





AGENDA ITEM

July 9, 2019

TO: Mayor Jerry L. Demings  
—AND—  
Board of 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) 836-1405

SUBJECT: August 6, 2019 — Consent Item  
Environmental Protection Commission Recommendation for  
Request for an After-The-Fact Variance for the Hunt Family V,  
LLC Dock Construction Permit BD 12-05-036

The applicant, Hunt Family V, LLC, is requesting approval of an after-the-fact variance to Section 15-342(a) (maximum water depth). The request is needed to keep a previously constructed boat dock in its current configuration. The project site is located at 5243 West Lake Butler Road. The Parcel ID number is 13-23-27-8392-00-180. The subject property is located on Lake Butler in District 1.

On September 19, 2012, the Environmental Protection Division (EPD) issued a Dock Construction Permit (BD-12-05-036) for the subject property. EPD became aware during construction that the dock was built 99 feet waterward of the Normal High Water Elevation (NHWE) instead of the approved 68 feet. The result of the increased length of the dock is that approximately half of the terminal platform is greater than the allowed maximum mooring water depth of five feet, as measured from the NHWE.

EPD initiated an enforcement case (#13-375790) on May 7, 2013 for the unauthorized exceedance of water depth. A Notice of Violation and Consent Agreement were sent to the applicant. The applicant was given two options in the Consent Agreement: (1) reconstruct the dock in accordance with the approved permit and site plans or (2) submit an application for a dock permit modification (and any required waivers or variances) in order to keep the dock in the current location.

The applicant submitted an after-the-fact Application to Construct a Dock and an after-the-fact Application for Variance to allow for the greater water depth on March 25, 2014. A \$200 penalty was also assessed for the unauthorized modifications to the dock and has since been paid by the applicant.

After receiving the variance application, EPD sent a notice to all shoreline property owners within 300 feet, as required by Code. On April 30, 2014, EPD received a letter of support from the immediate adjacent, abutting property owners to the north, Jim and Stephen Pounds. They stated that they had no objections to the requested variance.

However, on May 19, 2014, EPD received a letter of objection from Christopher and Kathleen Feese, who own the property two parcels to the north at 12520 Summerport Lane. They generally objected to the length of the dock and the variance for greater water depth.

During preparations for a public hearing before the Environmental Protection Commission (EPC) in June 2014, staff was advised by the Orange County Attorney's Office that litigation had been initiated and the permitting process should be put on hold while the litigation between the applicant and neighbors worked its way through the court system. In February 2019, the litigation was resolved and staff resumed processing the outstanding variance request.

On March 6, 2019, EPD re-sent a Notice of Application for Variance to all shoreline property owners within a 300-foot radius of the property. On March 11, 2019, EPD received a new letter of support from Jim Pounds, the co-owner of the adjacent property to the north. On April 1, 2019, EPD again received a letter of objection from Mr. Feese; however, one day prior to the EPC hearing on June 26, 2019, Mr. Feese withdrew his objection to the variance.

Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff evaluated the variance request and other required documents. At the June 26, 2019 public hearing before the EPC, the recommendation of the Environmental Protection Officer (EPO) was to deny the after-the-fact variance to Section 15-342(a) (water depth) because the applicant was unable to demonstrate that the hardship was not self-imposed as required in Section 15-350(a)(1)(1). During the public hearing, Ms. Vivien Monaco, an attorney representing the Hunts, indicated that the Hunts, the Pounds, and the Feeses had been in litigation since 2014 regarding riparian lines and rights. She stated that all parties entered into a settlement agreement the week prior to the EPC public hearing in which they agreed to dismiss their respective claims and to withdraw any objections to the Hunt's dock in its current location. However, Ms. Monaco noted that the agreement will only become effective if the Hunts are able to obtain the after-the-fact boat dock permit and variance from Orange County and approvals needed from the Florida Department of Environmental Protection related to dock construction. Based upon evidence and testimony presented, the EPC voted to overturn the recommendation of the EPO and to recommend approval of the request for variance to Section 15-342(a) (water depth). The basis of the EPC decision was that they thought that since the dock is not a navigational hazard, there are no current objections to the placement of the dock or the water depths around the dock, and the dock contractor might have been dealing with a condition in the field, the variance should be approved.

**ACTION REQUESTED: Acceptance of recommendation of the Environmental Protection Commission to approve the after-the-fact request for variance from Orange County Code, Chapter 15, Article IX, Section 15-342(a) (water depth) for the Hunt Family V, LLC Dock Construction Permit BD 12-05-036. District 1**

JVW/DDJ: mg

Attachments



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

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ENVIRONMENTAL  
 PROTECTION  
 COMMISSION

ORANGE COUNTY  
 ENVIRONMENTAL PROTECTION COMMISSION  
 June 26, 2019

Johnathan Huels  
*Chairman*

Mark Ausley  
*Vice Chairman*

Oscar Anderson

Perry Barnas

Floman Blackburn

Mark Corbett

Theodore Geltz

PROJECT NAME: Hunt Family V, LLC Boat Dock  
 PERMIT APPLICATION NUMBER: BD-12-05-036 (After-the-Fact)  
 LOCATION/ADDRESS/LAKE: 5243 W. Lake Butler Road, Lake Butler

RECOMMENDATION:

**Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), deny the after-the-fact request for variance to Section 15-342(a) (water depth) and require the dock be relocated to the original permitted location within 90 days of the decision of the Board of County Commissioners, for the Hunt Family V, LLC Dock Construction Permit BD-12-05-036. District 1.**

EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED

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

*overturn the recommendation & approve the after-the fact variance.*

Signature of EPC Chairman: *[Signature]*

EPC Recommendation Date: *6/26/19*

# Dock Construction Application for Variance



## Dock Construction Application for Variance

BD-12-05-036

District #1

**Applicant:** Hunt Family V, LLC

**Address:** 5243 W. Lake Butler Road

**Parcel ID:** 13-23-27-8392-00-180

**Project Site** 

**Property Location** 





Interoffice Memorandum

June 13, 2019

To: Environmental Protection Commission

From: David D. Jones, P.E., CEP, Manager *Elizabeth R. Hunter*  
Environmental Protection Division

Subject: Hunt Family V, LLC After-the-Fact Request for Variance for Dock Construction Permit BD-12-05-036

**\*\*\* This item was continued from the May 29, 2019 Environmental Protection Commission Meeting\*\*\***

**Reason for Public Hearing**

The applicant, Hunt Family V, LLC, is requesting approval of an after-the-fact variance to Section 15-342(a) (maximum water depth).

**Location of Property/Legal Description**

The project site is located at 5243 West Lake Butler Road. The Parcel ID number is 13-23-27-8392-00-180. The subject property is located on Lake Butler in District 1.

**Background**

On September 19, 2012 the Environmental Protection Division (EPD) issued a Dock Construction Permit (BD-12-05-036) for the subject property that included a waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-343(b) (side setback), and a waiver to Section 15-342(b) (terminal platform size).

The waiver to the Code, Chapter 15, Article IX, Section 15-343(b) (side setback), was administratively approved by the Environmental Protection Officer (EPO), thus, no action was required by the Environmental Protection Commission (EPC). The EPC and the Board of County Commissioners unanimously approved the waiver to Section 15-342(b) (terminal platform size) on August 2, 2012 and September 11, 2012, respectively (**Exhibit 1**). The mitigation that was required for the greater than allowed terminal platform was paid in September 2012.

During construction of the dock, EPD became aware that the dock was built 99 feet waterward of the Normal High Water Elevation (NHWE) instead of the approved 68 feet (**Exhibit 2**). The result of the increased length of the dock is that about half of the terminal platform is over the allowed maximum mooring water depth of five feet, as measured from the NHWE.

An enforcement case (#13-375790) was initiated on May 7, 2013 for the unauthorized exceedance of the water depth requirement. A Notice of Violation and Consent Agreement were sent to the applicant (**Exhibit 3**). The applicant was given two options in the Consent Agreement: either (1) re-construct the dock in accordance with the approved permit and site plans or (2) submit an application for a dock permit modification (and any required waivers or variances) in order to keep the dock in the current location. The applicant submitted an after-the-fact Application to Construct a Dock and an after-the-fact Application for Variance to allow for the greater water depth on March 25, 2014.

After receiving these applications, EPD sent a Notice of Application for Variance to all shoreline property owners within 300 feet, as required by Code. On April 30, 2014 EPD received a letter of support from the immediate adjacent, abutting property owners to the north, Jim and Stephen Pounds. They stated that they had no objections to the requested variance (**Exhibit 4**).

However, on May 19, 2014 EPD received a letter of objection from Christopher and Kathleen Feese, who own the property two parcels to the north at 12520 Summerport Lane. They generally objected to the length of the dock and the variance for greater water depth (**Exhibit 5**).

No other responses to the notifications have been received.

### **Water Depth Variance**

In 2014, while preparing the after the fact variance request to come before the EPC, EPD was notified by the Orange County Attorney's Office (OCAO) that litigation regarding riparian boundaries had been initiated between the Hunt Family V, LLC and Christopher and Kathleen Feese. The OCAO advised EPD to suspend all review of the after-the-fact Application for Variance until the issue was resolved. In 2019, EPD received notification from the OCAO to continue processing the variance request.

Chapter 15, Article IX, Section 15-342(a) of the dock code states, "The dock shall extend only to the point where reasonable water depth for vessel mooring is achieved. 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 dock shall not adversely affect the rights of other persons and property owners' use of, and access to, the water body."

EPD staff measured the water depth at several locations. See (**Exhibit 6**) for an illustration showing elevations of the terminal platform walkway height as it relates to the NHWE and what portion of the terminal platform exceeds the 5 foot maximum mooring depth.

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) *Variances*, "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), the applicant's attorney (Ms. Vivien Monaco) states, "*At the time Mr. Teague began construction of the Hunt dock, the water level was below the NHWE (99.5 feet) and the edge of the water was located through the northwest corner of the location of the personal watercraft mooring area on the original permit drawing. To compensate, Mr. Teague extended the walkway...According to Mr. Teague, he shot the elevation from the NHWE near the beginning of the walkway to determine the location of the maximum five foot depth from NHWE, and extended the terminal platform to just short of that point, 94.5 feet elevation, to stay within the maximum 5 feet depth criteria. Unfortunately, Mr. Teague did not realize that the elevation contour line cut across a portion of the second (southern) of the two mooring areas, leaving a portion of the southern mooring area and a small portion of the terminal platform outside of the maximum 5 feet water depth...Strict compliance with section 15-342, Orange County Code would cause unnecessary hardship to the Hunts...Requiring the Hunts to move the dock within the 5 feet depth from the NHWE would not only involve considerable additional expense, but because of the way the contour*

*line runs, the placement of the dock would not allow for mooring of one or both boats, and would not allow for mooring of the personal watercraft."*

To address Section 15-350(a)(1)(2), the applicant's attorney states, *"The two other properties to be considered here are the Feeses' property and the Pounds property. As established in the Order, the Feeses' have the use of and access to the water. Although the Pounds property is currently vacant, the Order establishes that a dock can be built within the Pounds' riparian boundaries. The Feeses' originally built a dock that was located within the Pounds' projected property lines, making it impossible for a dock to be built from that lot in the future. Orange County revoked the Feese dock permit and reimbursed the Feeses' for a new dock that was constructed within the projected property lines and within the Feeses' riparian boundaries. Exhibit B-3 is an aerial of the cove showing the three lots with the Hunt dock in its current location, a proposed dock on the Pounds lot, and the Feese dock within the projected property lines of the Feese lot. As demonstrated on this illustration, all three of these docks can co-exist, allowing all three property owners access to the lake, without adversely affecting anyone's use of, and access to the lake."*

The entire narrative and the exhibits for the Application for Variance are included with this staff report (**Exhibit 7**).

#### **Public Notifications**

On March 6, 2019 a Notice of Application for Variance was sent to all shoreline property owners within a 300-foot radius of the property. The applicant, his agent, his attorney and the previous objectors (Christopher and Kathleen Feese) were sent notices on June 6, 2019 to inform them of the EPC meeting on June 26, 2019.

#### **Support/Objection**

On March 11, 2019 EPD received a letter of support from Jim Pounds, the co-owner of the adjacent property to the north. Mr. Pounds states, *"Mr. Hunt is within his property lines. We have no problem!"*

On April 1, 2019 EPD received a second letter of objection from Mr. Christopher Feese. Mr. Feese states, *"One of our primary objections to the Hunt Dock is a concern for its impact on the placement of any future dock built on the Pounds property (property between ours and Hunt). We believe an after the fact approval of the Hunt dock in its current location will impose an unnecessary hardship, on both our property and the Pounds property, as it relates to safety and usage of the lake front... The extension of the Hunt dock length by ~30 ft has a tremendous negative impact on the properties to the North of the Hunts (Pounds and Feese). Each foot of extension causes increased density in the narrow curve of the lake. This density increases the safety risk and significantly decreases our ability to access the body of water (jet ski lift, swim platform/ladder, kayak etc.)... Strict compliance to the water depth issue did not impose a unique or unnecessary hardship. The decision to extend the dock was solely made by the property owner/dock builder... Multiple other options existed for the Hunt's to gain reasonable depth. This includes, but is not limited to, locating the jet ski lift elsewhere (i.e. in lieu of 2<sup>nd</sup> boat lift or the swim/fishing platform, moved a few feet to align with the southern end of the terminal platform), alternate jet ski lift requiring limited to no water depth, etc..."*

The objection submitted by Mr. Feese is included with this staff report (**Exhibit 8**).

#### **Enforcement Action**

EPD has an open enforcement case on this property. A penalty of \$200 was assessed for the unauthorized modifications to the dock. The penalty has been paid. Approval of the variance application will resolve the compliance issue. If the variance application is denied, the permittee will need to reduce the length of the

dock to comply with Code and the approved plans and permit conditions in BD-12-05-036 within 90 days of the confirmation by the Board of County Commissioners.

**Staff Recommendation**

The maximum water depth allowed for mooring areas is five feet, as measured from the NHWE. Staff has evaluated the bathymetry in the area of the dock to ensure that there are no natural conditions of the water body that would necessitate a greater water depth to allow reasonable mooring conditions. Staff found none. A navigation assessment was conducted on May 3, 2019 by Florida Freshwater Fish Conservation Commission Law Enforcement Officer Hudson who indicated that the current dock location is not a navigation hazard.

The recommendation of the EPO is to deny the after-the-fact variance to Section 15-342(a) (water depth) because the applicant was unable to demonstrate that the hardship was not self-imposed as required in Section 15-350(a)(1)(1).

**ACTION REQUESTED:** Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(b), deny the after-the-fact request for variance to Section 15-342(a) (water depth) and require the dock be relocated to the original permitted location within 90 days of the decision of the Board of County Commissioners for the Hunt Family V, LLC Dock Construction Permit BD-12-05-036. District 1

JR/NT/TMH/ERJ/DJ: mg

Attachments





ENVIRONMENTAL PROTECTION DIVISION

Lori Cunniff, Manager
800 Mercy Drive, Suite 4
Orlando, Florida 32808
407-836-1400 Fax 407-836-1499
www.occpd.org

ENVIRONMENTAL PROTECTION COMMISSION

Joel A. Thomson
Chairman

John Miklos
Vice Chairman

Jennifer M. Bry

Michael Kyhos

Ronald Heest

David Ward

Charles A. White

ORANGE COUNTY ENVIRONMENTAL PROTECTION COMMISSION

Recommendation Regarding a request for a waiver to Orange County Code, Chapter 15, Article IX, for a dock located at 5243 West Lake Butler Road, Windermere on Lake Butler in Orange County Commission District 1.

ACTION TAKEN BY THE ENVIRONMENTAL PROTECTION COMMISSION ("EPC") on the above application was as follows:

REQUEST: The applicant, Barbara Hunt requested approval of a waiver to Chapter 15, Article IX, Section 15-342 (b) terminal platform and a waiver to Section 15-343 (b) side setback.

BACKGROUND: On May 15, 2012, Orange County Environmental Protection Division (EPD) received an Application to Construct a Dock for the subject property. On May 21, 2012, an Application for Waiver to Section 15-342 (b) terminal platform and Section 15-343 (b) side setback. Pursuant to Orange County Code, Chapter 15, Article IX, EPD staff has evaluated the proposed application and associated documents.

The length of the shoreline of the subject property is 79 linear feet at the Normal High Water Elevation (NHWE); therefore, the allowed terminal platform size is 770 square feet. The applicant is requesting to construct a 1,278 square foot terminal platform. EPD did not receive any objections to the requested waivers from shoreline property owners within 300 feet of the property.

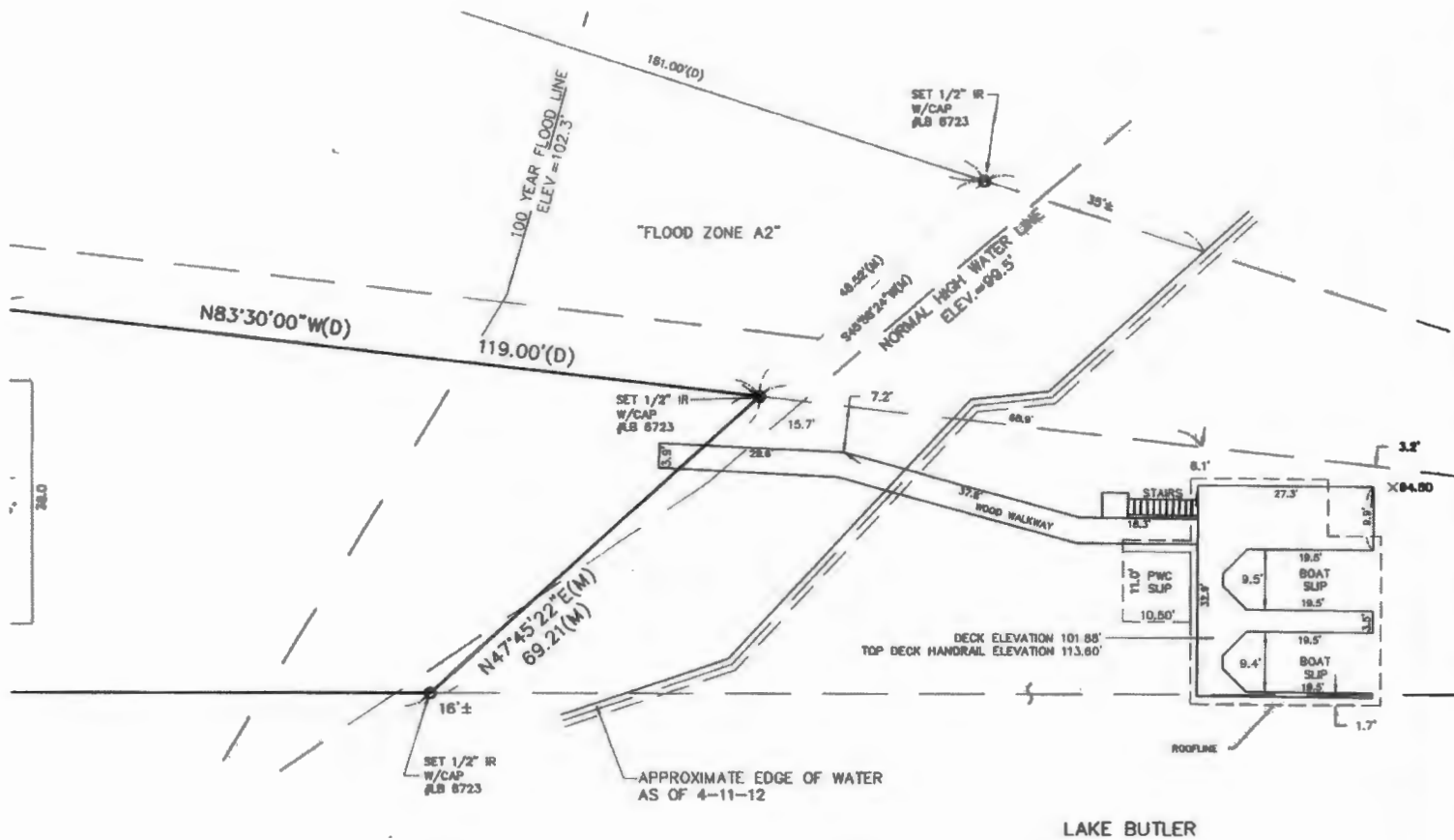
The recommendation of the Environmental Protection Officer (EPO) was to approve the waiver for additional terminal platform size, with the condition that the applicant pay \$1,015.00 to the Conservation Trust Fund (CTF) as mitigation for the adverse impacts to the environment associated with the larger terminal platform size.

Pursuant to Section 15-343 (b), waiver to side setback may be granted by the EPO if a notarized letter of no objection (LONO) to the waiver is received by the shoreline owners abutting the applicant's property line affected by the waiver. Letters were received from both affected property owners. No action was required by the EPC or Board of County Commissioners (BCC).

RECOMMENDATION: Approval with condition. Based upon the evidence and testimony presented at the August 2, 2012, public hearing, the EPC made a recommendation to approve the waiver to Orange County Code, Chapter 15, Article IX, Section 15-342 (b) terminal platform with a payment of \$1,015.00 to the Conservation Trust Fund.

Signature of EPC Chairman: [Handwritten Signature]

DATE EPC RECOMMENDATION RENDERED: \_\_\_\_\_



LEGEND:

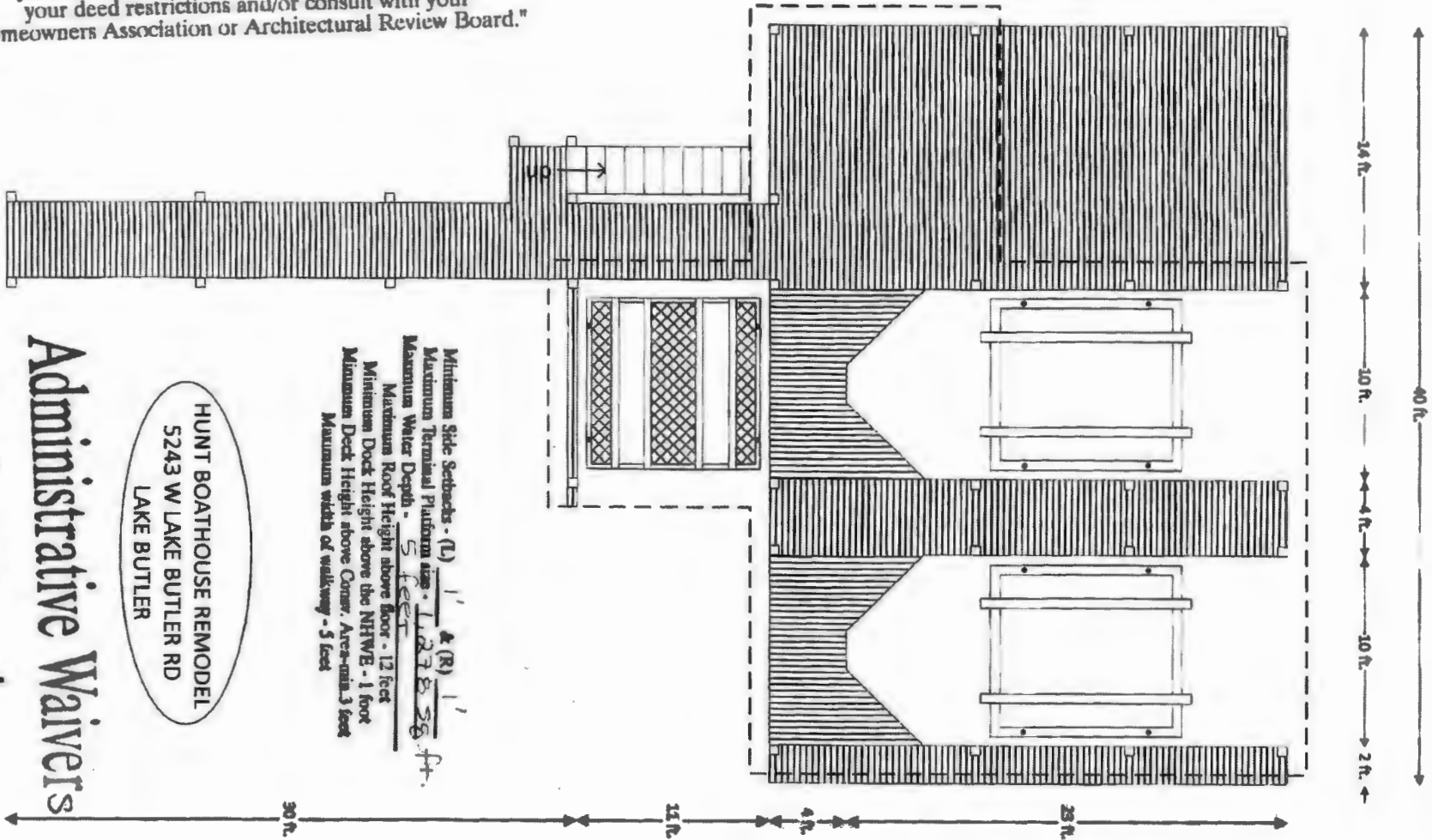
**Exhibit 2**

A POR	SEC		
<p><b>CERTIFIED TO:</b></p> <p>Don Hunt Provincial Title LLC Fidelity National Title Inc.</p>			
<p>FOR THE LICENSED BUSINESS #8723 BY:</p> <p>JAMES L. RICKMAN, PSM #8633</p>			
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">TO DOCK</td> <td style="width: 50%; text-align: center;">IS</td> </tr> </table>		TO DOCK	IS
TO DOCK	IS		

APPROVED BY THE  
 ORANGE COUNTY  
 ENVIRONMENTAL PROTECTION DIVISION  
 DATE: 9/19/2012  
 INITIAL: AK

BD-12-05-036

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



Minimum Side Setbacks - (L) 1' & (R) 1'  
 Maximum Terminal Platform size - 12' x 8' 5 1/2 ft.  
 Maximum Water Depth - 5 feet  
 Maximum Roof Height above floor - 12 feet  
 Minimum Dock Height above the NHWB - 1 foot  
 Minimum Deck Height above Corner Avere-cia - 3 feet  
 Maximum width of walkway - 5 feet

HUNT BOATHOUSE REMODEL  
 5243 W LAKE BUTLER RD  
 LAKE BUTLER

Administrative Waivers

Approved



ENVIRONMENTAL PROTECTION DIVISION  
Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development Services Department  
800 Mercy Drive, Suite 4  
Orlando, Florida 32808-7806  
(407) 836-1400 • FAX (407) 836-1499  
www.ocfl.net

May 16, 2013

CERTIFIED MAIL: 91 7108 2133 3939 2008 3196

**NOTICE OF VIOLATION**

Hunt Family V LLC  
12471 Park Ave  
Windermere, FL 34786

RE: Location: 5243 West Lake Butler Road, Unincorporated, FL 34786  
Parcel Number: 13-23-27-8392-00-180  
Orange County Commission District: I  
File Number: 13-375790  
Permit Number: BD-12-05-036

Dear Mr. and Mrs. Hunt:

The Orange County Environmental Protection Division (EPD) has conducted an investigation regarding the unauthorized activities on your property and has determined that you are in violation of Orange County Codes as listed in Attachment "A" of this Notice.

EPD has the authority and responsibility to control and prohibit unauthorized activities in the waters of the County in accordance with the law, rules and regulations promulgated by Orange County. This Notice of Violation is part of an agency investigation and EPD is requesting your cooperation in resolving the matter. Any activities at your property, which may be further contributing to violations of the described County Codes, must be ceased.

Any person considering appealing the decision of the Environmental Protection Officer, pursuant to Orange County Code Chapter 15, Article II, Section 15-38, shall be financially responsible for payment of all applicable fees associated with such an appeal.

You are requested to contact Neal Thomas at 407-836-1451 or at the EPD address, within ten days of receipt of this Notice to schedule a meeting. EPD is interested in reviewing any information that you may have regarding the cited violations. You may bring anyone to the meeting you feel may provide relevant information on the matter

Si no es posible leer esta notificación favor de llamar a nuestras oficinas al 407-836-1400.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal Thomas", written over a horizontal line.

Neal Thomas  
Environmental Program Supervisor

MCN/ERJ:sv

c: Brian West, Florida Department of Environmental Protection, Brian.West@dep.state.fl.us

## ATTACHMENT "A"

### RULES VIOLATED

Orange County Code Chapter 15, Article IX, Section 15-353(d) states "If the environmental protection officer determines that construction is occurring without prior approval or not in accordance with these regulations, the environmental protection officer shall promptly issue a written notice of violation to the applicant and/or designated contractor. The notice of violation shall include a description of the site where the violation has occurred, cite the provisions of these regulations, general or special laws which have been violated, and set forth the remedial action required by the county. Such remedial action may include submittal of revised drawings, reapplication for a permit, removal of dock, and administrative and civil penalties."

This County Code may be viewed in its entirety at: <http://www.ocepd.org>

### REMARKS

Due to a complaint received by the Environmental Protection Division (EPD) staff conducted a site visit to the subject property on May 3, 2013. During the site visits staff measured the boat dock at approximately 83 feet, exceeding the length on the approved permitted plans by at least 16 feet, which has caused an unreasonable navigational impediment.

EPD requests that you cease unauthorized construction and build the dock as permitted in BD-12-05-036.



ENVIRONMENTAL PROTECTION DIVISION  
Lori Cunniff, CEP, CHMM, Deputy Director  
Community, Environmental and Development Services Department  
800 Mercy Dove, Suite 4  
Orlando, FL 32808 7896  
407-836-1400 • Fax 407-836-1499  
www.ocfl.net

August 23, 2013

CERTIFIED MAIL: 91 7108 2133 3939 2008 3356

**CONSENT AGREEMENT**

Hunt Family V LLC  
12471 Park Ave  
Windermere, FL 34786

RE: Location: 5243 West Lake Butler Road, Windermere, FL 34786  
Parcel #: 13-23-27-8392-00-180  
Orange County Commission District: 1  
File Number: 13-375790  
Permit Number: BD-12-05-036

Dear Mr. Hunt:

The Orange County Environmental Protection Division (EPD) has notified you regarding the violation relating to the referenced property in the Notice of Violation, dated August 23, 2013. The purpose of this Agreement is to establish the corrective action(s) required to bring your property into compliance and resolve the enforcement case initiated against you. The following are the corrective measure(s) required to bring your property into compliance:

1. Re-construct the dock in accordance with approved permit drawings associated with EPD boat dock permit # BD-12-05-036.

OR;

2. Submit an application for a permit modification with the required attachments and fee(s), within thirty days of receipt of this Agreement, in an attempt to keep the dock in its current location. If the permit application is denied or closed, you will be required to re-construct the dock in accordance with #1 (above).

Your signing this Agreement constitutes your acceptance of the Agreement, the terms and conditions of which may be enforced in a court of competent jurisdiction. Failure to comply with the terms of this Agreement, once signed by you, shall constitute a violation of Section 403.161(1) (b), Florida Statutes.

Orange County, by accepting this Agreement, waives its right to seek judicial imposition of damages, or additional civil penalties for the violations described, provided you honor its terms.

If you violate the terms of this Agreement or do not sign and return this Agreement within thirty days of receipt thereof to EPD at the address given above, it will be assumed that you are not interested in settling this matter according to the terms described herein, and this matter will be referred to the Orange County Code Enforcement Special Magistrate with a recommendation that formal enforcement action be taken against you.

Sincerely,



Neal Thomas  
Environmental Program Supervisor

  
MCNPERJ:sv

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I, Donald Hunt, HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

---

Donald Hunt  
Entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in Orlando, Florida.



ENVIRONMENTAL PROTECTION DIVISION  
 Lori Cunniff, CEP, CHMM, Deputy Director  
 Community, Environmental and Development Services Department  
 800 Mercy Drive, Suite 4  
 Orlando, FL 32808-7896  
 407-836-1400 • Fax 407-836-1499  
 www.ocfl.net

**Received**

CERTIFIED MAIL: 91 7108 2133 3938 7080 4117

April 23, 2014

APR 30 2014

JAMES H POUNDS JR  
 9072 ROSE LAKE SHORE LN  
 ORLANDO, FL. 32835

**Orange County  
 Environmental Protection Division**

**NOTICE OF APPLICATION  
 FOR AN AFTER-THE-FACT VARIANCE**

In accordance with the rules and regulations that have been adopted by Orange County, the Environmental Protection Division (EPD) hereby notifies you that an application to construct a dock has been received for the following property:

**Applicant: Barbara Hunt  
 Subject Site Address: 5243 W. Lake Butler Road  
 Application No.: BD-12-05-036  
 Lake Name: Butler, Orange County Commission District: 1**

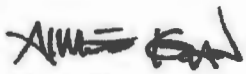
The applicant, Barbara Hunt, is requesting a after-the-fact variance to Orange County Code, Chapter 15, Article IX, Section 15-342(a) in order to construct a dock beyond the maximum water depth of five feet as measured from the Normal High Water Elevation (NHWE).

Any objections must be in writing and must be received by the Orange County EPD located at 800 Mercy Drive, Suite 4, Orlando, Florida 32808, within thirty-five (35) calendar days of receipt of this notice.

All permits and permit applications are public documents that are available for examination by citizens. You are welcomed to view any of these records during regular business hours at EPD. It may be convenient to call in advance to arrange an appointment. A copy of the rules and regulations governing the application to construct a dock can be obtained from the Clerk to the Board of the County Commissioners or the EPD website located at [www.OCEPD.org](http://www.OCEPD.org).

If you should have any questions concerning this review, please contact me at (407)836-1496.

Sincerely,

  
 Aimée Krivan  
 Senior Environmental Specialist

AK/NT/ERJ:sv

c: Sandy Teague, Sandy@pettemp.com

*I have no objection*  
*Jim Pounds*  
*Stephen Pounds*



**CHRISTOPHER and KATHLEEN FEESE**

12520 Summerport Lane  
Windermere, FL 34786

Orange County EPD  
800 Mercy Drive, Suite 4  
Orlando, FL

These written comments and objections are provided by Christopher and Kathleen Feese for inclusion in the public record. These comments relate to the application by Barbara Hunt (App.#BD-12-05-036) for an after the fact variance to Orange County Code. Mr. & Mrs. Feese reside at 12520 Summerport Lane, Windermere, FL 34786. The Feese property is to the north of the Applicant's property at 5243 W. Lake Butler Rd.

Based upon our review of the application and the corresponding Code provisions, we believe there are significant issues which require denial of this application. In addition to the denial of the application we request that the Hunt dock be immediately removed and re-built as per the original permit. The Hunt dock as originally approved had already received approval for side set-backs and a size variance (~ 100% > code). To now request an after the fact approval for a dock built 50+ feet beyond the permit is unconscionable. This is especially true as the Hunt's were expressly told by the EPD not to build/continue to build beyond its approved length.

**I. The Application does not meet the intent of the Code.**

Section 15-342(a) of the Code provides:

"...The dock shall extend only to a point where reasonable water depth for vessel mooring is achieved..."

Specifically, Orange County undertook a riparian rights assessment of Lake Butler in June of 2013. In review of the 4 neighboring docks contained in the survey no other dock has a permanent mooring (boat or jet ski) much beyond 3 feet of depth. As several of these docks have been in existence for numerous years it would appear that the length of the Hunt dock well exceeds a reasonable length.

**II. The Application does not meet the intent of the Code.**

Section 15-342(a) of the Code provides:

"...The dock shall not adversely affect the rights of other persons and property owners use and access to the body of water."

The county riparian rights assessment clearly indicates the negative impact the enlarged as-built dock has on both our property and the Pounds property (between us and Hunt at 5235 W Lake Butler). The Hunt dock has been fully built with-in the Pounds riparian area. As such, there is no opportunity for Pounds to build a dock under Florida statutes and DEP guidelines. The exaggerated dock length has created significant issues in the cove. Approval of this dock would potentially cause ingress/egress, safety and legal issues.

III. The Application does not meet the intent of the Code.

Section 15-342(a) of the Code provides:

"...The maximum water depth allowed for mooring areas is five feet..."

As the code states five feet is maximum. It is not required. The Hunt dock went through a lengthy approval process as it required side set-back and size variances. As a neighboring property we reviewed the application in great detail as there was a chance that the proposal would have a significant impact on our property due to the nature of the cove we are situated in. Fortunately the Hunt applications (county and state) were detailed and included exact location and dimension due to the need for a lease with the state. Based on our review of the details, including personally taking measurements in water, we did not object to the application. This non-objection was based on the fact that the dock as requested and approved did not have an impact on our property. However, the dock as built today has significantly impacted us, as the length and shift to the north of approved location has severely shifted the dock closer to our property (and we believe with-in our riparian lines).

In addition, approval of this dock after the fact results in several other code issues including:

1. The Application does not meet the intent of the Code.

Section 15-322 of the Code provides:

"...The intent of the board of county commissioners is to apply these regulations in a manner sensitive to the riparian rights and other property rights of the applicant, the riparian rights and other property rights of waterfront property owners, and the rights of the public to the traditional uses and enjoyment of water bodies in the county ..."

This provision of the Code clearly requires staff and the EPC to consider our riparian and other property rights as well as those of the Applicant when considering this application. Approval of the pending application would wholly ignore the riparian rights of both the Pounds property and ours.

Specifically, Orange County undertook a riparian rights assessment of Lake Butler in June of 2013. While we do not necessarily concur with the findings of AMEC, it is important to note the AMEC assessment clearly recognizes it is wholly inappropriate to extend property lines as a methodology for determining the riparian rights of the Applicant. Rather, AMEC recognizes the only way to distribute riparian rights in this case is through an equitable apportionment of the riparian rights of all waterfront owners in the general vicinity. Thus, since Orange County's own riparian assessment clearly indicates equitable apportionment is the proper means of delineating riparian rights, it would be wholly improper for Orange County staff and the EPC to even consider the pending application due to the fact the pending application does not even attempt to equitably apportion the riparian rights for the property. Rather, the application simply and inappropriately asserts the Applicant's riparian rights extend out from the property lines.

It is also extremely important to note the only governmental body in the State of Florida authorized to definitively delineate riparian rights are the circuit courts of the State. Thus, unless adjoining property owners reach a mutual agreement as to the extent of their respective riparian rights, any dispute in the riparian boundaries between property owners must be resolved in the circuit courts. Accordingly, the AMEC riparian assessment in no way establishes the riparian rights for any property. Rather, the AMEC riparian assessment simply constitutes an advisory opinion to the County as to how to appropriately distribute riparian rights in the general vicinity in question.

Summarily, approval of the pending application would not meet the intent of the Code because the proposed variance will violate both Orange County code and State law, as well as significantly adversely impacting our riparian rights and property rights.

**2. Applicant has failed to provide documentation showing riparian rights for the parcel.**

Section 15-341(B)(4) of the Code specifies that all applications shall contain the following information:

"(4) Documentation showing riparian rights for the parcel ..."

Applicant has not provided any documentation showing the purported riparian rights for the property. At best, the Applicant has simply shown extended property lines on drawings.

As discussed above, the riparian assessment undertaken by AMEC conclusively establishes the proper method to determine the Applicant's riparian rights is by equitable apportionment of the riparian rights of all property owners in the vicinity. The AMEC riparian assessment also establishes it is wholly inappropriate to extend property lines in order to determine riparian rights in this general vicinity. Accordingly, even if Applicant has been deemed to have submitted documentation showing the purported riparian rights for the parcel, the Applicant's documentation directly conflicts with the AMEC riparian assessment undertaken on behalf of Orange County because it does not rely upon equitable apportionment of riparian rights. Having failed to submit documentation of riparian rights for the property, the application should be denied.

**3. Granting the proposed variance for Section 15-343(a) would directly conflict with the AMEC riparian assessment undertaken on behalf of Orange County, and in turn, violate state law.**

Section 15-343(a) of the Code provides:

"...(a) On lots or parcels having a shoreline frontage of less than seventy-five (75) feet, docks, including designated mooring areas, shall have a minimum side-setback often (10) feet from the projected property line ..."

Riparian rights are property rights established by Chapter 253, Florida Statutes, and more than one hundred years of case law. Since riparian rights are property rights established by the State of Florida, they can only be definitively established by the agreement of adjoining property owners or the circuit courts of the State. Orange County Code cannot establish riparian rights or conflict with or impair those rights.

At a minimum the AMEC riparian assessment places the County on notice that it is wholly inappropriate to believe the Applicant's riparian rights extend out from the property lines, but rather, must be determined from an equitable apportionment. Thus, since any dock constructed by the Applicant would necessarily need to be located within the Applicant's equitably apportioned riparian area, application of section 15-343(a) would be impossible as the projected property lines for Applicant's property extend in to our riparian rights area. To that end, we concur the Applicant will require a variance from section 15-343(a) in order to construct a dock. However, in order to prevent an impairment of our riparian and property rights, any such variance will need to establish setbacks from the Applicant's riparian rights lines, not the projected property lines.

Based on the foregoing, it is undisputed that an extension of the Applicant's property lines will significantly encroach in to our riparian rights area violating our property rights. As a result, it would be inappropriate for Orange County to sanction such a violation and grant the requested variance. While it may be appropriate for the Applicant to obtain a variance allowing a set back from the Applicant's

equitably apportioned riparian lines, it is absolutely inappropriate for Orange County violate our property rights and grant a variance allowing Applicant any set back from the projected property lines.

4. Applicant has failed to comply with the conditions precedent to issuance of a variance under the Code.

Section 15-350 of the Code provides:

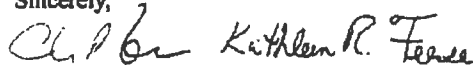
(a)... (1) ... The applicant shall also describe (1) how strict compliance with the provisions from which a variance is sought would impose a unique and unnecessary hardship on the applicant-the hardship cannot be self-imposed; and (2) the effect of the proposed variance on abutting shoreline owners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

Applicant has not complied with section 15-350(a)(1) of the Code. Under this provision, the Applicant is required to demonstrate a unique and unnecessary hardship that is not self imposed.

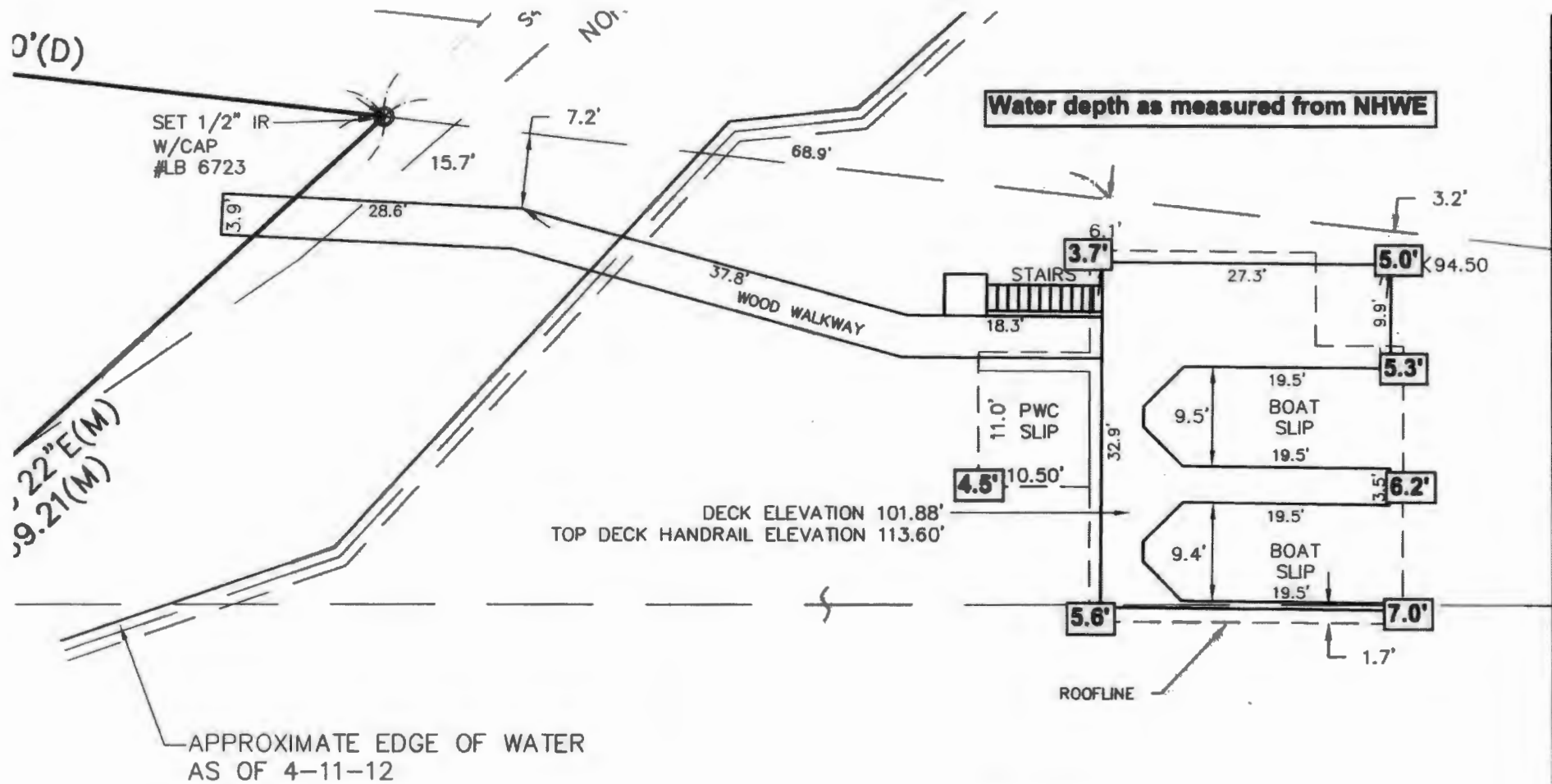
As discussed above, the Applicant's proposed dock is not located within their riparian area. Rather, the Applicant's proposed dock extends in the Pounds riparian area and we believe our riparian area, usurping our riparian rights and property rights. The Code therefore creates a necessary hardship on the Applicant in order to ensure our riparian rights and our property rights are protected.

We would also submit approval of this variance is not in the public interest because it is not in the public interest for the County to approve a project which would violate a neighboring property owner's riparian rights and property rights. This is especially true considering that if Orange County compelled the Hunt dock to be located where it was permitted Applicant would not require an after the fact variance.

Sincerely,



Christopher and Kathleen Feese



LAKE BUTLER

LICENSED BUSINESS #6723 BY

Exhibit 6

**EXHIBIT "A"**

**APPLICATION TO CONSTRUCT A DOCK, APPLICATION FOR VARIANCE AND  
REQUEST FOR CONTINUANCE**

*Application to Construct a Dock and Application to Construct a Dock Application for  
Variance, both dated March 19, 2014*

*Request for Continuance of Public Hearing before Environmental Protection Commission  
from May 29, 2019 to a Time Certain*

The applicant is requesting an after-the fact permit modification and a variance from section 15-342(a), Orange County Code, specifically the following:

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.

In the case of the Hunt Family V, LLC dock (the "Hunt Dock"), the natural conditions of the water body necessitate a greater water depth to allow reasonable mooring conditions.

**Request for Continuance**

Don Hunt and Hunt Family V, LLC (the "Hunts") and Stephen H. Pounds and James H. Pounds, Jr. (the "Pounds") have been in litigation opposite Christopher and Kathleen Feese (the "Feeses") since the spring of 2014 regarding various disputes, including the Feeses' claim that the Hunt Dock violated their riparian rights. The Hunts' property (5243 W. Lake Butler Road) is adjacent to the Pounds property on the north (5235 W. Lake Butler Road ), and the Feeses' property (12520 Summerport Lane) is adjacent to the Pounds' property on the north.

The Court issued its order on the riparian rights claim on November 15th, 2018, which, along with the legal descriptions of the riparian lines of the three properties, was recorded on December 7, 2018 as document number 20180709317 in the Public Records of Orange County, Florida. A copy of the recorded order is attached as Exhibit "C" (the "Order"). In its decision, the court established the riparian lines for the three properties as set forth in the riparian lines survey prepared by the Hunts' expert, Dr. C. A. "Tony" Nettleman ("Dr. Nettleman"). Dr. Nettleman's riparian lines survey shows that the Hunt Dock is within the Hunts riparian lines; the Feese Dock is within the Feese riparian lines, and that the Pounds will be able to build a dock within their riparian lines.

The Hunts, the Pounds, and the Feeses have agreed to dismiss all outstanding claims against each other and have negotiated a settlement agreement (the "Settlement Agreement"). In the Settlement Agreement, the Feeses agree to withdraw any objections to the Hunts' after-the-fact permit and variance application before you today. The parties approved the Settlement

Agreement in the afternoon of May 28, 2019, which did not allow sufficient time for all parties to sign the Settlement Agreement, therefore, we respectfully request that this public hearing be continued to the June meeting of the Environmental Protection Division.

### *Variance Justification*

Jeff Teague of Extreme Marine Boat Docks and Decks constructed the Hunt Dock. Mr. Teague made every effort to comply with section 15-342(a) in constructing the Hunt dock, and was in fact unaware that the depth of any of the mooring area of the dock as built exceeded five feet as measured from the NHWE.

At the time Mr. Teague began construction of the Hunt dock, the water level was below the NHWE (99.5 feet) and the edge of the water was located through the northwest corner of the location of the personal watercraft mooring area on the original permit drawing. To compensate, Mr. Teague extended the walkway and decreased the terminal platform by the corresponding square footage so the total square footage would not exceed the permitted square footage.

Exhibit B-1 illustrates two locations of the Hunt dock: one as built (the farthest waterward), and the same dock (with the smaller terminal platform as explained below) shown in the location originally permitted. This graphic is based on the survey dated April 11, 2012, but according to Mr. Teague, the water conditions were approximately the same when he began constructing the dock in April 2013. If Mr. Teague had constructed the dock in its original location, the shoreline would have run through the personal watercraft mooring and a small portion of the terminal platform, disallowing the mooring of the personal watercraft.

According to Mr. Teague, he shot the elevation from the NHWE near the beginning of the walkway to determine the location of the maximum five foot depth from NHWE, and extended the terminal platform to just short of that point, 94.5 feet elevation, to stay within the maximum 5 feet depth criteria. Unfortunately, Mr. Teague did not realize that the elevation contour line cut across a portion of the second (southern) of the two mooring areas, leaving a portion of the southern mooring area and a small portion of the terminal platform outside of the maximum 5 feet water depth.

The total area of the as-built dock and mooring areas waterward of the NHWE is approximately 1,303 square feet. The area of the southern mooring area and small portion of the terminal platform that is outside of the maximum 5 feet water depth is approximately 152 square feet, or approximately 12% of the total area of the dock.

As noted previously, Mr. Teague did not intentionally construct the dock outside of the maximum 5 feet depth from NHWE. In fact, he believed, based on the elevation he took, that he was constructing within the depth limitation, and according to all other criteria within the Orange County dock code. As also noted previously, because Mr. Teague added approximately 30 feet to the walkway leading up to the terminal platform, he compensated for that additional square

footage by reducing the square footage of the terminal platform so as not to exceed the total square footage allowed in the dock permit. Mr. Teague also believed, based on his own prior experience in Orange County and experience of other dock builders in Orange County, that he would be able to submit as-built drawings after he completed construction of the dock, and that Orange County would stamp those as built drawings "approved," which would then serve as the after-the-fact permit.

Strict compliance with section 15-342, Orange County Code would cause unnecessary hardship to the Hunts. They have expended considerable funds to construct the dock in its current location based on the advice of their experienced dock builder, which allows them to moor their two boats and two personal watercraft. Requiring the Hunts to move the dock within the 5 feet depth from the NHWE would not only involve considerable additional expense, but because of the way the contour line runs, the placement of the dock would not allow for mooring of one or both boats, and would not allow for mooring of the personal watercraft.

In fact, in some conditions, the mooring for the personal watercraft is not usable in the dock's current location. Exhibit B-2 illustrates the boat cradle for the personal watercraft in its current location at the lake level based on the March 11, 2012 survey (which was similar to the lake level in March 2013). In such conditions, as illustrated in Exhibit B-2, the water depth at the personal watercraft mooring is approximately 16 inches, and the boat cradle is 18 inches high. The only way to use the personal watercraft moored in this scenario would be to lift it off the cradle, so a single person, or anyone other than at least two strong men, would not be able to use it. If the Hunts were required to move their dock so that the entire dock is within five feet depth of the NHWE, the personal watercraft mooring could not be used at all. As stated in section 15-342: "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.*" (Emphasis added.)

Section 15-342 also provides that "[t]he dock shall not adversely affect the rights of other persons and property owners' use of, and access to, the water body." The two other properties to be considered here are the Feeses' property and the Pounds property. As established in the Order, the Feeses have the use of and access to the water. Although the Pounds property is currently vacant, the Order establishes that a dock can be built within the Pounds' riparian boundaries.

The Feeses originally built a dock that was located within the Pounds' projected property lines, making it impossible for a dock to be built from that lot in the future. Orange County revoked the Feese dock permit and reimbursed the Feeses for a new dock that was constructed within the projected property lines and within the Feeses' riparian boundaries.

Exhibit B-3 is an aerial of the cove showing the three lots with the Hunt dock in its current location, a proposed dock on the Pounds lot, and the Feese dock within the projected



property lines of the Feese lot. As demonstrated on this illustration, all three of these docks can co-exist, allowing all three property owners access to the lake, without adversely affecting anyone's use of, and access to the lake.



# BOAT LIFT CRADLE

This illustration is based on the 4/11/12 survey

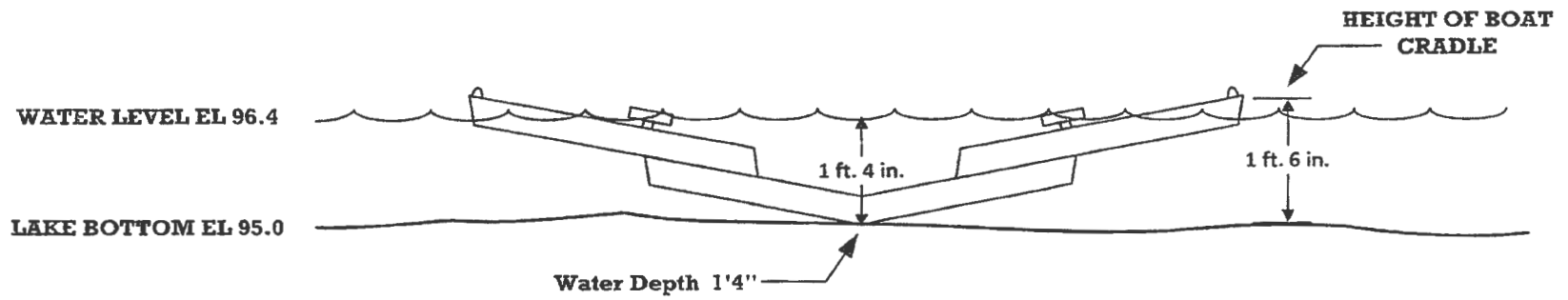


EXHIBIT "B-2"

EXHIBIT "B-3"



1 inch = 50 FT  
County Property Appraiser

Legend  
Highlight Selected Parce

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These written comments and objections are provided by Christopher and Kathleen Feese. These comments relate to the application by Barbara Hunt (#BD-12-05-036) for an after the fact variance to Orange County Code. Mr. & Mrs. Feese reside at 12520 Summerport Lane, Windermere, FL 34786. The Feese property is to the north of the Applicant's property at 5243 W. Lake Butler Rd.

Please note that there is an appeal still ongoing as to the riparian rights case involving the Feese, Hunt and Pound property. If the trial court decision is reversed, there could be a significant changes in where the docks can be located.

One of our primary objection to the Hunt Dock is a concern for its impact on the placement of any future dock built on the Pounds property (property between ours and Hunt) We believe an after the fact approval of the Hunt dock in its current location will impose an unnecessary hardship, on both our property and the Pounds property as it relates to safety and usage of the lake front

Please see **Image A** for an approximate illustration of where the APPROVED Hunt dock should have been located based on lease with the State/County permit application as detailed in appendix A) in comparison to as built Based on information from both the EPD and the DEP the dock was built with a significant unapproved ~ 30 ft extension into the lake.

As you will note on the visuals provided (**Image A and B1**), the ~ 30 foot extension has made it extremely difficult for a dock to be built between the 2 properties that would allow for safe unimpeded passageway As we understand it the Hunt dock was extended to provide greater depth for their personal watercraft (jet skis) – we believe there were numerous other alternative solutions that did not require significantly extending their dock.

**IMAGE A**



**Exhibit 8**



\*\*\* Images are an approximation for visual purposes only and are not intended to represent exact measurements

In addition, based upon our review of the application and the corresponding Code provisions, there are several significant issues which we believe should require the denial of this application. This issue has gone on for several years and it is time to put this issue to an end with the rejection of this request. In addition to the denial, we request the Hunt dock be immediately removed and re-built as per the original permit and state lease (exact location was specified in the Hunt and State Lease Agreement). The Hunt dock, as originally approved, had already received approval for side set-backs and a size variance (nearly 100% > code). To now request an additional variance/waiver is unconscionable – given the fact the dock was extended by > 30 ft (per DEP/EPD). This is especially true as the Hunt's were notified by both the EDP and DEP during constructions as to the issue of extending the dock length.

1. The Hunt Variance Application does not meet the intent of the code:

Section 15-342(a) - The dock shall **only extend to the point where reasonable water depth** for vessel mooring is achieved. The maximum water depth for mooring areas is five feet unless the natural conditions of the water body necessitate greater water depth to allow reasonable mooring conditions.

- The Hunt terminal platform extends beyond the depth of all other terminal platforms in this curved area of the Summerport cove. This includes boathouses that have been existence for decades including the Grimes, Foye and the dock removed by the Hunts. In addition, the newer docks in the cove (Warp and Feese) do not approach the length or depth of the Hunt dock. Interestingly, the Warp dock, built after the Hunts was built by the same contractor as employed by the Hunts. For some reason the builder did not extend the Warps anywhere near the depth/length of the Hunts.
- The primary argument from the Hunts for approval is that the depth of their jet-ski lift was not adequate as proposed in their dock application and lease with the state. Thus the election to add ~ 30 ft of length to achieve reasonable depth. However, when the same builder built a neighboring dock for the Warp family, the depth of the jet-ski lift no-where near approaches



2. The Hunt application does not meet the intent of the code

Section 15-342(a) - The dock shall not adversely affect the rights of other persons and property owner's use and access to the body of water

- The extension of the Hunt dock length by ~ 30 ft has a tremendous negative impact on the properties to the North of the Hunts (Pounds and Feese). Each foot of extension causes increased density in the narrow curve of the lake. This density increases the safety risk and significantly decreases our ability to access the body of water (jet ski lift, swim platform/ladder, kayak etc.)
- The approval of the extended length of the Hunt dock will in all likelihood lead to a variance/waiver requests (already once rejected) for the Pounds property. Per the county funded AMEC survey the depth of the lake is greater on the south side of all the under discussion properties. The angle and length of the Hunt dock as built would appear to require the need for the Pounds property to elongate the length of any proposed dock, and thus further impact the environment, to achieve a similar water depth. (See Image B1 v B2).
- The approval on the Hunt variance request and its subsequent impact on the location of a dock on the Pounds property would essentially land lock the Feese's use of the lake front. This would result in the inability to launch our jet-ski (built per code/guidelines), use of paddle boards, kayaks and already built swim platform/ladder. The removal and re-build of the Hunt dock to the previously agreed location would provide for the Pounds property to build a dock (built to code – county and state) and allow for all three property owners the safe use of the waterfront. (See Image B1)

3. Applicant has failed to comply with the conditions precedent to issuance of a variance under the code.

Section 15-350 of the code provides:

(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

- Strict compliance to the water depth issue did not impose a unique or unnecessary hardship. The decision to extend the dock was solely made by the property owner/dock builder....the decision was not made to extend a foot or two but rather ~30 ft.
- Multiple other options existed for the Hunt's to gain reasonable depth. This includes, but is was not limited to, locating the jet ski lift elsewhere (i.e in lieu of 2<sup>nd</sup> boat lift or the swim/fishing platform, moved a few feet to align with southern end of terminal platform), alternate jet ski lift requiring limited to no water depth, etc..
- If a financial hardship exists it is completely self-imposed.

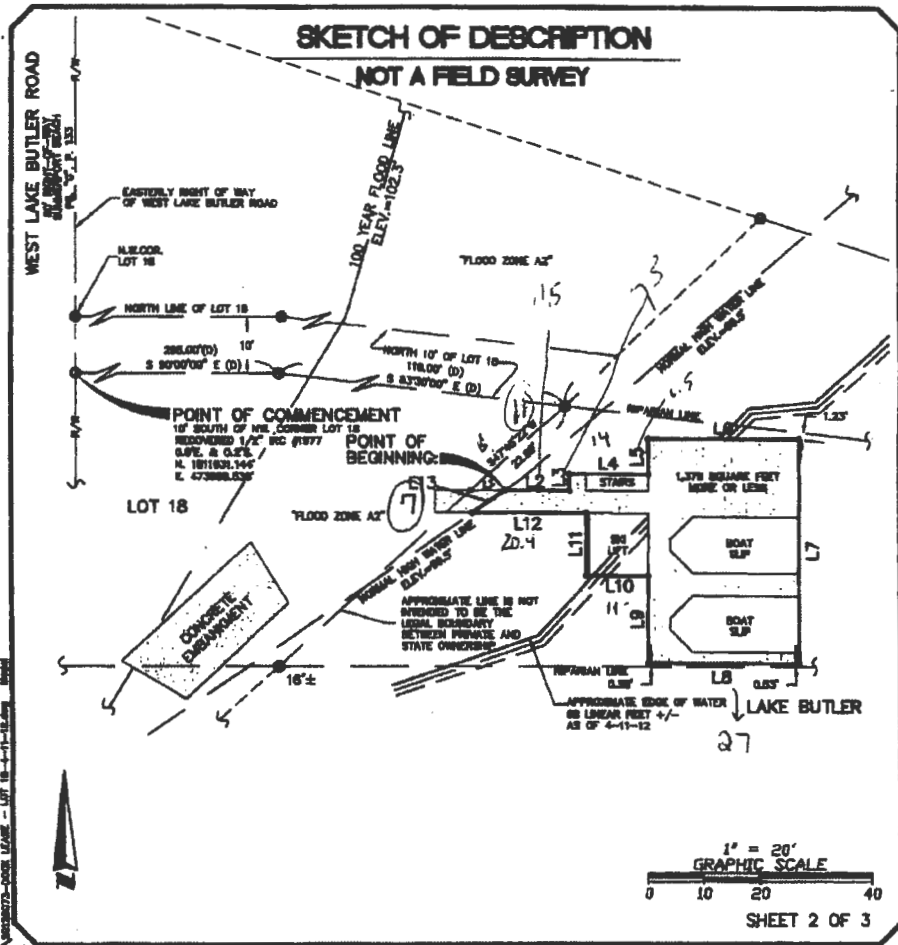
(a)..(2) – describe the effect of the proposed variance on abutting shoreline owners

- Numerous negative down-stream impacts would exist with this approval – none of which have been addressed by the applicant. Impacts include, but not limited to, potential future safety impact of 3 dock essential "touching" and having competing angles to navigable water (see B1), environmental impacts of the density of shading in the cove, potential land lock of neighboring lakefronts etc..

Based on these points presented we urge the denial of this variance. This is a precedent we don't believe should be set on Lake Butler – an outstanding Florida body of water. It would be hard to imagine the lake front filled with docks nearly double in size to State Code, zero set-backs and exceeding reasonable lengths. Thank you for your time and consideration.







Drawing prepared by U:\Projects\20130157886\4-11-12\20130157886-0002-12.dwg - LOT 18 - 4-11-12.dwg



213 S. Oxford Street, Suite 210  
Raleigh, North Carolina 27601 (919) 871-8888

JOB NO. 20130073	CALCULATED BY: DM
DATE: 10-10-12	DRAWN BY: DM
SCALE: 1" = 200 feet	CHECKED BY: EBT
FIELD BY: N/A	

