



PERMIT NUMBER: PB-1426

PERMITTEE

3519 SO OCEAN BLVD LLC
c/o Mark A. Powell, P.E., Vice President
Isiminger & Stubbs Engineering, Inc.
649 U.S. Highway 1, Suite 9
North Palm Beach, FL 33408

**NOTICE TO PROCEED AND PERMIT FOR CONSTRUCTION OR OTHER ACTIVITIES
PURSUANT TO SECTION 161.053, FLORIDA STATUTES**

FINDINGS OF FACT: An application for authorization to conduct the activities seaward of the coastal construction control line that are indicated in the project description, was filed by the applicant/permittee named herein on August 23, 2022 and was determined to be complete pursuant to rule on September 14, 2022. The proposed major structures are to be located landward of the 30-year erosion projection and the existing line of construction established by major structures in the immediate area.

CONCLUSIONS OF LAW: After considering the merits of the proposal and any written objections from affected persons, the Department finds that upon compliance with the permit conditions, the activities indicated in the project description of this permit are of such a nature that they will result in no significant adverse impacts to the beach/dune areas or to adjacent properties; that the work is not expected to adversely impact nesting sea turtles, their hatchlings, or their habitat; that the work is expendable in nature and/or is appropriately designed in accordance with Section 62B-33.005, Florida Administrative Code. Based on the foregoing considerations, the Department approves the application; authorizes construction and/or activities at the location indicated below in strict accordance with the project description, the approved plans (if any) and the General Permit Conditions which are by this reference incorporated herein, and any additional conditions shown below, pursuant to Section 161.053(4), Florida Statutes.

EXPIRATION DATE: November 10, 2025

LOCATION: Between approximately 440 feet and 500 feet south of the Department of Environmental Protection's reference monument R-197, in Palm Beach County. Project address: 3521 South Ocean Boulevard, Highland Beach.

PROJECT DESCRIPTION:

Two-Story, Single-Family Dwelling with Understructure Garage

1. Location relative to control line: A maximum of 89.9 feet seaward.
2. Exterior dimensions: A maximum of 84.5 feet in the shore-normal direction including covered porches, by a maximum of 34.0 feet in the shore-parallel direction.
3. Type of foundation: Pile.

4. Finished floor elevation: Varies from +20.3 feet to +20.8 feet (NAVD).
5. Garage floor elevation: +10.0 feet (NAVD).

Excavation/Fill

1. Total volume of excavation seaward of the control line: Approximately 347 cubic yards. **See Special Permit Conditions 4 and 5.**
2. Location of excavation: Across the site predominantly within the footprint of the proposed development to a maximum distance of 56 feet seaward of the control line.
3. Maximum depth of excavation: To foundation installation depths.
4. Volume of fill to be placed: Approximately 351 cubic yards. **See Special Permit Condition 5.**
5. Location of fill to be placed: Across the site predominantly within the footprint of the proposed development to a maximum distance of 113 feet seaward of the control line.

Other Structures and Activities

1. A paver driveway to be located landward of the dwelling as shown on approved plans.
2. Exterior stairs and walkways are to be located on the shore-normal sides of the dwelling, as shown on the approved plans.
3. Demolition and removal of the existing single-family dwelling and improvements.
4. Landscape plantings. **See Special Permit Condition 6.**
5. Exterior lighting. **See Special Permit Condition 7.**

SPECIAL PERMIT CONDITIONS:

1. Prior to commencement of construction activity authorized by this permit, a preconstruction conference shall be held at the site among the contractor, the owner or authorized agent, and a staff representative of the Department to establish an understanding among the parties as to the items specified in the special and general conditions of the permit. The proposed locations of the structures shall be staked out for the conference. **Contact David Kieckbusch at (561) 313-9007 or email at david.kieckbusch@floridadep.gov to schedule a conference.**
2. Prior to commencement of construction activity authorized by this permit, a temporary construction fence shall be erected along the perimeter of the permitted activity. The fence shall remain in place until the construction authorized by this permit is complete. The optimum siting of the construction fence shall be determined during the preconstruction conference by the staff representative so as to provide maximum protection to the existing native vegetation and dune features located on the site.
3. All rubble and debris resulting from this construction shall be removed and relocated landward of the coastal construction control line.

4. All excavated sandy material seaward of the control line shall be maintained on site seaward of the control line.
5. Any imported fill material shall be obtained from a source landward of the control line. All fill material (both excavated from the site and imported) shall consist of sand which is similar to that already on the site in both grain size and coloration shall be free of construction debris, rocks, or other foreign matter. A sample of the sand shall be provided to the staff representative during the preconstruction conference.
6. Plantings shall conform to the approved planting plan. Removal of invasive plant species and landscape installation shall not cause the removal of existing salt-tolerant native vegetation.
7. All lighting shall be installed and maintained as depicted in the approved lighting schematic. No additional permanent exterior lighting is authorized.
8. No construction, operation, transportation or storage of equipment or materials, planting, and no temporary lighting of the construction area are authorized in marine turtle nesting habitat seaward of the dune crest at any time during the marine turtle nesting season March 1 through October 31.
9. Permittee shall submit compliance reports as specified in Special and General Permit Conditions of this permit. General Permit Conditions 1(q) and 1(r) pertain to written reports which must be submitted to the Department of Environmental Protection at specified times. The forms for the reports: 1(q) **Foundation Location Certification** (DEP Form 73-114B) and 1(r) **Final Certification** (DEP Form 73-115B) are available at the website: <https://floridadep.gov/rcp/coastal-construction-control-line/content/coastal-construction-control-line-cccl-forms>. Each form may be submitted electronically to the CCCL mailbox at CCCL@dep.state.fl.us.

GENERAL PERMIT CONDITIONS:

(1) The following general permit conditions shall apply, unless waived by the Department or modified by the permit:

(a) The permittee shall carry out the construction or activity for which the permit was granted in accordance with the plans and specifications that were approved by the Department as part of the permit. Deviations therefrom, without written approval from the Department, shall be grounds for suspension of the work and revocation of the permit pursuant to section 120.60(7), F.S., and shall result in assessment of civil fines or issuance of an order to alter or remove the unauthorized work, or both. No other construction or activities shall be conducted. No modifications to project size, location, or structural design are authorized without prior written approval from the Department. A copy of the notice to proceed shall be conspicuously displayed at the project site. Approved plans shall be made available for inspection by a Department representative.

(b) The permittee shall conduct the construction or activity authorized under the permit using extreme care to prevent any adverse impacts to the beach and dune system, marine turtles, their nests and habitat, or adjacent property and structures.

(c) The permittee shall allow any duly identified and authorized member of the Department to enter upon the premises associated with the project authorized by the permit for the purpose of ascertaining compliance with the terms of the permit and with the rules of the Department until all construction or activities authorized or required in the permit have been completed and all project performance reports, certifications, or other documents are received by the Department and determined to be consistent with the permit and approved plans.

(d) The permittee shall hold and save the State of Florida, the Department, and its officers and employees harmless from any damage, no matter how occasioned and no matter what the amount, to persons or property that might result from the construction or activity authorized under the permit and from any and all claims and judgments resulting from such damage.

(e) The permittee shall allow the Department to use all records, notes, monitoring data, and other information relating to construction or any activity under the permit, which are submitted, for any purpose necessary except where such use is otherwise specifically forbidden by law.

(f) Construction traffic shall not occur and building materials shall not be stored on vegetated areas seaward of the control line unless specifically authorized by the permit. If the Department determines that this requirement is not being met, positive control measures, such as temporary fencing, designated access roads, adjustment of construction sequence, or other requirements, shall be provided by the permittee at the direction of the Department. Temporary construction fencing shall not be sited within marine turtle nesting habitats.

(g) The permittee shall not disturb existing beach and dune topography and vegetation except as expressly authorized in the permit. Before the project is considered complete, any disturbed topography or vegetation shall be restored as prescribed in the permit with suitable fill material or revegetated with appropriate beach and dune vegetation. When required for mitigation, dune vegetation will be considered successfully established if within 180 days of planting, a minimum of 80 percent of the planting units survive, a minimum of 80 percent of the planted area is covered with native species and the vegetation is continuous without gaps along the shoreline.

(h) All fill material placed seaward of the CCCL shall meet the requirements of subsection 62B-33.005(7), F.A.C. All such fill material shall be free of construction debris, rocks, clay, or other foreign matter; and shall be obtained from a source landward of the CCCL.

(i) If surplus sand fill results from any approved excavation seaward of the control line, such material shall be distributed seaward of the control line on the site, as directed by the Department, unless otherwise specifically authorized by the permit. Sand fill placed seaward of the frontal dune, bluff or coastal armoring in marine turtle nesting habitat shall be configured such that it does not interfere with marine turtle nesting.

(j) Any native salt-tolerant vegetation destroyed during construction shall be replaced with plants of the same species or, by authorization of the Department, with other native salt-tolerant vegetation suitable for beach and dune stabilization. Unless otherwise specifically authorized by the Department, all plants installed in beach and coastal areas – whether to replace vegetation displaced, damaged, or destroyed during construction or otherwise – shall be of species indigenous to Florida beaches and dunes, such as sea oats, sea grape, saw palmetto, panic grass, saltmeadow hay cordgrass, seashore saltgrass, and railroad vine, and grown from stock indigenous to the region in which the project is located.

(k) All topographic restoration and revegetation work is subject to approval by the Department, and the status of restoration shall be reported as part of the final certification of the actual work performed.

(l) If not specifically authorized elsewhere in the permit, no operation, transportation, or storage of equipment or materials is authorized seaward of the dune crest or rigid coastal structure during the marine turtle nesting season. The marine turtle nesting season is May 1 through October 31 in all counties except Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward counties where leatherback turtle nesting occurs during the period of March 1 through October 31.

(m) If not specifically authorized elsewhere in the permit, no temporary lighting of the construction area is authorized at any time during the marine turtle nesting season and no additional permanent exterior lighting is authorized.

(n) All non-opaque walls, balcony railings, deck railings, windows and doors visible from any point on the beach must be tinted to a transmittance value (light transmission from inside to outside) of 45 percent or less through the use of tinted glass or window film.

(o) The permit has been issued to a specified property owner and is not valid for any other person unless formally transferred. An applicant requesting transfer of the permit shall sign the permit transfer agreement form, agreeing to comply with all terms and conditions of the permit, and return it to the Department. The transfer request shall be provided on the form entitled “Permit Transfer Agreement” – DEP Form 73-103 (Revised 1/04), which is hereby adopted and incorporated by reference. No work shall proceed under the permit until the new owner has received a copy of the transfer agreement approved by the Department. A copy of the transfer agreement shall be displayed on the construction site along with the permit. An expired permit shall not be transferred. Copies of the “Permit Transfer Agreement” form are available at the following website: <https://floridadep.gov/water/coastal-construction-control-line/content/coastal-construction-control-line-cccl->

forms.

(p) The permittee shall immediately inform the Department of any change of mailing address of the permittee and any authorized agent until all requirements of the permit are met.

(q) For permits involving habitable major structures, all construction on the permitted structure shall stop when the foundation pilings have been installed. At that time the foundation location form shall be submitted to and accepted by the Department prior to proceeding with further vertical construction above the foundation. The form shall be signed by a professional surveyor, licensed pursuant to chapter 472, F.S., and shall be based upon such surveys performed in accordance with chapter 472, F.S., as are necessary to determine the actual configuration and dimensioned relationship of the installed pilings to the control line. The information shall be provided to the Department using the form entitled "Foundation Location Certification" – DEP Form 73-114B (Revised 9/05), which is hereby adopted and incorporated by reference. Phasing of foundation certifications is acceptable. The Department shall notify the permittee of approval or rejection of the form within seven (7) working days after staff receipt of the form. All survey information upon which the form is based shall be made available to the Department upon request. Permits for repairs or additions to existing structures with nonconforming foundations are exempt from this condition.

(r) For permits involving major structures and exterior lighting on major structures, the permittee shall provide the Department with a report by a registered professional within 30 days following completion of the work. For permits involving armoring or other rigid coastal structures, the permittee shall provide the Department with a report by an engineer licensed in the State of Florida within 30 days following completion of the work. The report shall state that all locations specified by the permit have been verified and that other construction and activities authorized by the permit, including exterior lighting, have been performed in compliance with the plans and project description approved as a part of the permit and all conditions of the permit; or shall describe any deviations from the approved plans, project description, or permit conditions, and any work not performed. Such report shall not relieve the permittee of the provisions of paragraph 62B-33.0155(1)(a), F.A.C. If none of the permitted work is performed, the permittee shall inform the Department in writing no later than 30 days following expiration of the permit. The report shall be provided on the form entitled "Final Certification" DEP Form 73-115B (Revised 9/05), which is hereby adopted and incorporated by reference. Copies of the "Final Certification" form are available at the following website:

<https://floridadep.gov/water/coastal-construction-control-line/content/coastal-construction-control-line-cccl-forms>.

(s) Authorization for construction of armoring or other rigid coastal structures is based on an engineering review and assessment of the design and anticipated performance and impact of the structure as a complete unit. Construction of any less than the complete structure as approved by the Department is not authorized and shall result in the assessment of an administrative fine and the issuance of an order to remove the partially constructed structure. Modifications to the project size, location, or structural design shall be authorized by the Department in accordance with rule 62B-33.013, F.A.C.

(2) The permittee shall not commence any excavation, construction, or other physical activity on or encroaching on the sovereignty land of Florida seaward of the mean high water line or, if established, the erosion control line until the permittee has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.

(3) The permittee shall obtain any applicable licenses or permits required by Federal, state, county, or municipal law.

(4) This permit does not authorize trespass onto other property.

(5) In the event of a conflict between a general permit condition and a special permit condition, the special permit condition shall prevail.

(6) Copies of any forms referenced above can be obtained by contacting the Department of Environmental Protection, 2600 Blair Stone Road, MS 3522, Tallahassee, Florida 32399-2400, at <https://floridadep.gov/water/coastal-construction-control-line/content/coastal-construction-control-line-cccl-forms> or by telephoning (850) 245-2094.

Approved plans are incorporated into this permit by reference.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

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. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing 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;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (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.

The petition 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 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), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. The failure to file a petition 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, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) 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.

Extension of Time

Under Rule 62-110.106(4), 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the deadline for filing a petition for an administrative hearing. 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.

Mediation

Mediation is not available in this proceeding.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, 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 must be filed within 30 days from the date this action is filed with the Clerk of the Department.

EXECUTION AND CLERKING

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Celora Douse Jackson, Environmental Administrator

Coastal Construction Control Line Program

Office of Resilience and Coastal Protection

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

Mark A. Powell, P.E., Agent, mpowell@coastal-engineers.com

Jeff Remas, Town of Highland Beach Building Official, bco@highlandbeach.us

David Kieckbusch, Field Inspector, david.kieckbusch@floridadep.gov

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Diana Dukhovskaya
Clerk

11/10/2022
Date