MEMORANDUM

TO: Planning and Zoning Board

DATE: July 25, 2023

RE: Variance Application – 3019 Indian Drive

PUBLIC HEARING CASE #2023-06-008 - PURSUANT TO BELLE ISLE CODE SEC. 48-32 (A) (3), AND (A) (6) (A) AND SEC. 42-64, THE CITY OF BELLE ISLE PLANNING AND ZONING BOARD WILL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO ALLOW A DOCK TO EXCEED THE ALLOWABLE TOTAL AREA FOR A TERMINAL PLATFORM AND TO ALLOW A BOAT DOCK TO EXTEND GREATER THAN 15 FEET LAKEWARD OF AN EXISTING DOCK WITHIN 300 FEET OF THE PROPOSED LOCATION, SUBMITTED BY APPLICANT EMILY WAKELY DELOZIER LOCATED AT 3019 INDIAN DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #29-23-30-4389-01-070.

Background:

- 1. On June 2, 2023, the applicant, Emily Wakely Delozier, submitted a request, application, and required paperwork.
- 2. A Notice of Public Hearing legal advertisement was placed on Saturday, July 15, 2023, in Orlando Sentinel.
- Letters to the abutting property owners were mailed within 300 feet of the subject property on July 11, 2023.

The Board may adopt all, some, or none of these determinations as part of their findings-of-fact. The Board may also add any additional findings of fact that are presented at the public hearing. The Board must determine if the criteria outlined in Chapter 42, Article III, Section 42-64(1) of the Land Development Code have been met and approve, approve with conditions, or deny this request.

SAMPLE MOTION TO APPROVE:

"I MOVE, PURSUANT TO BELLE ISLE CODE SEC. 48-32 (A) (3), AND (A) (6) (A) AND SEC. 42-64, TO APPROVE A DOCK TO EXCEED THE ALLOWABLE TOTAL AREA FOR A TERMINAL PLATFORM AND TO ALLOW A BOAT DOCK TO EXTEND GREATER THAN 15 FEET LAKEWARD OF AN EXISTING DOCK WITHIN 300 FEET OF THE PROPOSED LOCATION, SUBMITTED BY APPLICANT EMILY WAKELY DELOZIER LOCATED AT 3019 INDIAN DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #29-23-30-4389-01-070.

SAMPLE MOTION TO DENY:

"I MOVE, PURSUANT TO BELLE ISLE CODE CODE SEC. 48-32 (A) (3), AND (A) (6) (A) AND SEC. 42-64, HAVING NOT BEEN MET, TO DENY [use only if NONE of the justifying criteria have been met] the requirements of, Subsections: [state only the subsections below that are not satisfied] having NOT been met; [may be used in addition to above or alone] A DOCK TO EXCEED THE ALLOWABLE TOTAL AREA FOR A TERMINAL PLATFORM AND TO ALLOW A BOAT DOCK TO EXTEND GREATER THAN 15 FEET LAKEWARD OF AN EXISTING DOCK WITHIN 300 FEET OF THE PROPOSED LOCATION, SUBMITTED BY APPLICANT EMILY WAKELY DELOZIER LOCATED AT 3019 INDIAN DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS ORANGE COUNTY TAX PARCEL ID #29-23-30-4389-01-070.

Or the Board can request that it be tabled to a date certain to allow for revisions as discussed.

SUBSECTION (D), a literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.

SUBSECTION (E), personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Code or for the purpose of obtaining a variance.

SUBSECTION (F), the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

SUBSECTION (G), the granting of the variance will be in harmony with the general purpose and intent of the Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.



City of Belle Isle

1600 Nela Avenue, Belle Isle, FL 32809 Tel 407-851-7730 * Fax 407-240-2222 * www.belleislefl.gov

Variance and Special Exception Application		
City Code Chapter 42, Art. II, Sec. 41-61 thru 41-72 AND Sec 42-64 Land Development Code		
APPLICANT Emily Wakley DeLozier	OWNER Emily Wakley DeLozier	
ADDRESS 3019 Indian Dr	PROJECT ADDRESS 3019 Indian Dr	
CONTACT NUMBER 407-902-9404	OWNER'S CONTACT NUMBER 407-902-9404	
EMAIL emilysw407@gmail.com	OWNER'S EMAIL emilysw407@gmail.com	
PARCEL ID# 29-23-30-4389-01-979		
LAND USE CLASSIFICATION SFR	ZONING DISTRICT R-1-AA	
SECTION OF THE CODE VARIANCE REQUESTED ON Section 48-32(3) and (6)		
DETAILED VARIANCE REQUEST		
Requested variance to extend an existing dock greater than 15 ft lakeward of an existing dock within 300 feet to reach lake bottom elevation 79.5 ft, as allowed under the code, and authorize a 733 sq ft roof to allow for a 1 ft overhang for the proposed 672 sq ft terminal platform of the dock.		
 The applicant hereby states that the property for which this hearing is requested has not been the subject of a hearing before the Planning and Zoning Board of the kind and type requested in the application within nine (9) months. Further, the requested user does not violate any deed restriction of the property. By applying, I authorize City of Belle Isle employees and members of the P&Z Board to enter my property during reasonable hours to inspect the area to which the application applies. The applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) picture of the front of the property and at least two photos (from different angles) of the specific area of the property to which the application applies. 		
Emily Wakeley Do Ferries	P&Z CASE NUMBER DATE OF HEARING	
VARIANCE EXCEPTION OTHER	12022-010-008 7/25/2023	

Sec. 42-64. - Variances. The Board shall have the power to approve, conditionally approve or deny applications for a variance from the terms of the Land Development Code.

Criteria. The Board shall not approve an application for a variance from terms of the Land Development Code unless and until:

- a. A written application for a variance is submitted to the city manager or the city manager's designee on a form provided by the city clerk setting forth all of the special conditions and circumstances that exist in favor of the granting of the variance and addressing the requirements of subsections (1)d—g of this section of the criteria set forth in this section. Upon submission of the properly completed application and the appropriate fee, the city manager or the city manager's designee shall refer the application to the board.
- Notice of public hearing for the variance shall be given as required by the article for hearing before the board.
- c. The public hearing on the application for the variance shall be held. The applicant, the applicant's agent as evidenced by a signed writing or the applicant's attorney shall appear before the board.
- d. It is determined that literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.
- e. It has been determined that personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Land



City of Belle Isle 1600 Nela Avenue, Belle Isle, FL 32809 Tel 407-851-7730 * Fax 407-240-2222 * www.belleislefl.gov Variance and Special Exception Application

Development Code or for the purpose of obtaining a variance.

- f. It is determined that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- g. It is determined that the granting of the variance will be in harmony with the general purpose and intent of the Land Development Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.
- h. The board shall find that the preceding requirements have been met by the applicant for a variance.

The Board shall find that the preceding requirements have been met by the applicant for a variance.

(2) Violations of conditions.

 In granting any variance, the Board may prescribe appropriate conditions and safeguards to comply with the Land Development Code. Violation of such conditions and safeguards, when made a part of the terms under which

- the variance is granted, shall be deemed a violation of this Land Development Code and punishable in accordance with this article. At the Board's discretion, such variance may be revoked for violation of the condition and safeguards.
- The Board may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed. Under no circumstances, except as permitted above, shall the Board grant a variance to allow a use not generally or by special exception allowed in the zoning district involved, or any use expressly or by implication prohibited by the terms of the Land Development Code in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted use of land, structures, or buildings in other zoning districts, shall be considered grounds for the authorization of a variance.

Applications submitted must meet all of the above criteria before the Board can grant a variance. The burden of proof is on the applicant to comply with the criteria.

A special exception addresses the compatibility of uses, differing slightly from a variance. The approval of a special exception depends on how the request affects the surrounding area. All uses allowed as special exceptions are listed within the individual zoning districts. Before the Board can approve a special exception, the request must meet all of the following criteria:

- A written application for a special exception must be submitted to City Hall no later than 4:00 p.m. on the first Thursday of the previous month. (See Above)
- 2. The Board shall find that it is empowered under the section of the zoning ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest.
- 3. It is determined that public health, safety, comfort, order, convenience, prosperity, morals, or general welfare is promoted, protected, or improved.

General Information

- 1. Certain conditions may be prescribed on the special exception or variance approved by the Board.
- 2. The applicant must be present at all hearings.
- 3. Decisions rendered by the Board do not become final until fifteen (15) days after the hearing. The fifteen-day waiting period allows all aggrieved parties to appeal the decision. Any person filing an appeal will submit, within fifteen (15) days of the decision, a notice stating where they feel the Planning and Zoning Board erred in their decision. Belle Isle's City Council will then hold an appeal hearing.
- 4. Sec 42-61 thru 41-72 Variances and special exceptions granted by the Board will become void if a permit necessary for utilization of the variance or special exception is not issued within six (6) months of the date approved by the Planning and Zoning Board.

FOR OFFICE USE ONLY:

FEE: \$300

U/2/23

Check Cash

Kagua Jorguno



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1600 Nela Avenue, Belle Isle, FL 32809
Tel 407-851-7730 * Fax 407-240-2222 * www.belleislefl.gov
Variance and Special Exception Application

ABOUT YOUR PUBLIC HEARING

The following information is provided to assist applicants in applying for a variance, special exception, or use determination. Please familiarize yourself with the process by visiting

The City of Belle Isle's Planning and Zoning Board, which comprises seven (7) non-paid volunteer residents, meets on the fourth Tuesday of the month to hear various planning and zoning issues, including variances, special exceptions, and use determinations. In recommending approval or denial of a request, the Board looks at each application individually to determine if the request meets the following criteria:

A written application for a variance must be submitted to City Hall no later than 4:00 p.m. on the first Thursday of the previous month. The application MUST include:

- a. the \$300 filing fee,
- b. a completed application form,
- c. proof of ownership of the property, or a notarized statement from the owner with the representative's information,
- d. Ten (10) copies of a plot plan or survey showing all improvements to the property, ten copies of a scale drawing of the planned construction, illustrated on the survey, and digital format for large-scale documents is required.
- e. For boat dock variances, the survey must clearly illustrate the Normal High Water Line elevation (NHWL) of Lake Conway.
- f. A narrative addressing how the variance complies with the following:

*Standards of Variance Justification	Section 42-64 of the Land Development Code (LDC) states that no application for a Zoning Variance shall be approved unless the Planning and Zoning Board finds that all of the following standards are met. Please answer each bold-text question in a separate typed or a written document and submit it to the City as part of your variance request.
Special Conditions and/or Circumstances Section 42-64 (1) d	The applicant must prove that literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship. That hardship is created by special conditions and circumstances peculiar to the land, structure, or building involved, including but not limited to dimensions, topography, or soil conditions what are the special conditions and circumstances unique to your property? WHAT WOULD BE THE UNNECESSARY HARDSHIP?
Not-Self- Created Section 42-64 (1) e	The applicant must prove that the special conditions and circumstances do not result from the applicant's actions. A personal (self-created) hardship shall not justify a variance; i.e., when the applicant creates the alleged hardship, they are not entitled to relief by their conduct. HOW WERE THE SPECIAL CONDITIONS NOTED ABOVE CREATED?
Minimum Possible Variance Section 42-64 (1) f	The applicant must prove that the zoning variance is the minimum variance that will make the reasonable use of the land, building, or structure possible. CAN YOU ACCOMPLISH YOUR OBJECTIVE IN ANOTHER WAY? LIST ALTERNATIVES YOU HAVE CONSIDERED AND EVIDENCE AS TO WHY THEY ARE NOT FEASIBLE.
Purpose and Intent Section 42-64 (1) g	The applicant must prove that approval of the zoning variance will be in harmony with the general purpose and intent of the Code, and such zoning variance will not be injurious to the neighborhood, not detrimental to public welfare, and not contrary to the public interest. WHAT EFFECTS WILL APPROVAL OF THE VARIANCE HAVE ON ADJACENT PROPERTIES OR THE SURROUNDING NEIGHBORHOOD? (FOR EXAMPLE, ADEQUATE LIGHT, AIR, ACCESS, USE OF ADJACENT PROPERTY, DENSITY, COMPATIBILITY WITH SURROUNDING LAND USES, TRAFFIC CONTROL, PEDESTRIAN SAFETY, ETC).

^{*}For a variance application from Sec. 50-102 (b) fences and walls, please also identify how you comply with the variance criteria identified in Sec. 50-102 (b) (16). Please note for a fence variance, and you do not have to comply with Sec. 42-64 (1) d and (1) f.

June 1, 2023

To: City of Belle Isle

Re: Variance Application Narrative for 3019 Indian Drive

The attached application package is a request for a variance from Belle Isle's boat dock ordinance section 48-32(3) and (6) regarding a request to extend the length of the dock approximately 23 ft longer than existing structures, which may be greater than 15 ft lakeward of an existing dock within 300 feet to reach lake bottom elevation 79.5 ft, as allowed under the code, and authorize a 733 sq ft roof over a 672 sq ft terminal platform of the dock to allow for a one (1) ft roof overhang.

Special Conditions and/or Circumstances Section 42-64 (1) d

The location of the subject property is in an area of the lake that tends to be shallower. For reference, it is close to the "sandbar" which is known to have shallow water extending further lakeward than other areas of the lake. Many of the docks, including the existing dock, are older and were built at a time of potentially higher water levels and shallower drafting older boats. The current code was updated to allow for a modern boat and functional dock depth of three (3) ft to prevent bottom scouring and allow for dock useability 80% of the time based on historical water level records. I am requesting a variance to construct the dock in accordance with the City Code to reach a lake bottom elevation of 79.5 ft to allow for a water depth conducive to boating and prevent scouring of the lake bottom. In addition, a 672 sq ft terminal platform with a 733 sq ft roof is proposed. This lot and the neighboring lots on this street tend to be narrower at around 70 ft wide, which allows for a maximum terminal platform of 700 sq ft. For comparison, when calculating the square footage of a house, the roof overhang is not included in the square footage calculations. As such, the useable square footage of the terminal platform is less than the allowable about under the City Code. The addition of a roof with small one (1) ft overhang over the terminal platform is requested.

Not-Self- Created Section 42-64 (1) e

The request for variance is not self-created in that I am seeking to rebuild the dock at a length with a water depth conducive to boating with lake bottom elevations consistent with what is allowable under the current code. It is not self-created in that I do not have a say in the construction decisions the neighbors had to construct docks closer to the shoreline. My dock and the next three existing docks within 300 ft have existing docks more than 15 ft lakeward of neighboring docks and one dock within 300 ft will extend further lakeward than my proposed dock. Additionally, the proposed terminal platform is 672 sq ft, which is less than the 700 sq ft allowed in code. I am requesting a variance to allow for an additional 33 sq ft to allow for a small roof overhang. The addition of a roof over the structure with a one (1) ft overhang brings the dock square footage to 733 sq ft, which is less than 5% over the allowable square footage. For reference, the County dock ordinance allows for a terminal platform 12 times the linear shoreline footage, not to exceed 1,000 sq ft, which would allow for an 840 sq ft dock. According to Orange County's presentation regarding the changes to the dock code, between 2017 – 2021, 37 waivers were requested to the boat dock terminal platform size and 100% of those waivers were approved. The County realized the need for allowing the smaller lots to construct a useable dock to incorporate a boat lift and small deck without applying for a variance.

Minimum Possible Variance Section 42-64 (1) f

The requested extension is the minimum possible variance to allow for the dock to be constructed in accordance with the City Code to reach a bottom lake elevation of 79.5 ft to allow for a water depth conducive to boating and consistent with the code. In addition, the proposed terminal platform is 672 sq ft, which is less than the allowable 700 sq ft. This is a minimally sized dock to allow for single boat lift and a small deck to enjoy the water. The two (2) ft wide catwalk on the side allows for safe passage around the boat slip. The roof overhang will allow for weather protection for the boat/engine, weather protection for the edges of the wood on the dock, and additional sun/weather protection while using the dock in the heat of summer. Removal of roof overhang to align directly with the dock will cause more rain to hit the deck and cause premature deterioration in more areas. In addition, the roof overhang allows for use of the dock during a rain by keeping the occupants drier. The roof plans were minimized to stop at the edge of the catwalk since it isn't the main deck being used. The roof covering the deck with the overhang allows for greater usability of the dock year around since Florida summer and sun can be dangerous without protection.

Purpose and Intent Section 42-64 (1) g

Existing docks in the vicinity, including my existing dock, already extend 15 ft beyond the neighboring docks. A neighboring dock within 300 ft of my proposed dock will extend more than 40 ft beyond my proposed dock to reach lake bottom elevations consistent with the code due to the shallower waters in this area of the lake (sandbar). There are several examples since 2019 where new docks extend more than 15 ft lakeward beyond docks within 300 ft were permitted and approved without a variance. Neighboring docks within 300 ft of my proposed dock will extend further than my proposed dock extension. In addition to length, some existing dock platforms on the street are over 700 sq ft. My proposed terminal platform is less than 700 sq ft and the requested variance to allow for the roof overhang is less than 5% over the allowable square footage. The proposed size of the dock is compatible with the neighborhood and with the general purpose and intent of the code. Granting the variance will be in harmony with the general purpose and intent of the ordinance, will not be detrimental to the public welfare, and will not be contrary to the public interest.

No hazardous conditions to navigation nor safety hazards will be created with the proposed variance. The location and placement of the dock is compatible with other docks in the area in that this will be neither the closest to shore nor the furthest lakeward dock within 300 ft. The requested variance is not based on the current level of the lake; it is to allow for the construction of the dock at a depth consistent with the code. No special benefit is derived from the variance. 1) The extension of the dock will allow the dock to be constructed at a depth allowed under current code, 2) the terminal platform of the dock is smaller than the maximum allowable, and 3) the total square footage of the dock with the roof is neither the smallest or the largest dock nearby neighboring docks within 300 ft. Again, granting of this variance will be in harmony with the general purpose and intent of the zoning ordinances, will not be detrimental to the public welfare, and will not be contrary to the public interest.

Thank you for your consideration.

Sincerely,

Emily Walley De Loy les Emily Walley DeLozier Return to: Name: Address:

This Instrument Prepared by:

Rebekah Glotenez Grace Title, Incorporated 225 South Westmonte Drive Suite 1110

Altamonte Springs, FlorIda 32714 as a necessary incident to the fulfillment of conditions contained in a title insurance commitment issued by it.

Property Appraisers Parcel I.D. (Folio) Number(s): 29-23-30-4389-01070 File No:7850A DOC # 20140255906 B: 10748 P: 9156 05/27/2014 09:12 AM Page 1 of 1 Rec Fee: \$1.00 Deed Doc Tax: \$1,330.00 Mortgage Doc Tax: \$0.00 Intangible Tax: \$0.00 Martha O. Haynie, Comptroller Orange County, FL Ret To: SIMPLIFILE LC

QUITCLAIM DEED

THIS INDENTURE, Made this 19th day of May, 2014, by and between Joel J. Wakley, unmarried, and Emily S. Wakley, unmarried, whose post office address is 1509 Mary Jean Ave, Orlando, FL 32809 of the County of Orange, in the state of Florida hereinafter collectively referred to as "Seller", and

Emily S Wakley, unmarried, who's post office address is 3019 Indian Drive, Belle Isle, FL 32812 of the County of Orange, in the state of Florida hereinafter collectively referred to as "Buyer",

WITNESSETH: That Seller, for and in consideration of the sum of \$10.00 Dollars and other valuable considerations, lawful money of the United States of America, to Seller in hand paid by the Buyer, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed to the Buyer, Buyer's heirs and assigns forever, all the rights, title, interest and claim of the Seller in and to the following described land in Orange County, Florida, to wit:

Lot 7, Block A, Lake Conway Park, according to the Plat thereof, recorded in Plat Book G, Page(s) 138, of the Public Records of Orange County, Florida

Subject property is not the homestead of the grantor

To Have and to Hold, the above described premises, with the appurtenances, unto Buyer, Buyer's heirs and assigns forever.

IN WITNESS WHEREOF, Seller has executed this deed under seal on the date aforesaid.

Signed, Sealed and Delivered in Our Presence

Witness Signature: Witness Printed Nan

Witness Signature:

Witness Printed Nam

STATE OF FLORIDA

COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 19th day of May, 2014, by Joel J. Wakley and Emily S.

Wakley. They are personally known to me or have produced driver license(s) as identification.

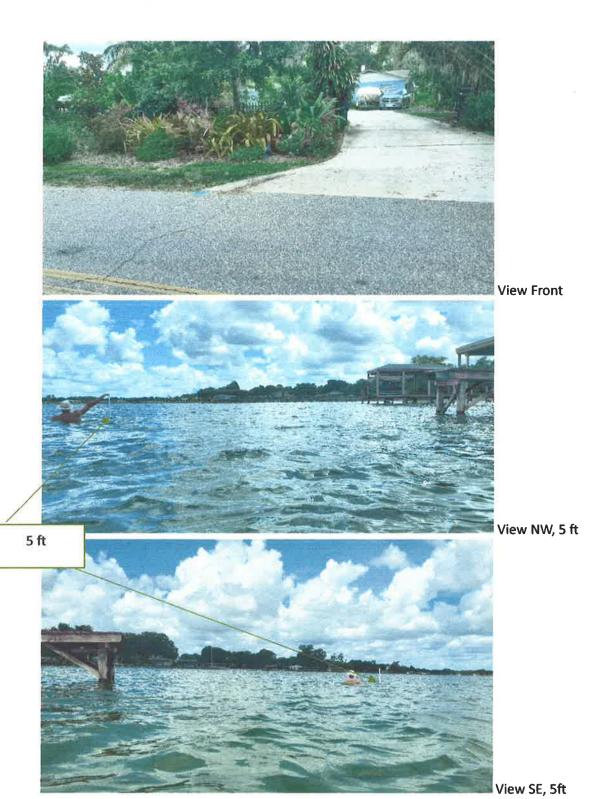
My Commission Expires:

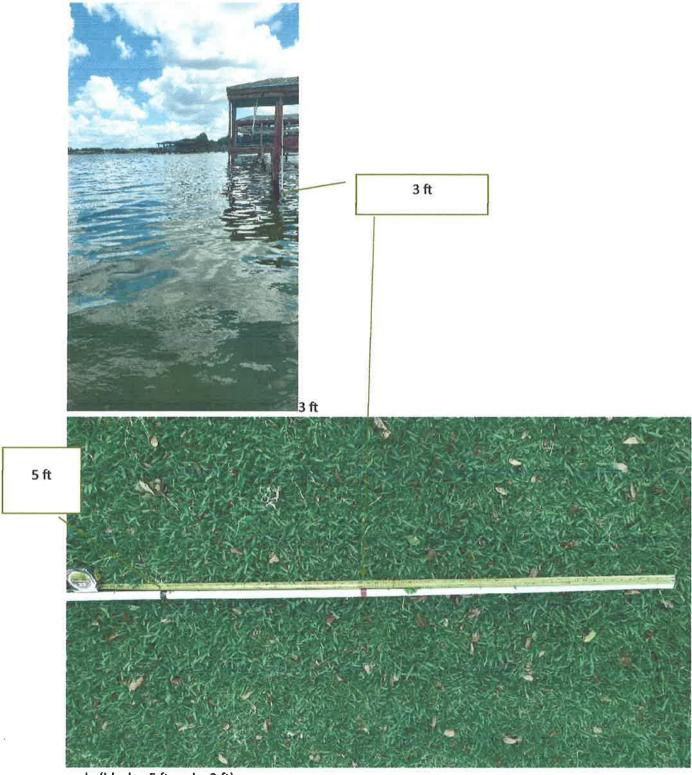
Printed Name: Notary Public

Emily S. Wakley

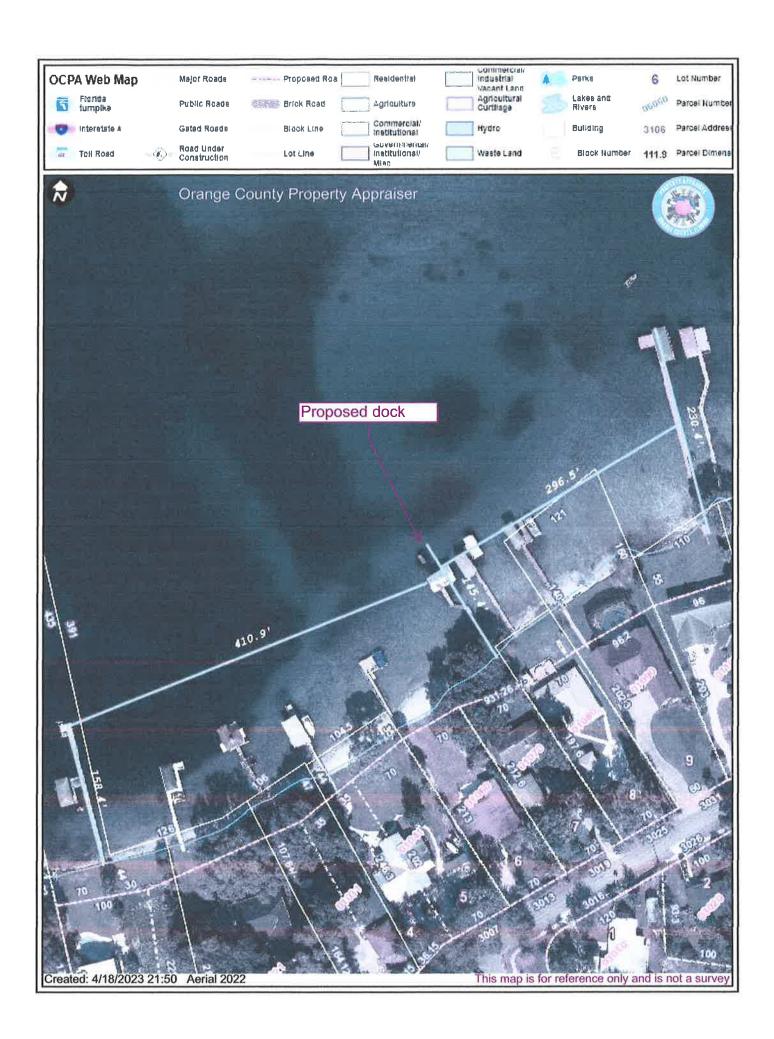
Serial Number

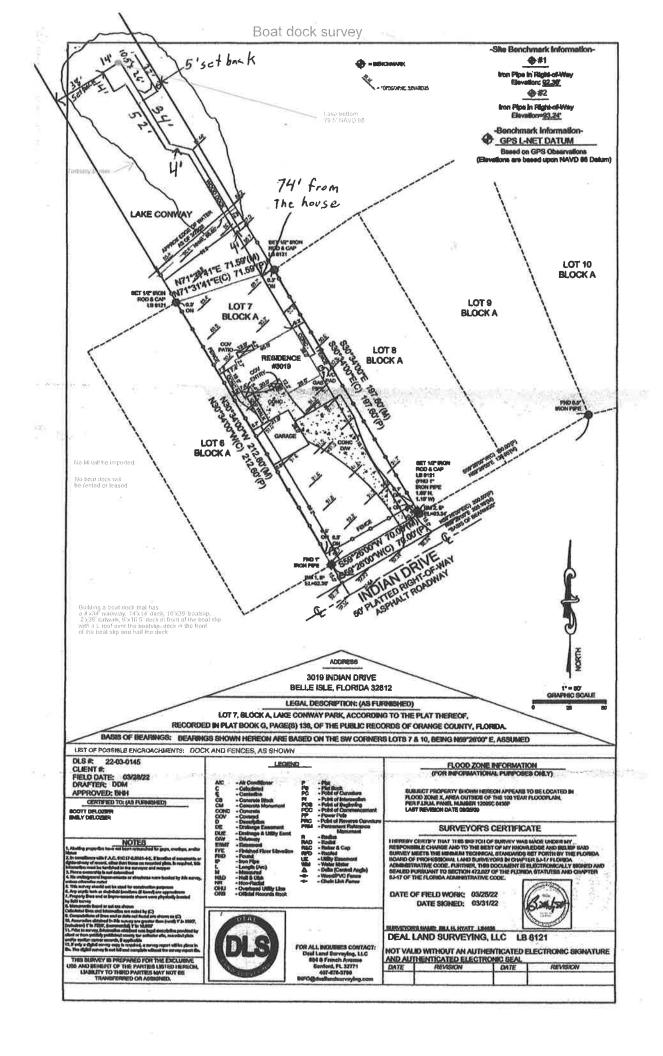
* REBEKAH GIMENEZ * MY COMMISSION # EE 201132 EXPIRES: May 26, 2016





scale (black = 5 ft, red = 3 ft)





DANNEL SOUTER, P.E. P.O. BOX 547774 OHLANDO, PL 32854 OHLANDO, PL 32854 ENGINEERING

3019 INDIAN DR. EMILY WAKLEY DOCK

