

# ITEM VI

## MEMORANDUM MF NO. 23-09

DATE: March 20, 2023

TO: Marine Advisory Board Members

FROM: Andrew Cuba, Marine Facilities Manager

RE: April 6, 2023 MAB Meeting - Dock Waiver of Distance Limitations – Renee Biron / 1180 N. Federal Highway Unit 1502 Slip #7.

Attached for your review is an application from Renee Biron / 1180 N. Federal Highway Unit 1502 Slip #7.

### APPLICATION AND BACKGROUND INFORMATION

The applicant is requesting approval for installation of a six (6) post no-profile boat lift extending a maximum of +/-41.6' into the Middle River. The distances this structure will extend from the property line (wet face of the seawall) into waterway is shown in the survey and summarized in Table 1 below:

**TABLE 1**

<b>PROPOSED STRUCTURES</b>	<b>STRUCTURE DISTANCE FROM PROPERTY LINE</b>	<b>PERMITTED DISTANCE WITHOUT WAIVER</b>	<b>AMOUNT OF DISTANCE REQUIRING WAIVER</b>
<b>Boat Lift</b>	<b>+/-41.6'</b>	<b>25'</b>	<b>+/-16.6'</b>

The City's Unified Land and Development Regulations (UDLR) Secs. 47-19.3.C limits the maximum distance of mooring structures to 25' or 25% of the width of the waterway, whichever is less. Section 47-19.3. E authorizes the City Commission to waive that limitation based on a finding of extraordinary circumstances. The applicant indicates that the proposed boat lift is necessary to protect the owner's vessel from high wave energy from excessive boat wakes.

### PROPERTY LOCATION AND ZONING

The property is located is the Riva Condominium within the B-1 Boulevard Business District. It is situated on the western shore of the Middle River where the width between the proposed boat lifts' location's property line to the adjacent natural shoreline is +/- 330 feet, according to the Summary Description provided in **Exhibit 1**.

Marine Facilities' records indicate that there have been six (6) Waivers of Limitation approved by the City Commission behind the Riva Condominium at 1180 North Federal Highway:

<b>DATE</b>	<b>ADDRESS</b>	<b>MAXIMUM DISTANCE</b>
<b>2019</b>	<b>SLIP 14</b>	<b>30'+/-</b>
<b>2020</b>	<b>SLIP 4</b>	<b>30'+/-</b>
<b>2020</b>	<b>SLIP 19</b>	<b>30'+/-</b>
<b>2020</b>	<b>SLIP 14</b>	<b>30'+/-</b>
<b>2020</b>	<b>SLIP 17</b>	<b>33'+/-</b>
<b>2020</b>	<b>SLIP 10</b>	<b>30'+/-</b>

RECOMMENDATIONS

Should the Marine Advisory approve the application, the resolution under consideration by the City Commission should include at least the following as prescribed in the ULDR and City Code of Ordinances:

1. The applicant is required to comply with all applicable building and zoning regulations as well as any other Federal and State laws and permitting requirements including the Broward County Environmental Protection and Growth Management Department, the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers.
2. The applicant is required to install and affix reflector tape to the proposed boat lift posts in accord with Section 47.19.3.E of the Unified Land and Development Regulations (ULDR).

AC  
Attachment

cc:  
Enrique Sanchez, Deputy Director of Parks and Recreation  
Jon Luscomb, Marine Facilities Supervisor



**1180 NORTH FEDERAL HWY (UNIT 1502 / SLIP 7)  
APPLICATION FOR DRC PROCESS COMPLETION**



**CITY OF FORT LAUDERDALE  
MARINE FACILITIES**

**APPLICATION FOR WATERWAY PERMITS, WAIVERS AND LICENSES**

Any agreement with the City of Fort Lauderdale and other parties, such as, but not limited to, licenses, permits and approvals involving municipal docking facilities or private uses in the waterways as regulated by Section 8 of the City Code of Ordinances or Section 47-19.3 of the City's Urban Land Development Regulations, shall be preceded by the execution and filing of the following application form available at the Office of the Supervisor of Marine Facilities. The completed application must be presented with the applicable processing fee paid before the agreement is prepared or the application processed for formal consideration (see City of Fort Lauderdale Code Section 2-157). If legal publication is necessary, the applicant agrees to pay the cost of such publication in addition to the application fee.

**APPLICATION FORM**  
**(Must be in Typewritten Form Only)**

1. LEGAL NAME OF APPLICANT - (If corporation, name and titles of officers as well as exact name of corporation. If individuals doing business under a fictitious name, correct names of individuals, not fictitious names, must be used. If individuals owning the property as a private residence, the name of each individual as listed on the recorded warranty deed):
2. NAME: RENEE BIRON  
  
TELEPHONE NO: (514) 261-6157      EMAIL: jose.boisjoli@brp.com
3. APPLICANT'S ADDRESS (if different than the site address): **1795 Rue Fradet \*Drummond Ville qc ca j2b 1n7**
3. TYPE OF AGREEMENT AND DESCRIPTION OF REQUEST: **The applicant requests a waiver for the proposed installation of six (6) wood 12-inch piles beyond 25 feet from the property line.**
4. SITE ADDRESS: **1180 NORTH FEDERAL HWY (UNIT 1502 – SLIP 7)**  
  
ZONING: B 1





# BOAT LIFTS & DOCKS OF SOUTH FLORIDA

LEGAL DESCRIPTION AND FOLIO NUMBER: Riva condominium unit PH 1502 per amcdo cin  
#113566952. Folio number 4942 36 AL 0920

5. EXHIBITS (In addition to proof of ownership, list all exhibits provided in support of the applications).  
Warranty Deed, survey, zoning aerial, photos, project plans

*[Handwritten Signature]*

Applicant's Signature

Date *Nov 1st 2022*

The sum of \$ \_\_\_\_\_ was paid by the above-named applicant on the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_ Received by: \_\_\_\_\_

City of Fort Lauderdale

=====  
For Official City Use

Only=====

Marine Advisory Board Action

Commission Action

Formal Action taken on \_\_\_\_\_

Formal Action taken on \_\_\_\_\_

Recommendation \_\_\_\_\_  
Action \_\_\_\_\_



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## **EXHIBIT II SUMMARY DESCRIPTION**



**BOAT LIFTS  
& DOCKS**  
OF SOUTH FLORIDA  
**Summary Description for DRC Process Completion**

**1180 N Federal HWY #1502, Slip 7**

**TCG Project No.**

The project site is located along the Middle River at 1180 N Federal HWY, slip 7 in the City of Fort Lauderdale, Broward County, Florida.

The property is located along the Middle River, which is a tidal water. The nearest direct connection to the Atlantic Ocean is approximately 2 miles to the southeast at the Port Everglades Inlet. As the project site is located along the Middle River, the incoming tidal waters (flood) at the site move to the north and the outgoing waters (ebb) move to the south.

The project site consists of an existing wood marginal dock with finger piers. The proposed project consists of the installation of a new 15000lb No Profile Boat Lift 13' x 34' = 442 sqft with the installation of six (6) wood pilings 12"dia . As measured from the property line 16.6' +/- encroach more than 25' from the property line into the Middle River. As these distances are over the allowable 25' distance into the waterway from the property line, the proposed pilings will require a variance waiver. A technical review has been completed allowing installation the lift.

The proposed structures are being applied for concurrently with the Broward County Environmental Protection & Growth Management Department, Florida Department of Environmental Protection, and US Army Corps of Engineers.

The following five (5) matters provide justification for this waiver request:

1. All structures and piles will not exceed 25% of the width of the waterway.
2. Due to the extraordinary width of the waterway at this location from wetface to wetface ( $\pm 330'$ ), the proposed project will not impede navigation within the Middle River.



3. The proposed structure is necessary for safely mooring resident vessel, especially during high wind events and severe weather. The proposed structure will be used for one vessel (Pontoon).
4. The proposed structure is also necessary to protect the resident vessel from high wave energy from excessive boat wakes along the Middle River.
5. The proposed structure is consistent with other structures previously authorized through the City of Fort Lauderdale that do not exceed more than 25' from the property line.
6. Technical review has been completed allowing installation the lift.

If this waiver is approved, the applicant will comply with all necessary construction requirements stated in Section 47-19.3 (C)(D)(E).

<b>STRUCTURE</b>	<b>PROPOSED STRUCTURE</b>	<b>STRUCTURE DISTANCE FROM THE PROPERTY LINE</b>	<b>PERMITTED DISTANCE WITHOUT WAIVER</b>	<b>DISTANCE REQUIRING A WAIVER</b>
<b>SLIP 7</b>	<b>Boat Lift Pilings</b>	<b>41.6' +/-</b>	<b>25'</b>	<b>16.6'+/-</b>



## **EXHIBIT III UNITY OF TITLE**



# BOAT LIFTS & DOCKS

OF SOUTH FLORIDA

Instr# 115541131 , Page 1 of 4, Recorded 01/07/2019 at 04:18 PM  
Broward County Commission  
Deed Doc Stamps: \$25200.00

Return to: (enclose self-addressed stamped envelope)  
Equity Land Title, LLC  
525 Okeechobee Blvd, Suite 900  
West Palm Beach, FL 33401

This Instrument Prepared by:  
Terri Duran  
Equity Land Title, LLC  
525 Okeechobee Blvd, Suite 900  
West Palm Beach, FL 33401

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

Property Appraiser's Parcel Identification Number 4942 36 AL 0920

### SPECIAL CONDOMINIUM WARRANTY DEED

THIS INDENTURE, made this 4 day of December, 2018, between **PREMIER RIVA, LLC, a Delaware limited liability company**, whose address is 2601 E. Oakland Park Boulevard, Suite 200, Fort Lauderdale, Florida, 33306, hereinafter referred to as "Grantor," and **Renee Biron, a married woman**, whose address is 1795 Rue Fradet, Drummondville, Quebec J2B 1N7, Canada, hereinafter referred to as "Grantee."

#### WITNESSETH:

That the Grantor, for and in consideration of the sum of TEN DOLLARS (\$10) and other good and valuable consideration to it in hand paid by the Grantee, the receipt of which is hereby acknowledged, has granted, bargained and sold to the Grantee, and the Grantee's heirs and assigns forever, the following described real property situated, lying and being in Broward County, Florida, to wit:

Condominium Unit 1502, RIVA, A CONDOMINIUM, according to the Declaration of Condominium thereof, recorded in Official Records Book 50792, Page 797, as Amended and Restated Declaration of Condominium recorded in Official Records Instrument Number 113566952, as amended from time to time, of the Public Records of Broward County, Florida, together with an undivided interest in the common elements.

Grantee, by acceptance hereof, and by agreement with Grantor, hereby expressly assumes and agrees to be bound by and to comply with all of the covenants, terms, conditions and provisions set forth and contained in the aforescribed Declaration, including, but not limited



# BOAT LIFTS & DOCKS OF SOUTH FLORIDA

Instr# 115541131 , Page 2 of 4

to, the obligation to make payment of Assessments for the maintenance and operation of the Condominium.

This conveyance is made subject to the following:

1. Real estate taxes for the year of closing and subsequent years and any special taxes or assessments entered against said property after the date of closing;
2. Applicable zoning regulations and ordinances;
3. All of the terms, provisions, conditions, rights, privileges, obligations, easements and liens set forth and contained in the Declaration and all exhibits and any amendments thereto;
4. All of the covenants, agreements, conditions, restrictions and easements of record, if any, which may now affect the afore-described property, but without reimposing any of same;
5. Perpetual easement for encroachments now existing or hereafter existing caused by the settlement or movement of improvements or caused by minor inaccuracies in building or rebuilding;

AND FURTHER SUBJECT TO THOSE EXCEPTIONS  
AS LISTED ON EXHIBIT "A" ATTACHED HERETO AND MADE A PART  
HEREOF BUT WITHOUT REIMPOSING ANY OF SAME

The Grantor does hereby warrant the title to said property by, through and under the said Grantor and will defend the same against lawful claims of all persons claiming by, through or under the Grantor.





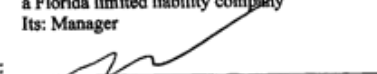
# BOAT LIFTS & DOCKS OF SOUTH FLORIDA

Instr# 115541131 , Page 3 of 4


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.

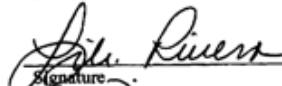
PREMIER RIVA, LLC, a Delaware limited liability company formerly Premier Riva, LLC, a Florida limited liability company

By: PREMIER DEVELOPERS V, LLC  
a Florida limited liability company  
Its: Manager

By:   
Bradley Deckelbaum, as manager

Signed, sealed and delivered  
In the presence of:

  
\_\_\_\_\_  
Signature  
Susana Iser  
\_\_\_\_\_  
Printed Name of Witness

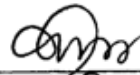
  
\_\_\_\_\_  
Signature  
Ali Rivera  
\_\_\_\_\_  
Printed Name of Witness

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 4 day of December 2018, by Bradley Deckelbaum, manager of PREMIER DEVELOPERS V, LLC, a Florida limited liability company, as manager of PREMIER RIVA, LLC, a Delaware limited liability company formerly Premier Riva, LLC, a Florida limited liability company, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission expires:



  
\_\_\_\_\_  
Notary Public  
Susana Iser  
\_\_\_\_\_  
Printed Name of Notary Public  
\_\_\_\_\_  
Commission Number



# BOAT LIFTS & DOCKS

OF SOUTH FLORIDA

Instr# 115541131 , Page 4 of 4 , End of Document

## EXHIBIT "A"

1. Terms, covenants, conditions, easements, restrictions, reservations and other provisions, including provisions which provide for a private charge or assessment, according to that certain Amended and Restated Declaration of Condominium of Riva, a Condominium, and the exhibits and attachments thereto, recorded March 11, 2016, in Official Records Instrument No. 113566952, as the same may be further amended, of the Public Records of Broward County, Florida.
2. General or special taxes and assessments required to be paid in 2019 and subsequent years.
3. Any dispute as to the boundaries caused by a change in the location of any water body within or adjacent to the land and any adverse claim to all or part of the land that is, or was previously, under water.
4. Easement in favor of Florida Power & Light Company recorded in Official Records Book 4628, Page 166.
5. Easement in favor of Florida Power & Light Company recorded in Official Records Book 5025, Page 294.
6. Rights, if any, of the public to use as a public beach or recreation area any part of the land lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary line separating the publicly used area from the upland private area.
7. Any and all rights of the United States of America over artificially filled lands in what were formerly navigable waters, arising by reason of the United States of America's control over navigable waters in the interest of navigation and commerce, and any conditions contained in any permit authorizing the filling in of such areas.



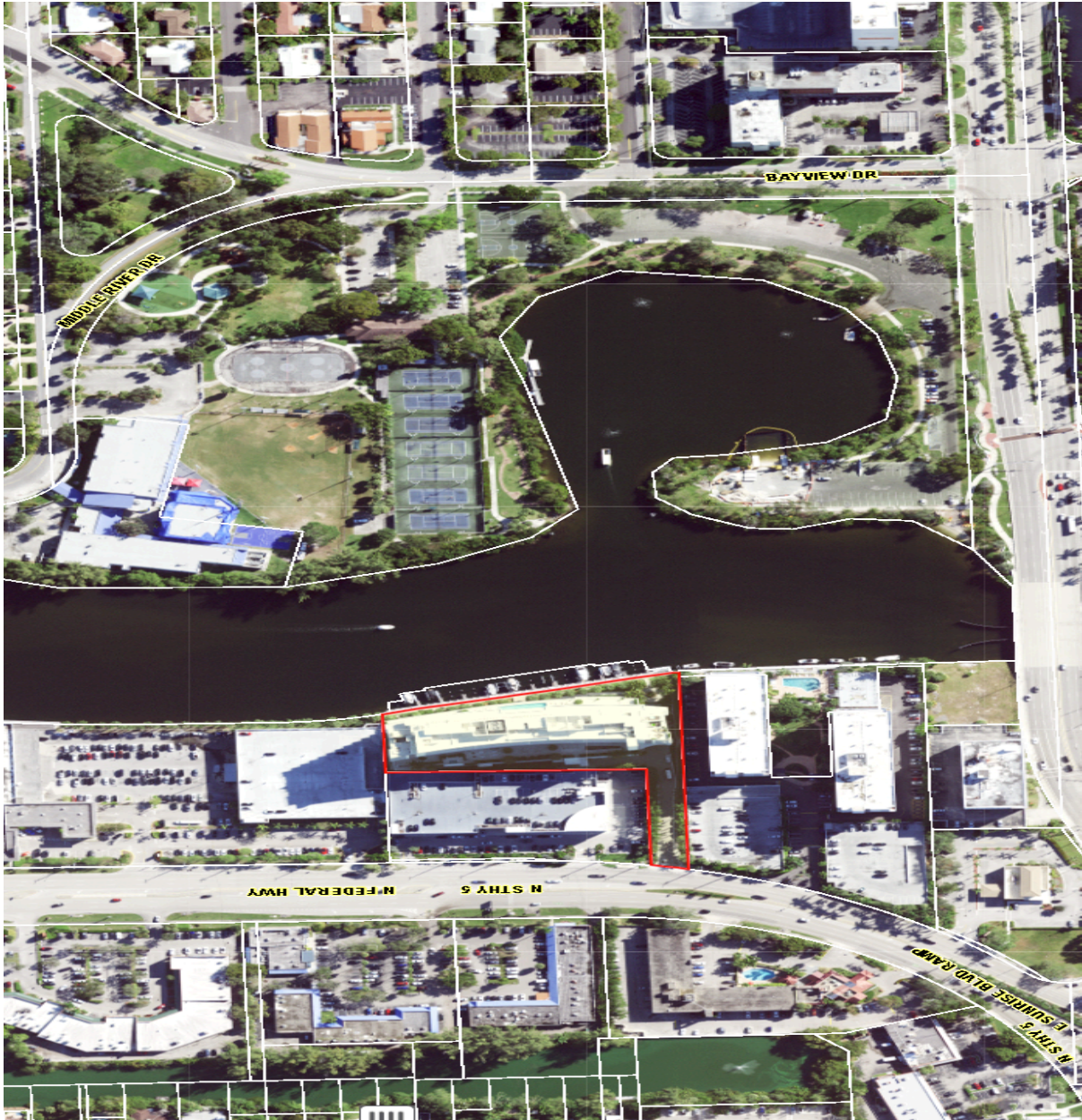
## **EXHIBIT IV ORIGINAL SURVEY**





## **EXHIBIT V ZONING AERIAL**







## **EXHIBIT VI SITE PHOTOGRAPHS**



**1. Subject site, showing the existing mooring pilings.**



**2. East portion of the subject site, facing west along the Middle River.**

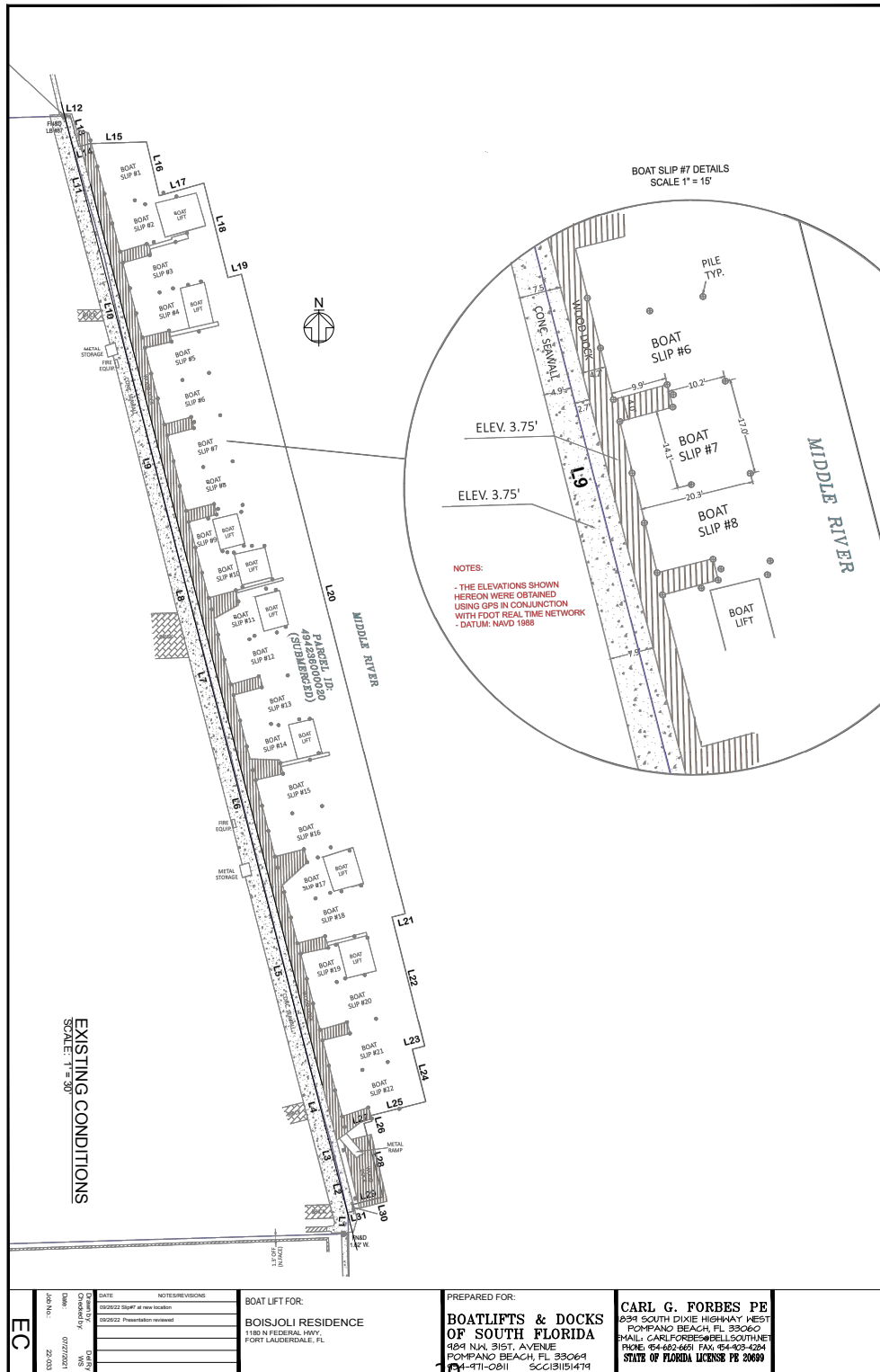




## **EXHIBIT VII PROJECT PLANS**



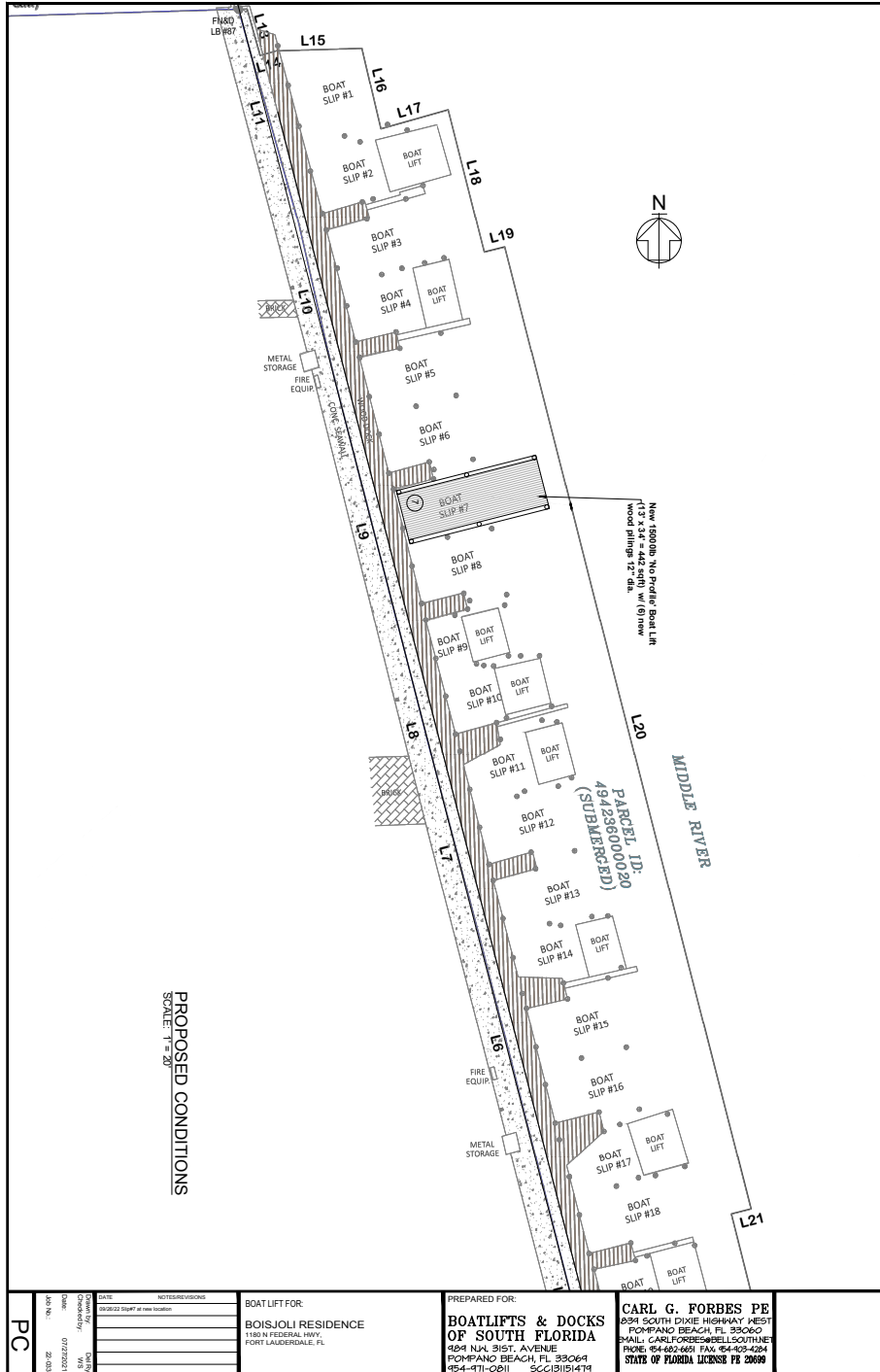
# BOAT LIFTS & DOCKS OF SOUTH FLORIDA



Boat Lifts & Docks of South Florida - 989 NW 31<sup>st</sup> Avenue, Bldg. F, Pompano Beach, FL 33069  
 Telephone: 954-971-0811 Fax: 954-971-1770 Licensed & Insured SCC 147913115



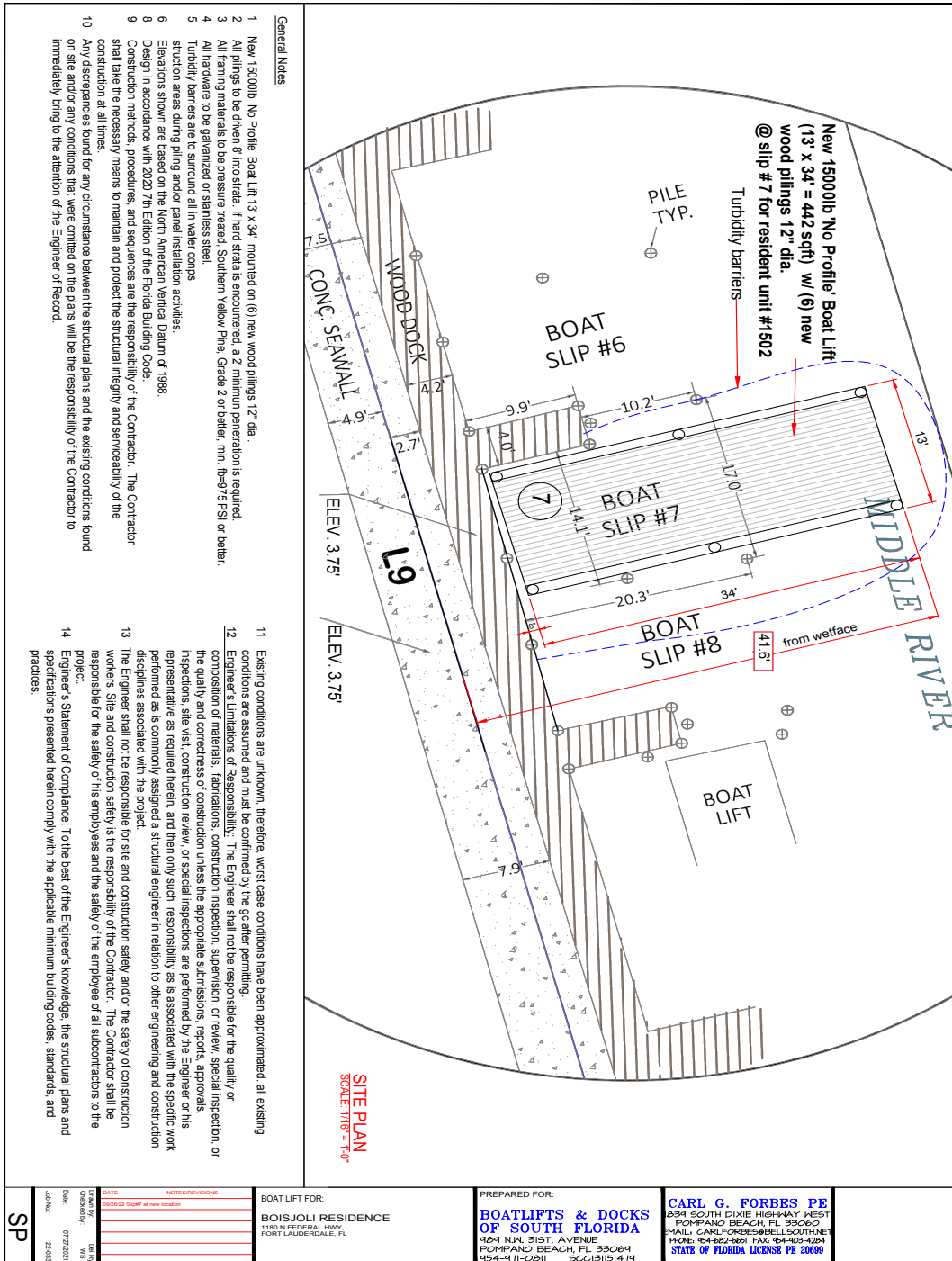
# BOAT LIFTS & DOCKS OF SOUTH FLORIDA



<b>PC</b>	DATE: 03/26/22 NOTES/REVISIONS: 03/26/22 Sign off on new location	BOAT LIFT FOR: BOISJOLI RESIDENCE 1180 N FEDERAL HWY FORT LAUDERDALE, FL	PREPARED FOR: BOATLIFTS & DOCKS OF SOUTH FLORIDA 1801 N.W. 31ST AVENUE POMPANO BEACH, FL 33069 954-971-0811    SCC13151474	CARL G. FORBES PE 8041 SOUTH DIXIE HIGHWAY WEST POMPANO BEACH, FL 33060 E-MAIL: CARL.FORBES@BELLSOUTH.COM PHONE: 954-971-0811 FAX: 954-971-0811 STATE OF FLORIDA LICENSE PE 20699
	DESIGNED BY: [Blank] CHECKED BY: [Blank] DATE: 03/27/2021 SCALE: 20'-0/31			

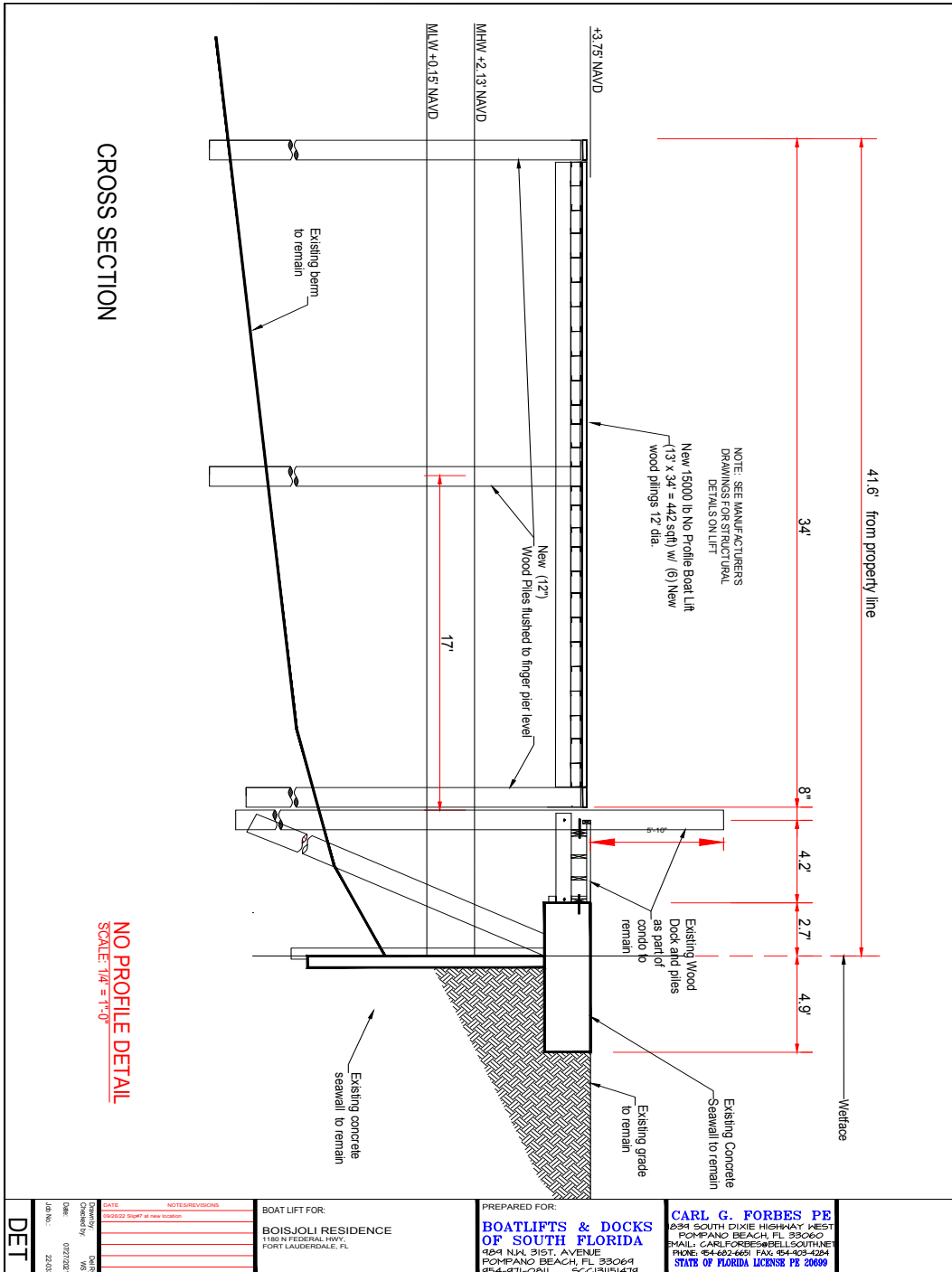


# BOAT LIFTS & DOCKS OF SOUTH FLORIDA





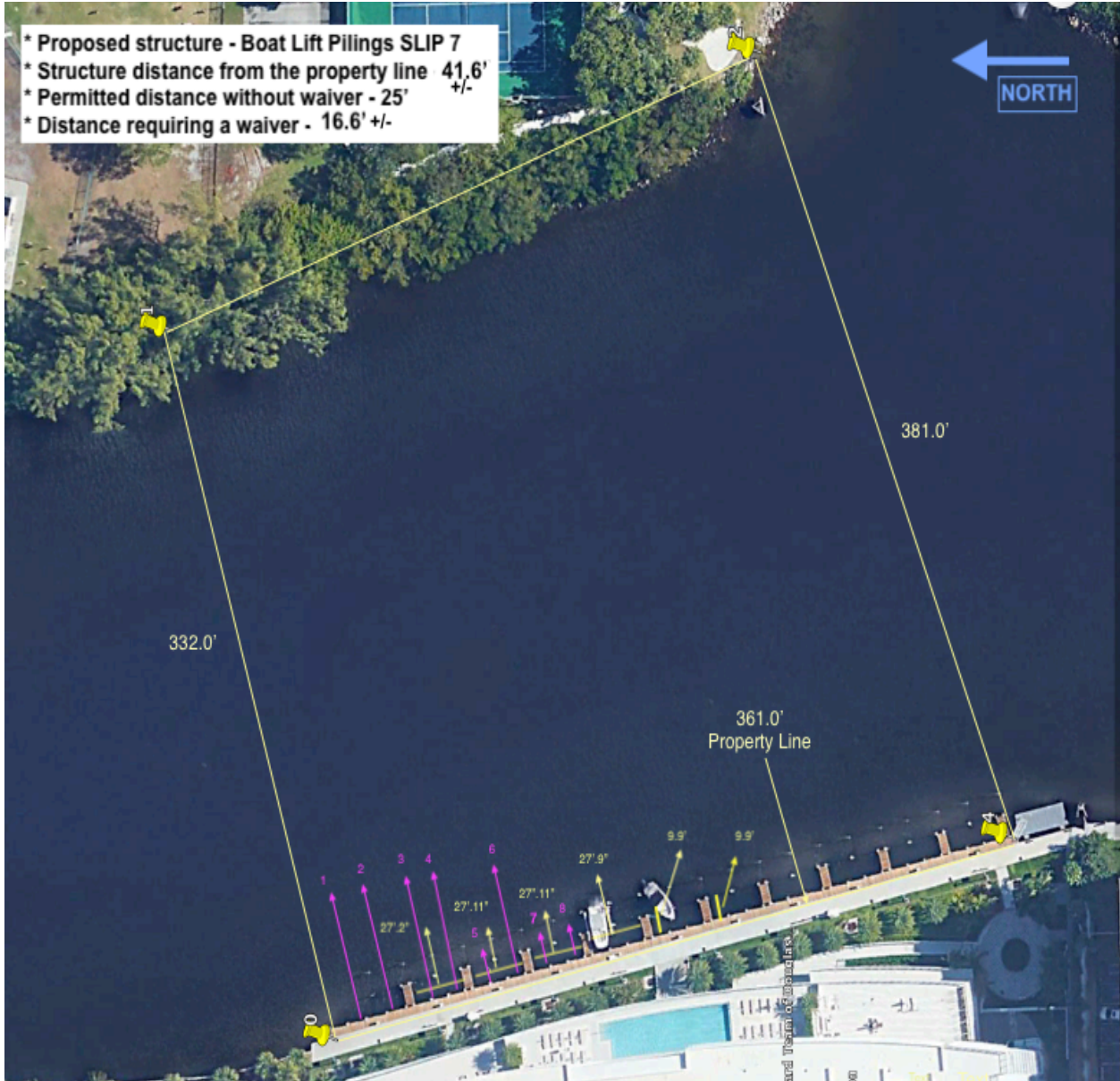
# BOAT LIFTS & DOCKS OF SOUTH FLORIDA





## **EXHIBIT VIII DISTANCE EXHIBIT**















## **EXHIBIT IX EXISTING WAIVERS IN THE VICINTY**

**EXISTING WAIVERS IN THE VICINTY**



<b>ADDRESS - RIVA</b>	<b>MAXIMUM DISTANCE</b>
2020 Unit 609 Slip 4	30' + -
2020 Unit 1608 Slip 10	30' + -
2019 Unit 1201 Slip 14	30' + -





2020 Unit 1201 Slip 14	30' + -
2020 Unit 408 Slip 17	33' + -
2020 Unit 1106 Slip 19	30' + -
<b>SUBJECT SITE</b>	<b>41.6' +/-</b>



Sec. 47-19.3. - Boat slips, docks, boat davits, hoists and similar mooring structures.

(a) The following words when used in this section shall, for the purposes of this section, have the following meaning:

- (1) *Mooring device* means a subset of mooring structures as defined herein including boat davits, hoists, boat lifts and similar devices that are erected on or adjacent to a seawall or dock and upon which a vessel can be moored. A mooring device does not include docks, slips, seawall or mooring pile.
- (2) *Mooring structure* means a dock, slip, seawall, boat davit, hoist, boat lift, mooring pile or a similar structure attached to land more or less permanently to which a vessel can be moored.
- (3) *NGVD 29* or the National Geodetic Vertical Datum of 1929 means the vertical control datum established for vertical control surveying in the United States of America by the General Adjustment of 1929. The datum is used to measure elevation or altitude above, and depression or depth below, mean sea level (MSL).
- (4) *NAVD88* or the North American Vertical Datum means the vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.
- (5) *Seawall* means vertical or near vertical structures placed between an upland area and a waterway. For the purposes of Section 47-19.3(f), rip rap is not considered a seawall.
- (6) *Rip rap* means a foundation of unconsolidated boulders, stone, concrete or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.

(b) Boat davits, hoists and similar mooring devices may be erected on a seawall or dock subject to the following limitations on the number and location as follows:

- (1) Except as provided herein, only one (1) mooring device per the first one hundred (100) feet of lot width or portion thereof, and one mooring device for each additional one hundred (100) feet of lot width. A second mooring device may be permitted within the lot area greater than one hundred (100) feet but less than two hundred (200) feet if approved as a Site Plan Level II permit, subject to the following criteria:
  - a. The location of the proposed mooring device will not interfere with the view from adjacent properties to a degree greater than the intrusion already permitted as a result of the berthing of a vessel at applicant's property within the setback and extension limitations provided in the Code.
  - b. The type of mooring device is the least intrusive and most compatible with the view from the waterway.
  - c. No conflict with a neighboring property owner's usage of the waterway will be created as a result of the additional mooring device.

Pursuant to Site Plan Level II review, the development review committee ("DRC") shall determine whether the proposed additional mooring device meets the criteria based on its location and the relationship of applicant's property to abutting properties with regard to height, angle of view of the device from abutting properties and the height, width and length of the mooring device proposed.

Approval of a Site Plan Level II development permit for an additional mooring device shall not be final until thirty (30) days after preliminary DRC approval and then only if no motion is approved by the City Commission seeking to review the application pursuant to the process provided in Section 47-26. The denial of an application for an additional mooring device may be appealed to the City Commission in accordance with the provisions of Section 47-26.



- (2) In addition to the mooring device described in paragraph (b)(1) of this section, one (1) lift designed and used solely for the lifting of a personal watercraft (PWC) per development site is permitted. For purposes of this subsection (2) a PWC is as defined in F.S. Ch. 327.
- (3) The cross section of the davit, hoist or other mooring device shall not exceed one (1) square foot and have a maximum height of six and one-half (6½) feet above lot grade.
- (4) The lowest appendage of a vessel may not be hoisted greater than one (1) foot above a seawall cap or if no seawall, above the average grade of the upland property and properties abutting either side of the upland property, whichever is less.
- (c) No boat slips, docks, boat davits, hoists, and similar mooring structures not including mooring or dolphin piles or a seawall, may be constructed by any owner of any lot unless a principal building exists on such lot and such lot abuts a waterway. Mooring structures, not including mooring or dolphin piles, shall not extend into the waterway more than twenty-five (25) percent of the width of the waterway or twenty-five (25) feet whichever is less as measured from the property line.
- (d) Mooring or dolphin piles, shall not be permitted to extend more than thirty (30) percent of the width of the waterway, or twenty-five (25) feet beyond the property line, whichever is less.
- (e) The City Commission may waive the limitations of Sections 47-19.3.(c), 47-19.3.(d) and 47-39.A.1.b.(12).(a) and 47-39.A.1.b.(12).(b) under extraordinary circumstances, provided permits from all governmental agencies, as required, are obtained after approval of the City Commission, after a public hearing and notification to property owners within three hundred (300) feet. In no event shall the extension exceed thirty (30) percent of the width of the waterway and no variance may be approved by the Board of Adjustment or other agency permitting an extension beyond the thirty percent (30%) limitation. Reflector tape shall be affixed to and continually maintained on all mooring or dolphin piles authorized under this subsection to extend beyond the limitations provided in subsection (d). The reflector tape must be formulated for marine use and be in one (1) of the following uniform colors: international orange or iridescent silver. On all such piles, the reflector tape shall be at least five (5) inches wide and within eighteen (18) inches of the top of the pile.
- (f) The top surface of a seawall shall have a minimum elevation of 3.9 feet NAVD88 (see table). The elevation of a seawall or dock shall not exceed a maximum of the base flood elevation (BFE) as identified in the corresponding FEMA Flood Insurance Rate Map (FIRM) for the property, except as specifically set forth herein. For properties with a BFE of 4.0 feet NAVD88, the minimum seawall elevation shall meet 3.9 feet NAVD88 and the maximum seawall or dock elevation shall be 5.0 feet NAVD88. For waterfront properties with a habitable finished floor elevation of less than 3.9 feet NAVD88, a seawall may be constructed at less than the stated minimum elevation if a waiver is granted by the City Engineer. For properties within an X zone, the minimum seawall elevation shall meet 3.9 feet NAVD88 and the maximum seawall or dock elevation shall meet the definition of grade as determined by subsection 47-2.2 (g)(1)(a). The maximum height of related structures attached to a seawall shall not exceed the elevation of the seawall to which the structure is attached. In the event of a conflict between subsection 47-19.5.B.Table 1, Note G: subsection 1.a.ii. and the requirements of this section, this section shall govern. Property owners choosing to construct seawalls at less than 5.0 feet NAVD88 are strongly encouraged to have the foundation designed to accommodate a future seawall height extension up to a minimum elevation of 5.0 feet NAVD88.

Property's FEMA Flood Insurance Rate Map Location	Minimum Allowable Seawall Elevation	Maximum Allowable Seawall or Dock Elevation
In a floodplain with a base flood elevation greater than or	3.9 feet NAVD88	Base flood elevation of the property



equal to 5.0 feet NAVD88		
In a floodplain with a base flood elevation equal to 4.0 feet NAVD88	3.9 feet NAVD88	5 feet NAVD88
In an X zone, not in a floodplain	3.9 feet NAVD88	Meet the definition of grade as determined by Section 47-2.2(g)(1)(a)

- (1) Seawalls must be designed and built in a substantially impermeable manner to prevent tidal waters from flowing through the seawall while still allowing for the release of hydrostatic pressure from the upland direction.
- (2) Fixed docks may be constructed at an elevation less than the elevation of the seawall to which it is attached but shall not be constructed at an elevation more than ten (10) inches above the seawall's elevation. The dock elevation may not exceed the maximum elevation as described in subsection (f) of this section. Floating docks shall be allowed and must be permitted and permanently attached to a marginal dock, finger pier, mooring pilings, or seawall.
- (3) Seawall improvements constituting substantial repair at the time of permit application shall meet the minimum elevation and consider the design recommendations (see subsection (f) above) for the continuous seawall for the length of the property. For the purposes of this section, the substantial repair threshold shall mean the following:
  - (i) Any improvement to the seawall of more than fifty percent (50%) of the length of the structure, which for the purposes of this section, shall include both the seawall and cap; or
  - (ii) Any improvement to the seawall which results in an elevation change along more than fifty percent (50%) of the length of the structure.
- (4) All property owners must maintain their seawalls in good repair. A seawall is presumed to be in disrepair if it allows for upland erosion, transfer of material through the seawall or allows tidal waters to flow unimpeded through the seawall to adjacent properties or public right-of-way. Property owners failing to maintain their seawalls may be cited. The owner of the property on which the seawall is constructed is required to initiate a process, including but not limited to hiring a contractor or submitting a building permit, and be able to demonstrate progress toward repairing the cited defect within sixty (60) days of receiving notice from the city and complete the repair within three hundred sixty-five (365) days of citation. If the required repair meets the substantial repair threshold, the property owner shall design, permit, and construct the seawall to meet the minimum elevation requirement and design requirement (see subsection 47-19.3(f)) within three hundred sixty-five (365) days of citation.
- (5) Property owners with seawalls below the minimum elevation, or permeable erosion barriers such as rip rap, or a land/water interface of another nature shall not allow tidal waters entering their property to impact adjacent properties or public rights-of-way. Property owners failing to prevent tidal waters from flowing overland and leaving their property may be cited. The owner of the property is required to initiate a process, including but not limited to, hiring a contractor or submitting a building permit, and be able to demonstrate progress toward addressing the cited concern within sixty (60) days of receiving notice from the city and complete the proposed remedy within three hundred sixty-five (365) days of citation.





- (g) No boathouse, permanent covering, or temporary covering for a boat shall be permitted within the setback area required for the zoning district in which such shelter is to be located, nor shall any boathouse, permanent covering or temporary covering for a boat, or any other structure not otherwise specifically permitted, be permitted within or cover any public waterway.
- (h) No watercraft shall be docked or anchored adjacent to residential property in such a position that causes it to extend beyond the side setback lines required for principal buildings on such property, as extended into the waterway, or is of such length that when docked or anchored adjacent to such property, the watercraft extends beyond such side setback lines as extended into the waterway. The owner of real property which would be entitled to the density limitation of a maximum of forty (40) units per acre pursuant to the terms for habitation of floating homes or vessels, Section 47-19.6, may apply for an exception to the setback requirements contained herein. An application for such exception shall be heard by the Planning and Zoning Board (board) at a public hearing called for that purpose. After the public hearing, the board shall make a recommendation to the City Commission that the application be granted or denied, or granted subject to conditions. If the board recommends that the application be either granted or granted subject to conditions, the City Clerk shall place the recommendation on the agenda of the City Commission for a public hearing at a regular meeting. The City Commission shall, by resolution, either grant the application, deny the application, or grant the application subject to such conditions as it finds necessary to the health, safety and general welfare of the citizens of the city. In deciding whether to grant or deny the application, the City Commission shall consider the neighborhood within which the applicant's property lies and the effect that the exception to the setbacks would have on the following:
  - (1) The surrounding property.
  - (2) The ability of adjacent property owners to enjoy abutting waterways.
- (i) Waiver of limitations. Property owners of lands located on the Isle of Venice and Hendricks Isle may dock or anchor watercraft adjacent to their respective properties in a manner which extends beyond side setback lines, required by this section as approved by Resolution No. 85-270.

(Ord. No. C-97-19, § 1(47-19.3), 6-18-97; Ord. No. C-04-2, § 4, 1-12-04; [Ord. No. C-10-44, § 2, 12-7-10](#); [Ord. No. C-13-18, § 2, 6-4-13](#); Ord. No. [C-16-13](#), § 1, 6-21-16; [Ord. No. C-16-27](#), § 1, 12-6-16)