



# VILLAGE OF KEY BISCAINE

Office of the Village Manager

## MEMORANDUM

*Village Council*  
Robert L. Vernon, *Mayor*  
Michael Davey, *Vice Mayor*  
Enrique Garcia  
Robert Gusman  
Michael E. Kelly  
Jorge E. Mendia  
Thomas Thornton

*Village Manager*  
Genaro "Chip" Iglesias

DATE: October 21, 2009  
TO: Honorable Mayor and Members of the Village Council  
FROM: Genaro "Chip" Iglesias, Village Manager *gm for J*  
RE: Dock Variance: 766 Harbor Drive

### RECOMMENDATION

The applicant is requesting four (4) variances associated with a dock and boat at 766 Harbor Drive. The Building, Zoning, and Planning Director prepared the attached report which analyzes the request based on the variance criteria. Based upon his analysis, I am recommending that the requests 1 and 2 be denied and 3 and 4 be approved.

### BACKGROUND

The applicant is requesting the below four (4) variances related to boat dockage:

1. Waive the 25 foot limit of mooring pile extension into a waterway from the bulkhead in order to construct two mooring piles 40 feet from the bulkhead.
2. Waive the D-5 triangle limit for mooring piles in order to construct two mooring piles, each 12 ft. 4 in. outside of the D-5 triangle limit.
3. Waive the D-5 triangle limit for docking watercraft in order to dock a 45 foot watercraft outside of the D-5 triangle limit (2 ft. 7 in. outside at bow, 2 ft. 2 in. outside at stern).
4. Waive the 10 foot limit of dock extension from a bulkhead into a waterway in order to construct a dock 20 feet into Hurricane Harbor from the bulkhead.

It is recommended that the Council deny the request because it is not consistent with the review criteria listed in the Zoning and Land Development Regulations. Further, the plans are not consistent with the regulations that were proposed by the ZORC.

The Zoning Ordinance Review Committee (ZORC) has reviewed the dock regulations. Should the Council approve the recommended changes, the applicant would still be required to obtain variances to permit the dock, mooring piles, and the boat to be outside of the 45 degree isosceles triangle.



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council
Robert L. Vernon, Mayor
Michael Davey, Vice Mayor
Enrique Garcia
Robert Gusman
Michael E. Kelly
Jorge E. Mendia
Thomas Thornton

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

DT: October 21, 2009
TO: Genaro "Chip" Iglesias, Village Manager
FR: Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Department
RE: Dock Variance: 601 N. Mashta Drive

APPLICATION SUMMARY

Request The applicant is requesting four (4) variances associated with boat dockage:

- 1. Waive the 25 foot limit of mooring pile extension into a waterway from the bulkhead in order to construct two mooring piles 40 feet from the bulkhead.
2. Waive the D-5 triangle limit for mooring piles in order to construct two mooring piles, each 12 ft. 4 in. outside of the D-5 triangle limit.
3. Waive the D-5 triangle limit for docking watercraft in order to dock a 45 foot watercraft outside of the D-5 triangle limit by 2 ft. 7 in. for the bow and 2 ft. 2 in. for the stern.
4. Waive the 10 foot limit of dock extension from a bulkhead into a waterway in order to construct a dock 20 feet into Hurricane Harbor from the bulkhead.

Applicant Karillis, LLC
Site Address 766 Harbor Drive
Comprehensive Plan Single Family
Zoning District VE Village Estate
File Number RV - 30

Recommendation Deny requests 1 and 2. Approve requests 3 and 4

## **EXPLANATION AND ANALYSIS**

**The Request:** The applicant is requesting four (4) variances associated with boat dockage and mooring piles. The variances are presented in the above table. There is an existing dock with two mooring piles on the property which project approximately 7 ft. and 20 ft. from the bulkhead (staff could not measure the exact projections). The file contains letters from the adjacent property owners.

**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:** Requests 1 and 2 significantly exceed what is permitted. The purpose of the regulations is to insure that boats and docks do not block views of the waterway from the adjacent properties. If permitted, this objective would not be satisfied.

Request 3 would permit a 45 ft. long boat to project outside of the triangle by 2 ft. 7 in. for the bow and 2 ft. 2 in. for the stern. The request would not result in views from adjacent properties being blocked.

Request 4 would permit a dock to extend 20 ft. from the bulkhead into Hurricane Harbor where the code permits 10 ft. Since this waterway is very wide, it would not be inconsistent with this criteria. The ZORC has recommended that docks in Hurricane Harbor and Smuggler's Cove be permitted to project 20 ft. from the bulkhead.

**Finding:** Requests 1 and 2: inconsistent  
Requests 3 and 4: consistent

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

**Analysis:** There is an existing dock with two mooring piles on the property which project approximately 7 ft. and 20 ft. from the bulkhead (staff could not measure the exact projections). The adjacent properties have similar improvements.

**Finding:** Consistent.

**Zoning Ordinance Review Committee (ZORC) Boat and Dock Regulations:** As part of the ZORC's review of the Zoning and Land Development Regulations, they

recommended changes to the boat and dock regulations for property in Hurricane Harbor. Below is a comparison of our existing regulations, the ZORC proposed regulations, and the applicants request.

***RECOMMENDATION***

It is recommended that requests 1 and 2 be denied and 3 and 4 be approved.

## COMPARISON OF BOAT AND DOCK REGULATIONS

TYPE	EXISTING REGULATION	ZORC RECOMMENDATION	APPLICANT'S REQUEST
1. Mooring Pile Projection	Maximum projection: 25 ft.	20 % of waterway or 25 ft. which is less. Beyond triangle requires approval of adjacent property owners.	2 piles 40 ft. from bulkhead
2. Triangle: Mooring Piles	Must be within triangle	Inside triangle except if adjacent property owners approve outside of triangle.	2 piles 12.5 ft. outside of triangle
3. Triangle: Boat	Must be within triangle	Inside triangle except if adjacent property owners approve outside of triangle.	45 ft. boat 2 ft. 7 in.( bow) and 2 ft. 2 in. (stern) outside of triangle
4. Dock Projection from a Bulkhead	Maximum projection: 20 ft.	Maximum 25 ft. and inside triangle. If County requires 25 to 40 ft. then permitted outside triangle.	dock 20 ft. from bulkhead



# VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

*Village Council*  
Robert Oldakowski, Mayor  
Jorge E. Mendia Vice Mayor  
Martha Fdez-Leon Broucek  
Carol Diaz-Castro  
Mortimer Fried  
James L. Peters  
Robert L. Vernon

Jud Kurlancheek, AICP  
*Director*

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

## PLANNING AND ZONING APPLICATION

Date Filed: 12-30-08

File # RV-30  
To be completed by staff

### 1. REQUEST FOR:

- SUPERVISORY VARIANCE
- ADMINISTRATIVE VARIANCE
- REGULATORY VARIANCE
- APPEAL OF AN ADMINISTRATIVE DECISION
- SITE PLAN APPROVAL
- UNUSAL USE
- OTHER \_\_\_\_\_
- AMENDMENT TO ZONING ORDINANCE
- SPECIAL EXCEPTION
- AMENDMENT TO THE COMPREHENSIVE PLAN
- ZONING DISTRICT CHANGE

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 construct a dock that projects 20' into Hurricane Harbor. Due to the 20' projection of the dock, we are also requesting a variance of Item 3, to allow a portion of the vessel to be moored there to broach the D-5 triangle. This request is being made due to Miami-Dade County Code requirements which mandates a minimum of 4' mean low water within the slip area for any boat dock located within Biscayne Bay, or adequate water depth within the slip area defined as draft of vessel to be moored plus 12". At this specific property that depth is not reached until 20' water ward of the seawall. Dredging in order to achieve greater depth at this site is not allowed due to significant resources.**

2. Street Address of Property: 766 Harbor Drive Folio # 24-5205-001-3380

Legal Description: Lot(s) 17 Block 19

Subdivision: Biscayne Key Estates

3. Name of Applicant: **Karalis, LLC**  
Mailing Address of Applicant: **766 Harbor Drive, Key Biscayne, Florida 33149**  
Business Telephone: **(305) 915-7610** Home: \_\_\_\_\_ Fax: \_\_\_\_\_
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 **Massimo Cellino** Address **766 Harbor Dr, Key Biscayne, Fl 33149.**  
Phone Number: **(305) 915-7610** Fax: \_\_\_\_\_
6. Name / address of anyone else who should receive notice of hearing?  
**Trident Environmental Consultants, 2845 NW 35<sup>th</sup> Street, Miami, Florida 33142**
7. If applicant is owner, indicate date purchased: **September 2008.**
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: **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 proposed concrete boat dock, projecting 20' from the seawall does**

**not impede boat traffic in the area, and is consistent with other docks along this section of Harbor Drive / Hurricane Harbor.**

**The proposed dock is also in compliance with the proposed ZORG recommendation for docks within Hurricane Harbor.**

**DERM's biological assessment of this site revealed dense resources along the property and that the required water depth required was not achieved until 20' water ward from the seawall. (See DERM Biological Assessment). This configuration allows for avoidance of the seagrasses located along the seawall and allows for sufficient water depth when mooring a vessel.**

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

**The proposed concrete boat dock, projecting 20' from the seawall does not impede boat traffic in the area, and is consistent with other docks along this section of Harbor Drive / Hurricane Harbor.**

**The proposed dock is also in compliance with the proposed ZORG recommendation for docks within 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.

**SUPERVISORY VARIANCES ONLY**

The Supervisory procedure requires the nearest abutting property owner to approve your request and your certification that the work was not performed by you. Your signature on this application constitutes your certification that you did not perform the work. The next step is to request the nearest property owner to sign below or provide a letter approving your request. Their signature certifies that they have read this application and approves of the request.

**ABUTTING PROPERTY OWNER AFFIDAVIT**

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant,

Date	Name (Type or Print)	Address	Signature

**ADMINISTRATIVE VARIANCES ONLY**

The Administrative Variance procedures require all abutting property owners to approve your request. The attached map will assist you in identifying who must sign the below petition. It is suggested you meet with staff prior to circulating your petition.

**ABUTTING PROPERTY OWNER AFFIDAVIT**

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant,

Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature

Date	Name (Type or Print)	Address	Signature

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature
_____	_____	_____	_____
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 12-16-08

Signature of Owner: \_\_\_\_\_

Date 12-16-08

Application Received by: \_\_\_\_\_

Date 12-30-08

Approved by: \_\_\_\_\_

Date \_\_\_\_\_

**AFFIDAVITS**

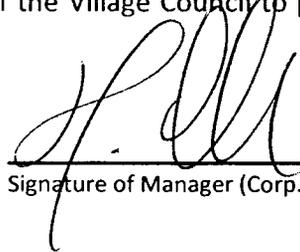
Complete one or more of the following that relates to your request.

**Corporation Affidavit**

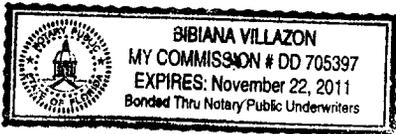
I, Massimo Cellino, being first duly sworn, depose and say that I am the Manager of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our 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.

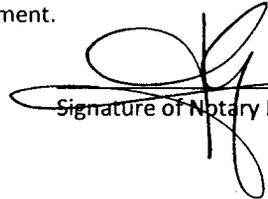
I, Massimo Cellino, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members 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 Manager (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this  
16 day of Dec by Massimo Cellino  
2008. Name of person making statement.



  
\_\_\_\_\_  
Signature of Notary Public – State of Florida

\_\_\_\_\_  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification \_\_\_\_\_  
Type of identification Produced \_\_\_\_\_



# Letter of Consent

March 12, 2009

Miami Dade County DERM  
Coastal Resources Program  
33 SW 2<sup>nd</sup> Avenue, Suite 400  
Miami, Florida 33130-1540

RECEIVED

AUG 28 2009

DERM  
ENVIRONMENTAL RESOURCES  
REGULATION DIVISION

Re: **Letter of Consent for Miami-Dade County DERM  
Class I Permit Application Number 2008-CLI-PER-00265  
For work proposed at 766 Harbor Drive, Key Biscayne**

Ladies and Gentlemen:

I, Edgardo Defortuna, am the owner of the located at 760 harbor Drive, Key Biscayne, Florida, which is an adjoining riparian property to the above-referenced property. I have reviewed the plans entitled "Karalis, LLC - Proposed 248 SF Timber Boat Dock w/ Ipe Grating" prepared by Denis K. Solano, PE, dated March 12, 2009, for the above-referenced project, which received "Preliminary Approval" on March 13, 2009. Pursuant to Section 24-48.3(1) (j) (iii) of the Code of Miami-Dade County, Florida, I hereby consent to the above-referenced project.

Sincerely, *Boat not to exceed 45'0" length as shown  
on TRIDENT Drawing S-2*

Edgardo Defortuna

Adjoining Riparian Property Owner

Subscribed And Sworn To Me This 29 Day Of April, 2009

By Edgardo A. Defortuna

Personally Known       Produced Identification (Please Check One)

Type of Id Produced \_\_\_\_\_

Notary Public

NOTARY PUBLIC STATE OF FLORIDA  
Suzien Perez  
Commission # DD748162  
Expires: MAR. 02, 2012  
BONDED THRU ATLANTIC BONDING CO., INC.



Letter of Consent

RECEIVED

March 12, 2009

AUG 28 2009

Miami Dade County DERM
Coastal Resources Program
33 SW 2nd Avenue, Suite 400
Miami, Florida 33130-1540

DERM
ENVIRONMENTAL RESOURCES
REGULATION DIVISION

Re: Letter of Consent for Miami-Dade County DERM
Class I Permit Application Number 2008-CLI-PER-00265
For work proposed at 766 Harbor Drive, Key Biscayne

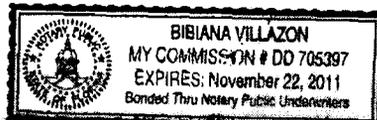
Ladies and Gentlemen:

I, Jose Artiga, am the owner of the located at 770 Harbor Drive, Key Biscayne, Florida, which is
an adjoining riparian property to the above-referenced property. I have reviewed the plans
entitled "Karalis, LLC - Proposed 248 SF Timber Boat Dock w/ Ipe Grating" prepared by Denis
K. Solano, PE, dated March 12, 2009, for the above-referenced project, which received
"Preliminary Approval" on March 13, 2009. Pursuant to Section 24-48.3(1) (j) (iii) of the Code
of Miami-Dade County, Florida, I hereby consent to the above-referenced project.

Sincerely,

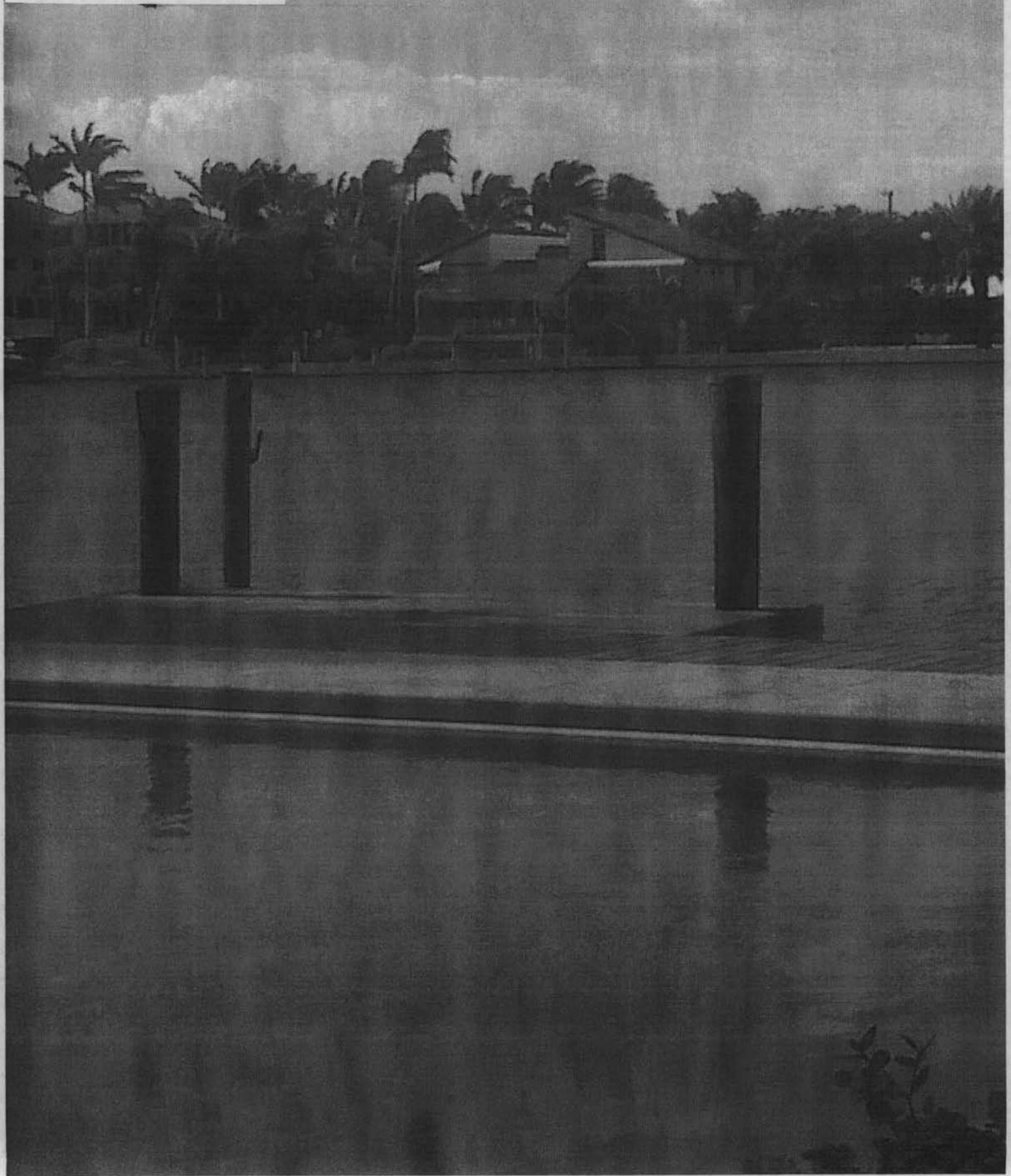
Jose Artiga
[Signature]
Adjoining Riparian Property Owner

Subscribed And Sworn To Me This 7 Day Of July 2009
By Jose Artiga
[Personal] [Produced Identification]
Type of Id Produced [Signature] Notary Public



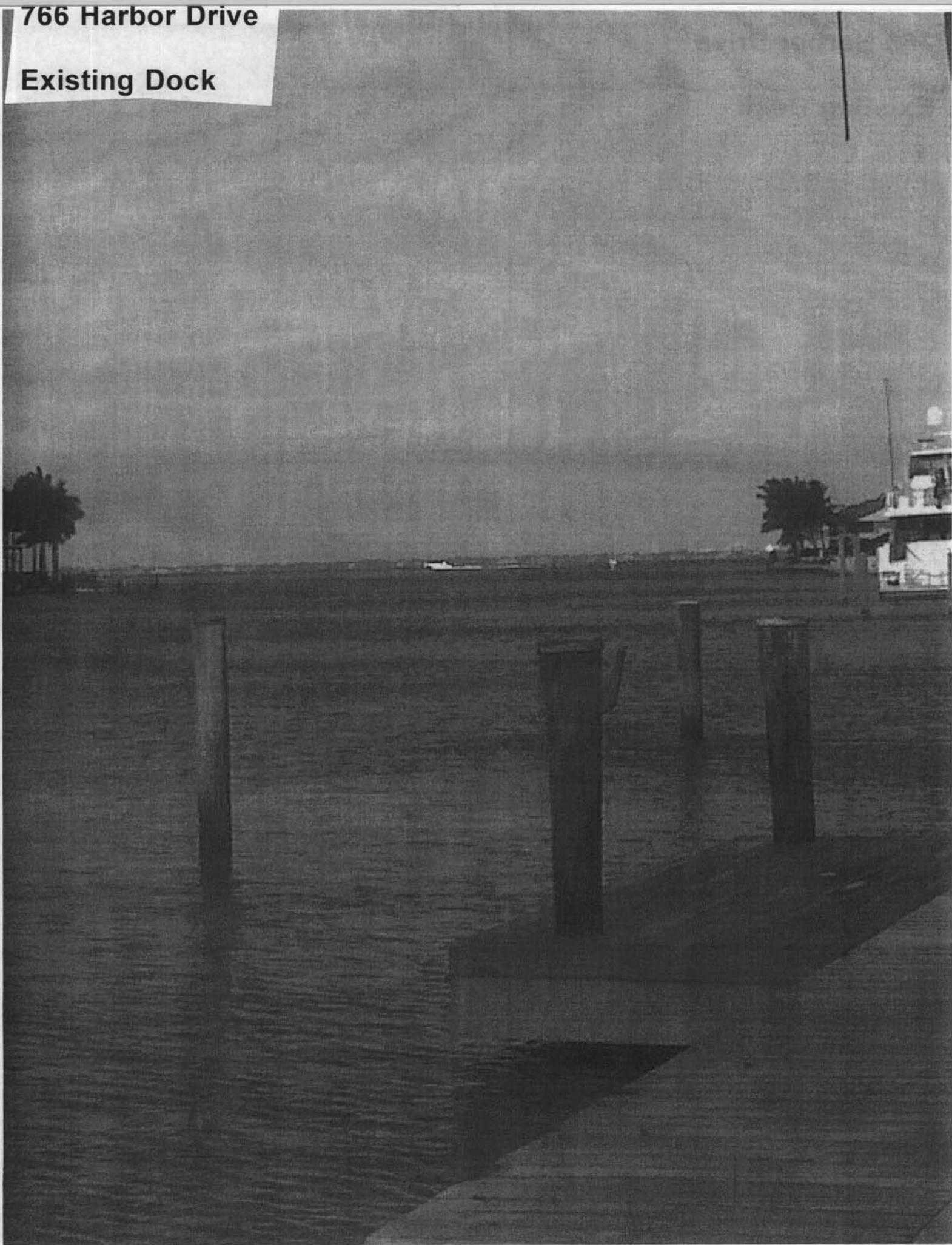
766 Harbor Drive

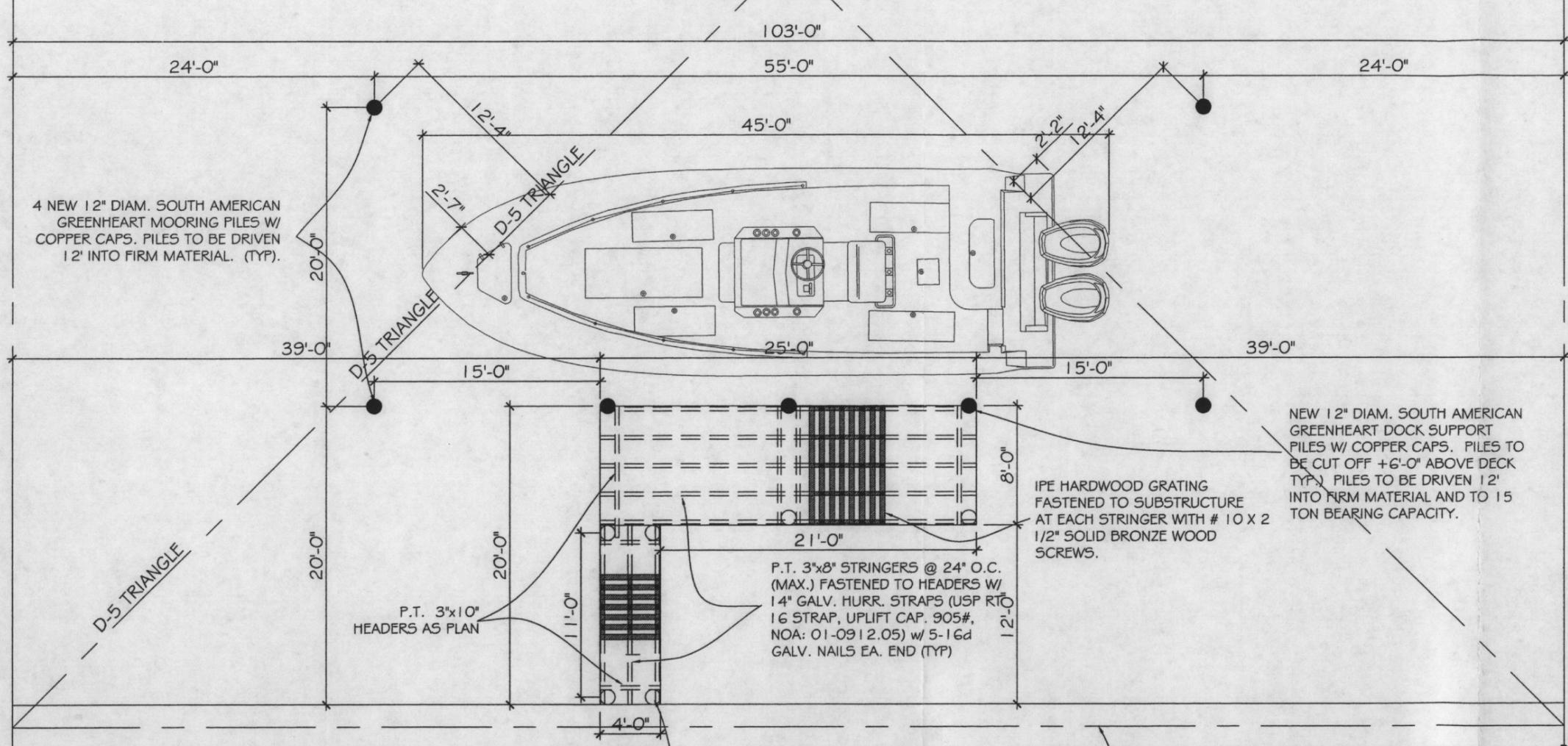
Existing Dock



766 Harbor Drive

Existing Dock





4 NEW 12" DIAM. SOUTH AMERICAN GREENHEART MOORING PILES W/ COPPER CAPS. PILES TO BE DRIVEN 12' INTO FIRM MATERIAL. (TYP).

NEW 12" DIAM. SOUTH AMERICAN GREENHEART DOCK SUPPORT PILES W/ COPPER CAPS. PILES TO BE CUT OFF +6'-0" ABOVE DECK (TYP). PILES TO BE DRIVEN 12' INTO FIRM MATERIAL AND TO 15 TON BEARING CAPACITY.

IPE HARDWOOD GRATING FASTENED TO SUBSTRUCTURE AT EACH STRINGER WITH # 10 X 2 1/2" SOLID BRONZE WOOD SCREWS.

P.T. 3"x8" STRINGERS @ 24" O.C. (MAX.) FASTENED TO HEADERS W/ 14" GALV. HURR. STRAPS (USP RT) 16 STRAP, UPLIFT CAP. 905#, NOA: 01-0912.05) w/ 5-16d GALV. NAILS EA. END (TYP)

P.T. 3"x10" HEADERS AS PLAN

EXISTING CONCRETE SEAWALL WITH BATTER PILES AND SEAWALL CAP TO REMAIN.

NEW 12" DIAM. SOUTH AMERICAN GREENHEART DOCK SUPPORT PILES. PILES TO BE CUT OFF BELOW DOCK. PILES TO BE DRIVEN 12' INTO FIRM MATERIAL AND TO 15 TON BEARING CAPACITY.

**VARIANCES REQUIRED:**

1. DOCK PROJECTS 20' FROM SEAWALL.
2. MOORING PILES PROJECT 40' FROM SEAWALL.
3. MOORING PILES EXCEED D-5 TRIANGLE BY 12'-4".
4. TYPICAL 45' LONG VESSEL WILL EXCEED D-5 TRIANGLE BY MAX 2'-7".

**PROPOSED SITE PLAN**

SCALE: 1/8" = 1'

01/29/09

**TRIDENT**  
*environmental consultants, inc.*  
 305-638-0266 (O) 305-638-0293 (F)  
 2845 NW 35th Street Miami, Florida 33142

job name: KARALIS, LLC  
 766 HARBOR DRIVE  
 KEY BISCAYNE, FLORIDA

title: PROPOSED 248 SF TIMBER BOAT DOCK W/ IPE GRATING

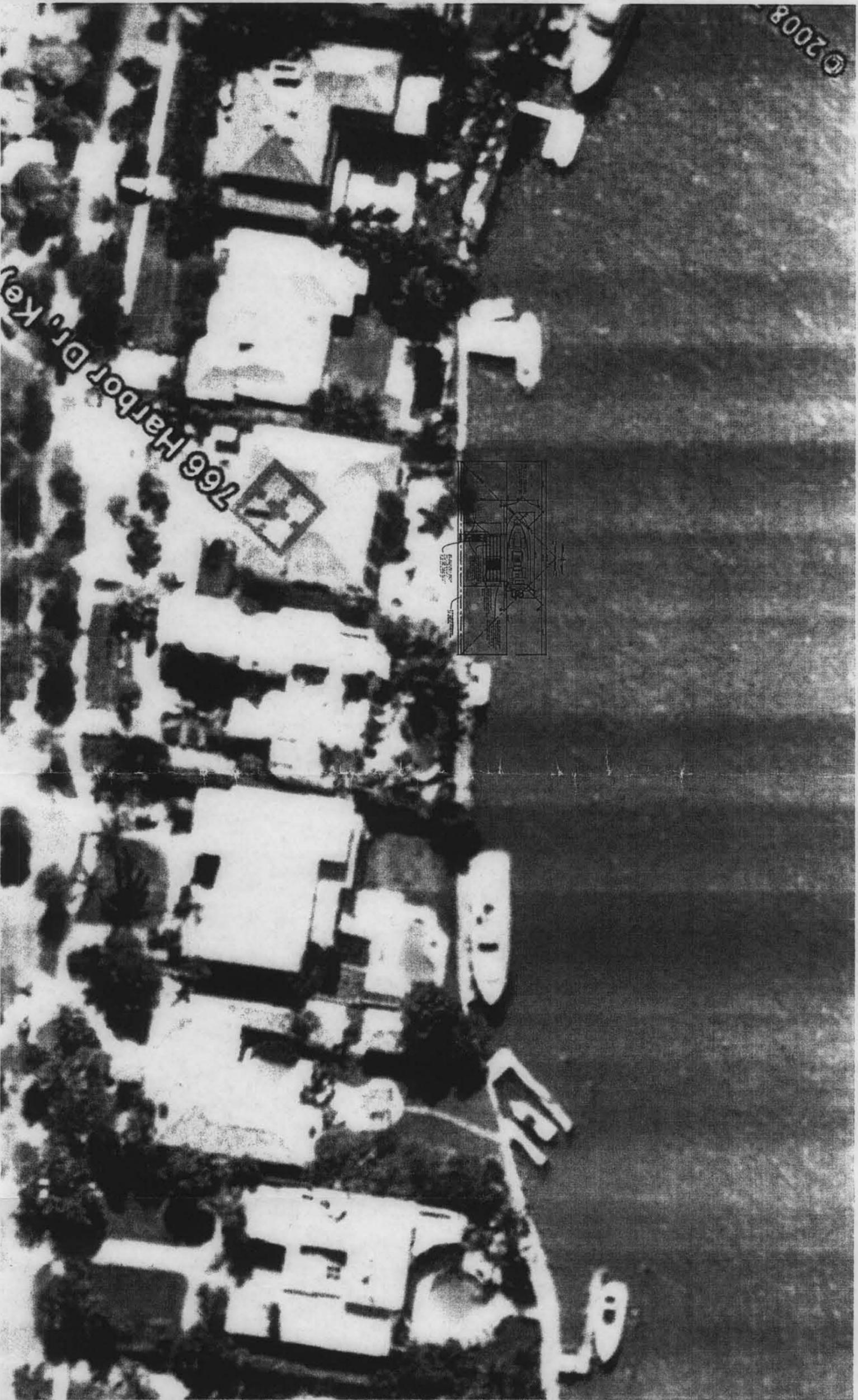
project no.	
date	
drawn	
revisions:	

Solver Structural Partnership, Inc.  
 7500 NW 25 St. suite 212 Phone: (305) 592 9396  
 Miami, Florida 33122 Fax: (305) 591 3447  
 E-Mail: solverstruct@cs.com

Denis K. Solano  
 P.F. 56902  
 S.I. 2046  
 C.O.A. 00009095

sheet no.  
**V-1**  
 1 of 1

© 2008



**PROPOSED SITE PLAN**

SCALE: N15

Sheet no.  
**A-1**  
1 of 1

project no. \_\_\_\_\_  
date \_\_\_\_\_  
drawn \_\_\_\_\_  
revisions: \_\_\_\_\_  
\_\_\_\_\_

job name: KARALIS, LLC  
766 HARBOR DRIVE  
KEY BISCAZYNE, FLORIDA  
title: PROPOSED SITE PLAN / AERIAL

 **TRIDENT**  
*environmental consultants, inc.*  
305-638-0266 (O) 305-638-0293 (F)  
2845 NW 35th Street Miami, Florida 33142