PLANNING & ZONING REGULAR MEETING
THURSDAY, OCTOBER 19, 2023 – 2:00 PM
CITY HALL AUDITORIUM, 120 108TH AVENUE, TREASURE ISLAND, FL 33706

MEETING NOTICE AND AGENDA

---

1. **MEETING CALLED TO ORDER BY PRESIDING OFFICER**

2. **CELL PHONE ANNOUNCEMENT**

3. **PLEDGE ALLEGIANCE**

4. **ROLL CALL**
   Richard Harris- Chair
   Linda Driscoll- Board Member
   Michael Hurtubise- Board Member
   Lynn Fisher- Board Member
   Diana Crabill- Board Member
   Marvin Shavlan- Board Member
   Ross Sanchez- Vice-Chair
   *Chris Downing- Alternate Board Member**
   *Gary Potenziano- Alternate Board Member**

   ** Per Sec. 70-3, alternate members shall only vote on any matter when a board member is unavailable.*

5. **APPROVAL OF MINUTES**

   5.A Approval of the Planning & Zoning Board Meeting Minutes of September 21, 2023.
   PZ 9-21-23 Minutes.pdf

6. **STATUS UPDATE ON PRIOR PLANNING AND ZONING CASES**
   Staff will address questions, comments, and/or concerns from the Board pertaining to prior cases.

7. **HEARING PROCEDURES**
   City Attorney explains hearing procedures.

8. **EX-PARTE COMMUNICATION DISCLOSURE**

9. **ADMINISTRATION OF OATH**
   Public speakers are sworn in.

10. PRESENTATION OF ITEMS

10.A SPEC-000392-2023- 290 107th Ave- Special exception use request to modify the existing 16 slip marine structure and 2 slip marine structure multi-use private docks into commercial docks.

1. Supplemental Staff Report.pdf
2. Staff Report.pdf
3. Application.pdf
4. Warranty Deed.pdf
5. Dolphin Reef LLC - Sunbiz Filing.PDF
6. Affidavit to Authorize Agent.pdf
7. Special Exception Use Narrative.pdf
8. Joint Stipulation - 290 107th Ave.pdf
9. Public Comments on Case No. SPEC-000392-2023.pdf

10.B SITE-000393-2023- 290 107th Ave.- A site plan approval for an existing 42-unit hotel/motel with a pool, lounge, 16 slip marine structure, and 2 slip marine structure.

1. Staff Report.pdf
2. Application.pdf
3. Warranty Deed.PDF
4. Dolphin Reef LLC - Sunbiz Filing.PDF
5. Affidavit To Authorize Agent.pdf
6. Site Plan Narrative.pdf
7. As-Built Survey.PDF
8. Submerged Land Lease Survey- Dock.PDF
9. SWFWMD Permit.pdf

10.C VAR-000407-2023- 11870 5th St E- An after-the-fact variance request to Sec. 68-541, to allow an existing covered front porch to encroach approx. 2'-1" into the 15' front yard setback.

1. Staff Report.pdf
2. Application.pdf
3. Variance Hardship Narrative.pdf
4. Neighbor Petition.pdf
5. Final Survey.pdf
6. Administrative Waiver.pdf
7. Affidavit to Authorize Agent.pdf
8. Warranty Deed.pdf
10. Public Comments on Case No. VAR-000407-2023.pdf

10.D VAR-000399-2023- 10232 Tarpon Dr.- An after-the-fact variance request to Sec. 68-458, to increase the waterfront solid fence height from 30" to 6' for an existing 24' x 6' solid PVC fence.

1. Staff Report.pdf
2. Application.pdf
3. Variance Narrative.pdf
4. Survey & Site Plan.pdf
5. Fence Cross Section.pdf
6. Site Photos.pdf
7. Code Enforcement Board Order.pdf

8. Warranty Deed.pdf

11. PUBLIC COMMENTS ON NON-AGENDA ITEMS

12. REPORTS AND COMMENTS OF CITY ATTORNEY, STAFF AND BOARD MEMBERS

13. PLANNING & ZONING BOARD / LOCAL PLANNING AGENCY MEETINGS
NEXT P&Z MEETING: November 16, 2023 at 2:00 P.M.
NEXT LPA MEETING: TBD

14. ADJOURNMENT

AGENDA ITEM NO. 5.A

Item Cover Page

PLANNING & ZONING BOARD AGENDA ITEM REPORT

DATE:	October 19, 2023
SUBMITTED BY:	Jesse Miller, Community Development
ITEM TYPE:	Minutes
AGENDA SECTION:	APPROVAL OF MINUTES
SUBJECT:	Approval of the Planning & Zoning Board Meeting Minutes of September 21, 2023.
BACKGROUND:	.
POLICY/PURPOSE:	.
STRATEGIC PLAN RELEVANCE:	.
ANALYSIS/DISCUSSION:	.
FUNDING:	.
MOTION:	I move to approve the Planning and Zoning Board Meeting Minutes for September 21, 2023.

ATTACHMENTS:
PZ 9-21-23 Minutes.pdf

PLANNING & ZONING BOARD
REGULAR MEETING
THURSDAY, SEPTEMBER 21, 2023 – 2:00 PM
CITY HALL AUDITORIUM
120 108TH AVENUE
TREASURE ISLAND, FL 33706

MEETING MINUTES

1. **MEETING CALLED TO ORDER BY PRESIDING OFFICER**
   Chair Richard Harris called the meeting to order at 2:00 PM.

2. **CELL PHONE ANNOUNCEMENT**
   Chair Richard Harris directed those in attendance to silence their phones during the meeting.

3. **PLEDGE ALLEGIANCE**
   Chair Richard Harris led the pledge of allegiance.

4. **OATH OF OFFICE FOR APPOINTED AND REAPPOINTED BOARD MEMBERS**
   City Clerk Celine Kidwell swore in Marvin Shavlan, Gary Potenziano, Chair Richard Harris, and Linda Driscoll.

5. **ROLL CALL**

   Present - 9 Richard Harris- *Chair*
   Linda Driscoll- *Board Member*
   Michael Hurtubise- *Board Member*
   Lynn Fisher- *Board Member*
   Diana Crabill- *Board Member*
   Marvin Shavlan- *Board Member*
   Ross Sanchez- *Vice Chair*
   Christopher Downing- *Alternate Member*
   Gary Potenziano- *Alternate Member*

   Absent - 0

   Staff present: Jennifer Cowan- *City Attorney*
   Kathryn Younkin- *Community Development Director*

Jesse Miller- *Principal Planner*

Staff Representative:

Regina Kardash, Esq.- *Persson, Cohen, Mooney, Fernandez & Jackson, P.A.*

6. ANNUAL ELECTION OF OFFICERS

A motion was made by Marvin Shavlan, seconded by Chris Downing, to elect Richard Harris as Chair for the Planning & Zoning Board. The motion passed unanimously.

A motion was made by Chair Richard Harris, seconded by Michael Hurtubise, to elect Ross Sanchez as Vice Chair for the Planning & Zoning Board. The motion passed unanimously.

7. APPROVAL OF MINUTES

A motion was made by Diana Crabill, seconded by Lynn Fisher, to approve the August 17, 2023, Planning & Zoning Board meeting minutes. The motion passed unanimously.

8. STATUS UPDATE ON PRIOR PLANNING AND ZONING CASES

Jesse Miller, Principal Planner, and Kathryn Younkin, Community Development Director, addressed questions, concerns, and comments from the Board on the updates of recent Planning and Zoning Board cases.

9. HEARING PROCEDURES

Jennifer Cowan, City Attorney, verified that those board members absent during the August 17, 2023, board meeting were aware of the evidence and testimonies presented. J.Cowan, stated Michael Hurtubise, Board Member, may participate in the hearing discussions but an Alternate Board Member will vote in his place due to Michael's absence during the August 17, 2023 meeting. Hearing procedures were explained.

10. EX-PARTE COMMUNICATION DISCLOSURE

Chair Richard Harris stated he discussed mutual acquaintances with Mark Bentley, Johnson Pope Bokor Ruppel & Burns, LLP, the applicant's agent prior to the meeting but did not discuss the case.

11. ADMINISTRATION OF OATH

City Clerk Celine Kidwell swore in those speaking on the cases.

12. PRESENTATION OF ITEMS

12.A SPEC-000392-2023- 290 107th Ave.- Special exception use request to modify the existing 16 slip marine structure and 2 slip marine structure multi-use private docks into commercial docks.

Chair Richard Harris introduced Case # SPEC-000392-2023

Regina Kardash, Esq.- *Persson, Cohen, Mooney, Fernandez & Jackson, P.A,* introduced herself and explained that her role was to represent the staff.

Applicant Presentation – 2:20 p.m.

Mark Bentley, *Johnson Pope Bokor Ruppel & Burns, LLP*, stated they received a new staff report and proposed conditions on the site plan. My colleagues are reviewing these conditions kind of on the fly here. I have two expert witnesses I intend to call to testify. I think during the interim we have made a lot of progress. We are very close to the potentially agreed-upon conditions. From our perspective, we don't need any conditions and I will explain why, with that being said I think there is some middle ground we can reach. When we concluded at the prior hearing the Board requested two things. First, analyze with staff any additional parking demand because the boat slips may be used by the general public. Secondly, try to resolve any conditions that staff suggested being imposed on the special exception. Note that at the end of the hearing, Ms. Younkin advised the Board that additional parking would be required because the project triggered what the City calls a change of use under the zoning code. This would be true if the client would be adding a new building or structure, which they are not. I just want to make it clear nothing is going to change at the property. It's going to maintain the same operation procedure and there is not going to be any new construction. Ms. Younkin also advised the Board when we had insisted on knowing and asked that she identify on the record what parking code provision or standard would relate to the proposed commercial dock. Your code does not have any parking standard for a commercial dock and the rationale behind that is a commercial dock is not a stand-alone principal use it is subordinate to a hotel. If you look at the code it says a commercial dock has to be owned by a hotel or a motel, I am paraphrasing, it is an accessory use to a primary use which is a hotel versus a marina which is a stand-alone, independent, permitted principal use. We asked Ms. Younkin on the record which code section would apply, and she responded that it would be the marina parking standard. Ms. Younkin cited a code section and afterwards when we looked it up it related to marinas, and we will explain to you we are not a marina. For the record, a marina is not allowed in the zoning classification that relates to the subject property. We met with staff who retracted its position now agreeing with us that the parking requirements for a stand-alone marina as a principal use were not applicable and therefore because code does not have a parking standard relating to rental of commercial dock slips and that per the code staff could make alternative parking standards, which staff did. The important point resulting from staff seeking alternative parking ratios is that first staff did not apply the City's parking standards for a marina as the commercial dock is not a marina as defined in the code. After our meeting with staff there was complete

agreement concerning the language in the proposed seven conditions, however, staff disagreed with our interpretation as it relates to condition number 5. We met with staff about eight days after the first hearing. When we walked out the door, we all agreed to the language of the conditions. The only point of disagreement was the interpretation of number five, which related to what a marina is. I really don't understand the disagreement as you will see the code is not vague or ambiguous but to the contrary very clear in terms of what qualifies as a marina and when additional parking is required. In order to determine the appropriateness for any conditions on the dock we need to examine and analyze the code which notably has a section that directs staff on how it is to be interpreted. There is a rule in the code which directs staff to take out the discretion of these interpretations and our expert will talk about this. There is a section in code that explains when a code section says and this and that you include everything or when it says may, may doesn't' mean shall etc. A proper interpretation of the code will assist the Board in making a rational and fair decision based on the law not based on how staff would like a clear and unambiguous code to be interpreted. I would like to talk about the original staff report. In this report staff concludes that our application meets thirteen criteria based on the outstanding track record the client has established over the past four or five years' operating and has not caused any detrimental effects. Even under criteria number eleven staff concludes that quote "the current multi-use private docks have not generated any adverse effects of noise, light, dust, fumes, or other nuisances" That being the case there is actually no basis to even impose conditions as they have apparently been operating as a model citizen for a number of years and established relationships and compatibility with the surrounding environment. Also note that conditions can only be imposed to protect a threat to the public health, safety and welfare or to eliminate or to mitigate actual harm. It cannot be based on speculation as to things that could possibly occur. You just have to assume everybody that receives a permit, or an authorization or development order is going to comply with the law. Conditions cannot be imposed without any nexus and are based on conjecture or what staff may see as a possible problem. Especially, in this case where a use is by virtue where operations have demonstrated its compatible use in the community. We need to clarify that the hotel with an accessory commercial dock does not meet the City's definition of a marina. This is important as the staff report and conditions suggest this is not the case because the boat slips are being rented, which is referencing the marina definition which is one of the things in conjunction with a marina operation that it is a marina. A marina is not allowed in the zoning district, the code makes it clear this is not a marina use. To address this issue of interpretation the client obtained an expert Julie Mandell. Julie Mandell's credentials were read into the record. Mr. Bently asked if there were any questions relating to Ms. Mandell's qualifications.

Regina Kardash, Esq.- *Persson, Cohen, Mooney, Fernandez & Jackson, P.A*: I would like to clarify for the record the capacity in which she is testifying. I believe you stated that Ms. Mandell serves as an attorney and is a licensed attorney in the state of Florida.

M. Bentley: That is correct.

R. Kardash: With a board certification?

M. Bentley: Right

R. Kardash: Is she representing the applicant as a lawyer or providing expert testimony?

M. Bentley: Expert testimony.

R. Kardash: With respect to that expert testimony is she providing and interpretation of the city code?

M. Bentley: She will interpret the code but will get into the framework as to how the code is structured and rules in terms of actual interpretation of the code.

R. Kardash: What I am seeking to clarify is if she is providing legal advice by interpreting the code for the Board.

M. Bentley: She is not advising the code. Here again these are informal proceedings, so I am kind of getting grilled here. I have never seen this before at an informal Planning and Zoning hearing, but she is going to testify certain parts of your code and how they are supposed to be interpreted and how they mesh together and the rules for statutory construction for land use regulation.

R. Kardash: Your position here is that providing an interpretation on the rules of statutory construction, which is predominantly done by lawyers is not legal advice? Is that your position here today?

M. Bentley: She is not here to advise or give anyone legal advice. She is here to give a perspective based on her thirty years as a lawyer how land use codes are interpreted, and she has reviewed your code and has identified inconsistencies or conflicts in the code that she wanted to bring to the attention of the Board so they can make an educated decision.

R. Kardash: She is providing advice on the code is what you just said.

M. Bentley: She is providing a prospective. She is not this Board's lawyer; she is not my client's lawyer. She is an independent third-party objective witness.

R. Kardash: But you said that she is providing her advice within the context of her experience as a lawyer. Is that correct?

M. Bentley: If I said I modify that. She is providing her perspective on how these codes should be interpreted. If I can move on here?

R. Kardash: I have one more question. Does she hold any other certifications other than a Florida Bar license and Florida Bar certification?

M. Bentley: I will let Julie answer that. She is also a partner of the Grey Robinson Law Firm in Tampa.

Julia Mandell, 401 East Jackson St Tampa, FL 33602: I do not hold any other certifications other than the years of experience I have in drafting and interpreting codes as it relates to governmental and most specifically land use situations.

R. Kardash: Has all that experience been solely as a lawyer or has it been in any other capacity other than a lawyer?

J. Mandell: There have been other capacities that I have provided expertise. I have sat on the Mayor of the City of Tampa's advisory board for the drafting of development procedures. I sat on that as not a lawyer per say as not lawyer to that advisory board but as someone with expertise in the field. I have also served as a professor at the University of South Florida as a planning law professor in the University of South Florida planning program not as a law professor.

R. Kardash: My other question in respect to that board service is that was that during your employment with that City of Tampa or that was outside as a citizen?

J. Mandell: That was outside as a citizen.

M. Bentley: Ok, anything else?

R. Kardash: I would like to preserve for the record my objection to the fact that she is providing legal advice.

M. Bentley: Ok, we don't view it as legal advice. Let's agree to disagree.

R. Kardash: That is why I am preserving it for the record.

Chris Downing, Board Member: I appreciate the clarification.

M. Bentley: Presented the City's definition of a marina and asked J. Mandell to present her interpretation of the definition.

J. Mandell: Provided her interpretation of the marina definition and how it appears to be a stand-alone use based upon the review of section 68-1 the rules of construction. Stated the rules of construction are what is to be utilized for the purposes of the code. Stated how the word "and" is used in the code. Stated the marina definition has two parts to it. From an interpretive perspective when you look at the rules of construction and this definition, putting those together is the way it has to be interpreted. Because of a provision in your rules of constructions that say you

shall use those rules of construction to interpret code. The definition is a whole and parts can't be pulled in and out of the definition. It is all those things together. Stated how it is standalone use that provides repairs, slip rentals, etc. not an accessory use. Provided interpretation of commercial dock definition that a commercial dock cannot be a standalone use and has to be associated with or an accessory use to something. Something to point out is the rental concept. The commercial dock designation there is no discussion of any revenue generation as part of that definition. Meaning whether or not you can generate revenue from this use or not is not spoken to in this definition and it is not prohibited. Stated definition of guest in the Florida Statues section 509.013. The definition of guest is relatively broad and isn't based upon if you are actually staying at the hotel. Stated definition of guest from Merrian- Webster. My point is you can be a guest of a restaurant and guest of a hotel for a variety of reasons. There are activities that can occur not specifically related to that hotel or restaurant. Going back to the definition of a commercial dock, it reads to me that the intention as part of the way it is constructed is to be associated with those uses for guests for those establishments.

M. Bentley: Ms. Mandell would you take a look at the definition of marina? Part 2 it says marine services of all kinds including but not limited to the rental of covered or uncovered boat slips. If a commercial dock rents boat slips would that meet the definition of a marina?

J. Mandell: If you were to take pieces out of this definition which your code is telling you not to do. If you read it that way, then if I have a parcel of property where I rent out space where people can park their boat does that make it a marina? Or alternatively, if I have a parcel of property where I sell boats does that make it a marina? I think it goes into the way this is written and constructed and the way it is looked at. When you start to take out pieces of the definition and utilize that for other places, I think that is where you get into a situation where you are not following the rules of construction.

M. Bentley: For example, the first part of the definition deals with the sale of boats, for example, there is a boat sales facility located five miles from the water. If you parcel them out and don't include the entire definition, then would the sale of boats meet the definition of marina?

J. Mandell: I think that yes if you going to start to pull this apart and just say that any one of the components that are part of this definition are pulled apart and utilized to characterize something as a marina then yes you would fall into that issue and code is explaining why you shouldn't do that. The last thing I want to point out in my experience with the processing of applications, certainly applications can be conditioned, and we all understand that, however, there are limitations to the way you can condition items. The basis of your condition must be based upon your concern over detrimental effects and from what I understand there has not been a determination of detrimental effects of the existing use. The other issue you have to be cognizant of is you need to be able to say those conditions are necessary to

protect public health, safety and welfare and you have to have an identifiable issue and identify what that public harm might be. Mr. Bentley mentioned this earlier, your idea of a condition can't be speculative. Here is the use you are asking for, here is what we are concerned about, and we are trying to protect ourselves from the context of your code and make a decision based upon that. If anybody has any questions for me, I will remain available.

R. Kardash: Can we go back to the definition of marina? Ms. Mandell, you were talking about the rules of statutory interpretation, but you didn't really state which particular rules you were utilizing or going under. You are familiar with the principle that the plain language of a statute or in this case an ordinance is what applies correct? I'm asking if the plain language under the rules of statutory interpretation if the first thing you look at is the plain language.

J. Mandell: It is hard to answer that question that way because you can't look at it with a complete vacuum when you have a specific rule of statutory construction within your code. In your code looking at it under the general rules of statutory construction, it would be fine, but you also have other rules as it relates to that.

R. Kardash: Absent anything to the contrary in section 68-1. A court will look to the plain language of the statute or ordinance to apply that.

J. Mandell: Do you mean absent any provision in your code that talks about how your rules are supposed to be constructed or as a general matter?

R. Kardash: Yes, as a general matter, and then under the plain language if there is an ambiguity in the plain language then you turn to other additional or alternative rules of statutory construction, correct?

J. Mandell: As a general rule you have that opportunity.

R. Kardash: Back to the definition of a marina. Under this particular provision, we have an opinion from staff that goes one way and an opinion from the applicant that goes another way with respect to the use of the word and.

J. Mandell: That I am not aware of. I was only asked to look at these and give my opinion and interpretation.

R. Kardash: Are you familiar with the use of an oxford comma or the case law that surrounds the use of an oxford comma as it pertains to legal drafting?

J. Mandell: I have not looked at that particular issue.

R. Kardash: If I were to say a comma used after a list of three or more items such as before the words and or or. Can you tell me in that section there whether or not there

is a comma after the word equipment? Is there a comma in between the word equipment and the word and?

J. Mandell: There is no comma shown.

R. Kardash: Ok, with respect to the plain language of this particular provision. When it provides for an illustrative enumeration of what is prohibited here. It specifically says rental of covered or uncovered boat slips. Is that correct?

J. Mandell: Can I clarify what it is that you just said? You asked me if that is a prohibited part of this.

R. Kardash: What I'm asking is in the illustrated enumeration does it specifically list the rental of covered or uncovered boat slips?

J. Mandell: The way I interpret this is as part of the marine services it is inclusive of the rental of covered or uncovered boat slips.

R. Kardash: Ok Thank you. Where it says including but not limited to that means it doesn't just have to be rental, it can be other things besides what is on this list because the plain language kind of leaves the door open to other marine equipment and marine services, correct?

J. Mandell: I would say they would have to tie back to the concept of marine services though.

R. Kardash: But this states in black and white that rental of covered or uncovered boat slips would qualify as marine service.

J. Mandell: As part of the enumerated components of a marina yes that is a component of a marina.

R. Kardash: Go to section 69-32 definitions. Ms. Mandell, in this particular provision this states what constitutes a commercial dock, is that correct?

J. Mandell: Yes, I would say it is defining a commercial dock.

R. Kardash: In this particular provision does it talk about rental of the dock?

J. Mandell: It does not specifically identify whether revenue is allowed to be drawn from those uses.

R. Kardash: I didn't say revenue. I asked does it specifically states rental.

J. Mandell: It does not use the term rental in there.

R. Kardash: Ok, so the plain language of this does not include rental. Let's assume this is an ambiguous definition. If this were an ambiguous definition, then we are going to revert to the additional rules of the statutory interpretation. Are you familiar with expressio unius est exclusion alterius? Explained what the term means. You just admitted that under the definition of commercial dock rental is not part of this definition of a commercial dock under plain language, correct?

J. Mandell: The term rental is not part of that definition.

Ross Sanchez, Vice Chair: About that last statement used in connection.

R. Kardash: I was going to get into that in my next question.

R. Sanchez: Ok, I mean these are Treasure Island businesses that we are friendly with them. It's a big problem with our city, we have businesses leaving left and right.

R. Kardash: We have two items here I would like to discuss. You talked about accessory use. That an accessory use has to be with something that is directly connected with the primary use of the property, correct?

J. Mandell: That is not exactly what I said. What I said was reading this definition led me to conclude the intent of the commercial dock provisions couldn't be stand alone. It has to be used in connection or owned by a variety of uses. What that says to me is that it is intended to be an accessory but in conjunction with, but it isn't allowed to be a standalone. It's a commercial dock and think that there is an intent there that is part of a commercial environment.

R. Kardash: I believe you said that accessory use has to be associated with something, correct?

J. Mandell: The definition says that it has to be. I did not look at your definition of accessory use. That is not what I am suggesting there. I think that the intent here is to be part of another use.

R. Kardash: Provided Ms. Mandell section 68-2. Read the definition of accessory use. The commercial dock definition here provides and the definition of accessory use under the city code provides. The use of these docks has to be subordinate and serving a purpose incidental to the primary use of the property, correct?

J. Mandell: That's what that says, and I think that the fact that the commercial dock definition is inclusive of and used in connection with or owned by the same place.

R. Kardash: What is the primary use of this property?

J. Mandell: I was not asked to get into that level of detail to identify accessory uses, or principal uses. I would be reluctant to make that statement. We would also be getting to an area where I would also be giving legal advice.

R. Kardash: Your client's primary use of the property is providing legal advice, but interpretation of the code is not legal advice.

J. Mandell: What I said was that I read this definition and that I understand the existing use right now that the property at issue is a hotel and that there is a restaurant there. What my testimony was is that if I looked at this definition, which is a dock used in connection with or owned by a variety of uses. It is very broad and to me, this is not intended to be a standalone use and it has to be a part of the uses that are part of its definition. I did not get into whether this was accessory use or not. You can take out the word accessory, but you would still get in connection with it. That is why I am reluctant to answer questions about the primary uses of this site because I didn't look at that and I don't have that information.

R. Sanchez: I don't want to speak for the applicant but when it comes to primary uses of that structure. I would say it is to draw new residents to Treasure Island.

Jennifer Cowan, City Attorney, the applicant will be able to speak. What I would say for the Board is to allow the applicant to give their testimony and then allow the staff to cross. When the staff gives their testimony, the applicant will be given the same provision. What I will say is that when we complete this cross and if there is any further testimony from this witness, I would like the opportunity for the Board to ask their questions.

R. Sanchez: Can we just not make this frictional? That is what is coming off as I don't know if anyone else sees that but it's coming off like that. Completely different from where we ended the continuance of this agenda item.

R. Kardash: Directed towards Ms. Mandell. You are not providing an opinion as to your client's primary use of the property and whether or not the commercial dock is an accessory use to their primary use.

J. Mandell: I haven't been asked and I didn't see that as part of the record either. I don't know if the concept of primary or accessory was part of the record.

R. Kardash: But your opinion is that this commercial dock use cannot be a primary use it can only be an accessory use?

J. Mandell: My opinion is that the way that definition reads you can only have a commercial dock that is used in connection with or owned by a second use.

R. Kardash: You also provided an interpretation regarding the reasonableness of conditions.

J. Mandell: I did indicate that when you have conditions, in my experience, dealing with processes and how you can condition you have certain standards to meet in order to legally be appropriate.

R. Kardash: You used the specific term nexus, and that emanates from case law, correct?

J. Mandell: Correct.

R. Kardash: Ok, the case law basically provides that when you are enacting conditions, they have to be reasonable related to the harm that is trying to be prevented.

J. Mandell: That is a fair representation of how that is.

R. Kardash: Ms. Mandell, as board-certified city, county, and local government law lawyer. What is the real basis of the purposes that those are enacted for? Is it to protect health, safety, and welfare?

J. Mandell: Governmental entities have the right to regulate the use of land in order to deter harm, however, it has to be related to the property rights that exist. There's that level of you get to regulate but you have to do so in a manner consistent with property rights. That’s the way case law and the concept of land use law has developed.

R. Kardash: Under the concept of land use law. Land use law is part of the police powers of a governmental entity, correct?

J. Mandell: The reason that a governmental entity has the authority to regulate is the use of its police power; however, it is buffered by property rights. When you write a regulation there is clarity and interpretation in your code but regulated by having rules of construction in your code. Those are the parameters.

R. Kardash: The exercise of the police powers is to protect the health, safety, and welfare of the citizens, correct?

J. Mandell: That is a part of it.

R. Kardash: When you talk about violations of the zoning regulations or code of ordinances that then would fall under a violation that affects the health, safety, and welfare of citizens, correct?

J. Mandell: Not sure if I understood that question.

R. Kardash: In exercising the police powers, it is to protect the health, safety, and welfare and with respect to violations of zoning codes which is an extension of the

police power and enforce of those zoning codes that is to protect the health, safety, and welfare of citizens, correct?

J. Mandell: I wasn't asked to look at that and how your code deals with code enforcement. In a general manner you are right as a governmental entity to enforce your codes based upon your opportunity to regulate property and to enforce those codes you have drafted.

R. Kardash: Putting conditions on an approval which were specially designed to maintain compliance. That would be a condition that is put in place to protect the health, safety, and welfare of the citizens.

J. Mandell: I hear what you are saying but really you have to look at what's asked and what is in front of you not the possibility of violation in the future. That makes a presumption that you know a particular property owner is going to violate the law and that is the thing I think you have to be cognizant of. You look at what the request is, you look at the process you go through, you look at what is on the property today and ensure that whatever is asked for you have met what they have asked for instead of trying to regulate it kind of backward with conditions that say I am not going to be this or I am not going to be that. I think that you need to be cognizant that you are really trying to regulate potential speculative harm versus what is in front of you.

R. Kardash: What if this is based on a violation that has already occurred and code enforcement action has been charged?

J. Mandell: I can only answer that question by giving legal advice on that issue, but I would say that I have traditionally and consistently advised every board that you cannot base a land use decision on a potential or the fact that a previous violation occurred that is not part of the record.

R. Kardash: What if it is a continuing code violation?

J. Mandell: It doesn't matter. It has nothing to do with what is in front of you. That's legal advice and I will admit that but because you asked that question and I can say I have consistently advised boards not to base their decisions on a code enforcement violation.

R. Kardash: I want to go back to why we are even talking about the definition of marina. Do you understand within the context of this particular application why the definition of marina is important?

J. Mandell: What I saw that was in the conditions that are placed upon this application at least the iteration is that you will not be a marina and what I understood from that is there are some concerns about the rental of the commercial docks. Utilizing those two things is why I looked into the marina use. That this

doesn’t even meet the definition of marina use. I am not going to tell you how you should regulate it. But I advise you as part of my opinion that putting a condition that you will not be something is really just assuming that there will be a violation in the future.

R. Kardash: Back to the definition of marina. The application is for a commercial dock and you have already stated that rental is not contained in the definition of a commercial dock.

J. Mandell: That is correct.

R. Kardash: But it is contained in the marina definition?

J. Mandell: That is one of the components of the parts when you put everything together and define a marina. This isn’t a regulation this is a definition.

R. Kardash: You are going a step further in saying that because we’re looking to allow them to rent and specifically rent within the context of being a commercial dock. Your testimony is that by them explicitly saying that they cannot operate as a marina, that is not a condition that is related to preventing harm or a violation of our zoning code. Is that your testimony?

J. Mandell: My testimony is that they are not a marina, they are not applying to be a marina and they do not meet the definition of a marina. Putting a condition on it saying you won’t be something you have not asked for nor with what they have come forward with. That to me is where I disagree to that being a condition. I think that is an important distinction. These are definitions and if you wanted to write a regulation or pull from a definition. This is describing what something is, and the commercial dock is describing what something is. It isn’t regulating it. It’s not saying what is use is. There is nothing in your code that I am aware of that says and whether you call it rental or revenue because I think that when you are looking at a hotel use but I am not going too far into that. Looking at a commercial dock in a definition whether it prohibits that or not has nothing to do with it. It has to do with the fact this is commercial item which part of another use. When I look at that definition of a commercial dock and make sure it is in connection with a hotel because I think that is important and that is what your definition says I have to in order to be a commercial dock. The idea that I might receive some kind of revenue from that is not part of this regulation. As part of a marina, which by definition there is all these things you got to be to be a marina. The fact that it is in the definition doesn’t necessarily mean you can do it or not do it. It just means a component describing it. I have looked at this as an interpretive activity and I have opined as to what the differences are and I have opined as to what the rules of construction are. Theres an application in front of you for a commercial dock that is what you are processing. A commercial dock is what it is. It is not a marina. You can’t pull out pieces of that definition and impose it into another definition.

R. Kardash: Your analysis is that it is only a commercial dock that they are applying for, and that commercial dock does not include rentals?

J. Mandella: I didn't say that it doesn't include rentals. I said this definition doesn't include rentals.

R. Kardash: So, a commercial dock under the city's code of ordinance does not include rentals.

J. Mandella: It neither includes it nor precludes it.

R. Kardash: We already discussed the expression of one is to the exclusion of the other so under the rules of statutory interpretation that would mean rentals are prohibited.

J. Mandella: I haven't looked through your code to see. Sometimes codes have provisions that relate to that. Yes, what you have said is accurate as to statutory construction but without a deeper drive into your code I can't say whether or not that is accurate.

J. Cowan: Any questions from the Board to this applicant?

Marvin Shavlan, Board member: For the definition of the marina, you are saying you have to have every single one of those things to be marina?

J. Mandella: Those are the components that make up a marina. There are two parts, and you have to have the two parts.

M. Shavlan: Two parts but also parts within those parts, right?

J. Mandella: You become a marina when you are inclusive of all those parts. That is what makes it different.

Chair Richard Harris called a recess at 3:15 p.m. and will reconvene at 3:25 p.m.

M. Bentley: Continues presentation by reiterating what was stated by Julia Mandella.

M. Bentley: Staff counsel alluded to there's a stipulation with code enforcement where our client did not admit to any violations. Just in the spirit of compromise, we agreed with the stipulation that we would file an application to change the multi-use docks to commercial docks. The city advised us the proper process for this was to pursue a special exception use, which is an accessory use, for a commercial dock. The city knew how we were operating, they documented that. They knew the slips were being rented. They said the resolution was to apply for a special exception for a commercial dock, if you want to lease the docks fine, if don't want to lease the docks fine. If you just want to have guests at the hotel utilize them that is fine as

well. That is how we got to this point. Otherwise, if you can't lease a space with a commercial dock there is nothing else you can do in the City of Treasure Island except have a marina. The zoning classifications for a marina you are talking about are commercial general. The city has known full well for a number of years what our client was doing was renting the slips. They suggested we might be a marina we said we are not and let's get in front of Board and work it out.

M. Bentley: Introduced Russell Ottenburg, Planning Incorporated. If there are no questions of his qualifications, I will put him on to testify.

R. Kardash: I do have questions. I took a look at your CV that was provided to the Board at the last hearing. In there the only certification it had for you is an AICP that expired in 2013, is that correct?

R. Ottenburg: That is correct. I was an AICP for fourteen years.

R. Kardash: For fourteen years you were an AICP, but you haven't been an AICP or held that certification for 10 years now.

R. Ottenburg: That is correct.

R. Kardash: What certifications do you currently hold?

R. Ottenburg: I don't have any current certifications. I have been doing land planning for about 35 years. I regulate and represent clients at rezonings, special exceptions, special uses, comp plan amendments, etc. Through various city councils, board and county commissioners, so on and so forth. I have been doing this for thirty-eight years.

R. Kardash: You do have substantial experience?

R. Ottenburg: I do.

R. Kardash: But you do not hold any current certifications?

R. Ottenburg: I do not.

R. Kardash: And you do not represent any governments?

R. Ottenburg: No, I do not. I am a court-qualified expert in land planning.

R. Kardash: In land planning?

R. Ottenburg: Yes.

R. Kardash: Ok, but you don't hold certifications?

R. Ottenburg: Not currently.

R. Kardash: And you do not represent government entities?

R. Ottenburg: That is correct.

M. Bentley: I will note for the record the only certification a land planner can get is AICP. There is really nothing else out there as a professional planner.

M. Bentley: Russell could explain to the Board the significance of some of these code provisions.

R. Ottenburg: One of the things in contention at the last meeting was whether or not parking would be required for the slips if they are rented and towards the end of that meeting, we requested, I believe Ms. Younkin said there is a provision in our code that applies. We asked Ms. Younkin and Jesse if they could please give us that code provision. At the hearing, if I remember correctly, Ms. Younkin said it was under the marina's definition of one parking space per slip. After the meeting, I was tasked with looking at how that applies or whether it applies. Read section 68-46- off-street parking. Looking at the section and the commercial dock here I want to know whether that is considered a building or how that applies. Read the definition of a building. The first defining characteristic is that it has to have a roof, the dock obviously does not have a roof. So, it does not qualify as a building. Also, the dock does not have an occupancy capacity. Under the city's definition the dock does not qualify as a building, nor does it have an occupancy. At any time, the use or occupancy of a building is changed, and again not a building. This application is for a special exception for the dock, not the hotel. Aside from the hotel that is built there is no change in the size or configuration. In truth, neither of these triggers apply to the dock where it would technically require additional parking under your code per your definitions. When we met with staff and discussed this, they said well we are going to look at some of the other codes in the area. The City of St. Pete Beach was mentioned. They have a code requirement for commercial docks of one parking space per four slips. We agreed that would be a reasonable rate. Although your code doesn't technically require parking the applicant is ok with applying the St. Pete Beach parking requirement for those slips. In all this discussion of the marina as it relates to parking. The city code has a variety of different parking rates and yet staff did not choose to apply any of those rates to the commercial dock. I think there is somewhat of an understanding that this is not in fact a marina. At the meeting, I believe Ms. Younkin said that if a use does not have a specific parking rate in their code they will look to the closest thing or go outside. If staff truly felt this was a marina, then I would have expected them to apply the marina rate, but they haven't. That is the extent of my testimony, and I will be happy to answer any questions.

Chair Richard Harris: To summarize this for the Board. With current hotel use forty-three spaces are required and fifty-four spaces are provided at the hotel. Even if we had to require spaces for the eighteen slips that gets up to forty-eight required so all

this from a parking standpoint is pretty mute. The applicant provides more than is even required.

R. Ottenburg: I don't remember the specific parking requirements versus what is provided. I know the applicant has committed if there is a short fall applying that one parking space per four slips. If there is a shortfall between what is on site and what is required should the Board choose to approve this then the applicant has committed to providing additional parking. It would be in compliance.

R. Kardash: Mr. Chairman, since you are discussing the parking. I did want to relate to the Board that staff does not have issues with parking. They believe they can meet by what is provided on-site or with off-site parking. That is something that isn't really a huge issue that will hold this up.

M. Bentley: I think we have resolved the parking. At the August 17th meeting staff proposed eight conditions. It was unenforceable and unintelligible. There were various terms interchanged between guests of hotel visitors guest staying overnight it was difficult to understand. On August 25th when we walked out of City Hall the staff and my client agreed to these seven conditions. The staff took issue with number five, the definition of the marina. The staff report did not agree with five but they agreed with how it was written. We got these conditions even though we met on August 25th, we didn't get them until three days ago. We have been scrambling here. We received staff new conditions which we never agreed upon. They seem to be shifting the goalposts every time we get close to resolving the issue. For example, we are back to the guest issue in number five. Read condition number five. If you want to lunch, there you have to make a reservation on your boat. Here again we get into enforcement issues. We went through these and stricken through five a, b, and c. Read conditions five a, b, and c. The bottom line is you can't charge for these slips unless you have a reservation at the restaurant or the hotel and then c is all advertising of the regarding boat slips under a and b will contain the conditions identified in five a and b. What staff did and they approved the bottom additional conditions. These were drafted by staff. What they have done is if you want the Board to go this route, they are fine with the way they are drafted. Read the additional conditions. Additional condition number two it says per sec. 46-73, obtain a separate business tax receipt for rental of boat slips. This would not be required as the slips are part of the hotel and not a separate business. Also, your code only requires a commercial dock to be owned by the hotel. The code section, the city cites section 46-103, does not relate to a business tax for slips. It relates to storage/dry then marina. You don't really have a business tax receipt requirement for slips. If there is some requirement that we get a separate tax receipt that is fine but we are not, simply going to have that imposed upon us when it is not necessary. If we eliminate five a, b, and c and we can take additional condition number one and move that up to five we have agreed to all the staff language and your staff has sanctioned everything on that slide. All we need to do is get rid of this prohibition on leasing the slips unless you have got a reservation at the hotel or the restaurant. We have to balance these competing interests. While at the same time protecting the

public interest. Going back to the staff report, it said for four or five years they have operated as a model citizen in the community, and they haven't had any adverse impacts. There shouldn't be any fear about how they are going to operate because nothing is going to change there. They have been renting slips for the past four or five years and now we are just trying to get this all straightened out. In summary the staff report states that all special exception criteria have been met and the applicant is providing additional parking, even though we don't think it is required, and have agreed to all the staff conditions as expressed on this last slide, number 18. If you have any questions.

R. Sanchez: In regard to the conditions number six. You didn't comment on anything on six. When we left, I was confused in general about what we left last meeting with these new conditions. When I got this packet and reviewed, I was a little thrown off as well when it came to what was listed. Anyway, regarding number six. Read condition number six. Are you guys ok with six?

M. Bentley: Yes, I talked to Shawn, the client, and he is ok with six.

R. Sanchez: Ok, because I think that is in favor of you.

M. Bentley: I think the fear the Board has expressed was having charter boats actually docking there and operating there.

R. Harris: The way we did leave it last meeting was that would be for an offsite charter captain to come and pick up guests.

R. Sanchez: I think that is value added. Because if someone were to come and stay and they want someone to go charter fishing they could come and pick you up and not be a charter fishing boat stored there. So, I like number six and it is a value added as well as the resort in general.

R. Harris: Mr. Bentley, I am going to go back to the parking situation again. It appears too that even with the additional requirement of five additional parking spaces you have sufficient parking do you agree with that?

M. Bentley: I agree but the city has done a calculation because not only do you have the forty-two units and one for the caretaker so that is forty-three and then there are some parking spaces allocated to the restaurant. We had a surplus of two and we needed four, so we agreed on a condition that all these alternative methods of parking the city has in it's code. We would obtain that if necessary. I think that is what staff counsel was trying to express.

R. Harris: You can put in a bike rack. That gets you one space, and you can have motorcycle parking as well. Anyway, we are splitting hairs over the number of parking spaces. You are pretty close to it.

M. Shavlan: Can we go to the definition of a marina. Mr. Bentley, you said something different than your expert said. You said you had to take some from part one and some from part two and I thought your expert said you had to have everything.

M. Bentley: Refers to Julia Mandella.

J. Mandella: Let me reiterate. I said you need part one and part two. You need to have both of those, but it can be any combination. If you are any part of one and any part of two you are defined as a marina.

M. Shavlan: You have one from part one and one from part two it would be a marina?

J. Mandella: It is my opinion that you would fall under the definition of a marina.

M. Shavlan: Marine equipment would be a boat as marine equipment, or not?

R. Kardash: Yes.

M. Shavlan: So, if that is correct it is a marina.

J. Mandella: Let me also characterize this the way I characterized it in my testimony. It is a stand-alone use.

M. Shavlan: Well, I don't know where it says that.

M. Bentley: A marina is not allowed in our zoning district classification.

M. Shavlan: We are trying to make sure we don't get a marina.

M. Bentley: I understand.

M. Shavlan: I think that is why the staff might be wrong, but I think the staff is saying a marina is an issue.

M. Bentley: That is why we have agreed to condition number five, though shall not have a marina operating at the property.

M. Shavlan: But if you are renting boats and renting slips you have a marina according.

M. Bentley: We are not renting boats we are renting slips.

M. Shavlan: I thought you were going to provide rentals.

R. Harris: No, they are not. That is one of the conditions they will not be. To clarify that, since you weren't at the meeting last month, that is fishing charter rentals.

M. Shavlan: I thought that included fishing charter rentals.

R. Harris: That is not what it includes, what is strictly where you can come and be picked up by a fishing charter captain.

M. Shavlan: They are not going to rent boats for a person to take out for themselves.

R. Harris: No.

M. Shavlan: Ok, I think you just need to clarify that.

R. Sanchez: We are saying marine equipment is in part a boat is considered inside marine equipment?

R. Kardash: Is it not marine equipment?

R. Sanchez: I don't know if this is credible but marine equipment means any item used or intended for use in conjunction with boats or water-related activities. In my opinion, I am thinking to myself that is a forklift, a joist, floating docks, ropes, sails, etc. It is interesting that a boat is considered marine equipment and I just wanted to know where that definition comes from.

R. Harris: Looking at this Board I know at least half of us have boats. When I need service on my boat or anything on my boat I go to the marina. I would not be going to the Fusion hotel for anything other than to go to eat dinner and that does not include serving my boat. From a practical standpoint this is far from a marina.

R. Sanchez: I think it is a value add from a perspective from say someone's dock gets wiped out and they are months out from getting their dock replaced and they need a place to keep their boat in Treasure Island. The current City docks are condemned and have been for over a year now. This could be an option for them.

R. Kardash: Mr. Chairman, I do have a point of order. I am unclear if we have ended the evidence portion of the hearing and if we have entered Board deliberation because city staff has not had the opportunity to present.

R. Harris: I would like the applicant to finish his presentation.

M. Bentley: Thank you for the consideration but we are done we will reserve time for rebuttal.

R. Harris: Our portion at this point was kind of a question where we got into more of a discussion but at this point let's go ahead and let staff give their presentation.

Staff Presentation- 3:55 p.m.

Jesse Miller, Principal Planner: presented the supplemental staff report to the board.

M. Bentley: Mr. Chairman, I am going to have to object to all this discussion about the joint stipulation and they left key parts out and why wasn't this brought up at the first hearing. I think it is inflammatory and prejudicial and denies our client due process.

R. Kardash: We would request that the objection be noted for the record, and he would be allowed to continue much like my objection to their witnesses.

R. Harris: We will note your objection and let Jesse Miller please proceed with your presentation.

J. Miller: I will state number two again. The use of the boat slips and docks only for guests staying at the hotel and to apply to the city to obtain a special exception and site plan approval for a commercial dock.

M. Bentley: Those conditions are wrong.

R. Kardash: I think that if you are concerned about the slide. I believe the actual stipulation was provided in your back up materials. Mr. Miller, do you recall which page and where the stipulation can be found for the Board members to reference the document itself?

J. Miller: Yes, that would be page fifty-four in the agenda packet.

R. Kardash: This constitutes a public record for the city, correct?

J. Miller: Yes.

R. Kardash: You are entering it into the record for the Boards consideration, correct?

J. Miller: That's correct.

M. Bentley: Board, I would just want to clarify that number two, the existing special exception use for the existing multi-use dock says as a condition the use of boat slips and dock for guests of the hotel. It doesn't say guests staying at the hotel. That was something created by staff, and they keep sending out these notices. That was never part of the approval that is on the property at this point and time.

R. Kardash: The city would stipulate the correct version being the one that is in your packet on page fifty-four. This is just meant to be a summary for illustrative purposes and was not being presented to the Board to mislead you in anyway but to give you

some background information regarding what was signed and entered before they had to come for their application before this body.

R. Sanchez: In this, it says staying at the hotel or guests of the hotel?

R. Kardash: Mr. Miller, could you read that into the record for me please how it reads in the stipulation.

J. Miller: Joint stipulation item number six on page fifty-four, the city's notice of violation requires the defendant to take the following corrective actions, one, discontinue use and advertising of the property as a marina, two, use the boat slips and dock only for guests staying at the hotel and to apply to the city to obtain a special exception and site plan approval for a commercial dock.

R. Kardash: Do you have any further questions Vice-Chair Sancez?

R. Sanchez: From my last understanding it was guests of the hotel.

R. Kardash: Mr. Miller, can you reiterate again that this is the official document of the city.

J. Miller: This is the official document, this was in February of 2023, so this was before last month's meeting, when the whole discussion of guests was covered.

J. Miller: Continued presentation pertaining to the applicant's narrative.

R. Kardash: Mr. Miller, I do have a quick clarifying question. You said that it was originally used and permitted as a private dock, correct?

J. Miller: That's correct, multi-use private dock.

R. Kardash: Why was it permitted as a multi-use private dock?

J. Miller: I believe originally when this hotel was first submitted it was meant to be a condo-hotel. So, there were supposed to be permanent residences that would have ownership in that property and that eventually turned into just hotel/motel use.

R. Kardash: A private dock would be inconsistent with that?

J. Miller: It is inconsistent with that, that's correct.

R. Kardash: That is the impedance for the change from the multi-use private dock to the commercial dock, correct?

J. Miller: Yes, multi-use private dock switching over to commercial dock would be compatible with the hotel/motel use.

M. Bentley: Mr. Chairman, I object this last sentence on our application. Staff created this application to put us in a bad light. It says but more specifically the dock will be utilized as an amenity for persons frequenting the resort. That's not our application.

R. Harris: Your objection is noted. Please proceed if you can, Mr. Miller.

J. Miller: I am just verifying that last statement with the applicant's project narrative. That starts on page fifty-one.

R. Harris: Ok while you are looking, I got the report form last month and I just want to read this for the Board's information while we have a break. On June 21, 2018, the planning and zoning board approved a site plan modification to provide for this sixteen-slip multi-use private dock for the tourist lodging facility subject to the following conditions. One, the use of the new boat slips shall be solely for the guests of the lodging facility. Two, no fueling facilities shall be established on site. Three, in conformance with the code of ordinance there shall be no liveaboards on site. I believe that in the past the applicant still agreed with numbers two and three and we are boiling down to its use of the boat slips for people not staying at the facility. It's not a marina in my opinion. The situation is in the city of Treasure Island you cannot rent out your boat slip in your backyard in a residential area. This is not a single-family home or a condo or anything like that. It is a business and with that Jesse, I will yield back to you.

J. Miller: What is stated on that slide is correct. If you refer to page fifty-one in the agenda packet, this is verbatim from the request of the applicant. Nothing has been added.

J. Miller: Further into the applicant narrative, the applicant also notes the request is to approve the existing marine structure on the site to be defined as a commercial dock which will be a convenience to the guests of the Fusion resort. It is not unusual for a hotel located on the bay to have dockage. Once again, just to clarify we did not make that verbiage up. That is in the applicant's narrative.

J. Miller: Continued presenting the supplemental staff report. I am going to pass this along to Kathryn Younkin, she has some additional staff information.

R. Kardash: Before you do that, I have some additional questions for you Mr. Miller. What is your educational background?

J. Miller: I have BSAS at the University of South Florida in urban studies.

R. Kardash: What certifications do you possess?

J. Miller: I do not have any planning certifications, but I do have additional ones nothing that would be applicable to what we are going over today.

R. Kardash: What memberships and affiliations do you currently hold? I am providing you with a copy of your resume and I am also providing this to the Board as well. For this purpose, I would like to enter into evidence for the Board's consideration of Mr. Miller's resume. How many years have you worked for the city of Treasure Island?

J. Miller: I was hired here on February 28, 2023.

R. Harris: Any questions for the staff from the Board?

R. Kardash: For my purpose, I would like one staff member present and be crossed at a time before we switch to the second staff member.

M. Shavlan: We are approving eighteen slips. In 2018 they were limited to sixteen slips. I am just curious why they were limited to sixteen.

R. Sanchez: There were two existing.

M. Shavlan: Right, but it said the facility was limited to sixteen. I'm just wondering what was going on back then.

R. Harris: There were two existing slips.

M. Shavlan: The way it was worded it said the facility can have no more than sixteen slips even though it already had two existing and was building sixteen. Just curious why that was.

R. Kardash: Mr. Chairman, you can provide testimony and I also don't believe you were sworn in. I would request that you allow city staff to answer questions.

R. Harris: I want to point out just to make it clear. I am the only person in this room that was at that meeting. None of the city staff has been here since 2018. But go ahead, Mr. Miller.

J. Miller: My understanding is the sixteen was for the construction of the new sixteen slip structure itself, of course, they did already have one that had two slips that existed at the time. I believe the staff back then focused on just those sixteen that were going to be constructed at that time.

R. Harris: Any further questions for Jesse Miller?

R. Sanchez: I am blown away by how all this got so sidewise from our last meeting, we got new personnel, and we got the conditions that were changed. That's fine, we seemed to understand what the applicant wants obviously we talked about what the property is. My question is, I don't want to get back into the marina definition I just want to be clear that in the same district we have Treasure Bay Resort Marina, it

says marina on the sign. It is a hotel, it's got slips behind, it's got boat rentals. Going outside of that district we got Bayside Inn and Marina, which has marina in the name, again hotel says marina, slips in the back. Keep going we got C Jays motel and marina. Those are just things I wanted to call out, so if they were to call this Fusion and Marina it seems like it would be fine. I'm not saying that just because other people are doing that, they are allowed to do it. I'm not saying that is allowed. An example, we got John's pass marina, that has fuel, slips, a forklift, repair, boat sales, boat repairs, and that is called a marina. I don't see the things they are asking to difficult to apply but can you say we have so many hotels with the name marina in it and then this has become blown up today as into what the applicant is looking for?

R. Kardash: For the record, I would object to Vice-Chair Sanchez comment, based on relevance.

R. Harris: Your objection is noted.

R. Kardash: He can answer.

J. Miller: So, you are just talking about the names of businesses? Are they actually doing anything as a marina. If they are not, they can name themselves anything really.

R. Sanchez: There are boats and slips there. That aren't guests of the motel.

J. Miller: Ok, obviously that is something we could have code enforcement look into.

Diana Crabill, Board member: I was just going to say, Ross, depending on where you are looking at is if it has marina on it. I specifically looked at Sea Jay and in their official documents it is just Sea Jay motel. It does not say marina. If you go someplace out on the web you will find a marina. I can see why the attorney objected to it. That's a third party calling it a marina.

R. Harris: Mr. Bentley, go ahead with your rebuttal.

M. Bentley: Jesse, hate to do this do you, great guy love working with him, but I looked at your CV, very impressive but I noticed you don't have any certifications as a land planner do you?

J. Miller: No, I do not.

M. Bentley: You don't have any degrees as a land planner, do you?

J. Miller: No, I do not.

M. Bentley: Looks like you have a lot of work more on the technical side with wastewater and stormwater, is that correct?

J. Miller: Certification wise that is correct.

M. Bentley: Bring up the proposed conditions that the staff drafted. Condition five says the commercial docks will not operate as a marina. So, you drafted that correct?

J. Miller: I draft things and they get reviewed and edited.

M. Bentley: Ok, so there is a distinction between a commercial dock and a marina by your own omission. They are two separate things, correct?

J. Miller: What we did is just clarify what a marina is defined as and what a commercial dock is.

M. Bentley: But you made a distinction that a commercial dock does not constitute a marina, correct?

J. Miller: Yes, because I view a marina as the rental of boat slips.

M. Bentley: You and your staff drafted these proposed conditions, correct?

J. Miller: That's correct.

M. Bentley: Including options one and two, correct?

J. Miller: Yes.

M. Bentley: Ok, I assume that you are looking out for the city's best interest that you thought the application of those, if approved, these conditions to the special exception would further the public health, safety and welfare.

J. Miller: No.

M. Bentley: Why is that?

J. Miller: Because I view marina as the rental of boat slips. These additional conditions were put in place for the planning and zoning board to add them if they would choose. That does not mean I agree with them.

M. Bentley: Ok, your advice to the board if you were going to approve this special exception that conditions one and two would be sufficient? As it relates to boat rentals.

J. Miller: If the planning and zoning board would approve this is something they should consider.

M. Bentley: It would protect public health, safety and welfare, correct?

J. Miller: In my opinion no it still would not. These are just options.

M. Bentley: So, its just an option you gave the board?

J. Miller: That's correct.

M. Bentley: You don't think its adequate to its adequate to protect the public health, safety and welfare?

J. Miller: I do not.

R. Kardash: With respect to your opinion regarding them not protecting the public health safety and welfare, it is your opinion that this application and how this case has progressed is in violation of the public health, safety and welfare?

J. Miller: Yes, I do.

M. Bentley: But here again Jesse you don't have any planning experience per say.

J. Miller: No.

K. Younkin: Presented additional staff report information. I just wanted to note this is one piece of upland property, which is a hotel with a secondary or accessory uses of a restaurant and a boat dock. Read definition of accessory use. I want to emphasize this is a special exception hearing for an accessory use to a hotel and by definition that would a subordinate use to a hotel use. Read the definition of a commercial dock. I also want to state for the record that staff was not aware of any disagreement on the conditions prior the first hearing. I want to address some comments made by Mr. Bentley. That they were just informed of the conditions of the previous staff report that was handed out today to the board and the applicant, which was case number 2017-16, which was the original site plan for the hotel itself. Those are not new conditions; they have been in existence. There was a discussion about whether it was a building, or a structure and the structure definition includes the word dock. Discussed parking. In response to the question why there are conditions by the planning and zoning board, is that the planning and zoning board can impose conditions in our code. Another section says that when granting any special exception, the planning and zoning board in addition to the standards enumerated in the land development regulations may prescribe appropriate conditions and safeguards. Going back to two previous cases where original site plan and special exception were granted and had conditions about the use and the parking. Read the conditions from case 2018-02.

R. Kardash: Just to clarify. Your testimony here today is that the prohibition regarding renting out boat slips to the general public was already contained in their site plan approval, correct?

K. Younkin: Yes.

R. Kardash: You are just seeking to continue that specific condition within the context of their new application to change the use of the docks because the use of the docks is in violation of their approved site plan.

K. Younkin: Correct.

R. Kardash: You also testified that you were unaware there were going to be any objections to the conditions that had already existed in their previous site plan approval, correct?

K. Younkin: That is correct.

R. Kardash: These specific conditions for the dock are they related to the use of the dock as an accessory use of the primary use of the structure, which is a hotel?

K. Younkin: Yes, they are.

R. Kardash: Can you elaborate on how they are related to the use?

K. Younkin: The use of a commercial dock is a special exception use which is an accessory use to the hotel.

R. Kardash: the use of the dock specifically for the hotel guests keeps it as an accessory use that is subordinate to the principal structure. Pursuant to section 68-2 of the code?

K. Younkin: That is correct.

R. Kardash: Presented Kathryn Younkin's resume into the record.

K. Younkin: I just wanted to state for the record that some of the hotels mentioned by Ross are in the CG zoning district, which does allow a marina as a special exception use.

R. Kardash: So a marina is not allowed as permitted use by right in the RFM-30?

K. Younkin: That is correct.

D. Crabill: If we allow a special exception for Fusion underneath our RFM-30 how does that affect our other RFM-30 districts on the island, does it stick with that one,

is it just for that property, or would that be something that goes everyplace. The reason I ask is I got zoning maps and I saw all the different places where the same zoning is and a lot of them have small canal areas. Described locations of where the zoning district is. That is a lot of different areas that could put in a commercial dock. If we give it to them would that affect or give precedence to all these other sites.

Noah Daiker, *Assistant City Attorney*: No, it will not. It will only affect the applicant's property. They are the ones who have been noticed to be here. Those other properties would have to apply and come before the board.

D. Crabill: But does this set precedence at all for future ones?

N. Daiker: Not a legal precedence.

C. Downing: Is the applicant asking now for this special exception to allow long-term rental of the boat slip areas, regardless of whether they are a guest of the hotel or not.

M. Bentley: The client's desire is for short-term rentals, but he would like the ability to have long-term rentals as well.

C. Downing: So that is the intent of what you are asking?

M. Bentley: yes.

C. Downing: What hasn't been discussed is what long or short term could be if you are going after that. By leaving it open you could rent a slip out for a couple of years if you want.

M. Bentley: We have those conditions no liveaboards and the submerged land lease prohibits liveaboards too.

R. Kardash: Ms. Younkin, in that regard is there anything in this that is related other than the liveaboards, which has been addressed, that is related to the length of the rentals that is concerning to staff or addressed in the conditions?

K. Younkin: We have not addressed the length of the rentals because as staff has stated in the staff report staff believes that these are not a permitted use in the zoning district.

C. Downing: So, if someone is staying at the hotel for a year, they could rent the slip for a year?

K. Younkin: Yes.

M. Shavlan: You are saying that is not an accepted use. Long term is not permitted?

C. Downing: If they are a guest of the hotel, they could long-term.

Lynn Fisher, board member: When you brought up the length and on the land lease it says the boat shall not exceed the length of the boat slip. On their website it says they can accommodate boats up to 70 feet and if you look at the pictures many of those boats go beyond the end of the dock. A lot of those boats seem to be there pretty long term and it's the concern of how they are being pumped out. There is a safety concern for our waterways. That is one of the few areas people can do water activities, so a lot of people are actually in that water, and it doesn't seem like they are really able to manage that. They have said it is hard for us to monitor that so how do they monitor if they have a boat come in to pump out their sewage.

R. Harris: I think that's an issue that will be addressed as we get further into this. I don't want to get into pumps right now. Mr. Bentley, please proceed with your presentation.

M. Bentley: Slips one and two, the grandfathered slips, those are 71 feet long. The rest of them don't exceed 50 feet.

L. Fisher: But the boats do.

M. Bentley: No, according to the client.

R. Sanchez: There is like one that exceeds 50 feet.

R. Harris: Let's get back to a point of order and quit talking about boat lengths.

M. Bentley: August when we were here our charge from the board was to go back to staff address the parking issue and these conditions. We got in as soon as we could. We didn't get any of these staff reports until Monday afternoon after we had met with them three weeks prior. We are operating in good faith. We come in here today and the city wants to relitigate the whole case based on a lot of the issues we raised last time. They gave you new reports, new analysis, new code sections, things like that. These new conditions on the site plan there's about 20, I know they are preexisting but we have to comb through all of them to see if there is any conflict. We felt like we were treated unfairly but that's water under the bridge. It's a good project, it's a commercial dock there are no limitations for a commercial dock in terms of rental. I can look at your definition of commercial and it basically suggests any commercial enterprise that you would generate revenue. So, this is a commercial dock, and the existing multi-purpose dock says the slips have to be used by guests of the hotel, not someone sleeping there. A guest can be someone pulling up in their boat using the pool, using the restaurant, or just hanging out. You don't have to sleep there to be a guest. Thank you for all the time you have given us.

R. Harris: The situation we are in now is we have a couple of people in the audience. Does anybody in the audience wish to speak about this? Ok, we will close the public

hearing and I will start off with. I was reading the conditions back in 2018 and it said if you are going to use the boat slip you are going to be staying at the hotel. Well, that was never adhered to. That was unenforceable and the situation is it is a commercial business. City of Treasure Island with our businesses, in my opinion, aren't doing too well. Our downtown is closed out, bank of America moved on, we couldn't even support a McDonalds. I just keep hearing it over and over how we either don't support our business or we don't have business to support. I have received numerous phone calls saying that was the initial condition that if you were staying at the hotel, you could put your boat there. There are 16 new slips and 2 existing slips. My main question is in order for the city and the citizens to support our business all they want is to rent out 3 slips on a permanent basis. Is that correct Mr. Bentley?

M. Bentley: No. That went off the table when we agreed to all these other conditions.

R. Harris: Ok, whatever the number is they just want to rent them out and not have to be staying at that hotel. My question is what does it hurt? I know it does hurt when you are renting out boat slips in your backyard. That is my main question to the board what does it hurt?

C. Downing: I will answer that question. I think Diana brought up the point with respect to the zoning of that particular area allowing or not allowing commercial docks to, if we let it go that direction, allow long-term rentals. Then others will be able to do it as well. You are certainly setting precedence by now allowing the hotel to rent those docks out on a long-term basis within that zoning district. So, the harm could be what precedence you were setting and whether or not it is enforceable is not relevant.

R. Harris: You are exactly right, every parcel has to come in with an application, and a lot of them are single-family homes and multi-family homes and condominiums but each one has to come in with an application. We don't set precedence every case has to come in on its own. Have we set a precedence there is no doubt about it. But this is a new hotel, it's a welcome addition to what was there previously. The situation is we know what the man wants to achieve and whether it's a marina or not a marina. It boils down to one issue can I rent out my boat slips or not.

C. Downing: And the original site plan said no.

N. Daiker: Before we have further discussion, we have public comment that was sent via email that we need to read into the record.

R. Harris: Reopened the public hearing and read an email sent by Cara Brown, 10390 Paradise Blvd.

R. Harris: There is not going to be liveaboards here. In regard to parking, even with the additional condition of one space per four boat slips they are close. I don't think

one or two parking spaces really makes a difference in this situation. This is a commercial business although it's in a RFM district and do we want to help out the businesses in Treasure Island. The word out on the street is the City of Treasure Island is really hard to deal with and we don't want to do any business there. I don't like hearing that. I want Treasure Island to be a good place to open up a business.

C. Downing: I don't think anybody on this board is trying to hurt the business that has already been established and within the rules we are given. I think we wanted to give as much latitude as we can, but I do think the board has to be cognizant of what the original site plan allowed and did not allow. Just the fact that it went from being a condo/hotel to a hotel. That doesn't necessarily change that condition. If they are coming now for a special use permit to change it from a multi-use to a commercial use and within that I think we have the ability to place some conditions on that. Whether it be the term of rental is not considered a long-term rental commercial operation and it was actually meant for guests of the resort and I don't mean guests sleeping at the resort but guests using the resort. The intent, as I understand is separate from the hotel itself is to lease out these slips as long-term rentals.

R. Harris: Discussed conditions approved in 2018. Those were totally unenforceable.

C. Downing: The fact that something is not enforceable is not a reason to change a ruling.

R. Harris: It is a reason to change, everything is subject to change.

R. Sanchez: I think it would help to generate revenue as well. Businesses five years ago were different than they are today. This helps a local business generate.

M. Bentley: Mr. Chair, is the public hearing still open?

R. Harris: The public hearing is closed.

N. Daiker: Just as a reminder the board does not have the authority to legislate it needs to interpret the code as written. I feel our discussion was getting a little off track.

R. Harris: We had a stipulation back in 2018 and do we want to change it.

D. Crabill: I would think we have a discrepancy between staff and the applicant on the conditions. That tells me that we as the board has to decide what conditions if any we need to do, and I don't know if I want to rush through what conditions we want to have in five minutes. We are going to do this for a third time because unfortunately, everybody had to get into a thing about marina versus commercial. Anyway, we as the panel has to decide what type of restrictions we want to place and that can't be done efficiently and accurately in five minutes.

R. Harris: I think we are at the point once again where staff and the applicant did not come to a meeting of the minds between last month's meeting and this meeting.

R. Sanchez: Diana, I agree with you I thought today's packet was going to read what we had left it. I feel like I have the ability to make a motion that would meet the needs but I'm open to whatever you guys want to do.

N. Daiker: We are restricted to five o'clock because I have to leave to cover another meeting.

R. Harris: Can I have a motion to continue to next month?

MOTION: A motion was made by Diana Crabill, seconded by Marvin Shavlan to continue both cases to October 19, 2023, meeting.

Voting For: Ms. Lynn Fisher, Mr. Marvin Shavlan, Ms. Diana Crabill, Ms. Linda Driscoll, Mr. Chris Downing, Chair Richard Harris
Voting Against: Vice-Chair Ross Sanchez
Abstained: Mr. Michael Hurtubise
Motion Passed: 6 - 1

12.A SPEC-000392-2023- 290 107th Ave. – Special exception use request to modify the existing 16 slips marine structure and 2 slip marine structure multi-use private docks into commercial docks.

12.B SITE-000393-2023- 290 107th Ave. - A site plan approval for an existing 42-unit hotel/motel with a pool, lounge, 16 slip marine structure, and 2 slip marine structure.

13. PUBLIC COMMENTS ON NON-AGENDA ITEMS

There was no public comment.

14. REPORTS AND COMMENTS OF CITY ATTORNEY, STAFF AND BOARD MEMBERS

No reports or comments.

15. PLANNING & ZONING BOARD / LOCAL PLANNING AGENCY MEETINGS

NEXT P&Z MEETING: THURSDAY, OCTOBER 19, 2023 @ 2:00 PM
LPA MEETING: TBD

16. ADJOURNMENT

Chair Richard Harris adjourned the meeting at 5:00 pm.

City of Treasure Island, Florida

By:_____
Richard Harris, Chair

Attest:_____
Jesse Miller, CFM, Principal Planner

Minutes approved at Planning and Zoning Board Regular Meeting this ____ day of _____, 2023.

Audio and Video are available on the City of Treasure Island website.

AGENDA ITEM NO. 10.A

Item Cover Page

PLANNING & ZONING BOARD AGENDA ITEM REPORT

DATE:	October 19, 2023
SUBMITTED BY:	Jesse Miller, Community Development
ITEM TYPE:	Public Hearings
AGENDA SECTION:	PRESENTATION OF ITEMS
SUBJECT:	SPEC-000392-2023- 290 107th Ave- Special exception use request to modify the existing 16 slip marine structure and 2 slip marine structure multi-use private docks into commercial docks.
BACKGROUND:	See attached staff report.
POLICY/PURPOSE:	N/A
STRATEGIC PLAN RELEVANCE:	N/A
ANALYSIS/DISCUSSION:	See attached staff report.
FUNDING:	N/A
MOTION:	See attached staff report for proposed motions.

ATTACHMENTS:

1. Supplemental Staff Report.pdf
2. Staff Report.pdf
3. Application.pdf
4. Warranty Deed.pdf
5. Dolphin Reef LLC - Sunbiz Filing.PDF
6. Affidavit to Authorize Agent.pdf
7. Special Exception Use Narrative.pdf
8. Joint Stipulation - 290 107th Ave.pdf
9. Public Comments on Case No. SPEC-000392-2023.pdf

CITY OF TREASURE ISLAND
PLANNING AND ZONING BOARD
120 - 108th Avenue, Treasure Island, Florida 33706
Telephone (727) 547-4575; Fax (727) 547-4584

CASE NO. SPEC-000392-2023
SUPPLEMENTAL STAFF REPORT
SEPTEMBER 21, 2023

DESCRIPTION: Special exception use request to modify the existing 16-slip marine structure and 2-slip marine structure multi-use private docks into commercial docks.

In response to questions raised at the meeting of August 17, 2023, by the applicant, board and the public, staff is providing the following supplemental information.

Staff also met with the applicant and applicant's team on August 25, 2023, as directed by the Board to discuss the case and conditions. Persons present at the meeting:

City of Treasure Island Community Development:
- Kathryn Younkin, AICP, LEED AP BD+C / Director
- Jesse Miller, CFM / Principal Planner
- Vickie Pless, Planning Manager
- Jackie Gabriel, Code Compliance Inspector

Dolphin Reef LLC
- Mark Bentley, Esq, B.C.S., AICP
- Russell Ottenberg
- Ryan Manasse
- Shawn Byrne

At this meeting staff and the applicants were able to agree on 5 of 6 of the conditions listed on the last page of this report. Staff and the applicant were not able to reach agreement on condition #5. See the discussion on the use for rental of boat slips which follows.

TREASURE ISLAND CODE OF ORDINANCES:

CHAPTER 46- TAXATION
ARTICLE III. – BUSINESS TAX RECEIPTS
Sec. 46-73.-More than one business.

> A person engaged in two or more businesses at the same location shall be required to obtain separate receipts for conducting each of such businesses unless otherwise provided in this article. Such person shall pay the tax imposed for the receipt required at such location having the highest amount payable, and shall pay

a reduced rate of 50 percent of the fee imposed for each additional required receipt.

Sec. 46-103.- Schedule of receipt tax.

Boats:

Storage/dry:

1-25 boats…..106.73

26+ boats….. 160.73

Marinas:

1-25 boats…..106.73

26+ boats….. 160.28

CHAPTER 68- ZONING REGULATIONS

Sec. 68-195. - Application of zoning district regulations.

Except as hereinafter provided:

(1) *Use.* No building, structure or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations specified in the city's comprehensive plan and this chapter for the zoning district in which such structure is located.

ARTICLE VI. - ZONING DISTRICT REGULATIONS

DIVISION 4. - RFM-30 (RESORT MEDIUM) ZONING DISTRICT

Sec. 68-282. - Uses permitted.

The following uses shall be allowed within an RFM-30 zoning district as permitted, special exception or accessory uses as set forth herein:

(2) *Special exception uses*. Upon application and after a favorable determination by the planning and zoning board that all conditions and provisions of special exception uses have been complied with and that the proposed use is consistent with sound zoning practices, the following special exception uses may be permitted in an RFM-30 zoning district:

g. Commercial docks, multiuse private dock

(3) *Accessory uses.* The following accessory uses shall be allowed in an RFM-30 zoning district:

f. Private docks.

ARTICLE VII. – SUPPLEMENTARY LOT AND USE REGULATIONS

DIVISION 3. – USE REGULATIONS

Sec. 68-486.-Off-street parking.

(a) *Number and description of parking spaces required.* Proper parking spaces shall be provided at the time of the construction of any main building or structure, or at any time any main building or structure is increased in occupant capacity, or at the time any use or occupancy of an existing building is changed to a use or occupancy which increases the requirements for off-street parking facilities. Off-street parking lots may be allowed as provided for in chapter 68, article VI, Zoning district regulations (see the illustrative parking use table in section 68-486(q). Such

parking lots shall be subject to site plan review and shall adhere to all applicable land development regulations. Parking areas shall be surfaced by a dust free paving material such as asphalt, bitumen, concrete, turf block or other similar materials except for that portion of the parking area abutting the Gulf of Mexico or public beach. With the exception of single-family and two-family dwellings, parking lots shall have each parking space and aisle marked. All required parking spaces shall be located at grade level or above. The number of parking spaces required is specified in the following schedule of off-street parking requirements:

	Use	**Minimum Spaces Required**
(8)	Marina facilities:	
	Cruise ships/party boats	1 space per 4 passengers, including crew, as licensed by the U.S. Coast Guard.
	Charter boats	3 spaces per vessel.
	Boat rental	1 space per vessel.
	Personal water craft	1 space per 2 personal water craft.
	Marinas	1 space per each 4 rack storage slips.
	Boat slips as required parking	In the CG zoning district, boat slips may be counted as required parking if the slip is properly signed "for patrons only" and is not used for any other purpose.
(10)	Determination for unlisted uses	In the case of uses not listed in this schedule, the city shall make a determination of the minimum required off-street parking spaces. In reaching the determination, the city shall be guided by the requirements for similar uses, the number and kind of vehicles likely to be attracted to the proposed use and studies of the parking requirements of such uses in other jurisdictions and nationally recognized parking standards.

NOTE: As Sec. 68-486 shown above allows the city to look at adjacent cities for guidance, the following code citations for three adjoining cities are included:

CITY OF ST. PETE BEACH - LAND DEVELOPMENT CODE
DIVISION 23- PARKING AND LOADING
Sec. 23.5.- Number of parking spaces required.

Use	**Parking Requirement (spaces)**
Marina or Commercial Docks:	
Boat slips/non-live aboard	1 space per 4 boat slips or fraction thereof

Sec. 23.10. - Utilization of boat slips as required parking.
Eating and drinking establishments and water oriented retail businesses may utilize boat slips to meet off-street parking requirements subject to approval by the city manager in accordance with the following standards:

(a) All slips must be under the ownership or long-term control of the subject business.
(b) Boat slips must be available on a first come, first served basis, with no fee assessed for use.
(c) Boat slips must be reasonably designed to accommodate customer boats.

(d) The dock facility must be properly accessible in accordance with the regulations governing the maneuvering of watercraft on the adjacent waterway.
(e) Boat slips must only be used for transient mooring and no overnight storage of vessels shall be allowed.
(f) Dock facilities must be compliant with applicable regulations governing handicap access and other accessibility or safety concerns.
(g) Dock facilities must meet all other provisions of the city's land development code related to commercial docks.
(h) No more than 20 percent of required off-street parking can be provided as boat slips.
(i) Boat slips are allowed to meet off-street parking requirements strictly on a one space per slip basis.

CITY OF ST. PETERSBURG - LAND DEVELOPMENT CODE
SECTION 16.10.010. - ESTABLISHMENT OF ZONING DISTRICTS, MATRICES AND MAP
16.10.020.1. - Matrix: Use permissions and parking requirements matrix and zoning matrix.
Marina: 1 per 5 wet slips

CITY OF MADERIA BEACH - LAND DEVELOPMENT CODE
DIVISION 2. - OFF-STREET PARKING SPACES
Sec. 110-971. - Number of spaces.

(a) Except as specified in section 110-954, the number of required off-street parking spaces shall be as set forth in this section. The required number of parking spaces for those uses not specifically listed in the following schedule shall be determined by the community development director on the basis of similarity of its parking space requirements with one or more of the uses listed or on the basis of substantive data from a recognized authority (e.g., the Institute of Transportation Engineers).

TABLE OF REQUIRED PARKING SPACES

Use Categories		Spaces Per Unit of Measure (GFA=Gross Floor Area)
Boat slips for rental	1.0	per rental boat slip
Boat slips/live aboard	1.5	per boat slip
High and dry slips	1.0	per 4 boat slips or fraction thereof
Boat slips/non-live aboard	0.5	per boat slip

(b) The required number of offstreet parking spaces shall be offset, if applicable, by credits as set forth in this subsection.

(2) *Boating.* There shall be a credit of one parking space for every on-site customer boat slip provided. Visitor (or customer)

boat slips will relieve motor vehicle parking on a 1:1 ratio. Slips must be reserved as patron parking in order to qualify for a parking credit.

CHAPTER 70- PLANNING AND ZONING
ARTICLE II. - SITE PLAN REVIEW
DIVISION 4. - PLANNING AND ZONING BOARD ACTION
Sec. 70-91. - Site plan approval.
Within the specified time set forth in F.S. § 166.033, the planning and zoning board shall review the site plan and take one of the following actions, together with their findings, in respect to the proposed development as set forth in this article:
(1) Approval as submitted.
(2) Approval with modifications and/or special conditions, which are found by the planning and zoning board or city commission to be necessary to meet the requirements of this Code and shall be binding upon the applicant and future owners.
(3) Reserved.
(4) Continue the hearing and require the applicant to submit any additional documents or studies that may be necessary to determine such items as drainage, parking, traffic flow, engineering, etc.
(5) Deny the application, provided the planning and zoning board finds that the site plan does not comply with the requirements of this Code or the site plan criteria.

ARTICLE III. – APPEALS TO ADMINISTRATIVE DECISIONS; SPECIAL EXCEPTIONS AND VARIANCES
DIVISION 2. – SPECIAL EXCEPTIONS
Sec. 70-201.- Procedure.

(a) Except as provided for in subsection (c), the planning and zoning board shall hear and decide special exceptions, decide such questions as are involved in determining when special exceptions should be granted, and grant special exceptions with appropriate conditions and safeguards or deny special exceptions when not in harmony with the purpose and intent of the land development regulations. With the exception of single-family and duplex development proposals, all requests for special exception usage shall be accompanied by a site plan which shall undergo concurrent review by the planning and zoning board. In the case of special exceptions requiring city commission final approval, final site plan approval by the city commission shall be required. In granting any special exception, the planning and zoning board shall find that such grant will not adversely affect the public interest.
(b) In granting any special exception, the planning and zoning board, in addition to the standards enumerated in the land development regulations, may prescribe appropriate conditions and safeguards in conformity with the land development regulations. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of the land development regulations. If, within 12 months of the date of approval of an application for a special exception, a building permit has not been applied for,

the approved special exception becomes null and void, provided however, that the approving board and the applicant may jointly agree to extend such time period.

ANALYSIS AND DISCUSSION OF TREASURE ISLAND CODE OF ORDINANCES:

In the Joint Stipulation that the applicant signed on February 24, 2023, "the City alleges that the defendant has violated sections 68-195, 68-282, 70-91, and 70-201(b) of the City's Code of Ordinances. Specifically the City alleges that the property is being advertised and used as a marina, which is not a permitted, special exception, or accessory use in the RFM-30 zoning district. The City also alleges that the Defendant's use of the property violated the conditions set forth in the special exception and site plan approved by the City's Planning and Zoning Board".

> The City's Notice of Violation and the Joint Stipulation requires the Defendant to take the following corrective actions: 1) discontinue use and advertising of the Property as a Marina; 2) use the boat slips and dock only for guest staying at the hotel and to apply to the City to attempt to obtain a special exceptions and site plan approval for a commercial dock.

Staff met with the applicants as requested by the Board on August 25, 2023.

In response to the discussion at the hearing held on August 17, 2023, regarding short- and long-term rental of boat slips, and whether they are allowed at a commercial dock:

The application submitted for special exception use does not request the use of rental of boat slips. The subject application is contained in the packet for the August 17, 2023, hearing. The applicant describes the request as:

> "… The applicant is requesting Special Exception approval to convert the existing and approved 16-slip Multi-Use Private Dock to a 16-slip Commercial Dock. The property is zoned RFM-30 and the dock will be utilized as a Commercial Dock, which is defined in the Land Development Regulations as *"any dock which will be used in connection with or owned by a hotel, motel, restaurant, social or fraternal club or organization or commercial enterprise of any type whatsoever",* but more specifically the dock will be utilized as an amenity for persons frequenting the resort."

Further in the applicant's special exception use narrative the applicant notes:

> "The special exception request is to approve the existing marine structure, on the site, to be defined as a commercial dock which will be a convenience to the guests of the Fusion Resort. It is not unusual for a hotel located on the Bay to have dockage. …"

The rental of boat slips is defined under marina use and not under commercial dock use per Sec. 68-2 and Sec. 69-32:

> Chapter 68 - ZONING REGULATIONS

ARTICLE I. - IN GENERAL
Sec. 68-2.- Definitions.
Marina, boat yard means a site or commercial establishment which provides minor repair, maintenance or sale of boats, marine engines, marine equipment and marine services of all kinds; including but not limited to rental of covered or uncovered boat slips, dock space, enclosed dry storage space, marine railways or lifting or launching services.

Chapter 69 - MARINE STRUCTURES AND COMMERCIAL FISHING
ARTICLE I. - IN GENERAL
Sec. 69-32.- Definitions
Commercial dock means any dock which will be used in connection with or owned by a hotel, motel, restaurant, social or fraternal club or organization or commercial enterprise of any type whatsoever.

Marina is not a permitted, special exception or accessory use in the RFM-30 (Resort Facilities Medium) zoning district.

The only type of docks listed in the RFM-30 zoning district are commercial docks, multiuse private dock or a private dock.

DIVISION 4. - RFM-30 (RESORT MEDIUM) ZONING DISTRICT
Sec. 68-282. - Uses permitted.
The following uses shall be allowed within an RFM-30 zoning district as permitted, special exception or accessory uses as set forth herein:
(2) *Special exception uses*. Upon application and after a favorable determination by the planning and zoning board that all conditions and provisions of special exception uses have been complied with and that the proposed use is consistent with sound zoning practices, the following special exception uses may be permitted in an RFM-30 zoning district:
g. Commercial docks, multiuse private dock
(3) *Accessory uses.* The following accessory uses shall be allowed in an RFM-30 zoning district:
f. Private docks.

Marina is a permitted use in one Treasure Island zoning district, the (T/U) Transportation/Utility zoning district. Marina is a special exception use in one Treasure Island zoning district, the CG (Commercial) zoning district.

DIVISION 10. - T/U (TRANSPORTATION/UTILITY) ZONING DISTRICT
Sec. 68-402. - Uses permitted.
(1) T/U zoning district is intended to identify suitable areas for transport and public/private utility services; and to recognize such areas consistent with the need, character and scale of the transport/utility use relative to surrounding uses, transportation facilities, and natural resource facilities. Those uses appropriate to and consistent with this zoning district include:

(b) Marina.

DIVISION 6. - CG (COMMERCIAL) ZONING DISTRICT
Sec. 68-322. - Uses permitted.
The following uses shall be allowed within a CG zoning district as permitted, special exception or accessory uses as set forth herein:

(2) *Special exception uses.* Upon application and after a favorable determination by the city commission or planning and zoning board as may be appropriate, that all conditions and provisions of special exception uses have been complied with and that the proposed use is consistent with sound zoning practices, the following special exception uses may be permitted in a CG zoning district:

b. Commercial dock including charter and/or party fishing boat facilities;

c. Marina including boat and/or motor sales and service;

The Countywide Plan for Pinellas County guides land use planning among the 25 local governments of Pinellas County. In The Countywide Rules (Amended through August 21, 2023) the term marina is associated only with the definitions of three types of land use:

- Commercial Recreation Use
- Public Recreation Facility Use
- Transportation/Utility Use

Allowing rental of boat slips as a component of a commercial dock use in this zoning district is not consistent with the City Land Development Regulations or with the Countywide Plan rules.

The rationale for identifying people with a reservation at the hotel or a reservation at the restaurant located in the hotel, is to determine that the use of the commercial dock is related to the upland use as a hotel/restaurant as outlined in the description of a Commercial Dock in Sec. 69-32. The reason for the previous condition stating hours of 9:00 am to 9:00 pm, was that those are the hours the hotel's website showed the restaurant was open.

In addition, the RFM-30 Zoning District has approximately 10 waterfront properties with existing permitted hotel/motel use and approximately 60 waterfront properties that could potentially be developed or redeveloped with hotel/motel use.

If the Board were to approve the rental of boat slips for people who do not have a reservation at the subject hotel or the hotel's restaurant, that determination that rental of boat slips for non-guests would then be potentially allowed as part of all commercial dock use through special exception approval on all waterfront parcels located in the RFM-30 Zoning District. This could potentially adversely affect the public interest.

Per Sec. 70-201, “the planning and zoning board shall hear and decide special exceptions, decide such questions as are involved in determining when special exceptions should be granted, and grant special exceptions with appropriate conditions and safeguards or deny special exceptions when not in harmony with the purpose and intent of the land development regulations. …In granting any special exception, the planning and zoning board shall find that such grant will not adversely affect the public interest.”.

In regards to parking questions:

As Sec. 68-486 shown above allows the city to look at adjacent cities for guidance. Staff indicated to the applicant at the August 25, 2023 meeting that they would accept the parking code of the adjoining city of St. Petersburg Beach, if rental of boat slips to persons not registered as guests at the hotel or with a reservation at the hotel restaurant, was considered an approved use by the Planning and Zoning Board, and the applicant indicated that they would be in agreement with that parking calculation. The codes of other adjacent cities are shown for reference under the Code of Ordinances subsection above.

STAFF RECOMMENDATION:
Staff recommends the proposed special exception use to allow a commercial dock to be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. Per Sec. 70-201(a), site plan must be approved by the Planning and Zoning Board.
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site.
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. The commercial docks will not operate as a Marina as defined in Treasure Island Code of Ordinances Sec. 68-2 which states, a *Marina, boat yard* means a site or commercial establishment which provides minor repair, maintenance or sale of boats, marine engines, marine equipment and marine services of all kinds; including but not limited to rental of covered or uncovered boat slips, dock space, enclosed dry storage space, marine railways or lifting or launching services.
    a. Rental of boat slips is not allowed unless the person is a guest having a concurrent reservation at the hotel or a concurrent reservation at the restaurant located in the hotel.
    b. A fee for usage of the boat slip may be charged to a guest having a concurrent reservation at the hotel or a concurrent reservation at the restaurant located in the hotel.
    c. All advertisements regarding the use of boat slips shall contain the conditions identified in condition #5 (a) and (b).
6. The hotel may offer boat rentals, including any charter or fishing services, through an off-site agency, for guests having a concurrent reservation at the hotel. All advertisements of the boat rentals shall contain the conditions identified in condition #6.

ADDITIONAL CONDITIONS (if rental of boat slips to other than guests having a reservation at the hotel or reservation at the restaurant in the hotel are permitted by the Board):

1. Per Sec. 68-486(a)(10),1 parking space per 4 boat slips offered for rental, or fraction thereof. The determined required number of parking spaces has been based upon parking requirements of such uses in other jurisdictions.
2. Per Sec. 46-73, obtain a separate business tax receipt for rental of boat slips.

Remainder of Page Intentionally Left Blank

September 21, 2023 (CASE CONTINUED FROM AUGUST 17, 2023)
PLANNING AND ZONING BOARD
DEVELOPMENT ORDER

CASE NO. SPEC-000392-2022
LOCATION: 290 107TH AVE TREASURE ISLAND, FL 33706

The Planning and Zoning Board has made a motion to:

[ ] APPROVE **[ ] DENY**
[X] CONTINUE **[ ] APPROVE WITH CONDITIONS**

Special exception use request to modify the existing 16 slip marine structure and 2 slip marine structure multi-use private docks into commercial docks.

CONTINUED TO OCTOBER 19, 2023
PLANNING AND ZONING BOARD MEETING.

Richard Harris, Chair
Planning & Zoning Board

09-21-2023
Date

STAFF RECOMMENDATION:
Staff recommends the proposed special exception use to allow a commercial dock to be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. Per Sec. 70-201(a), site plan must be approved by the Planning and Zoning Board.
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site.
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. The commercial docks will not operate as a Marina as defined in Treasure Island Code of Ordinances Sec. 68-2 which states, a *Marina, boat yard* means a site or commercial establishment which provides minor repair, maintenance or sale of boats, marine engines, marine equipment and marine services of all kinds; including but not limited to rental of covered or uncovered boat slips, dock space, enclosed dry storage space, marine railways or lifting or launching services.
    a. Rental of boat slips is not allowed unless the person is a guest having a concurrent reservation at the hotel or a concurrent reservation at the restaurant located in the hotel.
    b. A fee for usage of the boat slip may be charged to a guest having a concurrent reservation at the hotel or a concurrent reservation at the restaurant located in the hotel.
    c. All advertisements regarding the use of boat slips shall contain the conditions identified in condition #5 (a) and (b).
6. The hotel may offer boat rentals, including any charter or fishing services, through an off-site agency, for guests having a concurrent reservation at the hotel. All advertisements of the boat rentals shall contain the conditions identified in condition #6.

ADDITIONAL CONDITIONS (if rental of boat slips to other than guests having a reservation at the hotel or reservation at the restaurant in the hotel are permitted by the Board):

1. Per Sec. 68-486(a)(10),1 parking space per 4 boat slips offered for rental, or fraction thereof. The determined required number of parking spaces has been based upon parking requirements of such uses in other jurisdictions.
2. Per Sec. 46-73, obtain a separate business tax receipt for rental of boat slips.

Remainder of Page Intentionally Left Blank

OCTOBER 19, 2023 (CASE CONTINUED FROM AUGUST 17, 2023, AND SEPTEMBER 21, 2023)
PLANNING AND ZONING BOARD
DEVELOPMENT ORDER

CASE NO.: SPEC-000392-2023
LOCATION: 290 107TH AVE TREASURE ISLAND, FL 33706

The Planning and Zoning Board will make a motion to:

[ ] APPROVE [ ] DENY
[ ] CONTINUE [ ] APPROVE WITH CONDITIONS

A special exception use request to modify the existing 16 slip marine structure and 2 slip marine structure multi-use private docks into commercial docks.

CONDITIONS:

1. Per Sec. 70-201(a), a site plan must be approved by the Planning and Zoning Board.
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site.
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. The commercial docks will not operate as a Marina as defined in Treasure Island Code of Ordinances Sec. 68-2 which states, a *Marina, boat yard* means a site or commercial establishment which provides minor repair, maintenance or sale of boats, marine engines, marine equipment and marine services of all kinds; including but not limited to rental of covered or uncovered boat slips, dock space, enclosed dry storage space, marine railways or lifting or launching services.
    a. Rental of boat slips is not allowed unless the person is a guest having a concurrent reservation at the hotel or a concurrent reservation at the restaurant located in the hotel.
    b. A fee for usage of the boat slip may be charged to guests having a concurrent reservation at the hotel or a concurrent reservation at the restaurant located in the hotel.
    c. All advertisements regarding the use of boat slips shall contain the conditions identified in condition #5 (a) and (b).
6. The hotel may offer boat rentals, including any charter or fishing services, through an off-site agency, for guests having a concurrent reservation at the hotel. All advertisements of the boat rentals shall contain the conditions identified in condition #6.

ADDITIONAL CONDITIONS (if rental of boat slips to other than guests having a reservation at the hotel or reservation at the restaurant in the hotel are permitted by the Board):

1. Per Sec. 68-486(a)(10),1 parking space per 4 boat slips offered for rental, or fraction thereof. The determined required number of parking spaces has been based upon parking requirements of such uses in other jurisdictions.
2. Per Sec. 46-73, obtain a separate business tax receipt for rental of boat slips.

_____ _____
Richard Harris, Chair Date

CITY OF TREASURE ISLAND
PLANNING AND ZONING BOARD
120 - 108th Avenue, Treasure Island, Florida 33706
Telephone (727) 547-4575; Fax (727) 547-4584

CASE NO. SPEC-000392-2023
STAFF REPORT
AUGUST 17, 2023 – CASE CONTINUED
TO SEPTEMBER 21, 2023 –CASE CONTINUED
TO OCTOBER 19, 2023 AT 2:00 P.M.

DESCRIPTION: Special exception use request to modify the existing 16 slip marine structure and 2 slip marine structure multi-use private docks into commercial docks.

SITE LOCATION: 290 107th Ave
Treasure Island, FL 33706



PARCEL ID #: 23-31-15-91818-009-0090

LEGAL DESCRIPTION: LOTS 9, 10, 11 AND 12, BLOCK 9, CITY OF TREASURE ISLAND BLOCKS 2-4-9-10-11-12-13-14-15 AND REMAINDER OF BLOCKS 1 AND 8, ACCORDING TO THE

MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 31, PAGES 19, 20, 21 AND 22, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA

PROPERTY OWNER: Dolphin Reef LLC
151 107th Ave, Suite 3
Treasure Island, FL 33706

AGENT/APPLICANT: Johnson Pope Bokor Ruppel & Burns, LLP
401 E Jackson St., Suite 3100
Tampa, FL 33602

GENERAL INFORMATION:

Land Use: Resort Facilities Medium

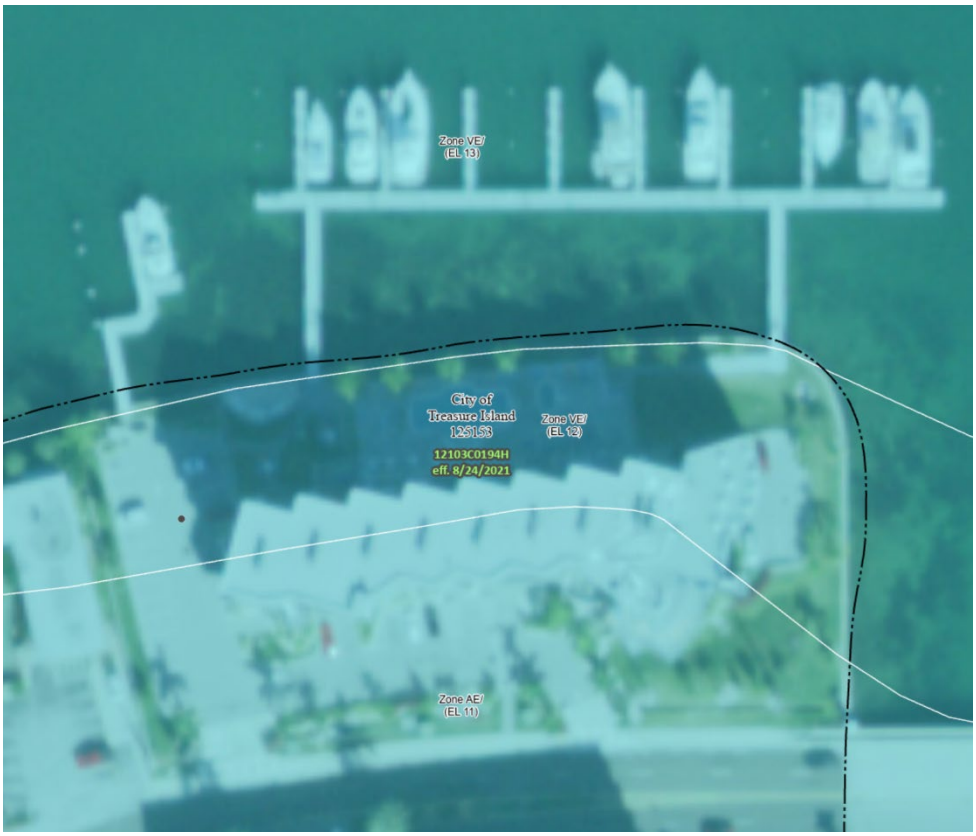
Zoning: RFM-30 (Resort Facilities Medium)

Adjacent Property (Use):

North:	Boca Ciega Bay
West:	282 Treasure Island Causeway – Condominiums
South:	285 107th Ave – Condominiums
East:	Boca Ciega Bay

Site Area: Approximately 60,548 sq. ft. (1.39 acres m.o.l.)

Flood Zone: VE-13; VE-12; Coastal AE-11, Flood Insurance Rate Map Community Panel No. 12103C0194H, August 24, 2021.



PROPERTY HISTORY:

On September 29, 2017, a permit was issued for the demolition of a 3 story commercial structure including all asphalt and concrete (Permit #201701729).

On October 20, 2017, a Declaration of Unity of Title was executed and recorded (O.R. 19821/2452) in the Public Records of Pinellas County, FL. The purpose of the Declaration of the Unity of Title is to combine the use of said lots with each other as if they consisted of one overall parcel of land and use of the lots can be reviewed for compliance and be subject to regulation as if the same were a single combined parcel.

On November 16, 2017, the Planning and Zoning Board approved a site plan with conditions for 42 transient lodging units and a swimming pool with an existing 2 slip marine structure (PZ 2017-16).

On November 16, 2017, the Planning and Zoning Board recommended approval of Ordinance No. 18-02 to vacate two (3 ft x 170 ft) utility easements (PZ-2017-17). The easements were located on the east side of Lot 9 and the west side of Lot 10. On April 3, 2018, the City Commission approved Ordinance No. 18-02.

On April 19, 2018, the Planning and Zoning Board approved a special exception use request to permit a 16-slip multi-use private dock subject to the following conditions (PZ-2018-02):

- A site plan approved by the Planning and Zoning Board;
- The use of slips or/and boats of the proposed dockage will be for the sole use of the guests of the Dolphin Reef lodging facility. The boat slips and/or boats at this location cannot be advertised or available to the general public because there is no extra parking on the site.
- The number of slips at the facility shall not exceed 16.

On June 21, 2018, the Planning and Zoning Board approved the following Marine Variances (PZ 2018-03):

- Marine Variance A: To increase the length of the marine structure from a maximum of 50 feet from the seawall to 138 feet from the seawall to avoid the established seagrass beds. The new marine structure will provide for 8 catwalks each 3 foot in width, 16 new mooring slips, each 50 foot in length and 18 foot wide to avoid existing submerged aquatic vegetation.
- Marine Variance B: To increase the maximum width of the marine structure from 25% to 63% of the waterfront width at 290 107th Ave.

On June 21, 2018, the Planning and Zoning Board approved a site plan modification to provide for the 16-slip multi-use private dock for the tourist lodging facility subject to the following conditions (PZ 2018-04):

- Use of the new boat slips shall be solely for the guests of the tourist lodging facility;
- No fueling facility will be established on the site;
- In conformance with the City of Treasure Island Code of Ordinances, there shall be no liveaboards on site.

The applicant is currently requesting a modification of the special exception use as multi-use private dock into commercial dock use. As required by Code, the special exception use application is accompanied by a site plan application (SITE-000393-2023).

TREASURE ISLAND CODE OF ORDINANCES:

Sec. 68-282. - Uses permitted.
The following uses shall be allowed within an RFM-30 zoning district as permitted, special exception or accessory uses as set forth herein:

> (2) Special exception uses. Upon application and after a favorable determination by the planning and zoning board that all conditions and provisions of special exception uses have been complied with and that the proposed use is consistent with sound zoning practices, the following special exception uses may be permitted in an RFM-30 zoning district:
>
> > g. Commercial docks, multiuse private dock

Sec. 68-2.- Definitions.

> *Marina, boat yard* means a site or commercial establishment which provides minor repair, maintenance or sale of boats, marine engines, marine equipment and marine services of all kinds; including but not limited to rental of covered or

uncovered boat slips, dock space, enclosed dry storage space, marine railways or lifting or launching services.

Sec. 69-32.- Definitions

Commercial dock means any dock which will be used in connection with or owned by a hotel, motel, restaurant, social or fraternal club or organization or commercial enterprise of any type whatsoever.

Multi-use private dock means any dock owned in common or used jointly by the residents of an apartment house (more than two units), condominium or cooperative apartment.

Permanent mooring means the docking of a boat for in excess of 72 hours in any seven-day period. Any extension to this time period may be granted for extenuating circumstances by approval of the city manager.

CHAPTER 58- WATERWAYS
ARTICLE III. – BOATS

Sec. 58-91. - Continuous habitation of vessels prohibited; live-aboards.

It shall be unlawful for a person to occupy or live aboard any houseboat or other boat equipped for habitation within the city. This prohibition shall not apply to individuals occupying vessels on a temporary basis for a period not to exceed 72 hours on the condition that the vessel shall contain a Coast Guard approved, self-contained sewage treatment or storage system. The 72-hour period shall not terminate as the result of temporary absence or removal of the vessel.

DIVISION 2. - SPECIAL EXCEPTIONS
Sec. 70-201. - Procedure.

(a) Except as provided for in subsection (c), the planning and zoning board shall hear and decide special exceptions, decide such questions as are involved in determining when special exceptions should be granted, and grant special exceptions with appropriate conditions and safeguards or deny special exceptions when not in harmony with the purpose and intent of the land development regulations. With the exception of single-family and duplex development proposals, all requests for special exception usage shall be accompanied by a site plan which shall undergo concurrent review by the planning and zoning board. In the case of special exceptions requiring city commission final approval, final site plan approval by the city commission shall be required. In granting any special exception, the planning and zoning board shall find that such grant will not adversely affect the public interest.

(b) In granting any special exception, the planning and zoning board, in addition to the standards enumerated in the land development regulations, may prescribe appropriate conditions and safeguards in conformity with the land development regulations. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of

the land development regulations. If, within 12 months of the date of approval of an application for a special exception, a building permit has not been applied for, the approved special exception becomes null and void, provided however, that the approving board and the applicant may jointly agree to extend such time period.

ANALYSIS OF LAND DEVELOPMENT REGULATIONS:

The criteria for reviewing a special exception use for approval or denial is contained in the City of Treasure Island Code of Ordinances – Section 68-481.

1. The use is a permitted special use as set forth in article VI.
A commercial dock is a permitted special exception use within the RFM-30 zoning districts.

2. The use is consistent with the city comprehensive plan.
The proposed special exception use is consistent with the Resort Facilities Medium land use category.

3. The use is designed, located and proposed to be operated in a manner that will protect the public health, safety, welfare and convenience.
The location of the existing dock was approved by the Planning and Zoning Board through Marine Variance Case No. PZ-2018-03A and 3B and Site Plan Modification Case No. 2018-04 and designed to meet all applicable Florida Building Code and Pinellas County Water Navigation requirements.

4. The use will not adversely affect the value of other property in the neighborhood where it is to be located.
The proposed special exception use will be applied to existing docks.

5. The use will be compatible with development adjacent to and near the property under consideration for a special exception.
No other development adjacent to or near the property is under consideration for a special exception. However, it is common for tourist lodging facilities to provide recreational amenities such as pools, docks, lounges, etc. for their patrons.

6. The use will be consistent with the character and purpose of the zoning district where it is to be located.
The special exception use will be consistent with the purpose of the RFM-30 zoning district, to delineate those areas, as defined within the city's comprehensive plan, resort facilities medium, suitable for limited residential as well as resort facilities development of a medium density character together with associated special exception and accessory uses. Commercial docks are a special exception use and will be used in connection with a principal hotel/motel use, provided specific criteria are met.

7. The use will ensure that adequate landscaping is provided as required in the land development regulations, or as otherwise required.

The special exception use applies to an existing dock and landscaping is not applicable.

8. The use will ensure the adequacy of the location and relationship of off-street parking, bicycle parking, and off-street loading facilities to driveways and internal traffic patterns within the proposed development with particular reference to automotive, bicycle, and pedestrian safety, traffic flow and control, and access in case of fire or catastrophe.
The commercial dock will be an amenity in connection with the existing hotel/motel use and no additional off-street parking/loading is required. The site plan provides the required number of off-street parking spaces and will be reviewed under Case No. SITE-000393-2023.

9. The use will be compatible with the existing natural environment of the site, neighboring public parks and properties in the neighborhood as outlined in the city comprehensive plan.
The special exception use is compatible and therefore should not impact the existing natural environment of the site, neighboring public parks, or neighboring properties.

10. The use will orient and locate buildings, recreational facilities and open space in relation to the physical characteristics of the site, the character of the neighborhood, and the appearance and harmony of the building(s) with adjacent development and the surrounding landscape.
The special exception use will apply to an existing approved 16-unit slip dock and 2-unit slip dock that are located within the extended property lines and does not impact the orientation and location of buildings, recreational facilities, or open space.

11. The use will have sufficient setbacks, screens, buffers and general amenities to preserve internal and external harmony and compatibility with uses inside and outside the proposed development and to control any adverse effects of noise, lights, dust, fumes and other nuisances.
The special exception use would apply to an existing 16-unit slip that was approved by the Planning & Zoning Board on June 21, 2018 and an existing 2-unit slip. The current multi-use private docks have not generated any adverse effects of noise, lights, dust, fumes or other nuisances.

12. The use will have sufficient land area.
The special exception use does not require any additional land area.

13. The use will meet the adopted levels of service required by the city comprehensive plan and the land development regulations.
The adopted level of service for each aspect of the city's infrastructure is not anticipated to be negatively impacted by the special exception use.

STAFF RECOMMENDATION:

Staff recommends the proposed special exception use to allow a commercial dock to be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. A site plan/special exception use must be approved by the Planning and Zoning Board.
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site.
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. No boat slips shall be used by the general public who are not staying in a room at the hotel or visiting the hotel.
6. The overnight docking of vessels in the boat slips shall be solely for overnight guests staying in a room at the hotel. Daily visitors to the hotel are permitted to dock a vessel in the boat slips during the hours of 9 am - 9 pm. Visitors to the hotel that are not staying in a room are prohibited from docking vessels in the boat slips overnight. All advertisements of the boat slips shall contain the conditions identified in conditions #4 and #5.
7. There shall be no marina uses on site as defined in Treasure Island Code of Ordinances Sec. 68-2, including but not limited to rental of covered or uncovered boat slips or dock space. The facility shall not be advertised as a marina.
8. The hotel may offer boat rentals, including any charter or fishing services, for guests staying overnight in a room at the hotel. There shall be no boat rentals to the general public. All advertisements of the boat rentals shall contain the conditions identified in conditions #8.

Remainder of Page Intentionally Left Blank

August 17, 2023
PLANNING AND ZONING BOARD
DEVELOPMENT ORDER

CASE NO. SPEC-000392-2023
LOCATION: 290 107TH AVE TREASURE ISLAND, FL 33706

The Planning and Zoning Board has made a motion to:

[ ] APPROVE **[ ] DENY**
[X] CONTINUE **[ ] APPROVE WITH CONDITIONS**

Special exception use request to modify the existing 16 slip marine structure and 2 slip marine structure multi-use private docks into commercial docks.

CONTINUED TO SEPTEMBER 21, 2023
PLANNING AND ZONING BOARD MEETING.

Richard Harris, Chair
Planning & Zoning Board

09-21-2023
Date

See Supplemental Staff Report

Case Number: _____

City of Treasure Island Planning and Zoning Board or City Commission Review Application

Please use blue or black ink only. Failure to complete this form in its entirety will result in this application being returned without review. Note: A separate application is required for each request.

Property Owners	Dolphin Reef LLC	Agent	Mark Bentley, Esq., B.C.S., AICP
Address	151 107th Ave. Suite 3	Address	401 E Jackson St., Suite 3100
	Treasure Island, FL 33706		Tampa, FL 33602
Phone		Phone	(813) 225-2500
Fax		Fax	
Email		Email	markb@jpfirm.com (cc: development@jpfirm.com)

List all Legal Owner(s) of Property: Dolphin Reef LLC

Complete legal description (may be placed on attached separate page): Lots 9, 10, 11 and 12, Block 9, City of Treasure Island, according to the map or plat thereof as recorded in Plat Book 31, Pages 19, 20, 21 and 22, of the Public Records of Pinellas County, Florida.

Development Name: Fusion Resort

Site Location/Address: 290 107th Ave., Treasure Island, FL

Area of Development (Acreage or Square Feet) 1.39 acres

Parcel Identification Number (list all): 23-31-15-91818-009-0090

Application Request Special Exception for Commercial Dock.

Future Land Use Designation Resort Facilities Medium Proposed Future Land Use _____

Current Zoning RFM-30 Proposed Zoning _____

I certify that I have reviewed the Land Development Regulations and that my submission meets all requirements. The only exceptions are those items to which I am requesting variances to or waivers from certain sections of the code and understand that they must be listed on the plans individually and on the attached transmittal. I understand that if an item does need a variance, it will be necessary to file through the appropriate review entity.

Signature must be original (No copies, scans, faxes or e-mails)

Mark Bentley
Owner/Agent

6/22/2023
Date

I#: 2017235924 BK: 19721 PG: 2235, 07/28/2017 at 05:12 PM, RECORDING 1 PAGES $10.00 D DOC STAMP COLLECTION $12250.00 KEN BURKE, CLERK OF COURT AND COMPTROLLER PINELLAS COUNTY, FL BY DEPUTY CLERK: CLK101958

After Recording Return to:
Janice Coulton
Stewart Title Guaranty Company - Commercial Services
3402 West Cypress Street
Tampa, FL 33607

This Instrument Prepared by:
Janice Coulton
Stewart Title Guaranty Company - Commercial Services
3402 West Cypress Street
Tampa, FL 33607
as a necessary incident to the fulfillment of conditions contained in a title insurance commitment issued by it.

Property Appraisers Parcel I.D. (Folio) Number(s):
23-31-15-91918-009-0090
File No.: 17000050121

WARRANTY DEED

This Warranty Deed, Made the 27 day of July, 2017, by **Capri Isle Hospitality Strategies, Inc., a Florida corporation**, having its place of business at **6090 Central Avenue, St. Petersburg, FL 33707**, hereinafter called the "Grantor", to **Dolphin Reef, L.L.C., a Florida limited liability company,** whose post office address is: **151 107th Ave., Ste. 3, Treasure Island, FL 33706**, hereinafter called the "Grantee".

WITNESSETH: That said Grantor, for and in consideration of the sum of **One Million Seven Hundred Fifty Thousand Dollars and No Cents ($1,750,000.00)** and other valuable considerations, receipt whereof is hereby acknowledged, by these presents grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land situate in **Pinellas** County, Florida, to wit:

Lot 9, Block 9, CITY OF TREASURE ISLAND BLOCKS 2-4-9-10-11-12-13-14-15 AND REMAINDER OF BLOCKS 1 AND 8, according to the map or plat thereof as recorded in Plat Book 31, Pages 19, 20, 21 and 22, of the Public Records of Pinellas County, Florida.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.
To Have and to Hold, the same in fee simple forever.
And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to 2017, reservations, restrictions and easements of record, if any.
(Wherever used herein the terms "Grantor" and "Grantee" included all the parties to this instrument and the heirs, legal representatives and assigns of the individuals, and the successors and assigns of Corporation)

IN WITNESS WHEREOF, Grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES
TWO SEPARATE DISINTERESTED WITNESSES REQUIRED

ATTEST: _____
Secretary

CAPRI ISLE HOSPITALITY STRATEGIES, INC.

Witness Signature: _____
Printed Name: Wes Taylor

_____
William L. Edwards
President

Witness Signature: _____ witness
Printed Name: Michael Garavaglia

State of Florida
County of Pinellas

The foregoing instrument was acknowledged before me this 27th day of July, 2017 by William L. Edwards as President of Capri Isle Hospitality Strategies, Inc., a Florida corporation, on behalf of the Corporation. He/She is personally known to me or has produced driver license(s) as identification.

_____
Notary Public Signature
Printed Name: Christopher Alan Blocker

My Commission Expires: 3/24/20
(SEAL)

CHRISTOPHER ALAN BLOCKER
Commission # FF 975400
My Commission Expires
March 24, 2020

Detail by Entity Name

Florida Limited Liability Company
DOLPHIN REEF, L.L.C.

Filing Information

Document Number	L17000136240
FEI/EIN Number	N/A
Date Filed	06/22/2017
Effective Date	06/22/2017
State	FL
Status	ACTIVE

Principal Address

151 107TH AVE
SUITE 3
TREASURE ISLAND, FL 33706

Mailing Address

151 107TH AVE
SUITE 3
TREASURE ISLAND, FL 33706

Registered Agent Name & Address

CROTTY, KENNETH J
1245 COURT STREET
SUITE 102
CLEARWATER, FL 33756

Authorized Person(s) Detail

Name & Address

Title MGR

BYRNE, SHAWN L
151 107TH AVE, SUITE 3
TREASURE ISLAND, FL 33706

Annual Reports

Report Year	Filed Date
2021	01/07/2021
2022	01/11/2022
2023	01/09/2023

Document Images

01/09/2023 -- ANNUAL REPORT	View image in PDF format
01/11/2022 -- ANNUAL REPORT	View image in PDF format
01/07/2021 -- ANNUAL REPORT	View image in PDF format
01/08/2020 -- ANNUAL REPORT	View image in PDF format
01/07/2019 -- ANNUAL REPORT	View image in PDF format
01/22/2018 -- ANNUAL REPORT	View image in PDF format
06/22/2017 -- Florida Limited Liability	View image in PDF format

Florida Department of State, Division of Corporations

AFFIDAVIT TO AUTHORIZE AGENT

STATE OF FLORIDA
COUNTY OF PINELLAS

Dolphin Reef LLC
NAME OF OWNER(S) being duly sworn, depose(s) and say(s).

PROPERTY ADDRESS(ES): 290 107th Ave., Treasure Island

Parcel I.D. Number(s): 23-31-15-91818-009-0090

1. That this property constitutes the property for which request for permits and approvals from the City of Treasure Island, as necessary, are being applied for.

2. That the undersigned (has/have) appointed Johnson Pope Bokor Ruppel & Burns, LLP as (his/their) agent(s) to represent the above-described property and serve as the applicant/agent for development applications/modifications, at the Planning and Zoning Board meeting and execute any permits or other documents necessary to affect such permit(s).

3. That this affidavit has been executed to induce appropriate state agency in Florida to consider, and act on the above-described property.

4. That (I/we), the undersigned authority, hereby certify that the foregoing is true and correct.

PRINTED NAME OF PROPERTY OWNER(S): Shawn Byrne

SIGNATURE OF PROPERTY OWNER(S): _____

DATE: 6/21/23

STATE OF: FLORIDA
COUNTY OF: PINELLAS
The foregoing instrument was acknowledged before me this 21st day of June 2023 by (company/agent) Dolphin Reef, LLC by (persons name) Shawn Byrne it's (title) Mgr who is personally known to me, or who has produced _____ as identification and who _____ did X did not take an oath.

JANET BYRD
(Print, Type, or Stamp Commissioned Name of Notary Public)
Commission Number: GG954280
Commission Expires Feb 3, 2024

JANET BYRD
Notary Public - State of Florida
Commission # GG 954280
My Comm. Expires Feb 3, 2024
Bonded through National Notary Assn.

PROJECT NARRATIVE

Request

The applicant is requesting Special Exception approval to convert the existing and approved 16-slip Multi-Use Private Dock to a 16-slip Commercial Dock. The property is zoned RFM-30 and the dock will be utilized as a Commercial Dock, which is defined in the Land Development Regulations as *"any dock which will be used in connection with or owned by a hotel, motel, restaurant, social or fraternal club or organization or commercial enterprise of any type whatsoever",* but more specifically the dock will be utilized as an amenity for persons frequenting the resort. The required pre-application meeting for the special exception request was held on April 6, 2023 with City staff. Please see the bolded responses below which demonstrate compliance with Section 68-481. – Special Exception Uses.

Sec. 68-481. - Special exception uses.

Special exception uses, as enumerated in Article VI, zoning district regulations, of this chapter, shall be permitted only upon authorization by the Planning and Zoning Board, or City Commission, as set forth in this Code, provided that such uses comply with all of the requirements set forth in Article VI, zoning district regulations, of this chapter, and providing that:

1) The use is a permitted special use as set forth in Article VI;
    - **A commercial dock is a special exception use within the RFM-30 zoning district.**

2) The use is consistent with the City Comprehensive Plan;
    - **The proposed special exception use is consistent with the Resort Facilities Medium land use category.**

3) The use is designed, located and proposed to be operated in a manner that will protect the public health, safety, welfare and convenience;
    - **The special exception request is to approve the existing marine structure, on the site, to be defined as a commercial dock which will be a convenience to the guests of the Fusion Resort. It is not unusual for a hotel located on the Bay to have dockage. The proposed special exception is in conformance with the definition of Commercial Dock, which is defined in the Land Development Regulations as any dock which will be used in connection with or owned by a hotel, motel, restaurant, social or fraternal club or organization or commercial enterprise of any type whatsoever.**

4) The use will not adversely affect the value of other property in the neighborhood where it is to be located;
    - **Commercial docks are found throughout the City of Treasure Island on parcels of land abutting Boca Ciega Bay. This amenity will not adversely impact the value of neighboring properties. In fact, property values adjacent to the resort have increased since the resort was established.**

5) The use will be compatible with development adjacent to and near the property under consideration for a special exception;
    - **It is typical for resort hotels along Boca Ciega Bay to have docks for guests. The classification of commercial dock will be compatible with similar developments along**

Boca Ciega Bay. The use of boats on the Bay will not disturb the neighboring community, as it has been established by its operations over several years.

6) The use will be consistent with the character and purpose of the zoning district where it is to be located;
    - **The proposed commercial dock will be consistent with the character and purpose of the RFM-30 zoning district and the surrounding area's character together with associated special exception and accessory uses. It is common to have docks associated with all parcels of land on Boca Ciega Bay. Those residing along Boca Ciega Bay anticipate the opportunity to moor a boat or utilize a boat.**

7) The use will ensure that adequate landscaping is provided as required in the land development regulations, or as otherwise required;
    - **This special exception use request is entirely in the Bay. The Fusion Resort is built to its approved plans, including landscaping.**

8) The use will ensure the adequacy of the location and relationship of off-street parking, bicycle parking, and off-street loading facilities to driveways and internal traffic patterns within the proposed development with particular reference to automotive, bicycle, and pedestrian safely, traffic flow and control, and access in case of fire or catastrophe;
    - **The purpose of the dockage is to have a location for guests of Fusion Resort to moor their boats. Additionally, the opportunity to have boats on the hotel property offers recreational opportunities for guests.**

9) The use will be compatible with the existing natural environment of the site, neighboring public parks and properties in the neighborhood as outlined in the city comprehensive plan;
    - **The docks are existing and went through all city review processes and obtained required approvals to be constructed. No changes to the structure are proposed.**

10) The use will orient and locate buildings, recreational facilities and open space in relation to the physical characteristics of the site, the character of the neighborhood, and the appearance and harmony of the building(s) with adjacent development and the surrounding landscape;
    - **The proposed special exception use will be located in Boca Ciega Bay. The existing docks have been approved through Variances Case PZ 2018-03 A & B and the specifics of the proposed marine structure were reviewed under Case PZ 2018-04 Site Modification.**

11) The use will have sufficient setbacks, screens, buffers and general amenities to preserve internal and external harmony and compatibility with uses inside and outside the proposed development and to control any adverse effects of noise, lights, dust, fumes, and other nuisances;
    - **There are no special setbacks, vegetative screens or required buffers established between the upland development and the existing docks.**

12) The use will have sufficient land area;
    - **The use has sufficient land area to support the proposed special exception for a commercial dock.**

13) The use will meet the adopted levels of service required by the city comprehensive plan and the land development regulations.
    - **The level of service for each aspect of the city's infrastructure is not anticipated to be negatively impacted by this special exception and the marine structures have been built to its approved plans by previous variances, site modification reviews, and special exception.**

CITY OF TREASURE ISLAND, FL

Plaintiff,

Case No.: CEB 2022-40

vs.

DOLPHIN REEF, LLC

Defendant.

_____/

JOINT STIPULATION

COME NOW the CITY OF TREASURE ISLAND by and through its undersigned attorney, and DOLPHIN REEF LLC, by and through its undersigned attorney, and enter into this Joint Stipulation as follows:

1. Pursuant to the City's Land Development Regulations, marinas are not a permitted use, special exception use, or accessory use in the RFM-30 zoning district.

2. The Defendant owns the property located at 290 107th Ave, Treasure Island, FL 33706-3422 (the "Property"), in the RFM-30 zoning district, and has a special exception to permit a 16-slip multi-use private dock, and site plan approval for a hotel, docks and accessory uses.

3. The Defendant operates a hotel on the Property, which is a commercial use.

4. The City provided proper and sufficient legal notice for the Notice of Violation and the Notices of Hearing in this case.

5. In the City's Notice of Violation, the City alleges the Defendant has violated sections 68-195, 68-282, 70-91, and 70-201(b) of the City's Code of Ordinances. Specifically, the City alleges that the Property is being advertised and used as a marina which is not a permitted, special exception, or accessory use in the RFM-30 zoning district. The City also alleges that the Defendant's use of the Property violated the conditions set forth in the special exception and site plan approved by the City's Planning and Zoning Board.

6. The City's Notice of Violation requires the Defendant to take the following corrective actions: 1) discontinue use and advertising of the Property as a Marina; 2) use the boat slips and dock only for guest staying at the hotel and to apply to the City to attempt to obtain a special exceptions and site plan approval for a commercial dock.

7. The Defendant does not admit to the alleged violations but has agreed to apply for and make efforts to obtain a special exception and site plan approval for its project consisting of a hotel and accessory uses, along with a commercial dock at the Property.

8. The City agrees to hold in abeyance any enforcement action regarding the allegations of use of the Property as a marina until after the Defendant applies for and concludes the special exception and site plan approval processes that would allow a commercial dock at the Property in accordance with the terms of this Joint Stipulation.

9. In the interest of avoiding the expense of further enforcement actions and potential litigation, the City and Defendants, without any admission of any violation of City Codes, agree that the Defendant will submit complete applications seeking site plan and special exception approvals that would allow a commercial dock at the Property by no later than June 27, 2023, and attempt to obtain the special exception and site plan approval for a commercial dock at the Property by no later than August 17, 2023. In the event of any appeals or invocation of the Dispute Resolution process (collectively the "Appeals") of the Planning and Zoning Board's actions, this would automatically extend this date to reflect the time necessary to complete the Appeals. The aforementioned deadlines may be extended upon mutual written agreement of the Parties in the event of unforeseen circumstances or delays, or continuances, as long as the Defendant is proceeding in good faith.

THE REMAINDER OF THIS PAGE IS LEFT BLANK.

10. The Parties agree that if the Defendant fails to submit complete applications for a special exception and site plan for a commercial dock at the Property by June 27, 2023 or fails to seek to obtain the special exception and site plan approval for a commercial dock at the Property by August 17, 2023, then this case will proceed to a Code Enforcement Hearing before the Special Magistrate on September 24, 2023. The Defendant accepts this Joint Stipulation as adequate, proper, legal notice of the hearing before the Special Magistrate on September 24, 2023 at 1pm at the City's City Hall building and agrees to have an authorized legal representative of the Defendant present at that hearing.

MARK S. BENTLEY, ESQUIRE
Florida Bar Number: 724076
markb@jpfirm.com
Johnson Pope.
401 East Jackson Street, Suite 3100
Tampa, FL 33602
Phone 813-225-2500
Fax 813-223-7118
Attorney for Defendant

Dated: March 24, 2023

DOLPHIN REEF, LLC,
290 107th Avenue
Treasure Island, FL 33706

Dated: 2/24/2023

JENNIFER COWAN, ESQUIRE
Florida Bar Number: 38081
jcowan@BMOlaw.com
Bryant, Miller & Olive, P.A.
201 N Franklin St Ste 2700
Tampa, FL 33602-5816
Phone 813-273-6677
Fax 813-223-2705
Attorney for Plaintiff

JACKIE GABRIEL, CODE ENFORCEMENT
City of Treasure Island
120 108th Avenue
Treasure Island, FL 33706

{26407/011/02514656.DOCXv1} Page 3 of 3

CITY OF TREASURE ISLAND, FL

Plaintiff, Case No.: CEB 2022-40

vs.

DOLPHIN REEF, LLC

Defendant.

ORDER GRANTING JOINT STIPULATION

THIS MATTER was presented for the Special Magistrate's consideration via the parties' Joint Stipulation and the Special Magistrate having considered said pleading and being otherwise duly advised in the premises, it is therefore,

1. ORDERED AND ADJUDGED the Joint Stipulation (attached) is granted and the Defendant must make good faith efforts to submit complete applications for a special exception and site plan modification to allow a commercial dock at the Property to the City by no later than June 27, 2023 and attempt to obtain the special exception and site plan approval for a commercial dock at the Property by the Planning and Zoning Board by no later than August 17, 2023, subject to extensions of time relating to any unforeseen circumstances or delays upon mutual written agreement of the Parties.

2. . If the Defendant fails to submit complete applications for a special exception and site plan for a commercial dock at the Property to the City by June 27, 2023 or fails to seek to obtain the special exception and site plan approval for a commercial dock at the Property by the Planning and Zoning Board by August 17, 2023, and if no appeals are filed by Defendant of the actions of the Planning and Zoning Board, then this case will proceed to a Code Enforcement Hearing before the Special Magistrate on September ~~24~~ 26, 2023 at 1pm at City's City Hall.

DONE AND ORDERED this 27th day of March, 2022.

J. Frazier Carraway, Esquire
Special Magistrate

Copies furnished to:
Mark Bentley, Esq. at markb@jpfirm.com Jennifer Cowan, Esq. at jcowan@BMOlaw.com

From: Miller, Jesse
To: Younkin, Kathryn
Subject: FW: FUSION BOAT SLIPS - Taxpayer Comment
Date: Tuesday, October 3, 2023 2:41:03 PM

Jesse Miller, CFM
Principal Planner
Community Development Department
120 108th Ave
Treasure Island, FL 33706
(727)547-4575 ext. 239

All government correspondence is subject to the public records law.

From: Westwind - Treasure Island, FL <westwindunit110@gmail.com>
Sent: Tuesday, October 3, 2023 2:32 PM
To: JViverios@mytreasureisland.org; Zoning CDD <Zoning@mytreasureisland.org>; Miller, Jesse <jmiller@mytreasureisland.org>; beachcat37@gmail.com
Subject: FUSION BOAT SLIPS - Taxpayer Comment

Please accept my email to be included in the public record and read at the next meeting regarding boat slips at the FUSION.

Why is the city hiring outside attorneys, paid with my tax dollars, to fight a business owner who wants to grow their local business which in turn brings in additional tax revenue to the city? At last month's meeting the city appeared to be working very hard to put up roadblocks instead of encouraging business in our community. Boaters cannot tell whether a boat parked in a slip has rented a room at the Fusion or not. Why do you care?

Had the Fusion sold as condo hotel units, as originally planned, the unit owners who had purchased boat slips most likely would park the same boat in it 365 days a year without being under the scrutiny you are trying to place on them now. I watched the last building and zoning meeting. It is discouraging to see what appears to be great resistance from the city for something that could be simple. It does not feel like the city is doing something to protect the community.

To me it looks to be very clear and should be an easy decision:
* Fusion wants to rent out their boat slips.
* Fusion does not sell gas, bait, or pump out sewage or operate like a "marina."
* Fusion agreed to not allow live-aboard boats.
* Fusion has 4 parking spaces per slip.

Has anyone with the raw sewage concern checked to make sure the 2 sailboats that have been parked between Isle of Palms and Paradise Lane for the last 6+ months are disposing of their sewage properly? They ARE live-aboards and haven't moved.

Please wrap this up in favor of allowing FUSION slip rentals at the next meeting.

Kind regards,

Betsy Lewis-Hohe
225 104th Ave #110
Treasure Island, FL 33706
(404) 218-3237
WestwindUnit110@gmail.com

From: Kidwell, Celine
To: Miller, Jesse
Cc: Younkin, Kathryn; Cowan, Jennifer
Subject: FW: 12.ASPEC-000392-2023- 290 107th Ave
Date: Thursday, October 5, 2023 4:49:50 PM

Email from Mr. and Mrs. Chaudhary regarding SPEC-000392-2023- 290 107th Ave

Celine Kidwell, CMC, FCRM
City Clerk
City of Treasure Island
(727) 547-4575 ext. 228
www.mytreasureisland.org | **How are we doing? Let us know!**

ALL GOVERNMENT CORRESPONDENCE IS SUBJECT TO THE PUBLIC RECORDS LAW.

From: Raj Chaudhary <chaudharyraj54@gmail.com>
Sent: Thursday, October 5, 2023 4:25 PM
To: Mayor&Commissioners <Mayor&Commissioners@mytreasureisland.org>
Subject: 12.ASPEC-000392-2023- 290 107th Ave

My name is Rajeev Chaudhary and we (Me and my wife Bimlesh Chaudhary) have lived in Unit 102 at Serena Bay – address 240 108th Avenue, Treasure Island, FL 33706 since May of 2014. We have really enjoyed our peace and quiet at this home over all these years.

This is in regards to the "Special exception use request to modify the existing 16 slip marine structure and 2 slip marine structure multi-use private docks into commercial docks."

I am in agreement with the Staff Recommendations
"CASE NO. SPEC-000392-2023 STAFF REPORT THURSDAY, AUGUST 17, 2023".

1. A site plan/special exception use must be approved by the Planning and Zoning Board
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. No boat slips shall be used by the general public who are not staying in a room at the hotel or visiting the hotel
6. The overnight docking of vessels in the boat slips shall be solely for overnight guests staying in a room at the hotel. Daily visitors to the hotel are permitted to dock a vessel in the boat slips during the hours of 9 am - 9 pm. Visitors to the hotel that are not staying in a room are prohibited from docking vessels in the boat slips overnight. All advertisements of the boat slips shall contain the conditions identified in conditions #4 and #5.
7. There shall be no marina uses on site as defined in Treasure Island Code of Ordinances Sec. 68-2, including but not limited to rental of covered or uncovered boat slips or dock space. The facility shall not be advertised as a marina.

8. The hotel may offer boat rentals, including any charter or fishing services, for guests staying overnight in a room at the hotel. There shall be no boat rentals to the general public. All advertisements of the boat rentals shall contain the conditions identified in conditions #8.

All these recommendations are well thought out and inter-related. I endorse these recommendations – especially #5 **- No boat slips shall be used by the general public who are not staying in a room at the hotel or visiting the hotel.**

The Key Question is "How will this be enforced?" Does the city have the resources to enforce this and ensure that there are no loopholes in these terms.

I request that this be read out loud at the next Commissioner's meeting and feel free to use my name.

Thank you for your consideration.

Rajeev Chaudhary
574-210-7005

AGENDA ITEM NO. 10.B

Item Cover Page

PLANNING & ZONING BOARD AGENDA ITEM REPORT

DATE:	October 19, 2023
SUBMITTED BY:	Jesse Miller, Community Development
ITEM TYPE:	Public Hearings
AGENDA SECTION:	PRESENTATION OF ITEMS
SUBJECT:	SITE-000393-2023- 290 107th Ave.- A site plan approval for an existing 42-unit hotel/motel with a pool, lounge, 16 slip marine structure, and 2 slip marine structure.
BACKGROUND:	See attached staff report.
POLICY/PURPOSE:	N/A
STRATEGIC PLAN RELEVANCE:	N/A
ANALYSIS/DISCUSSION:	See attached staff report.
FUNDING:	N/A
MOTION:	See attached staff report for proposed motions.

ATTACHMENTS:

1. Staff Report.pdf
2. Application.pdf
3. Warranty Deed.PDF
4. Dolphin Reef LLC - Sunbiz Filing.PDF
5. Affidavit To Authorize Agent.pdf
6. Site Plan Narrative.pdf
7. As-Built Survey.PDF
8. Submerged Land Lease Survey- Dock.PDF
9. SWFWMD Permit.pdf

CITY OF TREASURE ISLAND
PLANNING AND ZONING BOARD
120 - 108th Avenue, Treasure Island, Florida 33706
Telephone (727) 547-4575; Fax (727) 547-4584

CASE NO. SITE-000393-2023
STAFF REPORT
AUGUST 17, 2023 - CASE CONTINUED
TO SEPTEMBER 21, 2023 – CASE CONTINUED
TO OCTOBER 19, 2023 AT 2:00 P.M.

DESCRIPTION: A site plan approval for an existing 42-unit hotel/motel with a pool, lounge, 16 slip marine structure, and 2 slip marine structure.

SITE LOCATION: 290 107th Ave
Treasure Island, FL 33706



PARCEL ID #: 23-31-15-91818-009-0090

LEGAL DESCRIPTION: LOTS 9, 10, 11 AND 12, BLOCK 9, CITY OF TREASURE ISLAND BLOCKS 2-4-9-10-11-12-13-14-15 AND REMAINDER OF BLOCKS 1 AND 8, ACCORDING TO THE

MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 31, PAGES 19, 20, 21 AND 22, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA

PROPERTY OWNER: Dolphin Reef LLC
151 107th Ave, Suite 3
Treasure Island, FL 33706

AGENT/APPLICANT: Johnson Pope Bokor Ruppel & Burns, LLP
401 E Jackson St., Suite 3100
Tampa, FL 33602

GENERAL INFORMATION:

Land Use: Resort Facilities Medium

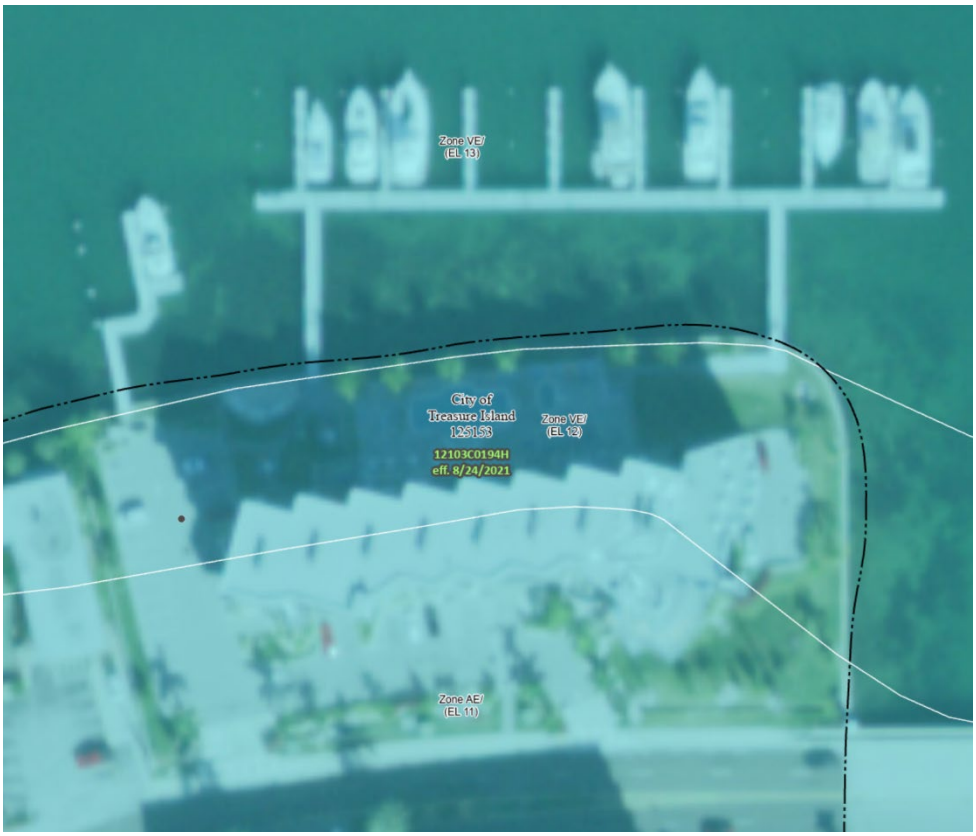
Zoning: RFM-30 (Resort Facilities Medium)

Adjacent Property (Use):

North:	Boca Ciega Bay
West:	282 Treasure Island Causeway – Condominiums
South:	285 107th Ave – Condominiums
East:	Boca Ciega Bay

Site Area: Approximately 60,548 sq. ft. (1.39 acres m.o.l.)

Flood Zone: VE-13; VE-12; Coastal AE-11, Flood Insurance Rate Map Community Panel No. 12103C0194H, August 24, 2021.



PROPERTY HISTORY:

On September 29, 2017, a permit was issued for the demolition of a 3 story commercial structure including all asphalt and concrete (Permit #201701729).

On October 20, 2017, a Declaration of Unity of Title was executed and recorded (O.R. 19821/2452) in the Public Records of Pinellas County, FL. The purpose of the Declaration of the Unity of Title is to combine the use of said lots with each other as if they consisted of one overall parcel of land and use of the lots can be reviewed for compliance and be subject to regulation as if the same were a single combined parcel.

On November 16, 2017, the Planning and Zoning Board approved a site plan for a 42 transient lodging units and a swimming pool with an existing 2 slip marine structure subject to the following conditions (PZ 2017-16):

- Where necessary to accommodate proposed development, the property owner shall be responsible for the removal and/or relocation of any and all public utilities located on the subject site. This is regardless of whether the public utilities are known at the time of site plan approval or discovered subsequent to such approval. Any required relocation will require approval of the City's Public Works Dept.

- All construction associated with this project shall be subject to all current requirements, including but not limited to the Florida Building Code, current Land Development
- Regulations, Floodplain Management Regulations, and the Florida Fire Prevention Code.
- Proof of SWFWMD approval or letter of exemption shall be provided for the stormwater detention / retention prior to site or construction permits being issued by the City.
- Any existing above-ground utilities; must be relocated underground at the expense of the property owner.
- Any connections or extensions of City's services shall be at the expense of the property owner, including improvements to 107th Avenue and sidewalks.
- All sidewalks and asphalt areas that are adjacent to the subject parcel, which are damaged as a result of the improvements made on the subject parcel, are required to be repaired/replaced per City specifications at the expense of the property owner.
- Concurrency for water, reclaimed water, sanitary sewage and traffic must be reviewed and approved prior to permit submittal.
- Telephone, electrical, natural gas service connections, potable and reclaimed water and sanitary sewer connections, meter sizes, pipe sizes and specifications, manhole rim and invert elevations, direction of flow, and top and bottom elevations; estimates of water consumption and sewage discharge (gallons per day) information must be provided and will need to be addressed at the Building Plan Submittal.
- The Fire Department Connection points will need to be addressed with the Fire Marshal Review comments and prior to the Building Permit Submittal. Existing and proposed hydrants need to be shown on the Site Plan.
- The engineer preliminary site plan does not depict a stormwater management system.
- No additional drainage information provided. The stormwater management system will need to meet the City drainage criteria and the Southwest Florida Water Management District requirements. Engineered drainage calculations need to be addressed prior to Building Permit Submittal. A grading and drainage plan must be provided.
- The sign location and overall dimensions are not shown. The sign location will need to be shown and then reviewed with the sight visibility triangle for public safety. At the time of permitting, all signage on the site shall be reviewed.
- No specific information was provided for exterior lighting. At the time of permitting all exterior lighting shall be installed in such a manner and shielded to ensure the cone of light falls within the perimeter of the property.
- The Public Works - Solid Waste division will need to evaluate the proposed location of the dumpster to ensure the location is suitable for access.
- An erosion / sedimentation control plan must be provided.
- A landscape plan must be provided.

- No median modification will be added and there will be signage indicating the east entrance right only and west exit right only.

On November 16, 2017, the Planning and Zoning Board recommended approval of Ordinance No. 18-02 to vacate two (3 ft x 170 ft) utility easements (PZ-2017-17). The easements were located on the east side of Lot 9 and the west side of Lot 10. On April 3, 2018, the City Commission approved Ordinance No. 18-02.

On April 19, 2018, the Planning and Zoning Board approved a special exception use request to permit a 16-slip multi-use private dock subject to the following conditions (PZ-2018-02):

- A site plan approved by the Planning and Zoning Board;
- The use of slips or/and boats of the proposed dockage will be for the sole use of the guests of the Dolphin Reef lodging facility. The boat slips and/or boats at this location cannot be advertised or available to the general public because there is no extra parking on the site.
- The number of slips at the facility shall not exceed 16.

On June 21, 2018, the Planning and Zoning Board approved the following Marine Variances (PZ 2018-03):

- Marine Variance A: To increase the length of the marine structure from a maximum of 50 feet from the seawall to 138 feet from the seawall to avoid the established seagrass beds. The new marine structure will provide for 8 catwalks each 3 foot in width, 16 new mooring slips, each 50 foot in length and 18 foot wide to avoid existing submerged aquatic vegetation.
- Marine Variance B: To increase the maximum width of the marine structure from 25% to 63% of the waterfront width at 290 107th Ave.

On June 21, 2018, the Planning and Zoning Board approved a site plan modification to provide for the 16-slip multi-use private dock for the tourist lodging facility subject to the following conditions (PZ 2018-04):

- Use of the new boat slips shall be solely for the guests of the tourist lodging facility;
- No fueling facility will be established on the site;
- In conformance with the City of Treasure Island Code of Ordinances, there shall be no liveaboards on site.

This is a companion case to SPEC-000392-2023 special exception use of a commercial dock. In compliance with Sec. 70-201 the applicant is required to provide a site plan for the proposed special exception use.

TREASURE ISLAND CODE OF ORDINANCES:

CHAPTER 68- ZONING REGULATIONS
ARTICLE VI. – ZONING DISTRICT REGULATIONS
Sec. 68-282. - Uses permitted.

The following uses shall be allowed within an RFM-30 zoning district as permitted, special exception or accessory uses as set forth herein:

(1) Permitted uses. The following permitted uses shall be allowed within an RFM-30 zoning district:

a) Hotel and motel.

Sec. 68-431. - Schedule of lot and bulk regulations.

The restrictions and controls intended to regulate the property development characteristics of each zoning district are set forth in the following schedule of lot and bulk regulations supplemented by other sections of this chapter:

Zoning District/Land Use	Minimum Lot Width (Feet)	Minimum Lot Depth (Feet)	Minimum Lot Area (Square Feet)	Maximum Density Dwelling Units (Per Acre)	Maximum Building Height (Above BFE +2 feet of freeboard)	Floor Area Ratio (%)
RFM-30/Resort Facilities Medium						
Hotel/Motel	70	90	9,000	30 (5 living levels max.)	60	65
Maximum lot coverage: 50%						
Impervious surface ratio—RFM-30:		Multifamily residential: 70% Nonresidential uses: 85%				

Sec. 68-486. - Off-street parking.

Use Minimum Spaces Required

(5) Hotels, motels and motor inns: 2 spaces for the first unit and 1 space per hotel/motel unit. Restaurants, lounges, meeting rooms and other assembly areas: 1 space per 5 occupants, calculated at 20 square feet of net usable area per occupant.

CHAPTER 69- MARINE STRUCTURES AND COMMERCIAL FISHING

ARTICLE II. – MARINE STRUCTURES

DIVISION 3. – CONSTRUCTION AND MAINTENANCE

Sec. 69-71.- Docks, davits, boat lifts, and boats.

(a) *Maximum width, length and position of docks, davits, boat lifts and tiepoles.*

(1) All docks to be constructed on waterfront property of less than 60-foot frontage must be located so that no portion of the proposed dock is closer to either extended property line than one-third of the waterfront measurement. All docks to be constructed on waterfront property of more than 60-foot frontage must be located so that no portion of the proposed dock is less than 20 feet from either adjacent extended property line. Docks located on waterfront property on the inside corner of a canal may be located not closer than five feet from either adjacent extended property line.

(2) All docks, not to include boatlifts and davits, shall be constructed so that the width of same shall not exceed 25 percent of the width of the property involved at the waterfront. Residential docks and boat lifts shall be limited to a combined maximum width of 35 feet. The length of docks shall not exceed a maximum length of 50 feet, including tiepoles. Catwalks shall have a minimum width of 24 inches and a maximum width of 36 inches.

(3) All davits and lifts shall comply with all setback and locational requirements of docks.

(4) All tiepoles shall be located within the extension of the side property lines, project not farther above the surface of the water than is reasonably necessary for their use, and in no case higher than ten feet above mean high water. Tiepoles shall be located no more than 50 feet from the seawall.

(5) Docks shall be constructed so that no portion of the deck projects above the level of the seawall cap more than 12 inches.

(6) The location of all docks, including the measurements, limitations and restricted area in which docks are not permitted, shall be in accordance with the requirements of Exhibit A, attached hereto and incorporated herein, which, along with its locations, measurements, limitations and restricted area is incorporated in this Code.

(7) All docks, davits, lifts or tiepoles, as permitted, shall be located so as not to interfere with the riparian rights of adjacent properties.

(8) All boats and personal watercrafts moored at a private dock shall be located so as not to interfere with the riparian rights of adjacent properties.

(b) *Disrepair or dilapidated docks.* If any dock is permitted to fall into disrepair so as to become a dangerous structure involving risks to the safety and well being of the community or individual members thereof, such structure must be either removed or repaired as to conform with the requirements of these regulations.

(c) *Repair of docks damaged by disaster.* Dock owners shall be permitted to repair or replace docks that have been damaged by a disaster (act of God, heavy winds and/or seas) in the same configuration as the original permitted dock.

(d) *Number of docks.*

(3) *Commercial docks.* The number of commercial docks shall be permitted by locational requirements.

Sec. 68-2.- Definitions.

Marina, boat yard means a site or commercial establishment which provides minor repair, maintenance or sale of boats, marine engines, marine equipment and marine services of all kinds; including but not limited to rental of covered or uncovered boat slips, dock space, enclosed dry storage space, marine railways or lifting or launching services.

Sec. 69-32.- Definitions

Commercial dock means any dock which will be used in connection with or owned by a hotel, motel, restaurant, social or fraternal club or organization or commercial enterprise of any type whatsoever.

Multi-use private dock means any dock owned in common or used jointly by the residents of an apartment house (more than two units), condominium or cooperative apartment.

Permanent mooring means the docking of a boat for in excess of 72 hours in any seven-day period. Any extension to this time period may be granted for extenuating circumstances by approval of the city manager.

CHAPTER 58- WATERWAYS

ARTICLE III. – BOATS

Sec. 58-91. - Continuous habitation of vessels prohibited; live-aboards.

It shall be unlawful for a person to occupy or live aboard any houseboat or other boat equipped for habitation within the city. This prohibition shall not apply to individuals occupying vessels on a temporary basis for a period not to exceed 72 hours on the condition that the vessel shall contain a Coast Guard approved, self-contained sewage treatment or storage system. The 72-hour period shall not terminate as the result of temporary absence or removal of the vessel.

ANALYSIS OF LAND DEVELOPMENT REGULATIONS:

The criteria for reviewing a site plan for approval or denial is contained in the City of Treasure Island Land Development Regulations – Sec. 70-92.

1) **In what respects the plan is or is not consistent with the Comprehensive Plan and the purpose and intent of the zoning district in which it is located.**
   The subject property is located in the RFM-30 (Resort Facilities Medium) zoning district. The existing development is consistent with the purpose and intent of the RFM-30 zoning district which is to delineate those areas suitable for limited residential as well as resort facilities development of a medium density character together with associated special exception and accessory uses.

2) **In what respects the plan is or is not in conformance with all the applicable regulations of the zoning district in which it is located.**
   The existing site plan is in conformance with all applicable regulations of the RFM-30 zoning district that were in place at the time of permitting. Please see table below.

	Land Development Regulations	**Existing Site Plan**
Lot Width (min.)	70	329 ft.
Lot Depth (min.)	90	170 ft.
Lot Area (min.)	9,000	21,862 sq. ft.
Density	30 per acre (5 living levels max.)	42 (5 living levels)
Lot Coverage (max.)	50%	34%
ISR (max.)	85%	58%
FAR	0.65	0.65
Building Height **Max. above DFE** **Height Encroachment From Grade**	 60’ 7’ above roof -	 60’ 7’ above roof -
Height Encroachment	7’ above roof	7’ above roof
Setbacks		

Front– 107th Ave **Waterfront–** **Side–**	15' 25' 10'	18.55' 40.15' 54.68'
Design Elevation	13' (prior to 2021 FIRM update) NAVD Lowest Living Level	13.25'
Loading Berths	0	0
Parking Spaces **Total Spaces** **Standard** **Compact (max.)** **ADA-accessible** **Bicycle**	 52 49 0 3 1 Bike Rack (5 spaces per rack)	 54 51 0 3 2 Bike Rack (5 spaces per rack)

3) **In what respects the plan is or is not in conformance with the City's subdivision regulations and all other applicable City requirements including the design and construction of streets, utility facilities and other essential services.**
The site plan does not include the subdivision of property.

4) **In what respects the plan is or is not consistent with good design standards with respect to all internal or external relationships, including but not limited to:**
   a. **Provisions to ensure compatibility with the planned character of the zoning district where the proposed development is to be located, and with existing development surrounding the site.**
   The site plan is compatible with the planned character of the RFM-30 zoning district.

   b. **Internal or external circulation patterns, for vehicles, bicycles, and pedestrians; provisions for the separation of on-site pedestrian and vehicular traffic; provisions for the safe and convenient storage of bicycles, where applicable.**
   Internal and external circulation patterns are existing.

   c. **Disposition of open space, effective use of screening or buffering to reduce the impacts of incompatible and/or nonconforming uses, preservation of acceptable existing trees and other natural features, and protection of existing environmentally sensitive areas and their ecological functions.**
   Compatible uses abut and functionally abut the subject property.

   d. **Building arrangements, both between buildings in the proposed development and in relation to those on properties adjacent to the site.**
   N/A- Building is existing.

e. **Provisions to ensure continued public use of existing public beach or waterfront access ways, if any. Also, proposed new or enhanced public beach or waterfront access ways, if identified as a requirement during the conference(s) between the applicant and city staff (see Section 70-53).**
N/A- Public use is not permitted.

f. **Protection of historically/architecturally significant structures or archaeological sites, if any, on or near the proposed development site from any adverse effects of the proposed development.**
N/A – There are no historically/architecturally significant structures on the site.

g. **Suitability and design of proposed on-site recreation areas and improvements, or of other lands to be dedicated for public recreational purposes.**
N/A – There are no on-site recreation areas, improvements, or lands to be dedicated for public recreational purposes.

5) **In what respects the plan is or is not in conformance with city policies regarding sufficiency of ownership, guarantees for completion of all required improvements, and guarantees for continued maintenance.**
N/A- Existing structure.

6) **Where applicable, in what respects the plan is or is not in conformance with the regulations of the Southwest Florida Water Management District, the Tampa Bay Regional Planning Council, and state and federal agencies. The issuance of permits or letters of intent-to-approve by these agencies may be considered evidence of such conformance.**
The Southwest Florida Water Management District (SWFWMD) approved an Environmental Resource Permit (ERP Permit No.43027285) and established a State-Owned Submerged Land Authorization (SL) for a 16-slip dock adjacent to an existing 2-slip dock. The ERP permit in conjunction with a Pinellas County Water & Navigation permit (Permit No.CD48588-18) provides evidence that the 16-slip dock is in conformance with the regulations of SWFWMD.

7) **In the case of rehabilitation or redevelopment of an existing nonconforming use, per Section 68-512(3), whether the overall degree of nonconformity on the site is significantly reduced and additional adverse impacts are not created, and whether an exemption from variance requirements for any or all remaining nonconformities should be granted.**
N/A – Site developed in conformance with applicable land development regulations at the time of permitting.

STAFF RECOMMENDATION:

Per Sec. 70-201 the applicant is required to provide a site plan for the proposed special exception use. The provided site plan was previously approved by the Planning & Zoning

Board via case numbers PZ 2017-16, PZ 2018-03 and PZ 2018-04. Staff recommends **APPROVAL WITH THE FOLLOWING CONDITIONS:**

1. A special exception use / site plan must be approved by the Planning and Zoning Board.
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site.
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. Conditions of previously approved site plan case PZ-2017-16 for the upland uses, remain in effect.
6. All uses of the dock on the site shall be consistent with the uses approved in the Special Exception case SPEC-000392-2023.

Remainder of Page Intentionally Left Blank

August 17, 2023
PLANNING AND ZONING BOARD
DEVELOPMENT ORDER

CASE NO. SITE-000393-2022
LOCATION: 290 107TH AVE TREASURE ISLAND, FL 33706

The Planning and Zoning Board has made a motion to:

[ ] APPROVE **[ ] DENY**
[X] CONTINUE **[ ] APPROVE WITH CONDITIONS**

A site plan approval for an existing 42-unit hotel/motel with a pool, lounge, 16 slip marine structure, and 2 slip marine structure.

CONTINUED TO SEPTEMBER 21, 2023
PLANNING AND ZONING BOARD MEETING.

Richard Harris, Chair
Planning & Zoning Board

09-21-2023
Date

STAFF RECOMMENDATION:

Per Sec. 70-201 the applicant is required to provide a site plan for the proposed special exception use. The provided site plan was previously approved by the Planning & Zoning Board via case numbers PZ 2017-16, PZ 2018-03 and PZ 2018-04. Staff recommends **APPROVAL WITH THE FOLLOWING CONDITIONS:**

1. A special exception use / site plan must be approved by the Planning and Zoning Board.
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site.
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. Conditions of previously approved site plan case PZ-2017-16 for the upland uses, remain in effect.
6. All uses of the dock on the site shall be consistent with the uses approved in the Special Exception case SPEC-000392-2023.

Remainder of Page Intentionally Left Blank

SEPTEMBER 21, 2023 (CASE CONTINUED FROM AUGUST 17, 2023)
PLANNING AND ZONING BOARD
DEVELOPMENT ORDER

CASE NO. SITE-000393-2022
LOCATION: 290 107TH AVE TREASURE ISLAND, FL 33706

The Planning and Zoning Board has made a motion to:

[ ] APPROVE **[ ] DENY**
[X] CONTINUE **[ ] APPROVE WITH CONDITIONS**

A site plan approval for an existing 42-unit hotel/motel with a pool, lounge, 16 slip marine structure, and 2 slip marine structure.

CONTINUED TO OCTOBER 19, 2023
PLANNING AND ZONING BOARD MEETING.

Richard Harris, Chair
Planning & Zoning Board

09-21-2023
Date

STAFF RECOMMENDATION:

Per Sec. 70-201 the applicant is required to provide a site plan for the proposed special exception use. The provided site plan was previously approved by the Planning & Zoning Board via case numbers PZ 2017-16, PZ 2018-03 and PZ 2018-04. Staff recommends **APPROVAL WITH THE FOLLOWING CONDITIONS:**

1. A special exception use / site plan must be approved by the Planning and Zoning Board.
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site.
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. Conditions of previously approved site plan case PZ-2017-16 for the upland uses, remain in effect.
6. All uses of the dock on the site shall be consistent with the uses approved in the Special Exception case SPEC-000392-2023.

Remainder of Page Intentionally Left Blank

OCTOBER 19, 2023 (CASE CONTINUED FROM AUGUST 17, 2023, AND SEPTEMBER 17, 2023)
PLANNING AND ZONING BOARD
DEVELOPMENT ORDER

CASE NO.: SITE-000393-2023
LOCATION: 290 107TH AVE TREASURE ISLAND, FL 33706

The Planning and Zoning Board will make a motion to:

[ ] APPROVE [ ] DENY
[ ] CONTINUE [ ] APPROVE WITH CONDITIONS

A site plan approval for an existing 42-unit hotel/motel with a pool, lounge, 16 slip marine structure, and 2 slip marine structure.

CONDITIONS:

1. A special exception use / site plan must be approved by the Planning and Zoning Board.
2. The total number of slips at the hotel shall not exceed 18.
3. No fueling facility will be established on the site.
4. Liveaboards on the site are prohibited pursuant to Sec. 58-91 of the Treasure Island Code of Ordinances.
5. Conditions of previously approved site plan case PZ-2017-16 for the upland uses, remain in effect.
6. All uses of the dock on the site shall be consistent with the uses approved in the Special Exception case SPEC-000392-2023.

_____ _____
Richard Harris, Chair Date
Planning & Zoning Board

Case Number: _____

City of Treasure Island
Development Review Application

Please use blue or black ink only. Failure to complete this form in its entirety will result in this application being returned without review. Note: A separate application is required for each request.

Property Owners	Dolphin Reef LLC	Agent	Mark Bentley, Esq., B.C.S., AICP
Address	151 107th Ave. Suite 3	Address	Johnson Pope
	Treasure Island, FL 33706		401 E Jackson St., Suite 3100, Tampa, FL 33602
Phone		Phone	(813) 225-2500
Fax		Fax	
Email		Email	markb@jpfirm.com (cc: development@jpfirm.com)

List all Legal Owner(s) of Property: Dolphin Reef LLC

Complete legal description (may be placed on attached separate page): Lots 9, 10, 11 and 12, Block 9, City of Treasure Island, according to the map or plat thereof as recorded in Plat Book 31, Pages 19, 20, 21 and 22, of the Public Records of Pinellas County, Florida.

Development Name: Fusion Resort

Site Location/Address: 290 107th Ave., Treasure Island, FL

Area of Development (Acreage or Square Feet) 1.39 acres

Parcel Identification Number (list all): 23-31-15-91818-009-0090

Application Request: Site plan approval for an existing and approved hotel/resort and 16-slip multi-use private dock. Application is being made in companion with a Special Exception application (SPEC-000392-2023) to convert the approved multi-use private dock to a commercial dock.

Future Land Use Designation: Resort Facilities Medium Proposed Future Land Use: _____

Current Zoning: RFM-30 Proposed Zoning: _____

I certify that I have reviewed the Land Development Regulations and that my submission meets all requirements. The only exceptions are those items to which I am requesting variances to or waivers from certain sections of the code and understand that they must be listed on the plans individually and on the attached transmittal. I understand that if an item does need a variance, it will be necessary to file through the appropriate review entity.

Signature must be original (No copies, scans, faxes or e-mails)

Mark Bentley
Owner/Agent

6/23/2023
Date

I#: 2017235924 BK: 19721 PG: 2235, 07/28/2017 at 05:12 PM, RECORDING 1 PAGES $10.00 D DOC STAMP COLLECTION $12250.00 KEN BURKE, CLERK OF COURT AND COMPTROLLER PINELLAS COUNTY, FL BY DEPUTY CLERK: CLK101958

After Recording Return to:
Janice Coulton
Stewart Title Guaranty Company - Commercial Services
3402 West Cypress Street
Tampa, FL 33607

This Instrument Prepared by:
Janice Coulton
Stewart Title Guaranty Company - Commercial Services
3402 West Cypress Street
Tampa, FL 33607
as a necessary incident to the fulfillment of conditions contained in a title insurance commitment issued by it.

Property Appraisers Parcel I.D. (Folio) Number(s):
23-31-15-91918-009-0090
File No.: 17000050121

WARRANTY DEED

This Warranty Deed, Made the 27 day of July, 2017, by **Capri Isle Hospitality Strategies, Inc., a Florida corporation**, having its place of business at **6090 Central Avenue, St. Petersburg, FL 33707**, hereinafter called the "Grantor", to **Dolphin Reef, L.L.C., a Florida limited liability company,** whose post office address is: **151 107th Ave., Ste. 3, Treasure Island, FL 33706**, hereinafter called the "Grantee".

WITNESSETH: That said Grantor, for and in consideration of the sum of **One Million Seven Hundred Fifty Thousand Dollars and No Cents ($1,750,000.00)** and other valuable considerations, receipt whereof is hereby acknowledged, by these presents grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land situate in **Pinellas** County, Florida, to wit:

Lot 9, Block 9, CITY OF TREASURE ISLAND BLOCKS 2-4-9-10-11-12-13-14-15 AND REMAINDER OF BLOCKS 1 AND 8, according to the map or plat thereof as recorded in Plat Book 31, Pages 19, 20, 21 and 22, of the Public Records of Pinellas County, Florida.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.
To Have and to Hold, the same in fee simple forever.
And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to 2017, reservations, restrictions and easements of record, if any.
(Wherever used herein the terms "Grantor" and "Grantee" included all the parties to this instrument and the heirs, legal representatives and assigns of the individuals, and the successors and assigns of Corporation)

IN WITNESS WHEREOF, Grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES
TWO SEPARATE DISINTERESTED WITNESSES REQUIRED

ATTEST: _____
Secretary

CAPRI ISLE HOSPITALITY STRATEGIES, INC.

Witness Signature: _____
Printed Name: Wes Taylor

_____
William L. Edwards
President

Witness Signature: _____ WITNESS
Printed Name: Michael Garavaglia

State of Florida
County of Pinellas

The foregoing instrument was acknowledged before me this 27th day of July, 2017 by William L. Edwards as President of Capri Isle Hospitality Strategies, Inc., a Florida corporation, on behalf of the Corporation. He/She is personally known to me or has produced driver license(s) as identification.

_____
Notary Public Signature
Printed Name: Christopher Alan Blocker

My Commission Expires: 3/24/20
(SEAL)

CHRISTOPHER ALAN BLOCKER
Commission # FF 975400
My Commission Expires
March 24, 2020



Detail by Entity Name

Florida Limited Liability Company
DOLPHIN REEF, L.L.C.

Filing Information

Document Number	L17000136240
FEI/EIN Number	N/A
Date Filed	06/22/2017
Effective Date	06/22/2017
State	FL
Status	ACTIVE

Principal Address

151 107TH AVE
SUITE 3
TREASURE ISLAND, FL 33706

Mailing Address

151 107TH AVE
SUITE 3
TREASURE ISLAND, FL 33706

Registered Agent Name & Address

CROTTY, KENNETH J
1245 COURT STREET
SUITE 102
CLEARWATER, FL 33756

Authorized Person(s) Detail

Name & Address

Title MGR

BYRNE, SHAWN L
151 107TH AVE, SUITE 3
TREASURE ISLAND, FL 33706

Annual Reports

Report Year	Filed Date
2021	01/07/2021
2022	01/11/2022
2023	01/09/2023

Document Images

01/09/2023 -- ANNUAL REPORT	View image in PDF format
01/11/2022 -- ANNUAL REPORT	View image in PDF format
01/07/2021 -- ANNUAL REPORT	View image in PDF format
01/08/2020 -- ANNUAL REPORT	View image in PDF format
01/07/2019 -- ANNUAL REPORT	View image in PDF format
01/22/2018 -- ANNUAL REPORT	View image in PDF format
06/22/2017 -- Florida Limited Liability	View image in PDF format

Florida Department of State, Division of Corporations

AFFIDAVIT TO AUTHORIZE AGENT

STATE OF FLORIDA
COUNTY OF PINELLAS

Dolphin Reef LLC
NAME OF OWNER(S) being duly sworn, depose(s) and say(s):

PROPERTY ADDRESS(ES): 290 107th Ave., Treasure Island

Parcel I.D. Number(s).: 23-31-15-91818-009-0090

1. That this property constitutes the property for which request for permits and approvals from the City of Treasure Island, as necessary, are being applied for.

2. That the undersigned (has/have) appointed Johnson Pope Bokor Ruppel & Burns, LLP as (his/their) agent(s) to represent the above-described property and serve as the applicant/agent for development applications/modifications, at the Planning and Zoning Board meeting and execute any permits or other documents necessary to affect such permit(s).

3. That this affidavit has been executed to induce appropriate state agency in Florida to consider, and act on the above-described property.

4. That (I/we), the undersigned authority, hereby certify that the foregoing is true and correct.

PRINTED NAME OF PROPERTY OWNER(S): Shawn Byrne

SIGNATURE OF PROPERTY OWNER(S): _____

DATE: 6/21/23

STATE OF: FLORIDA
COUNTY OF: PINELLAS
The foregoing instrument was acknowledged before me this 21st day of June 2023, by (company/agent) Dolphin Reef, LLC by (persons name) Shawn Byrne, it's (title) Mgr who is personally known to me, or who has produced _____ as identification and who _____ did X did not take an oath.

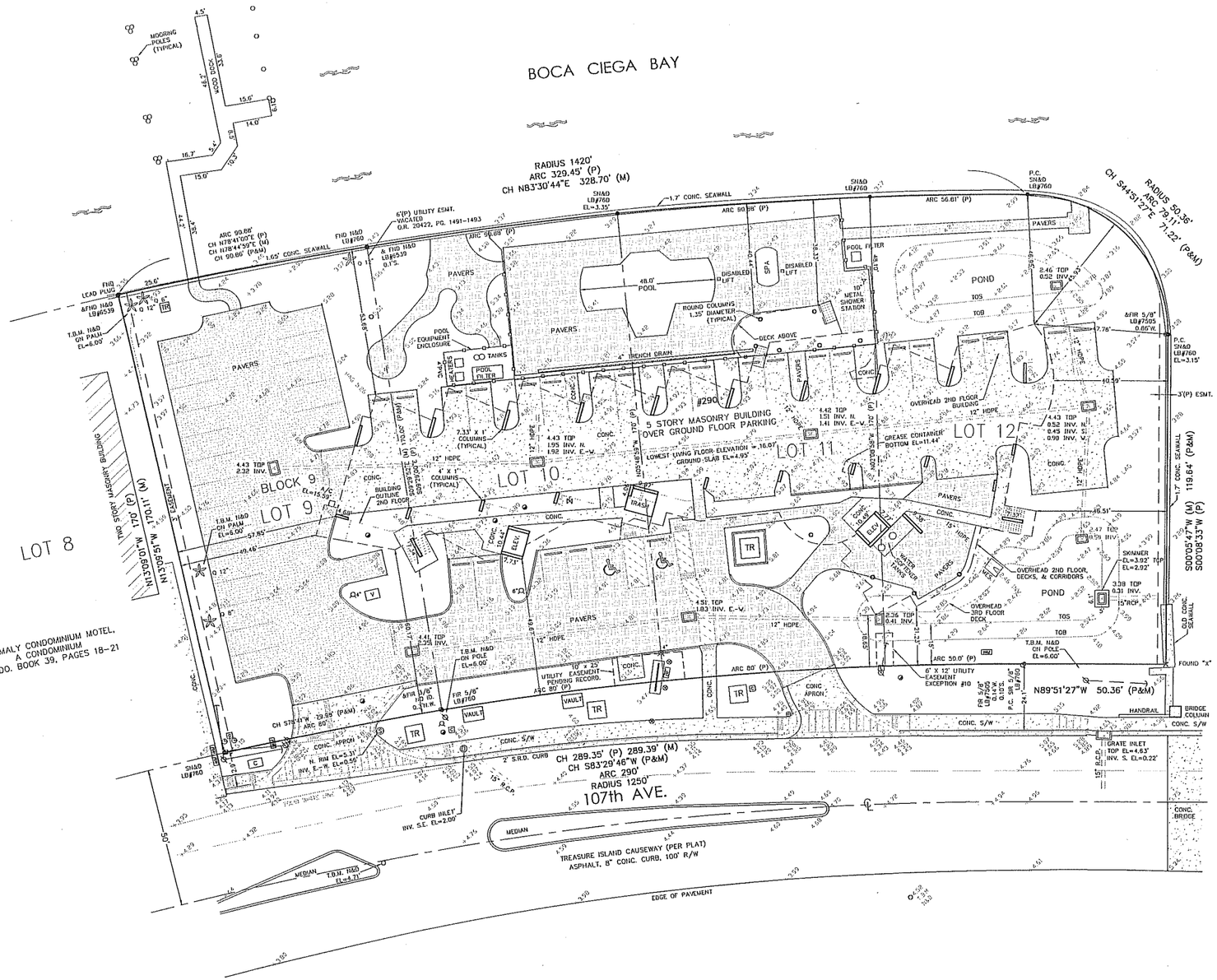
JANET BYRD
(Print, Type, or Stamp Commissioned Name of Notary Public)
Commission Number: GG954280
Commission Expires: Feb 3, 2024

JANET BYRD
Notary Public - State of Florida
Commission # GG 954280
My Comm. Expires Feb 3, 2024
Bonded through National Notary Assn.

Site Plan Application – Narrative

The property is located at 290 107th Avenue and is known as the Fusion Resort. The Land Use for the property is Resort Facilities Medium and the zoning district is RFM-30. The lot area is +- 1.39 acres and consists of a resort multi-level structure with docks. Previously, the property went through Site Plan and Special Exception approval for a 16-slip Multi-Use Private Dock (PZ case 2018-02 SE). After the approval, the docks were constructed and remain in the same configuration as previously approved. There are no proposed physical changes to the existing docks. In conjunction with this Site Plan Application, the applicant has applied for a Special Exception for a Commercial Dock (SPEC-000392-2023), which is in accordance with the Joint Stipulation Agreement. This application is for Site Plan Application review is for an existing permitted 16-slip dock with a Special Exception classification of Commercial Dock.

S.E. 1/4 SECTION 23, TOWNSHIP 31S, RANGE 15E



NORTH BASIS:
PLAT
SCALE: 1" = 20'

LEGEND:

O.R. = OFFICIAL RECORD
HAG = HIGHEST ADJACENT GRADE
LAG = LOWEST ADJACENT GRADE
RCP = REINFORCED CONC. PIPE
HDPE = HIGH-DENSITY POLYETHYLENE PIPE
HAG = HIGHEST ADJACENT ELEVATION
LAG = LOWEST ADJACENT ELEVATION
ELEV. = ELEVATOR
TOB = TOP OF BANK
TOS = TOE OF SLOPE
R.C.P. = REINFORCED CONCRETE PIPE
INV. = INVERT
MES. = MITERED END SECTION
ESMT. = EASEMENT
FND = FOUND
N&D = NAIL & DISK
FIR = FOUND IRON ROD
CH = CHORD
M = FIELD MEASUREMENT
P = PLAT
CONC = CONCRETE
R/W = RIGHT OF WAY
S/R = SET IRON ROD
P.L. = PROPERTY LINE
P.C. = POINT OF CURVATURE
SN&D = SET NAIL AND DISK
S/W = SIDEWALK
T.B.M. = TEMPORARY BENCH MARK
PVC = VINYL FENCE
C/C = COVERED CONCRETE
WF = WOOD FENCE
= WATER METER
= BACK FLOW PREVENTER
= VAULT
= GAS METER
= GAS VALVE
= CABLE T.V.
= TRANSFORMER
= ELECTRIC STAND
= CLEANOUT
= BLOW OFF VALVE
= WATER VALVE
= GAS VALVE
= FIRE HYDRANT
= WATER STAND
= BOLLARD
= POWER POLE
= SANITARY MANHOLE
= 6" FIRE SPRINKLER VALVE
= STORM MANHOLE
= TRAFFIC SIGN
= SPOT ELEVATION
= DETECTABLE WARNING
= PALM TREE
= WASHINGTONIAN PALM TREE
= QUEEN PALM TREE

As to lot 9, matters set forth in Schedule B, Section 2, of title search commitment No.: 17000050121 written by Stewart Title Guaranty Company, dated July 05, 2017 at 8:00 A.M., which are addressed by the Surveyor:

1.–4. Not Survey Related.
5. Matters contained on the Plat of City of Treasure Island area shown.
6.–10 Not Survey Related.

As to lots 10, 11, and 12, matters set forth in Schedule B, Section 2, of title search commitment No.: 17064290 written by Old Republic National Title Insurance Company, dated through recording of the deed, which are addressed by the Surveyor:

1.–7. Not Survey Related.
8. Matters contained on the Plat of City of Treasure Island area shown.
9. Two F.D.O.T. Perpetual Easements recorded in O.R. Book 6324, Page 1028, are outside the immediate area of this survey. (S.W. 1/4 vs S.E. 1/4).
10. 6'x12' Easements as recorded in O.R. Book 14429, page 1971 and re-recorded in O.R. Book 14485, page 2103.
11.–16 Not Survey Related.

CERTIFIED TO:

DOLPHIN REEF, LLC
STEWART TITLE GUARANTY COMPANY
LANDSTAR TITLE OF FLORIDA, LLC
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

LEGAL DESCRIPTION

LOTS 9, 10, 11, AND 12, BLOCK 9, CITY OF TREASURE ISLAND BLOCKS 2-4-9-10-11-12-13-14-15 AND REMAINDER OF BLOCKS 1 AND 8, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 31, PAGES 19, 20, 21 AND 22, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

FB: 951 PG: 54

Flood Zone
AE (EL 11)
COMMUNITY PANEL #125153 12103C0194 G, REVISED 9/3/03

Basis of Bearings:
SOUTHERLY BOUNDARY
BEING S78°41'W (PER PLAT)

Benchmark:
COUNTY #239 PBE 147 (USCE 1988)
EL. = 5.273' N.G.V.D., ADJUSTED TO
EL. = 4.51' N.A.V.D. M.S.L. = 0.00'

SURVEYOR'S NOTES:

Survey not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.

This survey is made for the exclusive use of the current owners of the property and also those who purchase, mortgage or guarantee the title thereto within one (1) year from date hereof.

CERTIFICATION

I hereby certify that the survey represented hereon meets the requirements of Chapter 5J-17, Florida administrative Code.

JOHN O. BRENDLA
Florida surveyor's registration No. 4601
Certificate of Authorization No. 760

JOHN C. BRENDLA AND ASSOCIATES, INC.
Professional Land Surveyors and Mappers

JCB

4015 82nd Avenue North
Pinellas Park, Florida 33781
Telephone (727) 576-7546
Facsimile (727) 577-9932
LB 760

AS-BUILT SURVEY
"DOLPHIN BAY (REEF)"
"FUSION HOTEL AND RESORT"

1706-59.CRD
-\$606-105.GRD-

REVISIONS

No.	DESCRIPTION				DATE
1.	ADD EASEMENTS AFTER BENEFIT OF TITLE REVIEW.				7/21/17
2.	SHOW TWO TITLE COMMITMENTS	7/21/17	3.	AS-BUILT 440 CONCRETE PILES	8/11/17
4.	ADD INV. ELEVS. ETC.	9/22/17	5.	STAKED 126 PILES	3/23/18
6.	SET T.B.M.'S	4/26/18	7.	STAKED COLUMNS	5/23/18
8.	STAKED INLETS, ADD T.B.M.	11/23/18	9.	STAKED PARTIAL CURBS & TRANS.	1/7,18/19
10.	GROUND LEVEL COLUMNS, OVERHEAD 2ND AND 3RD FLOORS, AND ELEVATION CERTIFICATE				3/14/19
11.	AS-BUILT	10/1/19			4/12/19
12.	REMOVED WATER HEATER	10/3/19			

FB: 941 PG: 51-52
FB: 936 PG: 2-4
Survey date: 7/18/17
Job Number: 1706-59
Drawn by: JM
Chkd by: JCB
SHEET 1 of 1

LEGEND

(C)	CALCULATED
DEPT.	DEPARTMENT
FDC	FIRE DEPARTMENT CONNECTION
FN&D	FOUND NAIL AND DISK
L#	LINE – SEE LINE TABLE
LB	LICENSED BUSINESS
MHWL	MEAN HIGH WATER LINE
No.	NUMBER
OR	OFFICIAL RECORD BOOK
(P)	PLAT BOOK 31, PAGES 19–22
PG	PAGE/PAGES
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
PSM	PROFESSIONAL SURVEYOR & MAPPER
RNG.	RANGE
SEC.	SECTION
SN&D	SET NAIL AND DISK
TWP.	TOWNSHIP
(TYP)	TYPICAL

SYMBOL LEGEND

(#)	BOAT SLIP NUMBER (SEE BOAT SLIP TABLE)
x0.00 0.0	ELEVATION (NAVD 88)
◉	NAIL AND DISK (FOUND)
⌀	TIE POLE/MOORING POST
×	X-CUT FOUND
(F)	FIRE DEPT. CONNECTION
	DECK LIGHT
W	WATER VALVE

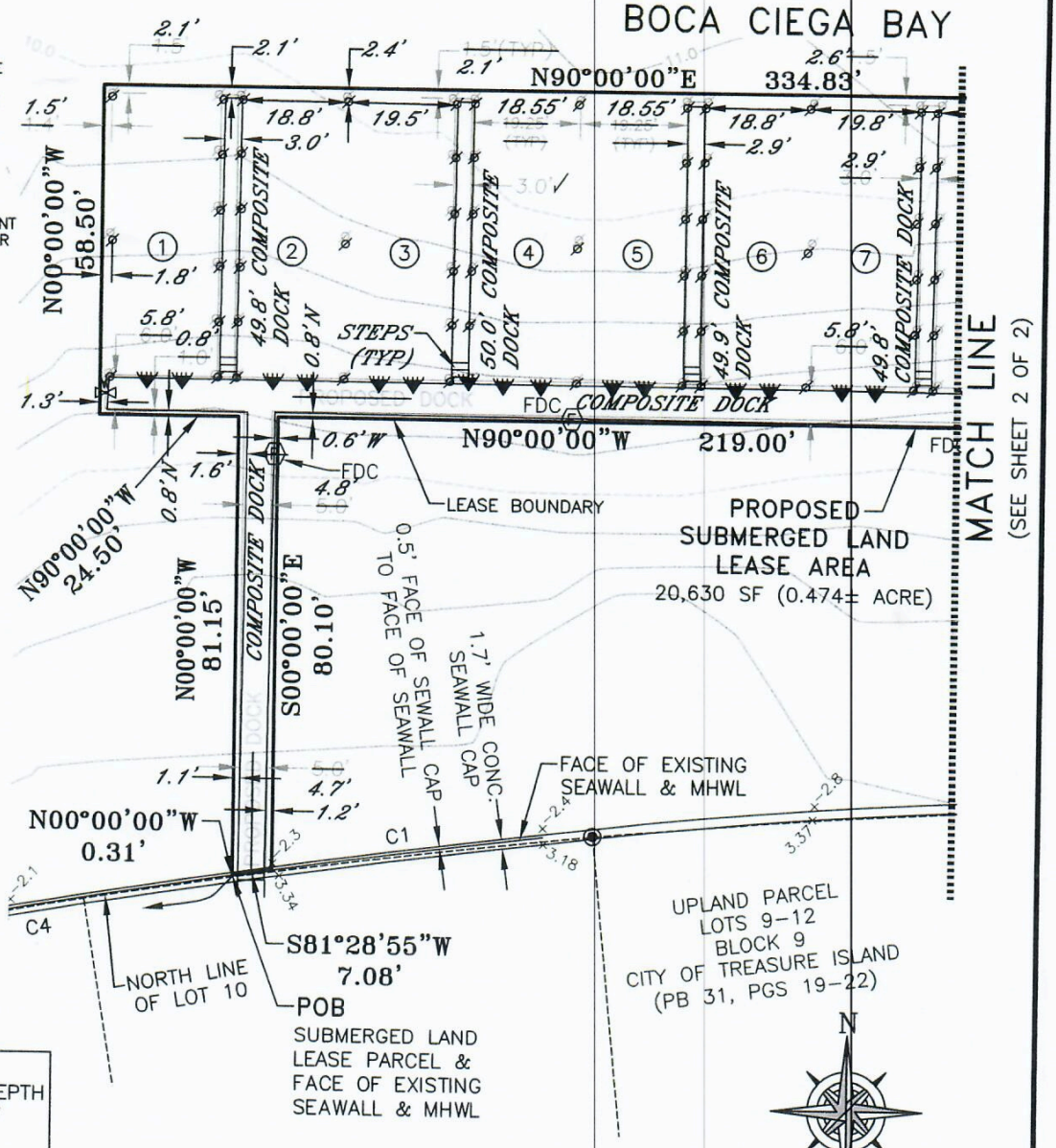
BOAT SLIP TABLE

SLIP#	DIMENSIONS
1	18' X 50'
2	18' X 50'
3	18' X 50'
4	18' X 50'
5	18' X 50'
6	18' X 50'
7	18' X 50'

NOTE: (11/14/2018)
CONTOURS SHOWN ARE DEPTH OF WATER IN FEET BELOW MEAN LOW WATER LEVEL.
0 CONTOUR = –0.98 NAVD88

FDEP PERMIT NO. XX–XXXXXXX–XXX–XX

SEC. 23, TWP. 31S., RNG. 15E.
PINELLAS COUNTY, FLORIDA



SURVEYOR'S REPORT:

1. BEARINGS ARE BASED ON THE SURVEY BASELINE BEING ASSUMED AS N47°16'47"W.
2. HORIZONTAL AND VERTICAL INFORMATION FOR THIS SURVEY IS BASED ON THE SUBMERGED LAND LEASE (WORK ORDER NO. 2018–165) PREPARED BY DEUEL & ASSOCIATES, CLEARWATER, FLORIDA, DATED: 11/14/2018.
3. ELEVATIONS ARE BASED ON NATIONAL GEODETIC BENCHMARK "PBE 147 USE", (POINT IDENTIFICATION #AG0767) HAVING A PUBLISHED ELEVATION OF 4.51 FEET, NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88).
4. THE PURPOSE OF THIS RECORD SURVEY IS TO SHOW THE CONSTRUCTED IMPROVEMENTS. AS BUILT DATA IS SHOWN HEREON IN *ITALICS* AND HAS BEEN OVERLAID ONTO THE PERMIT DRAWING SET. WHERE DESIGN DATA EQUALS AS BUILT DATA A "✓" CHECK MARK HAS BEEN PLACED. SHADED INFORMATION WAS TAKEN FROM THE PERMIT DRAWING SET.
5. THIS SURVEY IS BASED ON U.S. FEET.

RECORD SURVEY
SURVEYOR CERTIFICATION

THE FIELD MEASURED RECORD INFORMATION SHOWN HEREON WAS PERFORMED BY FIELD REPRESENTATIVES UNDER MY DIRECT SUPERVISION.

9/18/20

ALBERT P. CARRIER, PSM 6488
PROFESSIONAL SURVEYOR AND MAPPER
STATE OF FLORIDA, LS 6488, LB 107
DEUEL & ASSOCIATES

DEUEL & ASSOCIATES
CONSULTING ENGINEERS LAND SURVEYORS LAND PLANNERS
565 SOUTH HERCULES AVENUE
CLEARWATER, FL 33764
PHONE 727.822.4151
WWW.DEUELENGINEERING.COM
CERTIFICATE OF AUTHORIZATION NUMBER 26320
LICENSED BUSINESS NUMBER 107

I, ALBERT P. CARRIER, THE SURVEYOR IN RESPONSIBLE CHARGE, CERTIFY THAT THE SURVEY REPRESENTED HEREON, WAS MADE UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS AND MAPPERS, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES AS PRESCRIBED IN CHAPTER 5J–17.05 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES. THIS DOCUMENT IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SUBMERGED LAND LEASE SURVEY
290 107TH AVENUE
RECORD SURVEY

CITY OF TREASURE ISLAND FLORIDA

WORK ORDER	2018–165
FIELD DATE:	8/18/2020
DRAWN:	CMM/TBM
SCALE:	1" = 30'
SHEET NO.	1 OF 3

SUBMERGED LAND LEASE SURVEY
(THIS IS A FIELD SURVEY.)

SEC. 23, TWP. 31S., RNG. 15E.
PINELLAS COUNTY, FLORIDA

LEGEND

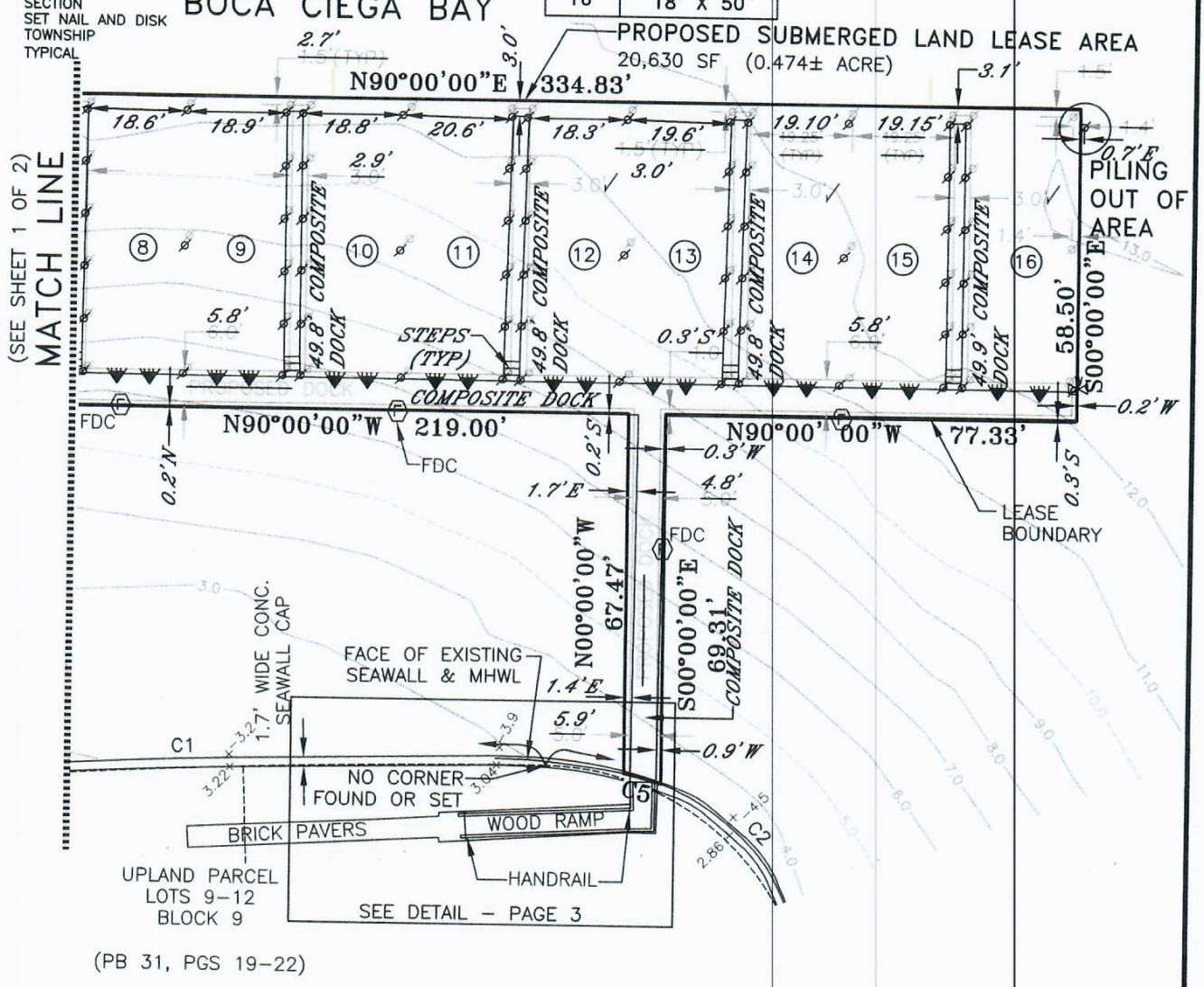
C#	CURVE – SEE CURVE TABLE
DEPT.	DEPARTMENT
EL	ELEVATION
FDC	FIRE DEPARTMENT CONNECTION
FN&D	FOUND NAIL AND DISK
L#	LINE – SEE LINE TABLE
LB	LICENSED BUSINESS
MHWL	MEAN HIGH WATER LINE
No.	NUMBER
OR	OFFICIAL RECORD BOOK
(P)	PLAT BOOK 31, PAGES 19–22
PG	PAGE/PAGES
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
PSM	PROFESSIONAL SURVEYOR & MAPPER
RNG.	RANGE
SEC.	SECTION
SN&D	SET NAIL AND DISK
TWP.	TOWNSHIP
(TYP)	TYPICAL

SYMBOL LEGEND	
(#)	BOAT SLIP NUMBER (SEE BOAT SLIP TABLE)
x0.00 x0.0	ELEVATION (NAVD 88)
◉	NAIL AND DISK (FOUND)
⌀	TIE POLE/MOORING POST
×	X-CUT FOUND
(F)	FIRE DEPT. CONNECTION
	DOCK LIGHT
W	WATER VALVE

BOAT SLIP TABLE	
SLIP#	DIMENSIONS
8	18' X 50'
9	18' X 50'
10	18' X 50'
11	18' X 50'
12	18' X 50'
13	18' X 50'
14	18' X 50'
15	18' X 50'
16	18' X 50'

N

0' 30'
SCALE: 1" = 30'



DEUEL & ASSOCIATES
CONSULTING ENGINEERS LAND SURVEYORS LAND PLANNERS
565 SOUTH HERCULES AVENUE
CLEARWATER, FL 33764
PHONE 727 822 4151
WWW.DEUELENGINEERING.COM
CERTIFICATE OF AUTHORIZATION NUMBER 26320
LICENSED BUSINESS NUMBER 107

NOTE: (11/14/2018)
CONTOURS SHOWN ARE DEPTH OF WATER IN FEET BELOW MEAN LOW WATER LEVEL.
0 CONTOUR = –0.98 NAVD88

I, ALBERT P. CARRIER, THE SURVEYOR IN RESPONSIBLE CHARGE, CERTIFY THAT THE SURVEY REPRESENTED HEREON, WAS MADE UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS AND MAPPERS, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES AS PRESCRIBED IN CHAPTER 5J–17.05 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES. THIS DOCUMENT IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SUBMERGED LAND LEASE SURVEY
290 107TH AVENUE
RECORD SURVEY
CITY OF TREASURE ISLAND FLORIDA

WORK ORDER	2018–165
FIELD DATE:	8/18/2020
DRAWN:	CMM/TBM
SCALE:	1" = 30'
SHEET NO.	2 OF 3

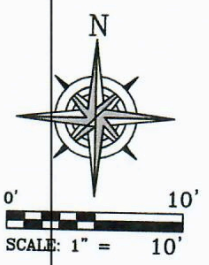
SUBMERGED LAND LEASE SURVEY
(THIS IS A FIELD SURVEY.)

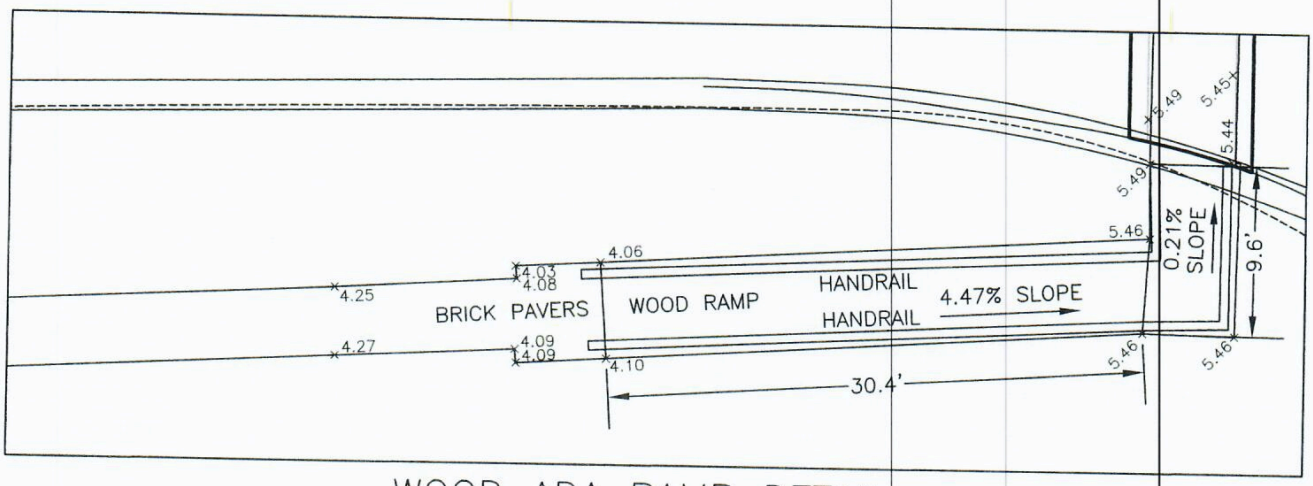
SEC. 23, TWP. 31S., RNG. 15E.
PINELLAS COUNTY, FLORIDA

LEGEND

C#	CURVE – SEE CURVE TABLE
DEPT.	DEPARTMENT
EL	ELEVATION
FDC	FIRE DEPARTMENT CONNECTION
FN&D	FOUND NAIL AND DISK
L#	LINE – SEE LINE TABLE
LB	LICENSED BUSINESS
MHWL	MEAN HIGH WATER LINE
No.	NUMBER
OR	OFFICIAL RECORD BOOK
(P)	PLAT BOOK 31, PAGES 19–22
PG	PAGE/PAGES
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
PSM	PROFESSIONAL SURVEYOR & MAPPER
RNG.	RANGE
SEC.	SECTION
SN&D	SET NAIL AND DISK
TWP.	TOWNSHIP
(TYP)	TYPICAL

SYMBOL LEGEND	
(#)	BOAT SLIP NUMBER (SEE BOAT SLIP TABLE)
×0.00 0.0	ELEVATION (NAVD 88)
◉	NAIL AND DISK (FOUND)
⌀	TIE POLE/MOORING POST
×	X-CUT FOUND
(F)	FIRE DEPT. CONNECTION
	DOCK LIGHT
W	WATER VALVE



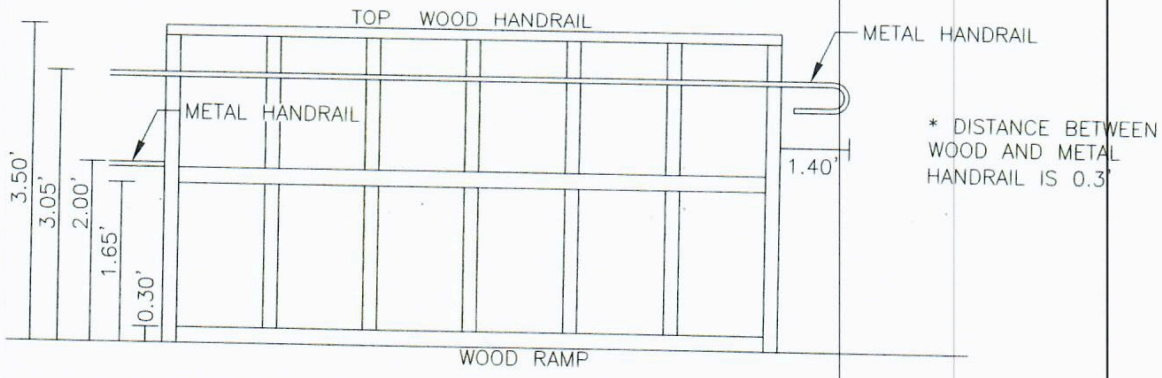


WOOD ADA RAMP DETAIL

SCALE: 1" = 10'

ADA HANDRAIL DETAIL

NOT TO SCALE



* DISTANCE BETWEEN WOOD AND METAL HANDRAIL IS 0.3'

DEUEL & ASSOCIATES
CONSULTING ENGINEERS LAND SURVEYORS LAND PLANNERS

565 SOUTH HERCULES AVENUE
CLEARWATER, FL 33764
PHONE 727.822.4151
WWW.DEUELENGINEERING.COM
CERTIFICATE OF AUTHORIZATION NUMBER 26320
LICENSED BUSINESS NUMBER 107

NOTE: (11/14/2018)
CONTOURS SHOWN ARE DEPTH OF WATER IN FEET BELOW MEAN LOW WATER LEVEL.
0 CONTOUR = –0.98 NAVD88

I, ALBERT P. CARRIER, THE SURVEYOR IN RESPONSIBLE CHARGE, CERTIFY THAT THE SURVEY REPRESENTED HEREON, WAS MADE UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS AND MAPPERS, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES AS PRESCRIBED IN CHAPTER 5J–17.05 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES. THIS DOCUMENT IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SUBMERGED LAND LEASE SURVEY
290 107TH AVENUE
RECORD SURVEY

CITY OF TREASURE ISLAND FLORIDA

WORK ORDER	2018–165
FIELD DATE:	8/18/2020
DRAWN:	CMM/TBM
SCALE:	1" = 10'
SHEET NO.	3 OF 3

Southwest Florida Water Management District
2379 Broad Street, Brooksville, Florida 34604-6899
(352) 796-7211 or 1-800-423-1476 (FL only)
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)
On the Internet at: WaterMatters.org

An Equal Opportunity Employer

Bartow Service Office
170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)

Sarasota Service Office
6750 Fruitville Road
Sarasota, Florida 34240-9711
(941) 377-3722 or
1-800-320-3503 (FL only)

Tampa Service Office
7601 Highway 301 North
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

August 05, 2019

Dolphin Reef, LLC
Attn: Shawn Byrne
151 - 107th Avenue, Suite C
Treasure Island, FL 33706

Subject: **Consolidated Notice of Intended Agency Action - Approval**
ERP Individual Construction and State-Owned Submerged Lands
Extended Term Lease and Standard Term Lease

B.O.T. File No:	, 520342873
SOV Record No:	40266.0, 40285.0
Project Name:	Paradise Point Dock / Dolphin Reef
App ID/Permit No:	773672 / 43027285.003
County:	Pinellas
Sec/Twp/Rge:	S23/T31S/R15E

Dear Permittee(s):

The Southwest Florida Water Management District (District) has completed its review of the application for Environmental Resource Permit. Based upon a review of the information you have submitted, the District hereby gives notice of its intended approval of the application.

The File of Record associated with this application can be viewed at http://www18.swfwmd.state.fl.us/erp/erp/search/ERPSearch.aspx and is also available for inspection Monday through Friday, except for District holidays, from 8:00 a.m. through 5:00 p.m. at the District's Tampa Service Office, 7601 U.S. Highway 301 North, Tampa, Florida 33637.

If you have any questions or concerns regarding the application or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

Michelle K. Hopkins, P.E.
Bureau Chief
Environmental Resource Permit Bureau
Regulation Division

cc: Speeler Foundations, Inc.
Florida Fish and Wildlife Conservation Commission
Woods Consulting

Southwest Florida Water Management District
2379 Broad Street, Brooksville, Florida 34604-6899
(352) 796-7211 or 1-800-423-1476 (FL only)
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)
On the Internet at: WaterMatters.org

An Equal Opportunity Employer

Bartow Service Office
170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)

Sarasota Service Office
6750 Fruitville Road
Sarasota, Florida 34240-9711
(941) 377-3722 or
1-800-320-3503 (FL only)

Tampa Service Office
7601 Highway 301 North
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

August 05, 2019

Dolphin Reef, LLC
Attn: Shawn Byrne
151 - 107th Avenue, Suite C
Treasure Island, FL 33706

Subject: **Consolidated Notice of Agency Action - Approval**
ERP Individual Construction and State-Owned Submerged Lands
Extended Term Lease and Standard Term Lease

B.O.T. File No:	, 520342873
SOV Record No:	40266.0, 40285.0
Project Name:	Paradise Point Dock / Dolphin Reef
App ID/Permit No:	773672 / 43027285.003
County:	Pinellas
Sec/Twp/Rge:	S23/T31S/R15E

Dear Permittee(s):

The Southwest Florida Water Management District (District) is in receipt of your application for the Environmental Resource Permit. Based upon a review of the information you submitted, the application is approved.

Please refer to the attached Notice of Rights to determine any legal rights you may have concerning the District's agency action on the permit application described in this letter.

The District has requested that the Department of Environmental Protection's Recurring Revenue Section of the Bureau of Public Land Administration prepare the Standard Lease instrument. A permit condition prohibits construction on the sovereign submerged lands until this instrument has been fully executed.

If approved construction plans are part of the permit, construction must be in accordance with these plans. These drawings are available for viewing or downloading through the District's Application and Permit Search Tools located at www.WaterMatters.org/permits.

The District's action in this matter only becomes closed to future legal challenges from members of the public if such persons have been properly notified of the District's action and no person objects to the District's action within the prescribed period of time following the notification. The District does not publish notices of agency action. If you wish to limit the time within which a person who does not receive actual written notice from the District may request an administrative hearing regarding this action, you are strongly encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Publishing notice of agency action will close the window for filing a petition for hearing. Legal requirements and instructions for publishing notices of agency action, as well as a noticing form that can be used, are available from the District's website at www.WaterMatters.org/permits/noticing. If you publish notice of agency action, a copy of the affidavit of publication provided by the newspaper should be sent to the District's Tampa Service Office for retention in this permit's File of Record.

If you have any questions or concerns regarding your permit or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

Michelle K. Hopkins, P.E.
Bureau Chief
Environmental Resource Permit Bureau
Regulation Division

Enclosures: Approved Permit w/Conditions Attached
As-Built Certification and Request for Conversion to Operation Phase
Notice of Authorization to Commence Construction
Notice of Rights

cc: Speeler Foundations, Inc.
Florida Fish and Wildlife Conservation Commission
Woods Consulting

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
CONSOLIDATED ENVIRONMENTAL RESOURCE PERMIT (ERP) AND
STATE-OWNED SUBMERGED LAND AUTHORIZATION (SL)
INDIVIDUAL CONSTRUCTION
PERMIT NO. 43027285.003
AND
STATE-OWNED SUBMERGED LANDS EXTENDED TERM LEASE AND STANDARD TERM LEASE

EXPIRATION DATE: **August 05, 2024** **PERMIT ISSUE DATE:** **August 05, 2019**
SL EXPIRATION DATE:

This permit is issued under the provisions of Chapter 373, Florida Statutes, (F.S.), and the Rules contained in Chapter 62-330, Florida Administrative Code, (F.A.C.). The permit authorizes the Permittee to proceed with the construction of a surface water management system in accordance with the information outlined herein and shown by the application, approved drawings, plans, specifications, and other documents, attached hereto and kept on file at the Southwest Florida Water Management District (District). Unless otherwise stated by permit specific condition, permit issuance constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341. All construction, operation and maintenance of the surface water management system authorized by this permit shall occur in compliance with Florida Statutes and Administrative Code and the conditions of this permit.

Authorization is granted to use state-owned submerged lands as outlined herein and shown by the application, approved drawings, plans, and other documents attached hereto and kept on file at the District under the provisions of Chapters 253 and 258, F.S., and Chapters 18-20 and 18-21, F.A.C., as well as the policies of the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees). This approval does not disclaim any title interests that the Board of Trustees may have in the project site. Any subsequent authorizations by the Board of Trustees or its designated agents may contain conditions necessary to satisfy the fiduciary responsibilities of the Board of Trustees as well as other applicable statutory or rule requirements implemented by the Department of Environmental Protection's Division of State Lands or other governmental agencies authorized by Florida Statutes.

PROJECT NAME: Paradise Point Dock / Dolphin Reef

GRANTED TO: Dolphin Reef, LLC
Attn: Shawn Byrne
151 - 107th Avenue, Suite C
Treasure Island, FL 33706

OTHER PERMITTEES: N/A

ABSTRACT: This permit authorizes the construction of an approximately 3,941-square-foot, 16-slip commercial docking facility within Boca Ciega Bay, associated with an upland condo-hotel. The proposed docking facility is located adjacent to an existing 2-slip docking structure associated with the same upland property. The project is located at 290 107th Avenue, Treasure Island, in Pinellas County.

OP. & MAIN. ENTITY: Dolphin Reef, LLC

OTHER OP. & MAIN. ENTITY: N/A

COUNTY: Pinellas

WATERBODY NAME: BOCA CIEGA BAY, BOCA CIEGA BAY

AQUATIC PRESERVE: Boca Ciega Bay Aquatic Preserve, Boca Ciega Bay Aquatic Preserve

SEC/TWP/RGE: S23/T31S/R15E

TOTAL ACRES OWNED OR UNDER CONTROL:	1.30
PROJECT SIZE:	0.09 Acres
LAND USE:	Commercial
DATE APPLICATION FILED:	October 12, 2018
AMENDED DATE:	N/A

I. Water Quantity/Quality

Water Quality/Quantity Comment: Water quality treatment and quantity attenuation are not required for the proposed dock construction activity.

A mixing zone is required.
A variance is not required.

II. 100-Year Floodplain

Encroachment (Acre-Feet of fill)	Compensation (Acre-Feet of excavation)	Compensation Type	Encroachment Result* (feet)
0.00	0.00	No Encroachment	N/A

*Depth of change in flood stage (level) over existing receiving water stage resulting from floodplain encroachment caused by a project that claims Minimal Impact type of compensation.

III. Environmental Considerations

Wetland/Other Surface Water Information

Wetland/Other Surface Water Name	Total Acres	Not Impacted Acres	Permanent Impacts		Temporary Impacts	
			Acres	Functional Loss*	Acres	Functional Loss*
Boca Ciega Bay	0.09	0.00	0.09	0.00	0.00	0.00
Total:	**0.09**	**0.00**	**0.09**	**0.00**	**0.00**	**0.00**

*** For impacts that do not require mitigation, their functional loss is not included.**

Wetland/Other Surface Water Comments:
Wetlands are not located within the project area for this ERP; however, there are 0.09 acre of surface waters (FLUCCS 540) located within the project area. Permanent filling and shading impacts to 0.09 acre of surface waters will occur for construction of docking structure.

Mitigation Information

Mitigation Comments:
Mitigation will not be required for permanent filling and shading impacts to 0.09 acre of surface waters pursuant to Subsection 10.2.2 of the ERP Applicant's Handbook Vol. I. Under this Section, wetland mitigation is not required for impacts that have been determined to be de minimis to fish, wildlife and listed species.

IV. State-Owned Submerged Lands

Activity	Preempted Area (Square Feet)	Dredged (Cubic Yards)	Shoreline Length (Linear Feet)
Standard Term Lease	24255	0	528
Extended Term Lease	24255		
Totals:	48510	0	528

Total Slips: 18

Comments: The project is located on sovereign submerged lands and requires a lease modification (BOT No. 520342873) pursuant to 18-21.005, F.A.C. The Permittee shall not commence construction in, on or over sovereign submerged lands until this instrument has been executed.

Specific Conditions

1. If the ownership of the project area covered by the subject permit is divided, with someone other than the Permittee becoming the owner of part of the project area, this permit may be terminated, unless the terms of the permit are modified by the District or the permit is transferred pursuant to Rule 40D-1.6105, F.A.C. In such situations, each land owner shall obtain a permit (which may be a modification of this permit) for the land owned by that person. This condition shall not apply to the division and sale of lots or units in residential subdivisions or condominiums.

2. The Permittee shall retain the design professional registered or licensed in Florida, to conduct on-site observations of construction and assist with the as-built certification requirements of this project. The Permittee shall inform the District in writing of the name, address and phone number of the design professional so employed. This information shall be submitted prior to construction.

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

   a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The Permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.

   b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a 4-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

   c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.

   d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.

   e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida and to FWC at ImperiledSpecies@myFWC.com.

   f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs shall be removed by the Permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 1/2 by 11 " explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.

4. The Permitted Plan Set for this project includes the set received by the District on July 22, 2019.

5. This permit is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the permit application. Any substantial deviation from the approved drawings, exhibits, specifications or permit conditions, including construction within the total land area but outside the approved project area(s), may constitute grounds for revocation or enforcement action by the District, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds,

ditches or sump areas deeper than shown on the approved plans.

6. Water quality monitoring for turbidity shall be conducted within Boca Ciega Bay, an Outstanding Florida Waterbody and part of the Boca Ciega Bay Aquatic Preserve for the duration of the project.

7. A mixing zone for turbidity is granted for the area shown on the permitted plans.

8. The mixing zone is granted exclusively for the duration of the construction activities, not to exceed 30 days.

9. The permittee shall comply with the following Quality Assurance/ Quality Control (QA/QC) requirements:

   a. The instrument shall be calibrated each morning and each time the instrument is turned on, and recalibrated every four hours thereafter.

   b. Calibrations shall be performed against a blank, and at least one formazin or gel-type standard. The standard value shall be in the same range as the sample readings.

   c. Calibration procedures shall be recorded in a permanent QA/QC logbook, and copies shall be submitted with the data.

10. Turbidity levels outside the mixing zone shall not exceed ambient background. If monitoring reveals turbidity levels outside of the mixing zone are greater than or equal to ambient background, the permittee shall take the following measures:

    a. Immediately cease all work contributing to the water quality violation.

    b. Stabilize exposed soils contributing to the violation. Modify work procedures responsible for the violation, install additional turbidity containment devices, repair non-functioning turbidity containment devices; and

    c. Increase monitoring frequency to every two hours until turbidity levels no longer exceed ambient background. Interim samples collected following the violation(s) shall be collected in the same manner and locations as the routine monitoring. Construction activities may not resume until the turbidity levels meet the above water quality standards.

    d. Immediately report turbidity violations to the District. The report shall include the description of the corrective actions being taken or proposed to be taken. The report shall be made to the Department as soon as normal business hours resume if violation(s) are noted after normal business hours, on holidays, or on weekends. A copy of the monitoring data sheets, which indicate violation(s), shall be forwarded immediately to the Department.

    Failure to report violation(s) or to follow corrective procedures before resuming work shall constitute grounds for permit revocation and may subject the permittee to formal enforcement action.

11. Construction of the proposed work shall not commence on sovereign submerged lands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease modification documents (BOT No: 520342873) have been executed to the satisfaction of the District. A copy of the approved lease modification shall be forwarded to the Tampa Office, Attention: Environmental Manager.

12. Any vessel moored at the docking facility, on either a temporary or permanent basis, shall be wholly located within its designated wet slip and no portion of a vessel may extend beyond the leased premises. Vessel length shall be measured as overall length including all parts and accessories such as outboard motors, bow pulpits, and swim platforms. Slip lengths are 50 feet.

13. All dock pilings shall be wrapped with PVC from the mud line to one foot above mean high water. The Permittee / Lessee or the Operation and Maintenance Entity shall maintain the pilings in this condition for the life of the facility.

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

15. This permit does not authorize the Permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed

onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a "take" permit cannot be issued. Requests for further information or review can be sent to FWCConservationPlanningServices@MyFWC.com.

16. The docking facility is limited to the mooring of 16 vessels with the slips defined on the approved permit drawings. Two existing slips associated with the upland property are authorized to remain.

17. There shall be a minimum 12-inch clearance between the deepest draft of the vessel (with the motor in the down position) and the top of submerged resources for all vessels associated with the use of the docking facility as measured at mean low water. To ensure compliance with this condition, all vessels moored at the docking facility shall have a draft of 8 feet or less.

18. Fish cleaning stations shall not be allowed on structures over the water unless sufficient measures are in place (i.e., signage, sink screens, waste receptacles, etc.) to ensure that overboard discharges of trash and/or animal waste do not occur at the dock.

19. The handrails and no mooring signs shown on the approved permit drawings shall be maintained for the life of the facility.

20. Boat maintenance or repair activities that require the removal of a vessel from the water, or removal of major portions of the vessel, including the engine, for purposes of routine repair or maintenance on site are prohibited over water at the facility, except where such activities are necessitated by emergency conditions which have resulted in or can result in the sinking of a vessel. Specifically prohibited shall be hull scraping, stripping, sanding, painting, recoating, and other maintenance or repair activities that may result in degradation of water quality from discharges or release of potential contaminants into waters of the state.

21. The slips shall not be occupied by liveaboards. A liveaboard is defined as a vessel docked at a facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within any thirty (30) day period.

22. Fueling facilities shall not be provided at the marina.

23. The terms, conditions, and provisions of the required lease shall be met. Construction of this activity shall not commence on sovereign submerged lands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease modification documents (BOT No: 520342873) have been executed to the satisfaction of the District.

24. The Permittee shall install permanent manatee educational signs, which shall be maintained for the life of the facility, no later than 60 days after construction commencement. The number and types of signs, as well as the on-site locations shall be approved by the Florida Fish and Wildlife Conservation Commission (FWC) prior to installation. A proposal for FWC sign approval shall be submitted to ImperiledSpecies@myfwc.com in accordance with information provided at FWC's website: http://www.myfwc.com/wildlifehabitats/managed/manatee/education-for-marinas/. Signs shall be replaced in accordance with FWC guidance by the Permittee if outdated, damaged or faded.

GENERAL CONDITIONS

1. The general conditions attached hereto as Exhibit "A" are hereby incorporated into this permit by reference and the Permittee shall comply with them.

PROPRIETARY GENERAL CONDITIONS

1. The general conditions attached hereto as Exhibit "B" are hereby incorporated by reference and the Permittee shall comply with them.

Michelle K. Hopkins, P.E.

Authorized Signature

EXHIBIT A

GENERAL CONDITIONS:

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

a. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C., or the permit may be revoked and the permittee may be subject to enforcement action.

b. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.

c. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which are both incorporated by reference in subparagraph 62-330.050(8)(b)5, F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.

d. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice,"[effective date], incorporated by reference herein (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5),F.A.C. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.

e. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.

f. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:

1. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex - "Construction Completion and Inspection Certification for Activities Associated with a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or

2. For all other activities - "As-Built Certification and Request for Conversion to Operation Phase" [Form 62-330.310(1)].

3. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.

g. If the final operation and maintenance entity is a third party:

1. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.4 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.

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

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

i. This permit does not:

1. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;

2. Convey to the permittee or create in the permittee any interest in real property;

3. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or

4. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

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

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

l. The permittee shall notify the Agency in writing:

1. Immediately if any previously submitted information is discovered to be inaccurate; and

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

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

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

subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S. (2012).

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

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

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

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

2. In addition to those general conditions in subsection (1) above, the Agency shall impose any additional project-specific special conditions necessary to assure the permitted activities will not be harmful to the water resources, as set forth in Rules 62-330.301 and 62-330.302, F.A.C., Volumes I and II, as applicable, and the rules incorporated by reference in this chapter.

EXHIBIT B

PROPRIETARY GENERAL CONDITIONS

1. 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 state-owned submerged land unless cured to the satisfaction of the Board.

2. Authorizations convey no title to state-owned submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.

3. 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, FAC.

4. Structures or activities shall be constructed and used to avoid or minimize adverse impacts to state-owned submerged lands and resources.

5. 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, FAC.

6. 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.

7. Structures or activities shall not create a navigational hazard.

8. 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, FAC., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

9. 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)(f), F.A.C., or any other applicable law.

SOUTHWEST FLORIDA
WATER MANAGEMENT DISTRICT

NOTICE OF
AUTHORIZATION
TO COMMENCE CONSTRUCTION

Paradise Point Dock / Dolphin Reef
PROJECT NAME

Commercial
PROJECT TYPE

Pinellas
COUNTY

S23/T31S/R15E
SEC(S)/TWP(S)/RGE(S)

Dolphin Reef, LLC
PERMITTEE See permit for additional permittees

APPLICATION ID/PERMIT NO: 773672 / 43027285.003

DATE ISSUED: August 05, 2019

Michelle K. Hopkins, P.E.
Issuing Authority

THIS NOTICE SHOULD BE CONSPICUOUSLY DISPLAYED AT THE SITE OF THE WORK

Notice of Rights

ADMINISTRATIVE HEARING

1. You or any person whose substantial interests are or may be affected by the District's intended or proposed action may request an administrative hearing on that action by filing a written petition in accordance with Sections 120.569 and 120.57, Florida Statutes (F.S.), Uniform Rules of Procedure Chapter 28-106, Florida Administrative Code (F.A.C.) and District Rule 40D-1.1010, F.A.C. Unless otherwise provided by law, a petition for administrative hearing must be filed with (received by) the District within 21 days of receipt of written notice of agency action. "Written notice" means either actual written notice, or newspaper publication of notice, that the District has taken or intends to take agency action. "Receipt of written notice" is deemed to be the fifth day after the date on which actual notice is deposited in the United States mail, if notice is mailed to you, or the date that actual notice is issued, if sent to you by electronic mail or delivered to you, or the date that notice is published in a newspaper, for those persons to whom the District does not provide actual notice.

2. Pursuant to Subsection 373.427(2)(c), F.S., for notices of intended or proposed agency action on a consolidated application for an environmental resource permit and use of state-owned submerged lands concurrently reviewed by the District, a petition for administrative hearing must be filed with (received by) the District within 14 days of receipt of written notice.

3. Pursuant to Rule 62-532.430, F.A.C., for notices of intent to deny a well construction permit, a petition for administrative hearing must be filed with (received by) the District within 30 days of receipt of written notice of intent to deny.

4. Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days of receipt or other period as required by law waives the right to request a hearing on such matters.

5. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding District intended or proposed action is not available prior to the filing of a petition for hearing.

6. A request or petition for administrative hearing must comply with the requirements set forth in Chapter 28-106, F.A.C. A request or petition for a hearing must: (1) explain how the substantial interests of each person requesting the hearing will be affected by the District's intended action or proposed action, (2) state all material facts disputed by the person requesting the hearing or state that there are no material facts in dispute, and (3) otherwise comply with Rules 28-106.201 and 28-106.301, F.A.C. Chapter 28-106, F.A.C. can be viewed at www.flrules.org or at the District's website at www.WaterMatters.org/permits/rules.

7. A petition for administrative hearing is deemed filed upon receipt of the complete petition by the District Agency Clerk at the District's Tampa Service Office during normal business hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding District holidays. Filings with the District Agency Clerk may be made by mail, hand-delivery or facsimile transfer (fax). The District does not accept petitions for administrative hearing by electronic mail. Mailed filings must be addressed to, and hand-delivered filings must be delivered to, the Agency Clerk, Southwest Florida Water Management District, 7601 Highway 301 North,Tampa,FL 33637-6759. Faxed filings must be transmitted to the District Agency Clerk at (813) 367-9776. Any petition not received during normal business hours shall be filed as of 8:00 a.m. on the next business day. The District's acceptance of faxed petitions for filing is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation, available for viewing at www.WaterMatters.org/about.

JUDICIAL REVIEW

1. Pursuant to Sections 120.60(3) and 120.68, F.S., a party who is adversely affected by District action may seek judicial review of the District's action. Judicial review shall be sought in the Fifth District Court of Appeal or in the appellate district where a party resides or as otherwise provided by law.

2. All proceedings shall be instituted by filing an original notice of appeal with the District Agency Clerk within 30 days after the rendition of the order being appealed, and a copy of the notice of appeal, accompanied by any filing fees prescribed by law, with the clerk of the court, in accordance with Rules 9. 110 and 9.190 of the Florida Rules of Appellate Procedure (Fla. R. App. P.). Pursuant to Fla. R. App. P. 9.020(h), an order is rendered when a signed written order is filed with the clerk of the lower tribunal.

AGENDA ITEM NO. 10.C

Item Cover Page

PLANNING & ZONING BOARD AGENDA ITEM REPORT

DATE:	October 19, 2023
SUBMITTED BY:	Jesse Miller, Community Development
ITEM TYPE:	Public Hearings
AGENDA SECTION:	PRESENTATION OF ITEMS
SUBJECT:	VAR-000407-2023- 11870 5th St E- An after-the-fact variance request to Sec. 68-541, to allow an existing covered front porch to encroach approx. 2'-1" into the 15' front yard setback.
BACKGROUND:	See attached staff report.
POLICY/PURPOSE:	N/A
STRATEGIC PLAN RELEVANCE:	N/A
ANALYSIS/DISCUSSION:	See attached staff report.
FUNDING:	N/A
MOTION:	See attached staff report for proposed motions.

ATTACHMENTS:

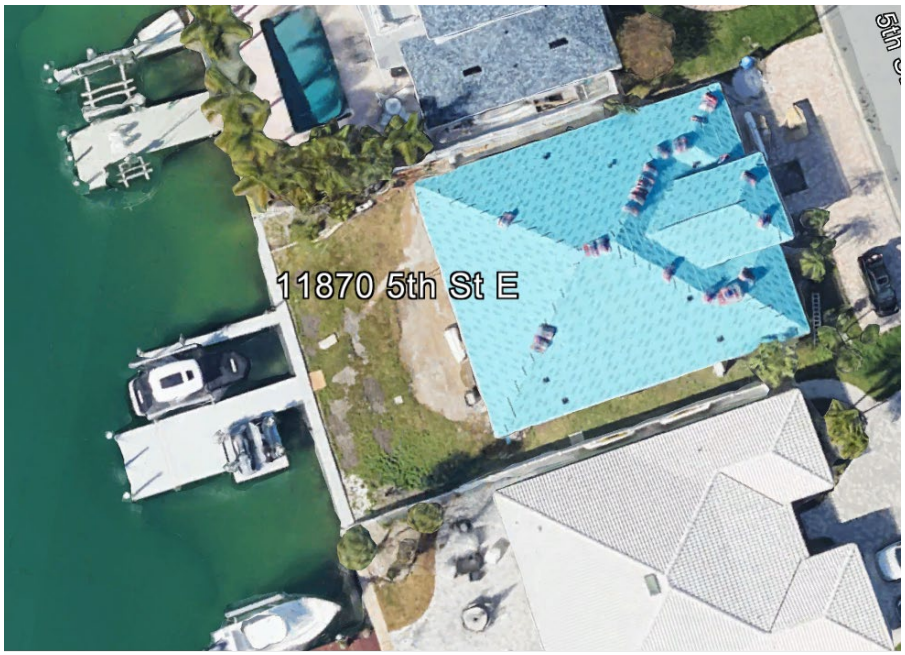
1. Staff Report.pdf
2. Application.pdf
3. Variance Hardship Narrative.pdf
4. Neighbor Petition.pdf
5. Final Survey.pdf
6. Administrative Waiver.pdf
7. Affidavit to Authorize Agent.pdf
8. Warranty Deed.pdf
10. Public Comments on Case No. VAR-000407-2023.pdf

CITY OF TREASURE ISLAND
PLANNING AND ZONING BOARD
120 - 108th Avenue, Treasure Island, Florida 33706
Telephone (727) 547-4575; Fax (727) 547-4584

CASE NO. VAR-000407-2023
STAFF REPORT
THURSDAY, OCTOBER 19, 2023 AT 2:00 P.M.

DESCRIPTION: An after-the-fact variance request to Sec. 68-541, to allow an existing covered front porch to encroach approx. 2'-1" into the 15' front yard setback.

SITE LOCATION: 11870 5th St E
Treasure Island, FL 33706



PARCEL ID #: 14-31-15-13284-012-0110

LEGAL DESCRIPTION: LOT 11, BLOCK L, CAPRI ISLE SUBDIVISION, AS RECORDED IN PLAT BOOK 39, PAGES 6 AND 7 OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA

PROPERTY OWNER: Hinh Truong
Hoai Truong
11870 5th St E
Treasure Island, FL 33706

GENERAL INFORMATION:

Land Use: Residential Urban

Zoning: RU-75 (Single Family Residential)

Adjacent Property (Use):

North: 11900 5th St E- Single-Family Residence
East: 11875 5th St E- Single- Family Residence
South: 11850 5th St E- Single-Family Residence
West: Boca Ciega Bay

Site Area: Approx. 70 ft. x 120 ft. = 8,400 sq. ft.

Flood Zone: AE-11 & AE-10, Flood Insurance Rate Map
Community Panel No. 12103C0194H, August 24, 2021.



PROPERTY SUMMARY:

According to PCPAO, the subject property contains an existing one-story single-family dwelling that was constructed in 1959. The existing structure is nonconforming to the side yard setback along the NW property line by approx. 0'-8".

On March 10, 2021, the applicant submitted an incomplete permit application for various interior renovations and to raise the roof on the existing structure. No site plan was submitted, only a survey with the addition of color markers showing new roofs. Comments from the building department requesting additional information were sent to the contractor on March 19, 2021.

On April 12, 2021, zoning staff requested corrections to be made to the plans, including the provision of a dimensioned site plan, as the foundation plan showed a new foundation located in front of the existing house. At the same time the applicant was advised that they could apply for an administrative waiver for the encroachment into the side yard setback along the northwest property line if they wanted that addition to stay in line with the existing building.

Instead of submitting an administrative waiver application for the side yard setback, on May 12, 2021, an administrative waiver was submitted for the front yard setback. This waiver to the front yard setback could not be granted as the request for the front setback encroachment exceeded the CDD Director's authority pursuant to Sec. 68-35. The request was for 2'-1" and the maximum allowed by an administrative waiver is 1'-0" or 10% of the required setback (1'-6") or whichever is less.

Comments were sent to the applicant again on May 28, 2021, requesting a clearly dimensioned site plan, with the location of all additions clearly shown.

On August 24, 2021, plans were submitted that showed that the front portico did not meet the setbacks. These plans were not routed to zoning, which was an error of the city, though they were reviewed by building and floodplain.

On November 12, 2021, another new set of plans and a reduction of the scope of work were submitted to address the building and floodplain comments. Permit corrections requested from zoning staff during the prior review were not addressed. After several additional rounds of reviews for building and floodplain on January 20, 2022, the permit was issued in error by the city, as the zoning had not been reviewed.

On May 16, 2023, the Building Department placed a hold on issued permit BLDR-001717-2021 due to an inspection that revealed the scope of work exceeds the approved plans, exceeded the outlined FEMA costs, and the encroachment of the front porch into the 15' front setback.

On June 2, 2023, the contractor was notified that the administrative waiver was not granted for the front porch, and due to the approx. 2'-1" encroachment a variance approval from the Planning and Zoning Board would be required in order to be able to retain the addition.

The applicant attended a DRC meeting on August 8, 2023, the DRC serves as the required pre-application meeting for Planning and Zoning Board cases.

On September 18, 2023, an administrative waiver (ADMWAIV-000406-2023) was granted for the side yard setback for a covered patio. That waiver allowed the covered patio which is 26'-7" in length to encroach approximately 4" into the side yard setback. This encroachment permitted the covered patio to align with the existing nonconforming structure.

TREASURE ISLAND CODE OF ORDINANCES:

CHAPTER 68- ZONING REGULATIONS
ARTICLE VI- ZONING DISTRICT REGULATIONS
DIVISION 2. – RU-75 (SINGLE-FAMILY RESIDENTIAL) ZONING DISTRICT
Sec. 68-242. - Uses permitted.
The following uses shall be allowed within the RU-75 zoning district as permitted, special exception or accessory uses as set forth herein:

(1) Permitted uses. The following permitted uses shall be allowed within an RU-75 zoning district:

a. Dwelling, residential single-family.

ARTICLE VIII- BUILDING SETBACK LINES
Sec. 68-541.- Setback Classifications

(5) Class E:

Street: 15 feet
Side: 7 ½ feet
Waterfront: 25 feet.

ARTICLE II- ADMINISTRATION AND ENFORCEMENT
DIVISION 1.- GENERALLY
Sec. 68-35.- Administrative Waivers.

(c) *Review authority.* The CID director may approve an administrative waiver to grant relief from any of the following requirements of the LDR, up to a maximum variance of ten percent of the requirement or a maximum of one foot, whichever is smaller.

(1) Distance between structures;
(2) Parcel dimensions (not area);
(3) Setbacks.

An administrative waiver may also be used to grant relief from "on-site parking, loading, and landscaping" up to a maximum reduction of ten percent provided there is less than a one percent reduction in the impervious surface ratio on the site.

CHAPTER 70- PLANNING AND ZONING
ARTICLE III- APPEALS TO ADMINISTRATIVE DECISIONS; SPECIAL EXCEPTIONS AND VARIANCES
DIVISION 3. – VARIANCES
Section 70-221. – Procedure

(1) An application for such variance has been received by the city manager or specified designee, stating the special conditions and circumstances applying to the building, structure, or land for which such variance is sought. The applicant shall submit a narrative that explains the variance being requested in a manner that addresses the criteria specified in subsection (d) as they relate to the specific request. Since each application is considered based upon the unique circumstances presented by such application, prior decisions of the board or commission shall not constitute grounds for the granting of any variance.

(2) The board or commission has received a report from the city manager or specified designee that evaluates the application based on the criteria required by this section.
(3) The board or commission holds a public hearing after written and posted notice has been given to the extent provided by chapter 70.
(4) The board or commission has considered the following criteria and find that they have been substantially satisfied and a hardship exists:
    a. The variance is in fact a variance as set forth within the land development regulations and within the province of the board or commission based upon the opinion of the city manager or his designee;
    b. Special conditions or circumstances exist which are peculiar to the building, structure, or land for which the variance is sought and do not apply generally to buildings, structures, or lands in the same zoning district;
    c. Strict application of the provisions of the land development regulations would not permit the applicant reasonable use of the building; structure, or land;
    d. The peculiar conditions and circumstances existing are not the result of the actions of the applicant, the applicant agent's agents, or the applicant's predecessors in title;
    e. The variance proposed to be granted is the minimum variance that will make possible the reasonable use of the building, structure, or land;
    f. Owing to special conditions, a literal enforcement would result in unnecessary hardship. Special conditions to be considered pursuant to this section of the land development regulations shall include, but not be limited to, the following circumstances:
        1. *Redevelopment.* If the proposed project involves the redevelopment or utilization of an existing developed or partially developed site.
        2. *Substandard lot(s).* If the proposed project involves the utilization of an existing legal nonconforming lot(s).
        3. *Neighborhood character.* If the proposed project promotes the established development pattern of a block face, including setbacks, building height, and other dimensional requirements.
        4. *Public facilities.* If the proposed project involves the development of public parks, public facilities or public utilities.
        5. *Architectural and/or engineering considerations.* If the proposed project utilizes architectural and/or engineering features that would render the project more disaster resistant.
    g. The granting of the variance will be in harmony with the general purpose and intent of this chapter;
    h. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
(5) In granting any variance, the planning and zoning board or city commission may prescribe appropriate conditions and safeguards in conformity with the land development regulations. Violation of such conditions and safeguards, when

made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) Under no circumstances shall the planning and zoning board or city commission grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the land development regulations.

(7) The granted variance shall be valid for one-year. To remain in effect after one-year, one of the following must have occurred:
   a. An extension of time has been approved by the approving body;
   b. Building permits relating to the requested variance have either been applied for or granted; or
   c. A site plan review relating to the requested variance has been applied for or approved by the planning and zoning board.

ANALYSIS OF LAND DEVELOPMENT REGULATIONS:

The criteria for reviewing a variance for approval or denial is contained in Sec. 70-221 of the City of Treasure Island Code of Ordinances. Staff's analysis of the application based on the criteria is provided below. The applicant's narrative and supporting documents are included in this agenda packet as separate attachments.

1. **The variance is in fact a variance as set forth within the land development regulations and within the province of the board or commission based upon the opinion of the city manager or his designee.**

   The variance being requested is set forth within the City's Land Development Regulations and under the purview of the Planning and Zoning Board.

   The applicant states an administrative waiver was granted in May 2021. An administrative waiver was applied for in May 2021, however, it was not granted due to the request for the front setback encroachment exceeding the CDD Director's authority pursuant to Sec. 68-35. The administrative waiver requested by staff was only applicable to the covered patio encroaching approx. 0'-4" into the NW side yard setback and not the front yard setback.

2. **Special conditions or circumstances exist which are peculiar to the building, structure, or land for which the variance is sought and do not apply generally to buildings, structures, or lands in the same district.**

   It appears there are no special conditions or circumstances that exist which are peculiar to the building, structure or land which do not apply generally to buildings, structures or lands in the same district. The subject lot exceeds the minimum lot width, lot depth and total lot area for a single-family dwelling in the RU-75 zoning district. In addition, many of the parcels located in this zoning district on the Isle of Palms have the same or very similar dimensions. All the properties located on 5th St. E have the same required building setbacks as the subject property.

3. **Strict application of the provisions of the land development regulations would not permit the applicant reasonable use of the building, structure, or land.**

   Strict application of the provisions of the land development regulations appears to permit the applicant reasonable use of the subject property.

4. **The peculiar conditions and circumstances existing are not the result of the actions of the applicant, the applicant's agent, or the applicant's predecessors in title.**

   There does not appear to be any existing peculiar conditions or circumstances that apply to the building, structure, or land.

5. **The variance proposed to be granted is the minimum variance that will make possible the reasonable use of the building, structure, or land.**

   The variance requested does not appear to be the minimum variance that will make possible the reasonable use of the building, structure, or land. As noted, an existing single-family dwelling conforms to the front, waterfront, and SE side yard setbacks. It is slightly nonconforming to the NW side yard setback.

6. **Owing to special conditions, a literal enforcement would result in unnecessary hardship. Special conditions to be considered pursuant to this section of the land development regulations shall include, but not be limited to, the following circumstances: Redevelopment; Substandard lot(s); Neighborhood character; Public facilities; Architectural and/or engineering considerations.**

   Redevelopment – N/A- The site is not being redeveloped.

   Substandard lot(s) – N/A- The lot exceeds the minimum requirements for lot width, depth, and total area for a single-family dwelling in the RU-75 zoning district.

   Neighborhood character – The neighborhood consists mainly of single-family dwellings on similar size lots with the same setback requirements.

   Public facilities – N/A

   Architectural and/or engineering considerations – N/A

7. **The granting of the variance will be in harmony with the general intent and purpose of this chapter.**

   The granting of the variance request does not appear to be in harmony with the general intent and purpose of this chapter, as it does not appear that the applicant has met the hardship criteria of this chapter.

8. **The granting of the variance will not be injurious to the neighborhood or**

otherwise detrimental to the public welfare.

The granting of this variance will not be injurious to the adjacent properties or be detrimental to the public welfare.

The applicant has submitted a petition from seven neighbors stating there are no objections to the appearance and the structure as built and they support approval and completion as soon as possible.

STAFF RECOMMENDATION: Staff recommends **DENIAL** of the after-the-fact variance request to Sec. 68-541, to allow an existing covered front porch to encroach approx. 2'-1" into the 15' front yard setback. Based on the analysis of the criteria in Sec. 70-221 above, finding that they have not been substantially satisfied and that an unnecessary hardship does not exist.

Remainder of page intentionally left blank.

OCTOBER 19, 2023
PLANNING AND ZONING BOARD
DEVELOPMENT ORDER

CASE NO. VAR-000407-2023
LOCATION: 11870 5th ST E TREASURE ISLAND, FL 33706

The Planning and Zoning Board has determined that an unnecessary hardship **DOES / DOES NOT** exist pursuant to Sec. 70-221 of the Treasure Island Code of Ordinances, and has moved to:

[ ] APPROVE [ ] DENY
[ ] CONTINUE [ ] APPROVE WITH CONDITIONS

An after-the-fact variance request to Sec. 68-541, to allow an existing covered front porch to encroach approx. 2'-1" into the 15' front yard setback.

_____ _____
Richard Harris, Chair Date
Planning & Zoning Board

RECEIVED AUG 22 2022 **Case Number:** _____

City of Treasure Island Planning and Zoning Board or City Commission Review Application

Please use blue or black ink only. Failure to complete this form in its entirety will result in this application being returned without review. Note: A separate application is required for each request.

Property Owners: Hinh & Thu Trong
Address: 11870 5th St E
Treasure Island Fl.
Phone: _____
Fax: _____
Email: Hinhit@Hotmail.Com

Agent: Thomas Cook
Address: 4519 Herndon ST
Port Charlotte Fl.
Phone: 727-214-8848
Fax: _____
Email: TTomanyTbird@AOL.Com

List all Legal Owner(s) of Property: Hinh & Thu Trong

Complete legal description (may be placed on attached separate page): Capri Isle Sub Blk L- Lot 11

Development Name: Troung Residence

Site Location/Address: 11870 5th St E

Area of Development (Acreage or Square Feet) 8400 Sq Ft

Parcel Identification Number (list all): 15-31-15-13284-012-0110

Application Request: Allow Entrance built 19" Beyond Front Set back
Total width is 16'

Future Land Use Designation _____ Proposed Future Land Use _____

Current Zoning _____ Proposed Zoning _____

I certify that I have reviewed the Land Development Regulations and that my submission meets all requirements. The only exceptions are those items to which I am requesting variances to or waivers from certain sections of the code and understand that they must be listed on the plans individually and on the attached transmittal. I understand that if an item does need a variance, it will be necessary to file through the appropriate review entity.

Signature must be original (No copies, scans, faxes or e-mails)

_____ Owner/Agent

8-16-23 Date

City of Treasure Island, Florida

120 108th Avenue, Treasure Island, FL 33706
Phone (727) 547-4575 Fax (727) 547-4582
www.mytreasureisland.org

VARIANCE REQUEST NARRATIVE FORM

Applicant Name: Hinh and Thu Troung

Variance Address: 11870 5th St. E.

Application Number (Office Use): _____

The planning and zoning board shall authorize, in specific cases, such variance from the terms of the land development regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the land development regulations will result in unnecessary hardship.

The City Commission has the power to grant variances to accessory structures per subsection 68-460(3), density, parking (number or size of spaces), building height, and waterfront yards abutting the Gulf of Mexico or public beach.

The City Commission or the Planning and Zoning Board considers the following criteria to determine if a hardship exists (LDR Sec. 70-221).

All requests shall be valid for one year. To remain in effect after one-year, one of the following must have occurred:

1. *An extension of time has been approved by the approving body;*
2. *Building permits relating to the requested variance have either been applied for or granted; or*
3. *A site plan review relating to the requested variance has been applied for or approved by the planning and zoning board.*

Any requests for an extension of time relating to a variance must be in writing and received by the City Manager or designee at least three weeks prior to its expiration date in order for the request to be placed on the approving body's agenda.

The following narratives must be completed by the applicant as they relate to the variance request prior to submitting the completed application packet to the Community Development Department. Be specific in your narratives.

For any questions please email zoning@mytreasureisland.org

1. ***The variance must be in fact a variance as set forth within the Land Development Regulations and within the province of the board or commission based upon the opinion of the city manager or his designee. (example: a five-foot variance to reduce the waterfront setback on a specific address from 15 feet to 10 feet.) Please state the specific variance request(s).***

This variance request is due to an administative variance granted in May of 2021 for a portico extension proceeding 24" from the front footprint of the existing building. The work to build the portico and related elements were completed and the project stands at 95% completed before having stopped due to information from the Chief building offical that the administrative variance was improper and the projection of the building intrudes 19" into the front set-back line

2. ***State the special conditions or circumstances exist which are peculiar to the building, structure, or land for which the variance is sought and do not apply generally to buildings, structures, or lands in the same district.***

The project having been permitted under a FEMA below 50% provision and unknown at the time of permitting,due inspections of footings CMU wall inspection,vertical steel inspection,partial framing,roof in progress,final roof inspection all completed and approved was halted at Frame inspection and rough electic inspection when the error of the administrative variance became to knowledge of the homeowner and contractor but before drywall application. A "special consideration " is requested due to the progression of the project far beyond where due notice to owner of the discrepancy of the front set-back could have prevented this unfortunate incident .

3. ***State the strict application of the provisions of the Land Development Regulations which would not permit the applicant reasonable use of the building; structure, or land.***

Current set-back regulations regarding the front line in this area is 15 ft. A survey was provided that shown the proposed Portico did exceed into the regulated set-back by 19" for a total of 25.3 sq.ft An administrative variance was granted based on the relative minor impact.

4. ***State the peculiar conditions and circumstances existing which are not the result of the actions of the applicant, the applicant's agent, or the applicant's predecessors in title.***

Having been granted an Administrative variance and paid fees for such grant and issued a building permit under the granting of the variance the project proceeded with no reason to believe there was anything amiss with permitting or set-back issues.
At this time there the project stands at 90-95 % completed

5. ***Is the variance proposed to be granted the minimum variance that will make possible the reasonable use of the building, structure, or land? Please explain.***

The Portico is an open air covered front porch that the intended use is for a reception area much as an outside foyer

6. ***Owing to special conditions, a literal enforcement would result in unnecessary hardship. Special conditions to be considered pursuant to this section of the Land Development Regulations shall include, but not limited to, the following circumstances:***

In order to enforce the required set-back at this time would result in removing a section of the new portico from foundation to roof. Although not impossible ,it would create a hardship in the lengthening of completion time and special engineering required to shift the load back to the original footprint of the building. In all this ,should had been avoided by a requirement of a variance prior to issue of a building permit or the confusing nature of the administrative variance (see original Administrative Variance Narrative) which clearly states the front portico and makes no reference to a existing side set-back issue to which the owner or contractor was aware of at the time of permitting.

a. ***Redevelopment. Does the proposed project involve the redevelopment or utilization of an existing developed or partially developed site?***

yes, the 24" extention is part of the existing outside foyer which was covered in the 70's with a flat roof system Which became uninsurable when purchased by the new owners. Prompting the owner to request a new roof designed to make the building insurable. The extension added to the portico was intended to provide a pleasing apprearance and conform with several other local properties designs

b. ***Substandard lot(s). Does the proposed project involve the utilization of an existing legal nonconforming lot(s)?***

No

c. ***Neighborhood character. Does the proposed project promote the established development pattern of a block face, including setbacks, building height, and other dimensional requirements?***

For the most part the new front design projects the character of the neighbohood

d. ***Public facilities. Does the proposed project involve the development of public parks, public facilities or public utilities?***

No

e. ***Architectural and/or engineering considerations. Does the proposed project utilize architectural and/or engineering features that would render the project more disaster resistant?***

Yes, the new roofing system along with several upgrades in fastening systems and wind related strengthening of the roof and secure fastening to the existing walls provides increased hardieness of the entire structure

7. ***Will the granting of this variance(s) be in harmony with the general purpose and intent of this chapter (LDR-Division 3-Variances)?***

The owner and the builder believes the project does conform

8. ***Will the granting of the variance(s) not be injurious to the neighborhood or otherwise detrimental to the public welfare?***

The intent of the improved structure project is to improve neighborhood resistance of storm related events

August 9, 2023

Letter of Petition to St Petersburg Pinellas County Zoning Department

To whom it may concerns,

We are the neighbors of Hinh and Hoai Truong owners of the house address 11870 5th street East, Treasure Island, FL 33706.

We have no objections to the appearance and the structure as built of the house and we support approval and completion as soon as possible.

They purchased this house 3 years ago and haven't live in it since September 2020. The owners have been cleaning up the yard and waiting to finish the house and we neighbors would like to see this happen for them.

Thank you

Name: Carl Daniel Riggs JR.
Signature: Carl Daniel Riggs, Jr.
Phone: 813 313 0090
Address: 11855 5th Street East
TI, FL 33706

Name: Andy Johnson
Signature: Andy Johnson
Phone: 727 363 0400
Address: 11900 5th St E
T.I FL 33706

Name: Shari Fuss
Signature: Shari Fuss
Phone: 727-360-4194
Address: 11950 5 St E

John Iglesias
John Iglesias
11670 5th St. E.
631-766-9600

Name: Brian Byrd 12000 5th St E
Signature:
Phone: 858-922-4296
Address: 11800 5th St East
TI, FL 33706

Name: Cecil & Helen Hersey
Signature:
Phone: 727-692-8259
Address: 11750 5th St E, TI, FL 33706

Name: Al + Diana Quenthardt
Signature: Diana Quenthardt
Phone: 727-318-7450
Address: 11675 - 5th St. E.
T.I. FL 33706

JOB NO.: 230853		**MURPHY'S LAND SURVEYING, INC.**	L.B. #7410
DRAWN BY: MFB	CHECKED BY: EDM	PROFESSIONAL LAND SURVEYORS 5760 11TH AVENUE NORTH ST. PETERSBURG, FLORIDA 33710 WWW.MURPHYSLANDSURVEYING.COM	PH. (727) 347-8740
DATE OF FIELD WORK: 07/10/2023			FAX (727) 344-4640

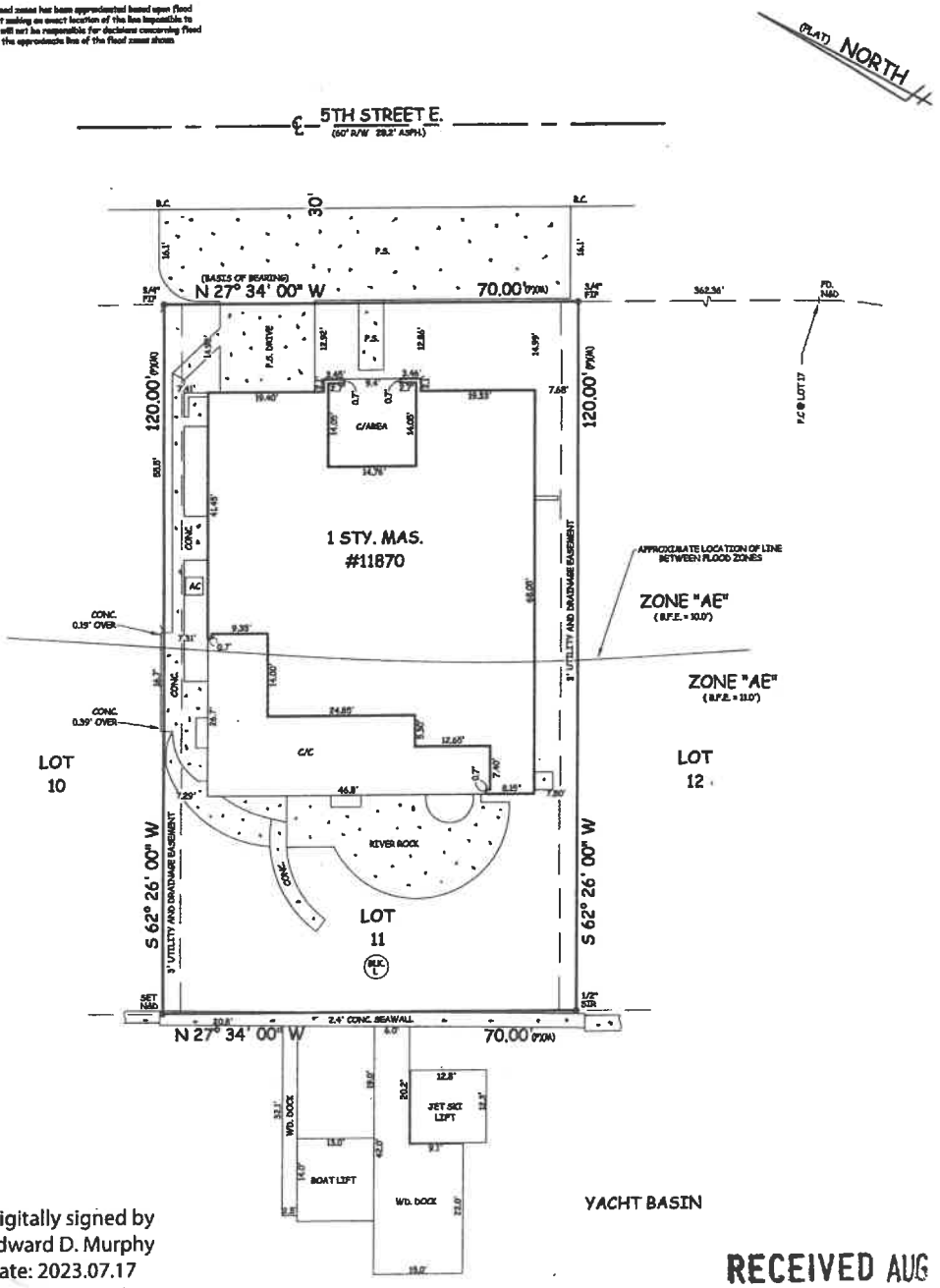
CERTIFIED TO: Hinh Quang Truong

SCALE: 1" = 20'

Survey not valid for more than one (1) year from date of field work.

SEC. 14 TWP. 31 S. RGE. 15 E.

"The location of the line between flood zones has been approximated based upon flood maps that scale one inch to 500 feet making an exact location of the line impossible to determine. Accordingly, this survey will not be responsible for decisions concerning flood insurance requirements based upon the approximate line of the flood zones shown hereon."



Digitally signed by Edward D. Murphy
Date: 2023.07.17 09:10:21 -04'00'

RECEIVED AUG 16

A BOUNDARY SURVEY OF: Lot 11, Block L, CAPRI ISLE SUBDIVISION, as recorded in Plat Book 39, Pages 6 and 7 of the Public Records of Pinellas County, Florida.

According to the maps prepared by the U.S. Department of Homeland Security, this property appears to be located in
Flood zone: AE Comm. Panel No. : 125153 0194 H Map Date : 8/24/2021 Base Flood Elev : 10.0' - 11.0'

FOR THE EXCLUSIVE USE OF THE HEREON PARTY(IES), I HEREBY CERTIFY TO ITS ACCURACY (EXCEPT SUCH EASEMENTS, IF ANY, THAT MAY BE LOCATED BELOW THE SURFACE OF THE LANDS, OR ON THE SURFACE OF THE LANDS AND NOT VISIBLE), AND THAT THE SURVEY REPRESENTED HEREON MEETS THE MINIMUM REQUIREMENTS OF CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE TO THE BEST OF MY KNOWLEDGE AND BELIEF. UNDERGROUND FOUNDATIONS AND/OR IMPROVEMENTS, IF ANY, ARE NOT SHOWN AND OTHER RESTRICTIONS AFFECTING THIS PROPERTY MAY EXIST IN THE PUBLIC RECORDS OF THIS COUNTY. (THIS SURVEY HAS BEEN DONE WITHOUT THE BENEFIT OF REVIEWING A CURRENT TITLE SEARCH). SURVEY NOT VALID FOR MORE THAN ONE YEAR FROM DATE OF FIELD WORK AND NOT VALID UNLESS EMBOSSED WITH SURVEYOR'S SEAL. BEARINGS SHOWN ARE BASED ON PLAT, UNLESS OTHERWISE NOTED.

EDWARD D. MURPHY REG. P.L.S. # 5633

LEGEND:
F.I.P. - FOUND IRON PIPE
F.C.M. - FOUND CONCRETE MONUMENT
F.I.R. - FOUND IRON ROD
S.I.R. - SET IRON ROD 1/2" LB #7410
P.R.C. - POINT OF REVERSE CURVATURE
P.C.C. - POINT OF COMPOUND CURVATURE
FIN. FLR. - FINISHED FLOOR ELEVATION
P.R.M. - PERMANENT REFERENCE MONUMENT
N.A.V.D. - NORTH AMERICAN VERTICAL DATUM OF 1988

FD. - FOUND
N.&D. - NAIL AND DISK
P.O.L. - POINT ON LINE
P.C. - POINT OF CURVATURE
P.T. - POINT OF TANGENCY
P.I. - POINT OF INTERSECTION
-X-X-X- - FENCE
FE. - FENCE
C.L.F. - CHAIN LINK FENCE
-F/- ADJACENT FENCE
ADJ. - ADJACENT

R. - RADIUS
A. - ARC
C. - CHORD
Δ. - DELTA
R/W - RIGHT OF WAY
- NUMBER
MAS. - MASONRY
FRM. - FRAME
G.I. - GRATE INLET
C.B. - CATCH BASIN
F.H. - FIRE HYDRANT

M/S - METAL SHED
ALUM. - ALUMINUM
W.H. - WATER HEATER
P.S. - PATIO STONE
C.P. - CARPORT
PL. - PLANTER
B.C. - BACK OF CURB
E.P. - EDGE OF PAVEMENT
E.R. - EDGE OF ROAD
E.O.W. - EDGE OF WATER
T.O.B. - TOP OF BANK

WW - WING WALL
℄ - CENTERLINE
R/W - RIGHT OF WAY
(P) - PLAT
(C) - CALCULATION
(D) - DEED
(M) - MEASURED
N. - NORTH
S. - SOUTH
E. - EAST
W. - WEST

ESMT. - EASEMENT
M.H. - MANHOLE
CONC. - CONCRETE
CLR. - CLEAR
COL. - COLUMN
WD. - WOOD
BLK. - BLOCK
SW - SEAWALL
ASPH. - ASPHALT
UTIL. - UTILITY
DR. - DRAINAGE

O.H. - OVERHANG
GAR. - GARAGE
C/ WD. - COVERED WOOD
C/P.S. - COVERED PATIO STONE
C/C - COVERED CONCRETE
A/C. - AIR CONDITIONER
S.P. - SCREENED PORCH
-P/P -OVERHEAD POWER LINES
-T-T -OVERHEAD TELEPHONE LINES
P.P. - POWER POLE
L.P. - LIGHT POLE

City of Treasure Island, Florida

120 108th Avenue, Treasure Island, FL 33706
Phone (727) 547-4575 Fax (727) 547-4582
www.mytreasureisland.org

September 18, 2023

ADMWAIV-000406-2023

Owner: Hinh Troung
Hoai Troung
11870 5th St E
Treasure Island, FL 33706

Applicant: Thomas Cook
JR Construction Group, LLC
403 NE 9th St
Gainesville, FL 32609

Address and Legal Description:

11870 5th St E
14-31-15-13284-012-0110
LOT 11, BLK L, CAPRI ISLE SUBDIVISION
Treasure Island, FL 33706

Request:

Related to Building Permit BLDR-001717-2021. Request for a Staff Administrative Waiver to grant a covered patio to encroach 4" x 26'7" into the side yard setback. This encroachment would permit the covered patio to stay in line with the existing nonconforming structure.

Dear Sir/Madam:

As described in Section 68-35(a), "Administrative waivers" of the Treasure Island Land Development Regulations:

> Administrative waivers provide a process for the city staff to consider requests to waive or modify certain standards of this Code when, special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development regulations otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

As described in Section 68-35(b) Applicability

> An administrative waiver may be granted to waive or modify any requirement of the land development regulations (LDR) except permitted land uses; density; floor area ratio; specific prohibitions (for example, prohibited signs), or procedural requirements.

The size of this requested waiver is within the administrative review authority, as described in Section 68-35(c) that states:

> The CDD director may approve an administrative waiver to grant relief from any of the following requirements of the LDR, up to a maximum variance of ten percent of the requirement or a maximum of one foot, whichever is smaller.

On May 12, 2021, the application fee of $100 was paid for an administrative waiver that was not approved. This fee has been applied to this administrative waiver.

Findings of Fact:

- Due to the size of the administrative waiver requested; it is not necessary to hold a public hearing or send out a public notice.
- The approval of this administrative waiver provides for an adjustment that does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district.
- This administrative waiver request is not in conflict with the Treasure Island Comprehensive Plan or any other adopted plan or policy of the City of Treasure Island.
- The subject property has the following setbacks as shown in Sec. 68-541:
  Class E:
  Street: 15 feet
  Side: 7½ feet
  Waterfront: 25 feet
- The existing structure is nonconforming and encroaches 4 inches into the side yard setback.
- The 4 inch encroachment of the covered patio into the side setback will have no adverse impact on the abutting properties.

Based on the findings of fact and conclusions of law, as the Community Development Director for the City of Treasure Island:

> I am granting the administrative waiver request for a covered patio to encroach 4” x 26’7” into the side yard setback. This encroachment would permit the covered patio to stay in line with the existing nonconforming structure located at 11870 5th St E.

Further, I do not impose any conditions upon this waiver.

Sincerely,

Kathryn Younkin, AICP, LEED AP BD + C
Community Development Director

AFFIDAVIT TO AUTHORIZE AGENT

STATE OF ~~Pinellas~~ Florida
COUNTY OF Pinellas

Hinh and Thu Truong
NAME OF OWNER(S) being duly sworn, depose(s) and say(s):

PROPERTY ADDRESS(ES): 11870 5th ST E

Parcel I.D. Number(s).: 14-31-15-13284-012-0110

1. That this property constitutes the property for which request for permits and approvals from the City of Treasure Island, as necessary, are being applied for.

2. That the undersigned (has/have) appointed Thomas Cook as (his/their) agent(s) to represent the above-described property and serve as the applicant/agent for development applications/modifications, at the Planning and Zoning Board meeting and execute any permits or other documents necessary to affect such permit(s).

3. That this affidavit has been executed to induce appropriate state agency in Florida to consider, and act on the above-described property.

4. That (I/we), the undersigned authority, hereby certify that the foregoing is true and correct.

PRINTED NAME OF PROPERTY OWNER(S): HINH TRUONG
SIGNATURE OF PROPERTY OWNER(S): [signature]
DATE: 8/16/2023

STATE OF: Florida
COUNTY OF: Pinellas
The foregoing instrument was acknowledged before me this 16 day of August, 2023, by (company/agent) Hinh Truong by (persons name) _____, it's (title) _____ who is personally known to me, or who has produced FL DL as identification and who _____ did ~~did~~ did not take an oath.
By means of physical presence.

Maryln Asencio-Marquez
(Print, Type, or Stamp Commissioned Name of Notary Public)
Commission Number:
Commission Expires:

MARYLIN ASENCIO-MARQUEZ
Notary Public - State of Florida
Commission # HH 336334
My Comm. Expires Dec 2, 2026

$18.50 D DOC STAMP COLLECTION $0.70 KEN BURKE, CLERK OF COURT AND COMPTROLLER PINELLAS COUNTY, FL BY DEPUTY CLERK: CLKPR12

This Instrument Prepared By/Return To:
Chris M. Vorbeck, Esq.
The Law Office of Chris M. Vorbeck, P.A
4470 Northgate Court
Sarasota, FL 34234
941-921-3124

QUIT CLAIM DEED

THIS QUIT CLAIM DEED, made on the 28 day of December, 2021, by **HINH QUANG TRUONG and HOAI THU TRUONG, husband and wife,** whose post office address is **11870 5TH STREET EAST, TREASURE ISLAND, FL 33705,** hereinafter called "Grantor", and **THE TRUONG FAMILY TRUST dated the 28 day of December, 2021, HINH QUANG TRUONG and HOAI THU TRUONG, Trustees,** whose post office address is **11870 5TH STREET EAST, TREASURE ISLAND, FL 33705,** hereinafter called "Grantee",

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH, That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable consideration, receipt whereof is hereby acknowledged hereby remise, release and quitclaim unto the Grantee forever, all the right, title, interest, claim and demand which Grantor has in the following described lot, piece or parcel of land, situated, lying and being in the County of **PINELLAS**, State of **FLORIDA**, viz:

Lot 11, Block "L", CAPRI ISLE BLOCKS L-M-N-O, according to the plat thereof, as recorded in Plat Book 39, at Pages 6 and 7, of the Public Records of Pinellas County, Florida.

Subject to easements, covenants, conditions, restrictions, reservations of record, if any, applicable zoning regulations and ordinances, and taxes for the current and subsequent years.

Grantor(s) reserves the right to use, occupy and reside upon any real property placed in this Trust as their permanent residence during their lives. It is the intent of this provision to retain for the Grantor(s) the requisite beneficial interest and possessory right in and to such real property to comply with Florida Statute 196.041 (2), such interest being hereby declared to be "equitable title to real estate" as that term is employed in Section 6, Article VII of the State Constitution.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behoof of said Grantee forever.

This Deed is being prepared without the benefit of a title search.

HINH QUANG TRUONG and HOAI THU TRUONG, as TRUSTEES, shall have the independent power and authority to protect, conserve, and to sell, or lease, or to encumber, or otherwise to manage and dispose of the real property conveyed by this deed. All Successor

TRUSTEES are hereby granted the power to protect, conserve and to sell, or to lease, or to encumber, or otherwise to manage and dispose of the real property described in this deed.

Any person dealing with the TRUSTEE(S) shall deal with said TRUSTEE(S) in the order as set forth in **THE TRUONG FAMILY TRUST dated the 28 day of December, 2021, HINH QUANG TRUONG and HOAI THU TRUONG**, TRUSTORS and/or TRUSTEES. However, no person shall deal with a Successor TRUSTEE until one or more of the following have been received by said person or placed in the aforementioned county:

A. The written resignation of the prior TRUSTEE(S) sworn to and acknowledged before a notary public.
B. A certified death certificate of the prior TRUSTEE(S).
C. The order of a court of competent jurisdiction adjudicating the prior TRUSTEE(S) incapacitated or removing said TRUSTEE(S) for any reason.
D. The written certificates of two physicians currently practicing medicine that the TRUSTEE(S) is physically or mentally incapable of handling the duties of TRUSTEE(S).
E. The written removal of a Successor TRUSTEE(S) and/or the appointment of an additional Successor TRUSTEE(S) by either of the GRANTORS sworn to and acknowledged before a notary public; this right being reserved to either GRANTOR.

IN WITNESS WHEREOF, Grantors have hereunder set their hand and seal the day and year first above written.

HINH QUANG TRUONG, Grantor

HOAI THU TRUONG, Grantor

Witnesses as to Both:

Witness: Kaleb Bitzenhan

Witness: Chris Drew

WITNESSES PLEASE PRINT NAME BELOW SIGNATURE.

STATE OF FLORIDA COUNTY OF Hillsborough

THE FOREGOING instrument was acknowledged before me this 28 day of December, 2021, by **HINH QUANG TRUONG and HOAI THU TRUONG**, to be personally known to me or who presented Drivers License as identification and who personally and physically appeared before me at the time of notarization and who did not take an oath.

WITNESS my hand and official seal.

Signature

Name: Tyler Meek

TYLER SCOTT MEEK
Notary Public - State of Florida
Commission # GG 313897
My Comm. Expires Mar 19, 2023
Bonded through National Notary Assn.

My Commission Expires:

From: Shari Fuss
To: Miller, Jesse
Subject: Case # VAR-000407-2023
Date: Wednesday, October 11, 2023 10:49:34 AM

Jesse Miller
Planning and Zoning Board of Treasure Island
Case # VAR-000407-2023

> My name is Shari Fuss and I live at 11950 5th Street East and my neighbor asked me to sign a petition for her to get a variance for her house, also located on 5th Street, Isle of Capri. I feel badly for them and I signed the paper, but after talking with my husband I feel that nobody should be granted a variance. If you could please remove my name from their petition, I'd appreciate it. Our home had to move a wall on our garage because it was build 1 1/2-2 feet into the easement on the north side of the house, and in order to get a certificate of occupancy our wall, electric box and side door had to be moved. The city has regulations and if one house has to abide by them so does everyone else. The property on Capri Blvd. was zoned for 3 houses and the owner went to a meeting and requested to forgo the easement and build 4 houses instead, they were denied. The house at 12650 7th Street East, Isle of Capri built an elevator and the roof over that part of the house exceeded the height allowed, they asked for a variance and they were denied. I'm sure there are plenty of other instances that fit this scenario, therefore I would ask for this to be denied.

Thank you,
Shari Fuss
11950 5th Street East
Treasure Island, Fl. 33706

October 10, 2023

Planning and Zoning Board of Treasure Island Florida
Principal Planner Jesse Miller
Planning Manager Vickie Pless
Assistant Director Jamie Viveiros
Director Kathryn Younkin
Treasure Island City Hall
120 108th Avenue
Treasure Island, FL 33706

Regarding case # VAR-000407-2023

Variance requested to allow an existing covered front porch to encroach 2 feet 1 inch into the 15 foot front yard setback at 11870 5th Street East, Treasure Island, Florida 33706

Dear Mr. Miller, Ms. Pless, Ms. Viveiros, and Ms. Younkin,

I am the owner of 11950 5th Street East. Treasure Island, Florida 33706. In May 1997, I entered into a purchase agreement for my house. At the end of May 1997, the City of Treasure Island issued a building code violation as the garage wall was built 2 feet beyond the property line setback. (Attached is a copy of the building code violation for my house that led to rebuilding the wall.) It is my understanding that the builder applied for a variance, so that we did not have to shore up the roof, tear down the existing wall, move the electrical panel to then rebuild the wall 2 feet back. In 1997, this Planning and Zoning Board did not grant a variance. In order to get a certificate of occupancy, I had to pay to tear down and rebuild the wall 2 feet back.

The variance currently being requested is the exact same situation. My wall was built 2 feet beyond the setback, and I had to pay to tear down and rebuild it. Here, the front porch was built 2 feet beyond the setback requirement. Because this Planning and Zoning Board did not grant my variance in 1997, it should not grant this same variance request now.

Thank you for your attention to this matter.

Sincerely,

Jonathan Fuss

From: Tim Pellerin
To: Miller, Jesse
Subject: 11870 5th Street E Variance Request Case No. VAR-000407-2023
Date: Tuesday, October 10, 2023 1:03:41 PM

Dear Mr. Miller,

My wife, Jane Pellerin, and I, reside at 11775 5th Street E as permanent, full-time residents of Isle of Capri and were served with certified mail on the captioned matter. We understand a public hearing will be held on October 19, 2023, to consider a variance request to allow a front porch to encroach 2' 1" into the 15' front yard setback. Both my wife and I are against approving this request, when considering the following facts:

It is our understanding that this is not the first variance request from the owners. When a dock was built, they were seeking a variance for that project and were successful in getting it.

The house was sold to the current owners on September 9, 2020. While the original building permit for this work was first issued on January 20, 2022, in the amount of $123,008, the house had already been in complete disrepair almost since it was first purchased. Therefore, in our estimation, this "perpetual" construction has already been underway for 36 months.

The footprint of the house was expanded, creating this issue. There was a builder hired, a permit was obtained, an approval for that permit was granted, yet now we have a structure that is in non-compliance. How does this happen and who are the parties responsible? While this house is now out of compliance with set-back restrictions, in our opinion, this "home" has been "non-confirming" since it was purchased in 2020 due to its overall condition. Every neighborhood can be defined by the worst house in the community, and this structure is clearly the worst maintained property on Isle of Capri. The issues with this property during its initial stages of construction were further aggravated by the City of Treasure Island Code Enforcement department ignoring code enforcement regulations, i.e., continual foot tall grass.

Over the past 20 years, we installed an in-ground pool and added onto the back of our residence. In both instances, our builders made it perfectly clear to us, "the City of Treasure Island will not grant set-back exceptions." 11870 Fifth Street is no exception. We avoided these problems by hiring qualified construction companies that built within the city ordinances. Therefore, in conclusion, we request that this variance request be denied as it would change established precedent.

Sincerely,

Tim and Jane Pellerin
11775 5th Street E.
Treasure Island, FL 33706

Confidentiality Notice: This communication and any accompanying attachments are confidential and privileged. They are intended for the sole use of the addressee. If you receive

this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon this communication is strictly prohibited. If you have received this communication in error, please contact the sender immediately.

From:	Paula Lyens
To:	Miller, Jesse
Subject:	Fw: 11870 5th Street East, Zoning RU-75 Hinh & Hoai Truong
Date:	Tuesday, October 10, 2023 3:54:42 PM

----- Forwarded Message -----
From: Paula Lyens <plyens41@aol.com>
To: r@mytreasureisland.org <r@mytreasureisland.org>
Sent: Tuesday, October 10, 2023 at 03:52:39 PM EDT
Subject: 11870 5th Street East, Zoning RU-75 Hinh & Hoai Truong

Jesse,

My name is Paula Lyens with my husband Gary we reside at 11800 5th Street East.

We are responding to the certified letter received for property located at 11870 5th Street East.

We have been dealing with the construction of said property for over 3 years. It has been a blight on our street and now we are being forced to deal with the 2'1" variance. We as many others want to understand how this could have happened and been able to be completed without someone identifying the error of 2'1". The ordinance has been in place for years and by allowing these residents this variance, would be unfair to other long-term residents that were denied when they requested a variance.

Therefore, we are denying their request for variance.

Paula & Gary Lyens
727-385-9448

From: Debbie Hornik
To: Miller, Jesse
Subject: Re: Property located at 11870 5th St E zoning RU-75, Hinh & Hoai Truong
Date: Tuesday, October 10, 2023 11:00:22 AM

Hi Jesse
11850 5th street east

Thank you

Debbie Hornik, MBA
727-470-3348
Deb.hornik@yahoo.com

> On Oct 10, 2023, at 10:17 AM, Miller, Jesse <jmiller@mytreasureisland.org> wrote:
>
> Debbie,
>
> Thank you so much for reaching out. Public comments are always encouraged, whether for or against a case presented at the Planning and Zoning Board. Your email will be read into the record at the October 19, 2023, Planning & Zoning Board meeting during the public comment portion of the meeting. Could you please provide us with your address as well? Thank you and have a great day.
>
> **Jesse Miller, CFM**
> *Principal Planner*
> *Community Development Department*
> *120 108th Ave*
> *Treasure Island, FL 33706*
> *(727)547-4575 ext. 239*
> <image001.jpg>
>
> *All government correspondence is subject to the public records law.*
>
> ---
>
> **From:** Debbie Hornik <deb.hornik@yahoo.com>
> **Sent:** Tuesday, October 10, 2023 8:22 AM
> **To:** Miller, Jesse <jmiller@mytreasureisland.org>
> **Subject:** Property located at 11870 5th St E zoning RU-75, Hinh & Hoai Truong
>
> Hello Jesse,
>
> Thank you for taking my call yesterday.

My husband and I moved here 25 years ago and have met many amazing people and developed some of the most valuable relationships in our lives.

We have been welcoming to new neighbors and always stewards of our community. I have served on the ICCA Board and have always taken pride in our small community. Over the last 3 years, we have endured endless issues with the property at 11870 5th St. E, Treasure Island, Florida 33706. We have had to replace 3 lawns in our backyard due to the endless construction issues over approximately a 3-year period all while paying high beach taxes. The lack of movement to the completion of said property has only added to our frustration. Now we are dealing with the issue of a 2'1" variance that was clearly missed. We want to know why and who is responsible? While we empathize with the delays and lack of a dependable contractor, we are not in agreement regarding a 2' 1" variance for this property next door.

Treasure Island has City Ordinances in place for years and by allowing this particular homeowner an exception, this will set a new precedent for all of Isla Capri. It will enable existing homeowners or newcomers to have the option of an additional 2'1" variance when renovating, remodeling, or rebuilding their properties.

We decline approval.

Respectfully,

Debbie Hornik, MBA
727-470-3348
deb.hornik@yahoo.com

From: whiteyproduce (null)
To: Miller, Jesse
Subject: Re: RU-75 Property located at 11870 5th Street East Hinh and Hoai Truong
Date: Tuesday, October 10, 2023 11:00:38 AM

11805 5th Street East

Thanks Charlie
President Whitey Produce Co. Inc.

> On Oct 10, 2023, at 10:18 AM, Miller, Jesse <jmiller@mytreasureisland.org> wrote:
>
> Charlie,
>
> Thank you so much for reaching out. Public comments are always encouraged, whether for or against a case presented at the Planning and Zoning Board. Your email will be read into the record at the October 19, 2023, Planning & Zoning Board meeting during the public comment portion of the meeting. Could you please provide us with your address as well? Thank you and have a great day.
>
> Jesse Miller, CFM
> Principal Planner
> Community Development Department
> 120 108th Ave
> Treasure Island, FL 33706
> (727)547-4575 ext. 239
>
> All government correspondence is subject to the public records law.
>
> -----Original Message-----
> From: whiteyproduce (null) <whiteyproduce@aol.com>
> Sent: Tuesday, October 10, 2023 9:58 AM
> To: Miller, Jesse <jmiller@mytreasureisland.org>
> Subject: RU-75 Property located at 11870 5th Street East Hinh and Hoai Truong
>
> To Jesse
> I have been coming to Treasure Island for 54 years and 19 years ago purchased my house on Isle of Capri. In that time frame I have seen many city ordinances get changed or improved (not always for the best).
> As for the property at hand we have lived for multiple years with a partially renovated construction that has no end in sight. Whatever the reason bad architects, bad contractors or just bad planning, this project have not been handled well at all.
> When a renovation or construction starts plans are submitted and are approved, modified, or denied. We would like to know how a structure over the setback line was overlooked. As we feel for our new neighbors we don't want to set a precedent for future construction or renovation on the Isle of Capri. 2'1" then 3'2" etc. Saying this we am not in agreement with this 2'1" variance on said property. Unfortunately I will be out of town during this meeting or I would attend so our approval is denied.
>
>
> Thanks Charlie
> President Whitey Produce Co. Inc.

AGENDA ITEM NO. 10.D

Item Cover Page

PLANNING & ZONING BOARD AGENDA ITEM REPORT

DATE:	October 19, 2023
SUBMITTED BY:	Jesse Miller, Community Development
ITEM TYPE:	Public Hearings
AGENDA SECTION:	PRESENTATION OF ITEMS
SUBJECT:	VAR-000399-2023- 10232 Tarpon Dr.- An after-the-fact variance request to Sec. 68-458, to increase the waterfront solid fence height from 30” to 6’ for an existing 24’ x 6’ solid PVC fence.
BACKGROUND:	See attached staff report.
POLICY/PURPOSE:	N/A
STRATEGIC PLAN RELEVANCE:	N/A
ANALYSIS/DISCUSSION:	See attached staff report.
FUNDING:	N/A
MOTION:	See attached staff report for proposed motions.

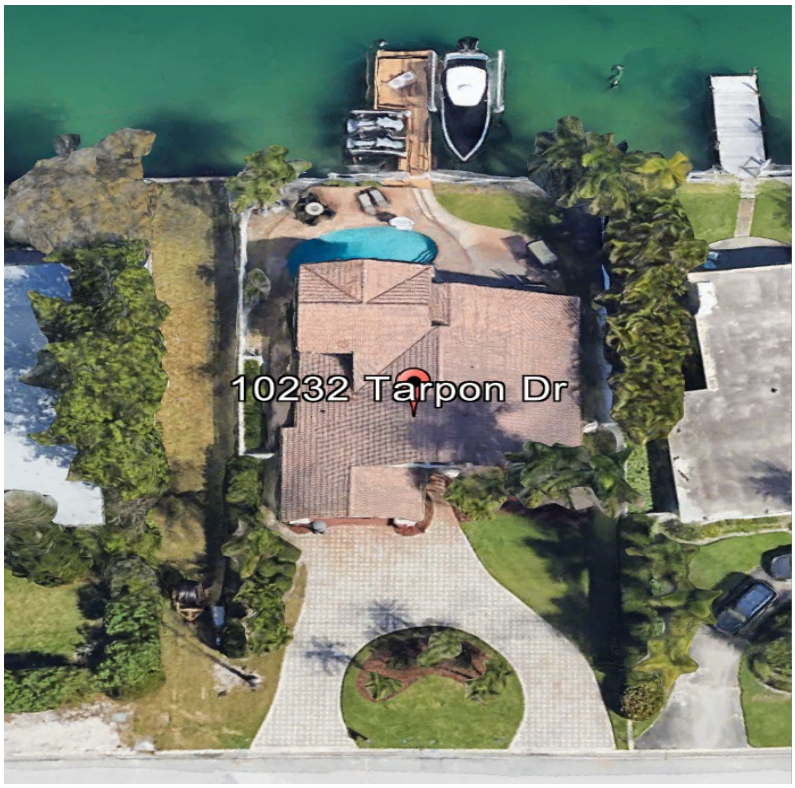
ATTACHMENTS:
1. Staff Report.pdf
2. Application.pdf
3. Variance Narrative.pdf
4. Survey & Site Plan.pdf
5. Fence Cross Section.pdf
6. Site Photos.pdf
7. Code Enforcement Board Order.pdf
8. Warranty Deed.pdf

CITY OF TREASURE ISLAND
PLANNING AND ZONING BOARD
120 - 108th Avenue, Treasure Island, Florida 33706
Telephone (727) 547-4575; Fax (727) 547-4584

CASE NO. VAR-000399-2023
STAFF REPORT
THURSDAY, OCTOBER 19, 2023 AT 2:00 P.M.

DESCRIPTION: An after-the-fact variance request to Sec. 68-458, to increase the waterfront solid fence height from 30" to 6' for an existing 24' x 6' solid PVC fence.

SITE LOCATION: 10232 Tarpon Dr
Treasure Island, FL 33706



PARCEL ID #: 24-31-15-66042-001-0150

LEGAL DESCRIPTION: LOT 15, BLOCK 1, PARADISE ISLAND SECOND ADDITION, AS RECORDED IN PLAT BOOK 34, PAGES 48 & 49, PINELLAS COUNTY, FLORIDA.

PROPERTY OWNER: Kevin Burrill

8967 Silverthorn Rd.
Largo, FL 33777

GENERAL INFORMATION:

Land Use: Residential Urban

Zoning: RU-75 (Single Family Residential)

Adjacent Property (Use):

North: Boca Ciega Bay
East: 10234 Tarpon Dr.- Single- Family Residence
South: 10231 Tarpon Dr.- Single-Family Residence
West: City Right of Way/Open Space

Site Area: Approx. 76 ft. x 135 ft. = 10,260 sq. ft.

Flood Zone: AE-11, Flood Insurance Rate Map
Community Panel No. 12103C0194H, August 24, 2021.



PROPERTY SUMMARY:

According to PCPAO, the subject property contains an existing one-story single-family dwelling that was constructed in 1956 with a swimming pool constructed in 1984. The property abuts a platted right-of-way on the north.

Per Sec. 68-458 fences in the waterfront yard are limited to 30 inches in height for a solid fence, or a 4-foot open fence. The waterfront yard on this property consists of the 30-foot setback as measured from the property line or the centerline of the seawall, whichever is closer.

The fence has not been installed to meet the Florida Building Code, as the gap below the fence exceeds the 4" sphere requirement.

On April 10, 2023, the Code Enforcement Board found the property owner to be in violation of Sec. 66-104.1 and Sec. 68-458 for the construction of an unpermitted 24' x 6' solid PVC fence in the waterfront yard abutting a right-of-way (ROW). An order to comply was issued.

Without further action by the property owner, on August 4, 2023, code enforcement issued a notice of hearing scheduling the matter before the Code Enforcement Board. On August 16, 2023, the Code Enforcement Board approved a motion for the property owner to make the fence code compliant or obtain a variance from the Planning and Zoning Board or a fine of $30.00 per day will begin on November 1, 2023.

On September 20, 2023, the Code Enforcement Board amended the order to extend the fine date from November 1, 2023, to December 1, 2023, due to Hurricane Idalia and the staff and applicant agreeing to attend the October 19, 2023, Planning and Zoning Board meeting instead of the originally scheduled September 21, 2023, meeting.

TREASURE ISLAND CODE OF ORDINANCES:

CHAPTER 68- ZONING REGULATIONS

ARTICLE I. - IN GENERAL
Sec. 68-2. - Definitions.
Unless specifically defined below or in the specific article in which they appear, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage, and to give these regulations their most reasonable application. For the purpose of enforcing and administering this chapter, the following words shall have the definitions and meanings as herein set forth.

> *Yard, waterfront* means a yard or any portion thereof on lots abutting a waterfront and extending across the full width of the lot or any portion thereof or parcel and measured from the mean high water line, property line or seawall, whichever is closer and the building setback line.

ARTICLE VIII- BUILDING SETBACK LINES
Sec. 68-541. – Setback classifications.
Paradise Island
Tarpon Drive:
Bay side:
Street: 40 feet

Side: 10 feet
Waterfront: 30 feet

ARTICLE VI- ZONING DISTRICT REGULATIONS
DIVISION 2. – RU-75 (SINGLE-FAMILY RESIDENTIAL) ZONING DISTRICT
Sec. 68-242. - Uses permitted.
The following uses shall be allowed within the RU-75 zoning district as permitted, special exception or accessory uses as set forth herein:

(1) Permitted uses. The following permitted uses shall be allowed within an RU-75 zoning district:

a. Dwelling, residential single-family.

ARTICLE VII- SUPPLEMENTAL LOT AND USE REGULATIONS
DIVISION 2. – LOT REGULATIONS
Sec. 68-458. - Garden walls, fences and hedges.

(a) *Generally.* All garden walls and fences shall be located completely within the limits of the property lines and shall have equal architectural treatment on both sides; i.e. the side facing abutting properties, streets, etc., shall be finished. See also section 68-462, Screening regulations. All fees pursuant to this section, shall be set by the city commission in appendix A.

(d) *Waterfront yards.* All garden walls, fences or hedges within a waterfront yard shall not exceed 30 inches in height above the finished grade level; provided, however, that a chain link or an open fence with openings not less than 3⅝ inches between intermediate uprights which are not greater than 1½-inch cross sections may extend up to four feet in height. Decorative post caps may be installed on structural posts of the fence, but shall not extend more than ten inches above the top rail.

CHAPTER 70- PLANNING AND ZONING
ARTICLE III- APPEALS TO ADMINISTRATIVE DECISIONS; SPECIAL EXCEPTIONS AND VARIANCES
DIVISION 3. – VARIANCES
Section 70-221. – Procedure

(1) An application for such variance has been received by the city manager or specified designee, stating the special conditions and circumstances applying to the building, structure, or land for which such variance is sought. The applicant shall submit a narrative that explains the variance being requested in a manner that addresses the criteria specified in subsection (d) as they relate to the specific request. Since each application is considered based upon the unique circumstances presented by such application, prior decisions of the board or commission shall not constitute grounds for the granting of any variance.

(2) The board or commission has received a report from the city manager or specified designee that evaluates the application based on the criteria required by this section.

(3) The board or commission holds a public hearing after written and posted notice has been given to the extent provided by chapter 70.

(4) The board or commission has considered the following criteria and find that they have been substantially satisfied and a hardship exists:
    a. The variance is in fact a variance as set forth within the land development regulations and within the province of the board or commission based upon the opinion of the city manager or his designee;
    b. Special conditions or circumstances exist which are peculiar to the building, structure, or land for which the variance is sought and do not apply generally to buildings, structures, or lands in the same zoning district;
    c. Strict application of the provisions of the land development regulations would not permit the applicant reasonable use of the building; structure, or land;
    d. The peculiar conditions and circumstances existing are not the result of the actions of the applicant, the applicant agent's agents, or the applicant's predecessors in title;
    e. The variance proposed to be granted is the minimum variance that will make possible the reasonable use of the building, structure, or land;
    f. Owing to special conditions, a literal enforcement would result in unnecessary hardship. Special conditions to be considered pursuant to this section of the land development regulations shall include, but not be limited to, the following circumstances:
        1. *Redevelopment.* If the proposed project involves the redevelopment or utilization of an existing developed or partially developed site.
        2. *Substandard lot(s).* If the proposed project involves the utilization of an existing legal nonconforming lot(s).
        3. *Neighborhood character.* If the proposed project promotes the established development pattern of a block face, including setbacks, building height, and other dimensional requirements.
        4. *Public facilities.* If the proposed project involves the development of public parks, public facilities or public utilities.
        5. *Architectural and/or engineering considerations.* If the proposed project utilizes architectural and/or engineering features that would render the project more disaster resistant.
    g. The granting of the variance will be in harmony with the general purpose and intent of this chapter;
    h. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) In granting any variance, the planning and zoning board or city commission may prescribe appropriate conditions and safeguards in conformity with the land development regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) Under no circumstances shall the planning and zoning board or city commission grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the land development regulations.

(7) The granted variance shall be valid for one-year. To remain in effect after one-year, one of the following must have occurred:
   a. An extension of time has been approved by the approving body;
   b. Building permits relating to the requested variance have either been applied for or granted; or
   c. A site plan review relating to the requested variance has been applied for or approved by the planning and zoning board.

ANALYSIS OF LAND DEVELOPMENT REGULATIONS:

The criteria for reviewing a variance for approval or denial is contained in Sec. 70-221 of the City of Treasure Island Code of Ordinances. Staff's analysis of the application based on the criteria is provided below. The applicant's narrative and supporting documents are included in this agenda packet as separate attachments.

1. **The variance is in fact a variance as set forth within the land development regulations and within the province of the board or commission based upon the opinion of the city manager or his designee.**
   The variance being requested is set forth within the City's Land Development Regulations and under the purview of the Planning and Zoning Board.

2. **Special conditions or circumstances exist which are peculiar to the building, structure, or land for which the variance is sought and do not apply generally to buildings, structures, or lands in the same district.**
   The adjacent right-of-way (ROW) is peculiar to the land and the entire RU-75 Zoning District. This land peculiarity only applies to the subject property and the functionally abutting property. The ROW is utilized by the public to access the waterfront for recreational purposes.

3. **Strict application of the provisions of the land development regulations would not permit the applicant reasonable use of the building, structure, or land.**
   Strict application of the provisions of the land development regulations appears to permit the applicant reasonable use of the subject property.

4. **The peculiar conditions and circumstances existing are not the result of the actions of the applicant, the applicant's agent, or the applicant's predecessors in title.**
   The adjacent right-of-way (ROW), that permits public access to the waterfront, is not the result of the applicant. According to Pinellas County records plat book 34, pages 48 & 49, this ROW has been in existence since 1950.

5. **The variance proposed to be granted is the minimum variance that will make possible the reasonable use of the building, structure, or land.**
   The proposed variance does not appear to be the minimum variance that will make possible the reasonable use of the building, structure, or land.

6. **Owing to special conditions, a literal enforcement would result in unnecessary hardship. Special conditions to be considered pursuant to this section of the land development regulations shall include, but not be limited to, the following circumstances: Redevelopment; Substandard lot(s); Neighborhood character; Public facilities; Architectural and/or engineering considerations.**

   Redevelopment – N/A- The subject property is not being redeveloped.

   Substandard lot(s) – N/A- The lot is approx. 76 ft. x 135 ft. = 10,260 sq. ft. and exceeds the minimum requirements for lot width, depth, and total area for a single-family dwelling in the RU-75 zoning district.

   Neighborhood character – The neighborhood consists mainly of single-family dwellings on similar-sized lots with the same fencing requirements, however, only 2 single-family dwellings are adjacent to the right-of-way.

   Public facilities – N/A- The existing 24'x'6 solid PVC fence is adjacent to the right-of-way and located on the applicant's property.

   Architectural and/or engineering considerations – N/A

7. **The granting of the variance will be in harmony with the general intent and purpose of this chapter.**
   The granting of the variance request does not appear to be in harmony with the general intent and purpose of this chapter, as it does not appear that the applicant has met the hardship criteria of this chapter.

8. **The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.**
   The granting of this variance will not be injurious to the neighborhood or detrimental to the public welfare.

STAFF RECOMMENDATION:

Staff recommends **DENIAL** of the after-the-fact variance request to Sec. 68-458, to increase the waterfront solid fence height from 30" to 6' for an existing 24' x 6' solid PVC fence. Based on the analysis of the criteria in Sec. 70-221 above, finding that they have not been substantially satisfied and that an unnecessary hardship does not exist, and that the code enforcement process proceeds.

Remainder of page intentionally left blank.

OCTOBER 19, 2023
PLANNING AND ZONING BOARD
DEVELOPMENT ORDER

CASE NO. VAR-000399-2023
LOCATION: 10232 TARPON DR TREASURE ISLAND, FL 33706

The Planning and Zoning Board has determined that an unnecessary hardship **DOES / DOES NOT** exist pursuant to Sec. 70-221 of the Treasure Island Code of Ordinances, and has moved to:

[ ] APPROVE [ ] DENY
[ ] CONTINUE [ ] APPROVE WITH CONDITIONS

An after-the-fact variance request to Sec. 68-458, to increase the waterfront solid fence height from 30" to 6' for an existing 24' x 6' solid PVC fence.

CONDITIONS [if variance is approved]:

1. Obtain an after-the-fact fence permit.
2. The 24' x 6' solid PVC fence shall be subject to all current regulations within the Florida Building Code in effect at the time of the building permit application process.

_____ _____
Richard Harris, Chair Date
Planning & Zoning Board

Case Number: _____

City of Treasure Island
Development Review Application

Please use blue or black ink only. Failure to complete this form in its entirety will result in this application being returned without review. Note: A separate application is required for each request.

Property Owners: Kevin Burrill

Address: 8967 Silverthorn Rd. Largo, FL 33777

Phone: 727-434-1212

Fax: _____

Email: DrKevin@DrFirstInjury.com

Agent: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

List all Legal Owner(s) of Property: Kevin Burrill

Complete legal description (may be placed on attached separate page): Paradise Island 2ND ADD BLK 1, Lot 15

Development Name: Paradise Island

Site Location/Address: 10232 Tarpon Dr., Treasure Island, FL 33706

Area of Development (Acreage or Square Feet) Total Gross SF 2,610 - Total living SF 1,978
Land Size 75x135

Parcel Identification Number (list all): 24-31-15-66042-001-0150

Application Request: Fencing modification adjacent to city/public easement.

Future Land Use Designation _____ Proposed Future Land Use _____

Current Zoning _____ Proposed Zoning _____

I certify that I have reviewed the Land Development Regulations and that my submission meets all requirements. The only exceptions are those items to which I am requesting variances to or waivers from certain sections of the code and understand that they must be listed on the plans individually and on the attached transmittal. I understand that if an item does need a variance, it will be necessary to file through the appropriate review entity.

Signature must be original (No copies, scans, faxes or e-mails)

Owner/Agent

06/26/2023
Date

City of Treasure Island, Florida

120 108th Avenue, Treasure Island, FL 33706
Phone (727) 547-4575 Fax (727) 547-4582
www.mytreasureisland.org

VARIANCE REQUEST NARRATIVE FORM

Applicant Name: Kevin Burrill

Variance Address: 10232 Tarpon Dr.

Application Number (Office Use): _____

The planning and zoning board shall authorize, in specific cases, such variance from the terms of the land development regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the land development regulations will result in unnecessary hardship.

The City Commission has the power to grant variances to accessory structures per subsection 68-460(3), density, parking (number or size of spaces), building height, and waterfront yards abutting the Gulf of Mexico or public beach.

The City Commission or the Planning and Zoning Board considers the following criteria to determine if a hardship exists (LDR Sec. 70-221).

All requests shall be valid for one year. To remain in effect after one-year, one of the following must have occurred:

1. *An extension of time has been approved by the approving body;*
2. *Building permits relating to the requested variance have either been applied for or granted; or*
3. *A site plan review relating to the requested variance has been applied for or approved by the planning and zoning board.*

Any requests for an extension of time relating to a variance must be in writing and received by the City Manager or designee at least three weeks prior to its expiration date in order for the request to be placed on the approving body's agenda.

The following narratives must be completed by the applicant as they relate to the variance request prior to submitting the completed application packet to the Community Development Department. Be specific in your narratives.

For any questions please email zoning@mytreasureisland.org

1. ***The variance must be in fact a variance as set forth within the Land Development Regulations and within the province of the board or commission based upon the opinion of the city manager or his designee. (example: a five-foot variance to reduce the waterfront setback on a specific address from 15 feet to 10 feet.) Please state the specific variance request(s).***

Please refer to written narrative

2. ***State the special conditions or circumstances exist which are peculiar to the building, structure, or land for which the variance is sought and do not apply generally to buildings, structures, or lands in the same district.***

This property borders a city/public easement.

3. ***State the strict application of the provisions of the Land Development Regulations which would not permit the applicant reasonable use of the building; structure, or land.***

N/A

4. ***State the peculiar conditions and circumstances existing which are not the result of the actions of the applicant, the applicant's agent, or the applicant's predecessors in title.***

This property borders a city/public easement.

5. ***Is the variance proposed to be granted the minimum variance that will make possible the reasonable use of the building, structure, or land? Please explain.***

Yes

6. ***Owing to special conditions, a literal enforcement would result in unnecessary hardship. Special conditions to be considered pursuant to this section of the Land Development Regulations shall include, but not limited to, the following circumstances:***

N/A

a. ***Redevelopment.*** ***Does the proposed project involve the redevelopment or utilization of an existing developed or partially developed site?***

N/A

b. ***Substandard lot(s).*** ***Does the proposed project involve the utilization of an existing legal nonconforming lot(s)?***

No

c. ***Neighborhood character.*** ***Does the proposed project promote the established development pattern of a block face, including setbacks, building height, and other dimensional requirements?***

N/A

d. ***Public facilities.*** ***Does the proposed project involve the development of public parks, public facilities or public utilities?***

No

e. ***Architectural and/or engineering considerations.*** ***Does the proposed project utilize architectural and/or engineering features that would render the project more disaster resistant?***

No

7. ***Will the granting of this variance(s) be in harmony with the general purpose and intent of this chapter (LDR-Division 3-Variances)?***

Yes

8. ***Will the granting of the variance(s) not be injurious to the neighborhood or otherwise detrimental to the public welfare?***

Yes

Dear Committee Members:

Please accept this as our written narrative explaining the unique nature of this variance request.

Due to the unique nature of this property being adjacent to the city/public easement, I am requesting a variance to allow the regulated fence height to be modified and raised to 6 feet extending to the seawall based on privacy and security concerns. The city/public easement allows access to strangers to include teenage party gatherings. A lower fence height allows direct sight lines to the backyard and pool area to include viewing directly into the interior of our home, especially at night. This situation creates an uncomfortable environment for my family especially for my wife and daughter when trying to use our backyard and pool area.

Attached please find photographs of the existing fence and one example of two strangers on the easement looking into the back of our property.

Respectfully,

Kevin D. Burrill
Property Owner

August 15, 2023

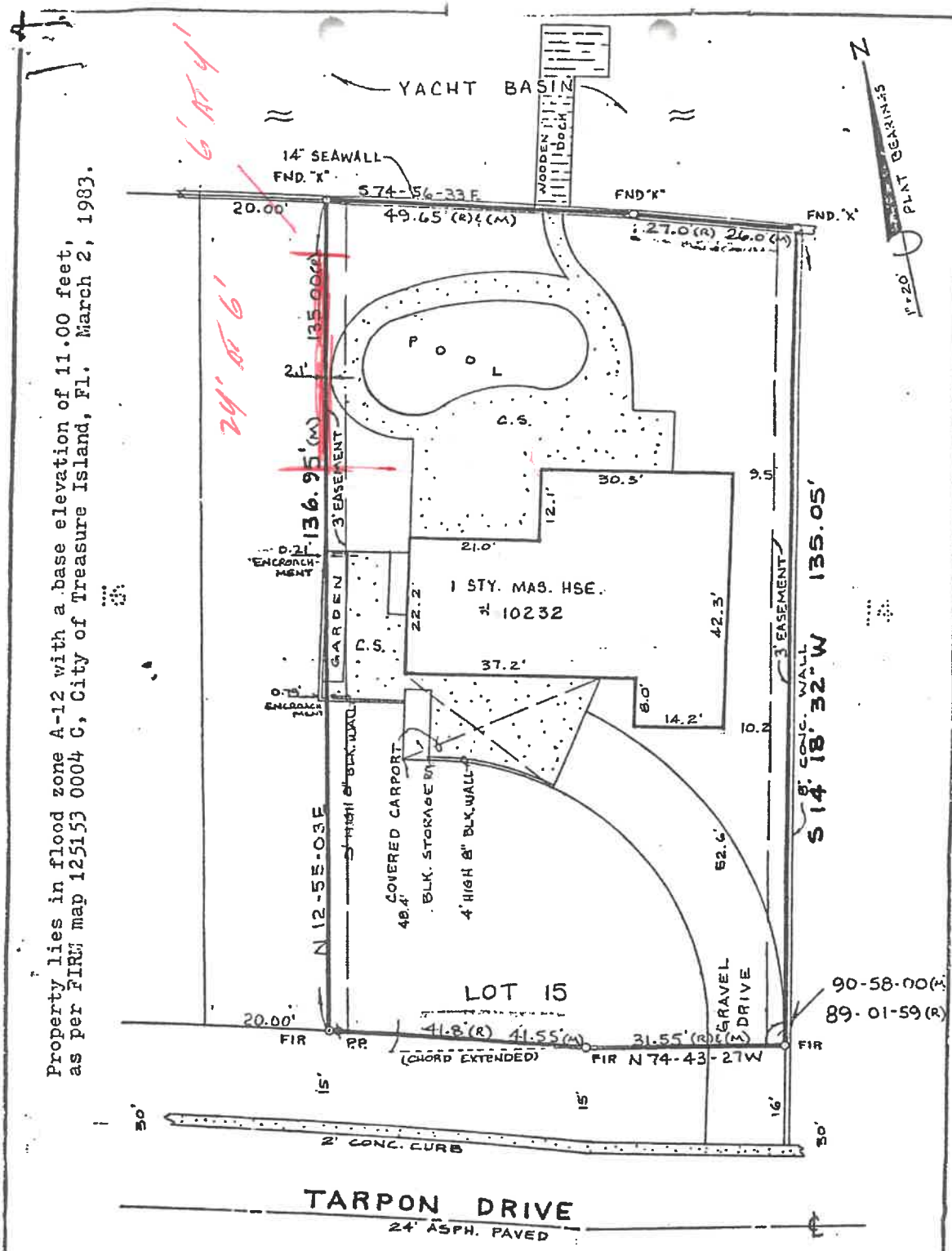
ADDENDUM

Variance to Sec.68-458 Garden walls, fences and hedges.

Dear Committee Members,

Please consider this as an addendum to our previous submission where-in I am asking for a variance to Sec. 68-458 Garden Walls, Fences and Hedges for my property located at 10232 Tarpon Drive. I am requesting a variance to increase the permitted waterfront solid fence height from 30" to 6' for 19' of the waterfront yard fence (existing) and the remaining 6' will consist of a 4' high picketed fence (existing).

Cross Section Sheet for the 4' high picketed fence that will remain is attached.



Property lies in flood zone A-12 with a base elevation of 11.00 feet, as per FIRM map 125153 0004 C, City of Treasure Island, Fl. March 2, 1983.

DESCRIPTION: Lot 15, Block 1, PARADISE ISLAND SECOND ADDITION, as recorded in Plat Book 34, Pages 48 & 49, Pinellas County, Florida.

CERTIFIED TO: FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF LARGO.
TICOR TITLE CO.

BOUNDARY SURVEY FOR:
THOMAS & MARY MAGUARAH

SURVEYOR'S CERTIFCATE

This certifies that the survey represented hereon meets the requirements of chapter 21HH-6, Florida Administrative Code.

THIS SURVEY NOT VALID UNLESS IMPRINTED WITH AN EMBOSSED SURVEYOR S SEAL.

Kell O. McClung

KELL O. McCLUNG FLS
Registered Surveyor No 4012
Date 6/22/87

SEC.	TWP	RGE	F.B.	PG.
DRAWN BY: KOM			PROJECT NO. 87221	

SUNCOAST LAND SURVEYING, inc.

BOUNDARY • TOPOGRAPHIC • CONSTRUCTION STAKEOUT •

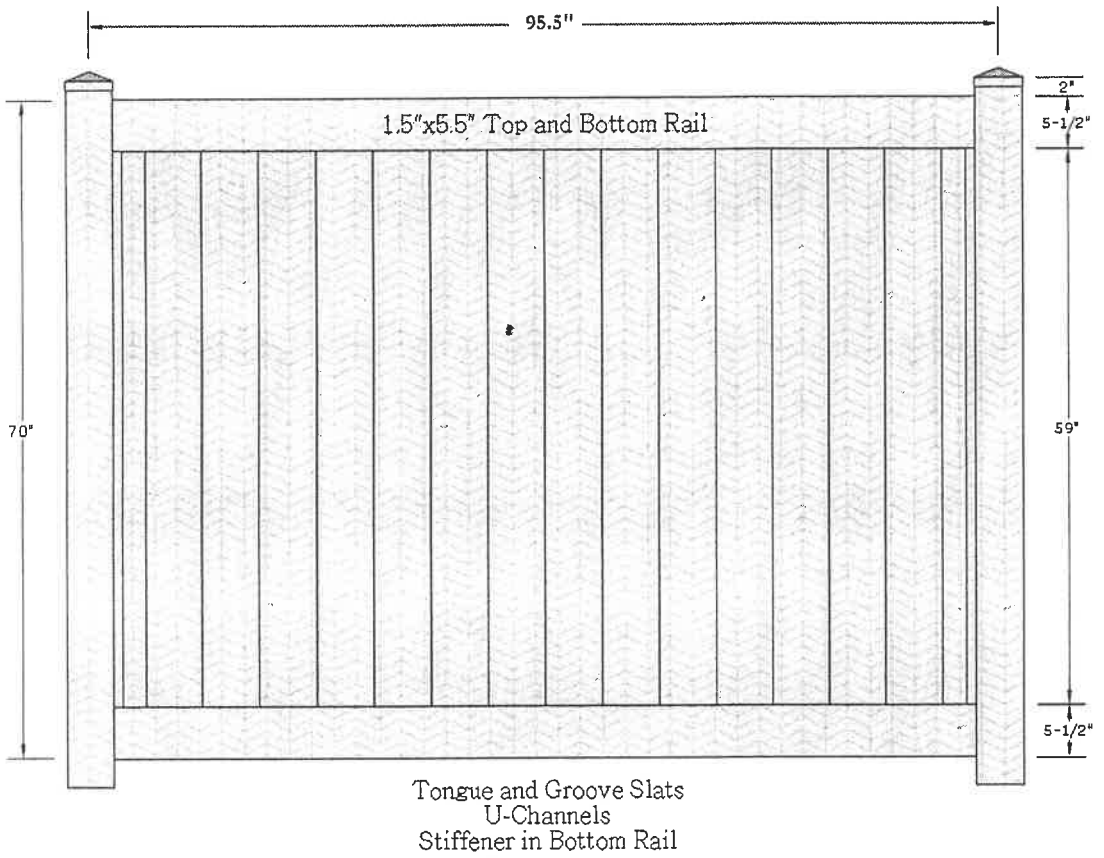
P O BOX 1127 • 405 E. ST. PETERSBURG DRIVE • SUITE 5
OLDSMAR, FL 33557.

(813) 854-1342

Buy Direct Vinyl Fence

6' Tall Vinyl Privacy Fence Panels with 1.5x5.5 Pocket Rails

6' Tall Vinyl Privacy Fence Panels with 1.5x5.5



Tongue and Groove Slats
U-Channels
Stiffener in Bottom Rail

Posts
5"x 5" Post

Materials Included with 8'
1 1/2" x 5 1/2" Top Poc
1 1/2" x 5 1/2" Bottom
7/8" x 6" T &
7/8" x 1" U-channel
Bottom Rail Stiffener

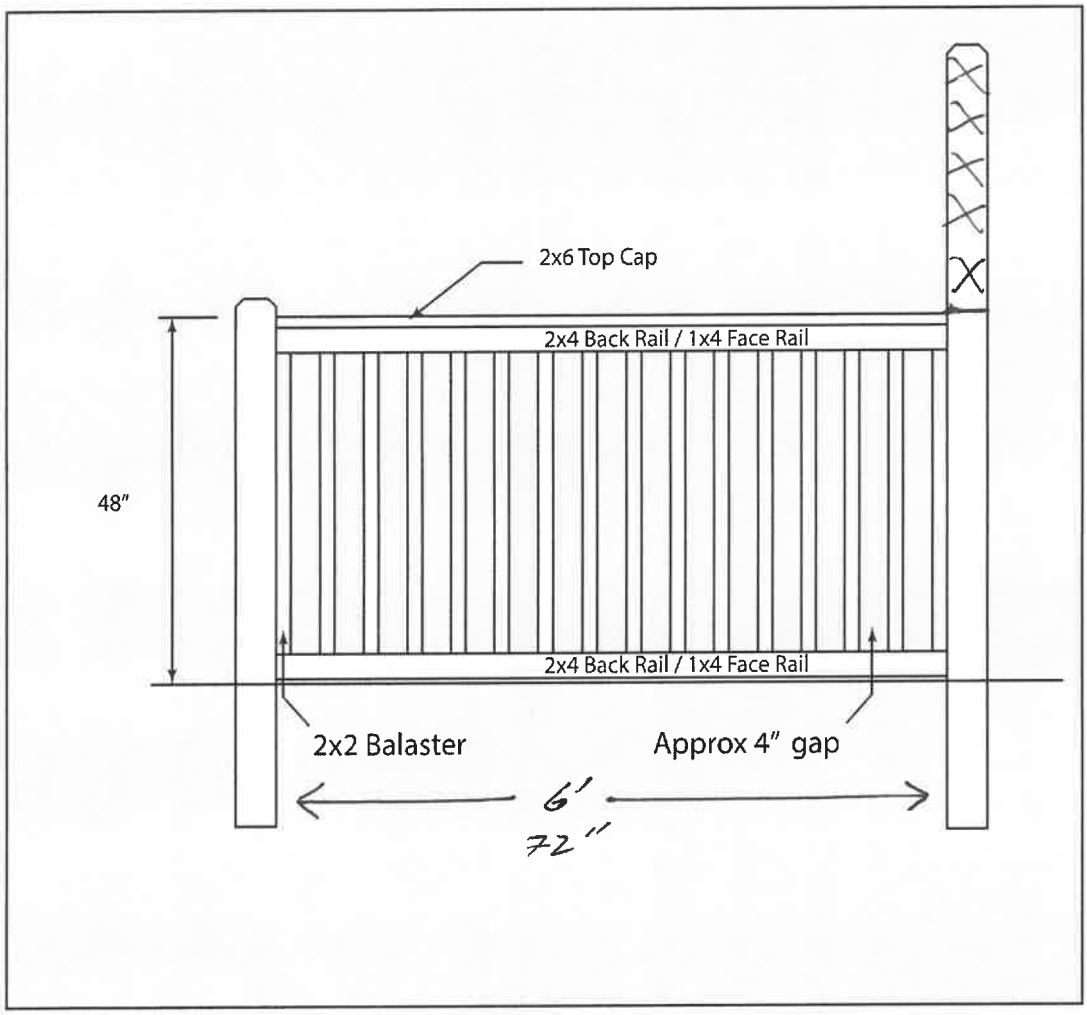
BuyDirectVinylFence.com
Quality. Integrity. Experience.

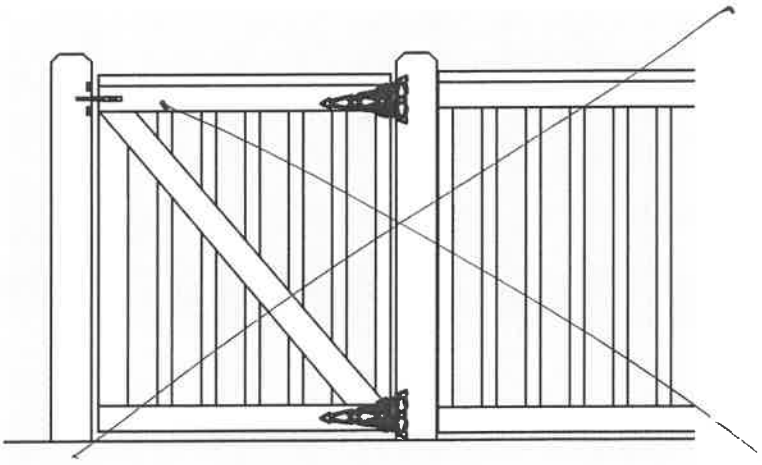
6' CLASSIC PRI
STYLE # 265_6_

All Measurments are approximate and subject to change.
Copyright © 2014 Buydirectvinylfence.com

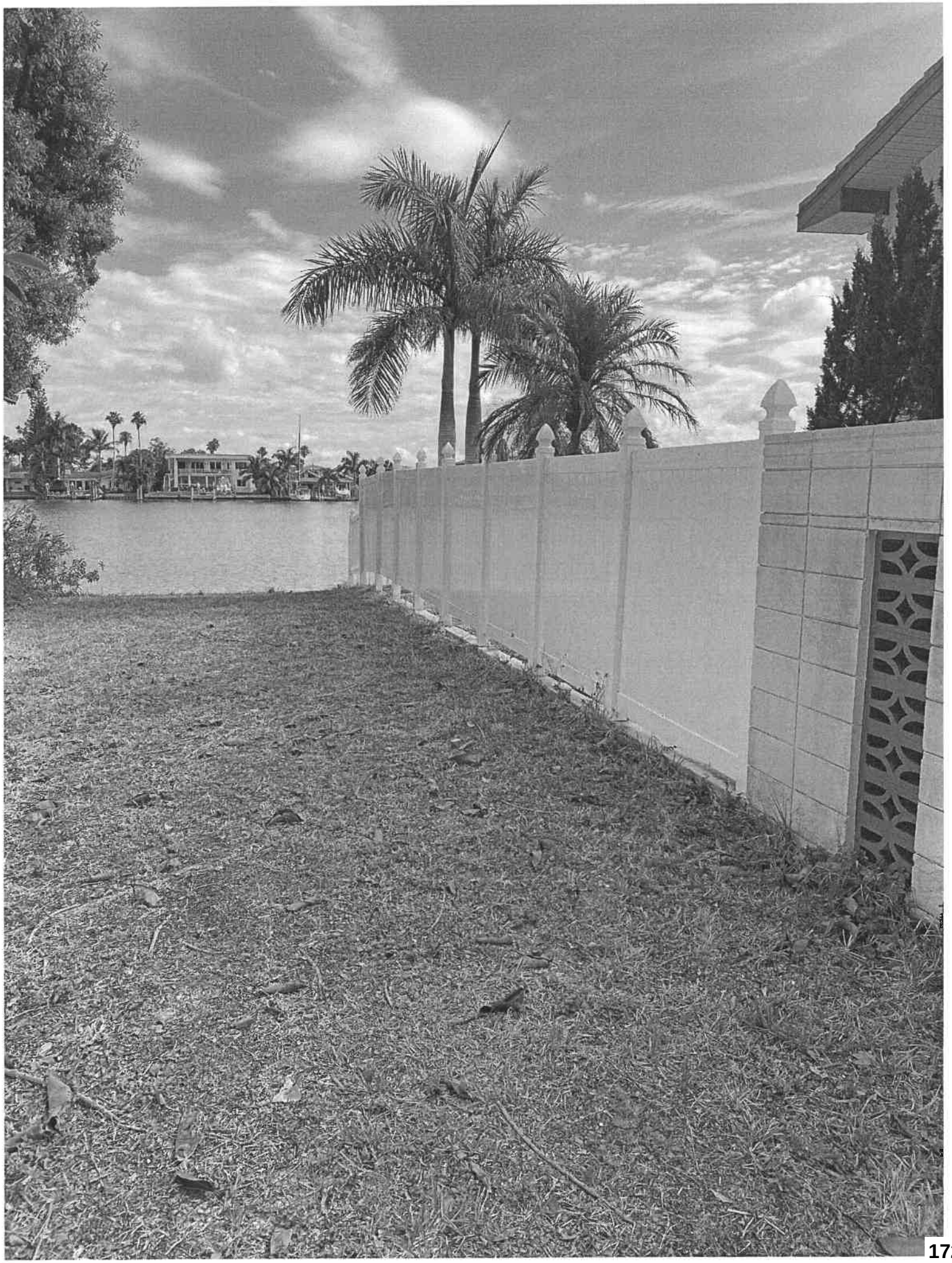
Select Panels

Product	Price	Attributes

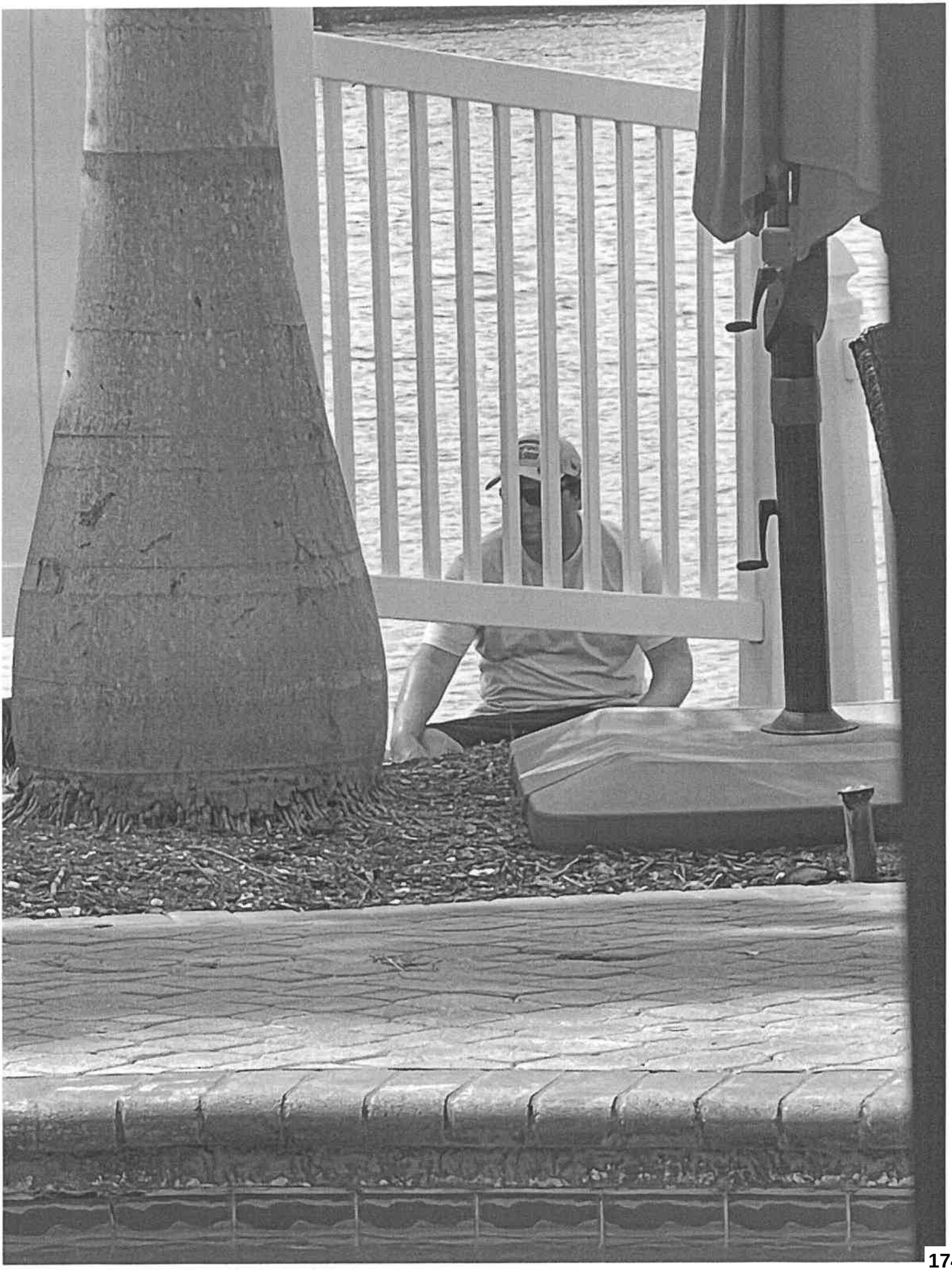

2x6 Top Cap
2x4 Back Rail / 1x4 Face Rail
48"
2x4 Back Rail / 1x4 Face Rail
2x2 Balaster
Approx 4" gap
6'
72"

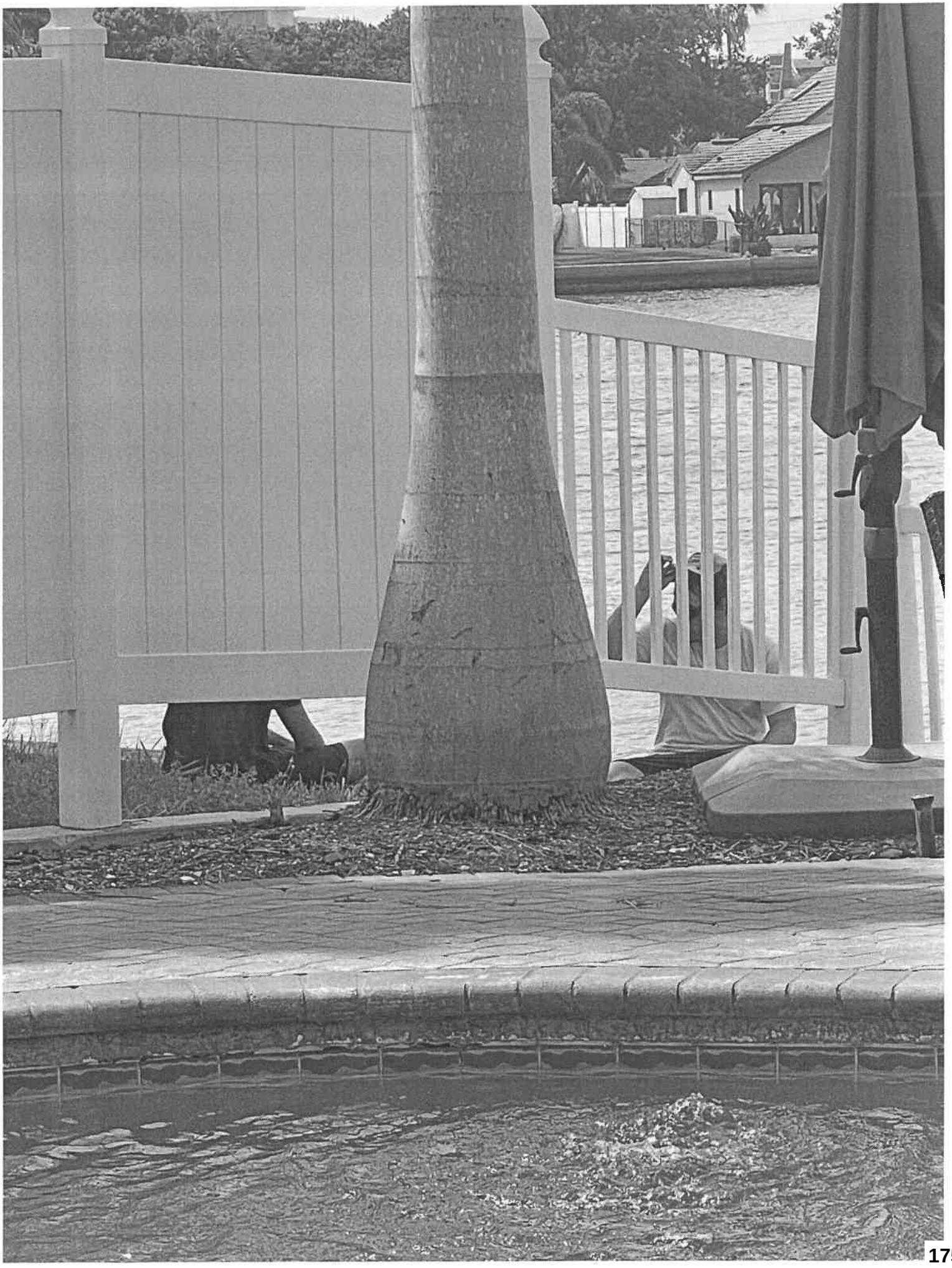












City of Treasure Island, Florida

120 108th Avenue, Treasure Island, FL 33706
Phone (727) 547-4575 Fax (727) 547-4582
www.mytreasureisland.org

Code Enforcement Board
City of Treasure Island, FL
Return Hearing Case No. CEB 2022-21

City of Treasure Island, Florida
Petitioner

v.

Kevin D. Burrill
Respondent.
_____/

ORDER (Amended)

This case was heard on August 16, 2023, at the City of Treasure Island ("City") Code Enforcement Board upon the City's Notice of Non-Compliance.

Findings of Fact

1) The Respondent participated in a hearing on March 15, 2023.
2) The Respondent was found to be in violation of Section 66-104.1 and Section 68-458 and an Order issued on April 10, 2023.
3) Respondent received a Notice of Hearing dated August 4, 2023, on the City's Affidavit of Non-Compliance, setting a hearing on August 16, 2023.
4) The City presented its evidence through sworn testimony of Jackie Gabriel, Code Compliance Inspector for the City. She presented her affidavit which included the incomplete Variance Application Checklist and Variance Application Packet, email

correspondence regarding the variance application sent to the Respondent from Jesse Miller, and testimony that the Respondent had not applied for a demolition permit.

5) The Respondent presented that he had failed to meet the requirements specified by the Code Enforcement Board Order dated April 10, 2023. He agreed that the timeline was manageable, but he had failed to meet the deadlines.
6) The Respondent took steps toward compliance by filling the incomplete variance application June 29, 2023.
7) No evidence of previous violations by the Responded was offered.

Conclusion of Law

Respondent failed to meet the compliance measures specified in the Order. Respondent is in violation of the Code Enforcement Board Order dated April 10, 2023. Given the gravity of the violations, the steps taken to correct the violations, and no previous violations committed by the violator, the Code Enforcement Board determined a fine of $30.00 per day will begin on December 1, 2023.

SECOND ORDER

1. A fine of $30.00 per day will begin on December 1, 2023, if the compliance measure in the April 10, 2023 Order are not met.
2. The fine levied against the Respondent shall, upon recording of this Second Order in the public records of Pinellas County Florida, constitute a lien against the Property and upon any other real or personal property owned by the Respondent.
3. In the event this Order is recorded as a lien in the public records of Pinellas County Florida, and said lien remains unpaid for a duration of three (3) months after recording,

the Code Enforcement Board may, authorize the City Attorney to foreclose on the lien or, to sue to recover a money judgement for the amount of the lien plus accrued interest in the manner provided by Florida Statutes.

4. A true and correct copy of the Second Order shall be sent to the Respondent by Certified mail, return receipt requested, and shall be recorded in the public records of Pinellas County Florida.

In accordance with Section 162.11, Florida Statutes, an aggrieved party, including the City of Treasure Island may appeal final administrative order of the Code Enforcement Board to the Circuit Court. Such an appeal shall not be a hearing de-novo but shall be limited to appellate review of the record created before the Code Enforcement Board. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

DONE AND ORDERED on this 20 day of September 2023, by Zaria Schnake, the Vice-Chairman of the Treasure Island Code Enforcement Board.

Zaria Schnake, Chair
Code Enforcement Board

Filed with the City of Treasure Island City Clerk
Date: September 20 2023

Celine Kidwell, City Clerk

Copies to: Respondent and City of Treasure Island

40 Rec 10.50
41 St 1155.00
43 Int
Tot 1865.50

INST # 94-076427
MAR 16, 1994 4:50PM

PINELLAS COUNTY FLA.
OFF.REC.BK 8598 PG 1704

(1)

WARRANTY DEED

THIS WARRANTY DEED, made and executed this 14th day of March, 1994, by MICHAEL G. SIMPSON, joined by his wife, PAIGE C. SIMPSON, 8343 Bayshore Drive, Treasure Island, FL 33706, hereinafter called the "Grantor", and KEVIN D. BURRILL, a single man, 10232 Tarpon Drive, Treasure Island, FL 33706, hereinafter called the "Grantee".

1865.50

Karleen F. DeBlaker, Clerk Circuit County By Deputy Clerk

W I T N E S S E T H:

WHENEVER USED HEREIN, THE TERMS "GRANTOR" AND "GRANTEE" SHALL BE CONSTRUED TO INCLUDE THE MASCULINE, FEMININE, SINGULAR, OR PLURAL AS THE CONTEXT INDICATES, AND THE HEIRS, LEGAL REPRESENTATIVES AND ASSIGNS OF INDIVIDUALS, AND THE SUCCESSORS AND ASSIGNS OF CORPORATIONS.

That the Grantor, for and in consideration of Ten Dollars ($10.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, by these presents, does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, all that certain real property in Pinellas County, Florida, viz:

LOT 15, BLOCK 1, PARADISE ISLAND SECOND ADDITION, according to the plat thereof recorded in Plat Book 34, pages 48 and 49, public records of Pinellas County, Florida.

Parcel # 24/31/15/66042/001/0150

TOGETHER with all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest and estate, dower and right of dower, reversion, remainder and easement thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the Grantor hereby covenants with said Grantee, that they are lawfully seized of said real property in fee simple; that they have good right and lawful authority to sell and convey said real property; and they hereby fully warrant the title to said real property and will defend the same against the lawful claims of all persons whomsoever; and that said real property is free and clear of all encumbrances except easements and restrictions of record.

IN WITNESS WHEREOF, the Grantor has caused these presents to be signed the day and year first above written.

Signed, sealed and delivered
in the presence of:

Execute: _____
Michael G. Simpson

Print: Kenneth A Kelly

Execute: _____
Paige C. Simpson

STATE OF FLORIDA)

COUNTY OF PINELLAS)

The foregoing instrument was acknowledged before me this day by MICHAEL G. SIMPSON, joined by his wife, PAIGE C. SIMPSON, who are personally known to me or who have produced N/A for proper identification.

Witness my hand and official seal in the County and State last aforesaid this 14th day of March, 1994.

Cheryl B. Kelly
Notary Public
My Commission Expires:

CHERYL B. KELLY
State of Florida
My Comm. Exp. July 20, 1995
CC 116133