



Interoffice Memorandum

AGENDA ITEM

March 2, 2022

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development
Services Department

CONTACT PERSON: David D. Jones, P.E., CEP, Manager
Environmental Protection Division
(407) 836-1406

SUBJECT: April 5, 2022 — Consent Item
Environmental Protection Commission Recommendation for
Request for Waiver and Variance for Carmel by the Lake, LLC
Semi-Private Dock Construction Permit BD-21-09-132

The applicant, Carmel by the Lake, LLC, is requesting a waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-342(b) (terminal platform size) and a variance to Section 15-341(a) (principal use). The project site is located on Via Carmel Way (Tract SM-1), Orlando, FL 32819 on Lake Tibet-Butler in District 1. The Parcel ID Number is 28-23-28-1195-19-001.

On September 22, 2021, the Environmental Protection Division (EPD) received an Application to Construct a Semi-Private Dock for the subject property. On October 11, 2021, EPD received an Application for Waiver to Section 15-342(b) (terminal platform size) requesting to increase the terminal platform size from the maximum allowed by Code of 1,000 square feet to 1,291 square feet and an Application for Variance to Section 15-342(e) (roof height) to increase the maximum roof height from 12 to 15 feet. On October 13, 2021, EPD received an Application for Variance to Section 15-341(a) to allow the construction of a dock without the establishment of principal use on the parcel.

On December 29, 2021, EPD received a revised Application for Variance to Section 15-342(e) (roof height) and a revised Application for Waiver to Section 15-342(b) (terminal platform size) that included expanded explanations of the requested variance and waiver. On January 20, 2022, EPD received revised site plans that reduced the roof height to 11' 11", which is within Code requirements, therefore eliminating the need for a variance to Section 15-342(e) (roof height).

Terminal Platform Size Waiver

Chapter 15, Article IX, Section 15-342(b) of the Code states, "the maximum square footage of the terminal platform shall not exceed the square footage of ten times the linear shoreline frontage for the first seventy-five (75) feet of shoreline and five times the linear shoreline frontage for each foot in excess of seventy-five (75) feet, not to exceed a maximum of 1,000 square feet." The applicant has a shoreline that measures over 200 linear feet at the Normal High Water Elevation (NHWE), allowing for a terminal platform size of 1,000 square

feet. The applicant is requesting to construct a new dock with a terminal platform size of 1,291 square feet (291 square feet larger than allowed).

Pursuant to Section 15-350(a)(2), “the applicant shall describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners.”

To address Section 15-350(a)(2)(1), the applicant’s agent (Mr. Peter Fleck) states, “The applicant is a developer and trying to minimize environmental impacts by having a community dock with 3 boat slips instead of 3 separate docks which would have a greater impact. In addition, the homeowner is willing to pay into the mitigation fund.”

To address Section 15-350(a)(2)(2), Mr. Fleck states, “The proposed dock is located on what appears to be a man-made canal/inlet and not on the main part of the lake. This location is isolated and partially hidden from sight due to a heavily vegetated island in the inlet and distance from any neighboring properties.”

The additional shading impacts from the larger-than-allowed terminal platform were evaluated by EPD staff using the Uniform Mitigation Assessment Method. The applicant has agreed to provide mitigation for the additional shading with a payment of \$834 to the Conservation Trust Fund (CTF).

Principal Use Variance

Chapter 15, Article IX, Section 15-341(a) of the Code states, “No permit application shall be submitted unless there is a principal use established on the property.” Principal use is defined by Section 15-323 as, “A use of the upland parcel for residential, commercial or governmental purposes. At a minimum, a principal use shall be established by the issuance of a building permit for a principal structure.” The subject parcel is a stormwater tract, currently contains a stormwater pond, and the applicant neither intends to apply for a permit to construct a building nor is there sufficient space to construct one on the subject parcel. Therefore, the applicant is requesting a variance to construct a semi-private dock without principal use.

Section 15-350(a)(1) Variances states, “A variance application may receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest; (2) where, owing to special conditions, compliance with the provisions herein would impose an unnecessary hardship on the permit applicant; (3) that the hardship is not self-imposed; and (4) the granting of the variance would not be contrary to the intent and purpose of this article.”

Pursuant to Section 15-350(a)(1), “the applicant shall also describe (1) how strict compliance with the provisions from which a variance is sought would impose a unique and unnecessary hardship on the applicant-the hardship cannot be self-imposed; and (2) the effect of the proposed variance on abutting shoreline owners.”

To address Section 15-350(a)(1)(1), Mr. Fleck states, “This variance would allow lake access for residences in the community that do not have direct access to the lake.”

To address Section 15-350(a)(1)(2), Mr. Fleck states, “None.”

Mooring Area - Maximum Water Depth

On February 3, 2022, EPD received a site plan depicting bathymetric measurements taken by the agent, Mr. Peter Fleck, that indicates water depths in the mooring area for the proposed dock will range from eight to 10 feet. According to Section 15-342(a), "The maximum water depth allowed for mooring areas is five feet, as measured from the NHWE, unless the natural conditions of the water body necessitate a greater water depth to allow reasonable mooring conditions." The applicant has situated the dock with the proposed terminal platform close to the shoreline. As shown on the site plan, the proposed dock walkway is only 10 feet in length. EPD has determined that the drop in lake bottom elevations in the area of the proposed dock represent a natural condition that necessitates a greater water depth to allow reasonable mooring conditions; therefore, pursuant to Section 15-342(a), a variance to the maximum allowed water depth is not required.

Dock Placement

Since the subject parcel is a platted stormwater tract, EPD requested an opinion from the Orange County Public Works Stormwater Management Division (OCPW). On October 14, 2021, OCPW responded that they have no objections to the proposed placement of the dock.

Due to the proposed placement within a cove of Lake Tibet-Butler, EPD requested a navigational assessment from the Orange County Sheriff's Office (OCSO). On December 11, 2021, the OCSO responded that they identified no navigational concerns with the proposed placement of the dock.

Public Noticing

On December 20, 2021, Notices of Application for Waiver and Variance were sent to all shoreline property owners within a 300-foot radius of the property. Several notices were not delivered by the United States Postal Service (USPS); therefore, EPD requested that the applicant's agent hand deliver all of the notices not delivered by the USPS. This was completed by Mr. Fleck on December 28, 2021; confirmation (photographs) that the notices were delivered was provided to EPD on the same day. No objections were received.

Enforcement Action

There is no current enforcement action for this property.

EPD Staff Evaluation/Recommendation

Staff evaluated the waiver request for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer (EPO) is to approve the request for waiver to Section 15-342(b) (terminal platform size) based on a finding that the applicant has demonstrated that there will be no effect from the proposed waiver on abutting shoreline owners pursuant to Section 15-350(a)(2)(2) as no objections have been received. Pursuant to Section 15-350(a)(2)(1), negative effects to the environment from additional shading due to the excess in terminal platform size will be offset through the payment of \$834 to the CTF as mitigation.

Staff also evaluated the variance request for compliance with the criteria for approval. The applicant has demonstrated that there will be no adverse effects from the proposed

variance on abutting shoreline owners pursuant to Section 15-350(a)(1)(2), as no objections have been received, and that the hardship is not self-imposed per Section 15-350(a)(1)(1), as this parcel was not planned or designed for a principal structure. Therefore, the recommendation of the EPO is to approve the request for variance to Chapter 15, Section 15-341(a) (principal use).

Environmental Protection Commission Public Hearing

EPD presented the waiver and variance requests to the EPC at their February 23, 2022 public meeting. Mr. Charles Whittal (of Carmel by the Lake LLC) and Mr. Fleck attended on behalf of the applicant. Mr. Fleck is a member of the EPC and submitted documentation prior to the hearing identifying a conflict of interest with the item being heard; therefore, he did not vote on the recommendation.

Chairman Mark Ausley inquired about the configuration of the subdivision and asked why the dock is proposed on a stormwater tract. Mr. Whittal explained that when platting the subdivision they chose not to maximize the number of lots and instead created this tract with a mixed-use intent (as a recreation amenity as well as for the stormwater pond). Mr. Ausley agreed that consolidating docks for several parcels into one reduces the overall footprint of docks and that this is a good use of the parcel.

Commission member Alan Horn pointed out that using the formula for allowable terminal platform size provided in the Code, and if there were no limit of 1,000 square feet, this parcel would be allowed a terminal platform over 1,300 square feet in size. Mr. Horn stated that since this dock is under that size, he had no issue with the request.

Based upon evidence and testimony presented at the hearing, the EPC voted unanimously to accept the findings and recommendation of the EPO, and recommended approval of the waiver to Section 15-342(b) (terminal platform size) with the condition that the applicant \$834 to the CTF as mitigation for the additional shading impacts and recommended approval of the variance to Section 15-341(a) (principal use).

ACTION REQUESTED: Acceptance of the findings and recommendation of the Environmental Protection Commission and approval of the request for waiver to Orange County Code, Chapter 15, Article IX, Section 15-342(b) to increase the maximum allowable terminal platform size from 1,000 to 1,291 square feet with a mitigation payment of \$834 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners, and approval of the request for variance to Section 15-341(a) to allow a dock to be constructed on the subject parcel without an established principal use for the Carmel by the Lake, LLC Semi-Private Dock Construction Permit BD-21-09-132. District 1

JVW/DDJ: jk

Attachments

Dock Construction Application for Waiver and Variance



Dock Construction Application for Waiver and Variance

BD-21-09-132

District #1

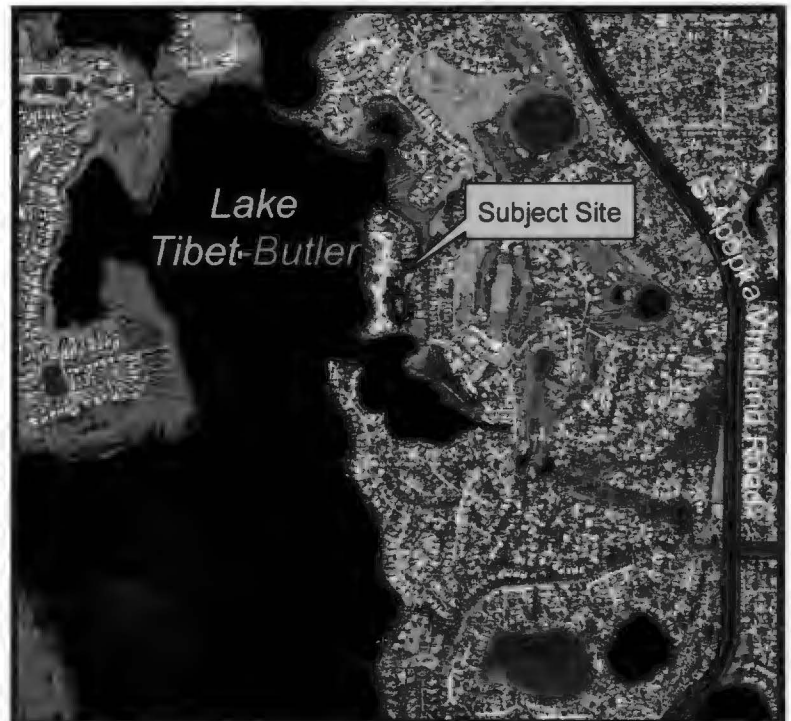
Applicant: Carmel by the Lake LLC

Address: Via Carmel Way

Parcel ID: 28-23-28-1195-19-001

Project Site 

Property Location 



DOCK PLANS

Whittall Boat Dock

Boat Dock 2 - Via Carmel Way

Prepared For

received
1/20/2022

Q-ICE Builders

Prepared By

 **THOMPSON ENGINEERING GROUP, INC**

Engineer: Michael Thompson, MSc, P.E. (#47509)

4401 Vineland Road, Suite A6

Orlando, Florida 32811

Ph: 407-734-1450

Fax: 407-734-1790

Certificate of Authorization No. 30060

www.tegfl.com

September 20th, 2021

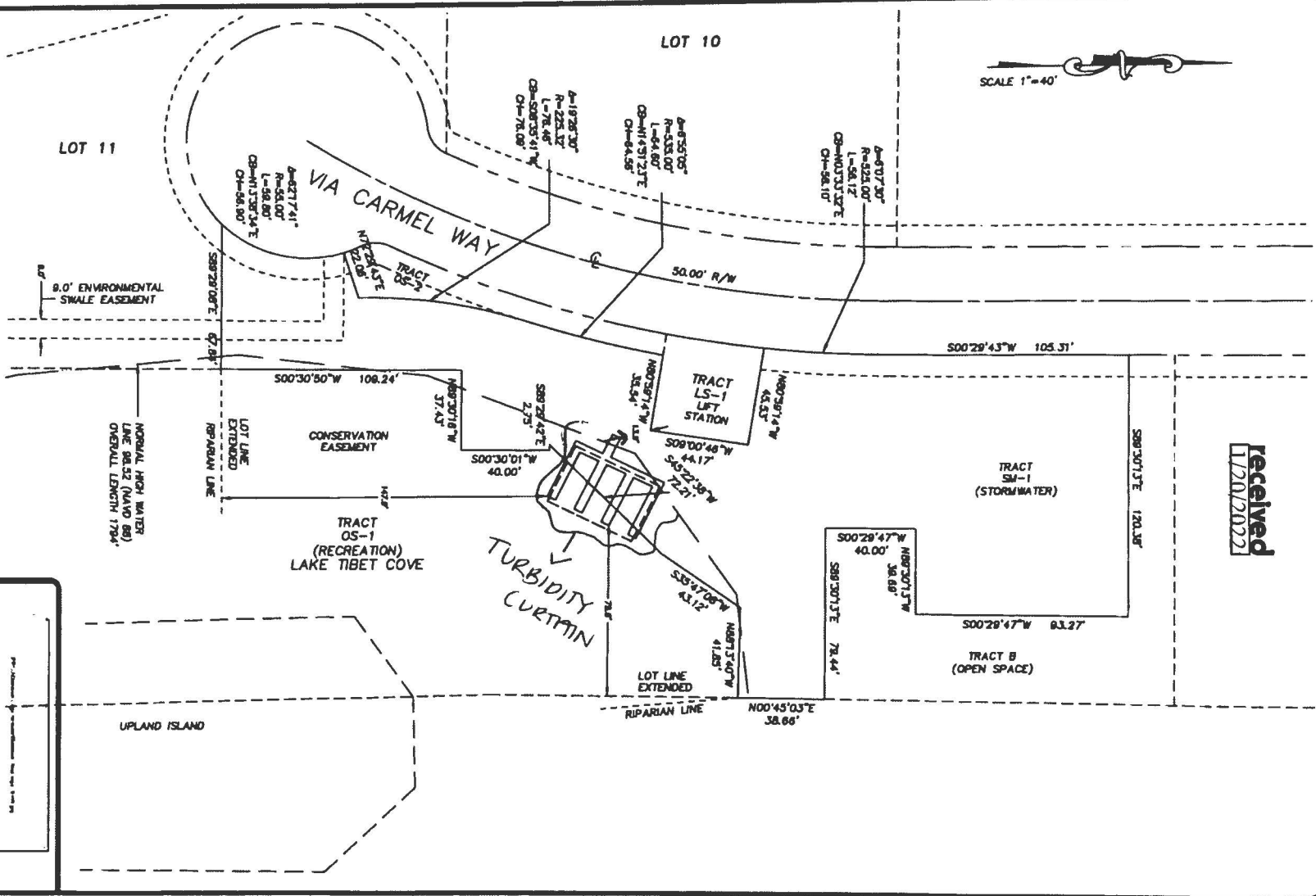
JOB NUMBER: 21120.000
DRAWING FILE: 21120.dwg



SCALE 1"=40'

LOT 11

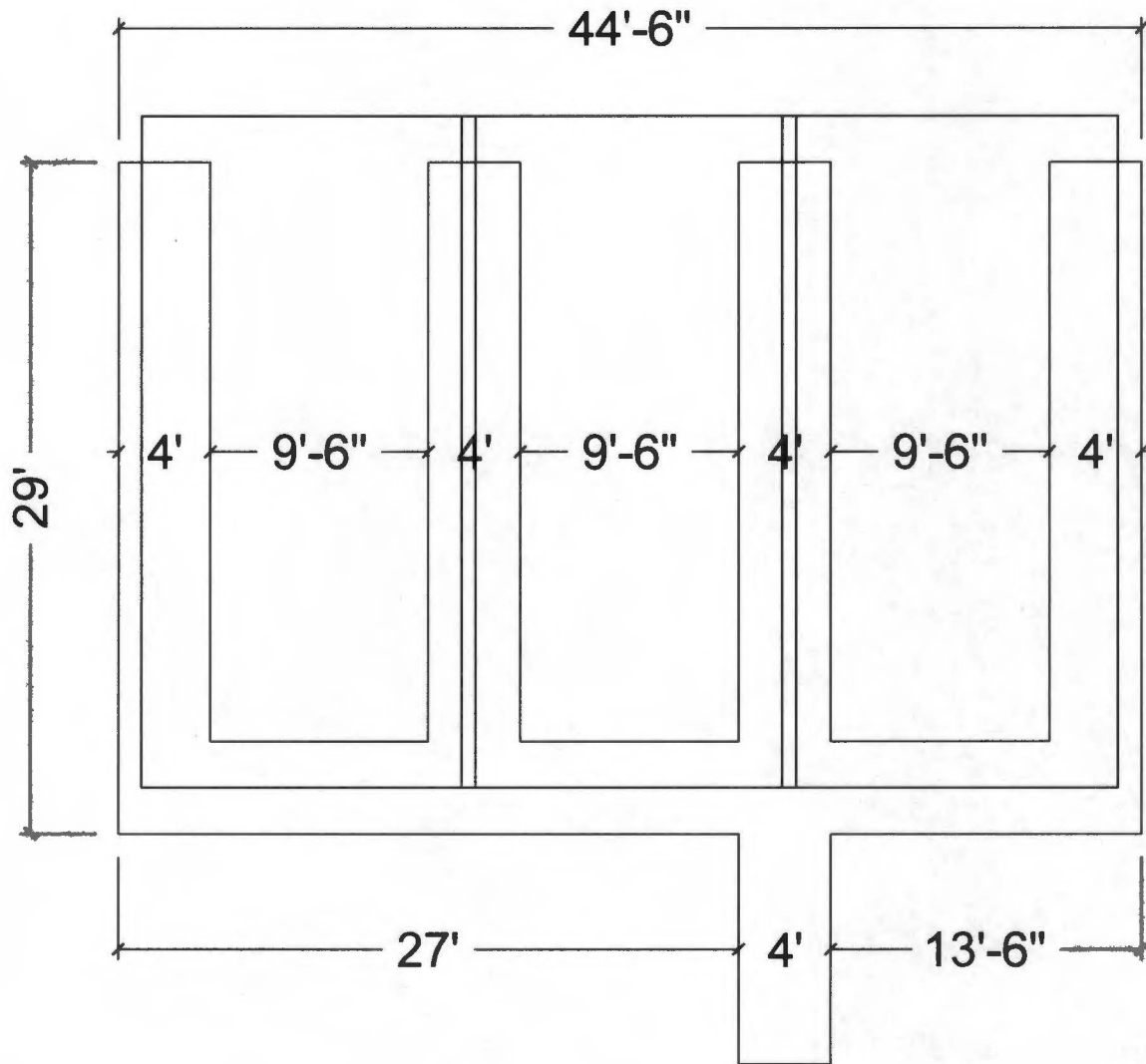
LOT 10



received
1/20/2022

CERTIFICATE OF AUTHORIZATION LB 7274
13810 GRANVILLE AVE Phone No. 407.808.8877
CLEARWATER, FLORIDA 34711 Fax No. 407.808.8875

received
1/20/2022

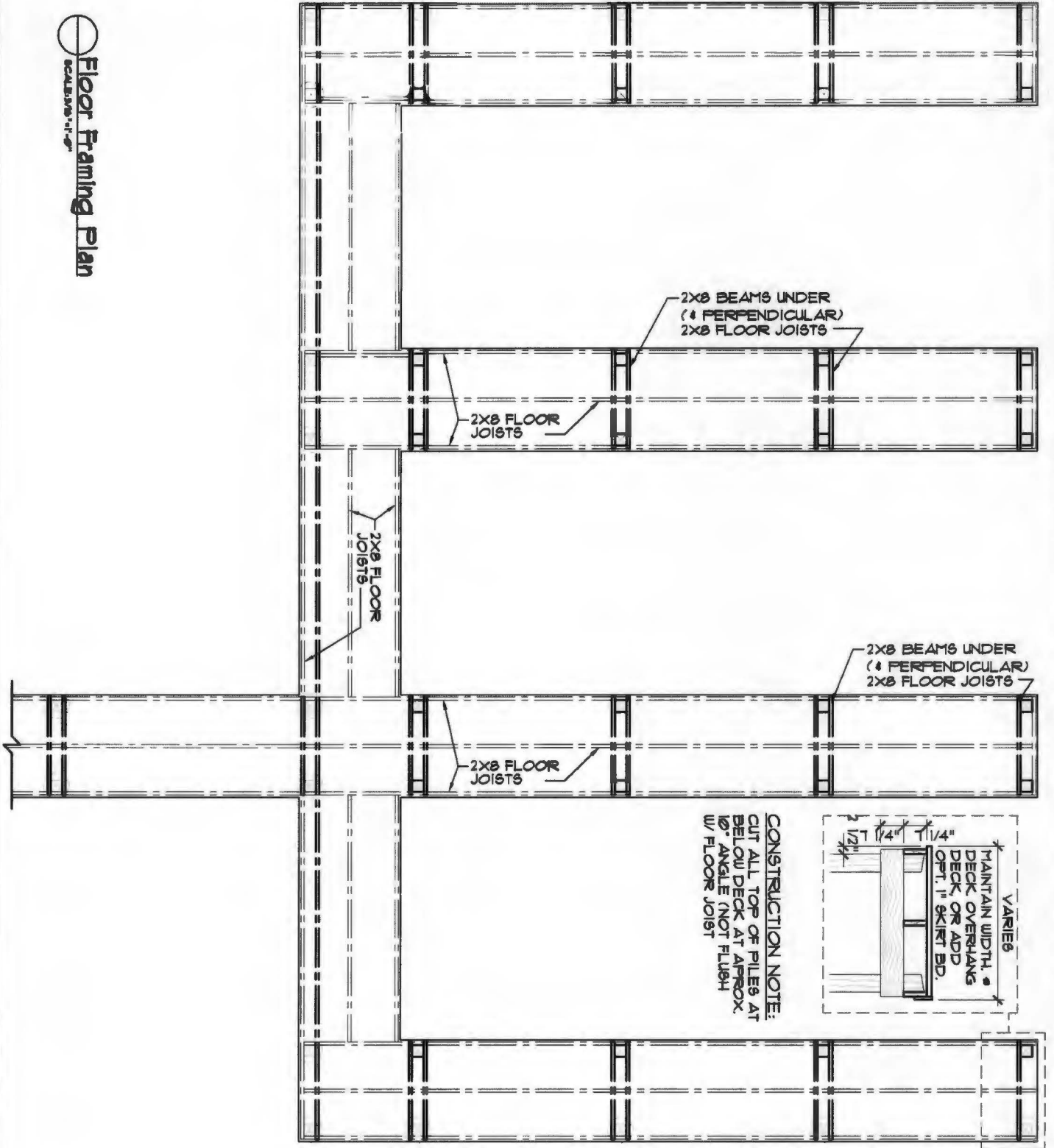


Dock Layout
SCALE: N.T.S

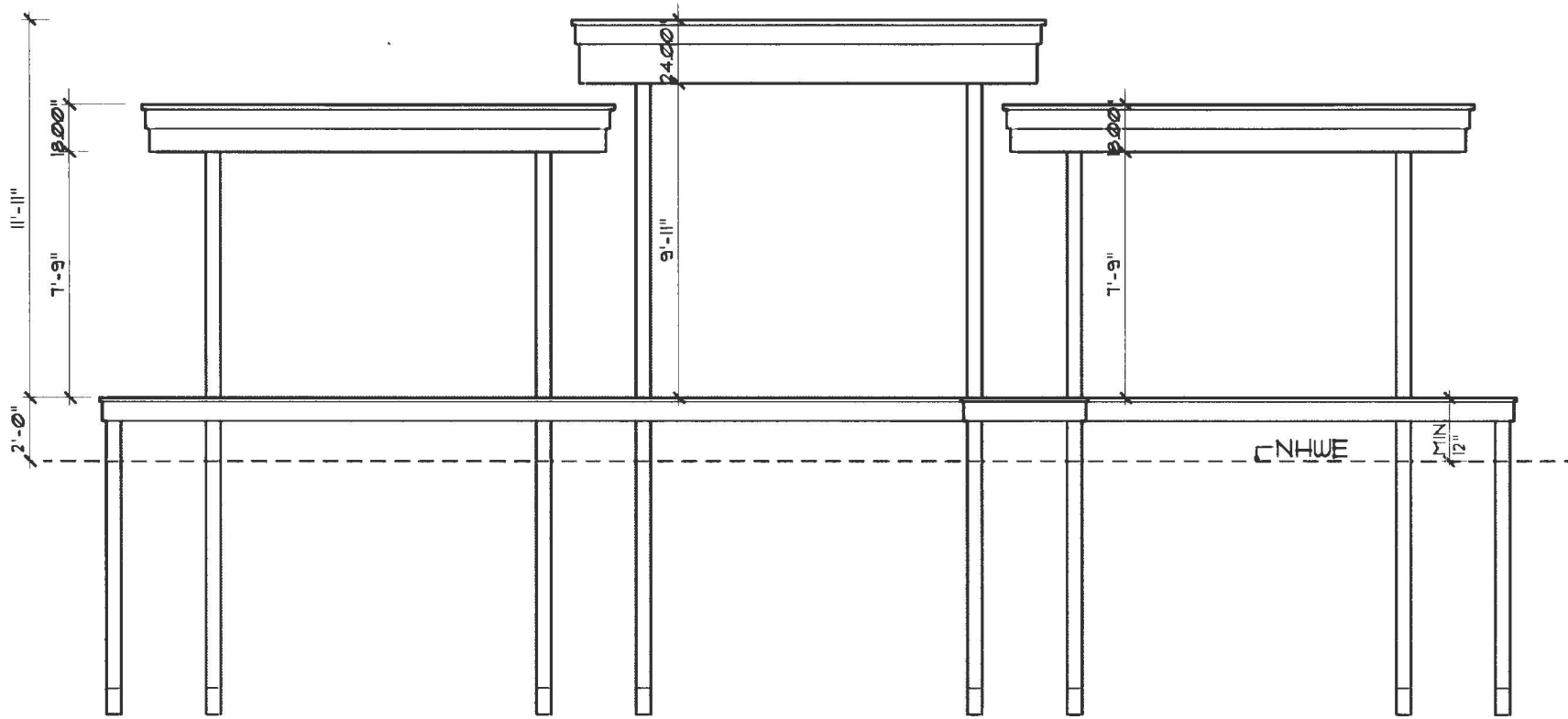
S.F. CALCULATIONS
* TOTAL TERMINAL PLATFORM
DECKING - 618 SQ. FT.
* ROOF - SQ. FT.

received
1/20/2022

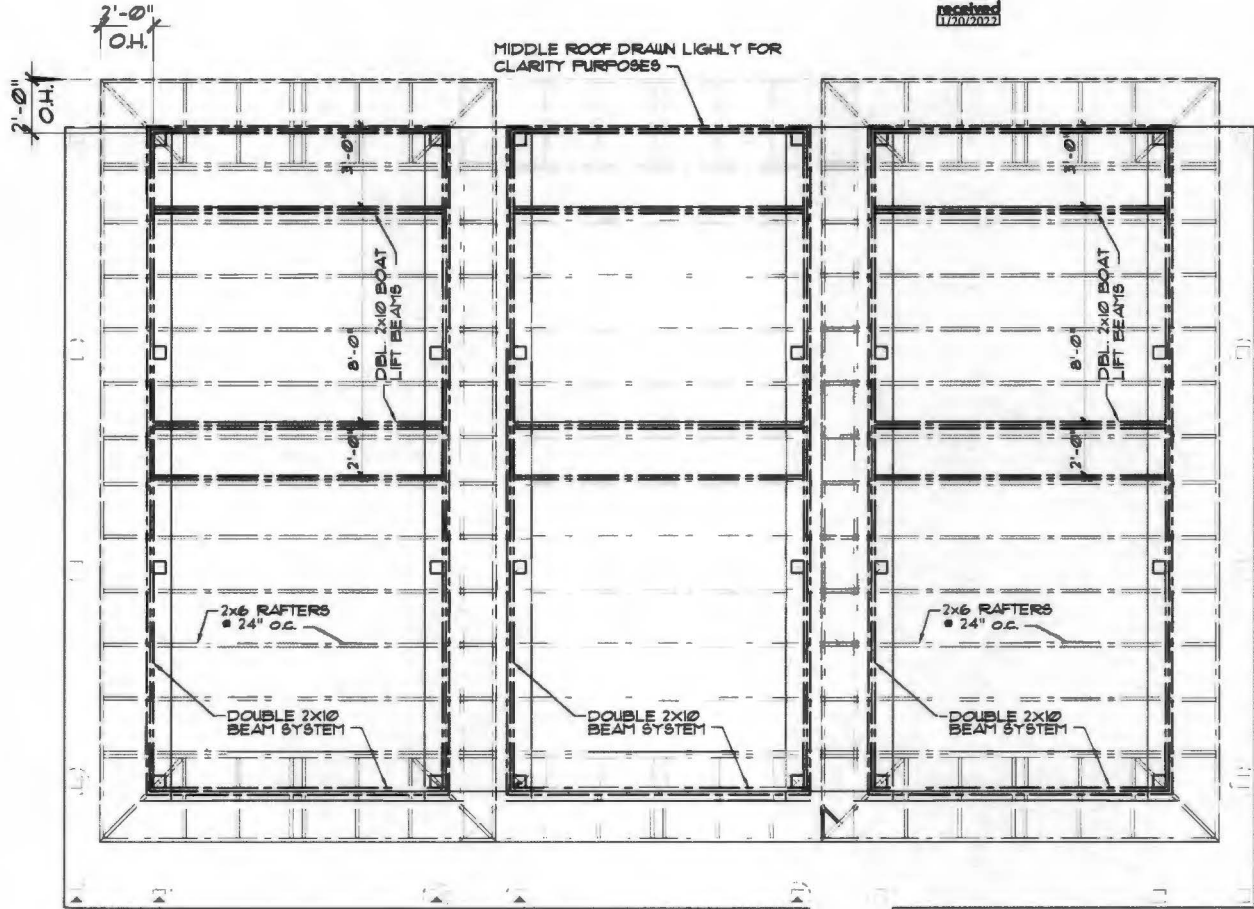
⊖ Floor Framing Plan
SCALE: 3/8" = 1'-0"



received
1/20/2022



⊙ Rear Elevation
SCALE: 3/16" = 1'-0"



Roof Framing Plan
SCALE: 3/16" = 1'-0"

received
1/20/2022

1x2
METAL DRIP EDGE

DBL P.T. 2x6 FASCIA
(.40 ACQ)

BUILT IN PLACE
SOFFIT, 2x4'S @ 24" o.c.
(ATTACHED TO EA.
RAFTER, 5-10d NAILS)

CEMENTITIOUS BOARD,
PROTECTED PLYWOOD, OR
1x PROTECTED WOOD. IF
USING STUCCO, PROVIDE
3x6 RAFTERS @ 3' o.c.

INDICATES POTENTIAL
ADJACENT ROOF SYSTEM

VARIABLES

VARIABLES

MAX. 12'-0"

H2.5A EA. ROOF TRUSS TO RAFTER (ON
INTERIOR SIDE)

SINGLE PLY MEMBRANE ROOFING

2x6 T&G PINE, W/ 1- 3" RING SHANK NAIL
PER RAFTER, OR 5/8" T-III SIDING W/ 1/2"
CDX EXTERIOR PLYWOOD (SEE ROOF
NAILING PATTERN), OR 2x6 ROOF DECK W/
1- 3" RING SHANK NAIL PER RAFTER

2X6 P.T. .40 cca RAFTERS @ 24" o.c. (IF
USING STUCCO FINISH @ SOFFIT, PROVIDE
3x6 RAFTERS @ 3' o.c.)

DBL. 2X10 BOAT LIFT BEAMS ATTACHED W/
HD GALVANIZED BUCKET W/ 3- 1/2" BOLTS

(2) 1/2" GALV. CARRIAGE BOLTS @ EA. HDR.
TO POST CONNECTION

DBL P.T. 2x10 BM. (.40 ACQ)

DECKING FASTENED W/ (2) 1 7/8" CAMO
DECK SCREWS (OR HD GALVANIZED 16d
NAILS) AT BOARD EDGES

2X8 P.T. ACQ FLOOR JOIST @ 16" o.c.
SCREWED TO MEMBER BELOW W/ MIN. (2) 3"
COATED DECK SCREW @ EA. CONNECTION

2x6 P.T. .40 ACQ (ALTERNATING
ONE PER POST PAIR) CROSS
BRACING ATTACHED W/ 3/4"
LAG HD W/ WASHER @ EA.
CONNECTION

6x6 P.T. 60 CCA PILES W/ MIN. 4'
EMBEDMENT, OR TO REFUSAL

OPTIONAL 2X6 CLEAT WITH 5 SCREWS PER
CLEAT

Typical Load Path Section
SCALENTA

Design Standards

The following are general design standards. More stringent design standards may be noted on the plans.

General Requirements:

Reproductions of contract drawings by contractor in lieu of preparation of shop drawings signifies acceptance of information shown as correct and obligates himself to any expense, real or implied, arising from their use. A change to the structural drawings due to the acceptance of alternates and/or substitutes is the responsibility of the contractor and must be submitted to the engineer for approval. The general contractor and each subcontractor shall verify all existing conditions prior to the start of any work. All inconsistencies shall be reported to the designer and/or structural engineer, if needed. Should contractor construct the premises in a fashion not consistent with the plans prepared by the designer and/or structural engineer, or in any fashion, change the plans and drawing without the review and approval from the designer and/or structural engineer. Then designer and/or structural engineer shall bear no responsibility or liability for the construction of premises and accuracy of the drawings.

Design Code:

Florida Building Code 2020

The Aluminum Association, latest edition

ASCE 7-16

Galvanized Bolts:

All bolts shall be galvanized be ASTM A572, grade 50 threaded round stock with a minimum yield stress of 50,000 psi.

Timber:

Design in accordance with the National Design specification for wood construction, with loading in accordance with the Florida Building Code. All graded structural lumber shall be pressure treated and meet the following minimum requirements:

Minimum bending stress = 1250 psi (No. 1 Dense So. Pine)

Young Modulus = 1600 ksi

Maximum of 15% moisture content

Contractor may use Southern Yellow Pine No. 1 or U.O.N.

Lumber sizes shown are nominal sizes. Lumber shall be furnished in finished sizes meeting the requirement of the American Softwood Lumber Standard.

Structural Aluminum:

Conform to latest edition of Aluminum Association of Florida standard practice for aluminum design.

All aluminum shall be 6061-T6 (E= 10,000 ksi; Fy = 35 ksi)

Concrete

Conform to ACI 318, latest edition and ACI 301

Compressive Ultimate Strength (Minimum at 28 days) shall be 3,000 psi

Exposed chamfer edges shall be 3/4"

Reinforcing Steel:

Conform to ACI 318 and 315, Latest edition

All reinforcement steel shall be ASTM A615 Grade 60. Min footing cover 3"

Smooth dowels & ties shall be ASTM A185

Design Loads:

Ultimate Wind: 140 mph at 3 second gust (30 psf minimum)

Pursuant to Chapter 1609 LL (-Table 1607; WL- Section 1609)

Risk Category II (Table 1604.5)

Exposure Category: "D" (FBC 1609.4.3 & ASCE 7-16, Section 26.7.2)

Deck Live Load: 60 psf Guardrail: 50 plf and 200 lbs (concentrated load)

Dead Load: 10 psf

Roof Live Load: 20 psf

Components and cladding, design wind pressures + 38psf/-38psf

Structural Steel:

Conform to latest edition of AISC "Specification for structural steel building" and AISC "Code of standard practice for steel buildings and bridges".

All structural steel shall be ASTM A36, (E= 29,000 ksi; Fy = 36 ksi)

Splicing prohibited without prior approval as to location and type.

Burning of holes in steel members is prohibited. Any member with burned holes must be replaced.

Welding:

Conformed to "code for welding in building construction" by the American Welding Society, latest edition.

Steel Weld IAW AWS D1.1 (latest edition) -E70XX electrodes

Aluminum Weld IAW AWS D1.2 (lasts edition)-Filler Alloy 5356 or equal.

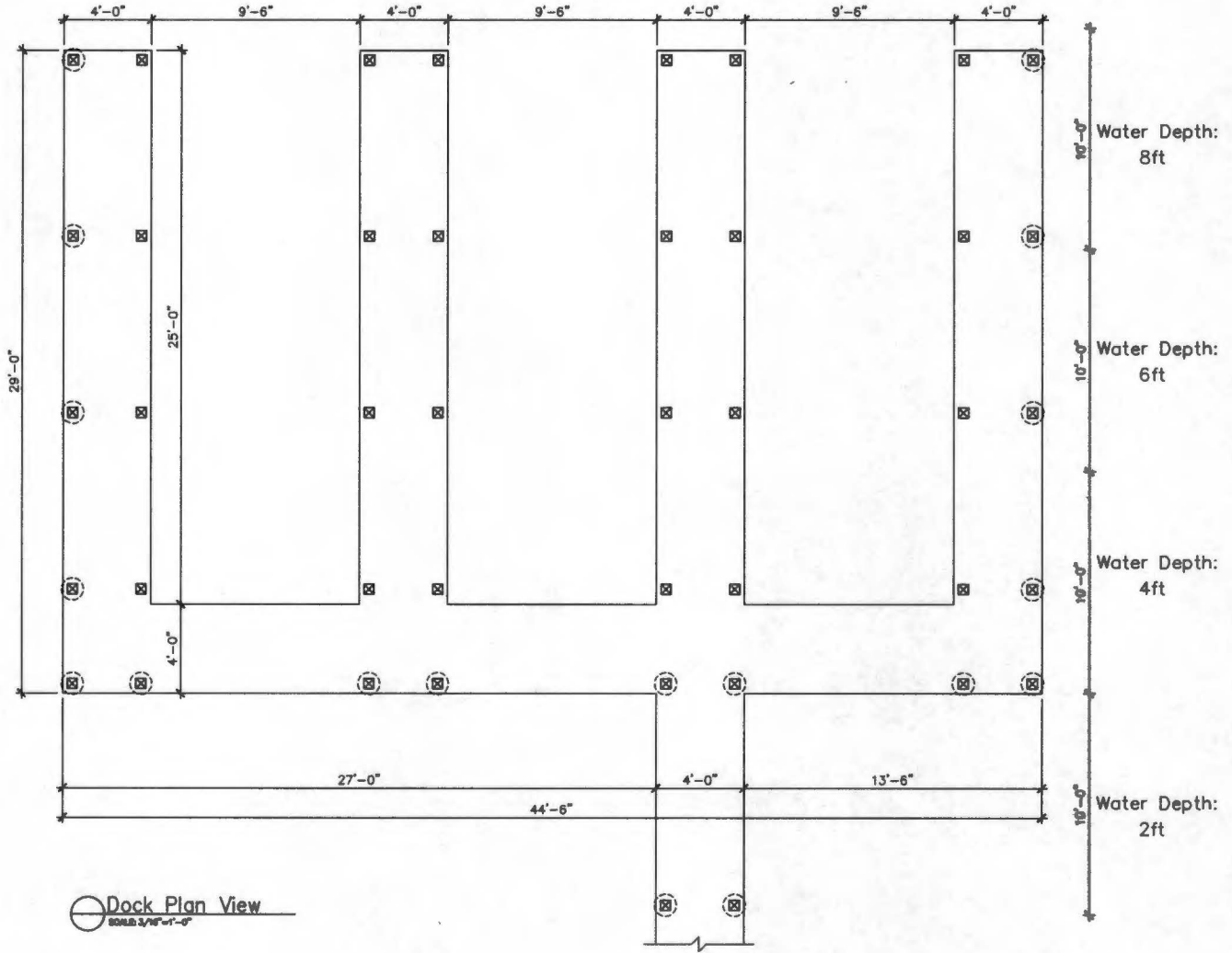
Connection welds to be sized for forces and reactions indicated.

All steel welds shall be E70XX low hydrogen, 250 degrees min.

Welds shall be full penetration welds at all points of contact

Screws: Use 3-6d Nails or 2- 3" deck screws per T&G to secure to roof trusses.

received
2/13/2022





Community

APPLICATION TO CONSTRUCT A BOAT DOCK
APPLICATION FOR WAIVER

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2))

Mail or Deliver To: Orange County Environmental Protection Division
3165 McCrory Place, Suite 200
Orlando, Florida 32803
(407) 836-1400, Fax (407) 836-1499

received
12/29/2021

I, Peter Fleck on behalf of Chuck Whittal (if applicable) pursuant to Orange County Code Chapter 15 Article IX, Section 15-350(a)(2) am requesting a waiver to section (choose and circle from the following: 15-342(b), 15-343(b), 15-344(a) and 15-345(a)) of the Orange County Dock Construction Ordinance.

1. Describe how this waiver would not negatively impact the environment:

See attached sheet

2. Describe the effect of the proposed waiver on abutting shoreline owners:

See attached sheet

The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.

By signing and submitting this application form, I am applying for a waiver to the Section indicated of the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, or local permits prior to commencement of construction. I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.

Name of Applicant: Peter Fleck
Signature of Applicant/Agent [Signature] Date: 12-28-21
Corporate Title (if applicable):

- 1) The applicant is a developer and trying to minimize environmental impacts by having a community dock with 3 boat slips instead of 3 separate docks which would have a greater impact. In addition, the homeowner is willing to pay into the mitigation fund.
- 2) The proposed dock is located on what appears to be a man-made canal/inlet and not on the main part of the lake. This location is isolated and partially hidden from sight due to a heavily vegetated island in the inlet and distance from any neighboring properties.



APPLICATION TO CONSTRUCT A DOCK APPLICATION FOR VARIANCE

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-110(a)(1))

Mail or Deliver To: Orange County Environmental Protection Division, 3165 McCrory Place, Suite 200, Orlando, Florida 32803, (407) 836-1400, Fax (407) 836-1499

received 10/13/2021

Enclose a check for \$409.00 payable to The Board of County Commissioners

I PETER FLECK on behalf of CHUCK WHITTAL (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(1) am requesting a variance to section 15-341(A) of the Orange County Dock Construction Ordinance.

1 Describe how strict compliance with the provisions from which a variance is sought would impose a unique and unnecessary hardship on the applicant (the hardship cannot be self-imposed) This variance would allow lake access for residences in the community that do not have direct access to the lake

2 Describe the effect of the proposed variance on abutting shoreline owners:

None

Notice to the Applicant:

The environmental protection officer, environmental protection commission and the Board of County Commissioners may require additional information necessary to carry out the purposes of this article

A variance application may receive an approval or approval with conditions when such variance: (1) would not be contrary to the public interest, (2) where, owing to special conditions, compliance with the provisions herein would impose an unnecessary hardship on the permit applicant, (3) that the hardship is not self-imposed, and (4) the granting of the variance would not be contrary to the intent and purpose of this article

By signing and submitting this application form, I am applying for a variance to the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, or local permits prior to commencement of construction. I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code

Name of Applicant Peter Fleck

Signature of Applicant Agent

[Handwritten Signature]

Date 10.7.21

Corporate Title (if applicable)





ENVIRONMENTAL PROTECTION DIVISION

David D. Jones, P.E., CEP, Manager

3165 McCrory Place, Suite 200
Orlando, FL 32803
407-836-1400 • Fax 407-836-1499
www.ocfl.net

ENVIRONMENTAL PROTECTION COMMISSION

Mark Ausley
Chairman

Oscar Anderson
Vice Chairman

Flonnan Blackburn

Billy Butterfield

Peter Fleck

R. Alan Horn

Eliane Imbrugna

ORANGE COUNTY ENVIRONMENTAL PROTECTION COMMISSION

February 23, 2022

Applicants: Carmel by the Lake, LLC

Permit Application Number: BD-21-09-132

Location/Address: Tract SM-1, Via Carmel Way, Orlando, FL 32819

RECOMMENDATION: Accept the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for waiver is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2) and recommend approval of the request for waiver to Section 15-342(b) to increase the maximum allowable terminal platform size from 1,000 to 1,291 square feet with a payment of \$834 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners; and

Accept the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for variance is consistent with Section 15-350(a)(1) and recommend approval of the request for variance to Section 15-341(a) to allow a dock to be constructed on the subject parcel without an established principal use for the Carmel by the Lake, LLC Semi-Private Dock Construction Permit BD-21-09-132. District 1

- EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED
EPC DISAGREES WITH THE ACTION REQUESTED, AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION:

Blank lines for additional recommendations or notes.

Signature of EPC Chairman: [Handwritten Signature]

DATE EPC RECOMMENDATION RENDERED: 2-23-22