



VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council

Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

Village Manager

Genaro "Chip" Iglesias

DT: November 5, 2008

TO: Honorable Mayor and Members of the Village Council

FR: Genaro "Chip" Iglesias, Village Manager

RE: Dock Variances: 601 N. Mashta Drive

RECOMMENDATION

It is recommended that the request be approved subject to the conditions set forth in the Building, Zoning, and Planning Director's report (attached).

EXPLANATION

The Village's Zoning Ordinance provides for the granting of variance(s) subject to a finding that the petition meets the following criteria:

1. Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.
2. Is compatible with the surrounding land uses and would not be detrimental to the community.

The Building, Zoning, and Planning Director's report evaluates each of the variances based on the above criteria.

The owner currently has a dock and mooring piles which do not conform to the Zoning and Land Development Regulations. The survey indicates the following legal non-conforming structures:

1. a dock which projects 19 ft. 7 inches from the bulkhead when 10 ft. is permitted.
2. two mooring piles that project 35 ft. 6 in. and 37 ft. when 25 ft. is permitted.

Due to the structural decay of these structures, the owner wishes to replace them BUT at different locations. In order to comply with the environmental regulations and to maintain the owner's existing 35 ft. long boat, the applicant is requesting eight (8) variances associated with a dock, a boat, and mooring piles which are located in a manner that is not consistent with the Zoning and Land Development Regulations.



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council
Robert L. Vernon, Mayor
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Thomas Thornton
Patricia Weinman

DT: November 5, 2008

Director
Jud Kurlancheek, AICP

TO: Genaro "Chip" Iglesias, Village Manager

Chief Building Official
Eugenio M. Santiago, P.E.

FR: Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Department

RE: 601 N. Mashta Drive: Boat, Dock, and Mooring Pile
Variances

APPLICATION SUMMARY

Table with 2 columns: Request, Applicant, Site Address, Comprehensive Plan, Zoning District, File Number, Recommendation. Content includes: The applicant is requesting the following variances: Carlos Moni, 601 North Mashta Drive, Single Family, IR Island Residential, RV-28, Approval with conditions.

EXPLANATION AND ANALYSIS

The Request: The applicant is requesting eight (8) variances associated with a boat, dock, and mooring piles. The variances are listed below:

- 1. Permit one (1) new mooring pile to exceed the 25 ft. projection from a bulkhead by 10 ft. for a maximum projection of 35 ft.

2. Permit one (1) new mooring pile to be outside of the D-5 triangle by six (6) ft.
3. Permit the relocation of two existing non-conforming mooring piles which are 35'6" from the bulkhead and one 37 feet from the bulkhead to project 35 ft. from a bulkhead.
4. Permit the relocation of two (2) existing non-conforming mooring piles to be outside of the D-5 triangle by 16 ft.
5. When a boat is docked parallel to a bulkhead, permit a 35 ft. long boat to project four (4) ft. outside the D-5 triangle.
6. Waive the requirement that a boat be docked parallel to the bulkhead and permit the boat to be docked perpendicular to the bulkhead.
7. When a boat is docked perpendicular to the bulkhead, permit a 35 ft. long boat to project 13 ft. outside the D-5 triangle.
8. Exceed the 10 ft. maximum projection of a dock from a bulkhead by seven (7) ft. in order to permit a dock that projects 17 ft. from the bulkhead.

Explanation:

Miami-Dade County Department of Environmental Resource Management (DERM) and the Village regulate the construction of docks and mooring piles. DERM's regulations are designed to protect the environment. They focus on the location of the dock, mooring piles and the bay bottom environment. The Village's regulations protect views of the water from adjacent properties by regulating the location of docks, mooring piles, and boats all of which are required to be located inside an isosceles triangle which is referred to as the D-5 Triangle.

For the most part, applicants have been successful in designing projects that are consistent with each jurisdiction. In this instance, the applicant wishes to retain his 35 ft. long boat and dock it on the south east side of the property and perpendicular to the bulkhead. This would obscure views of the water from the adjacent neighbor and places the engines within 15 ft. of their property. The applicant's desire to keep his 35 ft. long boat and dock it on a perpendicular basis on the south east side of the property results in eight (8) variance requests.

The Site Plan on page 3 of the drawings demonstrates that a 30 ft. long boat fits inside the D-5 Triangle and that mooring piles for the boat can also be placed inside the triangle. The applicants desire to retain the 35 ft. long boat and to dock it on a perpendicular basis results in all of the variances.

Variance Review Criteria: The Village's Zoning Ordinance provides for the granting of variance(s) subject to a finding that the petition meets the following criteria:

Criteria 1 Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

Analysis: The Village's regulations protect views of the water from adjacent properties by regulating the location of docks, mooring piles, and boats all of which are required to be located inside an isosceles triangle which is referred to as the D-5 Triangle. The applicant's desire to dock the boat on south west side of the property results in eight (8) variances. As such, all of the requests are inconsistent with this criteria.

Finding: Inconsistent

Criteria 2 Is compatible with the surrounding land uses and would not be detrimental to the community.

Analysis: The surrounding land uses include single family homes with docks and mooring piles. The location of docks and mooring piles on the subject property is consistent with this land use pattern. Both of the adjacent properties have mooring piles outside of the D-5 Triangle and docks that project the same distance as the applicants request of 17 ft. However, their boats are docked parallel to the bulkhead while the applicant wishes to dock his boat perpendicular to the bulkhead.

Finding: Inconsistent with regard to docking the boat perpendicular to the bulkhead on the south east side of the dock. If the boat is docked on the south west side of the dock, then any impact will be limited to the owner.

RECOMMENDATION

Variance 1 Permit one (1) new mooring pile to exceed the 25 ft. projection from a bulkhead by 10 ft. for a maximum projection of 35 ft.

Recommendation: Deny

Variance 2 Permit one (1) new mooring pile to be outside of the D-5 triangle by six (6) ft.

Recommendation: Deny

Variance 3 and 4

3. Permit the relocation of two existing non-conforming mooring piles which are 35'6" from the bulkhead and 37 feet from the bulkhead to project 35 ft. from a bulkhead.
4. Permit the relocation of two (2) existing non-conforming mooring piles to be outside of the D-5 triangle by 16 ft.

Recommendation: Deny

Variance 5 When a boat is docked parallel to a bulkhead, permit a 35 ft. long boat to project four (4) ft. outside the D-5 triangle.

Recommendation: Approve. If the existing 35 ft. long boat is replaced by the current owner or if a new owner wishes to have a boat, the location for the new boat shall comply with the regulations that are in affect at that time. Page 3 of the Site Plan drawings show that a boat with a 30 ft. length fits inside the D-5 triangle. Remove the two mooring piles that are outside of the D-5 Triangle.

Variance 6 Waive the requirement that a boat be docked parallel to the bulkhead and permit the boat to be docked perpendicular to the bulkhead.

Recommendation: Approve. However, the boat shall be located on the west side of the dock perpendicular to the bulkhead. This will limit any negative impacts to the applicant and maintain views for the adjacent property owner.

Variance 7 When a boat is docked perpendicular to the bulkhead, permit a 35 ft. long boat to project 13 ft. outside the D-5 triangle.

Recommendation: Deny

Variance 8 Exceed the 10 ft. maximum projection of a dock from a bulkhead by seven (7) ft. in order to permit a dock that projects 17 ft. from the bulkhead.

Recommendation: Approve. Both of the adjacent properties have docks that project about the same as the applicant's at 17 ft.

Rodrigo & Cecilia Arboleda

611 North Mashta Drive
Key Biscayne, FL 3319

November 10, 2008

VILLAGE OF KEY BISCAYNE

Dear Sir or Madam:

Reference is made to the application of Moni Residence in 601 North Mashta Drive regarding its timber boat dock reconstruction.

As owners of the 611 North Mashta Drive residence we agree with the solution proposed by the Director of Building, Zoning and Planning Department of the Village of Key Biscayne.

Yours,



Rodrigo Arboleda

GUSISA LTD.

591 North Mashta

Key Biscayne, FL 33149

November 10th, 2008

VILLAGE OF KEY BISCAYNE

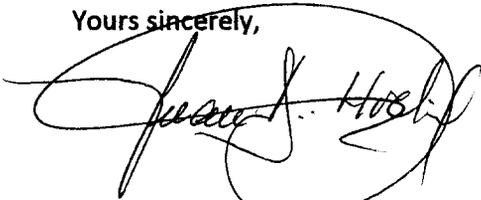
Dear Sirs:

Reference is made to the application of Moni residence in 601 North Mashta Drive regarding its timber boat dock reconstruction.

As owners of 591 North Mashta Drive we would like to express our opposition to the proposal S1 made by the applicant because it blocks our view over Hurricane Harbour and part of the boat is over the triangle. We are also against proposal S2 as the boat is over the triangle.

We agree with the solution ^{proposed} proposed by the Director of Building, Zoning and Planning Department of Village of Key Biscayne.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Juan Dominguez", enclosed within a large, hand-drawn oval.

JUAN DOMINGUEZ
GUSISA LTD.



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

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Thomas Thornton
Patricia Weinman

Director
Jud Kurlancheek, AICP

Chief Building Official
Eugenio M. Santiago, P.E.

PLANNING AND ZONING APPLICATION

Date Filed: 9-8-08

File # RV-29
To be completed by staff

1. REQUEST FOR:

- | | |
|---|---|
| <input type="checkbox"/> SUPERVISORY VARIANCE | <input type="checkbox"/> AMENDMENT TO |
| <input type="checkbox"/> ADMINISTRATIVE VARIANCE | ZONING ORDINANCE |
| <input checked="" type="checkbox"/> REGULATORY VARIANCE | <input type="checkbox"/> SPECIAL EXCEPTION |
| <input type="checkbox"/> APPEAL OF AN | <input type="checkbox"/> AMENDMENT TO THE |
| ADMINISTRATIVE DECISION | COMPREHENSIVE PLAN |
| <input type="checkbox"/> SITE PLAN APPROVAL | <input type="checkbox"/> ZONING DISTRICT CHANGE |
| <input type="checkbox"/> UNUSAL USE | |
| <input type="checkbox"/> OTHER _____ | |

Explain your request:

We are requesting a Variance of the Village of Key Biscayne Zoning Code, Section 30-100 (3) Docks and Mooring Piles, Item 5, which states "No dock shall extend from a bulkhead into any canal, lake, or waterway a distance greater than ten feet, or ten percent of the width of the waterway, whichever is less. Notwithstanding the foregoing, no dock or mooring pile shall extend into Biscayne Bay a distance of more than 25 feet from the bulkhead" in order to reconstruct an existing timber boat dock that will project 17'-0" into Hurricane Harbor. We are also requesting a variance of Item 3, to allow a mooring pile to be installed 37'-0" from the seawall, and outside the D-5 triangle. The existing timber dock at the site measures 15' wide by 19' long. The new dock shall occupy the same footprint, and but reduced in size to 15' wide by 17' long due to the construction of a new seawall cap and batter piles. The waterward edge of the dock shall remain at the current location.

2. Street Address of Property: 601 North Mashta Drive Folio # 24-5205-009-0030
 Legal Description: Lot(s) 10 Block 1
 Subdivision: Mashta Island A Replat of Trs 1 B & C

3. Name of Applicant: **Carlos Moni**
Mailing Address of Applicant: **111 Harbor Drive, Key Biscayne, Florida 33149**
Business Telephone: **(786) 210-6530** Home: **(305) 365-6530** Fax: **(305) 365-6530**
4. Name of Property Owner if Different from Applicant:
Address of Property Owner if Different from Applicant:
Business Telephone: Home: Fax:
5. Contact Person: Name **Carlos Moni** Address **111 Harbor Drive, Key Biscayne, Fl 33149**
Contact Telephone: **(786) 210-6530** Home: **(305) 365-6530** Fax: **(305) 365-6530**
6. Name / address of anyone else who should receive notice of hearing?
Trident Environmental Consultants, 2845 NW 35th Street, Miami, Florida 33142
7. If applicant is owner, indicate date purchased: **June 2008**
8. If applicant is lessee, indicate date leased _____ Years _____
9. Is there an option to purchase the property? Yes () No ()
10. Is the request the result of a violation notice? No If yes, attach a copy of the violation.
11. Existing use of property: **Single Family Residence**. If residential, how many apartments _____ hotel units _____. If commercial, how many sq. ft. _____ in your space. Single family home? Yes (X) No ()
12. If this application pertains to an Appeal of an Administrative Decision, indicate the basis of the appeal. (If necessary attach additional explanation). **N/A.**
13. If this is a request for a variance, the Code requires that you substantiate why this request should be granted. In order to do this properly, please indicate how your request complies with the following standards:
- a. Maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.
- The basic intent of the Zoning code as it pertains to docks is to provide to prevent view of the water ward extension of a dock to be a hazard to navigation, or impede boat traffic. The dock at this residence has been in existence in the same footprint for over 20 years. Hurricane Harbor is approximately 507 LF wide at this point, and the property is located six houses away from the Mashta Bridge. The adjacent properties,**

as well as various properties on North Mashta Drive have docks in similar configurations that project 20' into Hurricane Harbor.

- b. Is compatible with the surrounding land uses and would not be detrimental to the community.

The re-construction of a dock projecting 17' into Hurricane Harbor in this section of North Mashta Drive is consistent with surrounding dock structures as the previous Zoning Code allowed a maximum of 20' projection into the Hurricane Harbor.

- 14. If this is a request for any other type of application, please see staff for a listing of the evaluation criteria.
- 15. All supporting data and exhibits submitted with this application become a permanent part of the public records.
- 16. If you are a lobbyist as described in the Village Code, please contact the Village Clerk at 305-365-5506.

CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

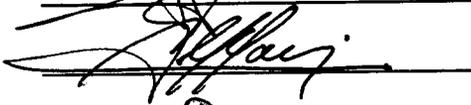
(I)(We) certify that (I)(we) understand and will comply with the provisions and regulations of the Zoning Regulations. (I)(we) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my)(our) knowledge. (I)(we) understand that the application and attachments become part of the official records of the Village and are not returnable.

Signature of Applicant:



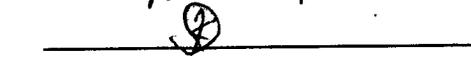
Date 9/3/08

Signature of Owner:



Date 9/3/08

Application Received by:



Date 9-8-08

Approved by:

Date _____

AFFIDAVITS

Complete one or more of the following that relates to your request.

Tenant or Owner Affidavit

(if tenant is applicant then owner must sign owner/power of attorney affidavit)

I, Carlos Moni ,being first duly sworn, depose and say that I am the owner/tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, Carlos Moni, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

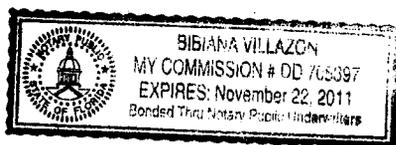


Signature of Applicant

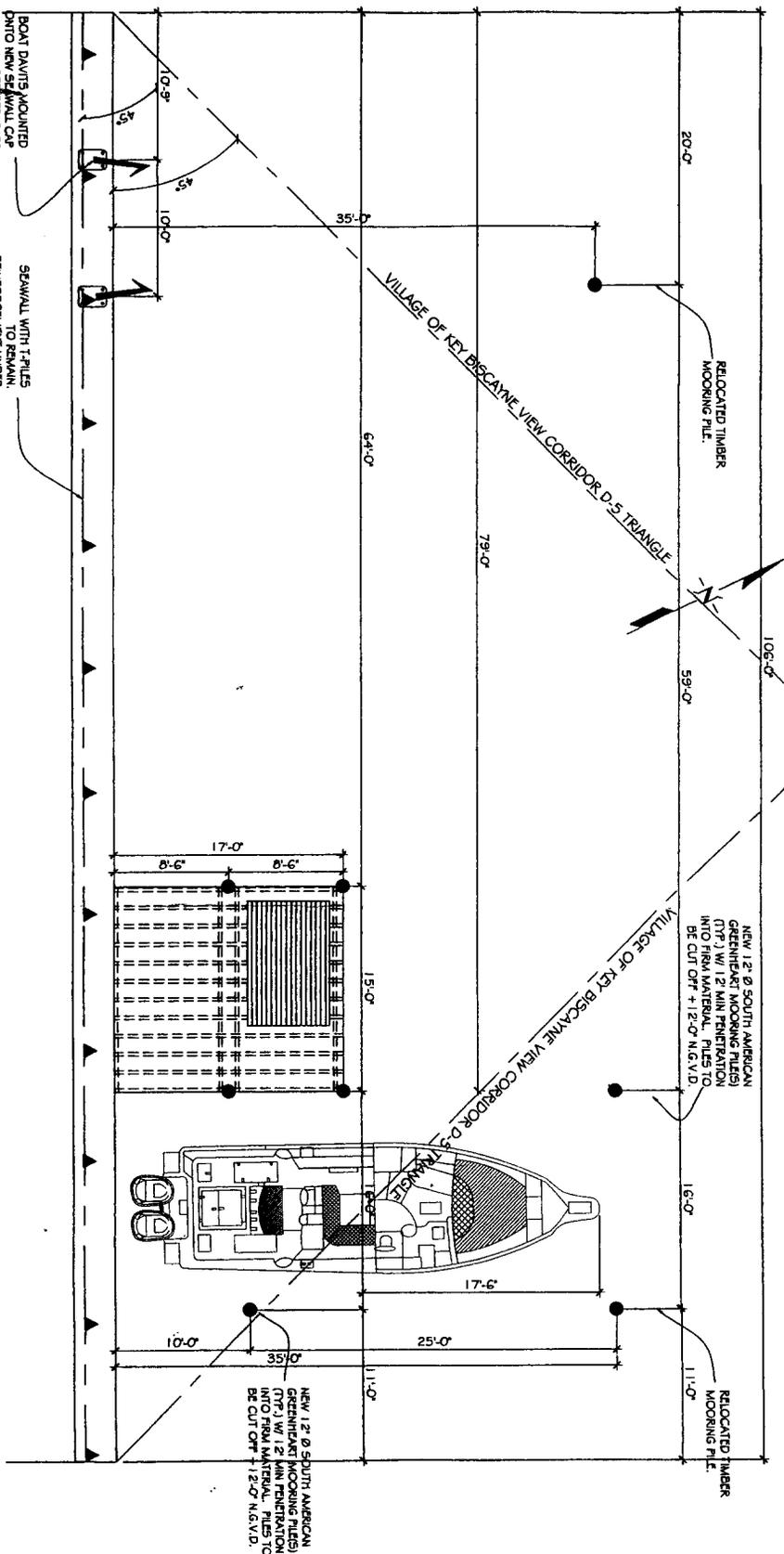
Sworn to (or affirmed) and subscribed before me this
3 day of Sept by Carlos Moni
Name of person making statement.



Signature of Notary Public – State of Florida



HURRICANE HARBOR
WATERWAY WIDTH 507'



SITE PLAN
SCALE: 1/8" = 1'

BOAT DAUGHTS MOUNTED
ONTO NEW SEAWALL CAP
UNDERSTRAINS
REMAIN.

SEAWALL WITH PILES
TO REMAIN
REINFORCEMENT UNDER
SEAWALL REMAIN.

sheet no.
S-1
1 of 3

date	_____
scale	_____
drawn	_____
checked	_____
project no.	_____
revision	_____

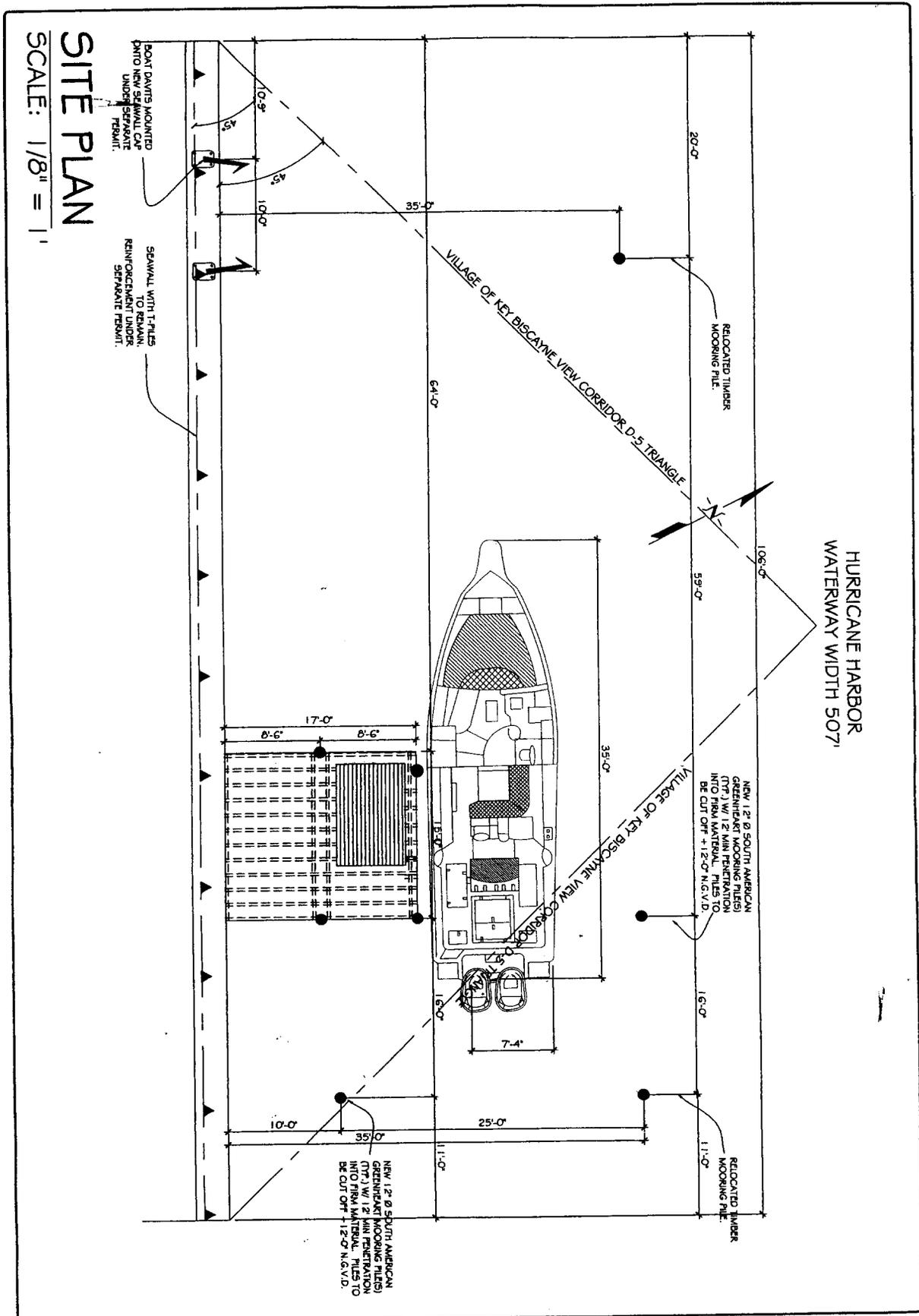
job name: **MONI RESIDENCE**
601 NORTH MASHTA DRIVE
KEY BISCAIYNE, FLORIDA, 33149

title: **TIMBER BOAT DOCK RECONSTRUCTION**

TRIDENT
environmental consultants, inc.

305-638-0266 (O) 305-638-0293 (F)
2845 NW 35th Street Miami, Florida 33142

HURRICANE HARBOR
WATERWAY WIDTH 507'



SITE PLAN
SCALE: 1/8" = 1'

BOAT DOCKS MOUNTED
ONTO NEW SEAWALL CAP
UNDER SEPARATE
PERMIT.

SEAWALL WITH T-PILES
TO BE REINFORCED UNDER
SEPARATE PERMIT.

NEW 12" x 8" SOUTH AMERICAN
GREENHEART MOORING PILES
(TYP.) W/ 1/2" MIN PENETRATION
INTO FIRM MATERIAL. PILES TO
BE CUT OFF +12'-0" N.G.V.D.

NEW 12" x 8" SOUTH AMERICAN
GREENHEART MOORING PILES
(TYP.) W/ 1/2" MIN PENETRATION
INTO FIRM MATERIAL. PILES TO
BE CUT OFF +12'-0" N.G.V.D.

RELOCATED TIMBER
MOORING PILE

Sheet No.	2
of	2

date	_____
designed	_____
drawn	_____
checked	_____
project no.	_____
revision	_____

job name: MON I RESIDENCE
601 NORTH MASHTA DRIVE
KEY BISCAIYNE, FLORIDA, 33149

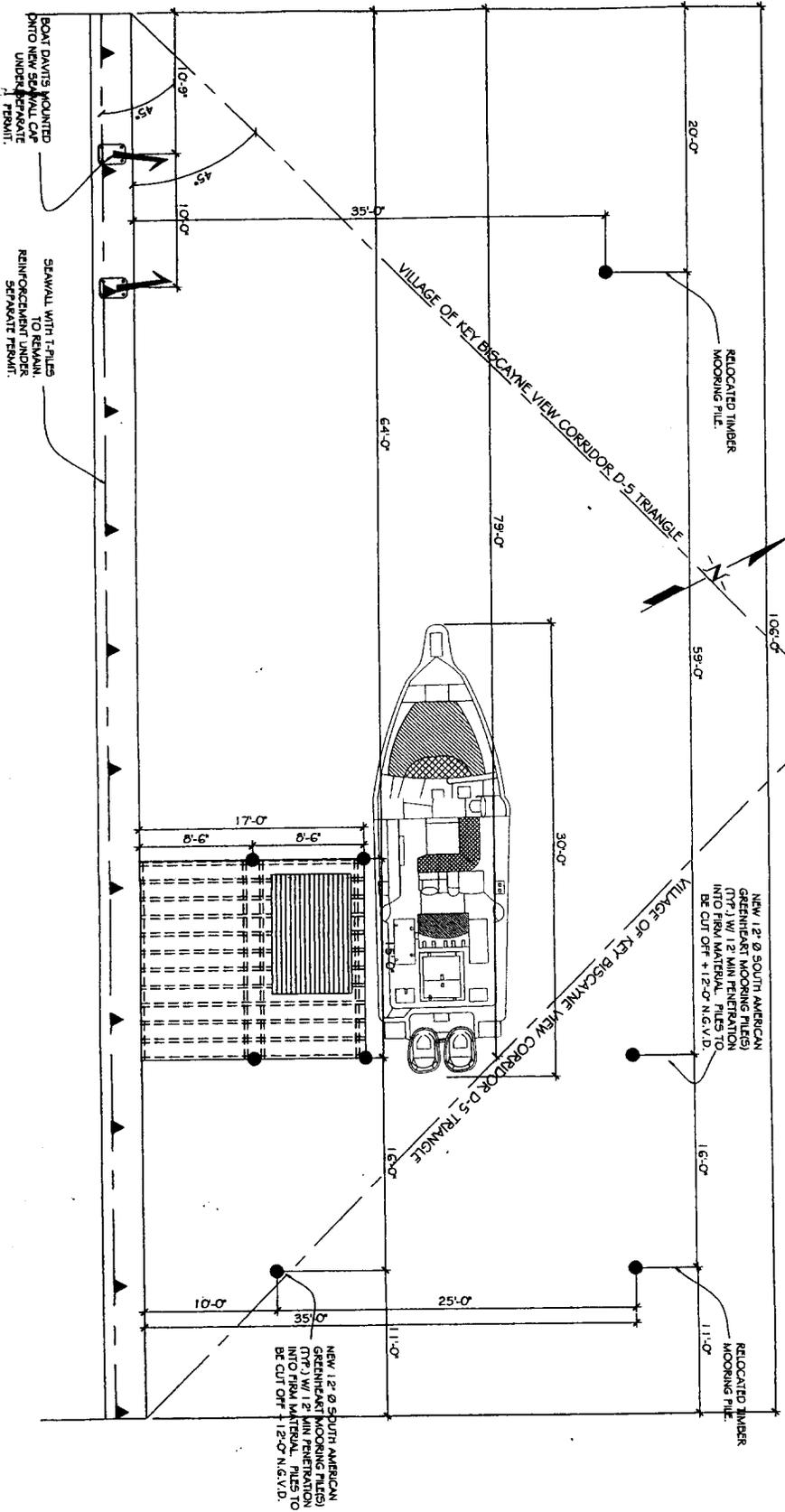
tbl: TIMBER BOAT DOCK RECONSTRUCTION

TRIDENT
environmental consultants, inc.

305-638-0266 (D) 305-638-0293 (F)
2845 NW 35th Street Miami, Florida 33142

HURRICANE HARBOR
WATERWAY WIDTH 507'

SITE PLAN
SCALE: 1/8" = 1'



sheet no. **S-3**
3 of 3

date: _____
 design: _____
 checked: _____
 project no.: _____
 reviewer: _____

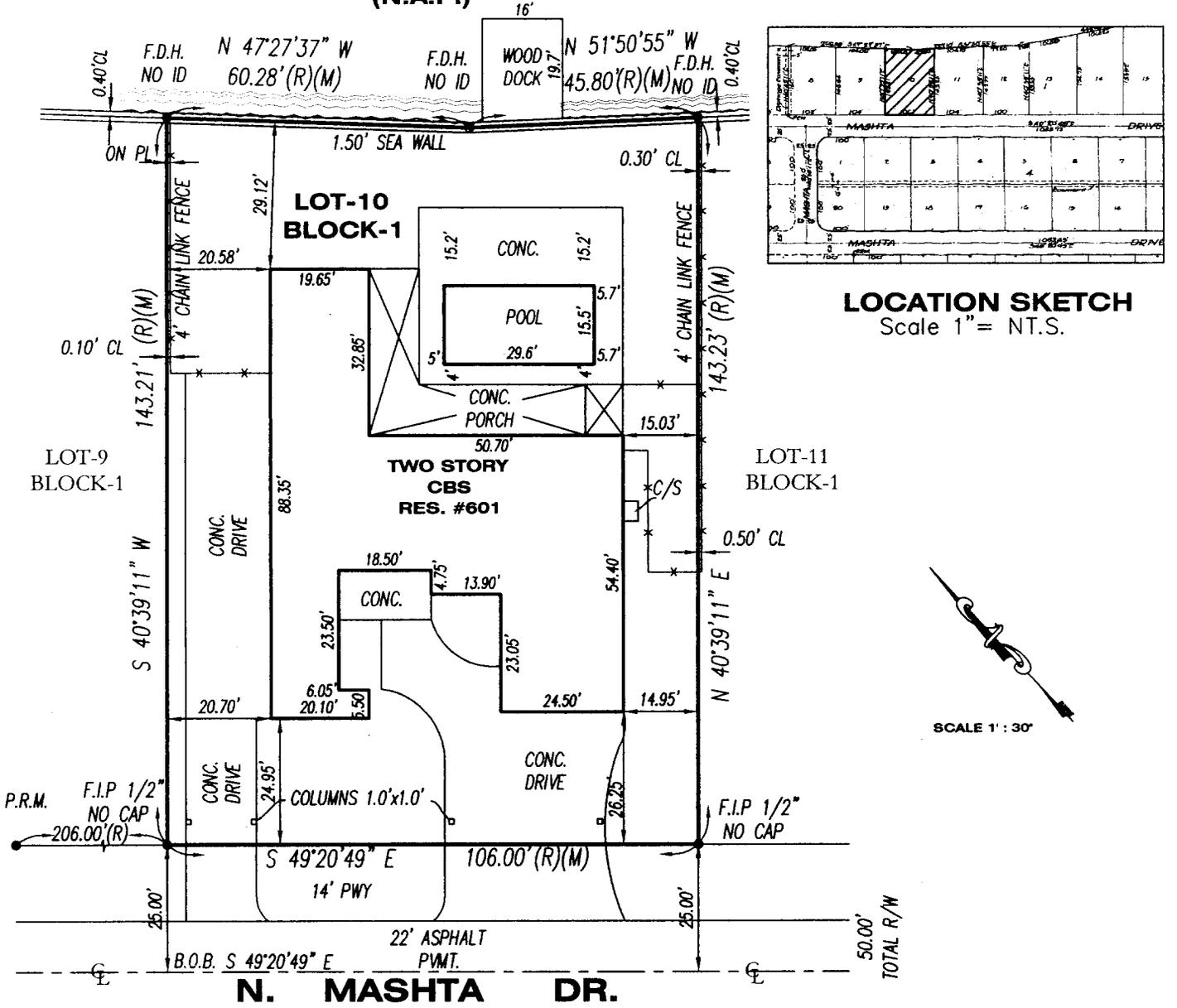
job name: **MONI RESIDENCE
601 NORTH MASHTA DRIVE
KEY BISCAINE, FLORIDA, 33149**

title: **TIMBER BOAT DOCK RECONSTRUCTION**

TRIDENT
environmental consultants, inc.

305-638-0266 (D) 305-638-0293 (F)
2845 NW 35th Street Miami, Florida 33142

**BISCAYNE BAY
(N.A.P.)**



LOCATION SKETCH
Scale 1" = NT.S.

SCALE 1" : 30'

LEGAL DESCRIPTION:

LOT 10, BLOCK 1, OF "REPLAT OF TRACTS A, B AND C OF MASHTA ISLAND", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 65, AT PG 65, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

ADDRESS:

601 N. MASHTA DR.
KEY BISCAYNE FL. 33149

FLOOD INFO:

Community: Dade Co. Uninc. Areas
120648
Map & Panel #: 12025C0281
Suffix: J
Flood Zone: AE
Base Flood Elevation: 10'

CERTIFIED TO:

- Carlos and Florencia Moni
- Lizabeth Calvo P.A.
- Attorneys' Title Insurance Fund, Inc.

This Survey has been prepared for the exclusive use of the entities named herein and the Certification does not extend to any unnamed party.

LEGEND:

- ⊙ = Centerline
- ⊕ = Property Corner
- Fnd = Found
- IP = Iron Pipe
- Swk = Sidewalk
- Conc = Concrete
- CBS = Concrete Block Structure
- B.C. = Block Corner
- ✦ = Wood Fence
- ✦ = Chain Link Fence
- A/C = Air Conditioner
- U.E. = Utility Easement
- B.O.B. = Basis of Bearing
- D.M.E. = Drainage and Maintenance Easement

SURVEYOR'S NOTES:

- 1-OWNERSHIP IS SUBJECT TO OPINION OF TITLE
- 2-EXAMINATION OF THE ABSTRACT OF TITLE WILL
- 3-NO UNDERGROUND IMPROVEMENTS WERE LOCATED
- 4-ELEVATIONS ARE REFERRED TO NATIONAL GEODETIC VERTICAL DATUM OF 1929 (UNLESS ASSUMED).
- 5-THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN IN THIS SURVEY THAT MAY BE FOUND IN THE COUNTY PUBLIC RECORDS
- 6-LEGAL DESCRIPTION PROVIDED BY CLIENT
- 7-UNLESS OTHERWISE NOTED RECORDED AND MEASURED
- 8-BEFORE ANY CONSTRUCTION THE SET BACKS MUST BE CHECKED
- 9-ALL FIELD MEASUREMENTS TAKEN FOR THIS SURVEY WERE MADE WITH ELECTRONIC TRANSIT AND/OR STEEL TAPE W/ACCU. 1: 7500
- 10-THIS SURVEY IS FOR USE AS PER REQUEST AND NOT FOR ANY OTHER PURPOSE.
- 11- DATE OF FIELD WORK 05/27/2008



GUILLERMO A. GUERRERO
PROFESSIONAL SURVEYOR AND MAPPER
LB7619 05-28-2008
ELECT FILE CODE #601MASHTA
Survey is not valid without the signature and raised/digital seal of the Florida Registered Professional Land Surveyor and Mapper

The boundary survey of the property shown hereon is in accordance with the description furnished by the client. No search of public records has been made by this office for accuracy or omissions. Subject to opinion title and any dedications, limitations, restrictions or easements of record. No underground improvements and/or utilities were located.

I Herby Certify, That the attached boundary survey of the property described below is to the best of my knowledge and belief accurate as recently surveyed under my direction; also that there are no above ground encroachments other than those shown, and that this survey meets the minimum technical standards set by the Florida Board of Land Surveyors as set forth in Section 472.027 (F.S.) Chapter 61G17-6 of The Florida Administrative Code.