



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

May 7, 2024

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

Larry Herskovitz
1004 Bel Air Drive
Highland Beach, FL 33487
Sent via agent's e-mail: docksandlifts@gmail.com

Re: File No.: 50-0446149-001,002-EE
File Name: Herskovitz Larry Dock and Cap

Dear Mr. Larry Herskovitz:

On March 7, 2024, we received your request for verification of exemption to perform the following activities: 1) construct a new 884 sq. ft. marginal dock in the same location as the existing dock; and 2) raise the existing seawall cap. The project is located in a canal, Class III Waters, adjacent to 1004 Bel Air Drive, Highland Beach (Section 3, Township 7 South, Range 24 East), in Palm Beach County (Latitude N 26°23'47.1760", Longitude W 80°4'10.8920").

Your request has been reviewed to determine whether it qualifies for (1) regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

Your project did not qualify for the federal authorization of this verification request. **Additional authorization must be obtained prior to commencement of the proposed activity.** This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

If you have any questions regarding this matter, please contact Matthew Guinazu at the letterhead address or at Matthew.Guinazu@FloridaDEP.gov.

www.floridadep.gov

1. Regulatory Review – VERIFIED

Based on the information submitted, the Department has verified that the activities as proposed are exempt, under Chapter 62-330.051(5)(b) and (12)(d), Florida Administrative Code, from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

2. Proprietary Review- NOT REQUIRED

The activity does not require further authorization under chapter 253 of the Florida Statutes, or chapters 18-20 or 18-21 of the Florida Administrative Code.

3. Federal Review - NOT APPROVED

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the Corps. You must apply separately to the Corps using their APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at: <https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book>.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection (or Duly Authorized Designee), State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

Additional Information

Please retain this letter. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

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 a subsequent 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, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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 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. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While

you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

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. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

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.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, 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 this order is filed with the Clerk of the Department.

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.

Project No.: 50-0446149-001,002-EE
Project Name: Herskovitz Larry Dock and Cap
Page 5 of 5

EXECUTION AND CLERKING

Executed in Palm Beach County, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Danielle C. Sattelberger
Environmental Administrator
Southeast District

Enclosures:

Attachment A- Specific Exemption Rule
Project drawings, 5 pages

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:

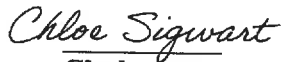
FDEP – Danielle C. Sattelberger, Matthew Guinazu
Steve Garbutt, Boat Lifts & Docks of South Florida, docksandlifts@gmail.com

Additional mailings:

Matt Mitchell, Palm Beach County, Environmental Resources, mmitchell@pbegov.org

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.



Clerk

05/07/2024

Date

Attachment A

Chapter 62-330.051 Exempt Activities.

The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under Chapters 253 and 258, F.S., and Chapters 18-18, 18-20, and 18-21, F.A.C., as applicable.

(5) Dock, Pier, Boat Ramp and Other Boating-related Work –

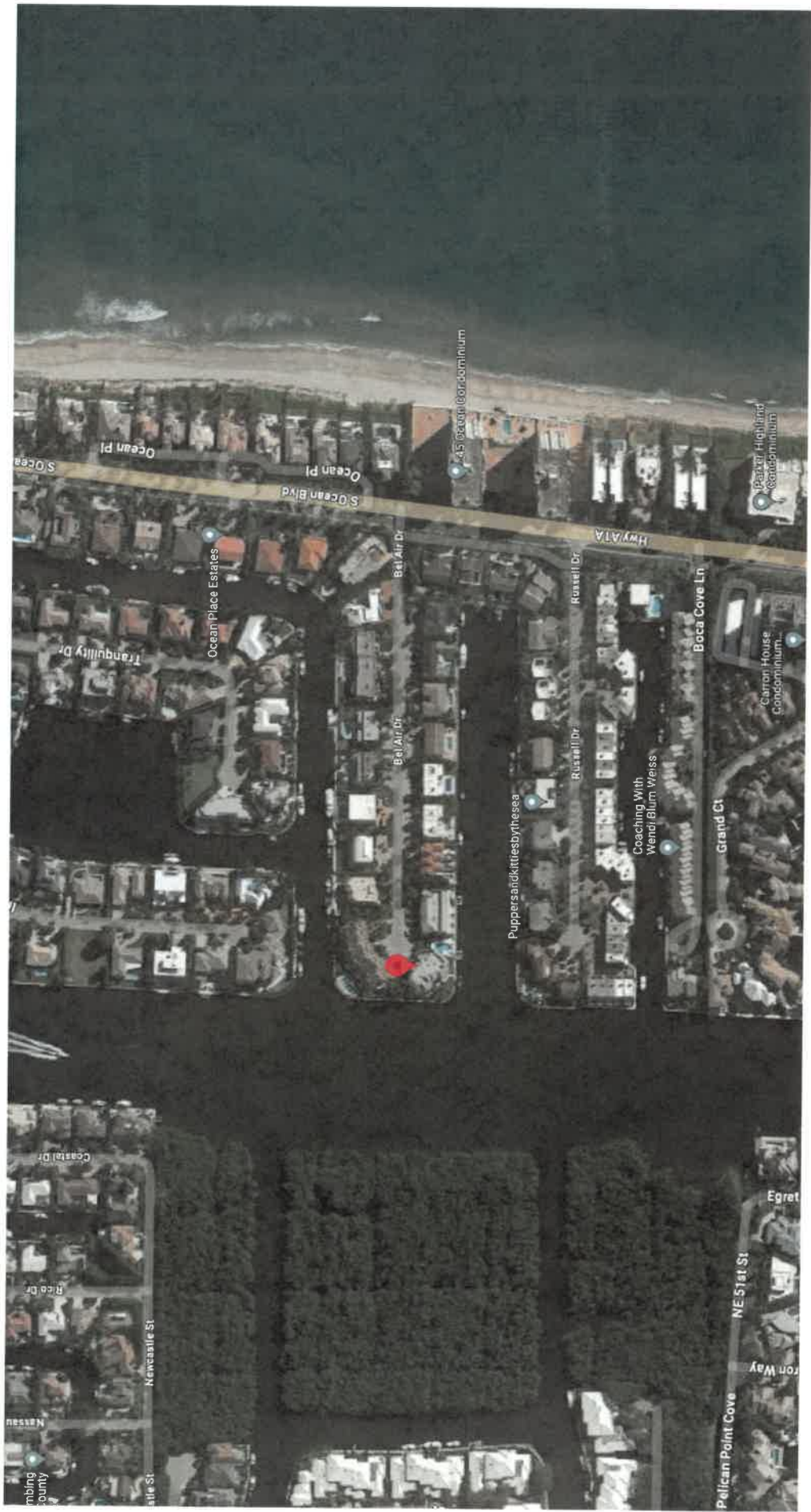
(b) Installation of private docks, piers, and recreational docking facilities, and installation of local governmental piers and recreational docking facilities, in accordance with section 403.813(1)(b), F.S. This includes associated structures such as boat shelters, boat lifts, and roofs, provided:

1. The cumulative square footage of the dock or pier and all associated structures located over wetlands and other surface waters does not exceed the limitations in section 403.813(1)(b), F.S.;
2. No structure is enclosed on more than three sides with walls and doors;
3. Structures are not used for residential habitation or commercial purposes, or storage of materials other than those associated with water dependent recreational use; and
4. Any dock and associated structure shall be the sole dock as measured along the shoreline for a minimum distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

(12) Construction, Restoration, Enhancement, and Repair of Seawall, Riprap, and Other Shoreline Stabilization –

(d) Installation of batter piles, king piles, or a seawall cap, used exclusively to stabilize and repair seawalls, provided they do not impede navigation.

Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4131, 373.4145, 373.415, 403.813(1) FS. History—New 10-1-13, Amended 6-1-18.



PC

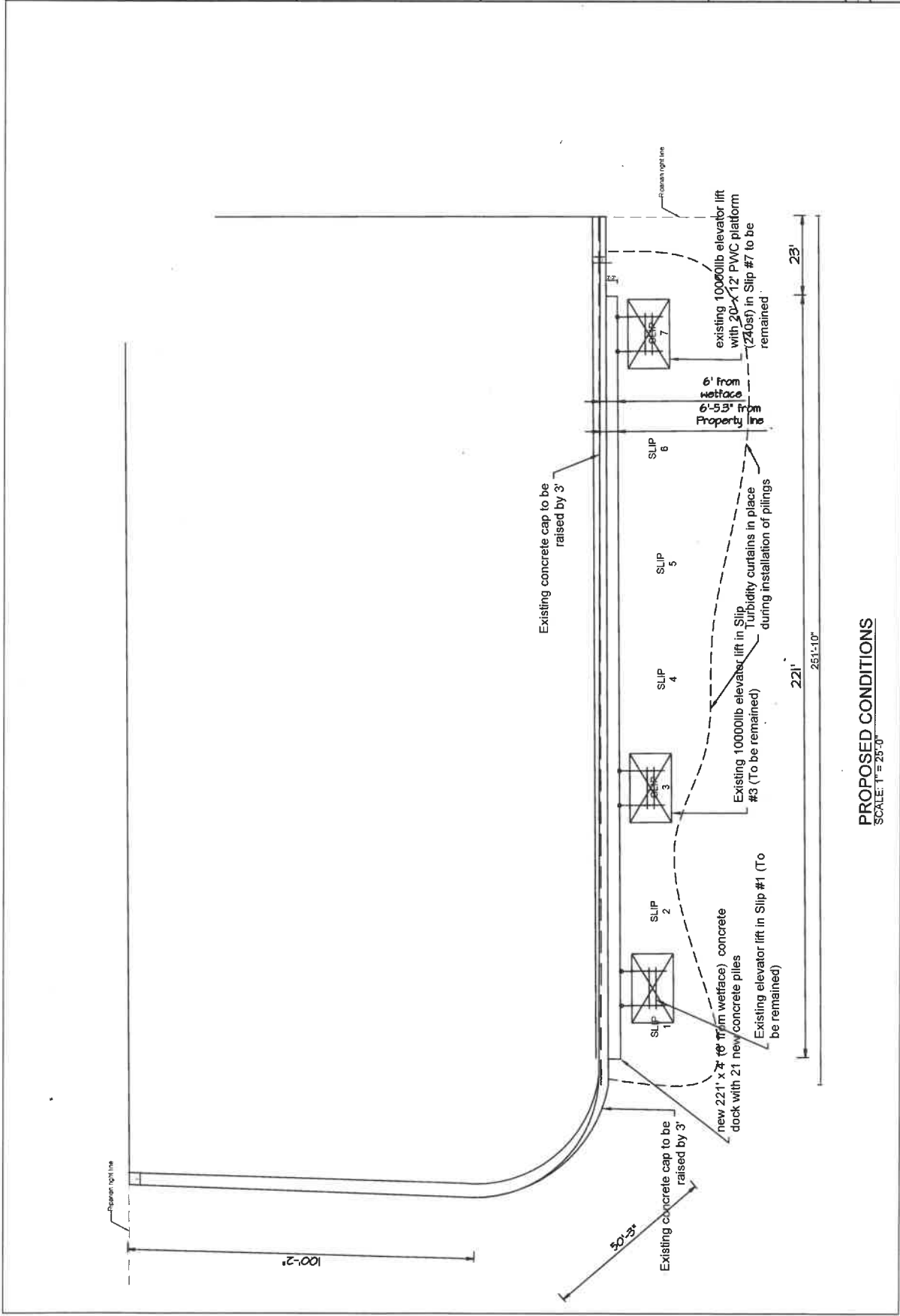
DATE: AS NOTED

SCALE: 1" = 25'-0"

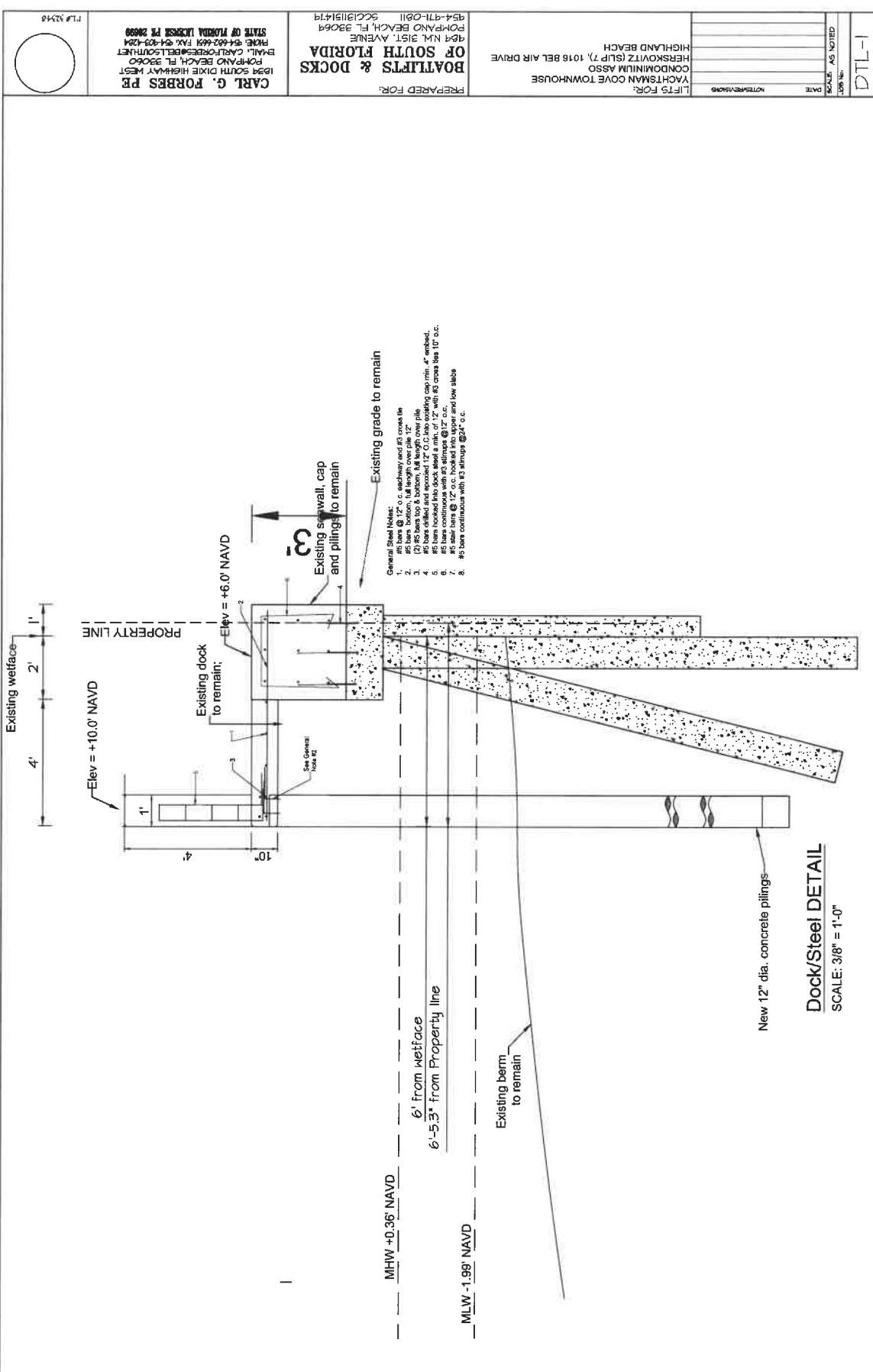
NOTES: 1. LIFTS FOR YACHTSMAN COVE TOWNHOUSE CONDOMINIUM ASSO. (SLIP 7), 1016 BEL AIR DRIVE HIGHLAND BEACH

BOATLIFTS & DOCKS OF SOUTH FLORIDA
909 N.W. 31ST AVENUE
POMPAHO BEACH, FL 33064
954-971-0211
SC0315151474

CARL G. FORBES PE
1834 SOUTH DIXIE HIGHWAY WEST
POMPAHO BEACH, FL 33060
EMAIL: CARL@FORBESPELLSOUTHNET
PHONE: 954-662-6661 FAX: 954-403-4204
STATE OF FLORIDA LICENSE PY 20000



PROPOSED CONDITIONS
SCALE: 1" = 25'-0"



BOATLIFTS & DOCKS OF SOUTH FLORIDA
 PREPARED FOR:
 494 N.W. 31ST AVENUE
 POMPANO BEACH, FL 33064
 954-971-0911 SCCL13151419

CARL G. FORBES PE
 STATE OF FLORIDA LICENSE #12000
 1524 SOUTH DIXIE HIGHWAY WEST
 POMPANO BEACH, FL 33060
 PHONE: 954-663-6681 FAX: 954-703-4204
 E-MAIL: CARL@FORBESPEL.COM

LIFTS FOR:
 YACHTSMAN COVE TOWNHOUSE
 CONDOMINIUM ASSO
 HERSKOVITZ (SLIP 7), 1016 BEL AIR DRIVE
 HIGHLAND BEACH

DATE: _____
 SCALE: AS NOTED
 DTL-1

NOTES/REVISIONS

FLA 23248