



VILLAGE OF KEY BISCAIYNE

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Village Council

Mayra P. Lindsay, *Mayor*
Franklin H. Caplan, *Vice Mayor*
Luis F de La Cruz
Theodore Holloway
Michael E. Kelly
Edward London
James Taintor

DATE: May 26, 2015
TO: Honorable Mayor and Members of the Village Council
FROM: John Gilbert, Village Manager
RE: Regulatory Variance Relating to a Dock at 820 Mashta Place

RECOMMENDATION

It is recommended that the Village Council approve a Regulatory Variance associated with the construction of a dock that exceeds the maximum 40 ft. projection from a seawall by 44 ft. 4 in. for a total length of 84 ft. 4 in. The recommendation is based on the Building, Zoning and Planning Director's determination that the project is consistent with the variance review criteria that are listed in the Zoning and Land Development Regulations.

BACKGROUND

The Zoning and Land Development Regulations contain criteria to evaluate variance applications. The Building, Zoning, and Planning Director compared the application with the criteria. The Director found that the request is consistent with the review criteria and has recommended approval of the application.



V I L L A G E O F K E Y B I S C A Y N E

Department of Building, Zoning and Planning

Village Council
Mayra P. Lindsay, *Mayor*
Franklin H. Caplan, *Vice Mayor*
Luis F. de La Cruz
Theodore Holloway
Michael E. Kelly
Edward London
James Taintor

DATE: May 26, 2015
TO: John C. Gilbert, Village Manager
FROM: Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Department
RE: Regulatory Variance Relating to a Dock at 820 Mashta Place

Director
Jud Kurlancheek, AICP
Chief Building Official
Eugenio M. Santiago, P.E., CFM

APPLICATION SUMMARY

Applicant	Timothy Bryan
Request	To exceed the maximum 40 ft. dock/viewing platform projection from a seawall by 44 ft. 4 in. for a total length of 84 ft. 4 in.
Site Address	820 Mashta Place
Master Plan Land Use	Single Family Low Density Residential
Zoning District	IR Island Residential
File Number	RV-35
Recommendation	Approval

EXPLANATION AND ANALYSIS

Justification for the Variance: There are extensive mangrove coves immediately abutting the seawall. In order to construct a dock/viewing platform that does not disrupt these environmentally sensitive ecosystems, it is necessary that the dock/viewing platform project beyond the boundary of these wetlands. This means the dock/viewing platform must project 84 ft. 4 in from the seawall where the zoning regulations permit a maximum projection of 40 ft.

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 applicant has obtained an Environmental Resource Permit from the Florida Department of Environmental Protection (DEP). The applicant has also obtained a permit from the Army Corps of Engineers. As these permitting agencies conduct extensive investigations into the environmental impact of the dock/viewing platform, the general welfare of the public has been protected. Moreover, the stability and appearance of the community will be protected as the materials used in the project are consistent with those used in similar projects in neighboring properties.

Recommendation Consistent

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

Analysis The surrounding land uses are single family homes many of which have docks. The adjacent property at 755 Mashta Place also has a dock/viewing platform that projects just beyond the mangrove cove but within the 40 ft. limit.

Recommendation Consistent

RECOMMENDATION

Staff recommends approval of the Regulatory Variance as the request is consistent with the review criteria.



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

PLANNING AND ZONING APPLICATION

Date Filed: 4.23.15

File # RV-35
to be completed by staff

1. REQUEST FOR:

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

Explain your request:

Exceed the maximum dock projection into the Bay of 40' from the property line by ±44.4' (total projection of ±84.4') to allow the construction of a walkway through the mangroves to an observation platform.

2. Street Address of Property: 820 Mashta Plqce
Legal Description: Lot(s) 3/2 Block 1/4
Subdivision: Mashta Point

3. Name of Applicant: Timothy Bryan
Mailing Address of Applicant: 820 Mashta Plqce
Business Telephone: 646.641.5931 Home _____ Fax _____
E Mail Address: Tbryan@galaxe.com

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 David Ettman Address Miami Shores, FL 33138
Phone Number 305.759.0077 Fax 305.759.1799

6. Name/address of anyone else who should receive notice of the hearing?

7. If applicant is owner, indicate date purchased: 12/29/2010

8. If applicant is lessee, indicate date leased _____ Years _____

9. Is there an option to purchase the property? Yes () No (X)

10. Is the request the result of a violation notice? No If yes, attach a copy of the violation.

11. Existing use of property residential. 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 a Administrative Decision, indicate the basis of the appeal. (If necessary attach additional explanation)

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. (Pls see attached letter)

Granting of the variance will protect the welfare and interest of the public and stability and appearance of the community by minimizing the impacts to the shoreline mangroves which are an invaluable public resource.

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

The adjoining property to the west has a similar observation platform that was constructed several years ago. The proposed structure will not affect the views of the adjacent properties and is thus compatible and not detrimental

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.

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, Timothy Bryan, 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, Timothy Bryan, 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]

Signature of Applicant

Sworn to (or affirmed) and subscribed before me this
23rd day of April, by Timothy Bryan
Name of person making statement

[Signature]
Signature of Notary Public - State of Florida
Crista Steranick
Commission #FF085515
Expires: FEB 03, 2018
Print, Type, or Stamp Commission Number and Name of Notary Public

Personally Known OR Produced Identification _____
Type of Identification Produced _____

Corporation Affidavit

I, _____, being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Ass't. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

I, _____, 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 President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this
____ day of _____, by _____
Name of person making statement

Signature of Notary Public - State of Florida

Date Name (Type or Print Address Signature

Date Name (Type or Print Address Signature

Date Name (Type or Print Address Signature

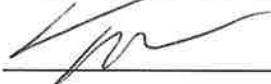
If you need additional signatures please use the above format.

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 4/23/15

Signature of Owner: 

Date 4/23/15

Application Received by: 

Date 4-23-15

Approved by: _____

Date _____

BISCAYNE BAY

MANGROVES

MHW, EL. 1.55'

PROPERTY LINE

APPROXIMATE LOCATION OF UPPER MANGROVE DRIP EDGE

LOCATION OF COVE

MANGROVES

TOP OF SLOPE

THIS DIMENSION REPRESENTS FURTHEST DISTANCE FROM PROPERTY LINE

84.4'

TOE OF SLOPE

GEND



PROPOSED TERMINAL DECK (500 SF)



PROPOSED APPROACH DECK WATERWARD (202 SF)



PROPOSED APPROACH DECK LANDWARD (128 SF)

22.7'

±200'

PREVIOUS LOT LINE FOR LOT 3, BLOCK 1 AND LOT 2, BLOCK 4 (NOW ONE LOT VIA UNITY OF TITLE)



0 25 50
GRAPHIC SCALE (IN FEET)

PURPOSE: **SITE PLAN**

DATUM: NGVD

JOB NO: 2011-03

EAS ENGINEERING, INC.

55 ALMERIA AVENUE CORAL GABLES 33134 (305)445-5553

EAS
4-16-2015

COUNTY OF MIAMI-DADE

STATE OF FLORIDA

APPLICATION BY:

TIMOTHY BRYAN

820 MASHTA PLACE

VILLAGE OF KEY BISCAYNE, FL.

SHEET 4

SECTION: 6

TOWNSHIP: 55

RANGE: 42

DATE: 05/10/12

REV. #	DATE & DESCRIPTION
B-13-12	ADDED MHW LINE AND PL FROM SURVEY
10-12-12	GENERAL REVISION

Tim Bryan Property



Aerial_2.pdf

Legend

Parcels

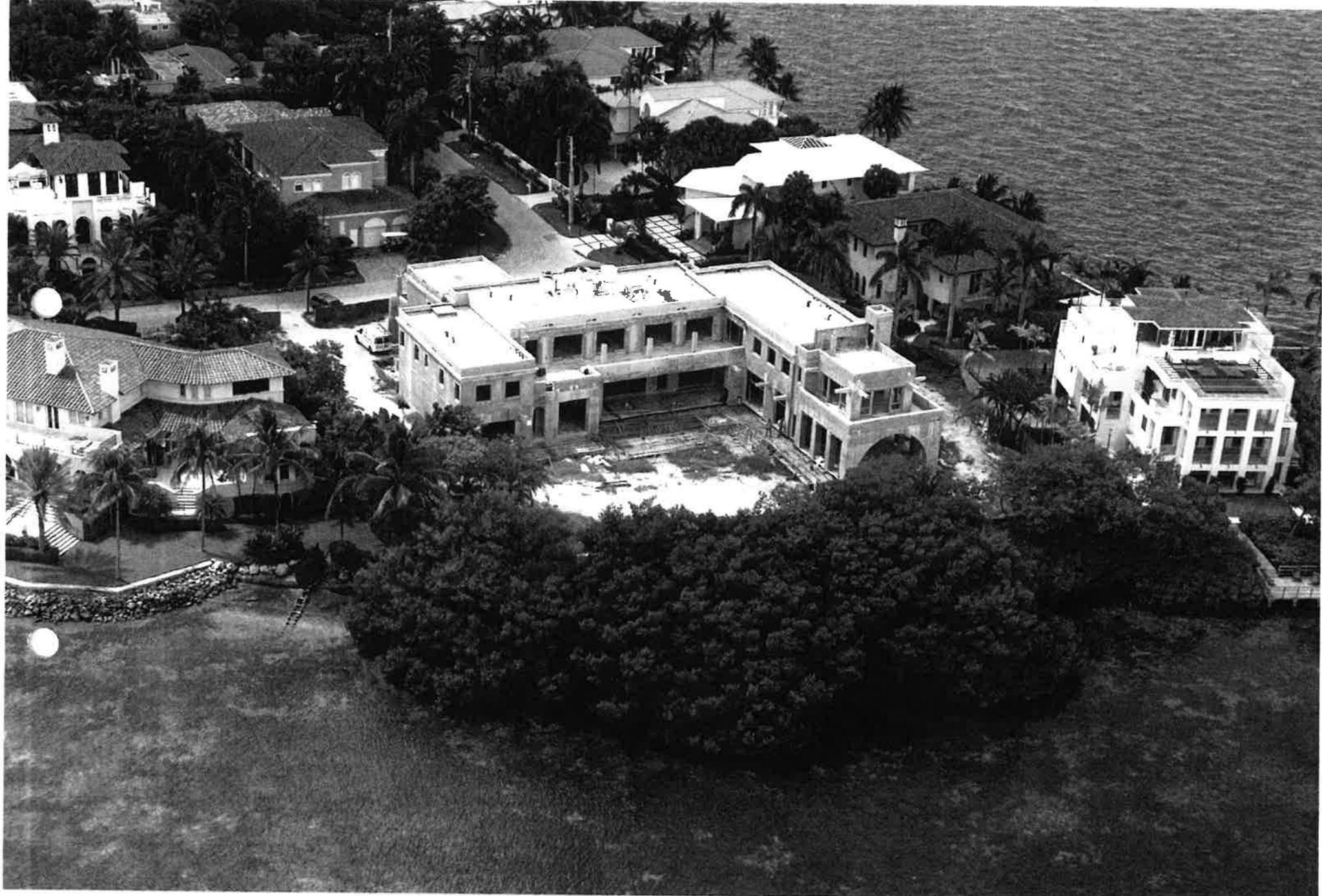
 DECK-04-07-15



0 20 40 80 Feet

EAS
4-16-2015

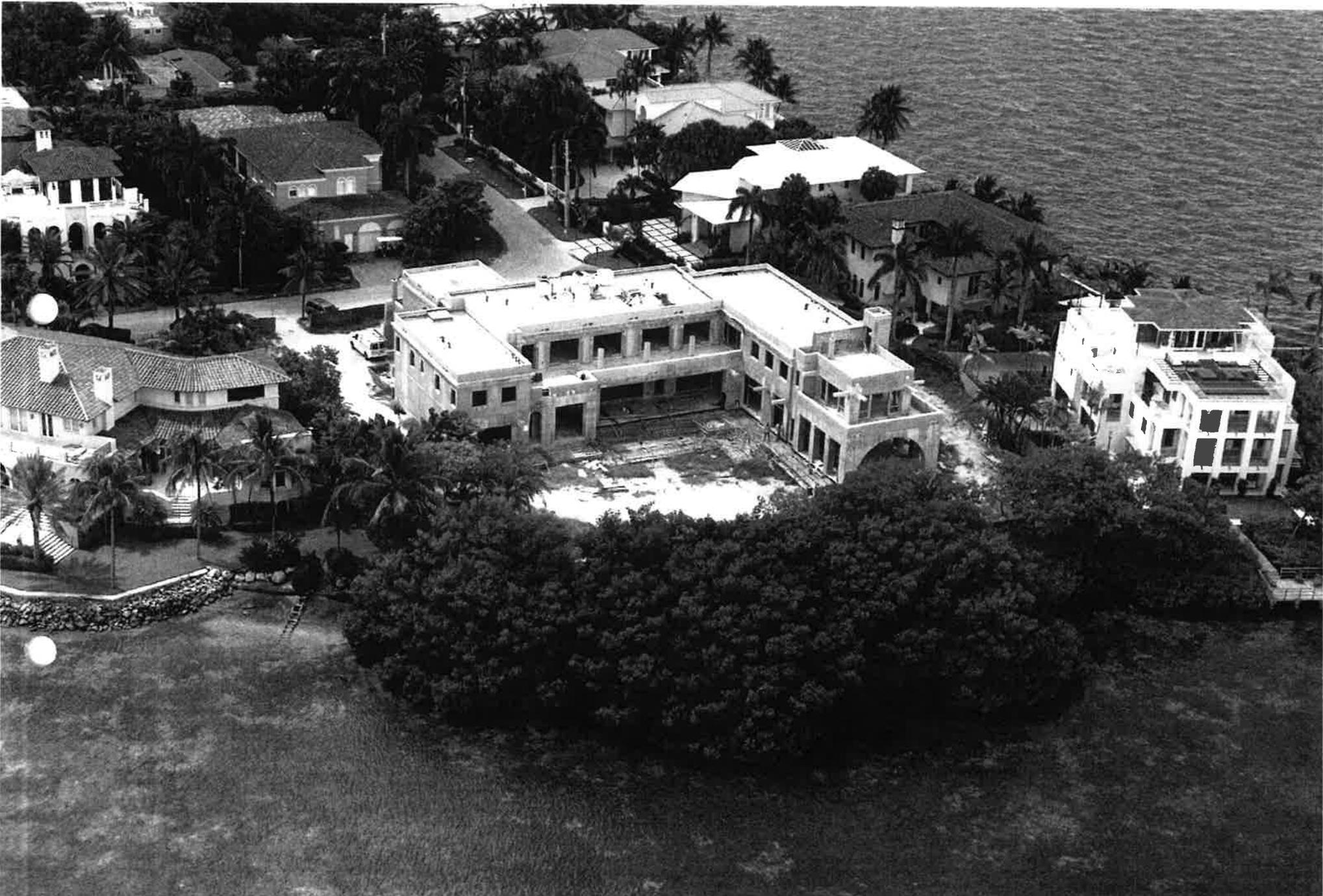
EAS Engineering, Inc.
2014 Aerial Photo



*The Bryan Residence
820 Mashta Place, Key Biscayne, FL*

Print #140723187
Date: 07/23/14
Lat/Lon: 25.686858 -80.176717
Order No. 55497

 Aerial Photography, Inc. 954-568-0484



*The Bryan Residence
820 Mashta Place, Key Biscayne, FL*

Print #140723187
Date: 07/23/14
Lat/Lon: 25.686858 -80.176717
Order No. 55497
Aerial Photography, Inc. 954-568-0484



*The Bryan Residence
820 Mashta Place, Key Biscayne, FL*

Print #150123268

Date: 01/23/15

Lat/Lon: 25.686858 -80.176717

Order No. 55497

 Aerial Photography, Inc. 954-568-0484

Mr. Jud Kurlancheek, Director
Department of Building, Zoning and Planning
Village of Key Biscayne
88 West McIntyre Street, Suite 250
Key Biscayne, FL 33149

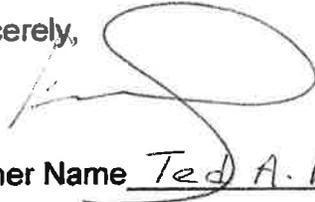
RE: 820 Mashta Place
Variance Request by Timothy Bryan for Construction of a Walkway and
Observation Platform Projecting $\pm 84.4'$ from the Property Line into Biscayne Bay

Dear Mr. Kurlancheek,

I have reviewed the attached site plan and aerial photograph showing the walkway and observation platform Mr. Bryan is proposing to construct into Biscayne Bay behind his house. It is my understanding that a variance is required from the Village of Key Biscayne since the proposed structure extends $\pm 84.4'$ out from the property line, which is $\pm 44.4'$ more than what the Code allows.

The structure will not be visible from our property and will not impact our property in any way. Therefore, this is to confirm that I have no objection to the granting of a variance by the Village for the construction of the walkway and observation platform Mr. Bryan is proposing.

Sincerely,



Owner Name Ted A. Fernandez

Address 800 Mashta Pl.

K.B. FL 33149

Date 8/10/15

Mr. Jud Kurlancheek, Director
Department of Building, Zoning and Planning
Village of Key Biscayne
88 West McIntyre Street, Suite 250
Key Biscayne, FL 33149

RE: 820 Mashta Place
Variance Request by Timothy Bryan for Construction of a Walkway and
Observation Platform Projecting $\pm 84.4'$ from the Property Line into Biscayne Bay

Dear Mr. Kurlancheek,

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The structure will not be visible from our property and will not impact our property in any way. Therefore, this is to confirm that I have no objection to the granting of a variance by the Village for the construction of the walkway and observation platform Mr. Bryan is proposing.

Sincerely,



Owner Name D P DOCWRA V.P

Address 755 SOUTH MASHTA DRIVE

KEY BISCAYNE, FLORIDA

Date 4/28/15



BISCAYNE BAY

MANGROVES

MHW, EL. 1.55'

PROPERTY LINE

APPROXIMATE LOCATION OF UPPER MANGROVE DRIP EDGE

LOCATION OF COVE

MANGROVES

TOP OF SLOPE

THIS DIMENSION REPRESENTS FURTHEST DISTANCE FROM PROPERTY LINE

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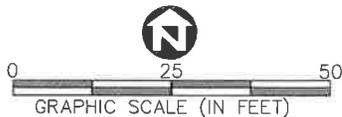
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PREVIOUS LOT LINE FOR LOT 3, BLOCK 1 AND LOT 2, BLOCK 4 (NOW ONE LOT VIA UNITY OF TITLE)

EGEND

-  PROPOSED TERMINAL DECK (500 SF)
-  PROPOSED APPROACH DECK WATERWARD (202 SF)
-  PROPOSED APPROACH DECK LANDWARD (128 SF)



PURPOSE: **SITE PLAN**
DATUM: NGVD
JOB NO: 2011-03

EAS ENGINEERING, INC.

55 ALMERIA AVENUE CORAL GABLES 33134 (305)445-5553

COUNTY OF MIAMI-DADE

STATE OF FLORIDA

APPLICATION BY:

TIMOTHY BRYAN

820 MASHTA PLACE

VILLAGE OF KEY BISCAIYNE, FL.

SHEET 4

DATE: 05/10/12

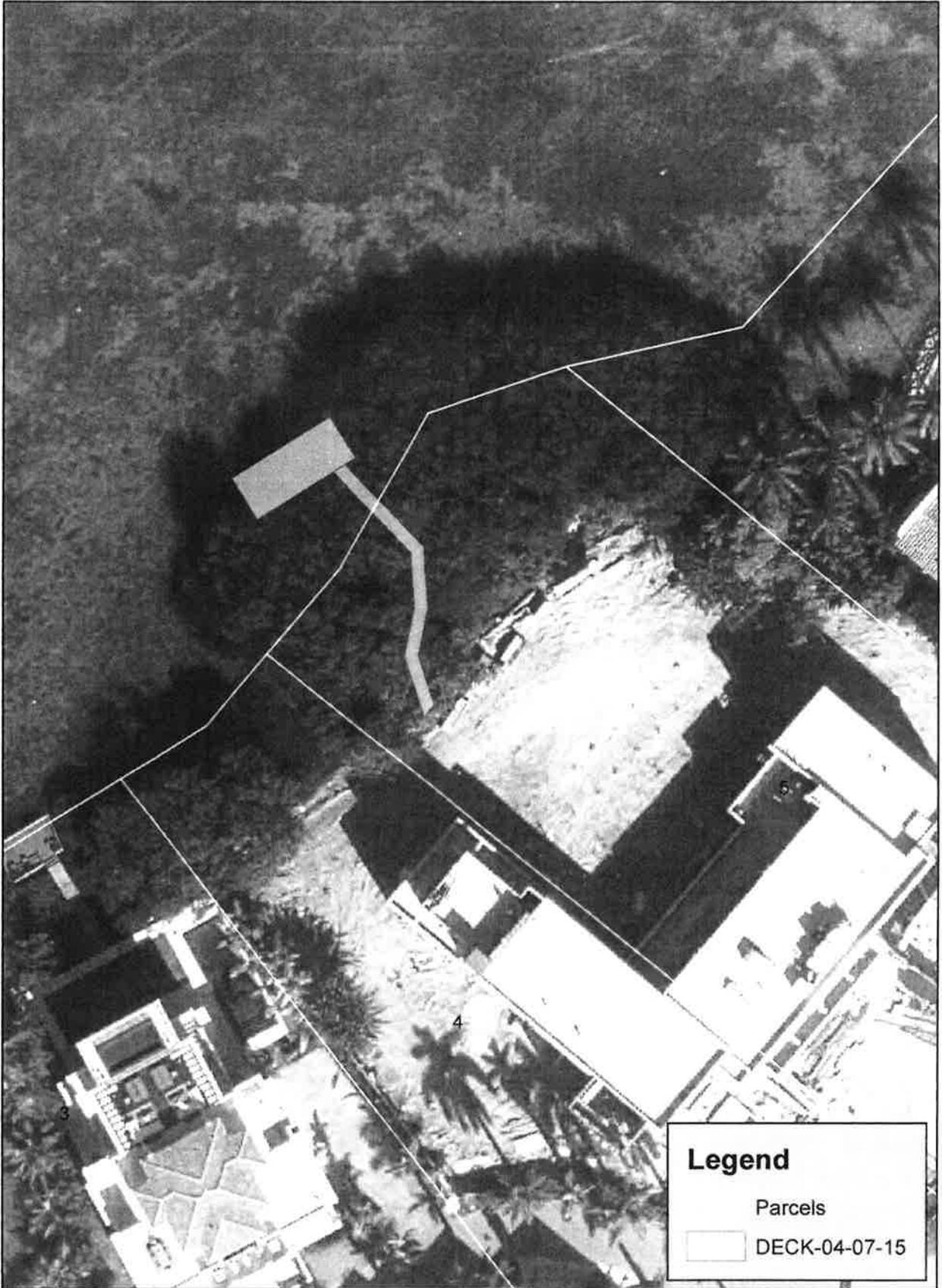
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REV. #	DATE & DESCRIPTION
B-13-12	ADDED MHW LINE AND PL FROM SURVEY
10-12-12	GENERAL REVISION

Tim Bryan Property



Aerial_2.pdf



0 20 40 80 Feet

EAS Engineering, Inc.
2014 Aerial Photo

**Timothy Bryan
820 Mashta Place
Key Biscayne, FL 33149**

April 16, 2015

Mr. Jud Kurlancheek, Director
Department of Building, Zoning and Planning
Village of Key Biscayne
88 West McIntyre Street, Suite 250
Key Biscayne, FL 33149

RE: 820 Mashta Place
Request for a Regulatory Variance from Section 30-100(b) – Dock Projection
For the Construction of a Walkway and Observation Platform

Dear Mr. Kurlancheek,

I am the owner of the subject property located at 820 Mashta Place. The property is located directly on Biscayne Bay and has a dense fringe of mangroves along the shoreline that is preventing the view of the bay from the rear of the house, which is nearing completion of construction.

We have been working closely with the County, State and Federal (Corps of Engineers) environmental regulatory agencies on the design and permitting of a walkway and observation platform that would minimally impact the shoreline mangroves and at the same time allow us to have a view of Biscayne Bay and Downtown Miami. We have obtained the State and Federal permits for the proposed structure (copies attached) and the County permit is pending issuance.

The structure that has been approved by the State and the Corps Includes a 4' wide walkway that winds through the mangroves and connects to an observation platform at the waterward side of the mangrove fringe. The platform is located in a natural notch or "cove" in the mangrove fringe so very few mangrove branches or limbs will have to be trimmed during construction. Because the notch is in the center of the property and the mangrove trees extend more than 80' waterward of the property line, the observation platform will not be visible from the adjacent shoreline properties. It should also be noted that the observation platform has been sited in a location where there is minimal seagrass cover compared to other areas where the seagrasses are dense, and that the water depth is extremely shallow precluding docking of vessels (docking will actually be prohibited).

According to Section 30-100(b) of the Code of Ordinances of the Village of Key Biscayne, FL, "a dock shall be permitted to project a maximum of 40' from the property line" for Bayfront properties. While the observation platform is not a dock per se, it is being treated as such from a regulatory perspective. Therefore, a Variance must be obtained to exceed the 40' projection limitation by $\pm 44.4'$ since the furthest project from the property line is $\pm 84.4'$.

The desired Variance meets the criteria for the granting of variances enumerated in Sec. 30-63(a)(1)&(2), based on the following:

1. The Variance will ensure the preservation of the existing mangrove fringe, which is a vital public natural resource, based on the structure's design. The structure will provide visual access to the Bay without compromising or impeding the views of the adjacent shoreline property owners. Lastly, the stability and appearance of the community will be protected and maintained since the mangrove fringe will remain in place.
2. The adjacent property to the west has a similar walkway and observation platform that was permitted and constructed several years ago. This platform is located at the waterward edge of the mangrove fringe but did not require a variance because the mangrove fringe is less than 40' out from the property line. Therefore, the granting of a variance enabling the construction of the proposed walkway and platform is compatible with the surrounding land uses and otherwise consistent with the Village's Regulations and Comprehensive Plan. Moreover, granting the variance will not be detrimental to the community.

I appreciate your review and consideration of this variance request and I look forward to your favorable recommendation to the Village Council. If you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,



Timothy Bryan, Property Owner
820 Mashta Place



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

SOUTHEAST DISTRICT OFFICE
400 NORTH CONGRESS AVE., SUITE 200
WEST PALM BEACH, FL 33401
561-681-6600

RICK SCOTT
GOVERNOR

JENNIFER CARROLL
LT. GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

October 17, 2012

Timothy Bryan
745 South Mashta Drive
Key Biscayne, FL 33149
Sent via e-mail: tbryan@galaxesolutions.com

Dear Mr. Bryan:

Enclosed is Environmental Resource Permit No. 13-0305045-003, issued pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.).

Appeal rights for you as the permittee and for any affected third party are described in the text of the permit along with conditions which must be met when permitted activities are undertaken. Please review this document carefully to ensure compliance with both the general and specific conditions contained herein. As the permittee, you are responsible for compliance with these conditions. **Please ensure all construction personnel associated with your activity review and understand the attached drawings and conditions.** Failure to comply with this permit may result in liability for damages and restoration, and the imposition of civil penalties up to \$10,000.00 per violation per day pursuant to Sections 403.141 and 403.161, F.S.

In addition, please ensure the construction commencement notice and all other reporting conditions are forwarded to the appropriate office as indicated in the specific conditions.

If you have any questions about this document, please contact me at 561.681.6654 or by email at Gina.Chiello@dep.state.fl.us.

Sincerely,

Gina Chiello
Environmental Specialist II
Submerged Lands & Environmental
Resources Program



Permit Review Checklist

(A summary of the required monitoring and reporting activities for your project)

Pre-Construction Requirements

Activity	Date Due	Date Completed
<input type="checkbox"/> Contact DEP to Schedule Pre-construction Meeting	Prior to construction	_____
<input type="checkbox"/> Submit Pre-Construction Notice Form to DEP	48 Hrs. Before Construction	_____

Construction Requirements

Activity	Date Due	Date Completed
<input type="checkbox"/> Permit with All Attachments Kept at the Work Site	Permit shall be available on-site for DEP inspector at all times	_____
<input type="checkbox"/> Annual Status Report Submitted	Following June of each year until complete	_____
<input type="checkbox"/> Report Changes to Permitted Drawings / Plans / Activities	Contact DEP before any changes	_____

Post-Construction Requirements

Activity	Date Due	Date Completed
<input type="checkbox"/> "Completion and Certification (As-Built) Form" signed & sealed by P.E. and sent to DEP	30 days after construction	_____
<input type="checkbox"/> Transfer Form Submitted to DEP	Within 30 days Sale of property (if property sold)	_____

For the above criteria that require you to contact DEP – you should contact the FDEP- Southeast District Office, Environmental Resources Permitting Section, 400 North Congress Avenue, Suite 200, West Palm Beach, FL 33467, Attention: Don Keirn, Phone: 561.681.6644, E-mail: Don.Keirn@dep.state.fl.us.

PLEASE NOTE: As the property owner/permittee, you are ultimately responsible for ensuring that the required conditions of your permit are complied with and timely reported to the Department. Please ensure that any designated contractors or agents acting on your behalf are familiar with these requirements.



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**
SOUTHEAST DISTRICT OFFICE
400 NORTH CONGRESS AVE., SUITE 200
WEST PALM BEACH, FL 33401
561-681-6600

RICK SCOTT
GOVERNOR

JENNIFER CARROLL
LT. GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

Permittee/Authorized Entity:

Timothy Bryan
745 South Mashta Drive
Key Biscayne, FL 33149
Sent via e-mail: tbryan@galaxesolutions.com

Project Name:

Bryan, Timothy Viewing Platform

Authorized Agent:

EAS Engineering, Inc.
c/o Edward Swakon, P.E.
55 Almeria Avenue
Coral Gables, FL 33134
Phone: 305.445.5553 x305; E-mail: ESwakon@eas-eng.com

ERP Processor:

Gina Chiello, Environmental Specialist II
Phone: 561.681.6654
E-mail: Gina.Chiello@dep.state.fl.us

Environmental Resource Permit - Granted

State-owned Submerged Lands Authorization –Granted

U.S. Army Corps of Engineers Authorization –Separate Corps Authorization Required

Permit No.: 13-0305045-003

Permit Issuance Date: *October 17, 2012*

Permit Construction Phase Expiration Date: *October 16, 2017*

**Consolidated Environmental Resource Permit and State-owned
Submerged Lands Authorization**

Permittee: Timothy Bryan

Permit No: 13-0305045-003

Project Name or Phase: Bryan, Timothy Viewing Platform

AUTHORIZATIONS

Project Description

The permittee is authorized to install a 34.5-foot by 14.5-foot (500.25 ft²) viewing deck and a 4-foot by 78.5-foot (314 ft²) access walkway, totaling 814.25 ft² of overwater structure within the landward extent of Biscayne Bay, a Class III Water, within the Biscayne Bay Aquatic Preserve, Outstanding Florida Waterbody. Authorized activities are depicted on the attached exhibits.

The resources occurring within the project area consist of shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), red mangroves (*Rhizophora mangle*), black mangroves (*Avicennia germinates*), and white mangroves (*Laguncularia racemosa*). In order to avoid and minimize impacts to the seagrass, the viewing platform shall be constructed by hand using a hand auger, shall be elevated 5 ft. above the Mean High Water Line (MHWL), and constructed with 43% light penetrating grated decking. In order to avoid and minimize impacts to the mangroves, the access walkway shall be constructed with 43% light penetrating grated decking by hand using a hand auger in an area where the mangroves are least dense; no mangroves shall be removed; only some lateral trimming is authorized within the footprint of the access walkway.

During all in-water work, the permittee shall comply with the "Standard Manatee Conditions for In-Water Work, 2011". Construction shall occur from the upland property and constructed by hand using hand augers. Best Management Practices for erosion and turbidity control within the jurisdictional areas shall be utilized during all phases of this project.

The project described above may be conducted only in accordance with the terms, conditions and attachments contained in this permit. The issuance of this permit does not infer, nor guarantee, nor imply that future permits or modifications will be granted by the Department.

State-owned Submerged Lands Authorization.

The activity is located on submerged lands owned by the State of Florida. It therefore also requires authorization, from the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.77, Florida Statutes (F.S.) and Chapter 258, F.S.

As staff to the Board of Trustees, the Department has determined that the activity qualifies for a Letter of Consent, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

Federal Authorization

A copy of this permit has been sent to the U.S. Army Corps of Engineers (USACE). The USACE may require a separate permit. Failure to obtain any required federal permits prior to construction could subject you to enforcement action by that agency.

Permittee: Bryan, Timothy

Permit No: 13-0305045-003

Page 1

Coastal Zone Management

This permit also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Management Act.

Water Quality Certification

This permit constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this project may be required by other federal, state or local entities including but not limited to local governments and homeowner's associations. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

In addition, you are advised that your project may require additional authorizations or permits from the municipality/county in which the project is located. Please be sure to contact the local county building and environmental department to obtain these required authorizations.

PROJECT LOCATION

The activities authorized by this Permit and state-owned submerged lands authorization are located within the Biscayne Bay, within the Biscayne Bay Aquatic Preserve, Outstanding Florida Waters, Class III Waters, adjacent to 820 South Mashta Drive, Key Biscayne (Section 6, Township 55 South, Range 42 East), in Miami-Dade County (Latitude N 25° 41' 13.84", Longitude W 80° 10' 36.91").

PERMIT/STATE-OWNED SUBMERGED LANDS CONDITIONS

The activities described herein must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The General Consent Conditions**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these conditions and drawings prior to commencing the authorized activities. Failure to comply with these conditions, including any mitigation requirements, shall constitute grounds for revocation of the Permit and appropriate enforcement action by the Department.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit/certification/ authorization and state-owned submerged lands authorization, as specifically described above.

SPECIFIC CONDITIONS - PRIOR TO CONSTRUCTION

(1) The attached project drawings (Sheets 1 through 8); the attached 1-page permit checklist; the attached 2-page "Standard Manatee Conditions for In-Water Work, 2011"; and DEP forms 62-343.900(3), (4), (5), and (7) F.A.C., which may be downloaded at <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm> become part of this permit. If the permittee does not have access to the Internet, please contact the Department at (561) 681-6654 to request the aforementioned forms.

(2) If the attached permit drawings and plans conflict with the specific conditions, then the specific conditions shall prevail.

(3) After selection of the contractor to perform the authorized activities and prior to the initiation of any work authorized by this permit, the permittee (or authorized agent) and the contractor shall attend a pre-construction conference with a representative of the Department. The permittee shall contact the Department in writing to schedule the conference at: Department of Environmental Protection, West Palm Beach Office, Submerged Lands & Environmental Resources Program, Attn: Don Keirn, 400 N Congress Avenue, Suite 200 West Palm Beach, FL 33401 (Tel: 561.681.6644).

(4) The permittee shall be responsible for ensuring that the permit conditions are explained to all construction personnel working on the project, and for providing each contractor and subcontractor with a copy of this permit before construction begins.

(5) The work authorized by this permit shall not be conducted on any property, other than that owned by the permittee, without the prior written approval of that property owner.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

(6) All storage or stockpiling of tools or materials (i.e. lumber, pilings, etc.) shall be limited to uplands. There shall be no storage or stockpiling of tools, materials (i.e., lumber, pilings, debris), along the shoreline or below the mean high water line. All excess lumber, scrap wood, trash, garbage, and any other type of debris shall be removed from the project area within 14 days of completion of the work authorized in this permit.

(7) There shall be no watercraft associated with the construction due to the shallow water within and surrounding the project footprint.

(8) Because of the shallow water depths within the project area, the use of turbidity control devices is not feasible; therefore, construction shall occur from the upland property and constructed by hand using hand augers and Best Management Practices for erosion and turbidity control within the jurisdictional areas shall be utilized during all phases of this project.

Turbidity levels outside the construction area (within 100-ft.) shall not exceed ambient levels. The following measures shall be taken immediately by the permittee whenever turbidity levels within waters of the State at or beyond the 100-ft. mixing zone exceed ambient levels:

- a. Notify the Department at 561-681-6644 at the time the violation is first detected.
- b. Immediately cease all work contributing to the water quality violation.

- c. Stabilize all exposed soils contributing to the violation. Modify the work procedures that were responsible for the violation.
- d. Resume construction activities once turbidity levels within the 100-ft. mixing zone meet ambient levels.

(9) In order to allow maximum light penetration, the surface of the access walkway and the viewing platform shall be constructed with 43% light penetrating grated decking and the viewing platform shall be elevated 5-feet above the mean high water line (MHWL).

(10) All wood pilings to be installed waterward of the MHWL shall be wrapped in industry standard inert synthetic material from 1-foot above the MHWL to 1-foot below the substrate.

(11) To protect seagrass and mangrove resources at this site, the decking of the viewing platform and access walkway shall be constructed with 43% light penetrating grated decking by hand using a hand auger; the viewing platform shall be elevated 5' above the mean high water line (MHW) and the access walkway shall be constructed in the area where the mangroves are least dense; no mangroves shall be removed; only minimal lateral trimming allowed within the footprint of the access walkway.

(12) Handrails shall be installed along the access walkway and around the terminal platform. No mooring is authorized along any portion of this viewing platform.

(13) There shall be no fish cleaning stations on the dock authorized by this permit. Overboard discharges of trash, human or animal waste, or fuel shall not occur from the viewing platform.

SPECIFIC CONDITIONS – MANATEE CONDITIONS

(14) During all in-water work, the permittee shall comply with the standard manatee protection construction conditions listed in the attached 2-page "Standard Manatee Conditions for In-Water Work, 2011".

GENERAL CONDITIONS

(15) All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.

(16) This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

(17) Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards.

Temporary erosion control shall be implemented prior to and during construction and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

(18) The permittee shall notify the Department of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Department an **"Environmental Resource Permit Construction Commencement"** notice (Form No. 62-343.900(3), F.A.C.) indicating the actual start date and the expected completion date.

(19) When the duration of construction will exceed one year, the permittee shall submit construction status reports to the Department on an annual basis utilizing an **"Annual Status Report Form"** (Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

(20) Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied **"Environmental Resource Permit As-Built Certification by a Registered Professional"** (Form No. 62-343.900(5), F.A.C.). The statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the Department that the system is ready for inspection. Additionally, if deviation from the attached drawings is discovered during the certification process, the certification must be accompanied by a copy of the attached permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.

(21) The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition # 20 above, has submitted a **"Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase"** (Form No. 62-343.900(7), F.A.C.); the Department determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the Department in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District - August 1995, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the Department, the permittee shall initiate transfer of the

permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 62-343.110(1)(d), F.A.C., the permittee shall be liable for compliance with the terms of the permit.

(22) Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.

(23) For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the Department along with any other final operation and maintenance documents required by sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District - August 1995, prior to lot or unit sales or prior to the completion of the system, whichever occurs first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State where appropriate. For those systems which are proposed to be maintained by the county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

(24) Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

(25) This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C.

(26) The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

(27) The permittee is advised that the rules of the South Florida Water Management District require the permittee to obtain a water use permit from the South Florida Water

Management District prior to construction dewatering, unless the work qualifies for a general permit pursuant to subsection 40E-20.302(4), F.A.C., also known as the "No Notice" rule.

(28) The permittee shall hold and save the Department harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.

(29) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under section 373.421(2), F.S., provides otherwise.

(30) The permittee shall notify the Department in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of section 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

(31) Upon reasonable notice to the permittee, Department authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.

(32) If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate Department office.

(33) The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

GENERAL CONSENT CONDITIONS

Chapter 18-21.004(7), F.A.C., General Conditions for Authorizations:

(34) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.

(35) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.

(36) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.

(37) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.

(38) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.

(39) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.

(40) Structures or activities shall not create a navigational hazard.

(41) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

(42) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(g), F.A.C., or any other applicable law.

NOTICE OF RIGHTS

This Permit is hereby final unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57 of the Florida Statutes (F.S.) as provided below. The procedures for petitioning for a hearing are set forth below.

Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Because the administrative hearing process is designed to re-determine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit until the deadlines noted below for filing a petition for an administrative hearing, or request for an extension of time has expired.

Under Rule 62-110.106(4), Florida Administrative Code (F.A.C.), a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35,

Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

In accordance with Rule 62-110.106(3) F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first.

Under section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action; and
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action;
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a

petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

This permit constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department. The applicant, or any party within the meaning of Section 373.114(1)(a), F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1), F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the final order is filed with the Clerk of the Department.

Executed in Palm Beach County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jennifer K. Smith
Program Administrator
Submerged Lands & Environmental
Resource Program

Attachments:

Permit checklist, 1 page

Project Drawings and Design Specs., 8 pages

Exhibit A, Standard Manatee Conditions for In-Water Work, 2011, (2 pages)

Commencement notice /62-343.900(3)*

Annual status report/62-343.900(4)*

As-built certification/62-343.900(5)*

Inspection certification/62-343.900(6)*

Transfer construction to operation phase/ 62-343.900(7)*

Application for transfer of an ERP permit/62-343.900(8)*

*Can be downloaded at: <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>

Copies furnished to:

Don Keirn, FDEP- Compliance Section, Don.Keirn@dep.state.fl.us

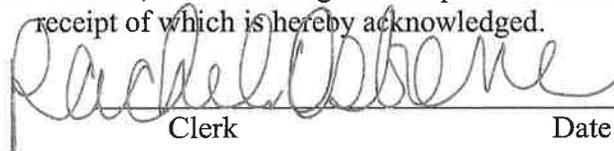
Jessica Hammers, USACOE- Miami-Dade, jessica.l.hammers@usace.army.mil

Allison Hill, Miami-Dade County RER, HILLAL@miamidade.gov

Edward Swakon, P.E., EAS Engineering, Inc., ESwakon@eas-eng.com

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the
Florida Statutes, with the designated Department Clerk,
receipt of which is hereby acknowledged.

 10/17/12
Clerk Date

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used (see MyFWC.com/manatee). One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. Questions concerning these signs can be sent to the email address listed above.

Exhibit A (2 pages)

CAUTION: MANATEE HABITAT

All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work
all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:

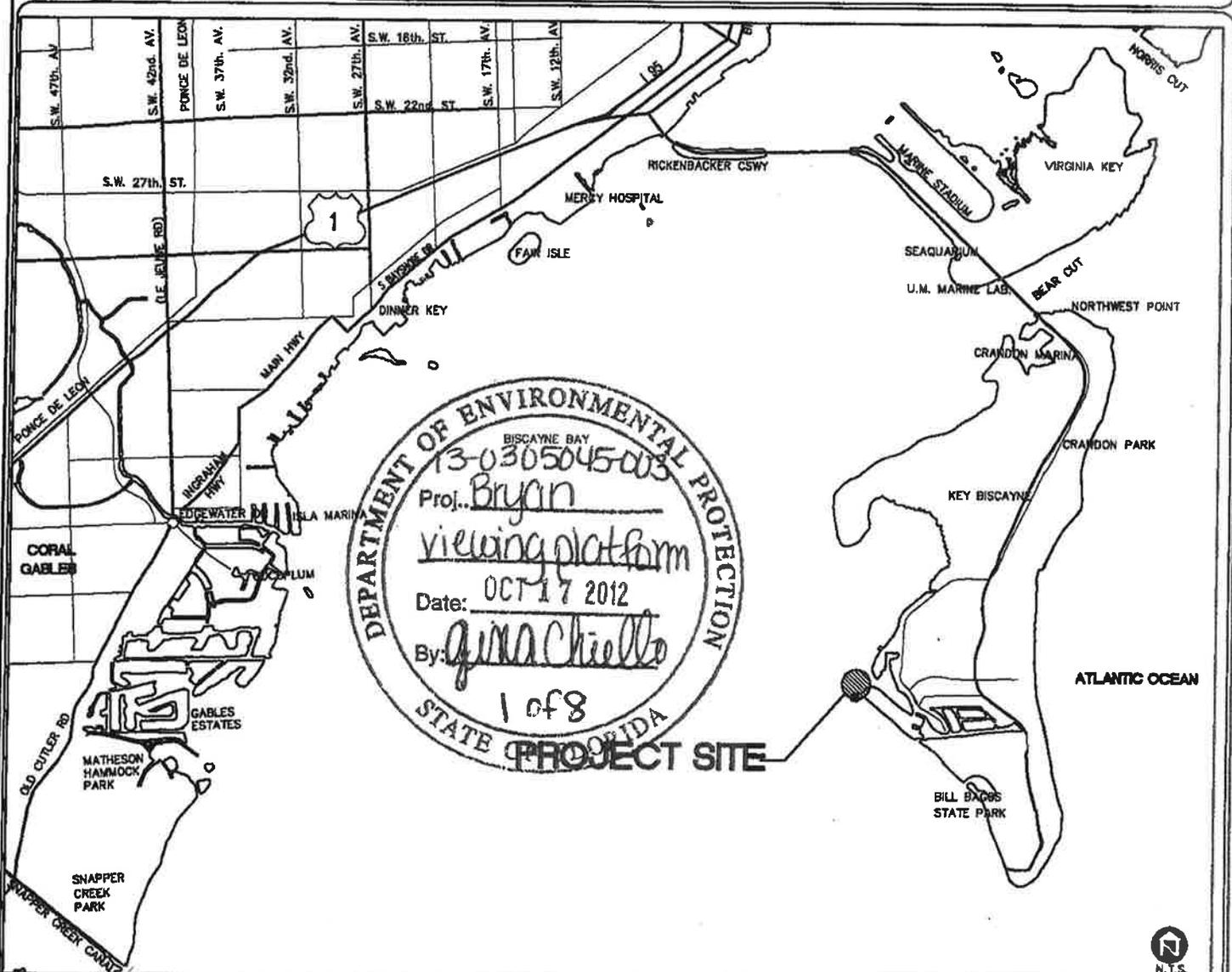
Wildlife Alert:

1-888-404-FWCC(3922)

cell *FWC or #FWC



REV. DATE	DESCRIPTION
8-13-12	ADDED SECTIONS B-B AND C-C



INDEX OF DRAWINGS

SHEET #	TITLE
1	VICINITY MAP + INDEX OF DRAWINGS
2	LOCATION MAP
3	EXISTING CONDITIONS
4	SITE PLAN
5	SECTION A-A
6	SECTION B-B AND C-C
7	ADJACENT PROPERTY OWNERS
8	LINE OF SIGHT

RECEIVED

AUG 22 2012

FL DEP
WEST PALM BEACH

PURPOSE: VICINITY MAP + INDEX OF DRAWINGS

DATUM: N/A

JOB #: 2011-03

EAS ENGINEERING, INC.

65 ALMERIA AVENUE, CORAL GABLES, FL 33134 (305) 446-5553

COUNTY OF MIAMI-DADE

STATE OF FLORIDA

APPLICATION BY:

TIMOTHY BRYAN

820 MASHTA PLACE

VILLAGE OF KEY BISCAIYNE, FL.

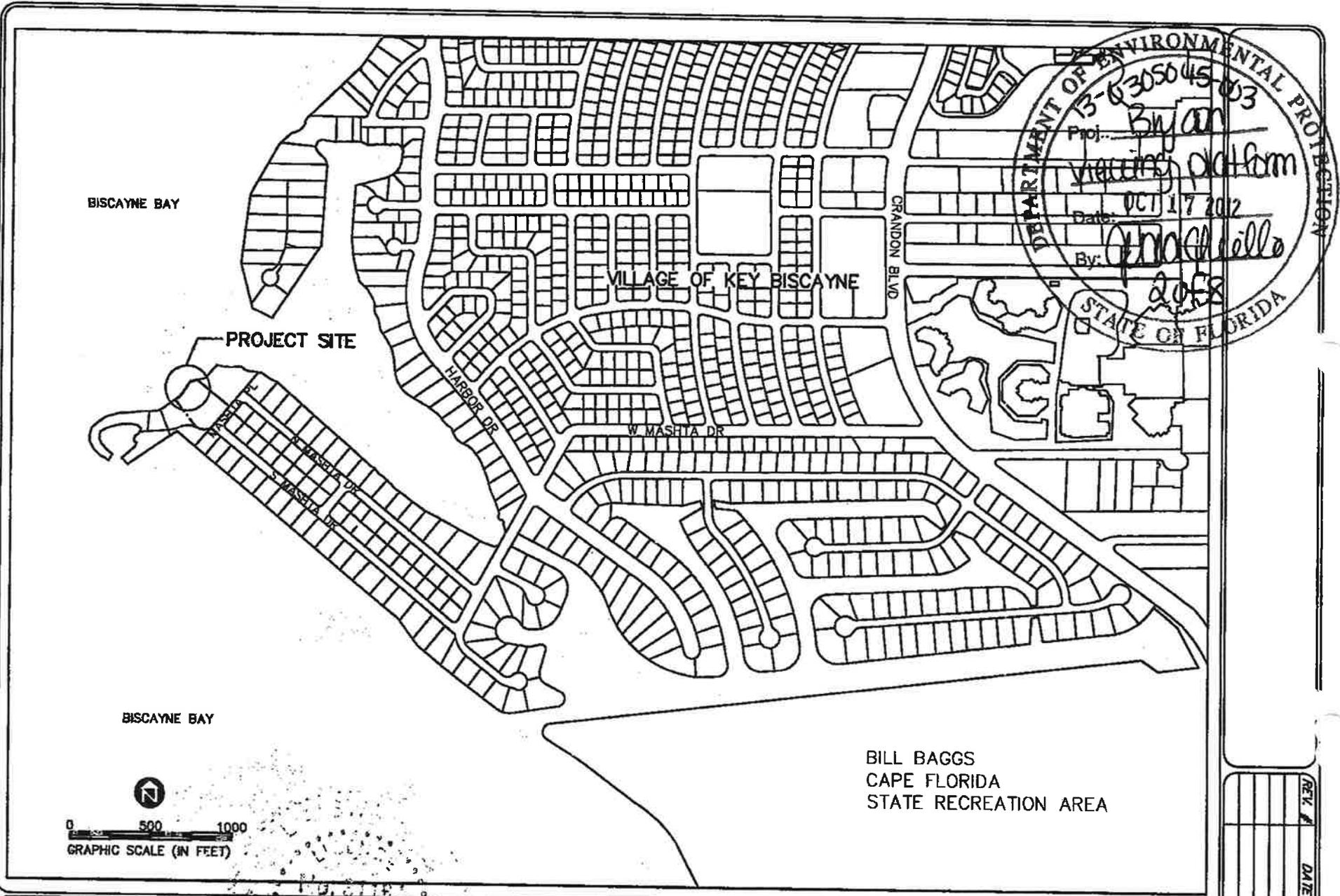
SHEET 1

DATE: 05/10/12

SECTION: 6

TOWNSHIP: 55

RANGE: 42



DEPARTMENT OF ENVIRONMENTAL PROTECTION
 13-0305045-003
 Proj: Bryan
 Viewing platform
 Date: OCT 17 2012
 By: [Signature]
 STATE OF FLORIDA

BILL BAGGS
 CAPE FLORIDA
 STATE RECREATION AREA

PURPOSE: LOCATION MAP
 DATUM: N/A
 JOB NO: 2011-03
 [Signature]
 EAS ENGINEERING, INC.
 66 ALMERIA AVENUE CORAL GABLES, FL 33134 (305) 446-6363

COUNTY OF MIAMI-DADE STATE OF FLORIDA
 APPLICATION BY:
 TIMOTHY BRYAN
 820 MASHTA PLACE
 VILLAGE OF KEY BISCAIYNE, FL.
 SHEET 2 DATE: 05/10/12

SECTION: 6
 TOWNSHIP: 55
 RANGE: 42

REF #	DATE & DESCRIPTION



DEPARTMENT OF ENVIRONMENTAL PROTECTION
 13-0305045-003
 Proj. Bryan
Viewing platform
 OCT 17 2012

**MIAMI-DADE COUNTY
 OFFICE OF THE PROPERTY APPRAISER
 PROPERTY SEARCH SUMMARY REPORT**

*Honorable Pedro J. Garcia
 Property Appraiser*

Property Information:		
Folio	24-5204-003-0030	Date
Property Address	745 MASHTA DR	
Owner Name(s)	TIMOTHY BRYAN NINA BRYAN	
Mailing Address	745 SOUTH MASHTA DR KEY BISCAIYNE FL 33149	
Primary Zone	2001	
Use Code	0001	
Beds/Baths/Half	8/5/1	
Floors	3	
Living Units	1	
Adj. Sq. Footage	7,509	
Lot Size	17,358 SQ FT	
Year Built	1996	
Legal Description	MASHTA POINT SUB PB 131-37 LOT 3 BLK 1 LOT SIZE 17358 SQ FT M/L OR 19950-1510 10/2001 1 COC 21612-2323 07 2003 1	
Assessment Information:		
	Current	Previous
Year	2011	2010
Land Value	\$3,905,550	\$3,514,995
Building Value	\$2,756,290	\$1,868,429
Market Value	\$6,661,840	\$5,383,424
Assessed Value	\$6,661,840	\$5,383,424
Exemption Information:		
	Current	Previous
Year	2011	2010
Homestead	\$0	\$0
2nd Homestead	\$0	\$0
Senior	\$0	\$0
Veteran Disability	\$0	\$0
Civilian Disability	\$0	\$0
Widow(er)	\$0	\$0



Aerial Photography 2010

Taxable Value Information:		
	Current	Previous
Year	2011	2010
	Exemption/Taxable	Exemption/Taxable
County	\$0 / \$6,661,840	\$0 / \$5,383,424
School Board	\$0 / \$6,661,840	\$0 / \$5,383,424
City	\$0 / \$6,661,840	\$0 / \$5,383,424
Regional	\$0 / \$6,661,840	\$0 / \$5,383,424

Sale Information:			
Date	Amount	Recording Book-Page	Qualification Code
12/2010	\$8,500,000	27537-4755	Sales qualified as a result of examination of the deed
7/2003	\$4,100,000	21612-2323	Sales which are qualified
10/2001	\$4,000,000	19950-1510	Sales which are qualified
3/1993	\$900,000	15864-3955	Sales which are qualified
6/1967	\$350,000	13351-0923	Other disqualified
11/1987	\$525,000	13504-0186	Other disqualified

Disclaimer:

The Office of the Property Appraiser and Miami-Dade County are continually editing and updating the tax roll and GIS data to reflect the latest property information and GIS positional accuracy. No warranties, expressed or implied, are provided for data and the positional or thematic accuracy of the data herein, its use, or its interpretation. Although this website is periodically updated, this information may not reflect the data currently on file at Miami-Dade County's systems of record. The Property Appraiser and Miami-Dade County assumes no liability either for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any decision made, action taken, or action not taken by the user in reliance upon any information provided herein. See Miami-Dade County full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>.

Property Information Inquiries, comments, and suggestions email: pawebmail@miamidade.gov
 GIS inquiries, comments, and suggestions email: gis@miamidade.gov

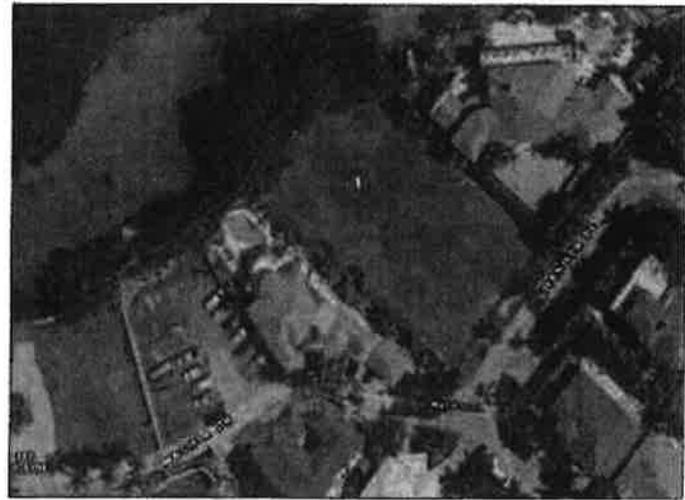
Generated on: Wednesday, July 18, 2012



MIAMI-DADE COUNTY
OFFICE OF THE PROPERTY APPRAISER
PROPERTY SEARCH SUMMARY REPORT

Honorable Pedro J. Garcia
Property Appraiser

Property Information:	
Folio	24-5206-002-0020
Property Address	820 MASHTA PL
Owner Name(s)	TIMOTHY BRYAN NINA BRYAN
Mailing Address	745 SOUTH MASHTA DR KEY BISCAYNE FL 33149
Primary Zone	2001
Use Code	0081
Beds/Baths/Half	0/0/0
Floors	0
Living Units	0
Adj. Sq. Footage	0
Lot Size	27,679 SQ FT
Year Built	0
Legal Description	MASHTA ISLAND REPL OF PORT OF TRACTS D & F PB 110-72 LOT 2 BLK 4 LOT SIZE 27679 SQ FT OR 13679-3124 0488 6 COC 23327-3382 04 2005 6
Assessment Information:	
	Current Previous
Year	2011 2010
Land Value	\$5,881,788 \$5,293,609
Building Value	\$0 \$0
Market Value	\$5,881,788 \$5,293,609
Assessed Value	\$5,822,969 \$5,283,609
Exemption Information:	
	Current Previous
Year	2011 2010
Homestead	\$0 \$0
2nd Homestead	\$0 \$0
Senior	\$0 \$0
Veteran Disability	\$0 \$0
Civilian Disability	\$0 \$0
Widow(er)	\$0 \$0



Aerial Photography 2010



Taxable Value Information:			
Year	Current		Previous
	2011		2010
	Exemption/Taxable		Exemption/Taxable
County	\$0 / \$5,822,969		\$0 / \$5,293,609
School Board	\$0 / \$5,881,788		\$0 / \$5,293,609
City	\$0 / \$5,822,969		\$0 / \$5,293,609
Regional	\$0 / \$5,822,969		\$0 / \$5,293,609
Sale Information:			
Date	Amount	Recording Book-Page	Qualification Code
12/2011	\$8,950,000	27944-1537	Sales qualified as a result of examination of the deed
4/2005	\$4,425,000	13679-3124	Other disqualified
4/1988	\$275,000	13679-3124	Other disqualified



Disclaimer:

The Office of the Property Appraiser and Miami-Dade County are continually editing and updating the tax roll and GIS data to reflect the latest property information and GIS positional accuracy. No warranties, expressed or implied, are provided for data and the positional or thematic accuracy of the data herein, its use, or its interpretation. Although this website is periodically updated, this information may not reflect the data currently on file at Miami-Dade County's systems of record. The Property Appraiser and Miami-Dade County assumes no liability either for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any decision made, action taken, or action not taken by the user in reliance upon any information provided herein. See Miami-Dade County full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>.

Property information inquiries, comments, and suggestions email: pawebmail@miamidade.gov
GIS inquiries, comments, and suggestions email: gis@miamidade.gov

Generated on: Wednesday, July 16, 2012

BISCAYNE BAY

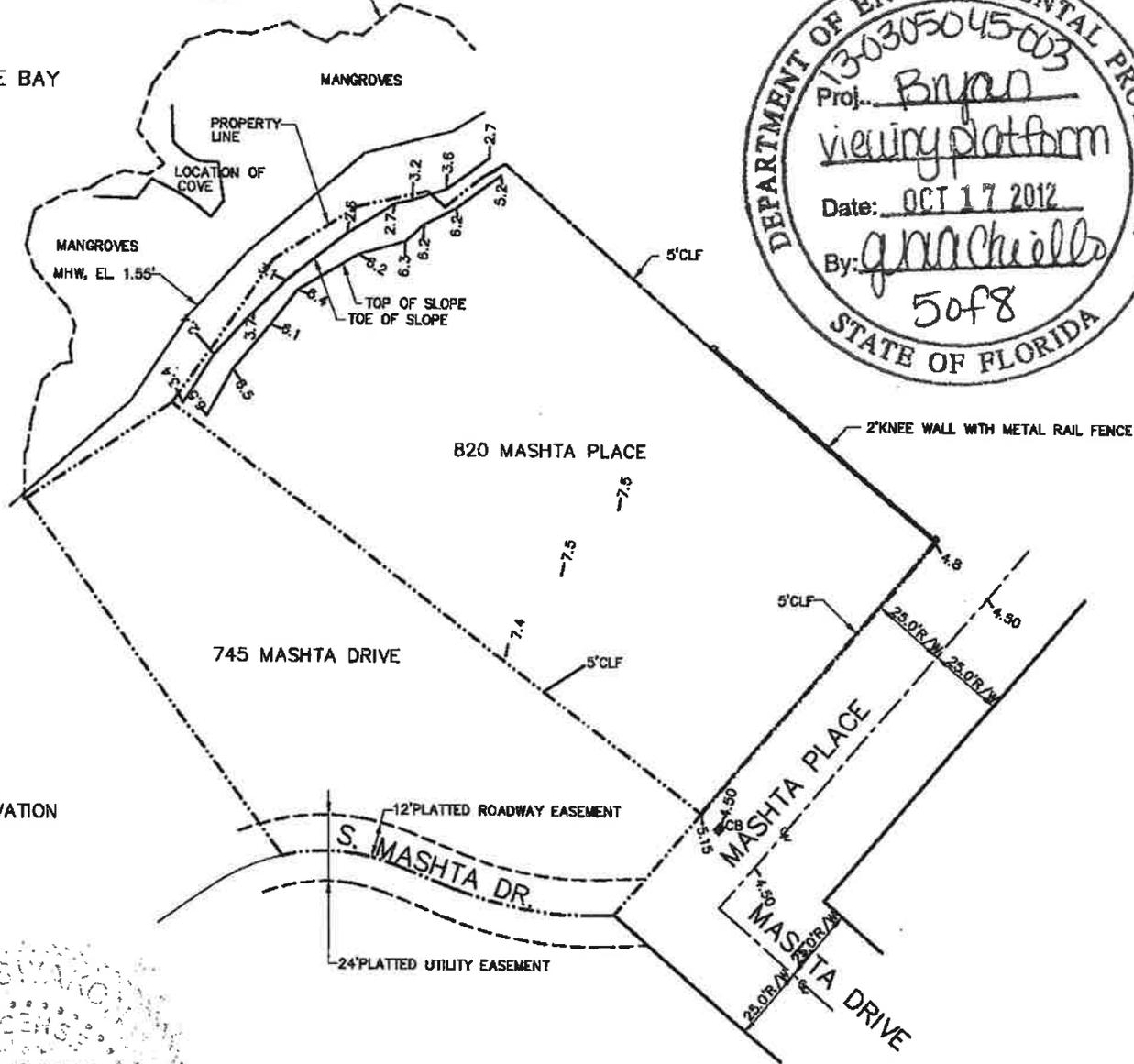
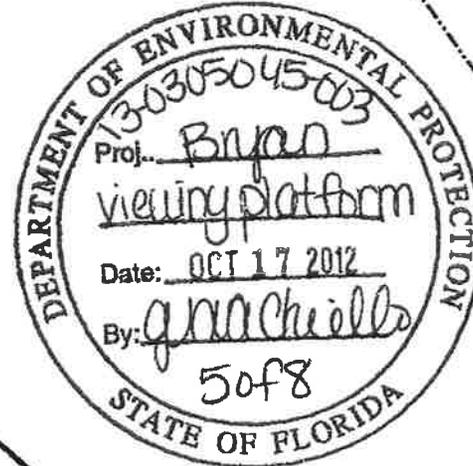
APPROXIMATE LOCATION OF UPPER MANGROVE DRIP EDGE

MANGROVES

PROPERTY LINE
LOCATION OF COVE

MANGROVES
MHW, EL. 1.55'

TOP OF SLOPE
TOE OF SLOPE



LEGEND

EXISTING ELEVATION



PURPOSE: **EXISTING CONDITIONS**

DATUM: NGVD

JOB NO: 2011-03

EAS ENGINEERING, INC.

65 ALMERIA AVENUE CORAL GABLES 33134 (305) 446-6668

COUNTY OF MIAMI-DADE

STATE OF FLORIDA

APPLICATION BY:

TIMOTHY BRYAN

820 MASHTA PLACE

VILLAGE OF KEY BISCAYNE, FL.

SHEET 3

DATE: 05/10/12

SECTION: 6

TOWNSHIP: 55

RANGE: 42

REV #	DATE	DESCRIPTION
B-13-12		ADDED MHW LINE AND PL FROM SURVEY

BISCAYNE BAY

MANGROVES

MHW, EL. 1.55'

APPROXIMATE LOCATION OF UPPER MANGROVE DRIP EDGE

LOCATION OF COVE
MANGROVES

PROPERTY LINE

TOP OF SLOPE

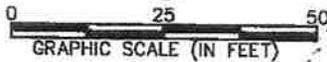
TOE OF SLOPE

LEGEND

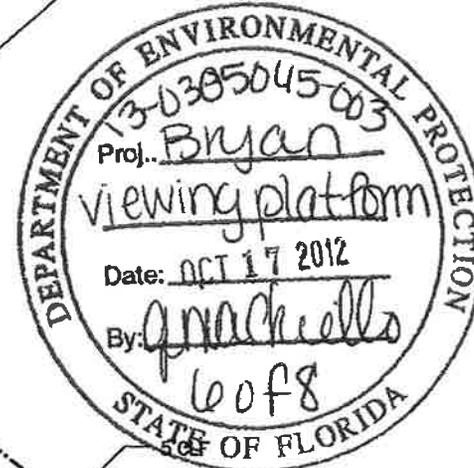
PROPOSED TERMINAL DECK (500 SF)

PROPOSED APPROACH DECK (330 SF)

SPOT ELEVATIONS



EAS ENGINEERING, INC.
LICENSE



PURPOSE: **SITE PLAN**
DATUM: NGVD
JOB NO: 2011-03

EAS ENGINEERING, INC.

66 ALMERIA AVENUE CORAL GABLES 33134 (305)446-5563

COUNTY OF MIAMI-DADE
APPLICATION BY:

STATE OF FLORIDA

TIMOTHY BRYAN
820 MASHTA PLACE
VILLAGE OF KEY BISCAYNE, FL.
SHEET 4

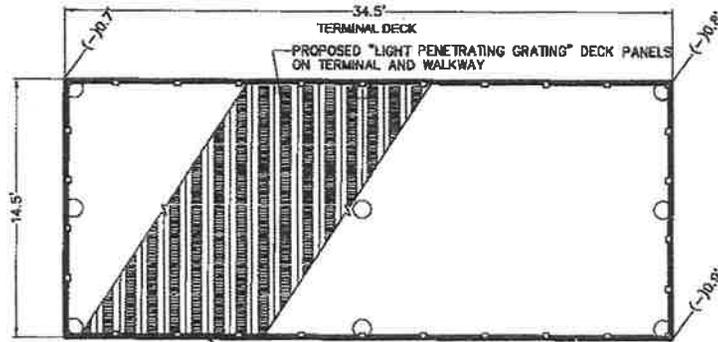
SECTION: 6
TOWNSHIP: 55
RANGE: 42

DATE: 05/10/12

REV # DATE & DESCRIPTION
B-13-12 ADDED MHW LINE AND PL FROM SURVEY

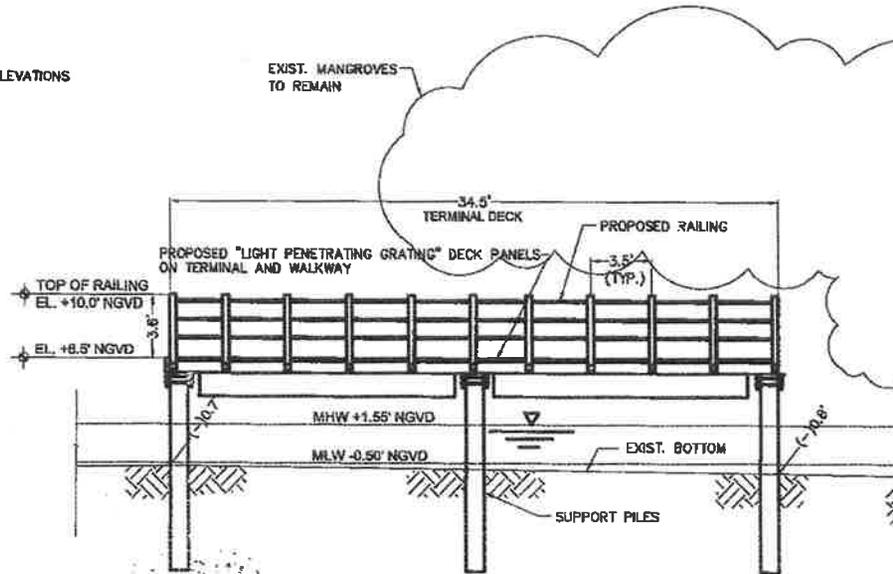
NOTE:
LIGHT PENETRATING GRATING TO PROVIDE
MINIMUM OF 43% OPEN SPACE.

RECEIVED
SEP 19 2012
FL DEP
WEST PALM BEACH



PROPOSED RAILING
TOP VIEW
SCALE: 1" = 10'

LEGEND
(-)10.8 SPOT ELEVATIONS



SECTION A-A
SCALE: 1" = 10'



PURPOSE: **SECTION A-A**
DATUM: NGVD
JOB NO: 2011-03

EAS ENGINEERING, INC. 9/14/12

66 ALMERIA AVENUE CORAL GABLES 33134 (305)445-5653

COUNTY OF MIAMI-DADE

STATE OF FLORIDA

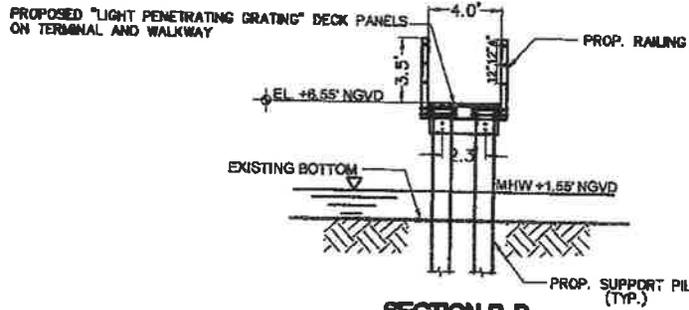
APPLICATION BY:
TIMOTHY BRYAN

820 MASHTA PLACE
VILLAGE OF KEY BISCAYNE, FL.
SHEET 5

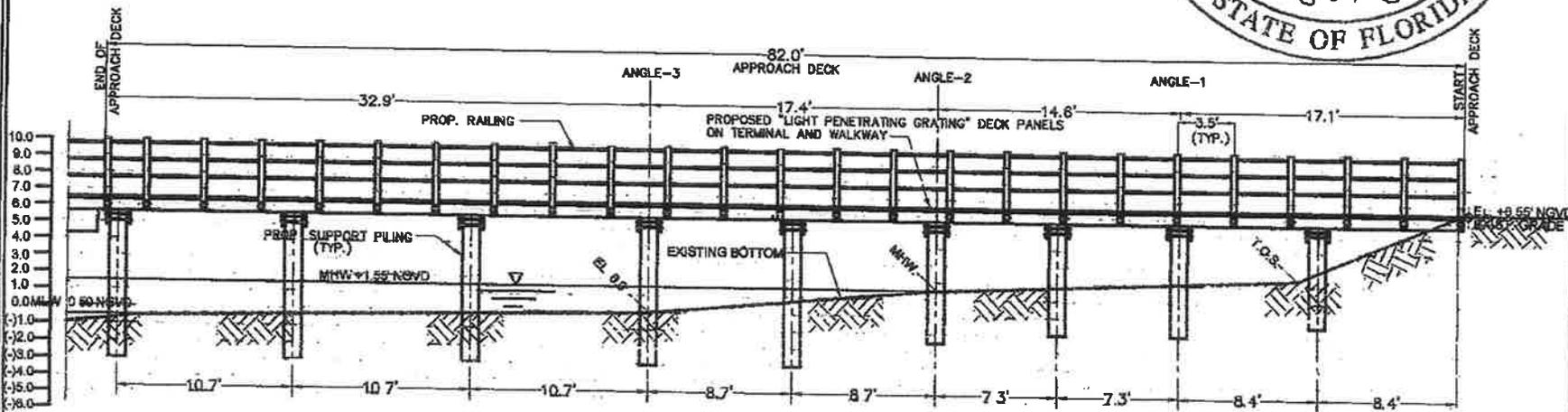
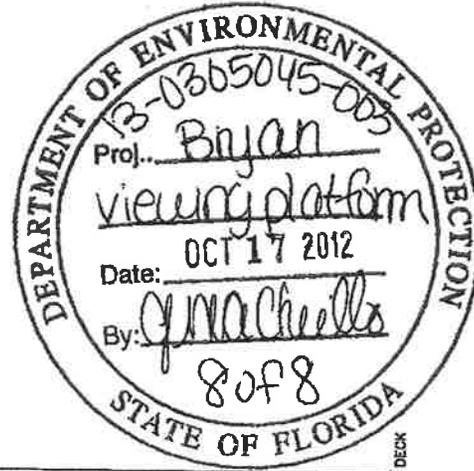
SECTION: 6
TOWNSHIP: 55
RANGE: 42

DATE: 05/10/12

REV
B-13-12
MHW EL. & MHE EL.
DATE & DESCRIPTION



SECTION B-B
SCALE: 1"=10'



SECTION C-C
SCALE: 1"=10'



PURPOSE: **SECTIONS B-B AND C-C**

DATUM: NGVD

JOB NO: 2011-03

EAS ENGINEERING, INC.

66 ALMERIA AVENUE CORAL GABLES 33134 (305)446-6563

COUNTY OF MIAMI-DADE

STATE OF FLORIDA

APPLICATION BY:

TIMOTHY BRYAN

820 MASHTA PLACE

VILLAGE OF KEY BISCAIYNE, FL.

SHEET 6

DATE: 07/19/12

SECTION: 6

TOWNSHIP: 55

RANGE: 42

REV. # DATE & DESCRIPTION
B-13-12 MHW EL. & MHW EL.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
9900 SOUTHWEST 107TH AVENUE, SUITE 203
MIAMI, FLORIDA 33176

FEB 06 2013

Regulatory Division
South Permits Branch
Miami Section
SAJ-2011-00691(LP-JLC)

Timothy and Nina Bryan
745 South Mashta Drive
Key Biscayne, FL 33149

Dear Applicants:

This is in reference to your request for a Department of the Army (DA) permit to perform work in or affecting waters of the United States. If you determine the permit provided is acceptable in its entirety and you have chosen to proceed with the authorized activity, then upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), you are authorized under a Letter of Permission to construct an 830 square foot piling-supported observation platform consisting of a 330 square foot access walkway and a 500 square foot terminal platform. The entire structure shall be elevated at 5 feet above mean high water (MHW), with grated decking providing a minimum of 43% open space on all deck surfaces. A 42 inch high, three-tier permanent railing shall be installed around the entire structure. The access walkway shall be single-pile supported. Work shall be conducted from the upland property, which will be used as the construction staging area. Hand-held equipment will be used to drill holes and drive support piles.

The project is located adjacent to Biscayne Bay at 820 Mashta Place; in Section 06, Township 55 South, Range 42 East, in Key Biscayne, Miami-Dade County, Florida 33149 (folio # 24-5206-002-0020).

Geographic Position:

Latitude 25.6871°
Longitude -80.17688°

The project must be completed in accordance with the enclosed construction drawings (pages 1-6), date-stamped by the U.S. Army Corps of Engineers (Corps) on FEB 06 2013 and the general and special conditions which are incorporated in, and made a part of, the permit.

Special Conditions:

1. **Reporting address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, 9900 Southwest 107th Avenue, Suite 203, Miami, Florida 33176. The Permittee shall reference this permit number, SAJ-2011-00691(LP-JLC), on all submittals.

2. **Self-Certification:** Within sixty (60) days of completion of the authorized work or at the expiration of the construction authorization of this permit, whichever occurs first, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form (attached) and submit to the Corps. In the event that the completed work deviates, in any manner, from the authorized work, the Permittee shall describe, on the Self-Certification Form, the deviations between the work authorized by the permit and the work as constructed. Please note that the description of any deviations on the Self-Certification Form does not constitute approval of any deviations by the Corps.

3. **Assurance of navigation and maintenance:** - The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

4. **Historic resources:** No structure or work shall adversely affect or disturb properties listed in the National Register of Historic Places or those eligible for inclusion in the National Register. Prior to the start of work, the Applicant/Permittee or other party on the Applicant's/Permittee's behalf, shall conduct a search of known historical properties by contracting a professional archaeologist, contacting the Florida Master Site File at 850-245-6440 or SiteFile@dos.state.fl.us. The Applicant/Permittee can also research sites in the National Register Information System (NRIS). Information can be found at <http://www.cr.nps.gov/nr/research/>.

If, during the initial ground disturbing activities and construction work, there are archaeological/cultural materials unearthed (which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the permittee shall immediately stop all work in the vicinity and notify the Compliance and Review staff of the State Historic Preservation Office at

850-245-6333 and the Corps Regulatory Project Manager to assess the significance of the discovery and devise appropriate actions, including salvage operations. Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7.

In the unlikely event that human remains are identified, they will be treated in accordance with Section 872.05, Florida Statutes; all work in the vicinity shall immediately cease and the local law authority, the State Archaeologist (850-245-6444), and the Corps Regulatory Project Manager shall immediately be notified. Such activity shall not resume unless specifically authorized by the State Archaeologist and the Corps.

5. **Sea turtle and smalltooth sawfish conditions:** The Permittee shall comply with National Marine Fisheries Service's "Sea Turtle and Smalltooth Sawfish Construction Conditions," dated March 23, 2006, attached to this permit.

6. **Manatee conditions:** The Permittee shall comply with the "Standard Manatee Conditions for In-Water Work – 2011," attached to this permit.

7. **Mitigation credits:** No later than thirty (30) days from the date of initiating the authorized work, the Permittee shall provide written verification to the Corps that 0.01 saltwater credit has been purchased from Phase II of the Florida Power and Light Everglades Mitigation Bank (SAJ-1995-00155). The required verification shall reference this project's permit number, SAJ-2011-00691(LP-JLC). Proof of payment will be made to the U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, 9900 Southwest 107th Ave, Suite 203, Miami, FL 33176.

8. **Avoidance and minimization measures:** The structure shall be constructed with grated decking allowing a minimum of 43% open space on all deck surfaces, shall be elevated to a minimum of 5 feet above mean high water (MHW), and shall contain permanent hand railing along the perimeter of the entire structure. Mooring is not authorized at this structure.

9. **Avoidance of adjacent wetlands:** There shall be no storage of construction materials, equipment or debris in adjacent wetlands at any time during the project.

10. **Construction methodology and best management practices:** Construction shall be performed from the upland property by hand using hand-held equipment. Due to shallow water depths and sensitive benthic resources at the site, construction vessels are not permitted. Environmental controls and best management practices must be implemented to properly contain construction materials and prevent fugitive particulates from entering surrounding waters during the construction of the project.

11. **Restriction on turbidity barriers:** Due to shallow water depths and sensitive benthic resources at the project site, turbidity barriers shall not be used during construction.

12. **Construction notification:** Within ten (10) days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

13. **Post permit:** The Permittee shall ensure that all contractors, sub-contractors, and entities associated with the implementation of the project review, understand, and comply with the approved plans and special conditions made part of this permit. The Permittee shall inform all parties associated with the activity of the construction area boundaries and areas of adjacent seagrass and mangroves to be avoided. Complete copies of the permit and approved plans shall be available at the construction site at all times. Failure to comply with the approved plans and permit special conditions may subject the Permittee to enforcement action.

14. **Modification:** Should any other regulatory agency require changes to the work authorized or obligated by this permit, the Permittee is advised that a modification to this permit may be required prior to initiation of those changes. It is the Permittee's responsibility to request a modification from the Miami Regulatory Office.

If the work authorized is not completed on or before FEB 06 2018, authorization, if not previously revoked or specifically extended, shall cease and be null and void.

Instructions for Objecting to Permit Terms and Conditions: This letter contains an initial proffered permit for your proposed project/permit application. If you object to certain terms and conditions contained within the permit, you may request that the permit be modified. Enclosed you will find a Notification of Administrative Appeal Options and Process (NAP) fact sheet and Request for Appeal (RFA) form. If you choose to object to certain terms and conditions of the permit, you must follow the directions provided in Section 1, Part A and submit the completed RFA form to the letterhead address.

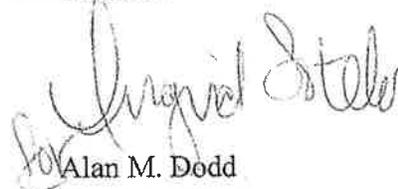
In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District office within sixty (60) days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the letterhead address by APR 07 2013.

Should you have any questions regarding this letter, please contact the project manager, Jessica Cordwell, in writing at the letterhead address, by telephone at 305-779-6056, or by e-mail at Jessica.L.Cordwell@usace.army.mil.

The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment.

We invite you to take a few minutes to visit <http://per2.nwp.usace.army.mil/survey.html> and complete our automated Customer Service Survey. Your input is appreciated – favorable or otherwise. Please be aware this web address is case sensitive and should be entered as it appears above.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



for Alan M. Dodd
Colonel, U.S. Army
District Commander

Enclosures:

General Conditions

Sea turtle and smalltooth sawfish construction conditions

Standard manatee conditions for in-water work

Self-certification statement of compliance

Permit transfer form

Appeal form

Site plans date-stamped by the Corps on FEB 06 2013

Copies Furnished:

EAS Engineering, Inc.

(Eswakon@eas-eng.com)

(Slangley@eas-eng.com)

CESAJ-RD-PE

GENERAL CONDITIONS
33 CFR PART 320-330
PUBLISHED FR DATED 13 NOVEMBER 1986

1. The time limit for completing the work authorized ends on **the date noted in the permit letter**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort of if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
- c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
- e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
- f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.
- g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006

O:\forms\Sea Turtle and Smalltooth Sawfish Construction Conditions.doc



STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.