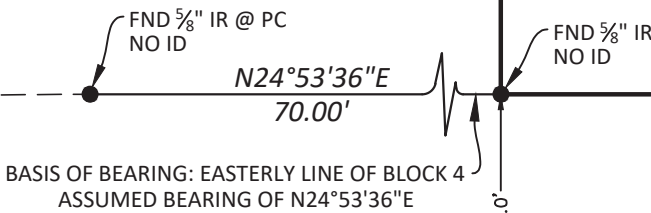


LOT 18

4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL
IMPROVEMENTS NOT SHOWN

LOT 20

LOT 19
BLOCK 4



CENTERLINE
INTRACOASTAL DRIVE (P)
50' RIGHT OF WAY (P)

PREPARED BY:
TERRAQUATIC, INC

1220 TANGELO TERR, UNIT A12
DELRAY BEACH, FL 33444

TELEPHONE: (561) 806-6085

CERTIFICATE OF AUTHORIZATION NO. 7324

SITE OWNER / ADDRESS
KIM & MARK KABBES

4304 INTRACOASTAL DRIVE
HIGHLAND BEACH, FL 33487

TERRAQUATIC
SURVEYING AND MAPPING

DRAWING: KABBES BNDY.dwg

SCALE: 1" = 20'

DATE: 11/27/19

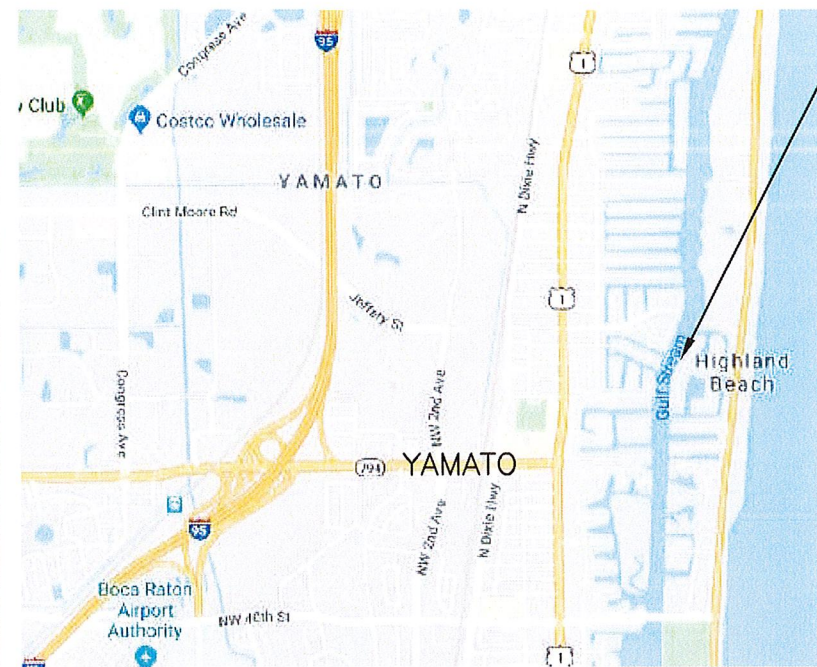
JOB No.: 19-914

REV:

DRAWN BY: BL

CHECKED BY: KCJ

SHEET 2 OF 2



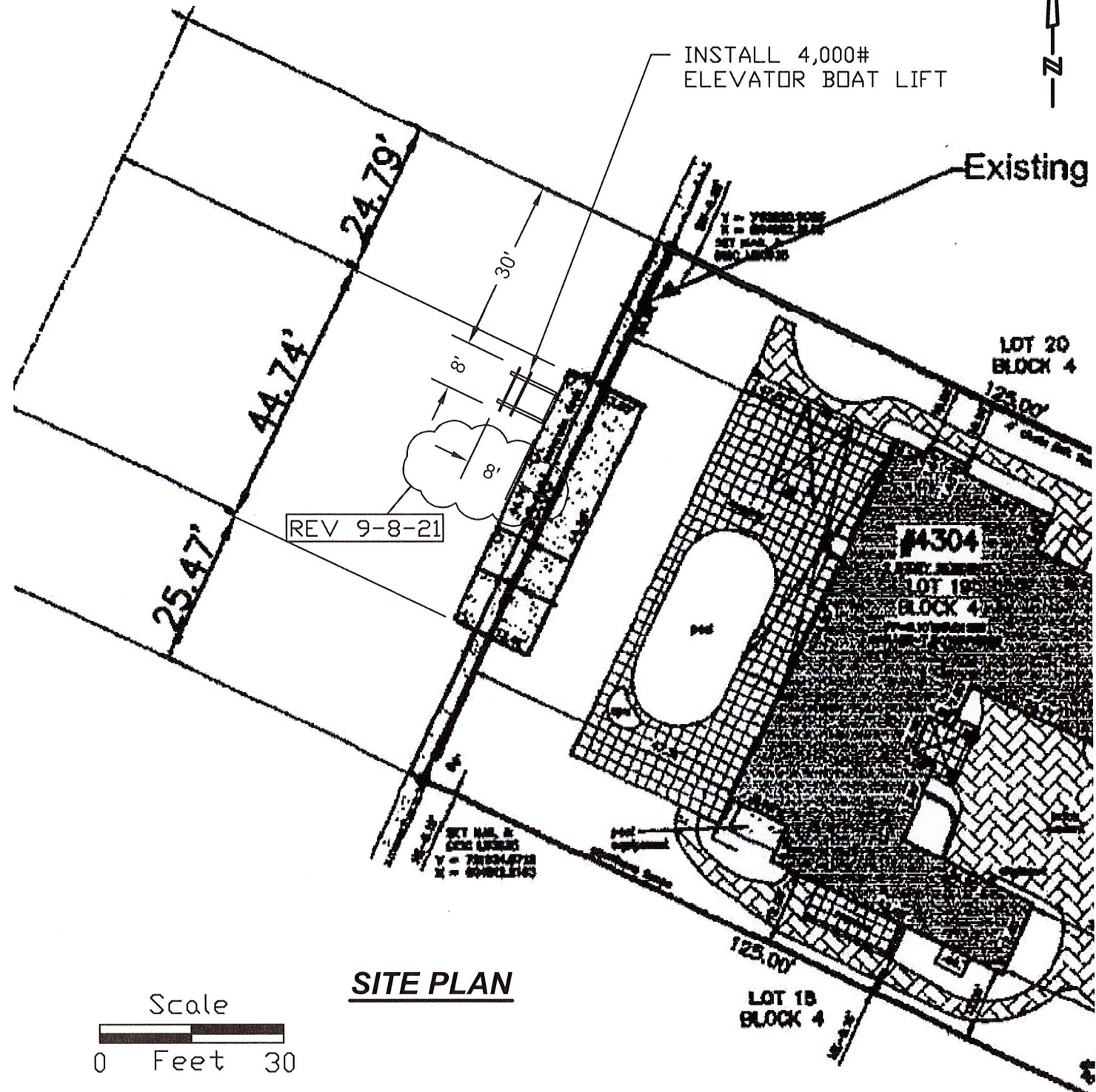
LOCATION MAP



AERIAL

PROJECT LOCATION

PROJECT SCOPE:
1. INSTALL BOAT LIFT



SITE PLAN

Scale
0 Feet 30

RECEIVED
MAR 25 2022
HIGHLAND BEACH
BUILDING DEPARTMENT

MCR PROFESSIONAL ENGINEERING, INC.
NO. 52575
OF: (561)863-3393
CERTIFICATE OF AUTHORIZATION # 26967
STATE OF FLORIDA
MICHAEL BABER, FL PE# 52575

<u>BOAT LIFT</u>		DATE	REVISIONS	SHEET 1 OF 3
KABBES RESIDENCE 4304 INTRACOASTAL DRIVE HIGHLAND BEACH, FL		10/29/19 9/8/21	INITIAL DRAWINGS COMPLETED PER CLIENT	
FIVEDM MARINE CONSTRUCTION 2950 NW COMMERCE PK DRIVE, UNIT 4 BOYNTON BEACH, FL 33426				

REV 2-9-22

6'-8"

MAXIMUM HEIGHT
OF BOAT KEEL

4000# LIFT

LIFT BEAM

MHW

MLW

REV 9-8-21

MULTIPLE REVISIONS

8'

6'-10"

4'

NEW BOAT LIFT
RAIL PILES

EXISTING
PILASTERS

REV 2-9-22

EXISTING CONC
DOCK

5.8 NAVD

4.25 NAVD

3.0 NAVD

REV 2-9-22

SECTION AA

3/8" = 1'-0"

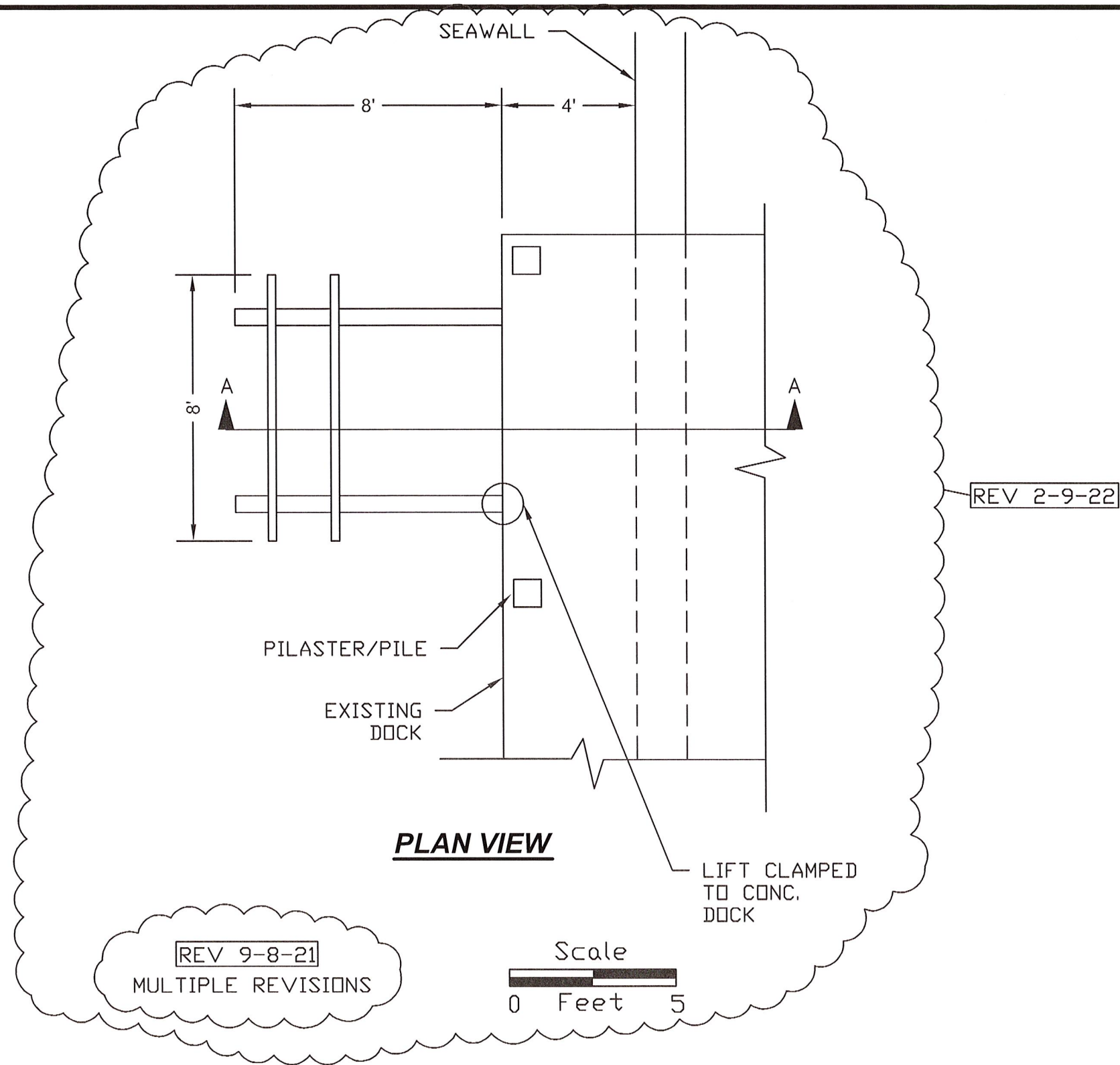
REV 2-9-22



**MCR PROFESSIONAL
ENGINEERING, INC.**
NO. 52575
OF: (561)863-3393
CERTIFICATE OF AUTHORIZATION # 26967
STATE OF
FLORIDA
MICHAEL BABER, FL PE# 52575

<u>BOAT LIFT</u>		DATE	REVISIONS	SHEET 2 OF 3
KABBES RESIDENCE 4304 INTRACOASTAL DRIVE HIGHLAND BEACH, FL		10/29/19	INITIAL DRAWINGS COMPLETED	
FIVEDM MARINE CONSTRUCTION 2950 NW COMMERCE PK DRIVE, UNIT 4 BOYNTON BEACH, FL 33426		9/8/21	PER CLIENT	
		2/9/22	CITY INSPECTOR COMMENTS	

RECEIVED
MAR 25 2022
HIGHLAND BEACH
BUILDING DEPARTMENT



MCR PROFESSIONAL ENGINEERING, INC.
NO. 52575
OF: (561)863-3393
CERTIFICATE OF AUTHORIZATION # 26967
STATE OF FLORIDA
MICHAEL BABER, FL PE# 52575

<u>BOAT LIFT</u>		DATE	REVISIONS	SHEET 3 OF 3
KABBES RESIDENCE 4304 INTRACOASTAL DRIVE HIGHLAND BEACH, FL		10/29/19	INITIAL DRAWINGS COMPLETED	
FIVEDM MARINE CONSTRUCTION 2950 NW COMMERCE PK DRIVE, UNIT 4 BOYNTON BEACH, FL 33426		9/8/21	PER CLIENT	
		2/9/22	CITY INSPECTOR COMMENTS	

**Town of Highland Beach
Town Commission Development Order (PB)
Application No. 20-0015**



Applicant: 4304 Intracoastal Dr. (Mark Kabbes and Kim Nilson-Kabbes)
Property Address: 4304 Intracoastal Drive
Highland Beach, Florida 33487

CERTIFICATE OF MAILING AFFIDAVIT

I hereby certify that the Town Clerk's Office mailed a copy of the Notice of Public Hearing (Exhibit A) for Application No. 20-0015 for the property located at 4304 Intracoastal Drive, Highland Beach, Florida 33487, by U.S. first-class and international mail to:

All property owners and to properties owned by a condominium association president and the association's registered agent within 500 feet of the property located at 4304 Intracoastal Drive, Highland Beach, Florida 33487.

The mailings consisted of 201 notices that were sent first class mail and 18 notice that was sent by International Mail.

This 28th day of April 2022.

Highland Beach Town Clerk's Office

Ganelle Thompson
Administrative Support Specialist



PUBLIC NOTICE APPLICATION NO. 20-0015

April 12, 2022

Dear Property Owner:

This is to notify you that the **PLANNING BOARD** of the Town of Highland Beach will conduct a public hearing on **Thursday, May 12, 2022, at 9:30 AM** in the Commission Chambers at Town Hall, 3614 South Ocean Boulevard, Highland Beach, Florida to consider the following application.

APPLICATION BY MARK AND KIM KABBES FOR A SPECIAL EXCEPTION APPROVAL TO INSTALL A 4,000-POUND CAPACITY BOAT LIFT FOR A PROPERTY LOCATED AT 4304 INTRACOASTAL DRIVE.

The application is available for inspection in the Town Clerk's Office at Town Hall, Monday through Friday during normal business hours of 8:30 a.m. to 4:30 p.m.

Public participation will be in the forms of in-person, Zoom, or telephone calls. Persons desiring to participate in the meeting must preregister by contacting the Town Clerk's Office at the email address; publiccomments@highlandbeach.us or by submitting a public comment to the Town of Highland Beach's Agendas and Meetings webpage <https://mmportal6.teamunicode.com/>. At the top of the webpage, click on "Public Comments" complete the electronic form and click submit. The submitted comment will be read into the record during the corresponding portion of the meeting. All requests will be accepted up until 9:30 A.M. on Wednesday, May 11, 2022.

Any person that decides to appeal any decision made by the Planning Board with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is based. The Town of Highland Beach does not provide such a record.

In accordance with the Americans with Disabilities Act, persons who need special accommodation to attend or participate in this meeting should contact the Town Clerk's Office at (561) 278-4548 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771.

For additional information, please contact the Town Planner at (561) 278-4540.

TOWN OF HIGHLAND BEACH, BUILDING DEPARTMENT

SUN-SENTINEL

Sold To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach, FL 33487

Bill To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach, FL 33487

Published Daily

Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

State Of Florida
County Of Orange

Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized representative of the SUN- SENTINEL,
a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the
attached copy of advertisement, being a Legal Notice in:

The matter of 11745-Other Legal Notices ,
Was published in said newspaper by print in the issues of, or by publication on the
newspaper's website, if authorized on May 04, 2022

Affiant further says that the newspaper complies with all legal requirements for
publication in Chapter 50, Florida Statutes.

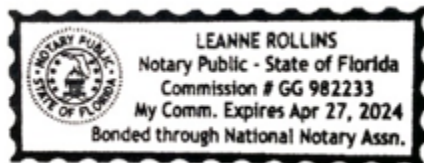


Signature of Affiant

Sworn to and subscribed before me this: May 05, 2022.



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

Affidavit Delivery Method: E-Mail

Affidavit Email Address: gthompson@highlandbeach.us
7203652

**TOWN OF HIGHLAND BEACH
NOTICE OF PUBLIC HEARING**

YOU ARE HEREBY NOTIFIED that the Planning Board of the Town of Highland Beach will conduct a Public Hearing on Thursday, May 12, 2022, at 9:30 AM in the Commission Chambers at Town Hall, 3614 South Ocean Boulevard, Highland Beach, Florida to consider the following:

APPLICATION No. 20-0015 BY MARK AND KIM KABBES FOR A SPECIAL EXCEPTION APPROVAL TO INSTALL A 4,000-POUND CAPACITY BOAT LIFT FOR A PROPERTY LOCATED AT 4304 INTRACOASTAL DRIVE.

APPLICANT: MARK KABBES

The application is available for inspection in the Town Clerk's Office at Town Hall, Monday through Friday during normal business hours of 8:30 a.m. to 4:30 p.m.

Public participation will be in the forms of in-person, Zoom, or telephone calls. Persons desiring to participate in the meeting must preregister by contacting the Town Clerk's Office at the email address publiccomments@highlandbeach.us or by submitting a public comment to the Town of Highland Beach's Agendas and Meetings webpage <https://mmportal6.teamunicode.com/>. At the top of the webpage, click on "Public Comments" complete the electronic form and click submit. The submitted comment will be read into the record during the corresponding portion of the meeting. All requests will be accepted up until 9:30 A.M. on Wednesday, May 11, 2022.

Any person that decides to appeal any decision made by the Planning Board with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is based. The Town of Highland Beach does not provide such a record.

In accordance with the Americans with Disabilities Act, persons who need special accommodation to attend or participate in this meeting should contact the Town Clerk's Office at (561) 278-4548 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771. For additional information, please contact the Town Planner at (561) 278-4540.
TOWN OF HIGHLAND BEACH, BUILDING
DEPARTMENT
5/4/20227203652

File Attachments for Item:

B. Proposed Ordinance / New Property Right Element

An Ordinance of the Town Commission of the Town of Highland Beach, Florida amending the Town's Comprehensive Plan by adding a New Property Right Element; providing for severability; providing for conflicts; and providing for an effective date.



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Planning Board Meeting

MEETING DATE May 12, 2022

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING THE TOWN'S COMPREHENSIVE PLAN BY ADDING A NEW PROPERTY RIGHTS ELEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

SUMMARY:

House Bill 59 which became effective on July 1, 2021 updated Section 163.3177(6), Florida Statutes (F.S.) by requiring each local government to adopt a Property Rights Element into its Comprehensive Plan. Pursuant to Section 163.3177(6)(i), F.S., this new element must be adopted "by the earlier of the date of its adoption" of its next proposed Comprehensive Plan amendment that is initiated after July 1, 2021 or the date of the next scheduled evaluation and appraisal of the Comprehensive Plan (*Note that the next scheduled evaluation and appraisal of the Town Comprehensive Plan is January 1, 2025*).

On January 18, 2022, the Town Commission adopted a small-scale amendment to the Comprehensive Plan in order to correct a scrivener's error pertaining to the Future Land Use designation of a 0.8315 acre parcel located in the Boca Cove development. The latter parcel was not designated with the Multi Family Low Density Future Land Use classification which corresponds to all other parcels within the Boca Cove development. Upon transmitting a copy of the adopted small-scale amendment to the State Land Planning Agency (Department of Economic Opportunity), staff received an acknowledgement letter from Department indicating that their records did not reflect that the Town adopted a Property Rights Element and therefore the Town should consult with legal staff to determine if the adopted amendment should be rescinded and readopted after the Property Rights Element is adopted. Staff advised the Department that given the small-scale amendment was to correct a scrivener's error, the consideration of a Property Rights Element was not triggered as a result of this amendment. The Department restated their position, as noted above, and the Town Attorney has indicated that the small-scale amendment to correct a scrivener's error can be re-adopted after the Town adoption of the Property Rights Element.

The following proposed goals, objectives, and policies of the Property Rights Element are based on the model element authored by the 1000 Friends of Florida (dated July 20, 2021) as well as the requirements of Section 163.3177(6)(i)1, F.S.:

Goal 1

The Town will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

Objective 1.1 The Town will respect judicially acknowledged and constitutionally protected private property rights.

Policy 1.1.1. The Town will consider the following rights in its decision making.

- 1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.*
- 2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.*
- 3. The right of property owner to privacy and to exclude others from the property to protect the owner's possessions and property.*
- 4. The right of a property owner to dispose of his or her property through sale or gift.*

Pursuant to Section 30-31 (Table 30-1) of the Town Code, amendments to the Comprehensive Plan require advisory review by the Planning Board.

FISCAL IMPACT:

NA

ATTACHMENTS:

Ordinance

RECOMMENDATION:

Recommend approval of Ordinance to the Town Commission.

ORDINANCE NO.

**AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH,
FLORIDA, AMENDING THE TOWN'S COMPREHENSIVE
PLAN BY ADDING A NEW PROPERTY RIGHTS ELEMENT;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, House Bill 59, effective July 1, 2021, updated Section 163.3177(6)(i)1, Florida Statutes, to require each local government to include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decision-making; and

WHEREAS, the Town Commission of the Town of Highland Beach desires to amend its Comprehensive Plan in order to add such property rights element consistent with Section 163.3177(6)(i)1, Florida Statutes; and

WHEREAS, on May 12, 2022 the Planning Board, sitting as the Local Planning Agency, conducted a public hearing to review the proposed amendment to the Town's Comprehensive Plan and providing a recommendation to the Town Commission; and

WHEREAS, having conducted all of the duly advertised public hearings required by Chapter 163, Florida Statutes, the Town Commission wishes to amend its Comprehensive Plan and determines that the adoption of this Ordinance is in the interests of the health, safety and welfare of the residents of the Town of Highland Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA that:

SECTION 1. The Comprehensive Plan is hereby amended to create a "Property Rights Element," which shall read as follows:

Goal 1

The Town will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

Objective 1.1 The Town will respect judicially acknowledged and constitutionally protected private property rights.

Policy 1.1.1. The Town will consider the following rights in its decision making.

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

3. The right of property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

4. The right of a property owner to dispose of his or her property through sale or gift.

SECTION 2. The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated.

SECTION 3. In accordance with Section 163.3184(3), Florida Statutes, Town staff is hereby directed to transmit the Comprehensive Plan amendment documents to the Department of Economic Opportunity and other agencies within ten (10) working days after the initial public hearing.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 6. This Ordinance shall become effective thirty-one (31) days after the Department of Economic Opportunity notifies the Town that the Comprehensive Plan amendment package is complete or, if timely challenged, this Ordinance shall become effective upon entry of a final order by the Department of Economic Opportunity or the Administration Commission determining the adopted amendment to be in compliance.

The forgoing Ordinance, on first reading, was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Douglas Hillman	_____
Vice Mayor Natasha Moore	_____
Commissioner Peggy Gossett-Seidman	_____
Commissioner Evalyn David	_____
Commissioner John Shoemaker	_____

_____ on first reading at the Regular Commission meeting held on the ____ day of _____, 2022.

The forgoing Ordinance, on second reading, was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Douglas Hillman _____
Vice Mayor Natasha Moore _____
Commissioner Peggy Gossett-Seidman _____
Commissioner Evalyn David _____
Commissioner John Shoemaker _____

_____ on second and final reading at the Regular Commission meeting held on the ____ day
of _____, 2022.

ATTEST:

Douglas Hillman, Mayor

REVIEWED FOR LEGAL SUFFICIENCY

Lanelda Gaskins, MMC
Town Clerk

Glen Torcivia, Town Attorney
Town of Highland Beach

SUN-SENTINEL

Sold To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach, FL 33487

Bill To:

Town of Highland Beach - CU00398185
3614 So. Ocean Blvd.
Highland Beach, FL 33487

Published Daily

Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

State Of Florida

County Of Orange

Before the undersigned authority personally appeared
Rose Williams, who on oath says that he or she is a duly authorized representative of the SUN- SENTINEL,
a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the
attached copy of advertisement, being a Legal Notice in:

The matter of 11745-Other Legal Notices ,
Was published in said newspaper by print in the issues of, or by publication on the
newspaper's website, if authorized on May 02, 2022

Affiant further says that the newspaper complies with all legal requirements for
publication in Chapter 50, Florida Statutes.

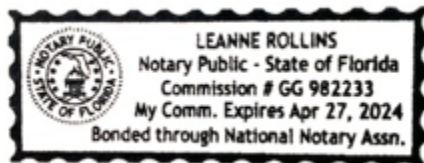


Signature of Affiant

Sworn to and subscribed before me this: May 03, 2022.



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

Affidavit Delivery Method: E-Mail

Affidavit Email Address: lgaskins@highlandbeach.us
7202229

NOTICE OF PUBLIC HEARING

YOU ARE HEREBY NOTIFIED that the Planning Board of the Town of Highland Beach will conduct a Public Hearing on Thursday, May 12, 2022 at 9:30 AM in the Commission Chambers at Town Hall, 3614 South Ocean Boulevard, Highland Beach, Florida to consider the following:

AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING THE TOWN'S COMPREHENSIVE PLAN BY ADDING A NEW PROPERTY RIGHTS ELEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

A copy of the ordinance will be available for inspection in the Town Clerk's Office, Monday through Friday, during normal business hours 8:30 A.M. to 4:30 P.M. and on the Town's webpage at <https://mmportal6.teamunicode.com/> no later than Friday, May 06, 2022.

Public participation will be in the forms of in-person, Zoom or telephone call. Persons desiring to participate in the meeting must preregister by contacting Town Clerk Lanelda Gaskins at email address publiccomments@highlandbeach.us or by submitting public comment to the Town of Highland Beach's Agendas and Meetings webpage <https://mmportal6.teamunicode.com/>. At the top of the webpage, click on "Public Comments" complete the electronic form and click submit. The submitted comment will be read into record during the corresponding portion of the meeting. All requests will be accepted up until 9:30 A.M. on Wednesday, May 11, 2022.

Any person that decides to appeal any decision made by the Town Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is based. The Town of Highland Beach does not provide such a record. In accordance with the Americans with Disabilities Act, persons who need special accommodation to attend or participate in this meeting should contact the Town Clerk's Office at (561) 278-4548 at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 1-800-955-8770 or 1-800-955-8771. For additional information, please contact the Town Planner at (561) 278-4540.

TOWN OF HIGHLAND BEACH, BUILDING
DEPARTMENT

5/2/20227202229

Additional Information for item 9B

Property Rights Element

Goal 1

The Town will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

Objective 1.1

The Town will respect judicially acknowledged and constitutionally protected private property rights.

Policy 1.1.1.

The Town will consider the following rights in its decision making.

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

File Attachments for Item:

C. Town Commission direction on the Planning Board review process for proposed amendments to the Accessory Marine Facility regulations of the Town Code.



TOWN OF HIGHLAND BEACH

AGENDA MEMORANDUM

MEETING TYPE: Planning Board Meeting

MEETING DATE May 12, 2022

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: Town Commission direction on the Planning Board review process for proposed amendments to the Accessory Marine Facility regulations of the Town Code

SUMMARY:

At the March 15, 2022 Town Commission meeting, the Commission considered an introduction to a proposed amendment to the Town Code of Ordinances regarding Accessory Marine Facilities (see Attachment No. 1). The Commission advised that they would like to establish a process for such item that would include public participation and review by the Planning Board. Subsequently, at the April 19, 2022 Town Commission meeting, a discussion item (No. 10D) was considered by the Commission regarding the formation of such process. The following direction was provided by the Commission (in bold):

- 1. Request that the Planning Board watch the April 19, 2022 Town Commission discussion on item number 10D**, as noted above (*Note that the Town Commission meetings can be viewed via the Town website. For assistance, please contact the Town Clerk*).
- 2. Have the Planning Board physically observe the various canal widths and existing accessory marine facilities including boat lifts located within the Town.** Given Sunshine Law restrictions, each Board member will need to make their site observations independently from other Board or Town Commission members. For those Board members who do not have access to a boat, staff will coordinate individual observation trips via the Police Department's Marine Patrol Unit. For any questions regarding Sunshine Law restrictions, please contact the Town Clerk.
- 3. Create maps of the various waterway widths (including canal and lakes).** Staff has prepared several maps of the various canals and lakes located within the Town to include approximate canal width and lot width measurements (Attachment No. 2).

The Town Commission further directed that once the site observations are completed by the Planning Board, staff is to send out notices to all waterfront property owners (west of State Road A1A) prior to a designated Planning Board meeting where the Board will discuss proposed amendment concepts including those provided to the Town Commission on March

15, 2022 (Planning Board meeting anticipated for either June 9th or July 14th and is subject to change).

FISCAL IMPACT:

N/A

ATTACHMENTS:

Attachment No. 1 – March 15, 2022 Town Commission meeting: Item No. 13A Introduction to a proposed amendment to the Town Code of Ordinances regarding Accessory Marine Facilities.

Attachment No. 2 – Maps: Canal/Lake widths

April 19, 2022 Town Commission Meeting, Marine Photos PowerPoint presented by Commissioner Peggy Gossett-Seidman

RECOMMENDATION:

NA

ATTACHMENT NO. 1



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission Meeting

MEETING DATE March 15, 2022

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: Introduction to a proposed amendment to the Town Code of Ordinances regarding Accessory Marine Facilities.

SUMMARY:

Former Vice-Mayor, Greg Babij, is sponsoring an amendment to the Accessory Marine Facilities regulations found in Section 30-68(g) and (h) of the Town Code. This proposed amendment is further detailed in Mr. Babij's attached draft report (Attachment No. 1). Staff has prepared the following table which compares each proposed change with any current Town Code regulation that may apply:

Proposed amendment	Current Town Code regulation
1. Maximum height for accessory marine facilities at Base Flood Elevation (BFE) plus 7 feet.	Town Code is silent on maximum height for accessory marine facilities; however, the definition of "boat lift" requires that in no case shall the lift be higher than the superstructure of the boat when lifted (Sec. 30-131).
2. Exempt personal watercraft (PWC) lifts (as defined in Sec. 30-131) from the requirement that "in no case shall the lift be higher than the superstructure of the boat when lifted" or remove requirement from Town Code. <i>Note that given the low profile of such PWCs, compliance is problematic unless a variance is sought by Applicant.</i>	Boat Lift is defined as "the bottom of the keel of any boat shall not be hoisted greater than one foot above the minimum seawall elevation. In no case shall the lift be higher than the superstructure of the boat when lifted." (Sec. 30-131). Personal Watercraft lift (PWL) includes a mechanical/electrical device for lifting jet skis, canoes, kayaks or other small watercraft out of the water. (Sec. 30-131).

Proposed amendment	Current Town Code regulation
3. Maximum seawall cap width of 3 feet and maximum 8 foot width for seawall cap plus dock, as measured from the property line.	In waterways not regulated by the U.S. Army Corps of Engineers, docks and mooring structures shall not extend into any waterway more than five (5) feet. In waterways regulated by the U.S. Army Corps of Engineers, docks and mooring structures may extend to that distance allowed by said agency (Sec. 30-68(g)a. and b.). <i>Note that USACE regulates Intracoastal Waterway, canals and lakes in Town.</i>
4. Encroachment into water is 25 ft or 25% of waterway width (measured from the shortest distance adjacent to property line) whichever is less.	See No. 3 above.
5. 10 foot side setback for all zoning districts. For lots less than 100 feet in width, setback is 10% of width; however, setback cannot be less than 5 ft.	Single-family zoning districts: 25 foot side setback. For lots with a width of 50 feet or more but less than 70 feet, 15 foot side setback. For lots with less than fifty feet abutting the water, the planning board may grant a special exception for the installation of a seawall mounted davit type lifting device (but not a dock structure) after being satisfied as to the protection of neighboring property and no infringement of standard navigation practices. Multi-family Zoning districts are exempt from side setback (Sec. 30-68(g)(6)d.)
6. Require a ladder for every 50 feet of dock.	Town Code is silent on ladders.

Note that at the September 10, 2020 Planning Board meeting, staff provided, at the request of the Planning Board Chair, a discussion item that included other municipal piling height limits. Given the proposed amendment to the Town Code includes a maximum height for accessory marine facilities, the Commission may find the discussion memorandum helpful in the review and consideration of this introduction item (Attachment No. 2). Staff has also prepared a table that lists recent Town boat lift requests and their corresponding piling height and extension into the waterway (Attachment No. 3). The table also compares the applicable extension requirements for both the Cities of Pompano Beach and Boca Raton.

The proposed amendment was reviewed by Applied Technology & Management, Inc. (ATM), a coastal and marine engineering consultant who has a Professional Services Agreement with the Town. A report was provided by Dr. Michael G. Jenkins, ATM's Coastal Engineering Principal (Attachment No. 4). Dr. Jenkins indicates under item No. 1 of his report, that the Town's requirement that all accessory marine facilities receive Planning Board approval (Sec. 30-68(g)) is not a common requirement and that Board approval is typically reserved for sites with special and unique circumstances. Note that Section 30-46 of the Town Code currently requires public notice for Planning Board hearings. Although not included in Mr. Babij's

proposed amendment, the Town Commission should be mindful that if Commission consideration is given to reserving Planning Board approval only for those sites with special and unique circumstances, public notice provisions and public comment would only then apply to such special and unique sites. Those accessory marine facility requests that are not special and unique sites would be administratively approved by staff so long as they are consistent with Town Code regulations.

For reference purposes, attached are the current regulations applicable to accessory marine facilities found in Section 30-68 (g) and (h) of the Town Code (Attachment No. 5).

FISCAL IMPACT:

N/A

ATTACHMENTS:

Attachment No. 1 – Draft report from Greg Babij

Attachment No. 2 - Planning Board discussion memorandum – September 10, 2020

Attachment No. 3 - Recent Town boat lift requests table

Attachment No. 4 - ATM report

Attachment No. 5 - Section 30-68 (g) and (h) Town Code of Ordinances

Ordinance Process flowchart

RECOMMENDATION:

At the discretion of the Commission.

ATTACHMENT NO. 1

DRAFT Proposed Revisions to Marine Accessory Ordinances

Abstract:

The existing marine accessory ordinances lack some detail and it is recommended they are enhanced to provide clarity on topics that have been a source of ambiguity and contention. Items like maximum allowable height of marine accessories, ambiguity around jetski lifts vs. boat lifts, and the process of dealing with marine accessories in where there is a discontinuity in the waterway (i.e corner lots, end of canals) have all been points of contention between residents and the Building Department, due to lack of detail.

Additionally, this is an opportune time to consider revising certain other components of the current ordinances to address anticipated future conflicts or in some cases better conform with code used by surrounding towns.

While reviewing the recommended changes, it may be beneficial to envision the concept of a 3-dimensional box that sits on the rear property line of any waterfront lot. Marine accessories must completely fit within the box to be permissible. Otherwise, they would be required to go through the process of obtaining a variance.

Summary of Recommendations

1) Define a Maximum Allowable Height of Marine Accessories:

Recommended Maximum Height: Base Flood Elevation plus 7 feet.

There have been multiple debates around what is an acceptable height of boat lifts. The current codes only state that a boat lift shall not be higher than the superstructure of the boat when lifted, but is silent on how high up in the air the combined boat lift and boat can be. This leaves open the potential for installing boatlifts on top of excessively high pilings, as long as the boat lift is fully retracted so the boat will be higher than the lift itself.

It is recommended that the “height” of the 3 dimensional box behind any waterfront property be Base Flood Elevation plus 7 feet. Referencing Base Flood Elevation allows the ordinance to be dynamic with sea level rise, as it is a reference datum that has been occasionally revised higher by the US Government in conjunction with the sea level. Pilings, and also the boat lift components must not be higher than this recommended maximum allowable height.

2) Amend existing language related to Jetski (Personal Watercraft) Lifts

The current codes are excessively onerous for jetski lifts, relative to boat lifts. As Section 30-131 is written, the bottom of the keel of any boat shall not be hoisted greater than one foot above the minimum seawall elevation, and in no case shall the lift be higher than the superstructure of the boat when lifted.

Because of the low vertical profile of a jetski (3 feet) relative to the vertical profile of a boat lift (7 feet), a boat lift can be installed to hold a boat, but the very same boat lift would not be permissible if it is used to instead lift a jetski.

It is recommended the current code be amended by either by removing the section that states *in no case shall the lift be higher than the superstructure of the boat when lifted*, or simply exempt jet skis (personal watercraft) from this code.

**3) Define a maximum width of a seawall cap and also a maximum width of a dock out into the water.
Recommended maximum new seawall cap width of 3 feet as measured from the property line
Recommended maximum dock plus seawall cap width of 8 feet as measured from the property line**

As properties are redeveloped and seawalls are replaced, there exists the potential for residents to look to “extend” their effective usable property out into the water by building a new seawall outside of the existing seawall. There is also the potential for properties to get extended by pouring excessively wide seawall caps on top of new seawalls and building excessively wide docks.

By limiting the maximum seawall cap width from the property line, and also the maximum distance the seawall cap plus dock can extend from the property line, the risk of one property owner effectively creating their own peninsula is minimized.

It is recommended that the waterside edge of any new seawall cap be limited to 3 feet from the property line, whether it is on top of a new wall, or is a cap raise on top of an existing wall.

Additionally, it is recommended that any new dock built is limited to a maximum distance of 8 feet out into the water as measured from the property line. This would allow for the outer edge of neighboring docks to all be limited to the same distance from the property line regardless of seawall cap size. For example, if a property has a 2 foot wide seawall cap, then that property would be allowed to have a 6 foot wide dock, and meet the maximum combined width of 8 feet. While if a neighboring property has a 3 foot wide seawall cap, they would be limited to a dock width of 5 feet.

Lastly it is recommended that language be added into the code to limit the installation of no more than 1 new seawall outside of the original property seawall that abuts the property line. This eliminates the risk that new seawalls are repeatedly installed on the waters edge side of existing seawalls, which would effectively create a man-made peninsula.

**4) Define a Maximum Distance that Marine Accessories can Extend into the Water
Recommended Maximum Distance: The lesser of 25 feet from the property line or 25% of the waterway width.**

This recommendation can be thought of as the perpendicular edge of the 3 dimensional box, as measured from the property line straight out into the water.

The town codes [Sec. 30-68(g)(6)a and b] simply defer to the Army Core of Engineers for approval of distance into water. It is recommended that the maximum distance be limited to the lesser of 25 feet or

25% of the width of the canal or waterway. Additionally, this distance will be measured from the shortest distance between the two properties in question.

This maximum distance of 25 feet is not an arbitrary value. It was chosen to allow residents to mix and match combinations of seawall cap widths, dock widths and boat lift widths of reasonable size without having to obtain a variance.

The chart below shows the various widths of boatlifts ranging from small boats to very large boats. For illustration, a typical 40 ft powerboat may weigh 30,000 to 40,000 lbs., and that lift is 16 ft wide (center to center) which is 17 ft wide when measured to the outsides of all pilings.

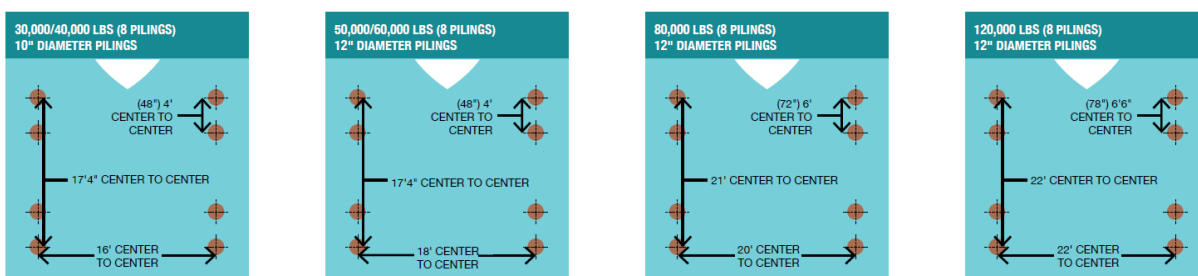
This very standard lift size could be installed at any home that has also conformed to the recommended seawall cap and dock widths, and stay at the 25 ft maximum distance:
3 ft seawall cap + 5 foot dock + 17 foot boatlift = 25 ft.

On the larger end of the spectrum, a 120,000 lb boatlift could hold about the largest size boat an owner would probably want to be able to lift behind a residential property. That boatlift is 22 ft wide center to center, which would be 23 feet wide to the outsides of the pilings. This “mega lift” could still fit in a back yard, but it would have to be right up against a seawall cap, as there is no room for a dock. Early seawall caps were 2 feet wide, and newer caps are 2.5 feet to 3 feet wide. Also note this lift could be installed at a property that has a 3 foot new cap, by notching out 1 foot where the inside pilings are installed. And again this is an extreme outlier example.

A much more typical boat lift for very large boats would be a 50,000 or 60,000 or even possibly an 80,000 lb. lift and the widths there easily stay within the maximum 25 foot threshold with a 3 foot wide seawall cap.

I am not sure Highland Beach has ever had a request to install an 80,000 or 120,000 lb. boatlift, as those are a very rare size.

Piling Setting Dimensions for Yacht Lifts



5) Amend Side setbacks to utilize a smoothed definition instead of the complicated step function definition. Additionally apply the new definition to all property types.

The current town codes utilize a step function where the side setbacks jump at discrete intervals. For example, if a single family zoned property is 71 feet wide, the side setbacks are 25 feet on each side. Comparatively, if a single family zoned property is 69 feet wide, the side setbacks are 15 feet on each

side. Additionally, there exists a different set of side setbacks for single family zoning vs multi-family zoning. Multi-family zoning has a zero foot setback.

It is recommended that the side setbacks be a smoothed function and are less for smaller properties so as to enhance the ability to utilize the water frontage. It is also recommended that the same set of rules apply to all properties equally, regardless of zoning.

Recommendations for Side setbacks:

-For properties with waterline length of 100 feet or more: 10 foot side setback on either side. This setback matches surrounding towns such as Boca Raton, Hillsboro Beach, and Ocean Ridge.

-For properties with waterline length of less than 100 feet: the side setbacks are proposed to be 10% of property waterline length on either side, with a minimum setback of 5 feet, on either side.

Utilizing this framework, a 71 foot wide property would have side setbacks of 7.1 feet, and a 69 foot property would have side setbacks of 6.9 feet.

Lastly, it is recommended that the current code clarify that with measurements will be made based on the assumption that a lot line is extended beyond said property line on a line perpendicular to the seawall or bulkhead. This clarification will provide clarity when measurements are being made with properties that have lot lines that are not perpendicular to the seawall, such as pie shaped lots.

6) Require a Ladder for every 50 feet of dock.

This is simply a requirement in most surrounding towns and our code is silent.

7) Strengthen existing language on the approval process of marine accessories in areas where there is a discontinuity in the waterway by acknowledging that they are a “special case” and external expertise will be utilized.

The majority of conflicts are associated with areas where there is a discontinuity in the waterway such as an abrupt restriction in the waterway width, end of canals, or corner lots or lots that extend into a waterway. The current code is a bit nebulous around these more complicated properties, and in some cases boatlifts have previously been installed in locations where one property owner is inadvertently restricting or blocking an adjacent property owner of the ability to also install a boatlift.

This situation was discussed extensively with the Marine Consultant, and in his expert opinion, no code can be written to address every possible potential scenario within the town. His recommend course of action is to treat any property that has a small water frontage (perhaps less than 50 feet) or that has a discontinuity in the waterway as “a special case.” In these special cases, the standard procedure will be to consult with a marine expert who will make recommendations to the planning board on locations and maximum permissible sizes of marine accessories, with the intention of making sure all surrounding property owners are not having their ability to also utilize the waterway restricted. The code already allows for outside experts for review of development approval requests via Sec. 30-12. The recommended code change is simply to clarify to all parties that a consultation with a marine consultant along with a consultant recommendation to the planning board will be part of the approval process in these special cases.

The planning board can then decide what will be permitted. If a resident disagrees with the planning board's approval, and feels that their access is being restricted as a result of a marine accessory installation, they can seek remedy through the court system.



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Virtual Planning Board Meeting

MEETING DATE 9/10/2020

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: Discussion on piling height limits and Town Code deficiencies pertaining to accessory marine facilities.

BACKGROUND:

On August 15, 2020, Planning Board Chairperson, David Axelrod, made the following two inquiries to Town staff:

1. Whether other local municipal codes provide height limits on pilings; and
2. Whether there are any other deficiencies in the Town Code as it pertains to accessory marine facilities.

Staff was directed by Town Manager, Marshall Labadie, to proceed with preliminary research on these inquiries.

SUMMARY:

Height limits on pilings:

The Town of Highland Beach's Code of Ordinances does not provide height limits for boat lift pilings. Upon staff review of the municipal codes for Boca Raton, Delray Beach, Manalapan, North Palm Beach and Ocean Ridge, no provisions for lift piling height were found. The municipal codes of Sanibel and Cape Coral both provide height provisions for mooring pilings as provided in Table 1 below (Note that Cape Coral also provides a maximum elevation provision for "pilings"). Jupiter Island's municipal code states for pilings supporting a dock or used in conjunction therewith shall not be higher than eight feet above mean high water. Moreover, Jupiter Island provides hoisting and daviting provisions for boats as follows:

Section 3.07F.(b) No boat shall be hoisted or davited to such a height that the top of the main superstructure, but not including masts, antennas, outriggers or other attachments to said boat, shall be more than eight feet above mean high water, and no boat exceeding 31 feet in overall length shall be hoisted or davited from the water and supported by a dock, unless approved by the impact review committee using the standards set forth in article X, division II, section 2.04 (see Attachment No. 1)

The municipal code for Lighthouse Point contains provisions for the number of individual pilings which may be installed adjacent to any property as provided in Table 2 below.

TABLE 1

MUNICIPALITY	PILING HEIGHT PROVISION	NOTES
Sanibel	Height of mooring pilings, maximum ten feet above mean high water (Sec. 126-886).	"Mooring Piling" is not defined in Sanibel's Municipal Code.
Cape Coral	Mooring Pilings shall not be higher than eight feet above mean high water (Section 5.4.5.).	"Mooring Piling" is not defined in Cape Coral's Municipal Code.
	The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet above mean water level (Section 5.4.2.).	
Jupiter Island	Pilings supporting a dock or used in conjunction therewith shall not be higher than eight feet above mean high water (Section 3.07C1.b.)	

TABLE 2

LIGHTHOUSE POINT: Section 42-380(d)(1) The number of individual pilings which may be installed adjacent to any property shall be as follows:

Properties With Eight (8) Foot Side Setbacks		Properties With Seven and One-Half (7½) Foot Side Setbacks	
Linear Feet of Frontage Along Water	Maximum # of Pilings Allowed	Linear Feet of Frontage Along Water	Maximum # of Pilings Allowed
0—60	0	0—60	0
Over 60—136	2	Over 60—135	2
Over 136—176	3	Over 135—175	3
Over 176 +	4	Over 175 +	4

Deficiencies:

Section 30-68 (g)(6)d.2. of the Town Code provides for a contradictory provision regarding the side yard setback requirement for accessory marine facilities in multifamily zoning districts. This section currently reads as follows:

Multifamily zoning districts: Five (5) feet, measured from the perimeter property lines. In multifamily residential zoning districts, marine facilities shall be exempt from side yard setback requirements for all interior lot lines.

Initially, the provision states that a five (5) foot setback is applicable; however, the second sentence exempts multifamily residential zoning districts from the side yard setback requirement. While this conflicting text could be addressed independently from the other accessory marine facility regulations, staff suggests that a marine consultant be retained to holistically assess the current Town Code regulations pertaining to accessory marine facilities and determine deficiencies. Marine consultant considerations could include whether provisions for lift piling height or hoisting of boats, along with corresponding definitions, should be incorporated into the Town Code.

FISCAL IMPACT:

N/A

ATTACHMENTS:

Attachment No. 1 – Jupiter Island standards for impact review.

RECOMMENDATION:

Board discussion.

Sec. 2.04. - Standards for impact review of hoisted boats in excess of 31 feet in length or in excess of eight feet in height above mean high water.

The decision-maker shall approve an application for a hoisted boat that exceeds the maximum length and/or height if the applicant demonstrates that:

- A. The proposed hoisted boat will not adversely affect the public interest; and
- B. The proposed hoisted boat is consistent with the surrounding neighborhood character; and
- C. The visibility of the proposed hoisted boat from public rights-of-way and adjacent properties is minimized in a manner that is consistent with the surrounding neighborhood character; and
- D. The landscape buffer along the side property lines minimizes the visibility of the proposed hoisted boat; and
- E. The proposed hoisted boat will not cause substantial injury to the value of any other property in the neighborhood where it is to be located; and
- F. The proposed hoisted boat will be compatible with adjoining properties and the intended purpose of the district in which it is to be located; and
- G. The proposed hoisted boat will not result in an obvious departure from the aesthetic character of the neighborhood; and
- H. The proposed hoisted boat is situated in a manner that does not materially obstruct the waterfront views from neighboring property; and
- I. The proposed hoisted boat will be associated with a dock which is conforming to all town regulations; and
- J. The proposed hoisted boat does not exceed 41 feet in length or contain more than two levels.

(Ord. No. 342, § 2, 9-17-13)

ATTACHMENT NO. 3

BOAT LIFTS REQUESTS

ADDRESS	# OF PILINGS	HEIGHT OF PILING/TOP OF LIFT BEAM ¹	LIFT EXTENDS INTO WATERWAY (FROM PL)	POMPANO BCH REGULATIONS FOR EXTENDING INTO WATERWAY (FT) ²	BOCA RATON REGULATIONS FOR EXTENDING INTO WATERWAY (FT) ³	NOTES
2021						
4205 Intracoastal Dr <i>APPROVED</i>	8	5'/6'6"	25'	20 (Approx. 145 ft width of waterway)	20	
4408 Intracoastal Dr <i>APPROVED</i>	0	0/6'6"	18'	18.6 (Approx. 93 ft width of waterway)	20	
4206 Intracoastal Dr <i>APPROVED</i>	4	5'/6'6"	18.5'	20 (Approx. 100 ft width of waterway)	20	
1118 Bel Air Dr <i>APPROVED</i>	0	0/7'8"	16	20(Approx. 155 ft width of waterway)	20	
2020						
1006 Grand Ct <i>DENIED</i>	10	7'/8'6"	18'6"	20 (Approx. 150 ft width of waterway)	20	
4318 S Ocean Blvd <i>APPROVED</i>	0	0/7'3"	20'	20 (Approx. 100 ft width of waterway)	20	
2019						
2727 S. Ocean Blvd (slip 5A and 5B) <i>APPROVED</i>	4	Not provided on plans	33'9" (SEE NOTES)	20 (Approx. 316 ft width across ICW)	20	Extension into waterway was measured from seawall. Note that property line is west of seawall, in the water.
4014 S. Ocean Blvd <i>APPROVED</i>	4	Not provided on plans	21'6" (SEE NOTES)	20 (Approx. 337 ft width across ICW to dock)	20	Extension into waterway was measured from dock. Note that property line is west of dock, in the water.

¹Measured from the dock.

²Pompano Beach allows lift to extend to a distance **20%** of the width of the waterway or 20 feet, whichever is less.

³Boca Raton allows lift to extend to a distance **25%** of the width of the waterway or 20 feet, whichever is less. For portions of a boat lift constructed beyond 20 percent of the width of the canal, only wood pilings may be utilized and no part of a boat lift structure shall extend beyond the face of the wood pilings nearest the canal center.

PL – Property Line

FT – Feet

Note: Neither Pompano Beach nor Boca Raton code regulations provide for _____ m piling height.

ATTACHMENT NO. 4



2/11/22

Ingrid Allen
Town Planner
Town of Highland Beach
3614 S. Ocean Boulevard
Highland Beach, FL 33487

**Re: Accessory Marine Facility Code Amendments Relative to Boat Lifts
 Town of Highland Beach**

Ms. Allen,

This correspondence is provided as additional discussion and opinion regarding changes to Town of Highland Beach code relative to 'Accessory Marine Structures' and specifically boat lifts as defined within sec. 30-68 of municipal code. Items are discussed relative to potential changes to specific requirements of the current code.

1. Requirement for Accessory Marine Facilities to receive Planning Board approval

The requirement that all accessory marine facilities receive planning board approval (ref. Sec. 30-68 Supplemental district regulations (g)(3)) is not a common requirement within coastal communities. Boat lifts are generally allowed with restrictions without planning board approval. Board approval is typically reserved for sites with special and unique circumstance (see item 6. below) or for variance requests from the standard provisions defined in code. The requirements for lift installation are generally defined by code in terms of limitations to the location (setback) and overall size of the structure. These limitations meet the intent to minimize impacts to adjacent properties, allow for safe navigation and minimize impacts to view.

2. Requirement of setbacks for all zoning districts

Requirements for minimum setbacks for all zoning districts are a standard practice and are a key provision to meet the intent to minimize impacts to adjacent properties, allow for safe navigation and minimize visual impacts. The zero-foot setback for multi-family zoning within the Town's current code is anomalous and does not provide a sufficient setback to meet the intent. Required minimum setbacks for boatlifts and docks vary considerably by jurisdiction. The nominal width of lots within a municipality are generally relevant to this provision. Areas with larger lots tend to have larger setback requirements, while areas with smaller lots have lesser setback requirements to allow for reasonable use.

3. Limits to waterway encroachment

Limitations to the distance structures can encroach into a waterway are a standard practice and meet the intent to allow for safe navigation and minimize impacts to adjacent properties and views. Encroachment maximum distances on the order of 25 feet (relative to the waterway edge) are fairly common, though additional restrictions for narrow waterways are also common practice. In general, a fifty-foot effective fairway width is a common design standard for residential canals.

4. Limitations to pile maximum height

Limitations to maximum pile height is not a common practice but does meet the intent to minimize impacts to view. This approach also addresses a related issue relative to overall vessel size. Limitations to pile height restrict the ability to lift vessels beyond a certain size which addressed both issues of view and waterway navigability. In terms of maximum height, it should be defined relative to a fixed vertical datum. Pile heights generally on the order of 12 feet (NAVD 88) (which equates to something on the order of 8 feet above dock height) meet the lifting requirements for most vessels.

5. Limits to seawall cap and dock width

Limitations to Seawall cap and dock total width meets the intent to limit impacts to adjacent properties, waterway navigability and view. A total width of 8 feet (inclusive of the seawall cap and dock) is consistent with general practice.

6. Special and unique circumstances - Sewall discontinuities and corner lots

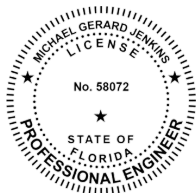
Regulation of boat lifts through minimum setbacks, size and height limitations are generally sufficient to meet the intent to minimize impacts to adjacent properties, allow for safe navigation and minimize impacts to view for waterways that are generally uniform in dimension adjacent to the regulated property. The majority of conflicts are associated with areas where there is a discontinuity in the waterway such as an abrupt restriction in the waterway width, corner lots or lots that extend into a waterway. Application of uniform code provisions to address these areas are problematic as each circumstance is unique and requires consideration of the specific current and intended use and access to the waterway. These issues are further complicated by the range of boat types, sizes and performance characteristics which may be germane to both the use and potential for impact to adjacent properties. Such instances likely warrant further consideration by the Planning Board.

Sincerely,

Applied Technology & Management, Inc.



Michael G. Jenkins, Ph.D., P.E.
Coastal Engineering Principal



Michael
G Jenkins

Digitally signed by
Michael G Jenkins
Date: 2022.02.24
09:00:36 -05'00'

Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

ATTACHMENT NO. 5

→ Sec. 30-68. - Supplemental district regulations.

(g) *Accessory marine facilities:*

- (1) *Accessory use.* Accessory marine facilities, including docks, piers, launching facilities, boat basins, freestanding pilings and lifting and mooring devices, are permitted as accessory uses in all residential zoning districts. Accessory marine facilities shall be reviewed as special exceptions by the planning board which shall be the final authority on all applications unless the accessory marine facility is part of a site plan submittal or other application requiring town commission approval as provided for in section 30-36.
 - a. Accessory marine facilities shall not be used for commercial purposes.
 - b. Accessory marine facilities shall be used only by residents or their guests, and shall not be rented or leased to nonresidents or any other person other than owners or residents of the principal dwelling or dwellings. For the purpose of this section, the term guest shall mean a person or persons residing in a dwelling unit for a limited period of time, not to exceed a period of sixty (60) days within one calendar year, at the invitation of the owner or resident of the dwelling.
 - c. Accessory marine facilities shall not be a hazard to navigation.
- (2) *Boat basins.* Boat basins are allowed in all zoning districts and reviewed by a special exception, subject to the additional standards listed below:
 - a. The edge of any improvements associated with a boat basin shall be located at least twenty-five (25) feet from side property lines.
 - b. The total length of improvements associated with a boat basin shall not exceed one-third (33.3%) of the length of the property line in which the basin is located.
 - c. Not more than twenty-five (25) percent of any boat moored in a boat basin may extend waterward of property line in which the basin is located.
 - d. The town, at the expense of the applicant, may utilize appropriate marine, engineering, construction, and related professionals to review all aspects of such application. Such professionals shall be utilized to ensure compliance with the requirements herein, to ensure a proposed basin will not be a hazard to navigation, and to ensure a proposed boat basin will not pose a potential hazard, via erosion or other action, to the stability of neighboring properties.
- (3) *Lifting devices.* The installation of lifting devices or other means of securing boats (but not a boat dock) is allowed in all zoning districts. In addition to the requirements for a special exception, the planning board must also find that the lifting device will provide adequate protection of neighboring property and that there is no infringement of standard navigational practices.
- (4) *Boats and setbacks.* When moored, any portion of a boat shall not extend beyond any property line, as extended waterward.
- (5) *Enclosures.* Accessory marine facilities shall not be enclosed with walls, roofs, or any other structures or improvements.
- (6) *Installation.* Accessory marine facilities shall comply with the installation standards listed below:
 - a. In waterways not regulated by the U.S. Army Corps of Engineers, docks and mooring structures shall not extend into any waterway more than five (5) feet.
 - b. In waterways regulated by the U.S. Army Corps of Engineers, docks and mooring structures may extend to that distance allowed by said agency.

- c. Measurement of the width or length of a dock, as applicable, shall be made from the property line.
 - d. Marine facilities shall comply with the side yard setbacks listed below.
 - 1. *Single-family zoning districts:* Twenty-five (25) feet; provided, however, the side yard setback shall be fifteen (15) feet for any single-family lot with a lot width of fifty (50) feet or more but less than seventy (70) feet. For those lots with less than fifty (50) feet abutting the water, the planning board may grant a special exception for the installation of a seawall mounted davit type lifting device (but not a dock structure) after being satisfied as to the protection of neighboring property and no infringement of standard navigation practices.
 - 2. *Multifamily zoning districts:* Five (5) feet, measured from the perimeter property lines. In multifamily residential zoning districts, marine facilities shall be exempt from side yard setback requirements for all interior lot lines.
- (7) *Perpendicular docking.* Unless otherwise provided herein, boats shall not be moored or docked perpendicular to the property at which they are located.
- a. A boat moored at the landward end of a canal constructed for boat docking purposes may be moored perpendicular to the property line, provided such mooring does not impede the navigation of adjacent property owners.
 - b. A boat moored in the Intracoastal Waterway may be moored perpendicular to the property line, subject to approval by the U.S. Army Corps of Engineers.
 - c. A request for perpendicular docking of a boat in a canal shall be considered as a special exception by the planning board. Applications for development order approval of perpendicular docking of boats shall be subject to all standards applicable to a special exception request, and the additional criteria contained herein:
 - 1. Location of docks, docked boats, and relation to side setbacks shall be established by the waterward extension of property lines.
 - 2. Perpendicular docking of boats shall not interfere with navigation of other boats within the affected canal, and will not be a hazard to navigation.
 - 3. Perpendicular docking of boats shall comply with all setbacks required for accessory marine facilities.
 - 4. Docks or accessory mooring facilities approved by the planning board for perpendicular docking of boats may exceed the maximum extension into a waterway allowed for accessory marine facilities.
 - 5. The building official or planning board may request evidence, prepared by a recognized marine expert, demonstrating the following:
 - i. Proposed perpendicular docking and related accessory marine facilities will not reasonably deny or otherwise limit the ability of abutting or adjacent property owners to construct accessory marine facilities;
 - ii. Proposed perpendicular docking and related accessory marine facilities will not reasonably deny or otherwise limit the normal ability of abutting or adjacent property owners to moor, maneuver, use or otherwise move a boat; and
 - iii. Proposed perpendicular docking and related accessory marine facilities will not deny reasonable visual access of abutting property owners to public waterways.

- (h) *Dolphins, freestanding pilings, boat lifts, docks, and moorings:*
- (1) *Installation.* In order to be installed, dolphins, freestanding pilings, boat lifts, docks, and moorings (collectively "mooring facilities") shall comply with all standards listed below:
- a. The installation shall be subject to special exception approval by the planning board at an advertised public hearing.
 - b. The mooring facilities will be located in a canal or waterway at least eighty (80) feet in width.
 - c. The mooring facilities will not create a hazardous interference with navigation, endanger life or property, or deny the public reasonable visual access to public waterways.
 - d. Construction of all mooring facilities shall require a building permit.
- (2) *Public notice.* In addition to the requirements of section 30-46, written notice must be provided by first class mail to owners of property abutting the canal and located within five hundred (500) feet, as measured from both property lines along the canal bank, of the property in question.
- (3) *Documentation.* The building official or planning board may request evidence, prepared by a recognized marine expert, demonstrating the proposed mooring facilities will not be a hazard to navigation and will not deny reasonable visual access to public waterways.
- (4) *Adjacent property.* Installation of the mooring facilities shall not cause a hazardous interference with navigation, endanger life or property, or deny the adjacent property owners or public reasonable visual access to the public waterway.
- (5) *Navigation.* Installation of such mooring facilities shall not infringe upon standard navigational practices that are or may be used by abutting property owners.
- (6) *Floating docks.* Floating docks are permitted, subject to conformance with all zoning code requirements herein and compliance with all applicable building codes.

→ Sec. 30-131. - Definitions of terms.

Boat lifts means the bottom of the keel of any boat shall not be hoisted greater than one foot above the minimum seawall elevation. In no case shall the lift be higher than the superstructure of the boat when lifted.

Note that Section 30-131 has several accessory marine facility-related definitions including "dock, residential," "dolphin pilings," etc.

ORDINANCE INITIATION

The initiation of a new ordinance may originate from several different sources:

- Commissioner/Staff initiative
- Citizen concerns expressed through public comments
- Response to state and federal actions
- Advisory Board Initiative

INTRODUCTION TOWN COMMISSION

A proposal for a new ordinance is presented to the commission for consideration. If approved in concept, the commission directs Town Manager and Town Attorney to research the subject matter and create a draft ordinance. Draft ordinance forwarded to the appropriate Advisory Board for recommendation.

Staff/Legal Team
Research & Draft
Ordinance

ADVISORY BOARD(S)

The appropriate advisory board review and proposes any edits draft ordinance. This process may involve multiple meetings for review and to solicit public comments. Once a draft is settled upon, the advisory board provides a recommendation with the final draft to the commission for consideration for a First reading.

TOWN COMMISSION -- 1st READING

Commission discusses the public merits of the ordinance along with the recommendations of the assigned advisory board(s). Public input provided. Commission may move forward to 2nd Reading/Public Hearing or may send back to advisory board and/or staff for modifications or additional research.

TOWN COMMISSION -- 2nd READING/PUBLIC HEARING

After public hearing and final discussion, the commission votes to approve and enact ordinance. The Commission may request additional modifications.

TOWN STAFF -- ADOPTION & IMPLEMENTATION

ATTACHMENT NO. 2



CANAL/LAKE AND CERTAIN LOT¹ WIDTHS

MAP 1 – SOUTH GRANT CT.

MAP 2 – NORTH GRANT CT.

MAP 3 – IN BETWEEN RUSSELL DR. AND BOCA COVE LN.

MAP 4 – IN BETWEEN BEL AIR DR. AND RUSSELL DR.

MAP 5 – SOUTH OF BEL LIDO DR.

MAP 6 – NORTH OF BEL LIDO DR.

MAP 7 – LOT WIDTHS 2540-2700 S. OCEAN BLVD. (RESIDENTIAL SINGLE FAMILY ZONING DISTRICT)

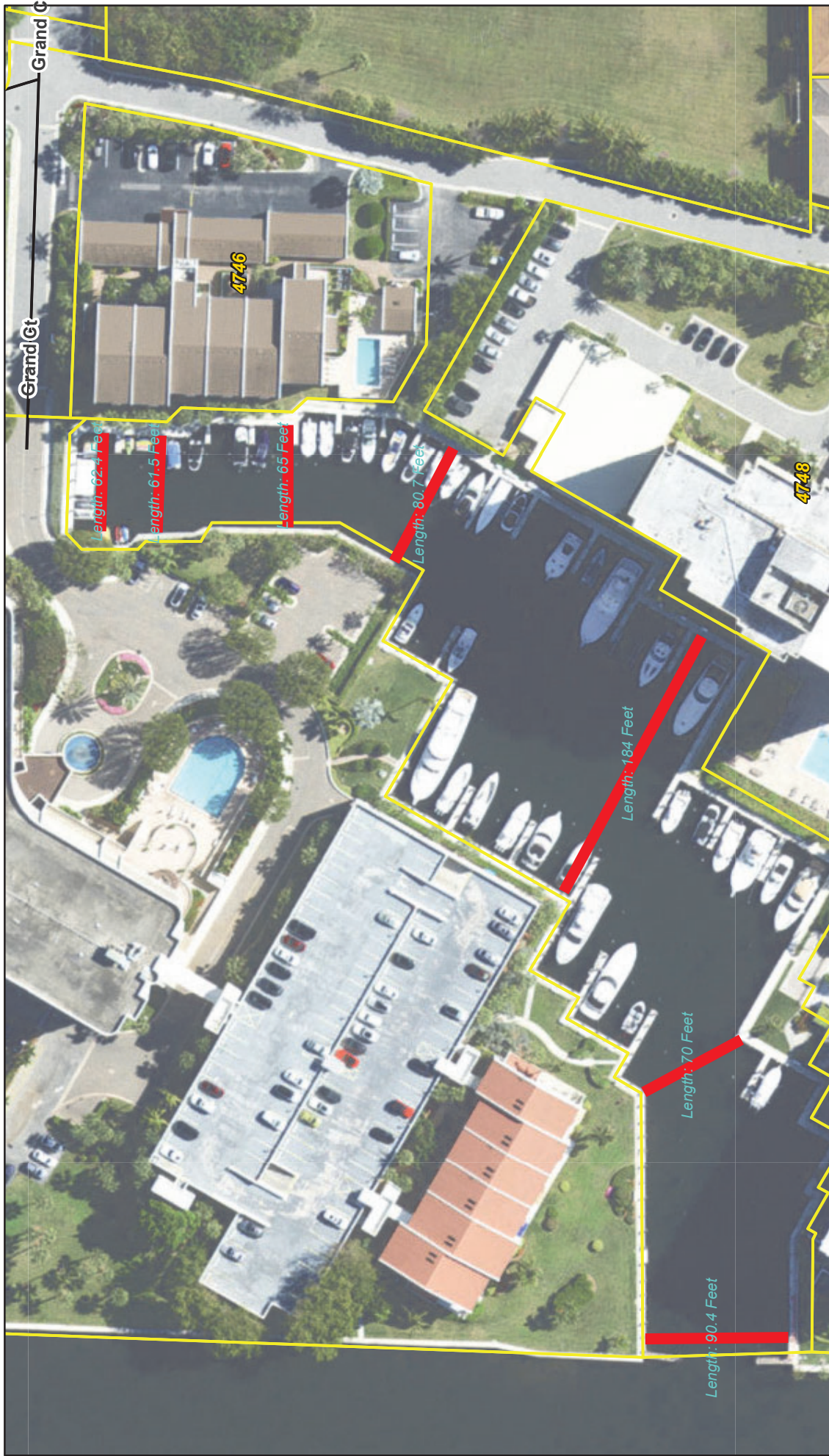
MAP 8 – LOT WIDTHS 2500-2366 S. OCEAN BLVD. (RESIDENTIAL SINGLE FAMILY ZONING DISTRICT)

MAP 9 – LOT WIDTHS 2362-2332 S. OCEAN BLVD. (RESIDENTIAL SINGLE FAMILY ZONING DISTRICT)

¹Rear lot widths (LW) provided, are an approximate.

MAP 1

Canal widths - South Grand Ct.



5/2/2022, 9:47:56 AM

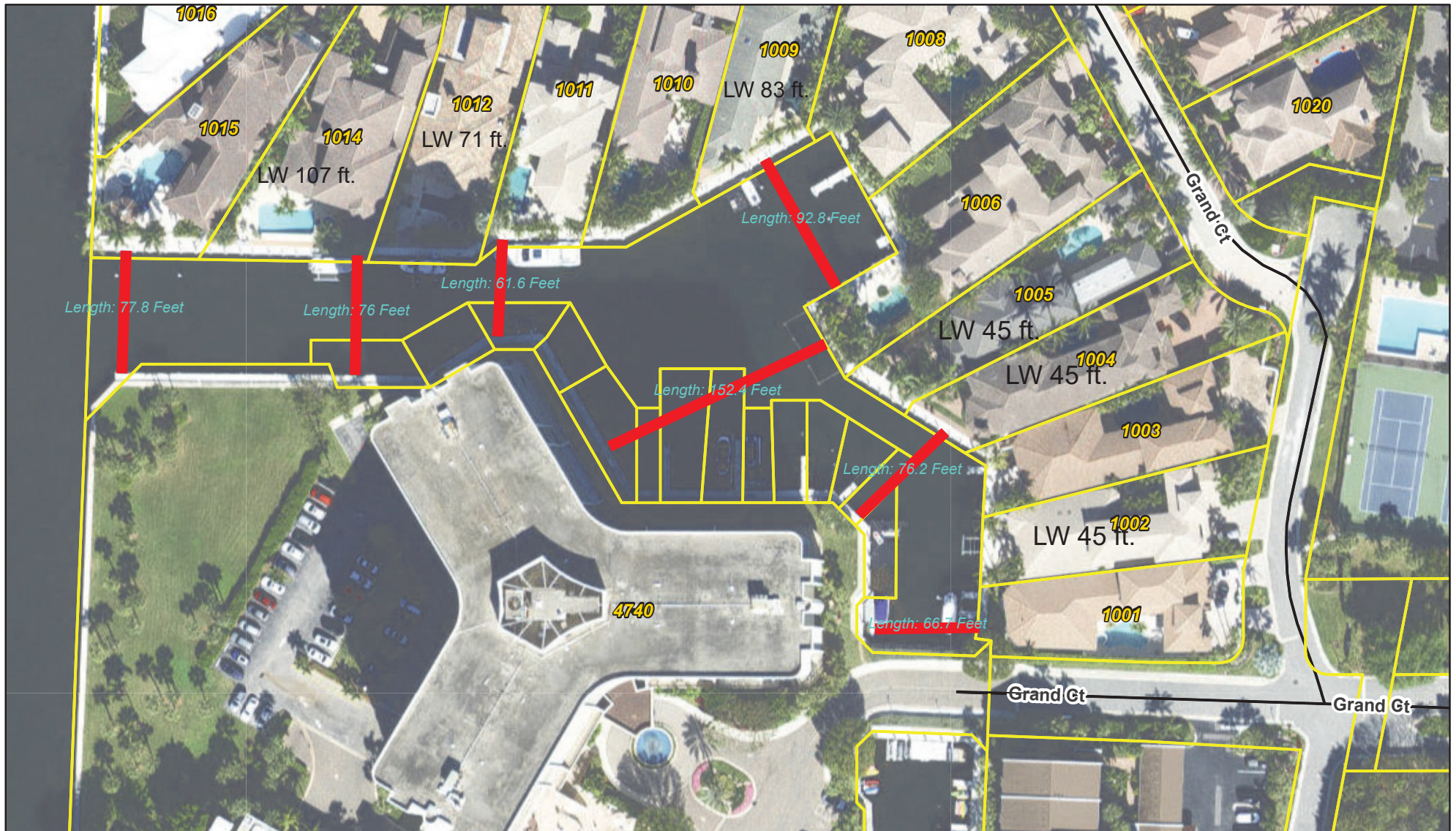
- Highland Beach Boundary
- Highland Beach Address Points
- Highland Beach Parcels
- Streets Centerline

1:1,128
0 45 90 180 ft
0 12.5 25 50 m

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

MAP 2

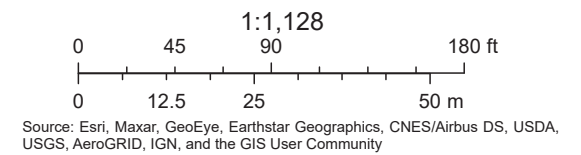
Canal widths - North Grand Ct.



5/2/2022, 3:37:59 PM

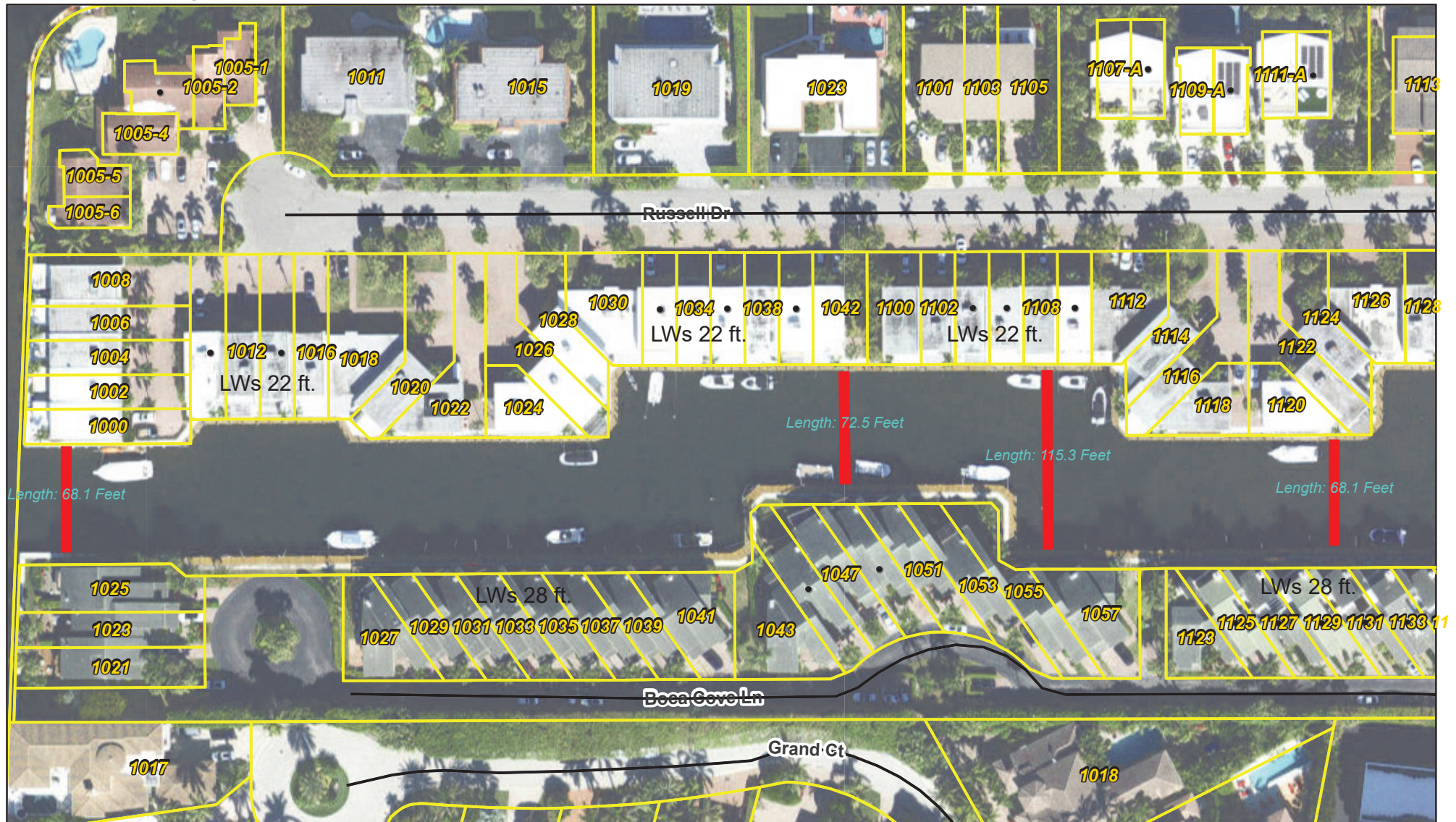
Highland Beach Boundary
 Highland Beach Parcels

- Highland Beach Address Points
- Streets Centerline



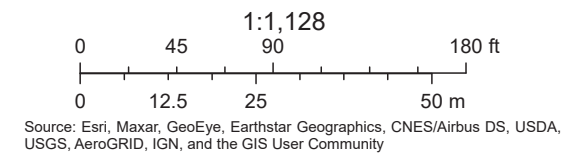
MAP 3

Canal widths - In between Russell Dr. and Boca Cove Ln.



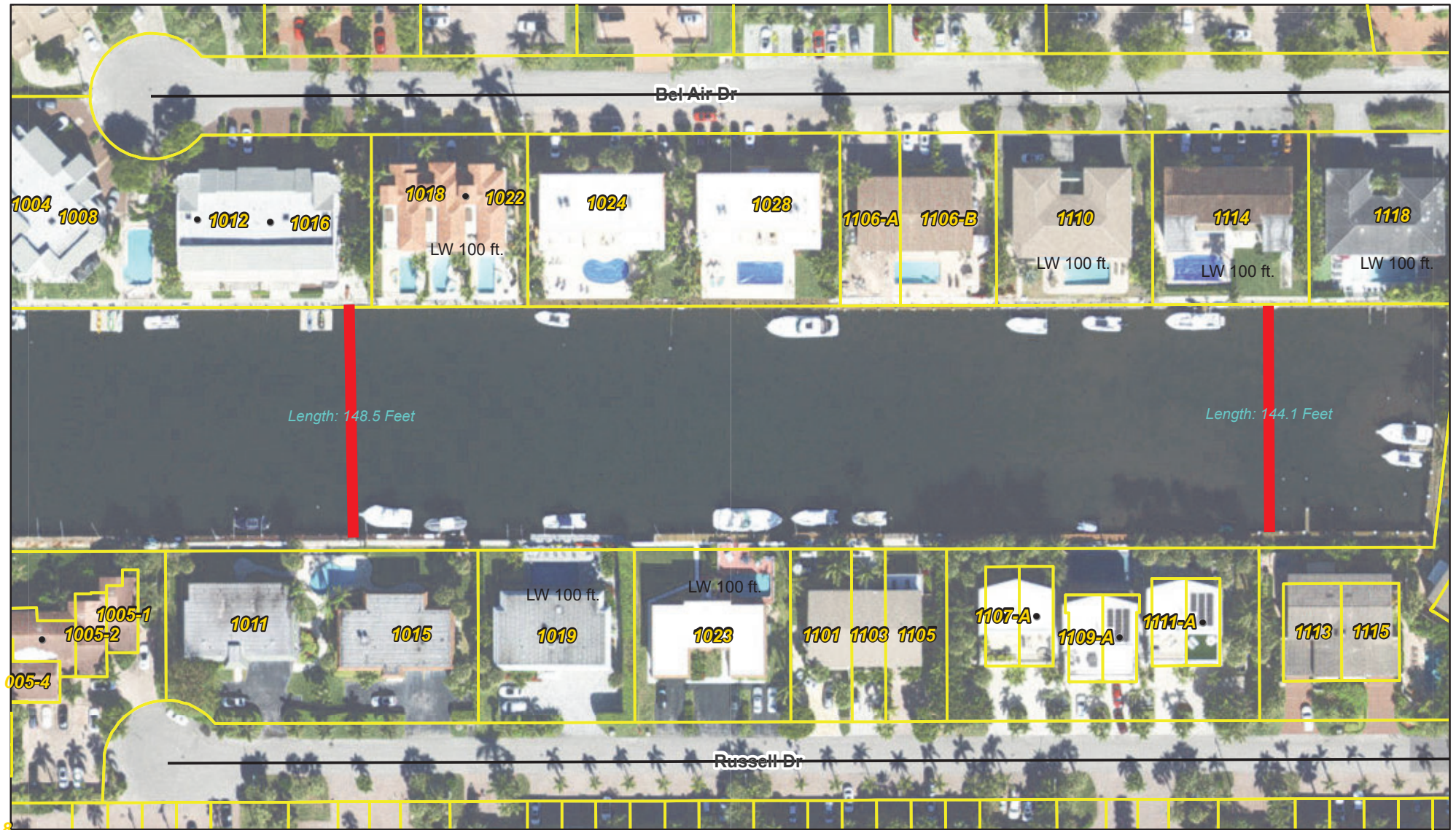
5/2/2022, 3:48:25 PM

- Highland Beach Boundary
- Highland Beach Parcels
- Streets Centerline
- Highland Beach Address Points



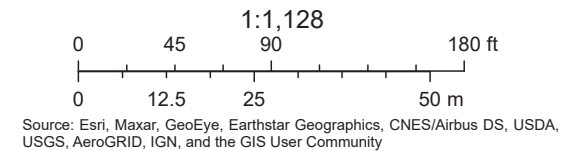
MAP 4

Canal widths - In between Bel Air Dr. and Russell Dr.



5/3/2022, 9:32:10 AM

- Highland Beach Boundary
- Highland Beach Address Points
- Highland Beach Parcels
- Streets Centerline



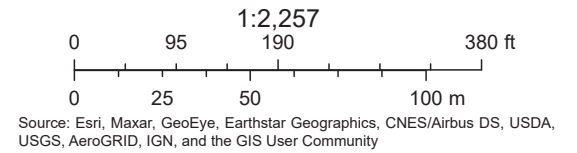
MAP 5

Canal widths - South of Bel Lido Dr.



5/2/2022, 4:07:20 PM

- Highland Beach Boundary
- Highland Beach Parcels
- Highland Beach Address Points
- Streets Centerline

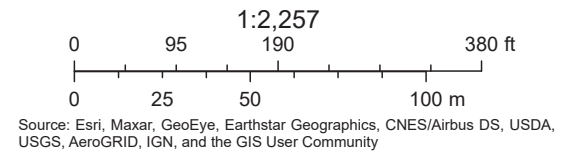


MAP 6 Canal widths - North of Bel Lido Dr.



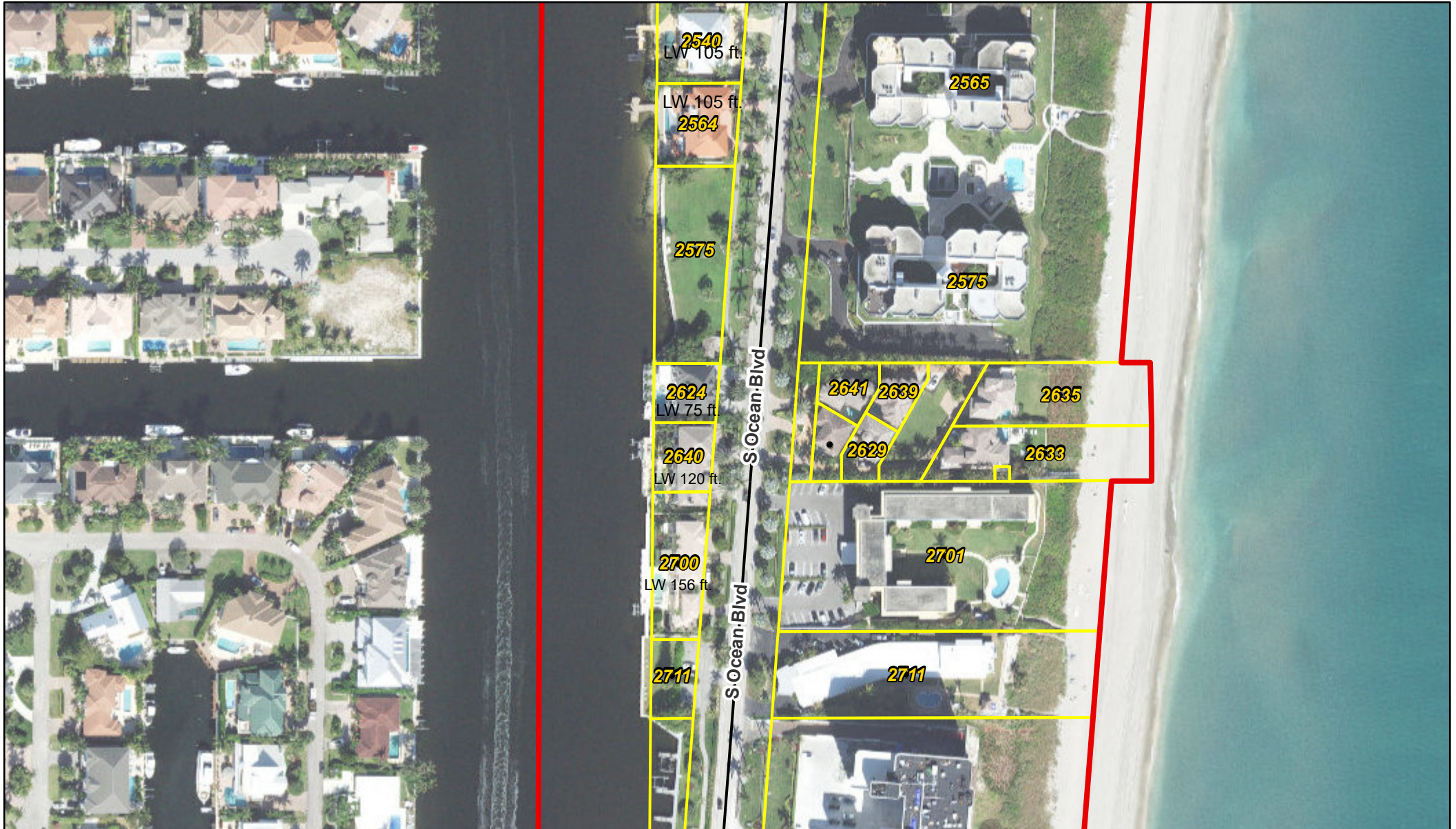
5/2/2022, 4:22:30 PM

- Highland Beach Boundary
- Highland Beach Address Points
- Highland Beach Parcels
- Streets Centerline



MAP 7

Lot widths - 2540-2700 S. Ocean Blvd.



5/3/2022, 9:17:36 AM

- Highland Beach Boundary
- Highland Beach Parcels
- Highland Beach Address Points
- Streets Centerline

1:2,257
0 95 190 380 ft
0 25 50 100 m
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

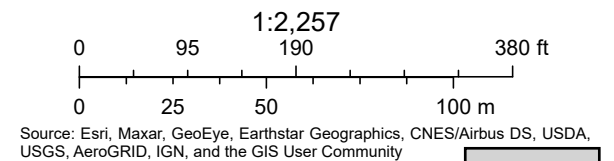
MAP 8

Canal widths - 2366-2500 S. Ocean Blvd.



5/2/2022, 4:35:31 PM

- Highland Beach Boundary
- Highland Beach Parcels
- Highland Beach Address Points
- Streets Centerline



MAP 9

Lot widths - 2332-2362 S. Ocean Blvd



5/3/2022, 10:12:17 AM

- Highland Beach Boundary
- Highland Beach Address Points
- Streets Centerline

MARINE PHOTOS

Town Commission Meeting

April 19, 2022

Provided by Commissioner
Gossett-Seidman

