

THE TOWN OF
Windermere



DEVELOPMENT REVIEW BOARD

Chair: Frank Chase

Peter Fleck

Jennifer Roper

Norma Sutton

Stephen Withers

Gregg Anderson

Molly Rose

Council Liaison: Andy Williams

Agenda

Agenda

February 20, 2024

6:30 PM

TOWN HALL

520 MAIN STREET

WINDERMERE, FL 34786

PLEASE TURN OFF ALL CELL PHONES AND PAGERS

PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceedings should contact the Office of the Clerk at least 48 hours beforehand at (407) 876-2563.

Pursuant to Resolution No. 2005-12 adopted on December 13, 2005, the following Civility Code shall govern all proceedings before the Town of Windermere Development Review Board:

1. All electronic devices, including cell phones and pagers, shall be either turned off or otherwise silenced.
2. Prolonged conversation shall be conducted outside Council meeting hall.
3. Whistling, heckling, gesturing, loud conversations, or other disruptive behavior is prohibited.
4. Only those individuals who have signed the speaker list and/or/who have been recognized by the Mayor (or Chair) may address comments to the Council.
5. Comments at public hearings shall be limited to the subject being considered by the Council
6. Comments at Open Forums shall be directed to Town issues.
7. All public comments shall avoid personal attacks and abusive language
8. No person attending a Development Review Board meeting is to harass, annoy, or otherwise disturb any other person in the room.

Any member of the public whose behavior is disruptive and violates the Town of Windermere Civility Code is subject to removal from the Development Review Board meeting by an officer and such other actions as may be appropriate. PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.0105: Any person who desires to appeal any decision at this meeting will need a record of this proceeding. For this, such person may need to ensure that a verbatim record of such proceeding is made which includes the

AGENDA

1. MEETING IS CALLED TO ORDER BY THE CHAIR

2. OPEN FORUM/ PUBLIC COMMENT (3-MINUTE LIMIT)

3. NEW BUSINESS

a. Minutes (See Attached)

i. DRB meeting minutes of December 19, 2023

b. General Items for Consideration

i. 212 W 1st St. Dock Variance for setback less than 16 feet.

ii. 10910 Bayshore Dr. Variance for porch addition that results in FAR over 38% of lot.

c. Norma's Resignation from the Development Review Board

3. ADJOURN

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

December 19, 2023

Present were Chair Frank Chase, Board Members Norma Sutton, Jennifer Roper, and Peter Fleck. Town Manager Robert Smith, Town Council Liaison Andy Williams, Town Planner Brad Cornelius, and Town Clerk Dorothy Burkhalter were also present. Member Stephen Withers was absent. Member Gregg Anderson resigned.

Chair Chase called the meeting to order at 6:31pm. He then led everyone in the Pledge of Allegiance.

1. OPEN FORUM/PUBLIC COMMENTS:

Chair Chase opened the floor to the public. There were no public speakers.

2. NEW BUSINESS:

a. **Reference Board Members:**

i. **Resignation Letter of Gregg Anderson**

Clerk Burkhalter read the resignation letter from Mr. Gregg Anderson for the record.

ii. **New Member Application: Molly Rose**

Chair Chase explained that a new member application has been received for Ms. Molly Rose. Member Roper made a motion to approve Ms. Molly Rose as a new Development Review Board member. Member Fleck seconded the motion. All were in favor.

b. **Minutes**

i. **September 19, 2023, DRB Meeting Minutes**

Member Fleck made a motion to approve the September 19, 2023. Member Sutton seconded the motion. All were in favor.

c. **General Items for Consideration**

i. **Z24-01 – 12 Pine Street – Benjamin and Carolyn Yonge – Variance to allow an extension of existing**

Chair Chase turned the floor over to Mr. Brad Cornelius. Mr. Cornelius explained that this variance request is to allow extension to an existing patio along the edge of the existing swimming pool with approximately a 40' setback from the NHWE. He stated that notices were sent out and sixteen were received in support and zero received in objections. Member Roper questioned if there is a previous variance for this property. Mr. Cornelius no. Member Fleck questioned if there is a seawall. Mr. Heinz stated that there is a seawall. Member Sutton stated that this is a safety issue near the edge. Chair Chase agreed. Member Sutton made a motion to recommend approval of variance request Z24-01. Member Fleck seconded the

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

December 19, 2023

motion. All were in favor. Chair Chase advised that this is a recommending Board, and the Town Council will make the final decision at the January 9th Town Council meeting.

- ii. **Z24-04 – 656 E 6th Avenue – Adam Page and Lori Gilmore – Variance to allow a detached accessory garage in front yard and less than 25 feet from the front property line.**

Mr. Cornelius introduced case Z24-04. He explained that the request is to allow a detached accessory garage in the front yard less than twenty-five feet from the front property line. Mr. Cornelius further explained that this lot fronts both Highland Avenue and 6th Avenue. He then stated that notices were sent out with five received in support (two from immediate neighbors), and one in objection (to close to the road). Member Roper questioned if the proposed sidewalk project would be impacted by this. Mr. Cornelius stated no. Council Liaison Williams stated that the sidewalk will be on the opposite side of the road. After minimal discussion was made, Member Roper made a motion to recommend approval. Member Sutton seconded the motion. All were in favor. Chair Chase advised that this is a recommending Board, and the Town Council will make the final decision at the January 9th Town Council meeting.

- iii. **The DRB case for 501/503 Main Street is not able to move forward. The fee has not been paid to the Town, and actual construction does not match the submittal.**

Mr. Cornelius explained that this item has been tabled and scheduled for the January DRB meeting providing requirements are met.

4. **ADJOURN:**

Member Sutton made a motion to adjourn. Member Roper seconded the motion. All were in favor.

The meeting adjourned at 6:44pm.

Dorothy Burkhalter, Town Clerk

Frank Chase, Chair

November 16, 2023

Dear Frank and Dorothy,

Recently I was asked to become chair of the Long Range Planning Committee and I have accepted that role. Because of that I do not feel that I can serve both committees effectively.

As a result, please accept my resignation from the Development Review Board. Since there is no meeting in November, I thought it would be best for my resignation to become effective today, November 16 so as to give you as much time as possible to find a replacement for the December meeting.

Frank, thank you for the opportunity to serve and your leadership on the Committee. I enjoyed my time with you and the other Committee members.

I wish you continued success,

Respectfully,

Gregg Anderson
137 Down Court
Windermere, FL 34786
ganderson@town.windermere.fl.us

Town of Windermere

614 Main Street Windermere, FL 34786
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor
JIM O'BRIEN



Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

Development Review Board February 20, 2024

Town Council March 12, 2024

Case No.: Z24-05

Property Owner/Applicant: Adair Dillaha

Representative: Property Owner

Requested Action: Variance to allow for a covered porch addition resulting in a Floor Area Ratio (FAR) greater than 38% of the lot area landward of the Normal High-Water Elevation (NHWE).

Property Address: 10910 Bayshore Dr.

Legal Description: LAKE DOWN ESTATES REPLAT Q/154 BEG 5 FT S OF NE COR OF LOT 11 OF LAKE DOWN EST M/22 RUN S 164 FT M/L TO WATERS EDGE OF LAKE DOWN TH RET TO POB & RUN S 85 DEG E 100 FT S 164 FT M/L TO LAKE TH WLY ALONG LAKE 100 FT M/L TO PREVIOUSLY DESC PT ON LAKE

Future Land Use/Zoning: Residential/Residential

Existing Use: Residential (Single Family)

Surrounding Future Land Use/Zoning

North: Residential/Residential
East: Residential/Residential
South: Lake
West: Residential/Residential

CASE SUMMARY:

Adair Dillaha, owner of 10910 Bayshore Dr., submitted a request for approval of a variance pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow the Floor Area Ratio (FAR) to exceed the Town’s maximum of 38% of the lot area landward of the Normal High-Water Elevation (NHWE) to construct a covered porch addition. The proposed covered porch addition will result in a FAR of 42% of the lot area landward of the NHWE.



*Picture of Existing Single-Family Residence at 10910 Bayshore Dr., View from Rear, Looking North
(Source: Orange County Property Appraiser, January 2023)*

The proposed covered porch addition is compliant with the maximum allowed Impervious Surface Ratio (ISR). There is no proposed increase to ISR on the site resulting from the addition of the proposed covered porch addition since the proposed covered porch addition will be constructed over the existing pool deck. There is also no proposed increase to height since the proposed covered porch addition will be lower than the overall height of the existing single-family residence. The existing single-family residence is non-compliant with the Town’s minimum required side setbacks; however, the proposed covered porch addition will not encroach into any minimum required setback. The Town’s minimum required side setback for the subject property is 12.5 feet. The proposed covered porch addition will be located 13.83’ (13’-10”) from the East side property line at its nearest dimension.

The only variance required and requested is to increase the FAR above the Town’s maximum 38% of the lot area landward of the NHWE. The Town’s FAR maximum of 38% is based on gross floor area, which includes “the area contained within garages, carports, screened or roofed porches and balconies”. The Town’s definition of floor area is as follows:

Sec. 6.01.04. - Height and floor area limitations.

Floor area means the sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior surface of the walls. Basement areas or other below grade floor areas shall be excluded from the calculation of floor area when more than one-half of that basement or floor height is below the average elevation at the front setback (as described in the term "building height" in this section). The area of stairways, elevators, multi-story rooms or atriums shall be counted on each floor level and included in the calculation of floor area. The area contained within garages, carports, screened or roofed porches and balconies shall be

included in the calculation of floor area. The floor area of a single-family building shall further include the area of atriums and volume ceiling spaces on each floor when the interior floor to ceiling height of such rooms exceeds 17½ feet.

The existing single-family residence has a current gross floor area of approximately 7,230 square feet (FAR 40%). The proposed covered porch addition will remove approximately 177 square feet of existing covered porch and will add approximately 429 square feet of new covered porch. The resulting net floor area increase is approximately 252 square feet and the resulting FAR is 42%.

The proposed covered porch addition will result in a FAR of 42% of the lot area landward of the NHWE, which is greater than 38%.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

CASE ANALYSIS:

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use

would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

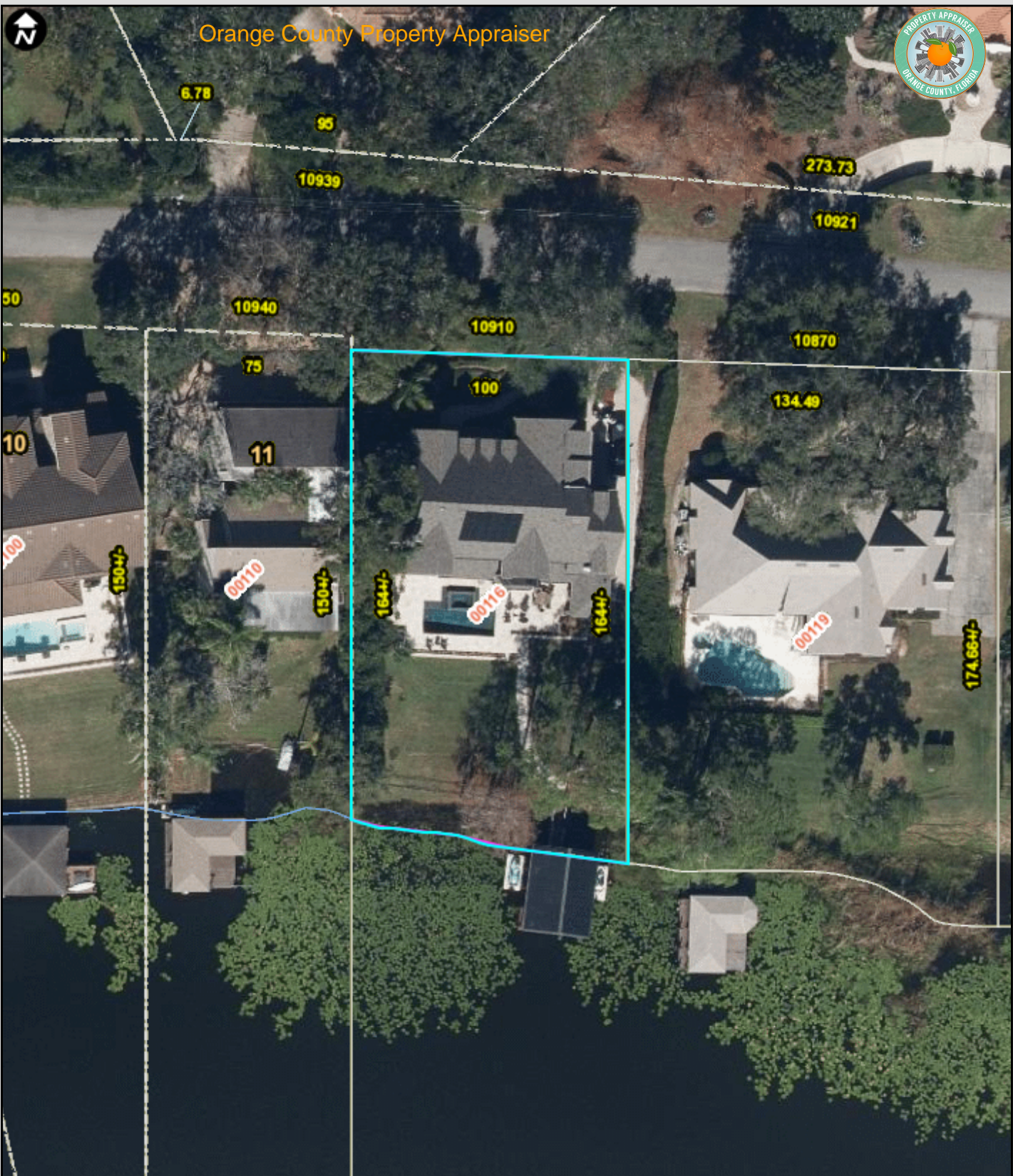
Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a variance request letter, survey, site plan, floor plans, and elevation plans in support of the variance request. Please see the information provided with the agenda item for the applicant's submittal.

PUBLIC NOTICE:

As of February 12, 2024, two (2) responses were received in support, and none were received in opposition.

OCA Web Map		Major Roads	Proposed Road	Residential	Commercial/Industrial/Vacant Land	Parks	6	Lot Number
Florida Turnpike	Public Roads	Brick Road		Agriculture	Agricultural Curtilage	Lakes and Rivers	06060	Parcel Number
Interstate 4	Gated Roads	Block Line		Commercial/Institutional	Hydro	Building	3106	Parcel Address
Toll Road	Road Under Construction	Lot Line		Governmental/Institutional/Misc	Waste Land	E	Block Number	111.9
								Parcel Dimension



Created: 2/13/2024 14:17 Aerial 2023, undefined This map is for reference only and is not a survey

Date: January 26, 2024

Dorothy Burkhalter, Town Clerk
Town of Windermere
Windermere, FL 34786
407.876.2563

Dear Ms. Burkhalter,

I am the owner of the property at 10910 Bayshore Drive.

In 2018, we completed a new swimming pool and deck in our backyard that was permitted and approved. Since that time, my wife's Lupus condition has become more and more problematic. Lupus is a condition that makes her very sensitive to sunlight. Any over exposure to the sun leads to severe Lupus flare ups including painful rashes. Repeated exposure to the sun could worsen her condition and lead to a more deadly form of this disease. As a result, she is unable to enjoy the outdoor area we have created. With a new grandson that loves the water, she is unable to be outside with the friends and family who enjoy the pool area.

As a result, I have contracted with an engineer to design a covered area adjacent to the swimming pool. This area is ideally suited to address the issue I described and it will be a beautiful addition to the back of our home. In this process, I learned that the addition would exceed the maximum FAR for the Town of Windermere's zoning. This letter is to formally request that the Town allow for this addition to the property. I have included the engineering drawings for the addition and a recent survey for your reference.

Thank you for your time and consideration!

Respectfully,



Adair Dillaha
10910 Bayshore Drive
Windermere, FL 34786
407.719.4786

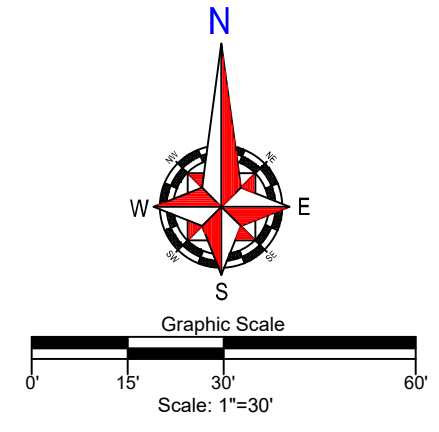
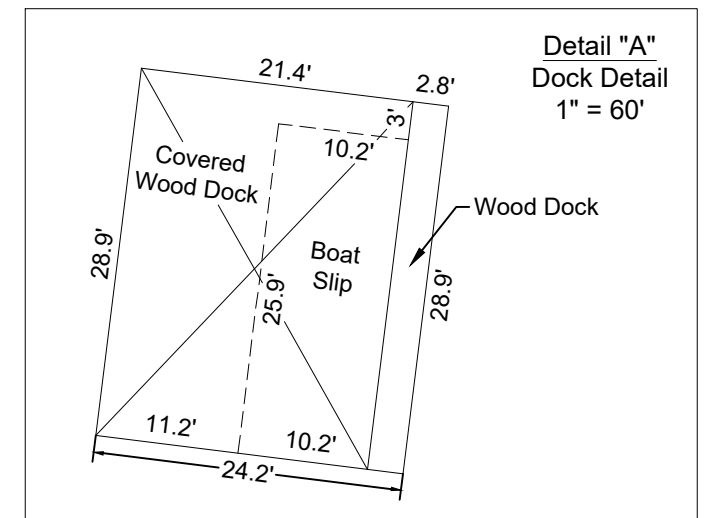
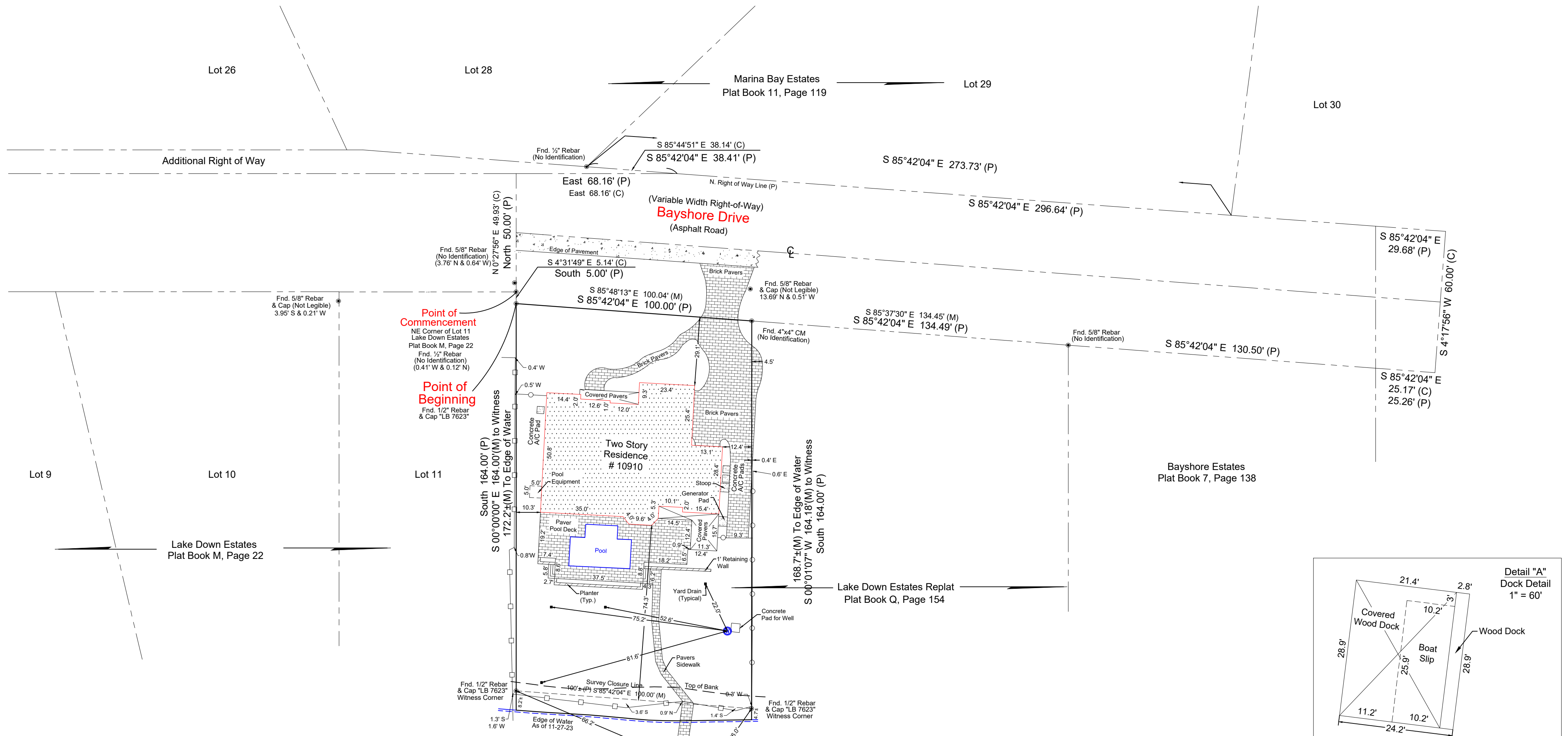
Boundary Survey

Legal Description:

THAT PART OF LAKE DOWN ESTATES REPLAT, AS RECORDED IN PLAT BOOK Q, PAGE 154, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, LYING IN SOUTHWEST QUARTER OF SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 23 SOUTH, RANGE 28 EAST, WHICH IS DESCRIBED AS FOLLOWS:
 FROM THE NORTHEAST CORNER OF LOT 11, LAKE DOWN ESTATES, AS RECORDED IN PLAT BOOK M, PAGE 22, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, RUN SOUTH 5.00 FEET FOR THE POINT OF BEGINNING; THENCE RUN SOUTH ALONG SAID EASTERLY BOUNDARY OF LOT 11, A DISTANCE OF 164 FEET, MORE OR LESS TO THE WATERS OF LAKE DOWN; THENCE RETURN TO POINT OF BEGINNING AND RUN SOUTH 85 DEGREES 42 MINUTES 4 SECONDS EAST 100.00 FEET; THENCE RUN SOUTH 164 FEET, MORE OR LESS TO THE WATER'S EDGE OF LAKE DOWN; THENCE WESTERLY ALONG SAID WATER'S EDGE OF LAKE DOWN 100 FEET, MORE OR LESS, TO THE PREVIOUSLY DESCRIBED POINT ON THE WATER'S EDGE OF LAKE DOWN.

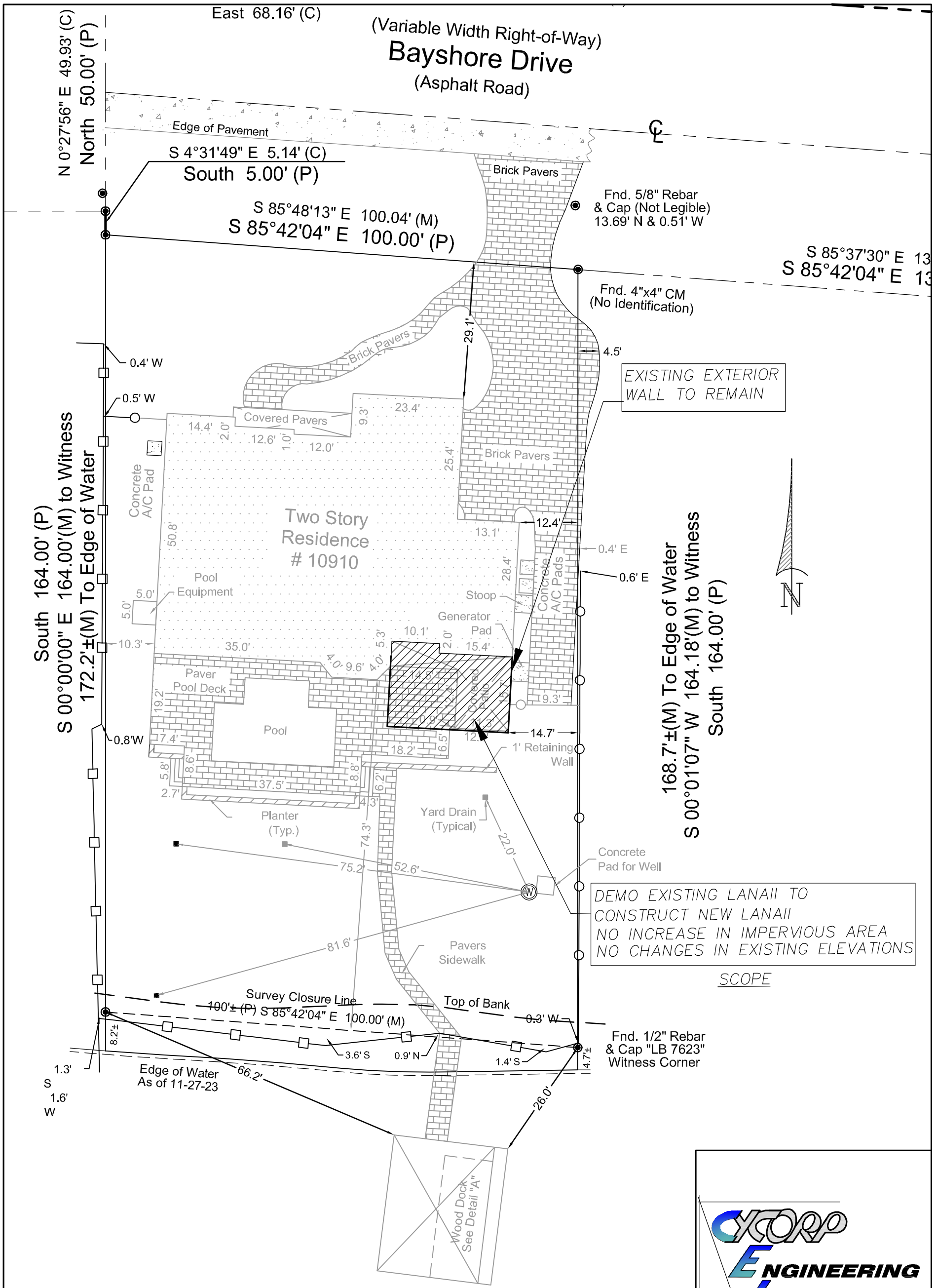
Flood Disclaimer:
 BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X, AE. THIS PROPERTY WAS FOUND IN TOWN OF WINDERMERE, COMMUNITY NUMBER 120381, DATED 9/25/2009.

CERTIFIED TO:
 ADAIR DILLAHA



LAKE DOWN

Field Date: 08/07/17	Date Completed: 08/10/17	Notes:	
Drawn By: GLG	File Number: IS-39801	>Survey is Based upon the Legal Description Supplied by Client. >Abutting Properties Deeds have NOT been Researched for Gaps, Overlaps and/or Hints. >Subject to any Easements and/or Restrictions of Record. >Bearing Basis shown hereon, is Assumed and Based upon the Line Denoted with a "BB". >Building Ties are NOT to be used to reconstruct Property Lines. >Fence Ownership is NOT determined. >Roof Overhangs, Underground Utilities and/or Footers have NOT been located UNLESS otherwise noted. >Septic Tanks and/or Drainfield locations are approximate and MUST be verified by appropriate Utility Location Companies. >Use of This Survey for Purposes other than Intended, Without Written Verification, Will be at the User's Sole Risk and Without Liability to the Surveyor. Nothing Hereon shall be Constituted to give ANY Rights or Benefits to Anyone Other than those Certified. >Flood Zone Determination Shown Hereon is Given as a Courtesy, and is Subject to Final Approval by F.E.M.A. This Determination may be affected by Flood Factors and/or other information NEITHER known by NCR given to this Surveying Company at the time of this Endeavor. Ireland & Associates Surveying, Inc. and the signing surveyor assume NO Liability for the Accuracy of this Determination.	
Legend: C - Calculated CC - Contouring CB - Concrete Block CM - Concrete Monument Conc. - Concrete D - Description DE - Drainage Easement E - Easement F.E.M.A. - Federal Emergency Management Agency FFE - Finished Floor Elevation Fnd. - Found IP - Iron Pipe L - Length (Arc) M - Measured N&D - Nail & Disk NR - Non-Radial ORB - Official Records Book P - Plat P.B. - Plat Book WF - Wood Fence		Legend: PC - Point of Curvature Pg - Page PI - Point of Intersection P.O.B. - Point of Beginning P.O.L. - Point on Line PP - Power Pole PRM - Permanent Reference Monument PT - Point of Tangency R - Radius Rad - Radial R&C - Rebar & Cap Rec - Recovered Rft - Roofed Set - Set S&C - Set 1/2" Rebar & Cap "LB 7623" Typ - Typical UE - Utility Easement WM - Water Meter Δ - Delta (Central Angle) -O- - Chain Link Fence	
Revisions Update Survey - 11/27/23 - AWW		I hereby Certify that this Boundary Survey of the above Described Property is True and Correct to the Best of my Knowledge and Belief as recently Surveyed under my Direction on the Date Shown. Based on Information furnished to Me as Noted and Conforms to the Standard of Practice for Land Surveying in the State of Florida in accordance with Chapter 53-17.052 Florida Administrative Codes, Pursuant to Section 479.027 Florida Statutes. Patrick K. Ireland, P.S. 66637, LB 7623 This Survey is intended for the use of Said Certified Parties. This Survey NOT VALID UNLESS signed and Embossed with Surveyor's Seal. Ireland & Associates Surveying, Inc. 800 Currency Circle Suite 1020 Lake Mary, Florida 32746 www.Irelandsurveying.com Office-407.678.3366 Fax-407.320.8165	



SITE PLAN

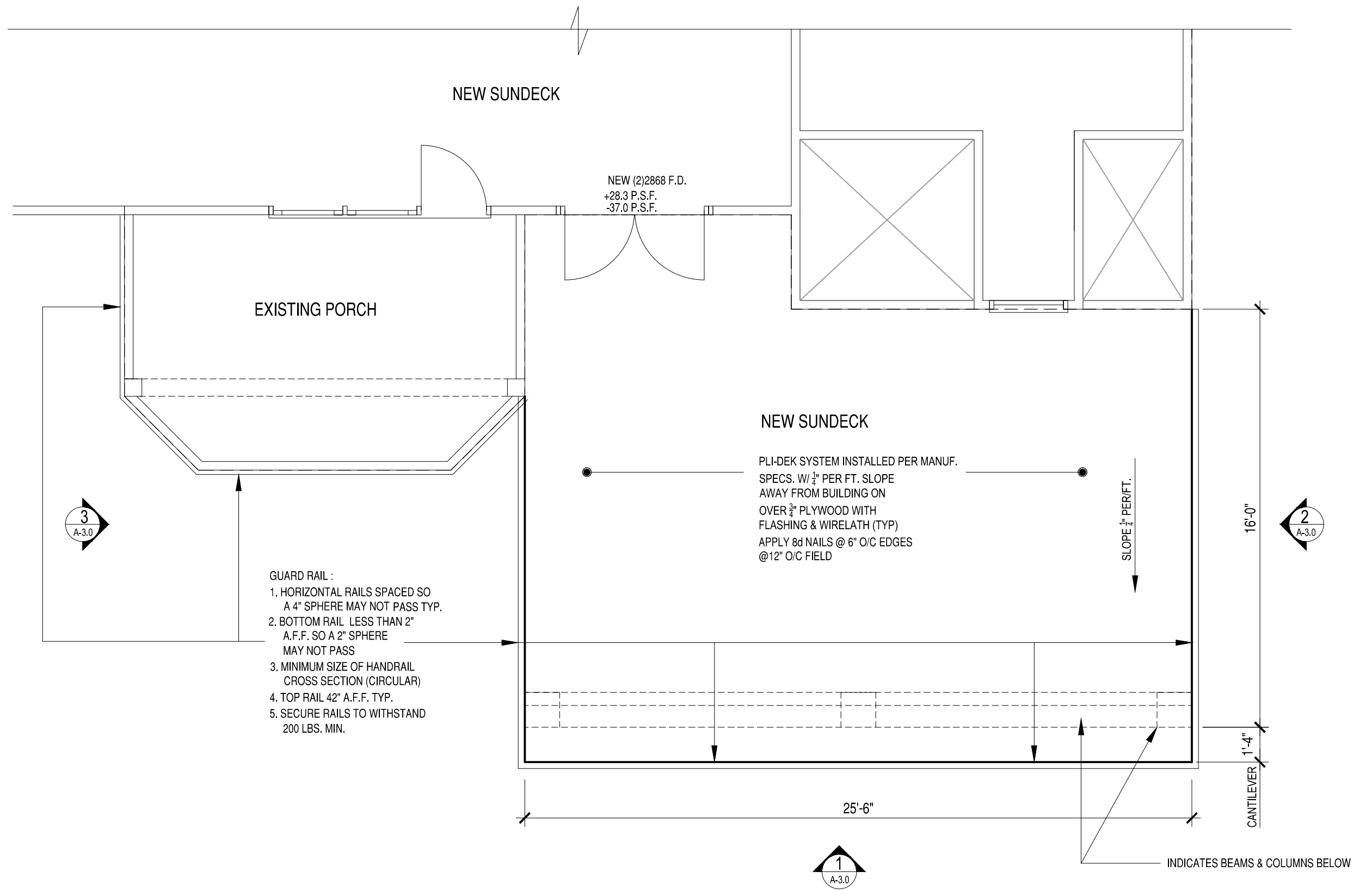
CLIENT
 ER CONTRACTORS

10910 BAYSHRE DR
 ORANGE COUNTY

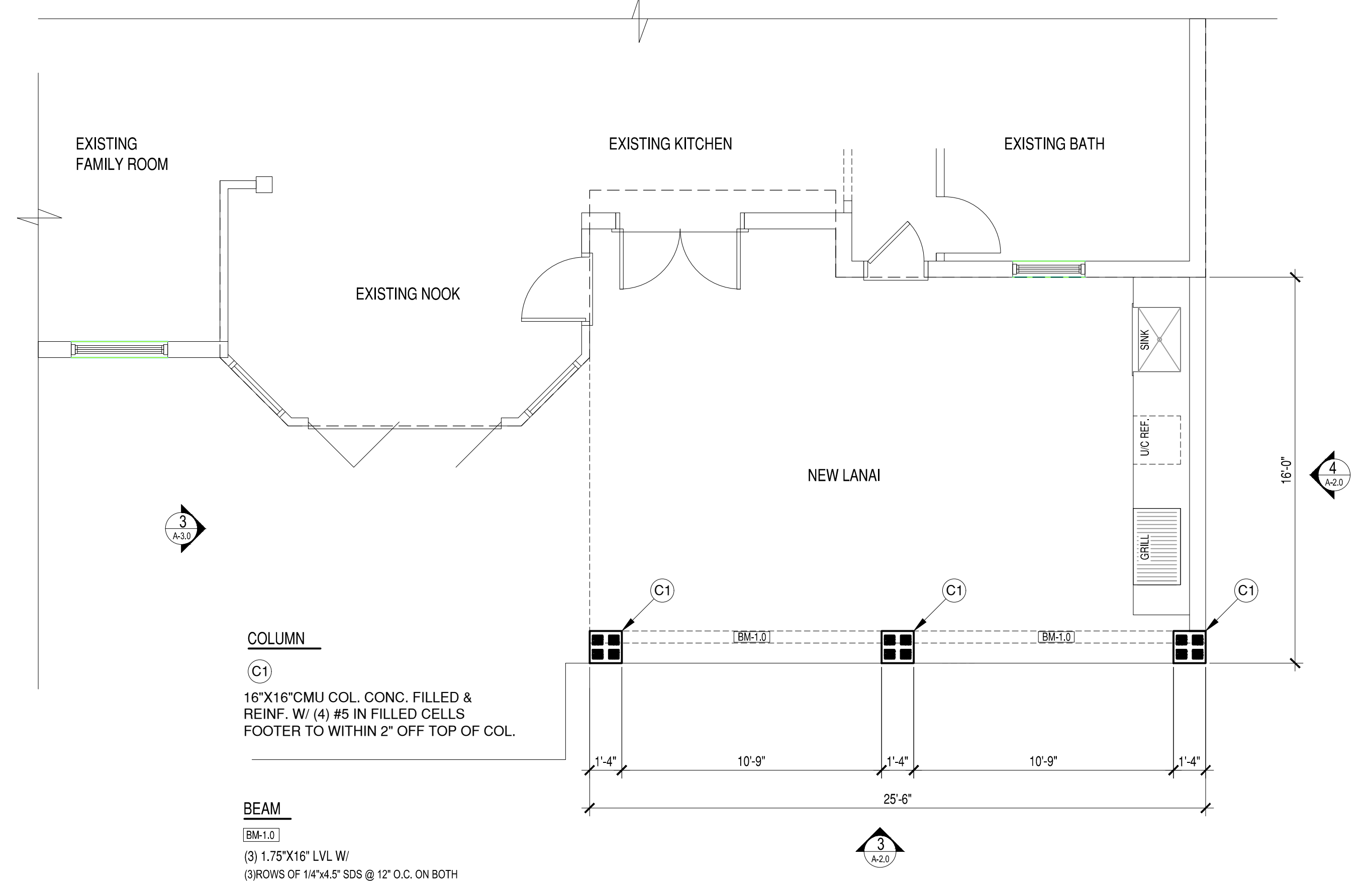
CYTOP ENGINEERING INC.
 CA 30526
**CIVIL ENGINEERS
 LAND PLANNERS**

[Signature]
 KIM FISCHER, P.E. #56942 1/12/2024
 1614 White Dove Drive
 Winter Springs, Florida 32708
 Tel: (407) 405-7819

KAD PROVISIONAL - Last Modified on 10-16-2022
 These Drawings are not to be used in any way without written permission from KAD Design, Inc.



2nd. FLOOR PLAN
 SCALE 1/4" = 1'-0"
 2
 A-2.1



1st. FLOOR PLAN
 SCALE 1/4" = 1'-0"
 1
 A-2.1

REVISIONS

ISSUES

PROJECT:
S.F.R. LANAI & SUNDECK ADDITION
ADDRESS: 10910 Baysshore Drive
Wildermeire, FL 34786

SHEET TITLE:
NEW FLOOR PLANS

CODE COMPLIANCE:
 THIS STRUCTURE HAS BEEN DESIGNED TO MEET OR EXCEED THE REQUIREMENTS OF THE FLORIDA BUILDING CODE (FBC) AS AMENDED THROUGH THE LATEST SECTION 8 AND 9 AND ALL OTHER APPLICABLE LOCAL, STATE AND FEDERAL CODES.
 1. DESIGN WIND SPEED - 140 MPH (ULTIMATE WIND SPEED) AND 100 MPH (WIND SPEED) FOR EXISTING STRUCTURE.
 2. CONSTRUCTION TYPE - SINGLE FAMILY RESIDENCE (TYPE I).
 3. WIND EXPOSURE - CATEGORY I.
 4. HEIGHT ADJUSTMENT COEFFICIENTS - 1.0 AND 1.1.

OWNER:
T.S. CHEHAL, P.E.
 624 Executive Park Court Suite 1024-C
 Apopka, FL 32773
 TEL: (407) 521-5557
 FAX: (407) 521-5434

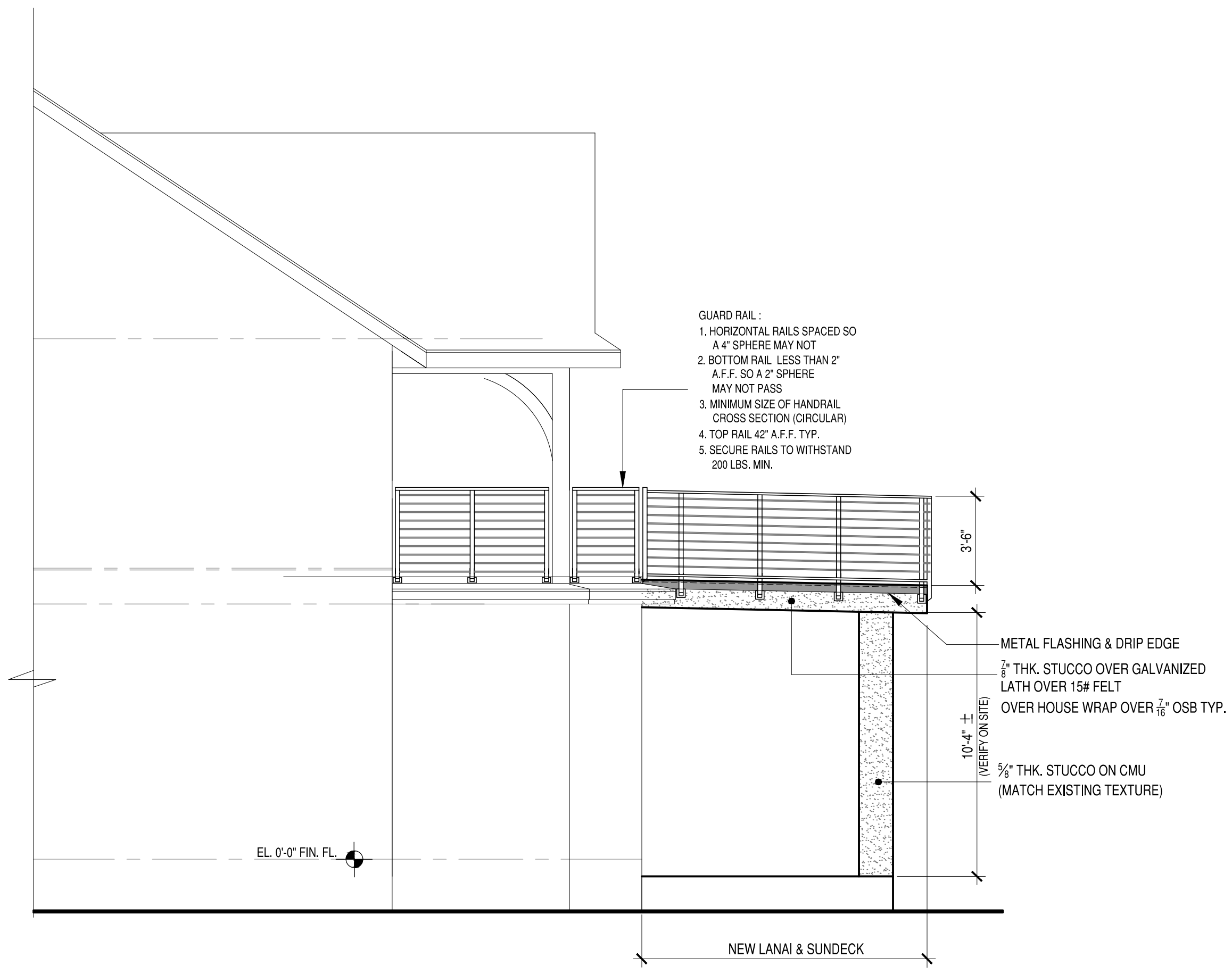
INFORMATIONAL COPY ONLY, UNLESS EMBOSSED WITH PROFESSIONAL ENGINEER'S SEAL
 APPROVED BY:


DATE: 08-21-2023
PROJECT NO.: KAD040748

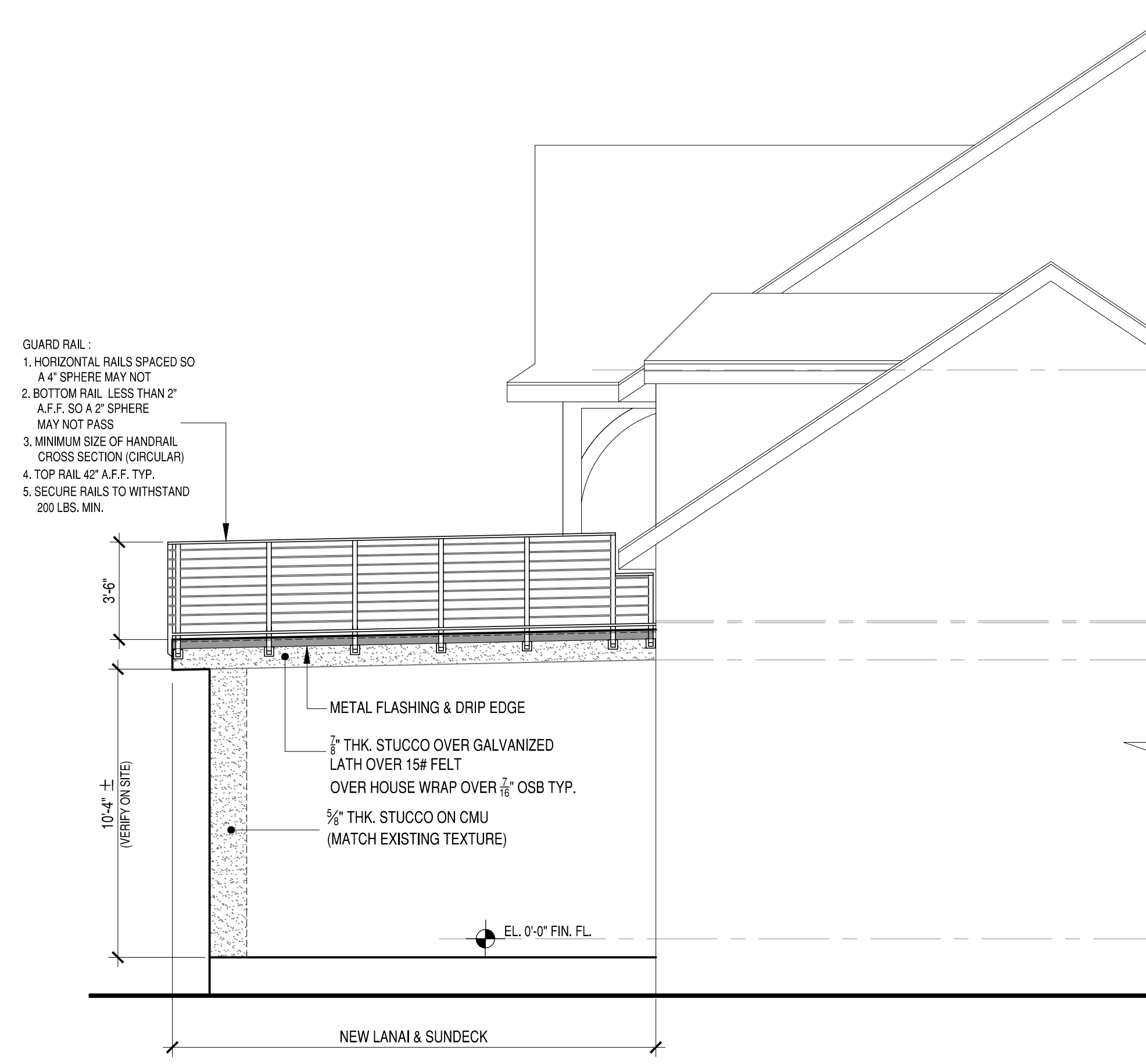
SCALE: AS SHOWN
DRAWN BY: JFC
CHECKED BY: RC
DATE: 07-25-2023
PROJECT NO.:

KAD 3622
SHEET NO.:
A-2.1

KAD Designs, Inc.
 6900 Transitway Lakes Blvd, Suite 400 Orlando Florida 32827 Tel: 407-344-4122 Fax: 407-344-1322 Email: karin.kadesigns@gmail.com



RIGHT SIDE ELEVATION 3
SCALE 1/4" = 1'-0"
A-2.0



LEFT SIDE ELEVATION 4
SCALE 1/4" = 1'-0"
A-2.0



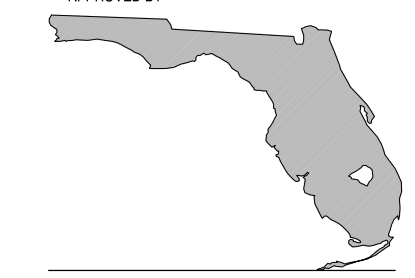
REAR ELEVATION 3
SCALE 1/4" = 1'-0"
A-2.0

KAD PROUDLY PRESENTS...
 These drawings are not to be used in any way without the written consent of KAD Design, Inc.
 PROJECT: S.F.R. LANAI & SUNDECK ADDITION ADDRESS: 10910 Baysshore Drive Windermere, FL 34786
 SHEET TITLE: EXTERIOR ELEVATIONS
 SHEET NO.: 3
 DATE: 08-27-2023
 PERIOD: 04/18
 SCALE: AS SHOWN
 DRAWN BY: JFC
 CHECKED BY: RC
 DATE: 07-25-2023
 PROJECT NO.: KAD 3622
 SHEET NO.: A-2.0
 6900 Transitree Lakes Blvd, Suite 400 Orlando Florida 32827 Tel. 407-344-4122 Fax. 407-344-1322 Email: karin.kaddesigns@gmail.com
 KAD Design, Inc.

CODE COMPLIANCE:
 THIS STRUCTURE HAS BEEN DESIGNED TO MEET OR EXCEED THE REQUIREMENTS OF THE FLORIDA BUILDING CODE (FBC) AS AMENDED THROUGH THE LATEST SECTION 6 AND ANY APPLICABLE LOCAL ORDINANCES.
 (1) BASIS: WIND SPEED - 140 MPH (ULTIMATE WIND SPEED (UWS) AND 100 MPH (WWS) FOR CONSTRUCTION PER THE SINGLE FAMILY RESIDENCE TYPE (1))
 (2) WIND EXPOSURE - CATEGORY II
 (3) WIND EXPOSURE - CATEGORY II
 (4) WIND EXPOSURE - CATEGORY II
 HEIGHT ADJUSTMENT COEFFICIENT IS 1.0 AND

OWNER:
T.S. CHEHAL P.E.
 624 Executive Park Court Suite 1024-C
 Apopka, FL 32703
 TEL: (407) 521-5557
 FAX: (407) 521-5434

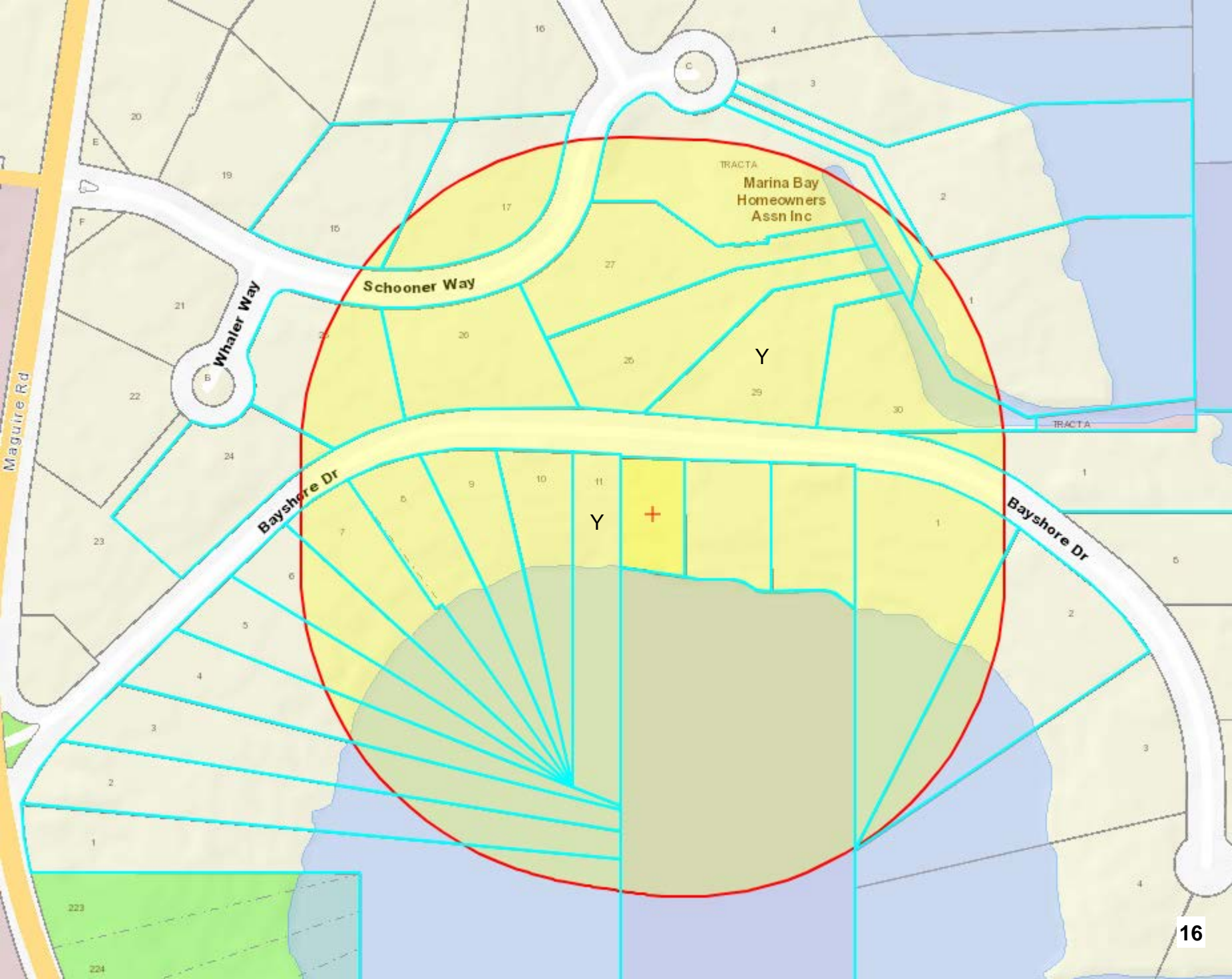
INFORMATIONAL COPY ONLY, UNLESS EMBOSSED WITH PROFESSIONAL ENGINEER'S SEAL
 APPROVED BY:



DATE: 08-27-2023
PERIOD: 04/18

SCALE: AS SHOWN
 DRAWN BY: JFC
 CHECKED BY: RC
 DATE: 07-25-2023
 PROJECT NO.: KAD 3622

SHEET NO.: A-2.0



Town of Windermere

614 Main Street Windermere, FL 34786
Office: (407) 876-2563 Fax: (407) 876-0103



Mayor
JIM O'BRIEN

Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

January 31, 2024

PAHLOW G LARRY
10940 BAYSHORE DR
WINDERMERE, FL 34786

RE: Public Notice of Variance Public Hearing for 10910 Bayshore Dr. - Z24-05

Adair Dillaha, owner of 10910 Bayshore Dr. submitted a request for approval of a variance pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a covered porch addition to the home that will result in the total gross floor area of the home to exceed the maximum 38% of the lot area requirement. The resulting gross floor area with the addition of the covered porch is approximately 41.9% of the lot area.

Enclosed is additional information regarding this request.

Pursuant to the Town of Windermere Code of Ordinances, you as a surrounding property owner are entitled to comment on this matter. If you wish to comment, this form must be received by the Town of Windermere use of the enclosed stamped envelope to Wade Trim, Inc. or by email to tow@wadetrim.com by **February 16, 2024**.

This matter will be presented to the Development Review Board on **Tuesday, February 20, 2024, at 6:30 p.m.** Their recommendation will be heard by the Town Council on **Tuesday, March 12, 2024, at 6:00 p.m.** You may attend the meetings at Town Hall, located at 520 Main Street. All meetings are open to the public and you are welcome to participate. Feel free to contact me if you have any questions.

Sincerely,
Brad Cornelius, AICP, Town Planner
Wade Trim, Inc.
813.882.4373
tow@wadetrim.com
Encl.

RECOMMEND - Z24-05 (10910 Bayshore Drive)

APPROVAL: X DISAPPROVAL _____

COMMENTS: _____

SIGNATURE: Brad Cornelius

DATE: Feb. 7, 2024

Town of Windermere

614 Main Street Windermere, FL 34786
Office: (407) 876-2563 Fax: (407) 876-0103



Mayor
JIM O'BRIEN

Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

January 31, 2024

HEDAYAT ARMAN PEREZ SANDRA EDNA
10921 BAYSHORE DR
WINDERMERE, FL 34786

RE: Public Notice of Variance Public Hearing for 10910 Bayshore Dr. - Z24-05

Adair Dillaha, owner of 10910 Bayshore Dr. submitted a request for approval of a variance pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a covered porch addition to the home that will result in the total gross floor area of the home to exceed the maximum 38% of the lot area requirement. The resulting gross floor area with the addition of the covered porch is approximately 41.9% of the lot area.

Enclosed is additional information regarding this request.

Pursuant to the Town of Windermere Code of Ordinances, you as a surrounding property owner are entitled to comment on this matter. If you wish to comment, this form must be received by the Town of Windermere use of the enclosed stamped envelope to Wade Trim, Inc. or by email to tow@wadetrim.com by **February 16, 2024**.

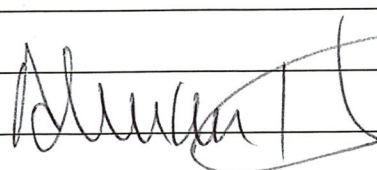
This matter will be presented to the Development Review Board on **Tuesday, February 20, 2024, at 6:30 p.m.** Their recommendation will be heard by the Town Council on **Tuesday, March 12, 2024, at 6:00 p.m.** You may attend the meetings at Town Hall, located at 520 Main Street. All meetings are open to the public and you are welcome to participate. Feel free to contact me if you have any questions.

Sincerely,
Brad Cornelius, AICP, Town Planner
Wade Trim, Inc.
813.882.4373
tow@wadetrim.com
Encl.

RECOMMEND – Z24-05 (10910 Bayshore Drive)

APPROVAL: DISAPPROVAL

COMMENTS: _____

SIGNATURE:  DATE: 2-6-24

Town of Windermere

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Mayor
JIM O'BRIEN



Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

Development Review Board February 20, 2024

Town Council March 12, 2024

Case No.: Z24-06

Property Owner/Applicant: Ryka, LLC / Eric and Rhonda Powell

Representative: Sheila Cichra, Streamline Permitting, Inc.

Requested Action: Variance to allow for a reduced residential boat dock setback from the required 16 feet from the side property lines projected/extended into the water to 10.8 feet from the West side property line projected/extended into the water and 10.0 feet from the East side property line projected/extended into the water.

Property Address: 212 W. 1st Avenue

Legal Description: PLAT OF WINDERMERE G/36 LOT 427 (LESS ELY 80 FT OF NLY 130 FT INCLUDING THAT PORTION OF SAID VAC ST TO N) & N 25 FT OF LOT 426 (LESS W 25 FT) & VAC ST ON N & LAND IN LAKE DESC AS FROM SW COR LOT 469 RUN NE 245 FT S 51 DEG E 81 FT FOR POB RUN S 17 DEG E 100 FT TO N ST LINE 1ST AVE TH N 72 DEG E 65 FT TH N 51 DEG W 106.12 FT TO POB (LESS BEG SWLY COR LOT 427 RUN N 72 DEG E 25 FT S 17 DEG E 25 FT N 72 DEG E 142.5 FT N 17 DEG W 95 FT S 72 DEG W 80 FT S 83 DEG W 30.55 FT S 72 DEG W 57.48 FT S 17 DEG E 75.6 FT TO POB)

Future Land Use/Zoning: Residential/Residential

Existing Use: Residential (Single Family)

Surrounding Future Land Use/Zoning

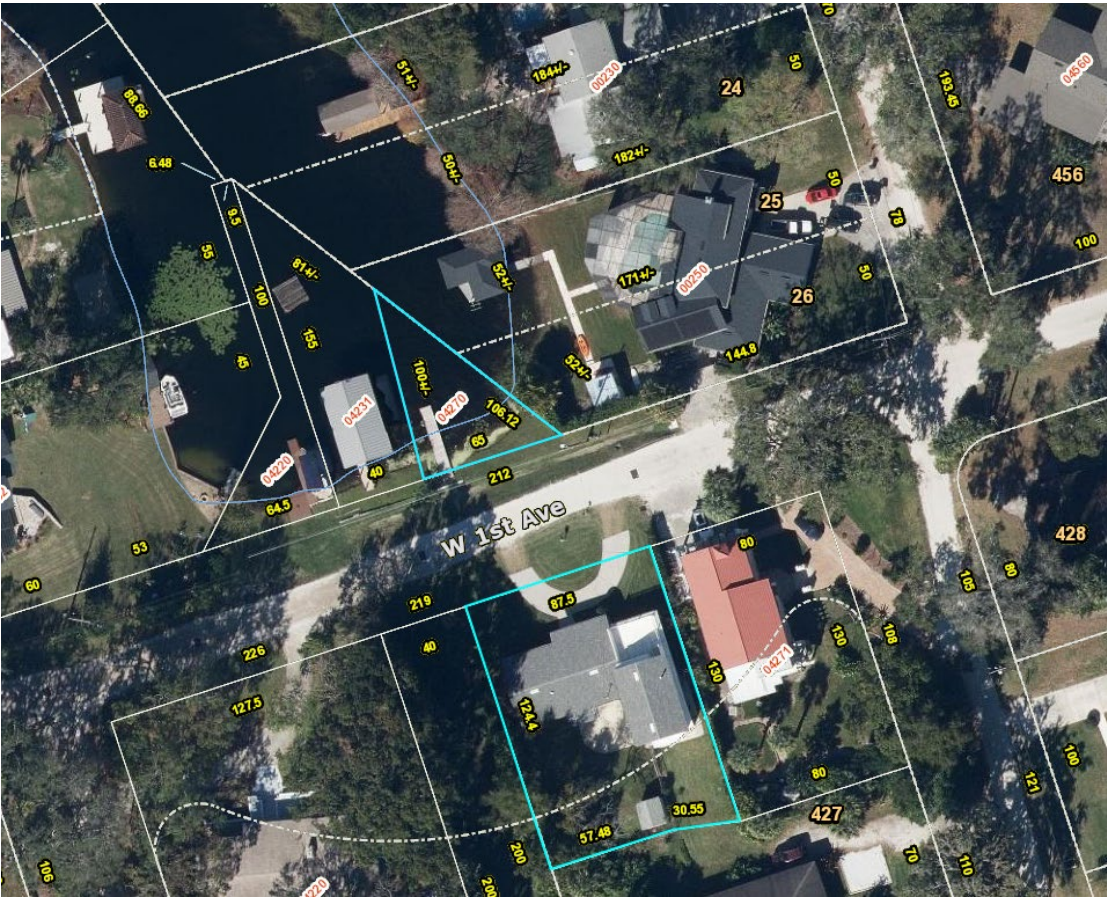
North: Lake
East: Residential/Residential
South: Residential/Residential
West: Residential/Residential

CASE SUMMARY:

Ryka, LLC, owner of 212 W. 1st Ave., submitted a request for approval of a variance pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a reduced residential boat dock setback from the required 16 feet from the side property lines projected/extended into the water to 10.8 feet from the West side property line projected/extended into the water and 10.0 feet from the East side property line projected/extended into the water.

Orange County Environmental Protection Division (EPD) issued related permit #BD-23-10-136 for the subject boat dock at 10.0 feet from the West side property line projected/extended into the water and 10.0 feet from the East side property line projected/extended into the water.

The existing boat dock, which sits at 6 feet from the West side property line projected/extended into the water and will be completely removed prior to construction of the subject boat dock.



*Aerial View of Existing Single-Family Residence and Boat Dock at 212 W. 1st Ave.
(Source: Orange County Property Appraiser)*

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

CASE ANALYSIS:

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and

3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

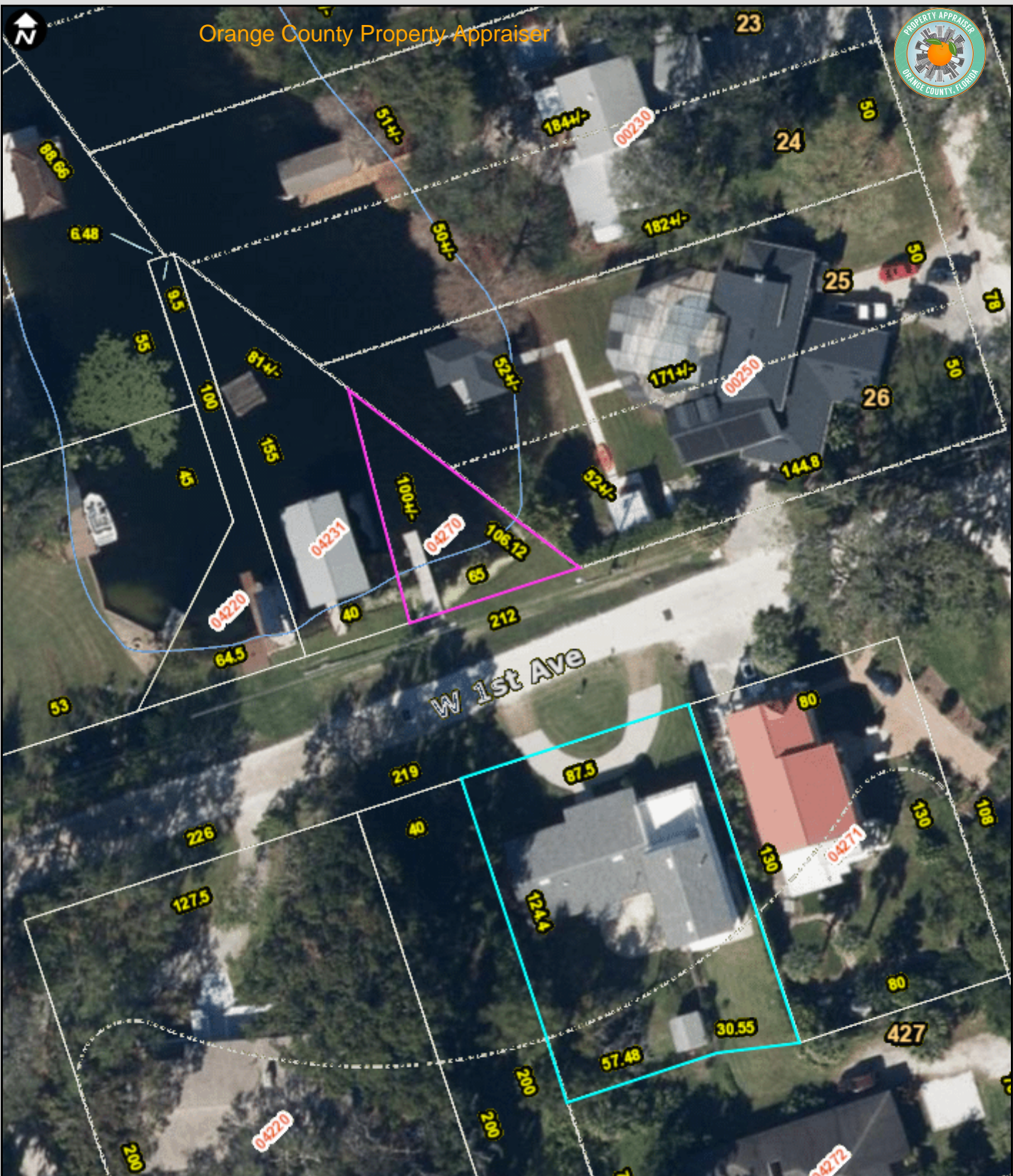
Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a variance request letter, survey, site plan, and other materials in support of the variance request. Please see the information provided with the agenda item for the applicant's submittal.

PUBLIC NOTICE:

As of February 12, 2024, no responses were received in support or in opposition.

OCA Web Map		Proposed Road	Residential	Commercial/Industrial/Vacant Land	Parks	6	Lot Number
Florida Turnpike	Major Roads	Proposed Road	Residential	Commercial/Industrial/Vacant Land	Parks	6	Lot Number
Interstate 4	Public Roads	Brick Road	Agriculture	Agricultural Curtilage	Lakes and Rivers	06060	Parcel Number
Toll Road	Gated Roads	Block Line	Commercial/Institutional	Hydro	Building	3106	Parcel Address
	Road Under Construction	Lot Line	Governmental/Institutional/Misc	Waste Land	E	111.9	Parcel Dimension



This map is for reference only and is not a survey



Date: January 28, 2024
To: Town of Windermere
From: Sheila Cichra, Streamline Permitting, Inc.
Re: Side setback variance request for 212 West 1st Avenue

The attached application package is a variance request to allow a boat dock to be constructed with a 10.8' side setback on the West and a 10' side setback on the East in lieu of the required 16' side setbacks.

The County and State have both issued permits with 10' side setbacks.

The adjacent property owners have signed letters of no objection and both of the adjacent property owners have obtained their own side setback variances.

All the adjacent docks in this little cove have reduced side setbacks.

The existing dock, which will be removed, only has a 6' side setback, so the current non-compliance will be reduced.

Due to the shallow depth, this is the only way that this property owner can have a functional boat slip, without prop scouring.

Thank you for your consideration.

A handwritten signature in blue ink, appearing to read "Sheila Cichra".

Boundary & Topographic Survey

Legal Description:

LOT 427: THE NORTH 25 FEET OF LOT 426, LESS THE WEST 25 FEET THEREOF MEASURED AT RIGHT ANGLES TO THE LOT LINES, AND ALL LAND FRONTING LOT 427 WHICH LIES BETWEEN THE EAST AND WEST SIDE LINES OF LOT 427 EXTENDED IN THE NORTHWESTERLY DIRECTION TO INTERSECT A STRAIGHT LINE CONNECTING THE SOUTH STREET LINES OF FIRST AVENUE FRONTING LOTS 428, 435 AND LOTS 417, 421, ALL ACCORDING TO THE PLAT OF WINDERMERE, AS RECORDED IN PLAT BOOK "G", PAGES 36 THROUGH 39, INCLUSIVE, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA;

LESS AND EXCEPT: FROM THE SOUTHEAST CORNER OF SAID LOT 427, REPLAT OF WINDERMERE, AS RECORDED IN PLAT BOOK "G", PAGES 36 THROUGH 39, INCLUSIVE, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, (SAID CORNER BEING LOCATED AT THE INTERSECTION OF THE COMMON LOT LINE OF LOTS 426 AND 427 OF SAID PLAT AND FOREST STREET) RUN THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID LOT 427 A DISTANCE OF 70 FEET FOR A POINT OF BEGINNING, THENCE RUN NORTHERLY ALONG SAID EASTERLY LINE AND ALONG A NORTHERLY EXTENSION THEREOF A DISTANCE OF 130 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF FIRST AVENUE, AS IT NOW EXISTS, RUN THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF FIRST AVENUE A DISTANCE OF 80 FEET, THENCE RUN SOUTHERLY, PARALLEL TO SAID NORTHERLY EXTENSION OF THE EASTERLY LINE OF SAID LOT 427, A DISTANCE OF 130 FEET TO A POINT 70 FEET NORTHERLY OF THE SOUTHERLY LINE OF SAID LOT 427, THENCE RUN EASTERLY A DISTANCE OF 80 FEET TO THE POINT OF BEGINNING.

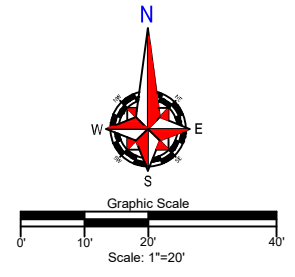
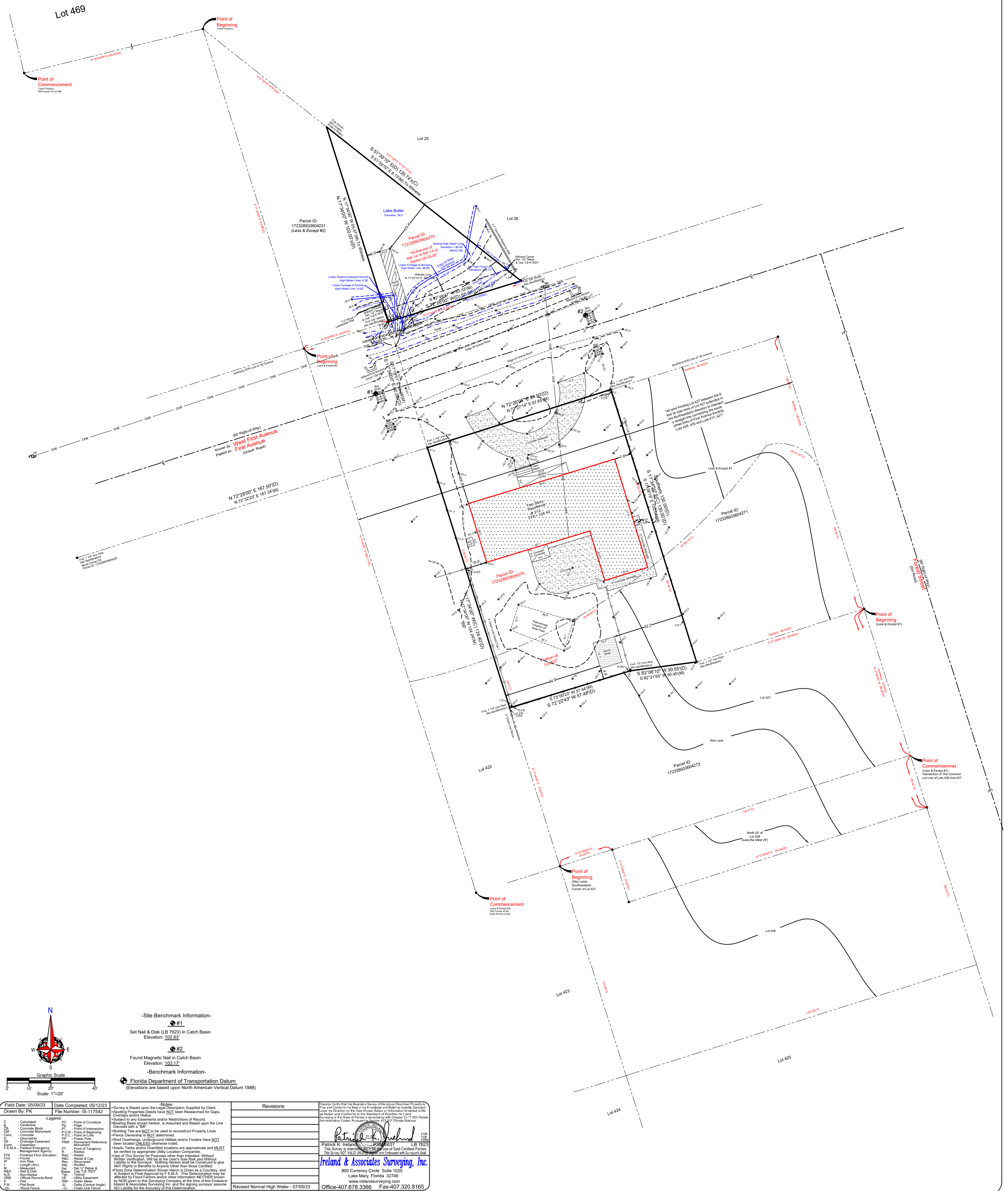
AND ALL THAT PART OF NORTHWEST 1/4 OF SOUTHWEST 1/4 SECTION 6, TOWNSHIP 23 SOUTH, RANGE 26 EAST, ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF LOT 469 AS SHOWN ON PLAT OF WINDERMERE, AS RECORDED IN PLAT BOOK "G", PAGES 36 THROUGH 39, INCLUSIVE, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, RUN NORTH 76 DEGREES 8 MINUTES 30 SECONDS EAST ALONG THE SOUTH BOUNDARY OF SAID LOT 469, EXTENDED IN TO LAKE BUTLER 245 FEET TO POINT OF BEGINNING, THENCE SOUTH 17 DEGREES 34 MINUTES EAST 154.98 FEET TO NORTH STREET LINE OF FIRST AVENUE, THENCE NORTH 72 DEGREES 26 MINUTES EAST ALONG THE NORTH STREET LINE OF FIRST AVENUE 105 FEET, THENCE NORTH 51 DEGREES 39 MINUTES 10 SECONDS WEST 187.12 FEET TO POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING: BEGINNING AT THE SOUTHWEST CORNER OF THE EAST 40 FEET OF LOT 422, PLAT OF WINDERMERE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "G", PAGES 36 THROUGH 39, INCLUSIVE, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MEASURED AT RIGHT ANGLES FROM THE EASTERLY SIDE LINE OF SAID LOT, RUN THENCE NORTH 17 DEGREES 34 MINUTES WEST 260 FEET MORE OR LESS TO INTERSECT A STRAIGHT LINE RUNNING SOUTH 72 DEGREES 26 MINUTES WEST FROM THE SOUTHWESTERLY CORNER OF LOT 456 FOR A POINT OF BEGINNING, RUN THENCE NORTH 72 DEGREES 26 MINUTES EAST ALONG SAID STRAIGHT LINE 40 FEET TO A POINT; RUN THENCE NORTH 17 DEGREES 34 MINUTES WEST 100 FEET TO A POINT IN LAKE BUTLER, RUN THENCE NORTH 51 DEGREES 39 MINUTES 10 SECONDS WEST 81 FEET MORE OR LESS TO A POINT IN LAKE BUTLER SITUATED NORTH 17 DEGREES 34 MINUTES WEST FROM THE POINT OF BEGINNING, RUN THENCE SOUTH 17 DEGREES 34 MINUTES EAST 150 FEET MORE OR LESS TO THE POINT OF BEGINNING.

ALSO LESS BEGIN AT THE SOUTHWESTERLY CORNER OF LOT 427, PLAT OF WINDERMERE, AS RECORDED IN PLAT BOOK G, PAGES 36 THROUGH 39, INCLUSIVE, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; RUN THENCE NORTH 72 DEGREES 26 MINUTES 00 SECONDS EAST, ALONG THE SOUTHERLY LINE OF SAID LOT 427, A DISTANCE OF 25.0 FEET, THENCE SOUTH 17 DEGREES 34 MINUTES 00 SECONDS EAST 25.0 FEET, THENCE NORTH 72 DEGREES 26 MINUTES 00 SECONDS EAST, PARALLEL TO SAID SOUTHERLY LINE, 142.50 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF FOREST STREET, THENCE NORTH 17 DEGREES 34 MINUTES 00 SECONDS WEST, ALONG SAID RIGHT-OF-WAY LINE, 95.0 FEET, THENCE SOUTH 72 DEGREES 26 MINUTES 00 SECONDS WEST 80.0 FEET, THENCE SOUTH 83 DEGREES 06 MINUTES 10 SECONDS WEST 30.55 FEET TO THE CORNER OF A CHAIN LINK FENCE, THENCE SOUTH 72 DEGREES 22 MINUTES 43 SECONDS WEST, ALONG SAID CHAIN LINK FENCE, 57.48 FEET TO THE WESTERLY LINE OF SAID LOT 427, THENCE SOUTH 17 DEGREES 34 MINUTES 00 SECONDS EAST 75.80 FEET TO THE POINT OF BEGINNING.

FLOOD DISCLAIMER: BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONES X & AE. THIS PROPERTY WAS FOUND IN ORANGE COUNTY, COMMUNITY NUMBER 120381, DATED 09/25/2009.

CERTIFIED TO: RYKA BUILDERS



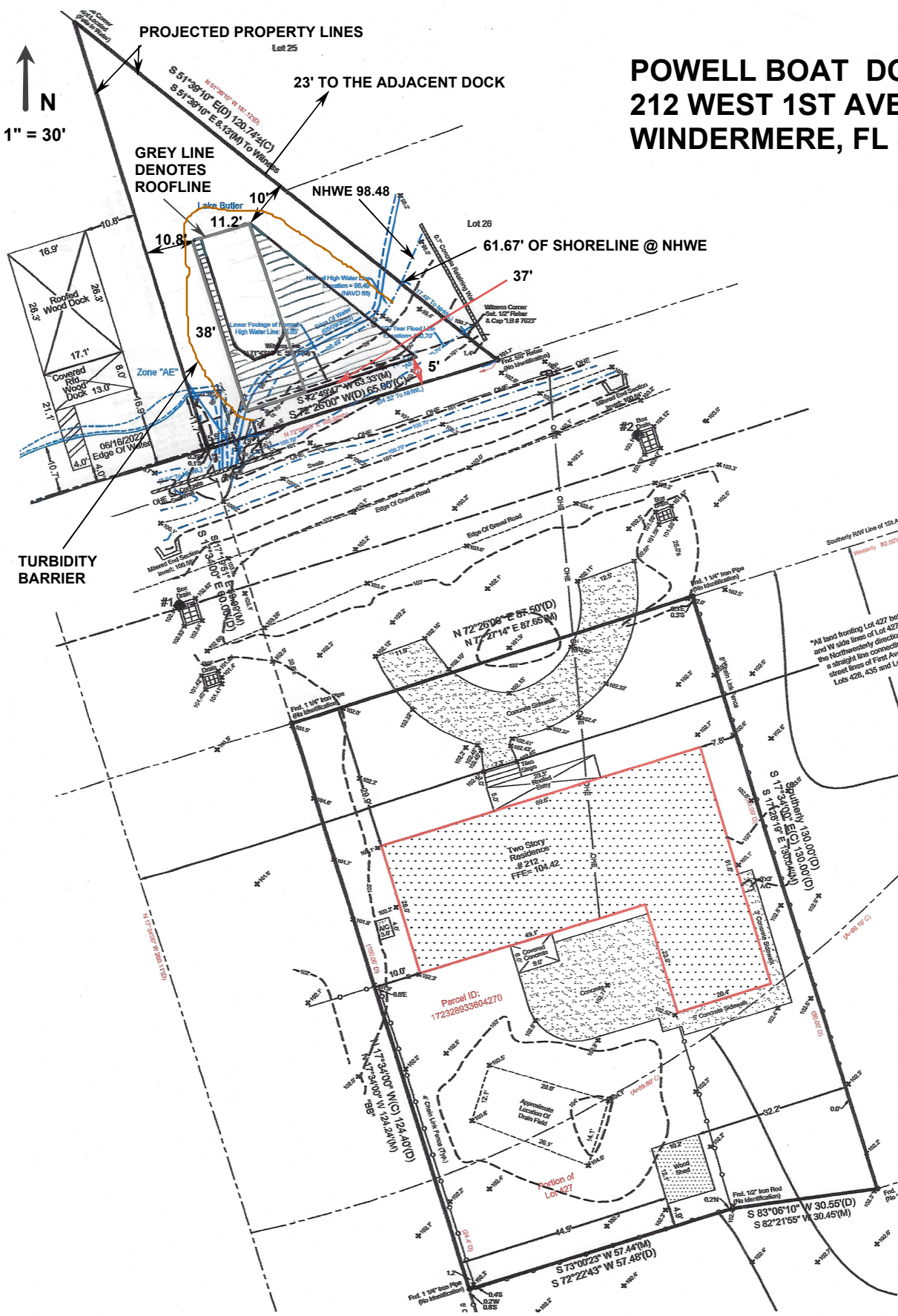
-Site Benchmark Information-
#1
Set Nail & Disk (LB 7823) in Catch Basin
Elevation: 102.83
#2
Found Magnetic Nail in Catch Basin
Elevation: 103.17
-Benchmark Information-
Florida Department of Transportation
(Elevations are based upon North American Vertical Datum 1988)

Table with columns for Field Date (05/09/23), Date Completed (05/12/23), Revisions, and a legend for symbols used in the survey (e.g., Survey Station, Point of Beginning, etc.).

POWELL BOAT DOCK SITE PLAN

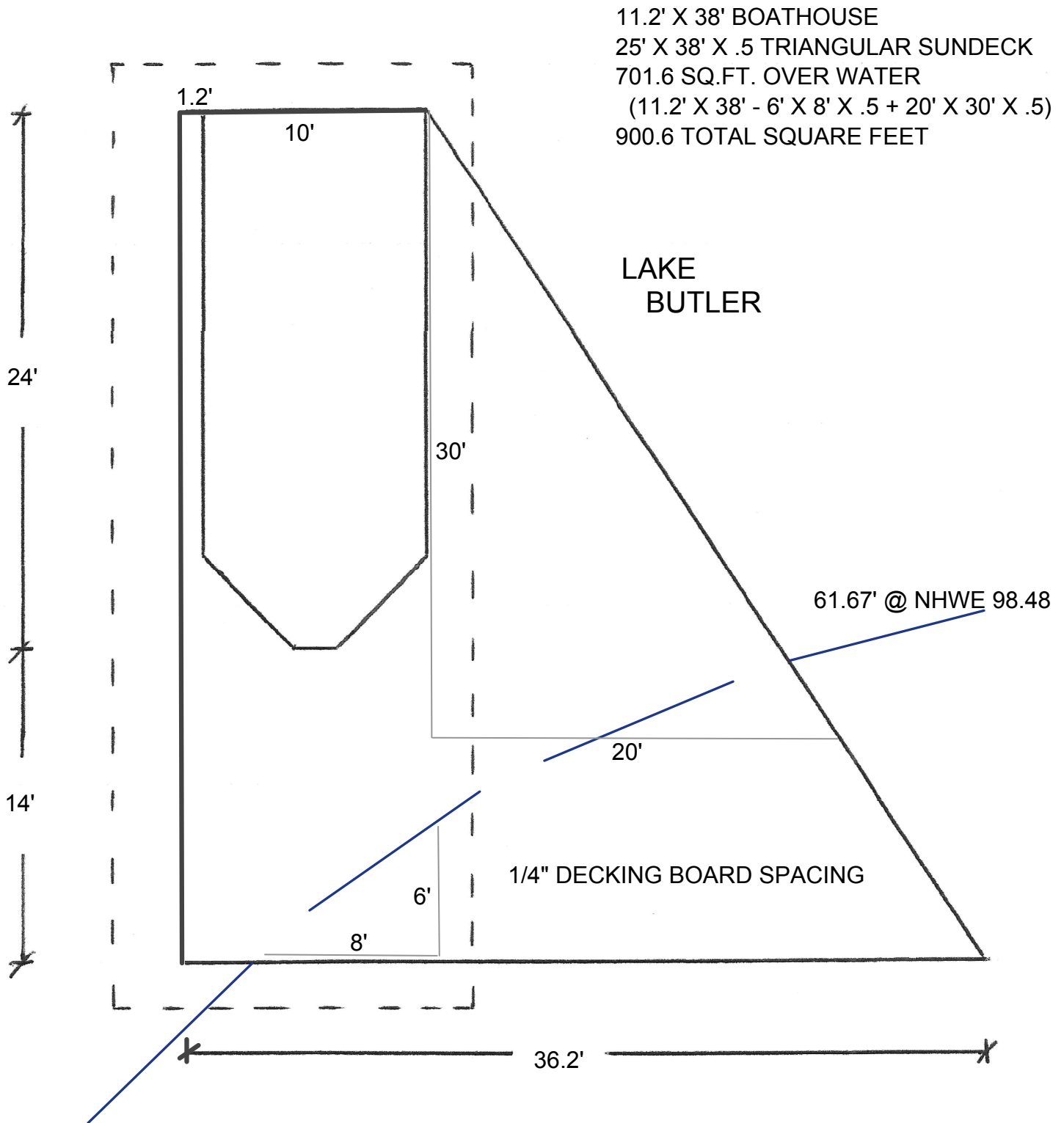
212 WEST 1ST AVENUE

WINDERMERE, FL 34786

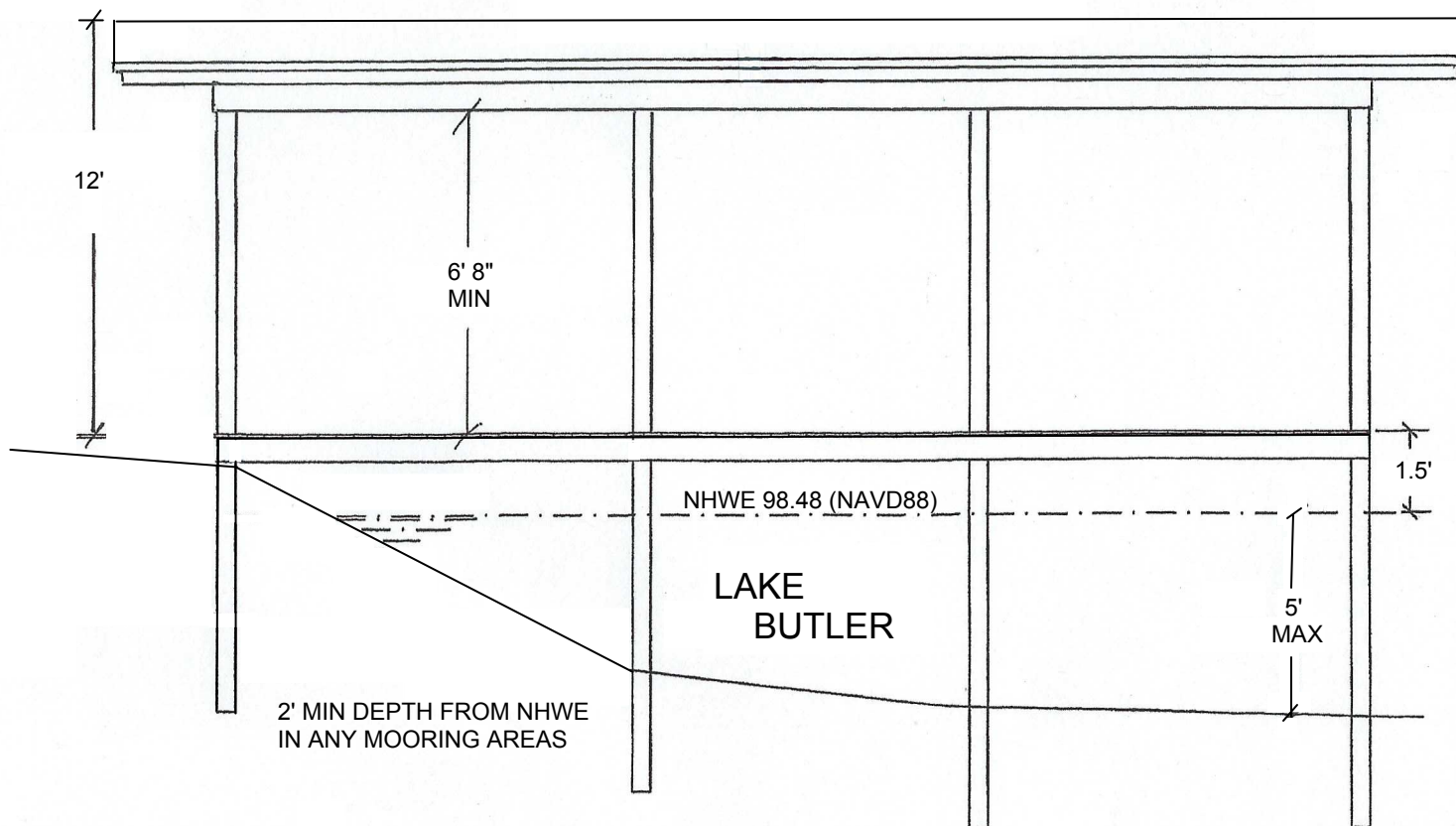


*All land fronting Lot 427 bet and W side lines of Lot 427 and the Northeastly direction a straight line connecting street lines of First Ave Lots 428, 435 and 436

**POWELL BOAT DOCK PLAN VIEW
212 WEST 1ST AVENUE
WINDERMERE, FL 34786**



POWELL BOAT DOCK ELEVATION
212 WEST 1ST AVENUE
WINDERMERE, FL 34786



PILINGS WRAPPED WITH HDPE FROM 1' ABOVE THE NHWE TO 1' BELOW LAKE BOTTOM

**AFFECTED ADJACENT PROPERTY OWNER
LETTER OF NO OBJECTION
TO BOAT DOCK SIDE-SETBACK WAIVER REQUEST**

I, Anthony Pearce, a legal property owner of property located at 78 Forest St, Windermere, FL 34786
(Adjacent Property Owner Name) *(Address)*

have reviewed the dock construction plans dated 9/23/23, for the property located at
212 West 1st Ave, Windermere, FL 34786 and have no objections, subject to the dock NOT exceeding 35 feet in length.

The dock construction plans include a side setback waiver request of 10' feet, in lieu of the minimum setback distance required by Code.



[Handwritten Signature]

(Signature - Adjacent Affected Property Owner)

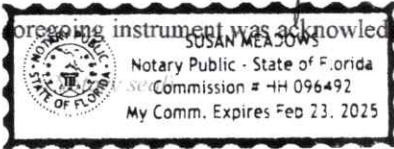
10-14-2023
(Date)

ANTHONY Pearce
(Print Name - Adjacent Affected Property Owner)

ACKNOWLEDGEMENT:

STATE OF FLORIDA
 COUNTY OF Orange

The foregoing instrument was acknowledged before me this 14th day of October, 2023, by Susan Meadows
 NAME OF NOTARY



[Handwritten Signature]
(Signature of Notary Public - State of Florida)

Personally Known OR Produced Identification

Type of Identification Produced F.O.L.

**AFFECTED ADJACENT PROPERTY OWNER
LETTER OF NO OBJECTION
TO BOAT DOCK SIDE-SETBACK WAIVER REQUEST**

I, Jeff Szukalski, a legal property owner of property located at 219 W 2nd Avenue,
(Adjacent Property Owner Name) (Address)

have reviewed the dock construction plans dated 1/15/24, for the property located at
212 West 1st Avenue, and have no objections.

The dock construction plans include a side setback waiver request of 10.8' feet, in lieu of the minimum setback distance required by Code.



Jeff Szukalski
(Signature - Adjacent Affected Property Owner)

1-22-2024
(Date)

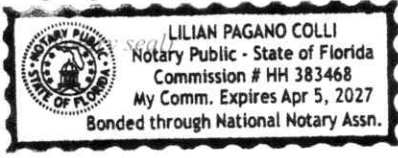
Jeff Szukalski
(Print Name - Adjacent Affected Property Owner)

ACKNOWLEDGEMENT:

STATE OF FLORIDA
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 22 day of January, 2024, by Lilian P. Colli.

NAME OF NOTARY



Lilian P. Colli
(Signature of Notary Public - State of Florida)

Personally Known _____ OR Produced Identification ✓

Type of Identification Produced DL# 5 242-430-78-149-0



Environmental Protection Division

DOCK CONSTRUCTION PERMIT

Permit No.: BD-23-10-136

Date Issued: December 13, 2023

Date Expires: December 13, 2024

A Permit Authorizing:

The construction of a dock not to exceed the measurements identified on the Environmental Protection Division (EPD) stamp on the plans dated as received by EPD on October 9, 2023.

EPD has evaluated the proposed activity and has made a finding that the request is consistent with Orange County Code, Chapter 15, Article IX, Construction of Dock Ordinance of Orange County and is subject to the permit conditions provided on the following pages:

Activity Location:

212 W. 1st Avenue, Windermere, FL 34786

Parcel ID No.: 17-23-28-9336-04-270

Lake Name: Butler

Orange County Commission District: 1

Permittee(s) / Authorized Entity:

Eric and Rhonda Powell

c/o Sheila Cichra

Streamline Permitting, Inc.

Email: sheilacichra@gmail.com

Orange County Environmental Protection Division
3165 McCrory Place, Suite 200
Orlando, Florida 32803
407-836-1400/ Fax: 407-836-1499
www.OCEPD.org

As the permit holder, you are responsible for ensuring that all the conditions are met. If you are using a contractor to perform the activities authorized within the permit you are both responsible for meeting the conditions of your permit. If you fail to meet any of the conditions, you and/or your contractor may be subject to formal enforcement which may include administrative penalties.

Approval of this permit is subject to the following conditions:

General Conditions for Dock Construction Permits:

1. This permit shall become final and effective upon expiration of the 15-calendar day appeal period following the date of issuance unless an appeal has been filed within this timeframe. For permits that required approval by the Board of County Commissioners (BCC), the permit shall become final and effective upon expiration of the 30-calendar day period following the date of rendition of the BCC's decision approving the permit, unless a petition for writ of certiorari or other legal challenge has been filed within this timeframe. Any appeal shall stay on the effective date of this permit until all appeals are resolved.
2. The operational phase of this permit is effective upon the completion of construction and continues in perpetuity.
3. Construction activities shall be completed in accordance with the approved site plans included with this permit. Construction shall not exceed the measurements identified on the stamp on the plans. The permitted work must be completed within one year of the date of issuance of the permit. Requests for permit extension must be submitted to the EPD prior to the expiration date.
4. The dock must be constructed within an access corridor pursuant to Chapter 15, Article VII, Section 15-255(1). No access corridor is allowed through any conservation area and/or easement.
5. The structure and its use shall not significantly impede navigability in the waterbody.
6. There shall be no dredging or filling associated with construction of the structure(s) authorized herein, other than that required for installation of structural pilings.
7. Dock structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
8. The dock must be constructed to meander around native trees to minimize impacts to natural resources. If any trees are removed (dead or alive), EPD must be notified immediately, and a restoration plan must be submitted to EPD for approval. At a minimum, the plan must consist of native wetland plants on 2-foot centers and native wetland trees on 10-foot centers. The ratio will be at least 4:1 ratio for any trees that are removed.
9. If any fallen trees are located within the proposed dock location, they may be cut in place and left within the wetland/conservation area. If trees must be removed, only hand removal is permitted; no heavy equipment or machinery may be utilized. Debris must be removed without displacing soil.
10. Any existing dock shall be completely removed before construction of the new dock can begin. Appropriate erosion and sediment control measures shall be installed around the work area and shall remain in place until all sediments have settled out of the water column. Pilings associated with the existing dock shall be cut at the substrate line or jetted out. All removed materials shall be disposed of at an appropriate offsite location. If the new dock is to be constructed in a different location along the shoreline, the previously cleared access corridor shall be allowed to naturally revegetate for one

year. Should the area not be re-established with appropriate native aquatic or wetland vegetation, invasive species removal and replanting may be required.

11. Unless expressly authorized by this permit and approved site plans, no floating platform structure has been approved with the issuance of this permit. If, at any time, any addition to the terminal platform (including, but not limited to, a floating platform) is proposed, the permittee(s) or future owners of the property may be required to apply for, and obtain, a new Dock Construction Permit.
12. All excess lumber, scrap wood, trash, garbage, and similar materials shall be removed from the project area immediately.
13. The permit holder and/or designated agent must submit a notice of completion to EPD within 30 days of completion of the construction or repair of the permitted structure so that a compliance check may be performed by EPD staff. The permittee(s) must provide as-built drawings on a final survey, signed, and sealed by an appropriate professional licensed by the State of Florida, with the notice of completion. The signed and sealed as-built survey shall consist of an aerial view and a side view of the dock as well as any other information required to demonstrate compliance with the permit. The following items must be included on the survey:
 - a. North arrow;
 - b. Name of water body;
 - c. Reference point;
 - d. Setback distance from all portions of the boat dock;
 - e. The Normal High Water Elevation (NHWE);
 - f. Floor elevation (measured from the NHWE);
 - g. Roof elevation (measured from the top of the floor to the top of the roof);
 - h. Length of the dock below the NHWE;
 - i. Access walkway width;
 - j. Conservation easements, wetlands, buffers, berm and swale/drainage easements;
 - k. Floor elevation of the dock through wetlands;
 - l. Complete dimensions of the terminal platform; and
 - m. Elevation of the lake bottom at the waterward end of the terminal platform.
14. Upon completion of construction, the permittee(s) shall provide EPD with photographs of the dock to wetlandpermitting@ocfl.net from the following locations:
 - a. From the shoreline or backyard looking out towards the lake and dock;
 - b. View of the terminal platform from access walkway;
 - c. The end of the terminal platform looking back towards the shoreline;
 - d. View from each property corner looking towards the dock;
 - e. View of the access walkway with a tape measure in frame to show the height of the top of the access walkway deck over wetlands (if applicable); and,
 - f. View of the water depth at the waterward end of the terminal platform with a tape measure in frame that is flush with the top of the deck so a dimension is clearly visible.
15. At least 48-hours prior to commencement of activity authorized by this permit, the permittee(s) shall submit to EPD at wetlandpermitting@ocfl.net, a Construction Notice indicating the actual start date and expected completion date.
16. The permittee(s) shall notify EPD, in writing, within 30 days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee(s) shall remain liable for all permit conditions and corrective actions that may be required as a result of any permit violations which occur prior to the transfer of the permit by Orange County to a subsequent

owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.

17. A copy of this permit, along with EPD stamped and approved drawings should be taken to the Orange County Zoning Division (OCZD) at 201 South Rosalind Avenue to obtain a building permit. For further information, please contact the OCZD at (407) 836-5525. After approval by OCZD, the certified site plans will need to be reviewed by the Orange County Building Safety Division (OCBSD) to obtain a building permit. For further information, please contact the OCBSD at (407) 836-5550.
18. If the property is within the Town of Windermere, a copy of this permit, along with EPD stamped and approved drawings should be taken to the Town of Windermere at 614 Main Street to obtain a building permit. For further information, please contact the Town of Windermere at 407-876-2563.
19. Some lakes experience a wide fluctuation of water levels. There may be times during the year that the dock authorized herein may not be usable to access the water.
20. Subject to the terms and conditions herein, the permittee(s) is hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee(s) binds itself and its successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities are not in accordance with the conditions of the permit, work shall cease, and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.
21. Prior to construction, the permittee(s) shall clearly designate the limits of construction on-site. The permittee(s) shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
22. The projected property lines, as identified on the stamped permit drawings, should be field staked by a professional land surveyor prior to the start of construction to be sure that the dock is constructed in the permitted location. Utilizing an adjacent boat dock or fence line is not sufficient for accurate placement of the dock and may result in the placement of the dock in the wrong location. It is extremely important to build the dock in the approved location. Upon completion of construction, if an unauthorized encroachment into the required minimum setback occurs, you may be required to relocate the dock.
23. The permittee(s) shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee(s) shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
24. Issuance of this permit does not warrant in any way that the permittee(s) has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee(s). In the event that any part of the structure(s) permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owner's riparian or other property rights, the permittee(s) agrees to either obtain written consent or to remove the offending structure or encroachment within 60 days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
25. This permit does not release the permittee(s) from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to

obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee(s) or create in the permittee(s) any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee(s), or convey any rights or privileges other than those specified in the permit and Chapter 15, Article IX of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittee(s) shall comply with the most stringent conditions. The permittee(s) shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.

26. The permittee(s) is hereby advised that Section 253.77, Florida Statutes (FS), states that a person may not commence any excavation, construction, or other activity involving the use of sovereignty or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement or other form of consent authorizing the proposed use. Therefore, the permittee(s) is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
27. Should any other regulatory agency require changes to the permitted activities, the permittee(s) shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
28. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
29. The permittee(s) shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
30. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to ensure conformity with the plans and specifications approved by the permit.
31. The permittee(s) shall hold and save the County harmless from all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
32. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee(s).
33. The permittee(s) agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida and initiated only in Orange County.
34. Turbidity and sediments shall be controlled to prevent violations of water quality pursuant to Rules 62-302.500, 62-302.530(70) and 62-4.242 Florida Administrative Code. Best Management Practices, as specified in the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual, shall be installed, and maintained at all locations where the possibility of transferring suspended solids into wetlands and/or surface waters may occur due to the permitted activity. If site-specific conditions require additional measures, then the permittee(s) shall implement them as necessary to prevent adverse impacts to wetlands and/or surface waters.
35. Pursuant to Section 125.022 FS, issuance of this permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

36. Pursuant to Section 125.022 FS, the applicant shall obtain all other applicable state or federal permits before commencement of the activity authorized herein.

If you should have any questions concerning this permit, please contact Caroline Dragiev at 407-836-1448 or Caroline.Dragiev@ocfl.net.

Project Manager:



Caroline Dragiev, Senior Environmental Specialist

Authorized for the Orange County Environmental Protection Division by:



for

Renée H. Parker, LEP, Environmental Protection Officer

CD/~~KCK~~/ERJ/RHP: gfdjr

Enclosure(s): Construction Notice
 Approved Plans

c: Eric Powell, ExcelEric1@yahoo.com
Florida Department of Environmental Protection, DEP_CD@dep.state.fl.us
Brad Cornelius, Town of Windermere, bcornelius@wadetrim.com
Tim Hull, EPD, Tim.Hull@ocfl.net



Construction Notice

- BEGINNING OF CONSTRUCTION
- COMPLETION OF CONSTRUCTION

Mail to: Orange County Environmental Protection Division
3165 McCrory Place, Suite 200
Orlando, FL 32803
Or Fax to: 407-836-1499
Or E-Mail to: WetlandPermitting@ocfl.net

Permit Number and Name: BD-23-10-136, 212 WEST 1ST AVE. - Powell

Permit Type: BOAT DOCK

Approximate Starting Date: _____

Approximate Completion Date: _____

Remarks or any additional information:

I certify I am the permittee / Authorized Entity of the above permit issued by the Orange County Environmental Protection Division and in accordance with the terms of such permit will begin or have completed the actual construction of the work described in the permit.

Signature of Permittee: _____

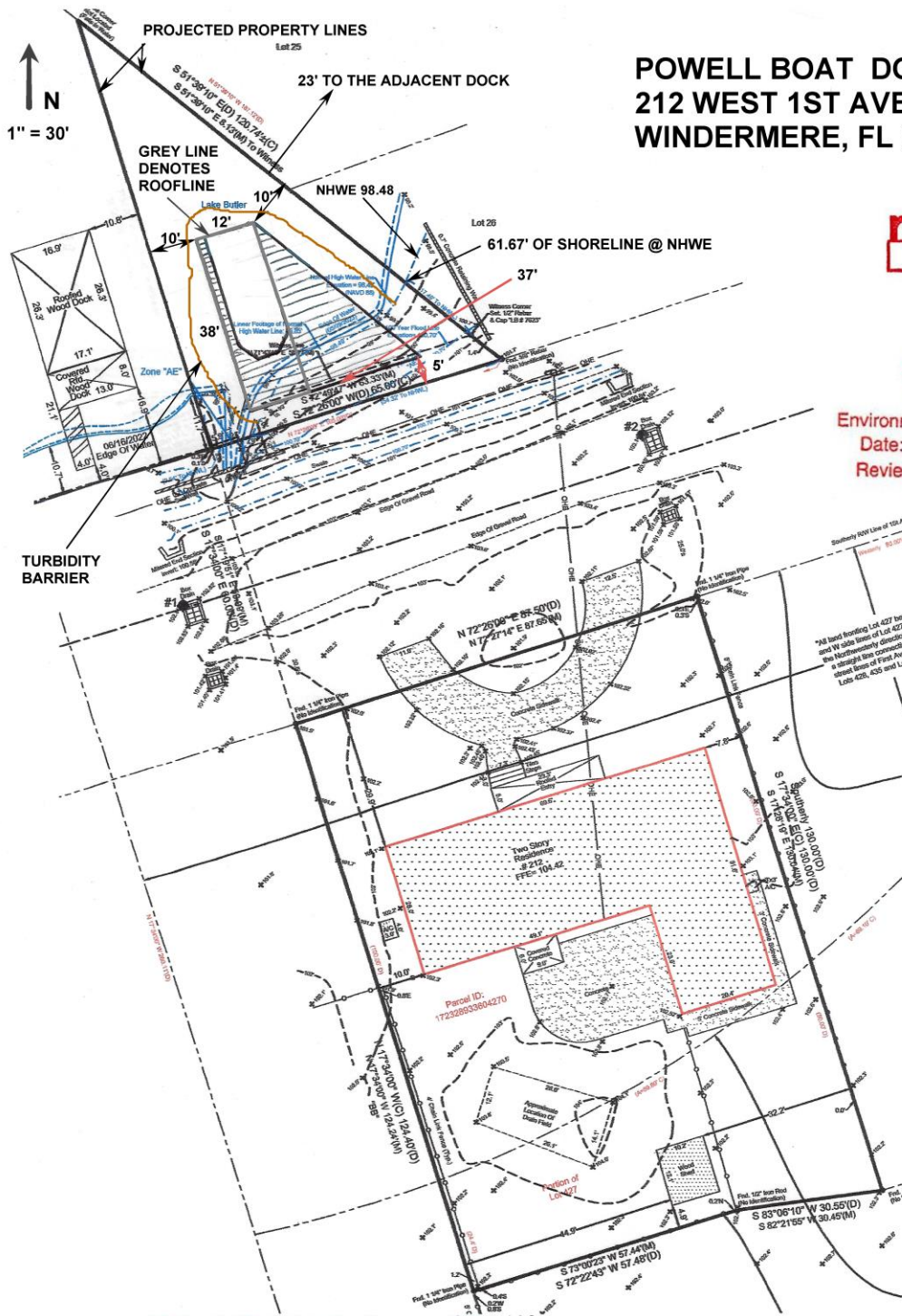
Printed name of Permittee: _____

Date: _____

**POWELL BOAT DOCK SITE PLAN
212 WEST 1ST AVENUE
WINDERMERE, FL 34786**

received
10/9/2023

Approved By The
Orange County
Environmental Protection Division
Date: 11/28/2023
Reviewer: C. Dragiev
BD-23-10-136



- Minimum Side Setbacks (L) 10ft & (R) 10ft
- Maximum Terminal Platform Size 740sqft
- Maximum Water Depth at Terminal Platform 5 feet
- Maximum Roof Height Above Floor 15 feet
- Minimum Floor Height Above the NHWE 1 foot
- Minimum Floor Height Above Wetlands 3 feet
- Maximum Width of Walkway 5 feet

In addition to public regulations which Orange County enforces, be advised that there may be other private restrictions or approval requirements that will affect your ability to complete this project. Please review your deed restrictions and/or consult with your Homeowners Association or Architectural Review Board.

received
10/9/2023

POWELL BOAT DOCK PLAN VIEW 212 WEST 1ST AVENUE WINDERMERE, FL 34786

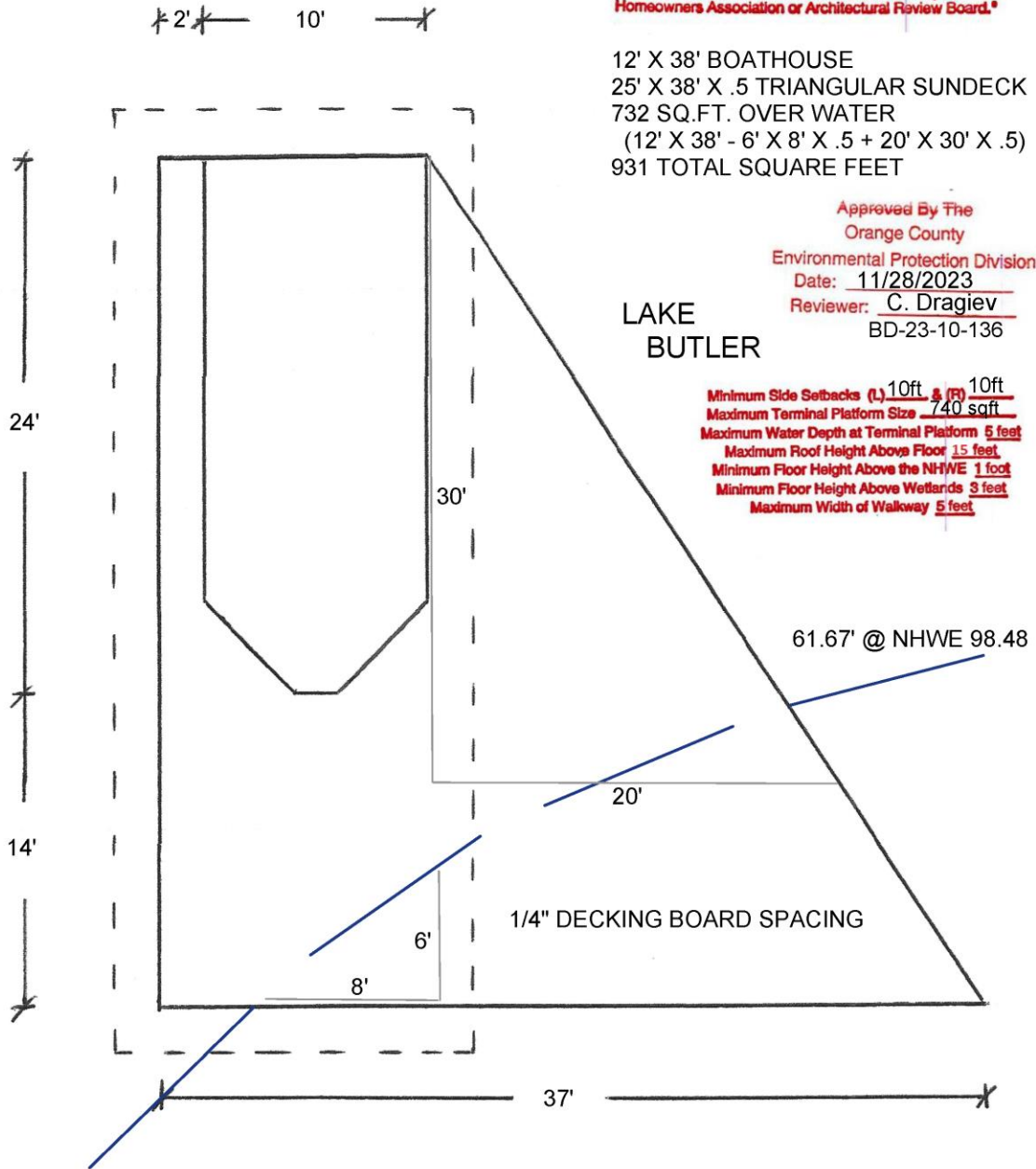
In addition to public regulations which Orange County enforces, be advised that there may be other private restrictions or approval requirements that will affect your ability to complete this project. Please review your deed restrictions and/or consult with your Homeowners Association or Architectural Review Board.

12' X 38' BOATHOUSE
25' X 38' X .5 TRIANGULAR SUNDECK
732 SQ.FT. OVER WATER
(12' X 38' - 6' X 8' X .5 + 20' X 30' X .5)
931 TOTAL SQUARE FEET

Approved By The
Orange County
Environmental Protection Division
Date: 11/28/2023
Reviewer: C. Dragiev
BD-23-10-136

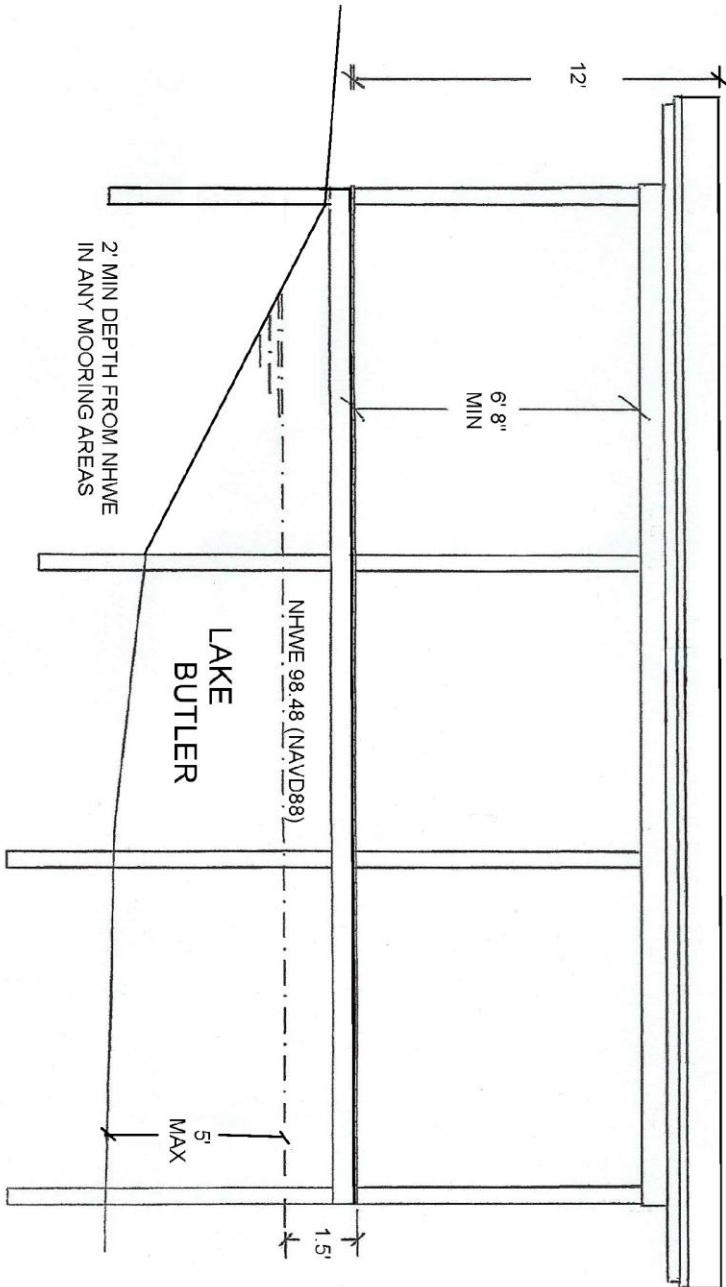
LAKE
BUTLER

Minimum Side Setbacks (L) 10ft & (R) 10ft
Maximum Terminal Platform Size 740 sqft
Maximum Water Depth at Terminal Platform 5 feet
Maximum Roof Height Above Floor 15 feet
Minimum Floor Height Above the NHWE 1 foot
Minimum Floor Height Above Wetlands 3 feet
Maximum Width of Walkway 5 feet



**POWELL BOAT DOCK ELEVATION
212 WEST 1ST AVENUE
WINDERMERE, FL 34786**

received
10/9/2023



PILINGS WRAPPED WITH HDPE FROM 1' ABOVE THE NHWE TO 1' BELOW LAKE BOTTOM

Approved By The
Orange County
Environmental Protection Division
Date: 11/28/2023
Reviewer: C. Dragiev
BD-23-10-136

Minimum Side Setbacks (1) 10ft & 10ft
Maximum Terminal Platform Size 240sqft
Maximum Water Depth at Terminal Platform 5 feet
Maximum Roof Height Above Floor 15 feet
Minimum Floor Height Above the NHWE 1 foot
Minimum Floor Height Above Wetlands 3 feet
Maximum Width of Walkway 5 feet

In addition to public regulations which Orange County enforces, be advised that there may be other private restrictions or approval requirements that will affect your ability to complete this project. Please review your deed restrictions and/or consult with your Homeowners Association or Architectural Review Board.

AGENT AUTHORIZATION FORM

I/WE, (PRINT PROPERTY OWNER NAME) Ryka LLC, AS THE OWNER(S) OF THE REAL PROPERTY DESCRIBED AS FOLLOWS, 212 West 1st Avenue, DO HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME), Sheila Cichra, TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS NECESSARY TO AFFECT THE APPLICATION APPROVAL REQUESTED AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS, Boat Dock Permit, AND TO APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS APPLICATION AND TO ACT IN ALL RESPECTS AS OUR AGENT IN MATTERS PERTAINING TO THE APPLICATION.

Date: 12/20/23



[Handwritten Signature]

Signature of Property Owner

Eric Powell

Print Name Property Owner

Date: _____

Signature of Property Owner

Print Name Property Owner

STATE OF FLORIDA :
COUNTY OF Orange :

I certify that the foregoing instrument was acknowledged before me this 20th day of December, 2023 by Eric Powell. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the 20th day of December, in the year 2023.



[Handwritten Signature]

Signature of Notary Public
Notary Public for the State of Florida

My Commission Expires: _____

Legal Description(s) or Parcel Identification Number(s) are required:
PARCEL ID #: <u>17-23-28-9336-04-270</u>
LEGAL DESCRIPTION:
PLAT OF WINDERMERE G/36 LOT 427 (LESS ELY 80 FT OF NLY 130 FT INCLUDING THAT PORTION OF SAID VAC ST TO N) & N 25 FT OF LOT 426 (LESS W 25 FT) & VAC ST ON N & LAND IN LAKE DESC AS FROM SW COR LOT 469 RUN NE 245 FT S 51 DEG E 81 FT FOR POB RUN S 17 DEG E 100 FT TO N ST LINE 1ST AVE TH N 72 DEG E 65 FT TH N 51 DEG W 106.12 FT TO POB (LESS BEG SWLY COR LOT 427 RUN N 72 DEG E 25 FT S 17 DEG E 25 FT N 72 DEG E 142.5 FT N 17 DEG W 95 FT S 72 DEG W 80 FT S 83 DEG W 30.55 FT S 72 DEG W 57.48 FT S 17 DEG E 75.6 FT TO POB)



Florida Department of Environmental Protection

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

Central District Office
3319 Maguire Blvd., Suite 232
Orlando, Florida 32803
DEP_CD@floridadep.gov

November 13, 2023

Eric Powell
212 W. 1st Avenue
Windermere, FL 34786-8500
ExcelEric1@yahoo.com

File No.: 440849-001-EG, Orange County

Dear: Mr. Powell,

On October 7, 2023, we received your notice of intent to use a General Permit (GP), pursuant to Rule 62-330.427, Florida Administrative Code, F.A.C., to construct a new 931 square foot boathouse and deck in Butler Chain of Lakes, a Class III Florida waterbody, and Outstanding Florida Water. The project is located at 212 W. 1st Avenue, Windermere, FL 34786-8500, Section 8, Township 23 South, Range 28 East, Orange County.

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

Your project qualifies for all three authorizations. However, this letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity.

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

1. Regulatory Review – Approved

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

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

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

2. Proprietary Review – Granted

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapter 253 of the Florida Statutes (F.S.) and 258, F.S. if located within an aquatic preserve, and Chapters 18-20 and 18-21 of the Florida Administrative Code.

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

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

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

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

3. Federal Review- SPGP Not Applicable

Your proposed activity as outlined in your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit VI-R1, and a **SEPARATE permit** or authorization **will not be required** from the U.S. Army Corps of

Engineers. The activity, as proposed, does not involve discharge of dredged or fill material into the waters of the United States and therefore, a **SEPARATE PERMIT** or authorization pursuant to the State 404 Program, as described in Chapter 62-331, F.A.C. **will not be required.**

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

Additional Information

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

NOTICE OF RIGHTS

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

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Teayann Duclos
Environmental Manager
Permitting and Waste Cleanup Program

Enclosures:

- 62-330.427, F.A.C.
- General Conditions for All General Permits, Ch. 62-330.405, F.A.C.
- Special Consent Conditions
- General Conditions for Authorizations for Activities on State-Owned Submerged Lands
- Project drawings, 3 pages

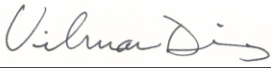
CERTIFICATE OF SERVICE

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:

Sheila Cichra, Agent, sheilacichra@gmail.com
Megan Cahill, FDEP, Megan.Cahill@FloridaDEP.gov
Teayann Duclos, FDEP, Teayann.Duclos@FloridaDEP.gov
Orange County, wetlandpermitting@ocfl.net

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.

 November 13, 2023
Clerk **Date**

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

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

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

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

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

a. Non-motor-powered vessels less than 16 feet in length that are stored on or under the dock or pier, or within an authorized mooring area; or

b. Personal watercraft, dinghies or similar small vessels that are stowed out of the water, upon a larger parent vessel that is moored at the dock in compliance with this general permit.

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

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

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

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

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

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

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

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

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

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

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

62-330.405 General Conditions for All General Permits

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

(1) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit and may subject the permittee to enforcement action and revocation of the permit under chapter 373, F.S.

(2) The general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit; and it does not authorize any violation of any other applicable federal, state, local, or special district laws (including, but not limited to, those governing the “take” of listed species).

(3) The general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit.

(4) The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution that violates state water quality standards.

(5) Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of state-owned or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required consent, lease, easement, or other form of authorization authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned lands.

(6) The authorization to conduct activities under a general permit may be modified, suspended or revoked in accordance with chapter 120, F.S., and section 373.429, F.S.

(7) The general permit is not transferable to a new third party. To be used by a different permittee, a new notice to use a general permit must be submitted in accordance with rule 62-330.402, F.A.C. Activities constructed in accordance with the terms and conditions of a general permit are automatically authorized to be operated and maintained by the permittee and subsequent owners in accordance with subsection 62-330.340(1), F.A.C. Any person holding the general permit, persons working under the general permit, and owners of land while work is conducted under the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted project, activity, or the real property at which the permitted project or activity is located.

(8) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to ensure conformity with the plans and specifications approved by the general permit.

(9) The permittee shall maintain any permitted project or activity in accordance with the plans submitted to the Agency and authorized in the general permit.

(10) A permittee’s right to conduct a specific activity under the general permit is authorized

for a duration of five years.

(11) Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be implemented and maintained immediately prior to, during, and after construction as needed to stabilize all disturbed areas, including other measures specified in the permit to prevent adverse impacts to the water resources and adjacent lands. Erosion and sediment control measures shall be installed and maintained in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation, June 2007)*, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, available at http://publicfiles.dep.state.fl.us/DEAR/Stormwater_Training_Docs/erosion-inspectors-manual.pdf.

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

(a) Access within forested wetlands shall not include the cutting or clearing of any native wetland tree having a diameter four inches or greater at breast height;

(b) The maximum width of the construction access area shall be limited to 15 feet;

(c) All mats shall be removed as soon as practicable after equipment has completed passage through, or work has been completed, at any location along the alignment of the project, but in no case longer than seven days after equipment has completed work or passage through that location; and

(d) Areas disturbed for access shall be restored to natural grades immediately after the maintenance or repair is completed.

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

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

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

(a) Impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands; or

(b) Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to section 373.042, F.S., or a Works of the District established pursuant to section 373.086, F.S.

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

involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, F.S.

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

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

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

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

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

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

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

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

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

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

Special Consent Conditions

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

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

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

(a) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.

(b) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.

(c) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in sections 253.04 and 258.46, F.S., or chapter 18-14, F.A.C.

(d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.

(e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C.

(f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.

(g) Structures or activities shall not create a navigational hazard.

(h) Activities shall not interfere with the public easement for traditional uses of the sandy beaches provided in section 161.141, F.S.

(i) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

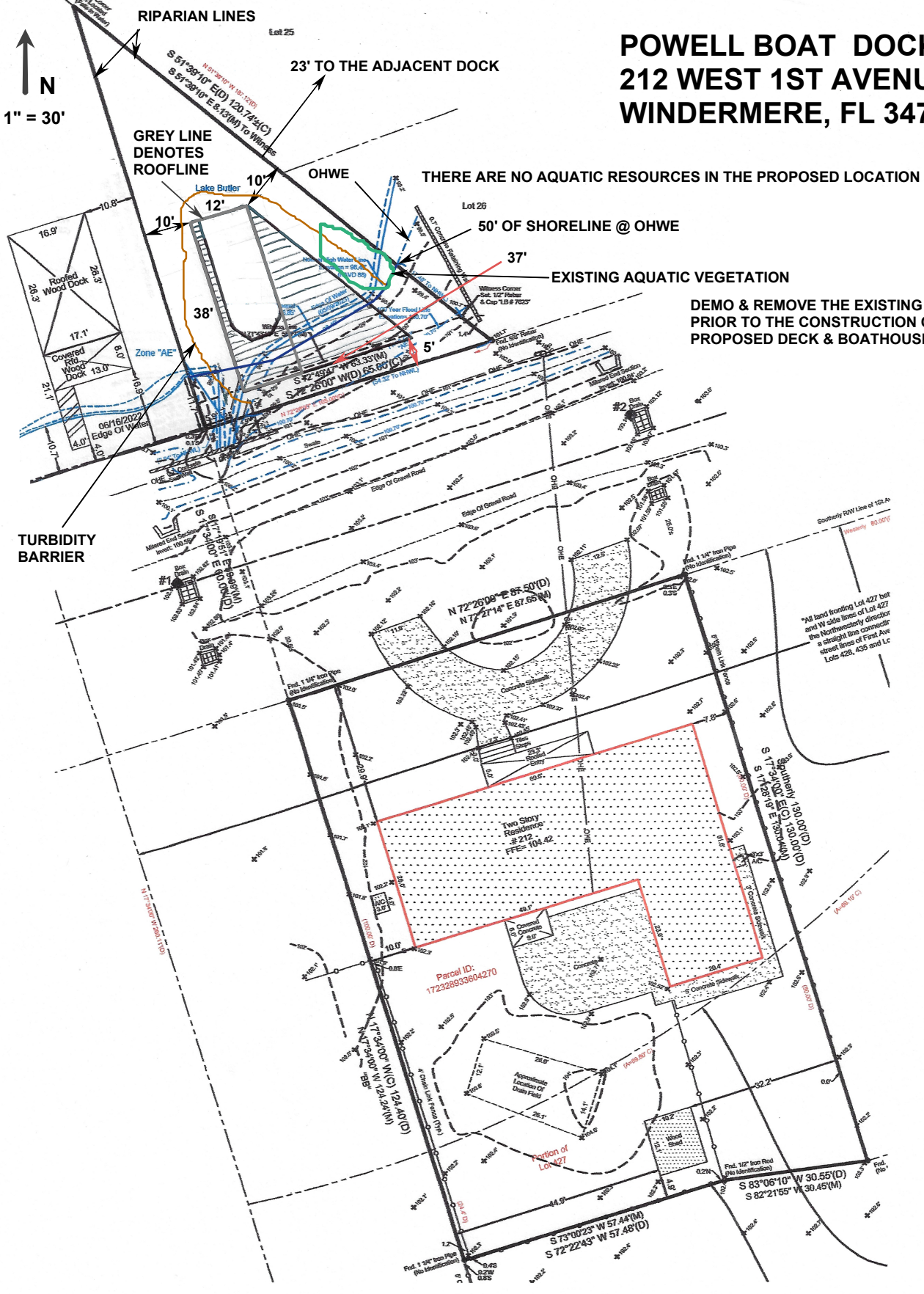
(j) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(g), F.A.C., or any other applicable law.

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

POWELL BOAT DOCK SITE PLAN 212 WEST 1ST AVENUE WINDERMERE, FL 34786



1" = 30'

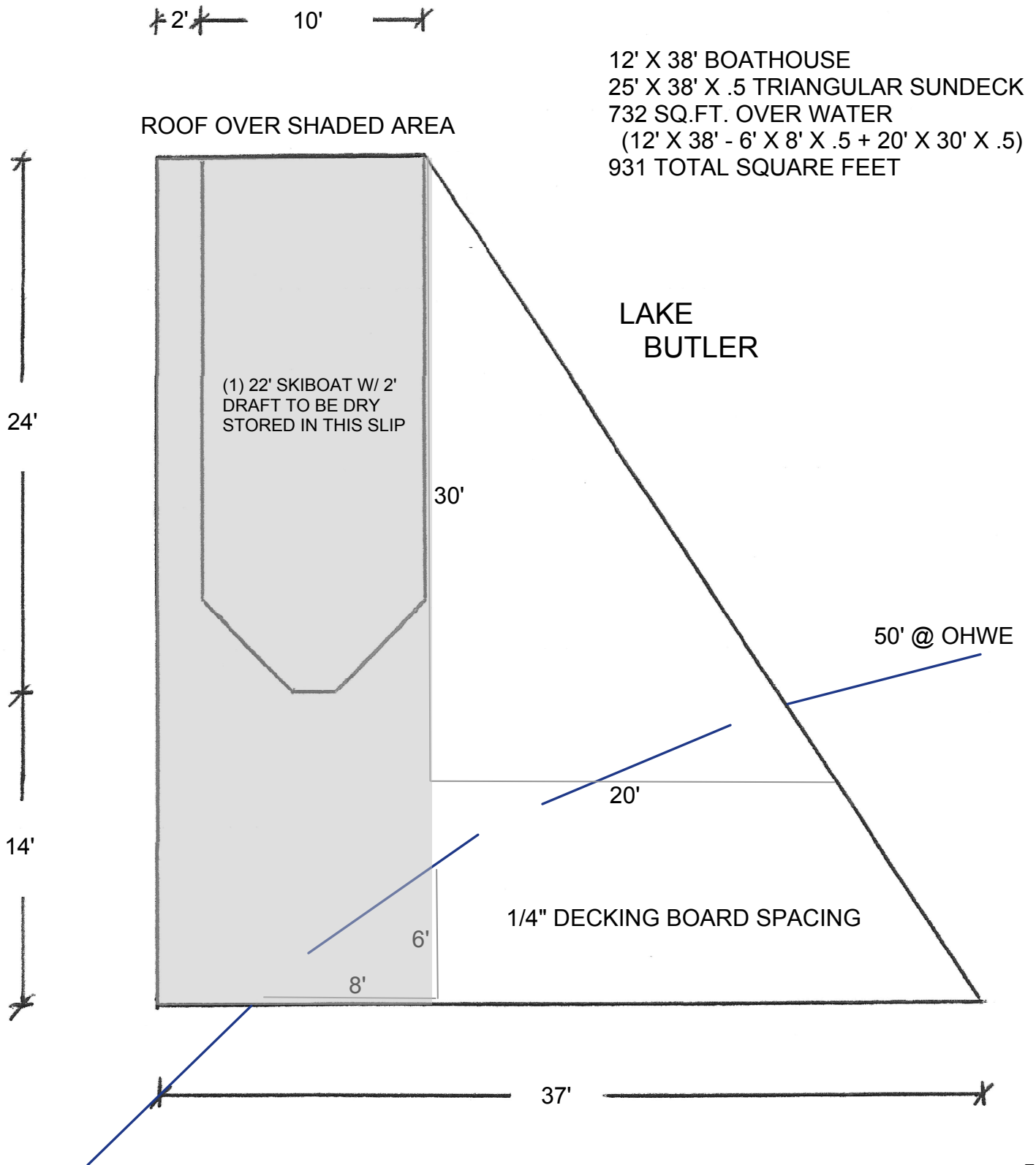


THERE ARE NO AQUATIC RESOURCES IN THE PROPOSED LOCATION

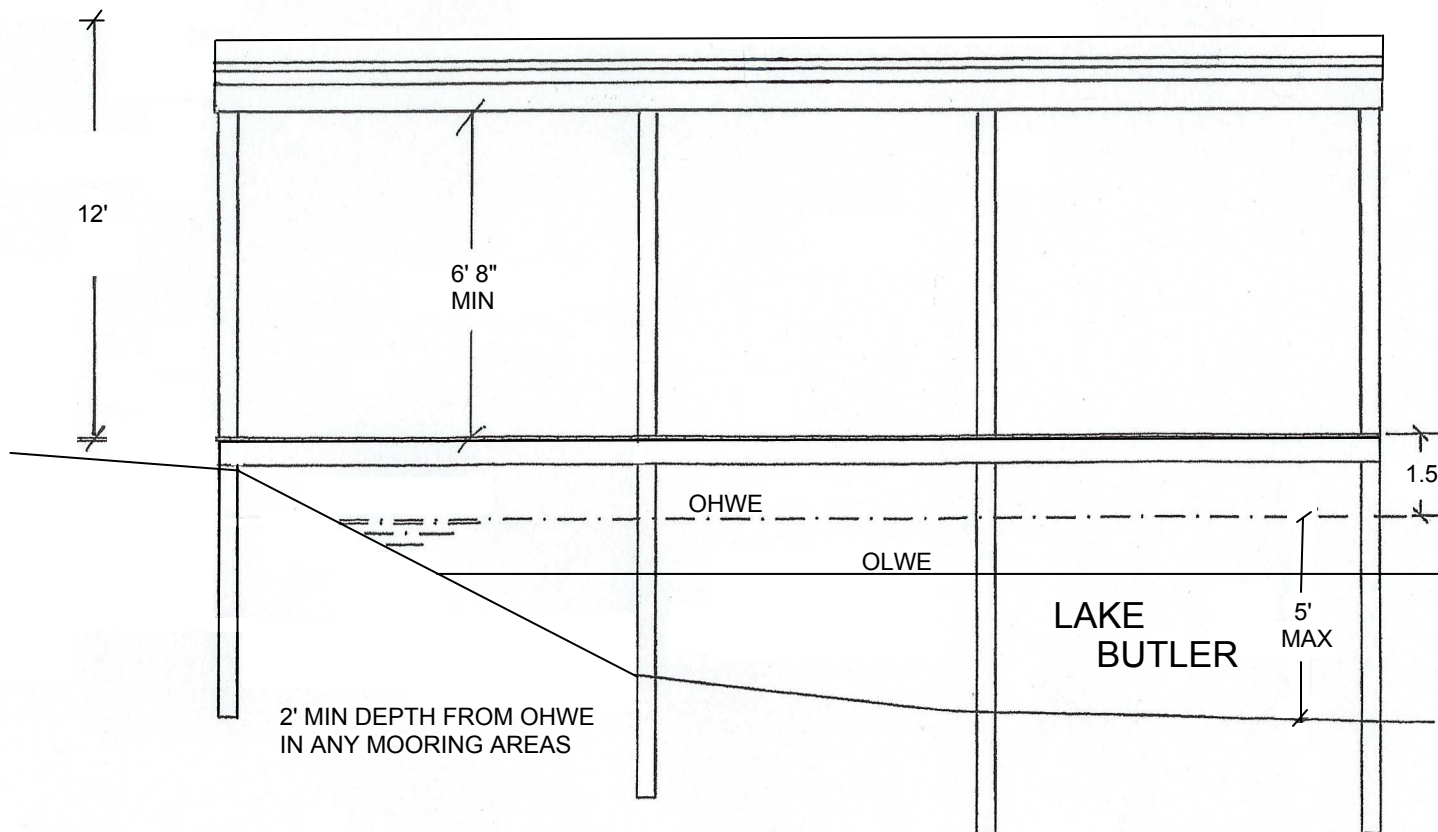
DEMO & REMOVE THE EXISTING DOCK
PRIOR TO THE CONSTRUCTION OF THE
PROPOSED DECK & BOATHOUSE

*All land fronting Lot 427 bet
and W side lines of Lot 427
the Northeastly direction
a straight line connecting
street lines of First Ave
Lots 428, 435 and LC

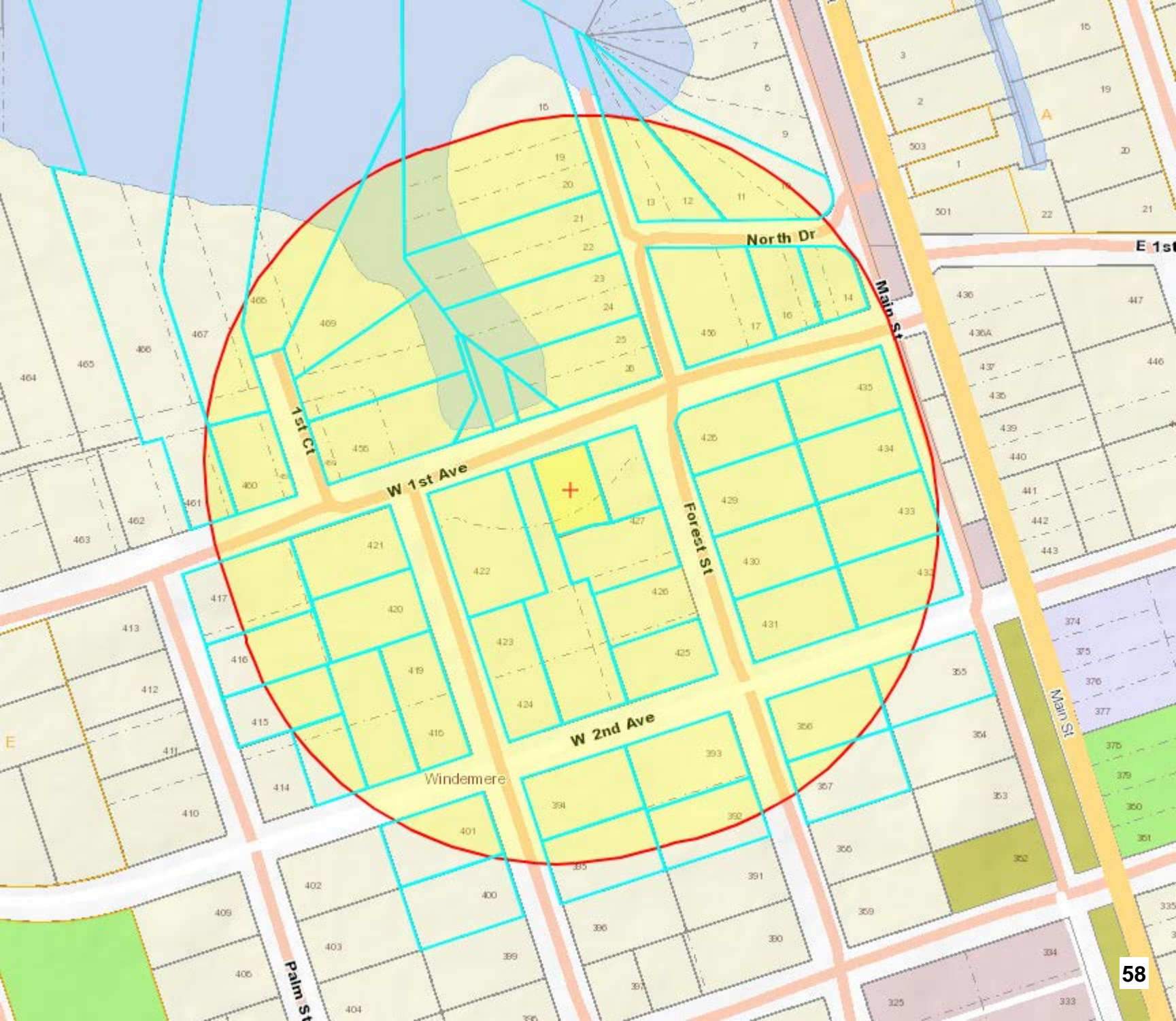
**POWELL BOAT DOCK PLAN VIEW
212 WEST 1ST AVENUE
WINDERMERE, FL 34786**



POWELL BOAT DOCK ELEVATION
212 WEST 1ST AVENUE
WINDERMERE, FL 34786



PILINGS WRAPPED WITH HDPE FROM 1' ABOVE THE OHWE TO 1' BELOW LAKE BOTTOM



February 16, 2024

Chairman Frank Chase
Development Review Board
Town of Windermere
Windermere, FL 34786

Chairman Chase,

It is with regret that I hereby tender my resignation from the Development Review Board effective immediately. For personal reasons, I can no longer participate on this committee.

Respectfully,



Norma Sutton
505 W 2nd Avenue
Windermere, FL 34786

Cc Dorothy Burkhalter, Town Clerk
Robert Smith, Town Manager
Jim O'Brien, Town Mayor