

*A request form is available from the Deputy Town Clerk; fill it in and return it to her prior to the start of the meeting. When you speak, you must come to the podium in the front and clearly state your name and address for the record. Please turn off or mute your cell phone or pager at the start of the meeting.*

**TOWN OF BAY HARBOR ISLANDS**  
**QUASI-JUDICIAL PUBLIC HEARING**  
**AGENDA**  
**February 15, 2022**

**SPECIAL NOTICE – HYBRID MEETING**

The Town of Bay Harbor Islands Public Hearing Meeting will take place in a Hybrid format where a quorum of the Town Council will be physically present at the Town Hall Council Chambers. Members of the public are welcome to participate in person or virtually via the Zoom platform.

Zoom Link: <https://us06web.zoom.us/j/89695315171>  
Meeting ID: 896 9531 5171

To request to speak during Zoom Public Comment, please utilize the “raise your hand” Zoom feature on your electronic device. You will be recognized at the direction of the Zoom Meeting Host.

The staff, members of the public and the applicants are strongly encouraged to attend virtually but will not be denied access to the physical meeting, consistent with public safety and health considerations.

In addition, any member of the public who does not wish, or is unable to participate through the Zoom video conferencing platform, but would still like to participate can do so by listening to the meeting as it happens by dialing the Toll-free number below:

US Toll Free Number: 877 853 5247 or 888 788 0099  
For higher quality, dial a number based on your current location.  
US: 1 646 558 8656 or 1 301 715 8592 or 1 312 626 6799

Meeting ID: 896 9531 5171

Participant ID: Press the # key

To request to speak: Dial \*9 on your telephone device to activate the “Raise your Hand” feature on the zoom platform.

Members of the Public can also submit their request to speak and/or comments via e-mail to the Office of the Town Clerk at [achang@bayharborislands-fl.gov](mailto:achang@bayharborislands-fl.gov)

**CALL TO ORDER:** 6:30 p.m.

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL**

1. **Discussion** for the purpose of hearing any public comment with respect to an application for variance from Section 23-12(6)(b)(iii); Section 23-12(8); Section 23-12(6)(v) and Section 23-12(6)(a)(x) of the Town Code to construct a boat dock facility. The application for a variance is being requested by the property owner BH Investment, LLC for the property located at 1135 103 Street, Tract F, Bay Harbor Islands, Florida. Enclosed is a copy of the variance application and other supporting documents.
2. **Approval or Denial** of a variance request for the property located at 1135 103 Street. In accordance to Section 2-22 of the Town Code, the Town Council shall determine whether to grant or deny the application for variance. An affirmative vote of five Council Members is necessary in order to grant the variance request. The decision of the Town Council is final. If the request is granted, the decision of the Town Council shall be recorded in a resolution to be prepared by the Town Attorney. It should be noted that any approval of the Town Council is subject to other requirements of the Town Code, Miami Dade County Code, Florida Building Code, FEMA or any other applicable governing agency.

**CONCLUSION OF PUBLIC HEARING** - Approximately 6:55 p.m.

*Pursuant to Florida Statutes 286.0105, the Town hereby advises the public that should any person decide to appeal any decision of the Town Council with respect to any matter to be considered at this meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.*

## **AGENDA ITEM REPORT**

February 15, 2022

### **ITEM NUMBER: 1.**

**ITEM: Discussion** for the purpose of hearing any public comment with respect to an application for variance from Section 23-12(6)(b)(iii); Section 23-12(8); Section 23-12(6)(v) and Section 23-12(6)(a)(x) of the Town Code to construct a boat dock facility. The application for a variance is being requested by the property owner BH Investment, LLC for the property located at 1135 103 Street, Tract F, Bay Harbor Islands, Florida. Enclosed is a copy of the variance application and other supporting documents.

### **DESCRIPTION:**

On December 20, 2021, the Office of the Town Clerk received a variance application from Akerman, LLP representing BH Investment, LLC ("property owner") in order to construct a boat dock facility. The property owner / applicant is seeking variances from the following sections:

\* Variance from Section 23-12(6)(a)(iii) limiting the projection of docks to no more than 25 feet from the face of the seawall cap at this location. The applicant is requesting a tiered / graduated scale beginning with the side outermost docks starting at 26 feet - 30 feet from the seawall and extending out about 45 +/- feet from the seawall with the farthest out docs staring about 53.5 feet from the seawall and extending out a maximum of 73.5 feet from the seawall.

\* Variance from Section 23-12(8) limiting the projection of mooring piles to no more than 40 feet from the face of the seawall cap for this location. The applicant is requesting a tiered / graduated scale beginning about 66 feet from the seawall with the farthest out pilings at about 89.5 from the seawall.

\* Variance from Section 23-12(6)(a) (v) limiting the width of docks which extend more than 8 feet from the seawall cap to 4 feet in width. The applicant is requesting that some portions of the docks be 6 feet in width so as to accommodate fire hose boxes / fire personnel access.

\* Variance from Section 23-12(6)(a)(x) allowing for further projections, through the use of a variance granted by the Town Council, if DERM / other review agency requires alterations to the above limitation die to environmental / other reason. Approval shall be limited to the minimal variation of the criteria necessary to meet the unique environmental characteristics of the site.

Miami Dade County RER-Natural Resources Division has granted a preliminary approval for the proposed boat dock facility, subject to Town Council approval.

Enclosed is a copy of the proposed variance application and other supporting documents.

### **RECOMMENDED ACTION:**

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**FINANCIAL ANALYSIS:****BUDGET IMPACT:**

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Submitted By: Alba Chang, Town Clerk

**ATTACHMENTS**

|    |                                                                         |
|----|-------------------------------------------------------------------------|
| 1. | Letter_of_Intent (1)                                                    |
| 2. | Variance APP 1135 103 ST                                                |
| 3. | Plan_Set (1)                                                            |
| 4. | 2021.07.02 1135 103 ST BAY HARBOR ISLAND. TRACT F (06-30-2021)-24X36_DS |
| 5. | BHI ONDA Dock Var Rev Final TC Staff Report Feb 1 2022                  |
| 6. | BH Investment Certificate of Formation                                  |
| 7. | BH Investment Deed                                                      |



Nicholas J. Barshel

Akerman LLP  
Three Brickell City Centre  
98 SE 7<sup>th</sup> Street, Suite 1100  
Miami, FL 33131  
Tel: 305 982 5538  
[nicholas.barshel@akerman.com](mailto:nicholas.barshel@akerman.com)

December 20, 2021

Honorable Mayor and Council  
Town of Bay Harbor Islands  
9665 Bay Harbor Terrace  
Bay Harbor Islands, FL 33154

**RE: Variance Hardship Letter - Dock for Onda Project (1135 103<sup>rd</sup> Street)**

Dear Honorable Mayor and Council Members,

Akerman LLP represents BH Investment LLC ("Owner"), which owns the property located at 1135 103<sup>rd</sup> Street on the northern tip of the East Island of Bay Harbor Islands ("Property"). Owner is currently developing an eight-story luxury residential building with 41 condo units on the Property, which was previously approved by the Town ("Onda"). Owner is now seeking approvals for a dock facility to serve Onda residents in Biscayne Bay ("Dock").

Enclosed herein are plans for the Dock and our application materials for certain variances from the Town's dock regulations set forth under Town Code Section 23-12(6). Owner must obtain variances from the maximum length of dock and pile projections into Biscayne Bay to avoid negative environmental impacts (disturbing the bay bottom and seagrass) and to allow adequate clearance for necessary fire suppression equipment on the Dock. Owner's responses to the hardship criteria for variances under Town Code Section 2-17(b) are included below.

#### **A. Property Background**

The Property is approximately 1.2 acres in size and is currently vacant, as Owner prepares for construction of the Onda project on the uplands. The Property is one of the six largest platted tracts (A-F) on the East Island, located on the northern and southern tips. As these sites are considerably larger than other multifamily residential lots in the Town (and abut long stretches of waterfront), they are zoned RM-3 and include appropriate development criteria for this nature. Additionally, unlike the southern tip of the East Island, the Property directly abuts a broad stretch of open water in Biscayne Bay, and vessel navigation is not confined as it is for other properties in the Town located along Indian Creek or the Bay Harbor Waterway.

Onda was inspired directly by this waterfront setting, and the façade is designed with a nautical style including fluid lines interrupted by a series of ripples, invoking a wave crossing calm seas. The building will include luxury amenities for its residents that include a rooftop pool with sweeping views of Biscayne Bay and direct access to the water from the Dock. The Onda project was approved by the Town's Planning and Zoning Board on May 7, 2019 (*Resolution No. 2174*).

## **B. Proposed Dock**

Owner has submitted permit applications for the Dock to the Town, Miami-Dade County's Department of Environmental Resources ("DERM"), the Florida Department of Environmental Protection ("FDEP"), and the U.S. Army Corps of Engineers ("Corps"). These agencies review potential environmental impacts, including on endangered and threatened marine species.

The Dock is specifically designed to avoid marine species and the sensitive bay bottom, in accordance with agency permitting criteria. The Dock follows the curvature of the Property and includes 2,284 square feet of total surface area, which is comprised of a series of narrow accessways with mooring piles to allow up to 15 vessels to moor at the Dock. On July 30, 2019, DERM staff conducted a biological assessment of the Property and noted the presence of benthic resources (seagrass) and shallow water depths. The "tiered" shape of the Dock resulted to meet DERM environmental regulations. The DERM biological assessment is attached as **Exhibit A**.

To avoid protected seagrasses and to provide adequate depths for vessels without disturbing the bay bottom by dredging, DERM is requiring 4 of the slips at the Dock (27%) to begin a minimum of 53.5 feet waterward of the seawall at the Property. The other 11 slips are closer to the shoreline (30 feet waterward) because adequate water depth already existed. Otherwise, DERM had no objection to construction of the Dock at this location, and found that the number of proposed boat slips is consistent with the County's Manatee Protection Plan.<sup>1</sup> The letter from DERM setting forth these design requirements for the Dock is attached as **Exhibit B**.

Finally, the Dock is set back 30 feet from the west boundary of the Property and 11.5 feet from the east boundary. Due to the curvature of the Property, the west setback becomes larger as the Dock extends out into Biscayne Bay. Although the Dock side setbacks both comply with Town Code Section 23-12(6)(a)(vii), DERM required the neighbor to the east approve the Onda dock project due to its proximity to that property line. Owner obtained written consent from this neighbor on August 30, 2021. This neighbor consent for the Dock is attached as **Exhibit C**.

## **C. Town Code Regulations**

Pursuant to Town Code Section 23-12, the Town has local development regulations that apply to docking facilities in addition to the DERM, FDEP, and Corps environmental permitting criteria. Based on the existing sensitive environmental conditions discussed above, the Dock cannot comply with three of these Town regulations, which are set forth in the table below:

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<sup>1</sup> In addition, DERM issued its preliminary approval of the submitted plans for the Dock on December 10, 2021.

| Code Section     | Town Regulation                              | Amount | Provided |
|------------------|----------------------------------------------|--------|----------|
| 23-12(6)(a)(iii) | Maximum projection of dock into bay          | 25'    | 73.5'    |
| 23-12(6)(a)(v)   | Maximum width of dock beyond 8' from seawall | 4'     | 6'       |
| 23-12(8)         | Maximum projection of mooring piles into bay | 40'    | 89.5'    |

Except for the instances noted above, the Dock complies with the regulations in Town Code Section 23-12. The boat slips also comply with the required distance between docks and mooring piles (15 feet), but must exceed the maximum projections because the slips begin farther into the bay to have adequate water depth. Regarding the dock width, 11 of 14 total accessway spans (79%) are in compliance with the 4-foot dock width requirement in Town Code 23-12(6)(a)(v). Only the 3 walkways closest to the shore are 6 feet wide because they must include fire hose cabinets and a safe working clearance in front of the cabinets for fire department personnel.

#### **D. Variance Hardship Criteria**

Pursuant to Town Code 2-17(b), there are six (6) criteria by which requests for variances must be evaluated by the Town Council. These criteria are listed below, along with the Owner's responses to each. Our responses prove that the requested Dock variances are not contrary to the public interest and a literal enforcement of the Town's regulations would instead result in unnecessary and undue hardship on Owner, and therefore the variances should be granted.

##### ***1) The nature and type of hardship.***

The hardship is based entirely on existing marine environmental conditions surrounding the Dock, which is identified by the Town as a valid justification for a variance. Pursuant to Town Code Section 23-12(6)(a)(x), DERM may require alterations to the Town's dock regulations "because of shifting underwater land elevations and/or environmental characteristics in Biscayne Bay...." At the Property, DERM requires 4 slips to begin a minimum of 53.5 feet waterward of the seawall and the other 11 slips to begin at least 30 feet out to obtain the required water depth for vessels to avoid disturbing the bay bottom during dock construction or while in operation.

##### ***2) The circumstances which caused the hardship, and that make the hardship peculiar to the property in question or to such a small number of properties that may clearly constitute marked exceptions to the property in the neighborhood.***

The Property is uniquely well-suited for multifamily residential boat slips in Bay Harbor Islands. The entire West Island is zoned for single family homes. And many lots on the East Island abut the Bay Harbor Waterway or Indian Creek, which physically restricts docks from projecting beyond the Code maximum of 25 feet, because it would impede or totally block navigation in narrow boat channels. This includes the waterways adjacent to the RM-3 properties on the southern tip of the East Island, which are each less than 400 feet wide. In contrast, the RM-3 tracts on the northern tip of the East Island abut the open waters of Biscayne Bay and could

support longer docks without impeding any boat navigation. Despite this, the Town Code does not distinguish maximum dock projections based on the widely varying width of waterways surrounding the outside of the Town (not including Bay Harbor Waterway). When compared to other properties subject to the same dock regulations, this constitutes a hardship for Owner.

***3) The circumstances which show that the variance is required in order to preserve a substantial property right of the applicant. The substantial property right does not include the fact that the applicant might be denied some opportunity to use the subject property in a more profitable way or to sell it at a greater profit than is possible under the terms of the ordinance. An applicant-property owner is entitled only to a reasonable use of the subject property.***

As part of their riparian rights, waterfront property owners in the State of Florida have a legal right to access an abutting waterbody with boats. Because of DERM environmental protection regulations, no boat slip could be closer than 30 feet to the seawall at the Property, and 27% of the slips must begin a minimum of 53.5 feet out. Although it remains far short of providing each of the 41 unit owners at Onda with a boat slip, 15 slips is a reasonable use for a building of this size and this amount is explicitly permitted at the Property under the County's Manatee Protection Plan. If not for the unique environmental characteristics of the site, all 15 boat slips could be constructed along the seawall in compliance with the Town Code. Instead, applying the Town dock regulations literally to the Property would not allow any boat slips for the Onda residents, which is an unreasonable restraint on the riparian rights of Owner.

***4) The circumstances establishing that any alleged hardship is not self created by any person having any interest in the subject property or is not the result of mere disregard for or ignorance of the provisions of any ordinance.***

Owner did not create the existing marine environmental characteristics of the site in the open waters of Biscayne Bay immediately adjacent to the Property, namely shallow water depths and habitat for an extensive variety of marine life. And Owner is not disregarding provisions of any regulation—rather these variances are required to comply with permitting criteria from DERM, FDEP, and the Corps that relate to protecting marine life and habitat in dock projects.

***5) The circumstances under which the ordinance to which the variance is sought shall be modified as little as possible so that the substantial intent and purpose of the ordinance or regulations contained therein shall be preserved.***

All boat slips are located the minimum distance from the seawall that DERM will allow to provide adequate water depths and avoid impacting marine life on the bay bottom, ranging from 30 to 53.5 feet out from the Property boundary. The decks and mooring piles are configured to provide access to these boat slips and safely secure vessels with as little over-water area as possible. Because the finger piers and parallel Dock sections do not require fire suppression equipment, they also are in compliance with the Town requirement for dock width under Code

Section 23-12(6)(a)(v). The three accessways connecting the Dock to the Property exceed the 4 foot requirement by the minimum amount possible (6 feet wide) to provide adequate clearance for fire department personnel to operate fire hose cabinets while standing on the Dock.

***6) The circumstances under which it can be established that a variance will not result in substantial detriment to adjacent property, or the surrounding neighborhood, and will not be materially detrimental to the public welfare.***

Approval of the requested Dock variances will not be detrimental to Owner's neighbors or to the public welfare. The Dock will not pose any navigational hazard because it abuts wide and open waters of Biscayne Bay, unlike most other Bay Harbor Islands properties. The DERM-required configuration of the boat slips will prevent negative environmental impacts, and the 6-foot-wide access piers will allow fire department personnel to safely respond to any future emergency at this site. The Dock is setback significantly from the neighboring property to the west (30 feet), and the boat slips are further away due to the curved nature of the Property. The Dock is also setback 11.5 feet from the neighboring property to the east, and that owner has approved the Dock design. Finally, the boat slips will be solely for the use of Onda residents and will not bring any commercial uses or high intensity activities to this residential neighborhood.

#### **E. Conclusion and Request for Variances**

In summary, the Owner is requesting the minimum variances from the Town Code required to construct the Dock for Onda in compliance with DERM and other environmental permitting criteria. We submit that extending the Dock further into open waters of Biscayne Bay is highly preferable to harming marine life and habitat in shallow waters closer to the Property. The Dock will not be materially detrimental to the public welfare, and is intended only to serve the residents of Onda. Due to the unique environmental characteristics of the bay bottom at this site, literal interpretation of Town Code regulations would result in unnecessary hardship on the Owner, by effectively preventing any boat slips from being built behind the Property. Therefore, we respectfully request that the Town Council approve the variances for the Dock.

Sincerely,



Nicholas Barshel

Enclosures

cc: Maria Lasday, Town Manager  
Alba Chang, Town Clerk  
Michael Miller, Town Planner

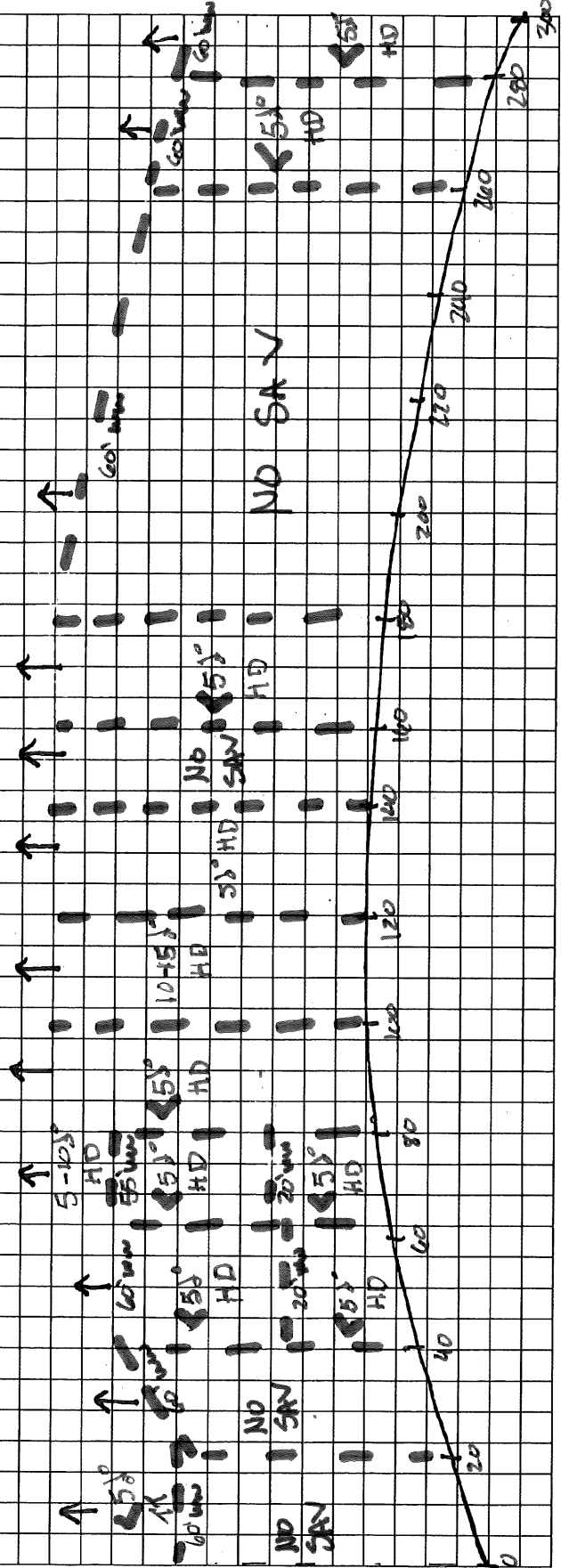
# Exhibit A

CL1-2019-0308

| * Sale | * Assessment complete in water | * Adjusted to NW @ 11:20am | * Adj = 1.4' | LF   | W   | 4'   | 5'   | 6'   |
|--------|--------------------------------|----------------------------|--------------|------|-----|------|------|------|
|        |                                |                            |              | 2.0  | 2.6 | 10.0 | 19.4 | 45.9 |
|        |                                |                            |              | 4.0  | 3.1 | 8.3  | 21.7 | 45.5 |
|        |                                |                            |              | 6.0  | 3.1 | 20.4 | 51.8 | 54.1 |
|        |                                |                            |              | 8.0  | 2.7 | 20.3 | 41.8 | 56.1 |
|        |                                |                            |              | 10.0 | 2.9 | 16.6 | 31.8 | 54.2 |
|        |                                |                            |              | 12.0 | 3.1 | 10.1 | 38.1 | 60.9 |
|        |                                |                            |              | 14.0 | 3.2 | 8.7  | 31.4 | 57.7 |
|        |                                |                            |              | 16.0 | 2.9 | 8.1  | 21.8 | 53.4 |
|        |                                |                            |              | 18.0 | 3.4 | 8.3  | 34.1 | 57.8 |
|        |                                |                            |              | 20.0 | 3.7 | 4.5  | 37.3 | 61.3 |
|        |                                |                            |              | 22.0 | 2.8 | 9.5  | 25.2 | 53.4 |
|        |                                |                            |              | 24.0 | 1.8 | 14.1 | 25.1 | 49.1 |
|        |                                |                            |              | 26.0 | 2.4 | 14.5 | 24.1 | 52.1 |
|        |                                |                            |              | 28.0 | 2.6 | 13.7 | 28.4 | 45.1 |

HD = Halophila  
IT = Thalassia

decipiens  
testudinum



# Exhibit B



Carlos A. Gimenez, Mayor

Department of Regulatory and Economic Resources

Environmental Resources Management

701 NW 1st Court, 6th Floor

Miami, Florida 33136-3912

T 305-372-6567 F 305-372-6407

miamidade.gov

August 8, 2019

BH Investment, LLC  
c/o Valerio Morabito, Manager  
1691 Michigan Avenue  
Suite 440  
Miami Beach, Florida 33139

Re: Class I Permit Application CLI-2019-0308: BH Investment, LLC – Dock located at 1135 103rd Street, Bay Harbor Islands, Miami-Dade County, Florida. (Folio No. 13-2227-001-6770)

Dear Mr. Morabito:

Please accept this letter in response to your submittal of a Class I permit application for the above referenced property. DERM staff has conducted a biological assessment and has the following recommendations to continue processing your permit application.

During the biological assessment staff documented debris in tidal waters (i.e. tree, dock debris). Pursuant to the Code of Miami-Dade County (Code), it shall be unlawful for any person to dispose of solid wastes or any other wastes into the waters of this County. The debris must be removed from tidal waters upon receipt of this letter. **Failure to remove the debris upon receipt of this letter may result in enforcement action by DERM without further notice.**

Staff also documented unauthorized dock piles on-site. A review of DERM's records indicates that said dock piles were installed without the required Class I permit. Based on the proposed scope of work, the unauthorized dock piles will be removed. DERM does not intend to pursue enforcement action for the unpermitted dock piles at this time provided they will be removed. However, repair or replacement of the existing structures will require a Class I permit. **Failure to obtain a Class I permit for any such work may result in enforcement action by DERM without further notice.**

Additionally, two pipes that discharge to tidal waters were documented on-site. Pursuant to the Code, it shall be unlawful for any person to dewater or to discharge sewage, industrial wastes, cooling water and solid wastes, or any other wastes into the waters of this County, including but not limited to surface water, tidal salt water estuaries, or ground water. **The pipes must be removed, sealed or reconfigured to drain on the uplands upon receipt of this letter.**

Recommendations for Class I permits are based on several evaluation factors including, but not limited to, a project's consistency with the Miami-Dade County Manatee Protection Plan (MPP). Pursuant to the MPP, the project site is located within an area recommended for "Motorboat Density and Various- Water Dependent Uses as Determined by Existing Zoning or Environmental Regulations". Based on the existing site conditions DERM has no objection to the creation of a docking facility, provided that the proposed slip areas for the vessels with a 4 foot draft are modified to be located in an area with adequate water depth of 6 feet Mean Low Water datum and impacts to resources are avoided and minimized. The number of slips depicted on the sketches and the number of slips listed on the application are not consistent. Please clarify the total number of proposed slips, submit revised sketches that depict the proposed slips in area that avoid and minimize impacts to benthic resources and locate the slips for the 4 foot draft vessels a minimum of 53.5 feet waterward of the existing seawall cap. Additionally, label the seawall work as "to be installed under CLI-2018-0307", include setbacks to all proposed structures, and depict the proposed mooring configuration in order for DERM to complete the evaluation.

*Delivering Excellence Every Day*

A Marine Facilities Annual Operating Permit (MOP) is required for docking facilities with 10 or more boat slips, moorings, davit spaces, and vessel tie-up spaces. A valid MOP will be required prior to the operation of the docking facility, including the mooring of vessels. Please contact the Coastal Resources Section at (305) 372-6575 for additional information.

For any structures that exceed the boundaries described in Section D-5(03)(2)(a) of the Miami-Dade County Public Works Manual beyond the minimum necessary, letters of consent that reference DERM preliminary approved plans may be requested prior to permit issuance. Please note that the Class I permit will not be issued until the requested letters have been submitted to DERM for review and approval. If the letters cannot be obtained, a modification to the proposed scope of work and new review by DERM may be required. Any new proposal that results in a significant modification to the scope of work may result in additional process time.

The cost of construction provided in the Class I Permit application is not consistent with the scope of work. Please submit a copy of the contract or an itemized cost of construction for the work.

Mitigation is required for all unavoidable impacts to resources, and is calculated based on the square footage of the structures and permitted boat slip areas over resources. In addition, mitigation is required for the long term and short term environmental impacts associated with the operation of the facility, and is calculated based on the number of slips to be created. Riprap boulders will be required to be placed onsite as mitigation for impacts associated with the seawall installation under CLI-2018-0307. Therefore, DERM recommends that mitigation be satisfied off-site, or a contribution to the Biscayne Bay Environmental Enhancement Trust Fund be provided in an amount to be determined.

Please provide a statement of acknowledgment directly from the contractor of record that includes the contractor's name, address, telephone number, license number, DERM Class I permit application number, and scope of work for the project. The information may not be submitted through a third party. A Class I permit will not be issued unless and until a Miami-Dade County or State licensed contractor submits the requested information.

Attached please find a Completeness Summary detailing items required in order to complete your Class I Permit Application Package, and a State and Federal Delegated Review Checklist containing additional information and indicating additional items to be submitted prior to Class I permit issuance. If you have any questions concerning the above referenced application, please contact me at (305) 372-6931 or [Burtot@miamidade.gov](mailto:Burtot@miamidade.gov).

Sincerely,



Tammy Burton, Biologist II  
Coastal Resources Section  
Division of Environmental Resources Management (DERM)

cc: Ocean Consulting, LLC - Authorized Agent ([Justina@oceanconsultingfl.com](mailto:Justina@oceanconsultingfl.com))  
U.S. Army Corps of Engineers ([SEAPPLS@usace.army.mil](mailto:SEAPPLS@usace.army.mil))  
Robert Kirby – U.S. Army Corps of Engineers ([Robert.J.Kirby@usace.army.mil](mailto:Robert.J.Kirby@usace.army.mil))  
Kellie Youmans – Florida Fish and Wildlife Conservation Commission ([kellie.youmans@myfwc.com](mailto:kellie.youmans@myfwc.com))

**COMPLETENESS SUMMARY**  
**COASTAL CONSTRUCTION PERMIT APPLICATION**  
**PROJECT NO. CLI-2019-0308**

**PROJECT NAME:** BH Investment, LLC  
**PROJECT ADDRESS:** 1135 103<sup>rd</sup> Street, Miami Beach  
**DATE:** August 8, 2019  
**PROJECT MANAGER:** Tammy Burton

**THE FOLLOWING DOCUMENTS SHALL BE SUBMITTED TO CONTINUE PROCESSING YOUR PERMIT APPLICATION:**

- A complete set of sketches as described in the Completeness Summary Cover Letter.

**DOCUMENTS REQUIRED PRIOR TO PERMIT ISSUANCE:**

- A minimum of 4 sets of plans signed and sealed by a Florida Licensed Professional Engineer.
- Structural and zoning approvals from the Town of Bay Harbor Islands.
- Itemized cost of construction.
- Application fee balance in an amount to be determined.
- Permit fee balance in an amount to be determined.
- Miami-Dade County surcharge fee in an amount to be determined.
- A contribution to the Biscayne Bay Environmental Enhancement Trust Fund in an amount to be determined.
- Letters of consent from adjacent property owners to the east and west which specifically references the construction approved by DERM may be requested.
- A statement of acknowledgment directly from the contractor of record that includes the contractor's name, address, telephone number, license number, DERM Class I permit application number, and scope of work for the project. The information may not be submitted through a third party.

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**STATE AND FEDERAL CHECKLIST**

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP)**

DERM has been delegated the authority to review the proposed project and grant proprietary authorization for the use of sovereign submerged lands pursuant to an operating agreement between DERM and the FDEP.

Not applicable- Bay Harbor Islands.

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**UNITED STATES ARMY CORPS OF ENGINEERS (USACE)**

Please contact USACE at (305) 526-7181 for authorization for the proposed work.

# Exhibit C

**LETTER OF CONSENT****Note:** Please insert applicable informationDate: August 30, 2021

Miami-Dade County DERM  
 Class I Permitting Program  
 701 NW 1<sup>st</sup> Court  
 Miami FL, 33136

Re: Letter of Consent for Miami-Dade County DERM Class I Permit Application Number  
CLI-2019-0308, (insert Class I Permit application number), for work proposed at

1135 103rd Street, Bay Harbor Islands, Miami-Dade County, Florida

(insert address of proposed work)

Ladies and Gentlemen:

Bay Harbor North LLC, a Delaware limited liability company  
 I, \_\_\_\_\_ (insert name), am the owner of the property located at

10301 East Bay Harbor Drive, Bay Harbor Islands, FL

(insert address of adjoining riparian property)

which is an adjoining riparian property to the above-referenced property. I have reviewed the plans entitled 1135 103rd Street Docking Facility Project

(insert title of plans)

prepared by Ocean Consulting LLC/Adolfo J. Gonzalez PE dated \_\_\_\_\_, and preliminarily approved by DERM on \_\_\_\_\_ for the above-referenced project. 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,

BAY HARBOR NORTH LLC, a Delaware limited liability company

By: TRD Bay Harbor LLC, a Florida limited liability company, its Managing

Member By: Daniel G. Hayes  
**Adjoining Riparian Property Owner**  
 Daniel G. Hayes, Manager

SUBSCRIBED AND SWORN TO ME THIS 30th DAY OF August, 2021

BY Daniel G. Hayes, Manager & Authorized Representative of Property Owner

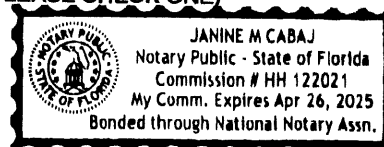
☒ PERSONALLY KNOWN

☐ PRODUCED IDENTIFICATION (PLEASE CHECK ONE)

TYPE OF ID PRODUCED \_\_\_\_\_

Janine M. Caba

NOTARY PUBLIC





**APPLICATION FOR VARIANCE AND PUBLIC HEARING**

|                       |                                            |                   |
|-----------------------|--------------------------------------------|-------------------|
| DATE: <b>12/20/21</b> | PROPERTY ADDRESS: <b>1135 103rd STREET</b> |                   |
| LEGAL DESCRIPTION     | LOT: <b>TRACT F</b>                        | BLOCK: <b>N/A</b> |
| SUBDIVISION:          | <b>TOWN OF BAY HARBOR ISLANDS</b>          |                   |

|                                     |                                                      |                      |
|-------------------------------------|------------------------------------------------------|----------------------|
| APPLICANT'S NAME:                   | <b>NICHOLAS J. BARSHEL, AKERMAN LLP</b>              |                      |
| ADDRESS:                            | <b>98 SE 7th STREET, SUITE 1100, MIAMI, FL 33131</b> |                      |
| BUSINESS PHONE: <b>305-982-5538</b> | RESIDENCE PHONE: <b>-</b>                            | CELL PHONE: <b>-</b> |

|                                                         |                                                          |                      |
|---------------------------------------------------------|----------------------------------------------------------|----------------------|
| PROPERTY OWNER'S NAME:<br>(If different from applicant) | <b>BH INVESTMENTS LLC</b>                                |                      |
| ADDRESS:                                                | <b>1691 MICHIGAN AVE, STE 440, MIAMI BEACH, FL 33139</b> |                      |
| BUSINESS PHONE: <b>305-531-1234</b>                     | RESIDENCE PHONE: <b>-</b>                                | CELL PHONE: <b>-</b> |

|                                      |                                                       |                      |
|--------------------------------------|-------------------------------------------------------|----------------------|
| NAME OF CONTRACTOR and/or ARCHITECT: | <b>KIRK LOFGREN</b>                                   |                      |
| COMPANY NAME:                        | <b>OCEAN CONSULTING, LLC</b>                          |                      |
| ADDRESS:                             | <b>340 MINORCA AVE, STE 7, CORAL GABLES, FL 33134</b> |                      |
| BUSINESS PHONE: <b>305-921-9344</b>  | RESIDENCE PHONE: <b>-</b>                             | CELL PHONE: <b>-</b> |

PRESENT ZONING CLASSIFICATION:

- |                                                                |                                                                        |
|----------------------------------------------------------------|------------------------------------------------------------------------|
| <input type="checkbox"/> BAA - Business District               | <input type="checkbox"/> CA - Causeway                                 |
| <input type="checkbox"/> RBA - Tract                           | <input checked="" type="checkbox"/> RE - Multiple Family <b>(RM-3)</b> |
| <input type="checkbox"/> RD - Single Family                    | <input type="checkbox"/> PUD - Planned Unit Development                |
| <input type="checkbox"/> PRD - Planned Residential Development |                                                                        |

IF APPLICANT IS THE PROPERTY OWNER, INDICATE DATE ACQUIRED: **11 / 13 / 2017**

IF APPLICANT IS THE LESSEE, INDICATE LEASE DATE:       /      /      

|                          |            |
|--------------------------|------------|
| INDICATE TERMS OF LEASE: | <b>N/A</b> |
|                          |            |

LEGAL DESCRIPTION OF ANY CONTIGUOUS PROPERTY OWNED BY THE APPLICANT:

|                 |                 |                       |
|-----------------|-----------------|-----------------------|
| LOT: <b>N/A</b> | BLOCK: <b>-</b> | SUBDIVISION: <b>-</b> |
|-----------------|-----------------|-----------------------|

IS THERE AN OPTION TO PURCHASE OR LEASE THE SUBJECT PROPERTY? ☐ Yes ☒ No

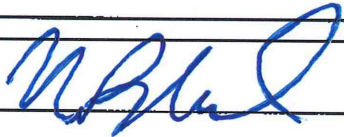
IS IT PREDICATED ON APPROVAL OF APPLICATION? ☐ Yes ☒ No

IS HEARING BEING REQUESTED AS A RESULT OF A VIOLATION NOTICE? ☐ Yes ☒ No

HAS A PUBLIC HEARING PREVIOUSLY BEEN HELD REGARDING THIS PROPERTY? ☒ Yes ☐ No  
 IF YES DATE: **5/7/2019** DECISION: **SITE PLAN APPROVAL (RESO. 2174)**

ARE THERE ANY EXISTING STRUCTURES ON THE PROPERTY TO BE DEMOLISHED? ☐ Yes ☒ No  
 DESCRIBE: **N/A**

| BRIEFLY STATE REQUEST:                                                                                                                        |                                        |                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------|
| <b>REQUEST FOR VARIANCES ON RESIDENT DOCK FACILITIES AT ONDA.</b>                                                                             |                                        |                     |
| <b>PURSUANT TO TOWN CODE SECS. 23-12(6) and (8). SEE ATTACHED LOI.</b>                                                                        |                                        |                     |
|                                                                                                                                               |                                        |                     |
| THE FOLLOWING ARE TO BE NOTIFIED OF HEARING DATE, AS MY REPRESENTATIVE(S):<br>(Please provide this information, or they will NOT be notified) |                                        |                     |
| NAME                                                                                                                                          | ADDRESS                                | PHONE               |
| <b>NICHOLAS BARSHEL</b>                                                                                                                       | <b>98 SE 7 ST, STE 1100, MIAMI, FL</b> | <b>305-982-5538</b> |
| <b>KIRK LOFGREN</b>                                                                                                                           | <b>340 MINORCA AVE, STE 7,</b>         | <b>305-921-9344</b> |
|                                                                                                                                               | <b>CORAL GABLES, FL</b>                |                     |

Applicant Signature(s)  Date 12/20/21  
 \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_  
 \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

ALL INFORMATION SUBMITTED IN CONNECTION WITH THIS APPLICATION BECOMES A PERMANENT PART OF THE PUBLIC RECORDS OF THE TOWN OF BAY HARBOR ISLANDS.

|                                                                    |  |
|--------------------------------------------------------------------|--|
| <b>(FOR OFFICE USE ONLY)</b>                                       |  |
| APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO |  |
| DATE APPROVED: ____/____/____                                      |  |
| CODE SECTION: ____                                                 |  |

c:\all\gnl\forms\variance.app

**REQUEST FOR VARIANCE  
CORPORATION AFFIDAVIT**

DATE: 12/20/21

The subject property is legally described as:

|                     |                   |                                        |
|---------------------|-------------------|----------------------------------------|
| LOT: <b>TRACT F</b> | BLOCK: <b>N/A</b> | SUBDIVISION: <b>BAY HARBOR ISLANDS</b> |
| ADDRESS:            |                   | <b>1135 103rd STREET</b>               |
| CORPORATION NAME:   |                   | <b>BH INVESTMENT, LLC</b>              |

I, **VALERIO MORABITO** and N/A, being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; that all answers to the questions in said 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.

We hereby authorize the Town of Bay Harbor Islands to enter the subject property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on the property as required by the Town Council and we take the responsibility of removing this notice after the date of the hearing.

[Signature]  
Signature of President/Vice President

\_\_\_\_\_  
Signature of Secretary/Assistant Secretary

Before me this day personally appeared VALERIO MORABITO known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that V.M. executed this document for the purposes therein expressed.

Before me this day personally appeared \_\_\_\_\_ known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that \_\_\_\_\_ executed this document for the purposes therein expressed.

Sworn to and subscribed to before me this day of NOVEMBER, 2021. 19th

Sworn to and subscribed to before me this day of \_\_\_\_\_, 20\_\_\_\_.

[Signature]  
Notary Public

\_\_\_\_\_  
Notary Public

My commission expires: 8/27/2025 Personally known ☒ Produced I.D. \_\_\_\_\_  
Type/number of I.D. \_\_\_\_\_

My commission expires: \_\_\_\_\_ Personally known \_\_\_\_\_ Produced I.D. \_\_\_\_\_  
Type/number of I.D. \_\_\_\_\_

\_\_\_\_\_  
☒ DID NOT take an oath

\_\_\_\_\_  
DID TAKE an oath, or  
\_\_\_\_\_  
DID NOT take an oath

c:\all\gn\forms\variance.aff



**REQUEST FOR VARIANCE  
OWNER/POWER OF ATTORNEY AFFIDAVIT**

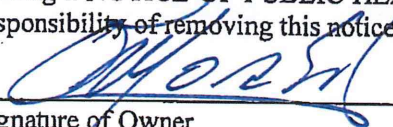
DATE: 12/20/21

The subject property is legally described as:

|                                   |                   |                                        |
|-----------------------------------|-------------------|----------------------------------------|
| LOT: <b>TRACT F</b>               | BLOCK: <b>N/A</b> | SUBDIVISION: <b>BAY HARBOR ISLANDS</b> |
| ADDRESS: <b>1135 103rd STREET</b> |                   |                                        |

I (we), **VALERIO MORABITO, MANAGER OF BH INVESTMENT, LLC** being duly sworn, depose and say that I am (we are) the owner(s) of the described real property and that I am (we are) aware of the nature and effect of the request for variance(s) on the above subject property, which request is hereby made by me (us) OR I am (we are) hereby authorizing **NICHOLAS J. BARSHEL, AKERMAN LLP** to be my (our) legal representative before the Town Council with respect to said request.

I (we) hereby authorize the Town of Bay Harbor Islands to enter the subject property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on the property as required by the Town Council, and do take the responsibility of removing this notice after the date of the hearing.

  
Signature of Owner

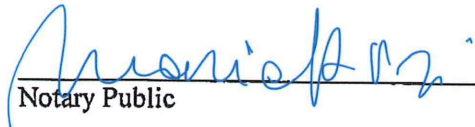
N/A  
Signature of Co-owner

Before me this day personally appeared VALERIO MORABITO  
known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that V.M. executed this document for the purposes therein expressed.

Before me this day personally appeared \_\_\_\_\_  
known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that \_\_\_\_\_ executed this document for the purposes therein expressed.

Sworn to and subscribed to before me this day of NOVEMBER, 2021. 19th

Sworn to and subscribed to before me this day of \_\_\_\_\_, 20\_\_\_\_.

  
Notary Public

\_\_\_\_\_  
Notary Public

My commission expires: 8/27/2025 Personally known X Produced I.D. \_\_\_\_\_  
Type/number of I.D. \_\_\_\_\_

My commission expires: \_\_\_\_\_ Personally known \_\_\_\_\_ Produced I.D. \_\_\_\_\_  
Type/number of I.D. \_\_\_\_\_

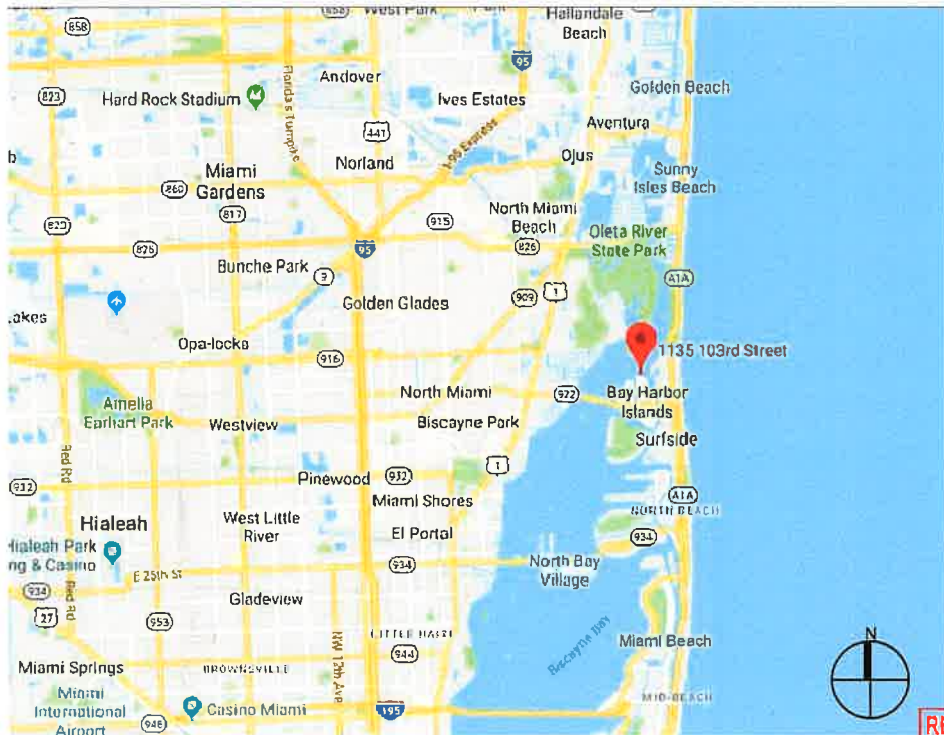
\_\_\_\_ DID TAKE an oath, or  
X DID NOT take an oath

\_\_\_\_ DID TAKE an oath, or  
\_\_\_\_ DID NOT take an oath





## LOCATION MAP AND LEGAL DESCRIPTION



PROJECT SITE LOCATION:  
1135 103 STREET  
Bay Harbor Islands, FL 33154-1297

LATITUDE: 25°89'37.31" N  
LONGITUDE: 80° 13'26.82" W

FOLIO No.: 13-2227-001-6770

LEGAL DESCRIPTION:  
BAY HARBOR ISLAND PB 46-5  
LOT F  
LOT SIZE 52666 SQ FT M/L  
FKA HARBOR CONTINENTAL  
CO OP  
FAU 13 2227 026 0001

RED - NATURAL RESOURCES DIVISION  
PRELIMINARY APPROVAL  
NAME Romina Cores  
DATE 12/10/2021

### GENERAL NOTES:

- ELEVATIONS SHOWN REFER TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929.
- ALL DIMENSIONS ON PLANS ARE SUBJECT TO VERIFICATION IN THE FIELD.
- IT IS THE INTENT OF THESE PLANS TO BE IN ACCORDANCE WITH APPLICABLE CODES AND AUTHORITIES HAVING JURISDICTION. ANY DISCREPANCIES BETWEEN THESE PLANS AND APPLICABLE CODES SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF ENGINEER BEFORE PROCEEDING WITH WORK. CONTRACTOR AND ALL SUBCONTRACTORS ARE RESPONSIBLE FOR ALL LINES, ELEVATIONS, AND MEASUREMENTS IN CONNECTION WITH THEIR WORK.
- IT IS THE INTENT OF THESE PLANS AND THE RESPONSIBILITY OF THE CONTRACTOR TO COMPLY WITH LOCAL, STATE, AND FEDERAL ENVIRONMENTAL PERMITS ISSUED FOR THIS PROJECT. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO FAMILIARIZE AND GOVERN HIMSELF BY ALL PROVISIONS OF THESE PERMITS.
- APPLICABLE BUILDING CODE: FLORIDA BUILDING CODE, 2020 EDITION (AND CURRENT ADDENDUMS).
- APPROVED CONTRACTOR TO DETERMINE THE SUITABILITY OF EXISTING STRUCTURES AND VERIFY ALL DIMENSIONS. THE APPROVED CONTRACTOR IS RESPONSIBLE FOR ALL METHODS, MEANS, SEQUENCES AND PROCEDURES OF WORK.
- DO NOT SCALE DRAWINGS FOR DIMENSIONS.
- CONTRACTOR TO VERIFY LOCATION OF EXISTING UTILITIES PRIOR TO COMMENCING WORK.
- CONTRACTOR TO PROPERLY FENCE AND SECURE AREA WITH BARRICADES.
- ANY DEVIATION AND/OR SUBSTITUTION FROM THE INFORMATION PROVIDED HEREIN SHALL BE SUBMITTED TO THE ENGINEER FOR APPROVAL PRIOR TO COMMENCEMENT OF WORK.
- ALL NEW MATERIALS AND/OR PATCHWORK SHALL BE PROVIDED TO MATCH EXISTING MATERIALS AND/OR ADJOINING WORK WHERE PRACTICAL EXCEPT AS SPECIFICALLY NOTED HEREIN.
- LICENSED CONTRACTOR SHALL USE ALL POSSIBLE CARE TO PROTECT ALL EXISTING MATERIALS, SURFACES, AND FURNISHINGS FROM DAMAGE DURING ALL PHASES OF CONSTRUCTION.
- THE LICENSED CONTRACTOR TO INSTALL AND REMOVE ALL SHORING AND BRACING AS REQUIRED FOR THE PROPER EXECUTION OF THE WORK.
- ALL NEW WORK AND/OR MATERIALS SHALL CONFORM TO ALL REQUIREMENTS OF EACH ADMINISTRATIVE BODY HAVING JURISDICTION IN EACH PERTAINING CIRCUMSTANCE.
- THE CONTRACTOR WILL EMPLOY AND MAINTAIN ADEQUATE SEDIMENT AND EROSION CONTROL MEASURES TO PROTECT BISCAYNE BAY FROM SEDIMENT AND CONSTRUCTION DEBRIS.

DOCK: LL 80 PSF

### BOLTS

- ALL BOLTS SHALL BE 316 STAINLESS STEEL, UNLESS OTHERWISE NOTED.

### DESIGN CRITERIA

STRUCTURAL DESIGN IS IN ACCORDANCE WITH THE FOLLOWING CODES AND SPECIFICATIONS:

- FLORIDA BUILDING CODE (FBC), 2020 EDITION.
- ACI 318-19, BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.
- ASCE 7-16, MINIMUM DESIGN LOADS FOR BUILDINGS AND OTHER STRUCTURES.
- NDS NATIONAL DESIGN SPECIFICATION FOR WOOD CONSTRUCTION, 2018 EDITION.
- EM 1110-2-1100 (PART VI) COASTAL ENGINEERING MANUAL, 2011 EDITION.

IN THE EVEN OF CONFLICT BETWEEN PERTINENT CODES AND REGULATIONS AND THE REQUIREMENTS OF THE REFERENCED STANDARDS OF THESE SPECIFICATIONS, THE PROVISIONS OF THE MORE STRINGENT SHALL GOVERN.

### CONCRETE

1186243. CONCRETE SHALL CONFORM TO ACI 318 (LATEST ED.) AND SHALL BE REGULAR WEIGHT, SULFATE RESISTANT, WITH A DESIGN STRENGTH OF 5,000 PSI AT 28 DAYS W/ A MAX WATER-CEMENTIOUS MATERIALS RATIO, BY WEIGHT, NORMAL WEIGHT AGGREGATE CONCRETE OF 0.40.
1186244. OWNER SHALL EMPLOY AND PAY FOR TESTING SERVICES FROM AN INDEPENDENT TESTING LABORATORY FOR CONCRETE SAMPLING AND TESTING IN ACCORDANCE W/ ASTM.
1186245. LICENSED CONTRACTOR IS RESPONSIBLE FOR THE ADEQUACY OF FORMS AND SHORING AND FOR SAFE PRACTICE IN THEIR USE AND REMOVAL.
1186246. CONCRETE COVER SHALL BE 3" UNLESS OTHERWISE NOTED ON APPROVED DRAWINGS.
1186247. REINFORCING STEEL SHALL BE IN CONFORMANCE WITH THE LATEST VERSION OF ASTM A615 GRADE 60 SPECIFICATIONS. ALL REINFORCEMENT SHALL BE PLACED IN ACCORDANCE W/ ACI 315 AND ACI MANUAL OF STANDARD PRACTICE.
1186248. SPLICES IN REINFORCING BARS SHALL NOT BE LESS THAN 48 BAR DIAMETERS AND REINFORCING SHALL BE CONTINUOUS AROUND ALL CORNERS AND CHANGES IN DIRECTION. CONTINUITY SHALL BE PROVIDED AT CORNERS OR CHANGES IN DIRECTION BY BENDING THE LONGITUDINAL STEEL AROUND THE CORNER 48 BAR DIAMETERS.

### WOOD

- PRIMARY WOOD FRAMING MEMBERS SHALL BE NUMBER 1 PRESSURE TREATED MARINE GRADE SOUTHERN PINE, OR BETTER.
- ALL DIMENSIONS ON PLANS ARE SUBJECT TO VERIFICATION IN THE FIELD.
- 3 PIECE FASCIA TO BE ADDED TO OUTSIDE EDGE FOR ENTIRE DOCK.

### PILE DRIVING NOTES

- PILE DRIVING OPERATIONS SHALL BE OBSERVED BY A SPECIAL INSPECTOR, INCLUDING TEST PILES SUFFICIENT TO DETERMINE THE APPROXIMATE LENGTH REQUIRED TO MEET DESIGN CAPACITY.
- PILES SHALL BE DRIVEN USING AN APPROVED CUSHION BLOCK CONSISTING OF MATERIAL SO ARRANGED SO AS TO PROVIDE THE TRANSMISSION OF THE HAMMER ENERGY.
- PILES SHALL BE DRIVEN TO REQUIRED MINIMUM 15 TON. BEARING CAPACITY FOR WOOD PILES, AND 25 TON. FOR CONCRETE PILES.
- PILES SHALL BE DRIVEN WITH A DROP HAMMER OR GRAVITY HAMMER PROVIDED THE HAMMER SHALL WEIGH NO LESS THAN 3,000 POUNDS, AND THE FALL OF THE HAMMER SHALL NOT EXCEED 6 FT.
- PILES SHALL BE DRIVEN WITH A VARIATION OF NOT MORE THAN  $\frac{1}{4}$ " PER FOOT FROM THE VERTICAL, OR FROM THE BATTER LINE INDICATED, WITH A MAX VARIATION OF THE HEAD OF THE PILE FROM THE POSITION SHOWN ON THE PLANS OF NOT MORE THAN 3".
- WHERE PILING MUST PENETRATE STRATA OFFERING HIGH RESISTANCE TO DRIVING, THE STRUCTURAL ENGINEER OF RECORD OR SPECIAL INSPECTOR MAY REQUIRE THAT PILES BE SET IN PRE-DRILLED OR PUNCHED HOLES. THE PILES SHALL REACH THEIR FINAL PENETRATION BY DRIVING.

### SCOPE OF WORK

INSTALLATION OF 2283.55 SF OF WOOD DOCK (INCLUDING MARGINAL, ACCESS PIER & FINGER PIERS) SUPPORTED BY 12"x12" P.S CONCRETE PILES AND 12" DIA WOOD PILES WITH CLEATS AND ALUMINUM LADDER.  
INSTALLATION OF (21) 12" DIA WOOD MOORING PILES



## 1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

CLIENT:

**BH INVESTMENT, LLC**  
c/o **MR. VALERIO MORABITO**  
1691 Michigan Ave  
Suite 440  
Miami Beach, FL 33139

ENVIRONMENTAL CONSULTANT:

**OCEAN  
CONSULTING, LLC**

340 Minorca Avenue, Suite 7  
Coral Gables, Florida 33134  
Tel: (305) 921-9344  
Fax: (305) 677-3254

CONTRACTOR:

PROJECT ENGINEER:

**DYNAMIC ENGINEERING  
SOLUTIONS, INC.**

351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060

Office - 954-545-1740

Fax - 954-545-1721

SEAL / SIGNATURE / DATE

John H  
Omslaer

Digitally signed by John H  
Omslaer  
DN: c=US, st=Florida,  
o=Pompano Beach, ou=Dynamic  
Engineering Solutions Inc,  
cn=John H Omslaer,  
email=edss\_incbellsouth.net  
Date: 2021.12.08 16:23:46 -05'00'

This document has been electronically signed and sealed  
by John H. Omslaer, P.E. on using a SHA-1  
authentication code. Printed copies are not considered  
signed and sealed and the SHA-1 authentication code  
must be verified on any electronic copies per rule  
62-30.060, F.A.C

John Omslaer  
PE 52733, CA 26829

## PERMIT DRAWINGS

| Issue # | Issue Date       |
|---------|------------------|
| ①       | December 8, 2021 |

PROJECT: 16-5865

## PROJECT LOCATION & NOTES

SCALE : AS SHOWN  
SHEET NO.

S-1

**1135 103rd STREET  
DOCKING FACILITY  
PROJECT**

Bay Harbor Islands, Florida

CLIENT:

**BH INVESTMENT, LLC**  
c/o **MR. VALERIO MORABITO**  
1691 Michigan Ave  
Suite 440  
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ENVIRONMENTAL CONSULTANT:

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PROJECT ENGINEER:

**DYNAMIC ENGINEERING  
SOLUTIONS, INC.**  
351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060

Office - 954-545-1740  
Fax - 954-545-1721

SEAL / SIGNATURE / DATE

**John H  
Omslaer**

Digitally signed by John H  
Omslaer  
DN: cn=US, st=Florida,  
o=Pompano Beach, o=Dynamic  
Engineering Solutions Inc,  
c=John H Omslaer,  
email=des\_inc@bellsouth.net  
Date: 2021.12.08 16:24:24 -0500

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John Omslaer  
PE 52733, CA 26829

**PERMIT DRAWINGS**

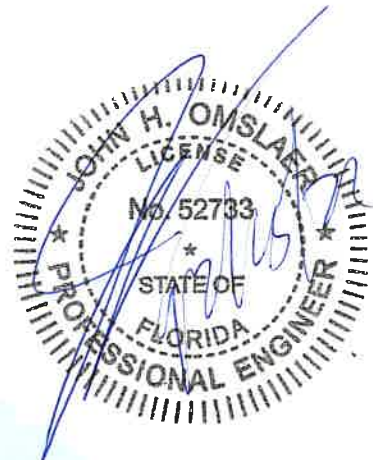
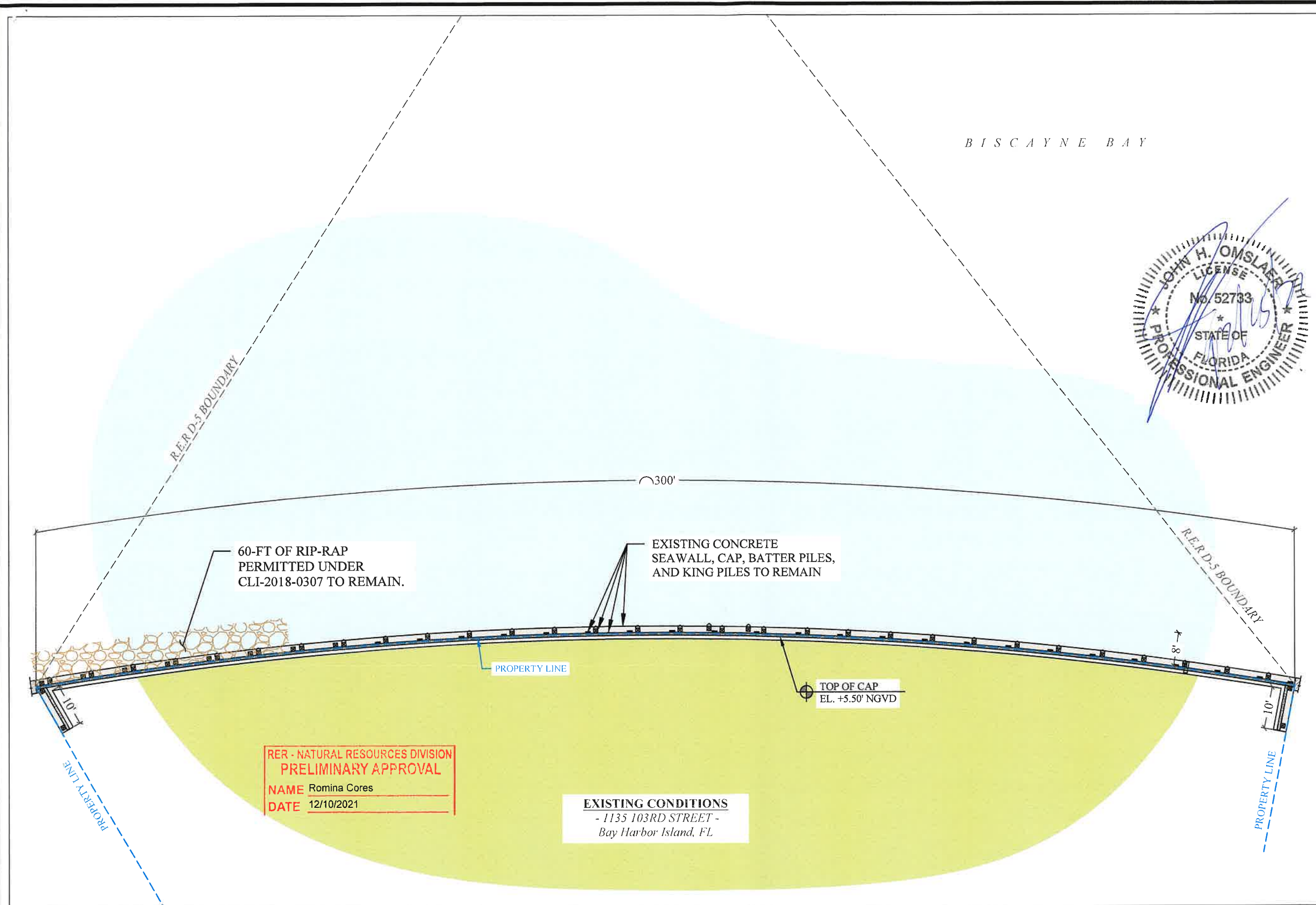
| Issue # | Issue Date       |
|---------|------------------|
| ①       | December 8, 2021 |

PROJECT: 16-5865

**EXISTING CONDITIONS**

SCALE : AS SHOWN  
SHEET NO.

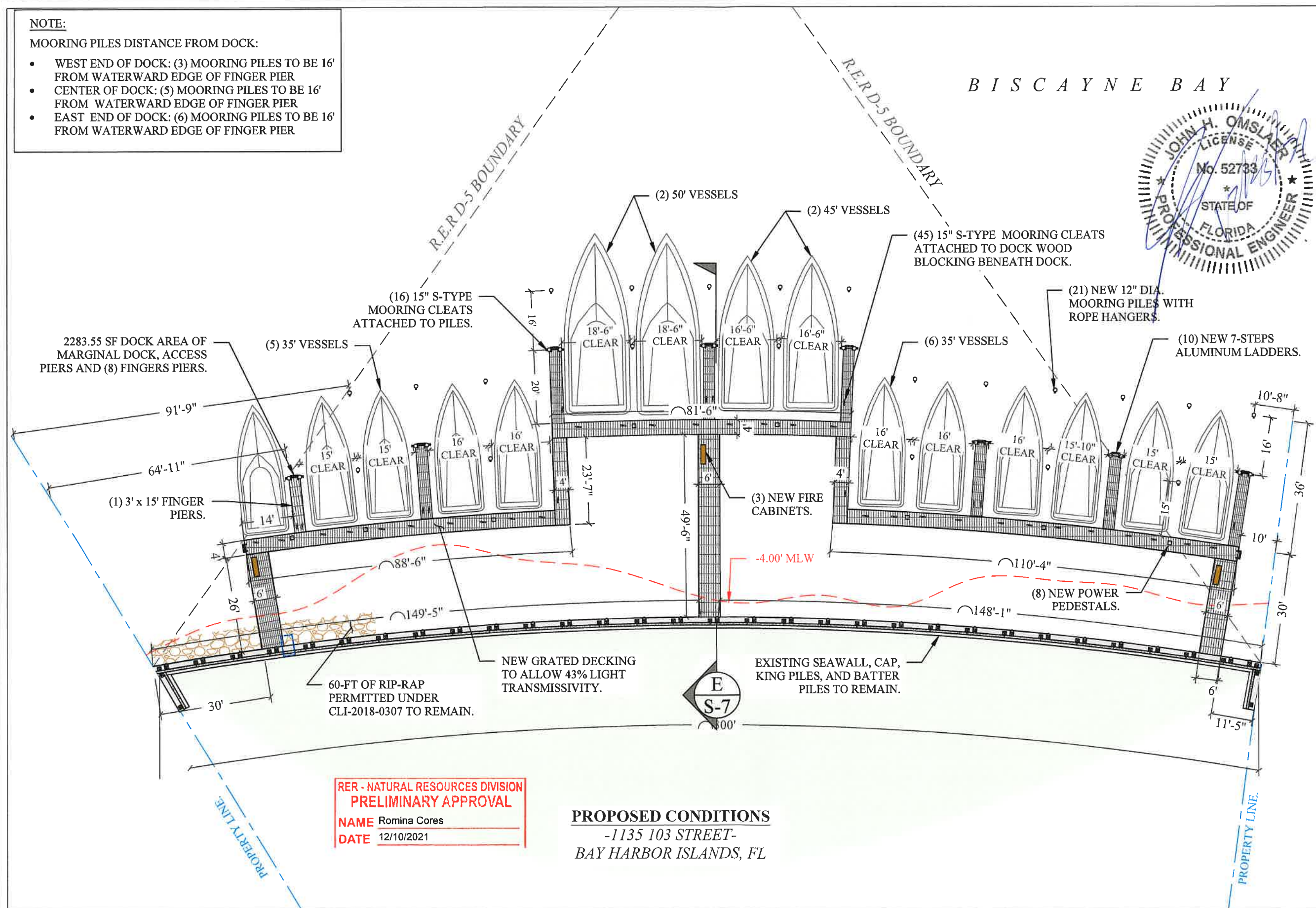
**S-2**



**NOTE:**

**MOORING PILES DISTANCE FROM DOCK:**

- WEST END OF DOCK: (3) MOORING PILES TO BE 16' FROM WATERWARD EDGE OF FINGER PIER
- CENTER OF DOCK: (5) MOORING PILES TO BE 16' FROM WATERWARD EDGE OF FINGER PIER
- EAST END OF DOCK: (6) MOORING PILES TO BE 16' FROM WATERWARD EDGE OF FINGER PIER



**1135 103rd STREET  
DOCKING FACILITY  
PROJECT**

Bay Harbor Islands, Florida

**CLIENT:**

**BH INVESTMENT, LLC**  
c/o **MR. VALERIO MORABITO**  
1691 Michigan Ave  
Suite 440  
Miami Beach, FL 33139

**ENVIRONMENTAL CONSULTANT:**

**OCEAN  
CONSULTING, LLC**

340 Minorca Avenue, Suite 7  
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**CONTRACTOR:**

**PROJECT ENGINEER:**

**DYNAMIC ENGINEERING  
SOLUTIONS, INC.**

351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060

Office - 954-545-1740

Fax - 954-545-1721

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**John H  
Omslaer**

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l=Pompano Beach, o=Dynamic  
Engineering Solutions Inc,  
email=des\_jinc@bellsouth.net  
Date: 2021.12.08 16:24:50  
+05'00'

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must be verified on any electronic copies per rule  
62-30.060, F.A.C.

John Omslaer  
PE 52733, CA 26829

**PERMIT DRAWINGS**

**Issue # Issue Date**

① December 8, 2021

PROJECT: 16-5865

**PROPOSED CONDITIONS**

SCALE : AS SHOWN  
SHEET NO.

**S-3**

# 1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

CLIENT:

**BH INVESTMENT, LLC**  
c/o **MR. VALERIO MORABITO**  
1691 Michigan Ave  
Suite 440  
Miami Beach, FL 33139

ENVIRONMENTAL CONSULTANT:

**OCEAN  
CONSULTING, LLC**

340 Minorca Avenue, Suite 7  
Coral Gables, Florida 33134  
Tel: (305) 921-9344  
Fax: (305) 677-3254

CONTRACTOR:

PROJECT ENGINEER:

**DYNAMIC ENGINEERING  
SOLUTIONS, INC.**

351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060

Office - 954-545-1740  
Fax - 954-545-1721

SEAL / SIGNATURE / DATE

**John H  
Omslaer**  
Digitally signed by John H  
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DN: c=US, st=Florida, l=Pompano  
Beach, o=Dynamic Engineering  
Solutions Inc, cn=John H  
Omslaer,  
email=des\_inc@bellsouth.net  
Date: 2021.12.08 16:25:22 -0500

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John Omslaer  
PE 52733, CA 26829

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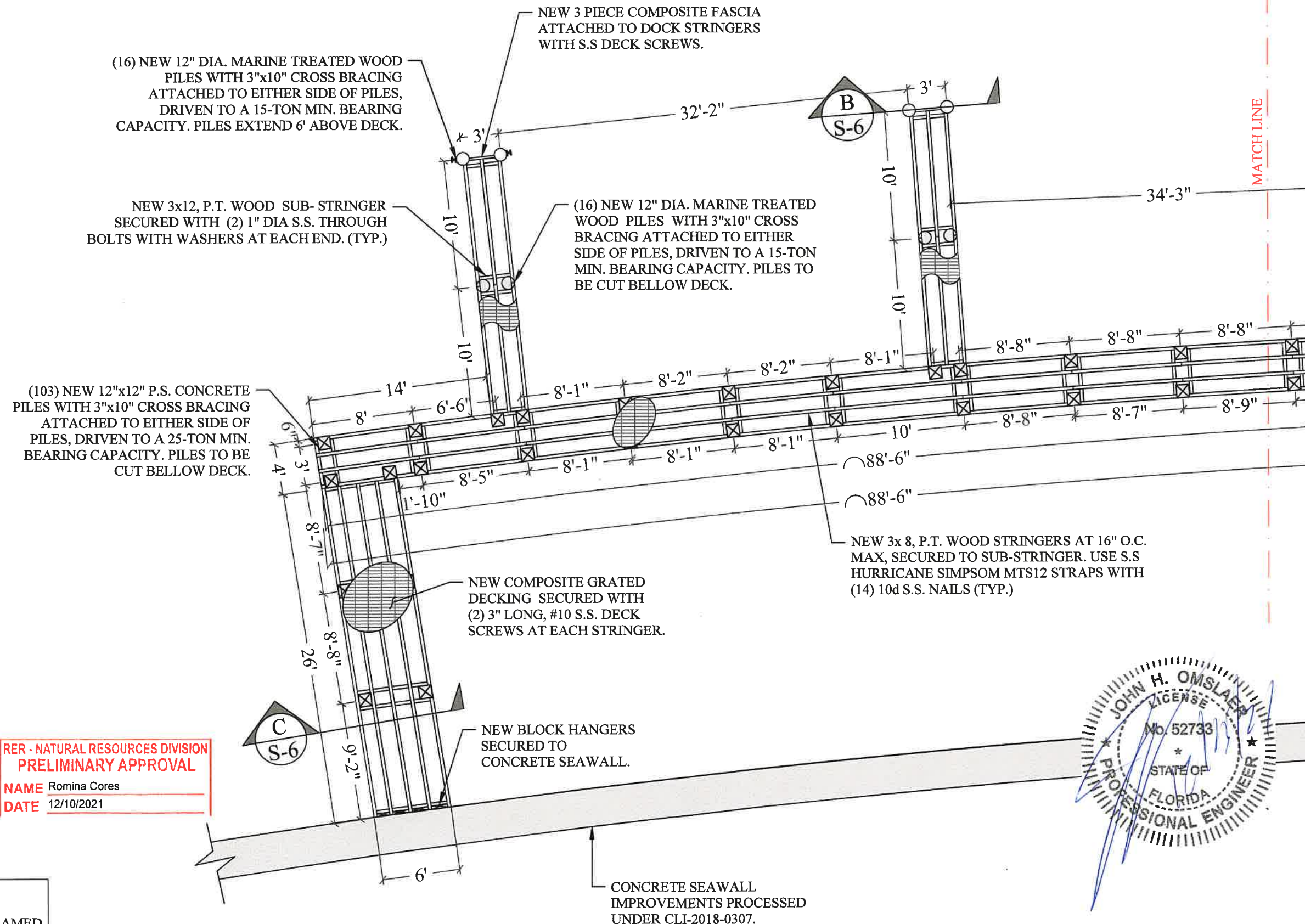
| Issue # | Issue Date       |
|---------|------------------|
| ①       | December 8, 2021 |

PROJECT: 16-5865

## DOCK FRAMING PLAN

SCALE : AS SHOWN  
SHEET NO.

**S-4**



**RER - NATURAL RESOURCES DIVISION  
PRELIMINARY APPROVAL**  
**NAME** Romina Cores  
**DATE** 12/10/2021

**NOTE:**  
ENTIRE DOCK  
STRUCTURE FRAMED  
IN (3) PIECE FASCIA.

## DOCK FRAMING PLAN

0 8' 16'  
SCALE: 1/8" = 1"

## Bay Harbor Islands, Florida

**PROJECT ENGINEER:**  
**DYNAMIC ENGINEERING**  
**SOLUTIONS, INC.**  
351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060

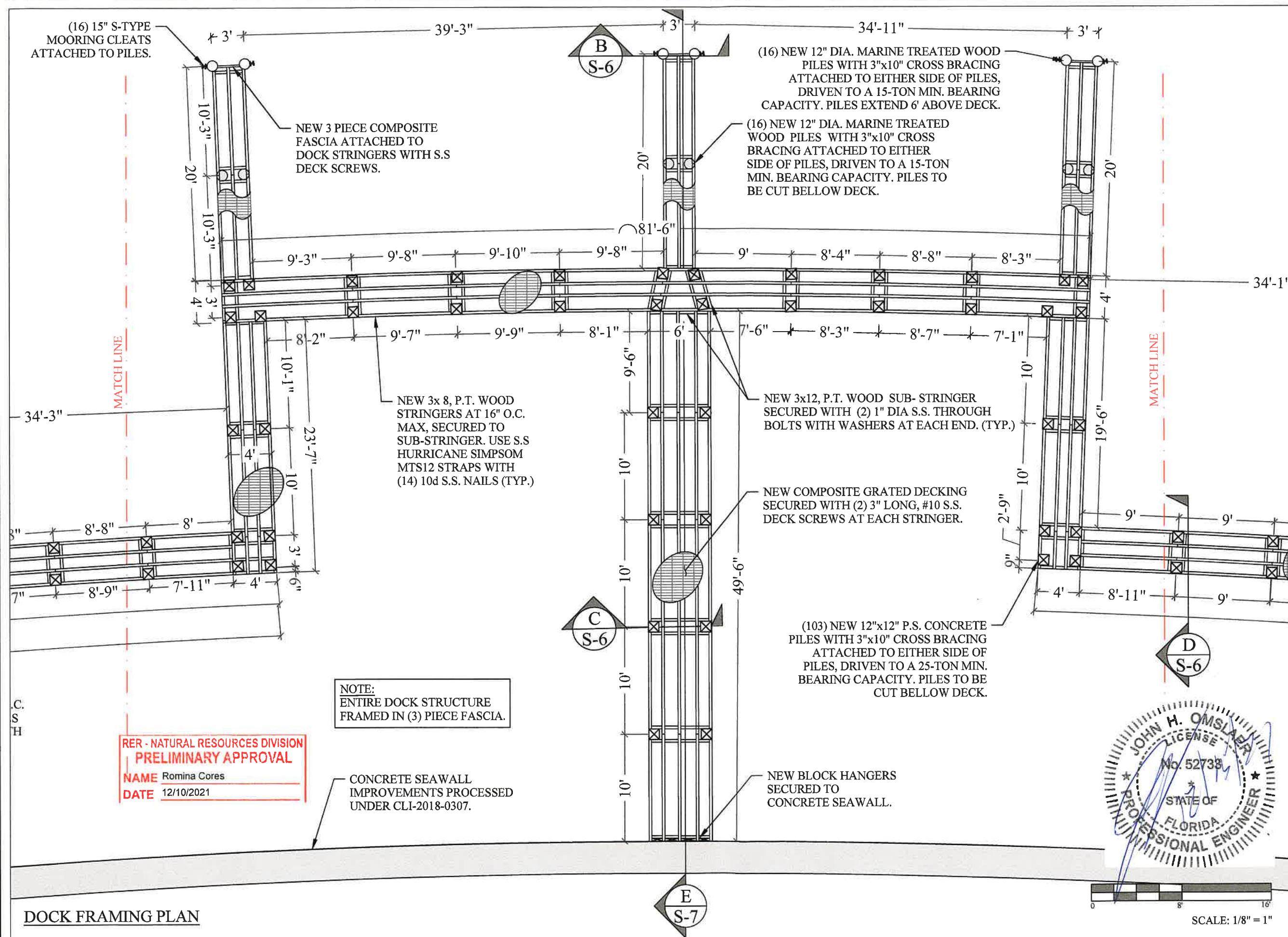
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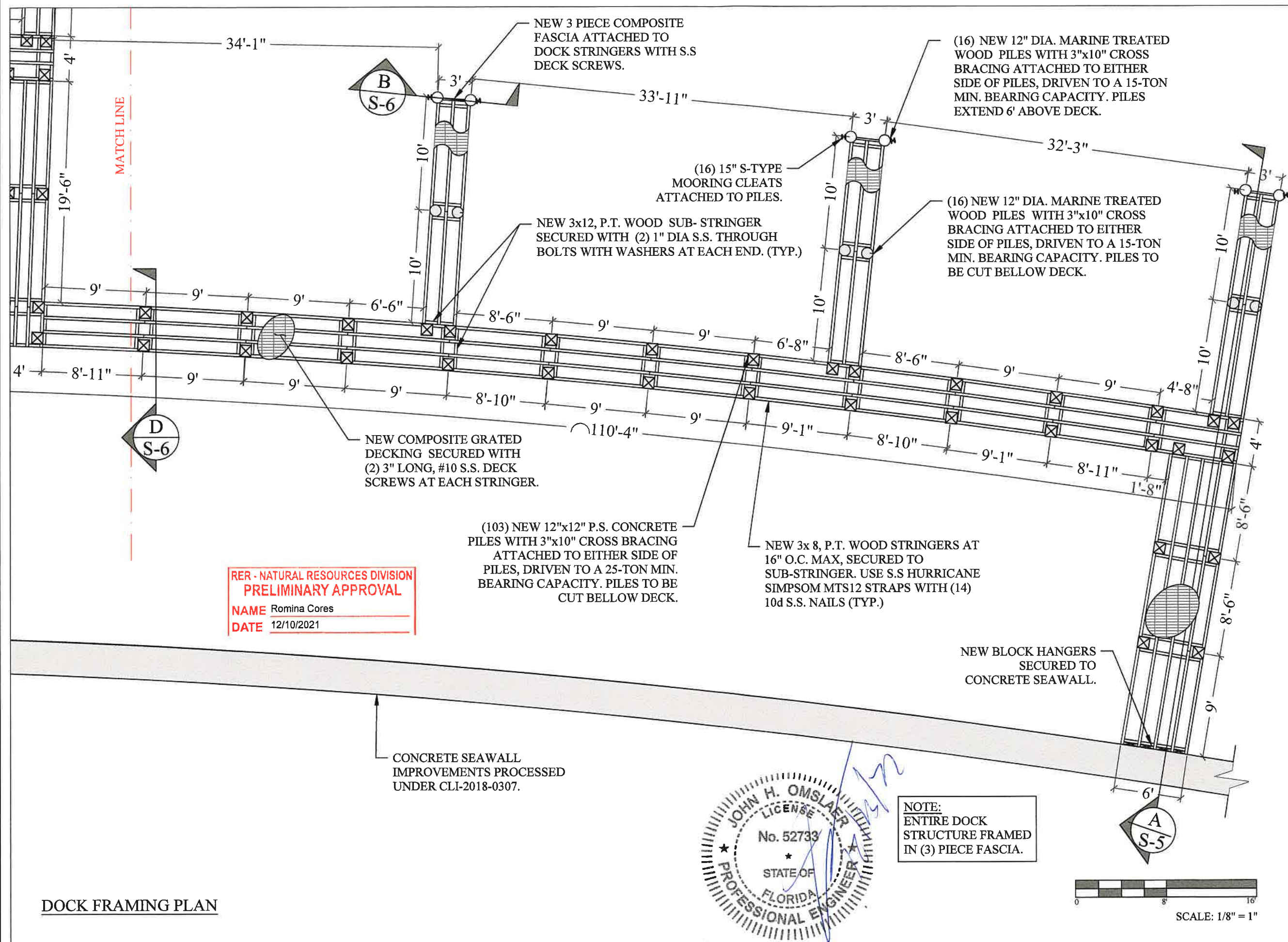
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## PERMIT DRAWINGS

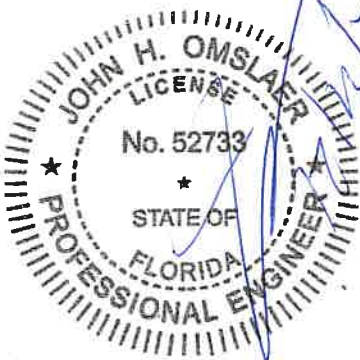
PROJECT: 16-5865

# S-4.1

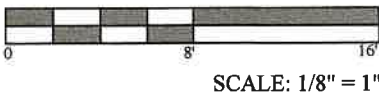




RER - NATURAL RESOURCES DIVISION  
PRELIMINARY APPROVAL  
NAME Romina Cores  
DATE 12/10/2021



NOTE:  
ENTIRE DOCK  
STRUCTURE FRAMED  
IN (3) PIECE FASCIA.



# 1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida  
CLIENT:  
**BH INVESTMENT, LLC**  
c/o MR. VALERIO MORABITO  
1691 Michigan Ave  
Suite 440  
Miami Beach, FL 33139  
ENVIRONMENTAL CONSULTANT:  
**OCEAN CONSULTING, LLC**  
340 Minorca Avenue, Suite 7  
Coral Gables, Florida 33134  
Tel: (305) 921-9344  
Fax: (305) 677-3254  
CONTRACTOR:

PROJECT ENGINEER:  
**DYNAMIC ENGINEERING SOLUTIONS, INC.**  
351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060  
Office - 954-545-1740  
Fax - 954-545-1721

SEAL / SIGNATURE / DATE  
  
Digitally signed by John H Omslaer  
DN: cn=US, st=Florida, o=Pompano Beach, ou=Dynamic Engineering Solutions Inc, cn=John H Omslaer, email=des\_inc@bellsouth.net  
Date: 2021.12.08 16:26:25 -05'00'  
  
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John Omslaer  
PE 52733, CA 26829

## PERMIT DRAWINGS

| Issue # | Issue Date       |
|---------|------------------|
| ①       | December 8, 2021 |

PROJECT: 16-5865

## DOCK FRAMING PLAN

SCALE : AS SHOWN  
SHEET NO.

# S-4.2

# 1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

CLIENT:  
**BH INVESTMENT, LLC**  
c/o **MR. VALERIO MORABITO**  
1691 Michigan Ave  
Suite 440  
Miami Beach, FL 33139  
ENVIRONMENTAL CONSULTANT:  
**OCEAN  
CONSULTING, LLC**



PROJECT ENGINEER:  
**DYNAMIC ENGINEERING  
SOLUTIONS, INC.**  
351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060

Office - 954-545-1740  
Fax - 954-545-1721

SEAL / SIGNATURE / DATE

**John H  
Omslaer**  
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DN: cn=US, st=Florida,  
l=Pompano Beach, o=Dynamic  
Engineering Solutions Inc,  
c=John H Omslaer,  
email=der\_inco@bellsouth.net  
Date: 2021.12.08 16:27:08 -05'00'

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John Omslaer  
PE 52733, CA 26829

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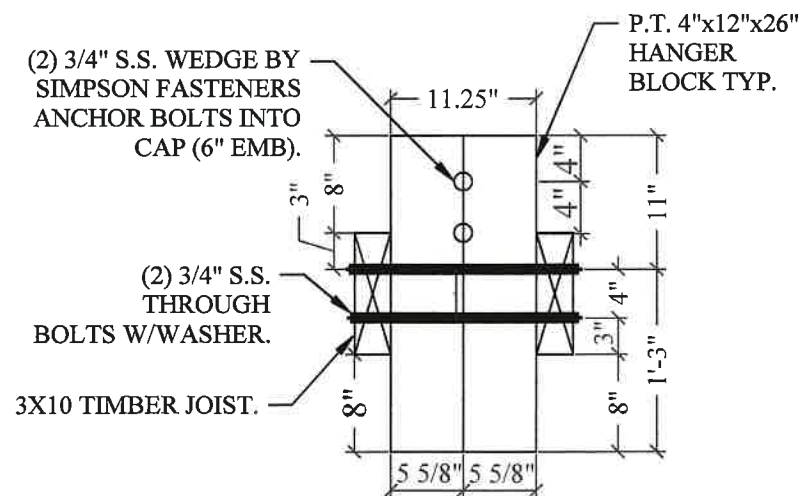
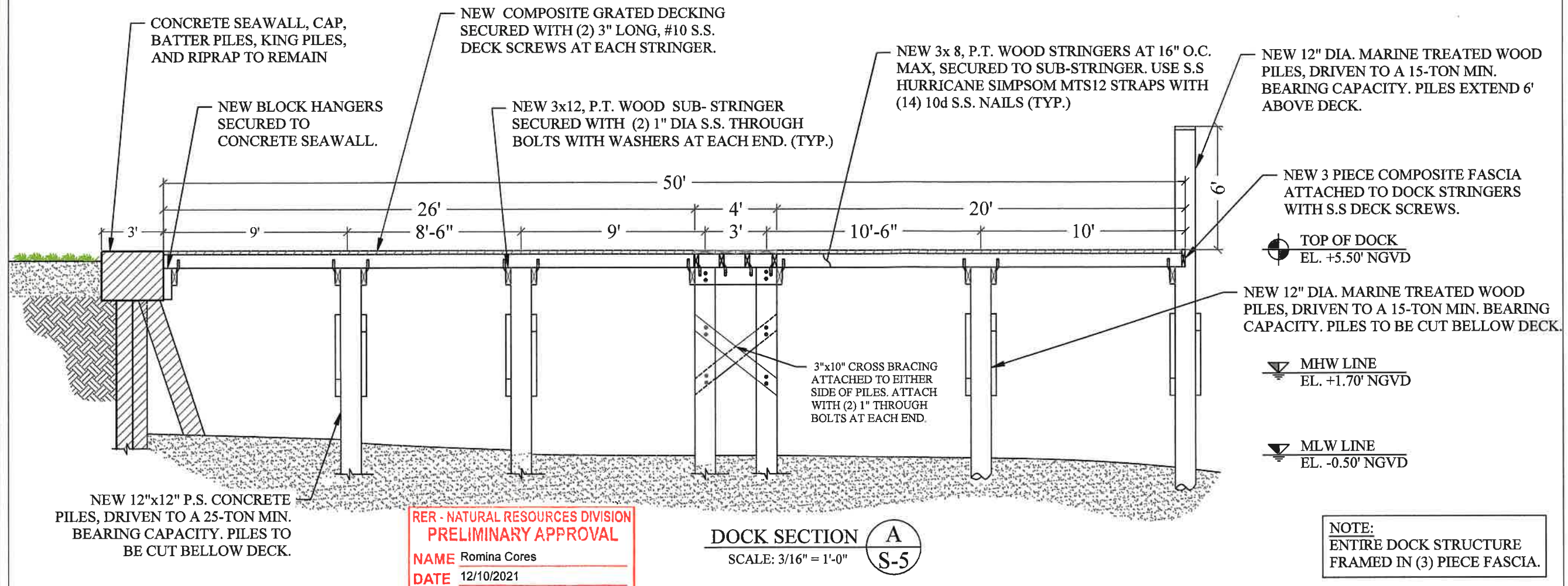
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|---------|------------------|
| ①       | December 8, 2021 |

PROJECT: 16-5865

## TYPICAL DOCK SECTION AND DETAILS

SCALE: AS SHOWN  
SHEET NO.

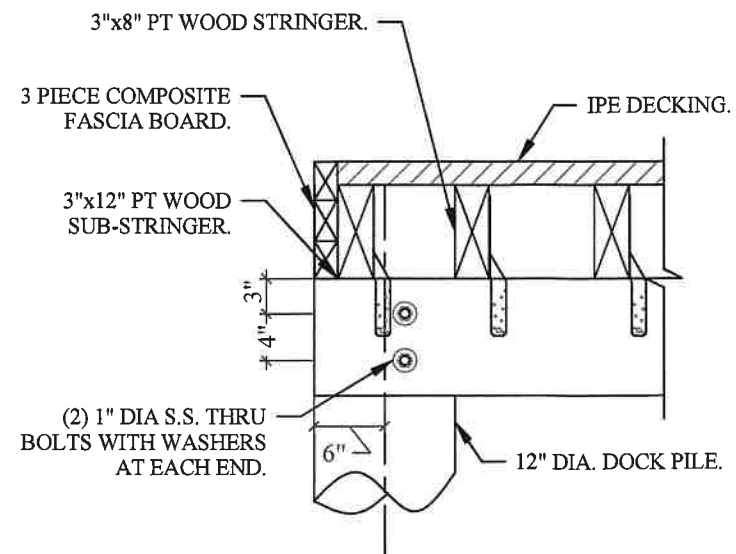
**S-5**



MARGINAL DOCK HANGER BLOCK DETAIL

SCALE: 3/4" = 1'-0"

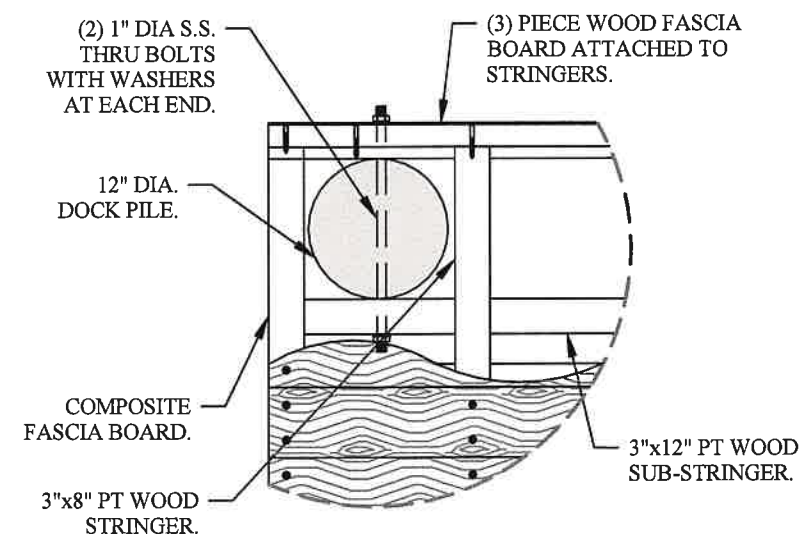
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S-5**



DECK EDGE SECTION DETAIL

SCALE: 3/4" = 1'-0"

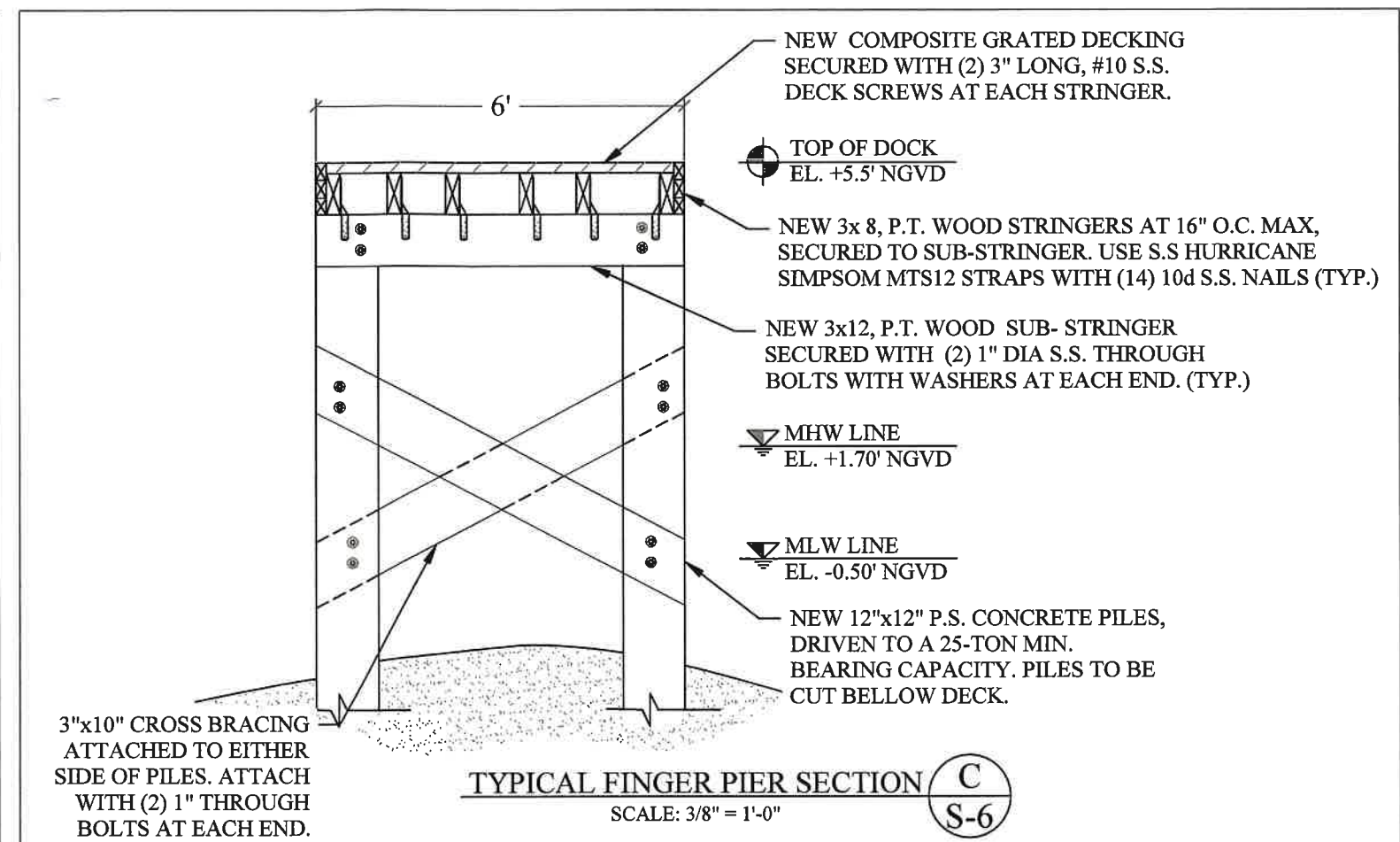
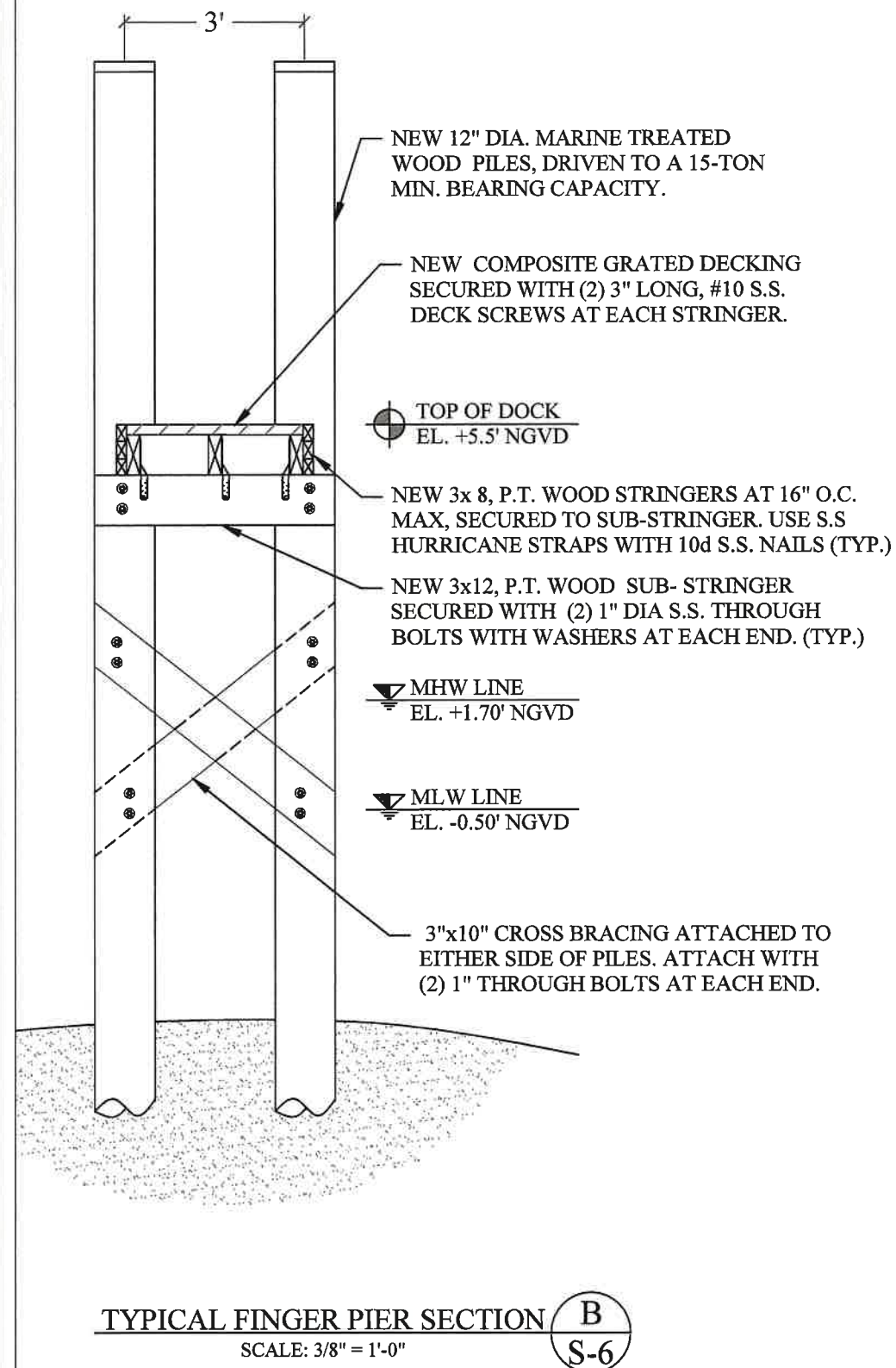
**2  
S-5**



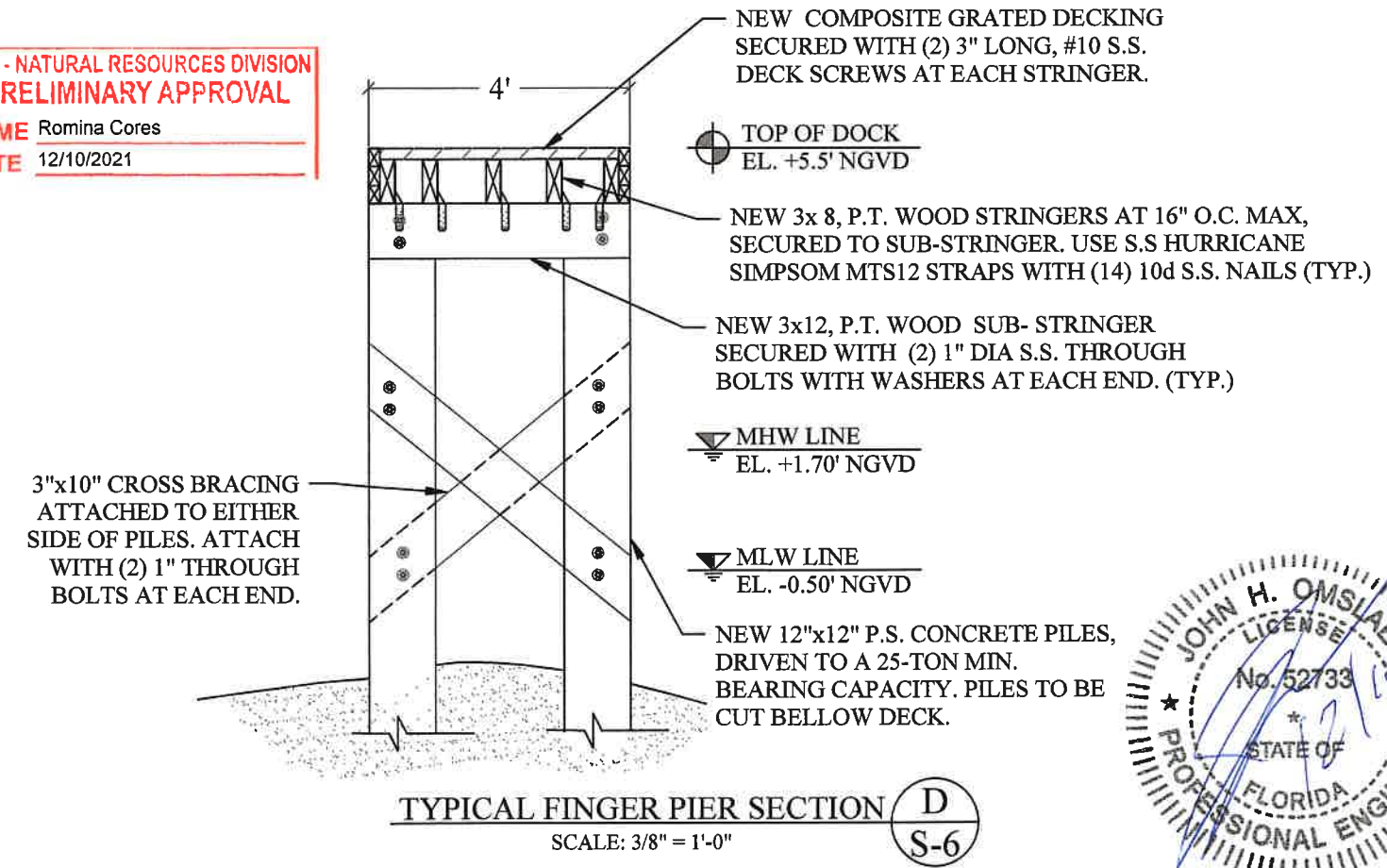
DECK EDGE PLAN DETAIL

SCALE: 3/4" = 1'-0"

**3  
S-5**



**RER - NATURAL RESOURCES DIVISION**  
**PRELIMINARY APPROVAL**  
NAME Romina Cores  
DATE 12/10/2021



# 1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

CLIENT:  
**BH INVESTMENT, LLC**  
c/o MR. VALERIO MORABITO  
1691 Michigan Ave  
Suite 440  
Miami Beach, FL 33139

ENVIRONMENTAL CONSULTANT:  
**OCEAN CONSULTING, LLC**  
340 Minorca Avenue, Suite 7  
Coral Gables, Florida 33134  
Tel: (305) 921-9344  
Fax: (305) 677-3254

CONTRACTOR:

PROJECT ENGINEER:  
**DYNAMIC ENGINEERING SOLUTIONS, INC.**  
351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060

Office - 954-545-1740  
Fax - 954-545-1721

SEAL / SIGNATURE / DATE

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John Omslaer  
PE 52733, CA 26829

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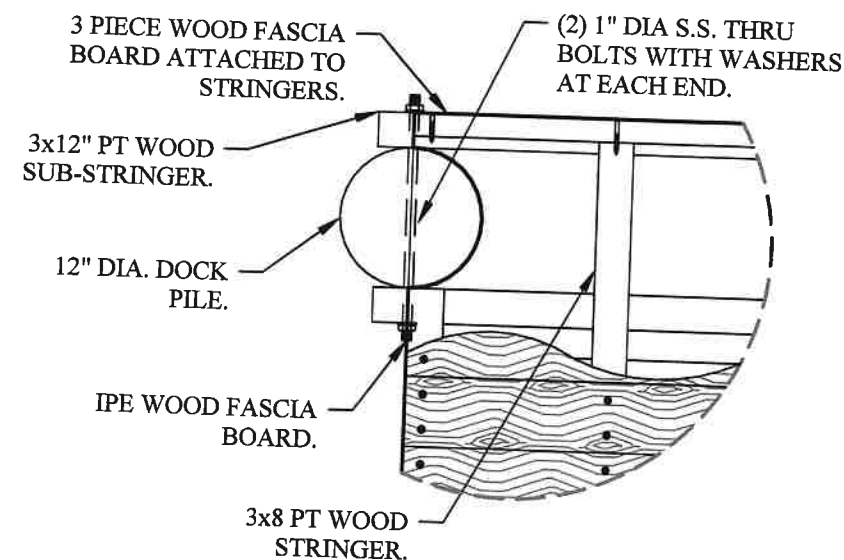
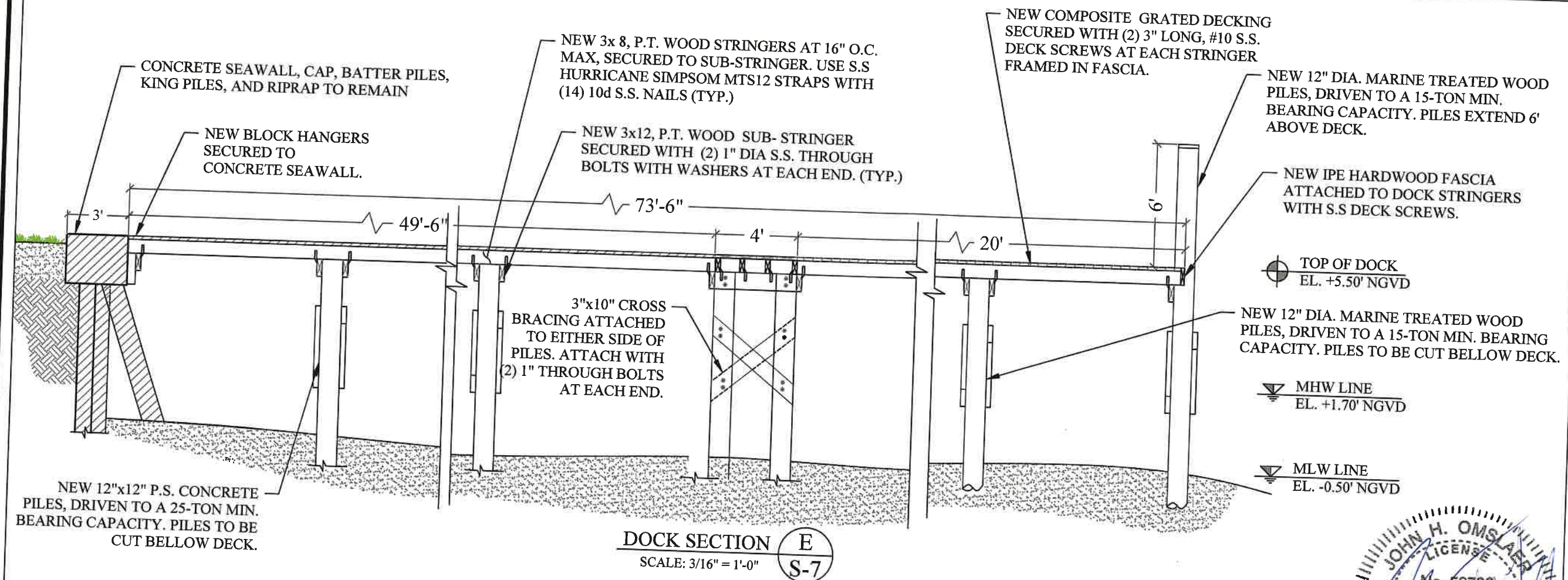
| Issue # | Issue Date       |
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| ①       | December 8, 2021 |

PROJECT: 16-5865

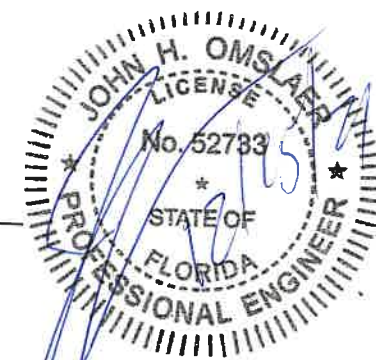
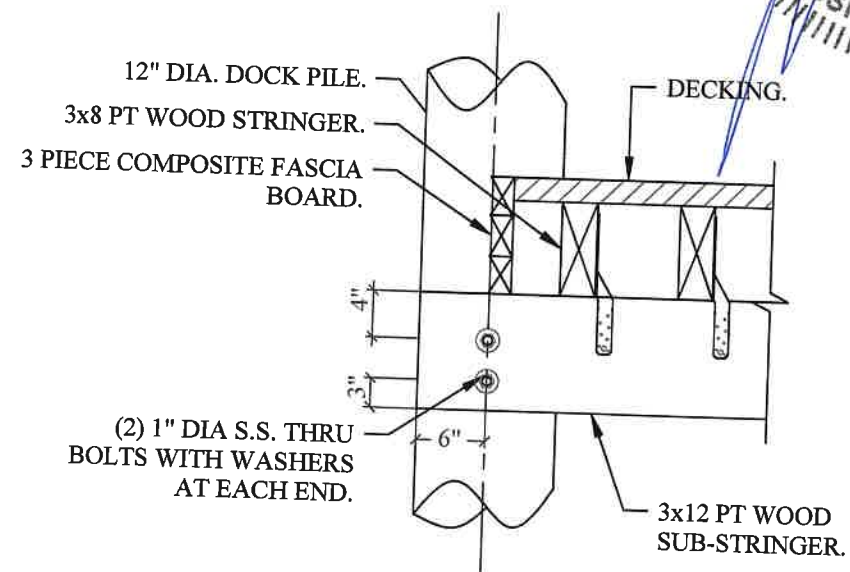
FINGER PIER SECTION

SCALE: AS SHOWN  
SHEET NO.

**S-6**



RER - NATURAL RESOURCES DIVISION  
PRELIMINARY APPROVAL  
NAME Romina Cores  
DATE 12/10/2021



**1135 103rd STREET DOCKING FACILITY PROJECT**  
Bay Harbor Islands, Florida

CLIENT:  
**BH INVESTMENT, LLC**  
c/o MR. VALERIO MORABITO  
1691 Michigan Ave  
Suite 440  
Miami Beach, FL 33139  
ENVIRONMENTAL CONSULTANT:  
**OCEAN CONSULTING, LLC**  
340 Minorca Avenue, Suite 7  
Coral Gables, Florida 33134  
Tel: (305) 921-9344  
Fax: (305) 677-3254  
CONTRACTOR:

PROJECT ENGINEER:  
**DYNAMIC ENGINEERING SOLUTIONS, INC.**  
351 S. Cypress Road, Suite 303  
Pompano Beach, FL 33060  
Office - 954-545-1740  
Fax - 954-545-1721

SEAL / SIGNATURE / DATE

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Digitally signed by John H Omslaer  
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John Omslaer  
PE 52733, CA 26829

**PERMIT DRAWINGS**  
Issue # Issue Date  
① December 8, 2021

PROJECT: 16-5865

TYPICAL DOCK SECTION AND DETAILS

SCALE: AS SHOWN  
SHEET NO.

**S-7**



**TOWN OF BAY HARBOR ISLANDS  
COMMUNITY DEVELOPMENT  
MEMORANDUM**

---

**To:** Mayor and Town Councilmembers  
Town of Bay Harbor Islands

**CC:** Maria Lasday - Town Manager  
Alba Chang, CMC - Town Clerk  
Joseph S. Geller, Esq. - Town Attorney

**From:** Michael J. Miller, AICP   
Consultant Town Planner

**Date:** January 28<sup>th</sup>, 2022

**Subject:** Zoning Variance Application  
BH Investment, LLC / ONDA Multifamily Residential Development (41 DU)  
1135 103<sup>rd</sup> Street / Tract F (PB 46 / PG 5 / MDCR)  
Boat Dock & Mooring Piles Projections into Biscayne Bay  
Application Review Comments  
MMPA Project No.: 01-0702-0501- 1124

---

**ISSUE**

On May 7<sup>th</sup>, 2019 the Town's Planning & Zoning Board (now Design Review Board) approved a Site Development Plan for a 41 Dwelling Unit (DU) multifamily residential development referred to as the "ONDA" located at the northeastern tip of the Eastern Island on Tract "F" via Resolution No. 2174. The ONDA project has been issued building permits and is now under construction. The redevelopment plans depicted conceptual new boat dock facilities within the adjoining Biscayne Bay waterway north of the site. Over time some of the waterways surrounding the Town's islands have silted-in near the seawalls, including adjacent to this site. The Town owns all of the waterways surrounding the community via the Town's Charter issued in 1953 (SB 865). However, Sec 253.141 of the Florida Statutes grants certain riparian rights to landowners bordering upon navigable waters of the State. For many years, the Town has had a series of regulations governing seawalls, boat docks, boat lifts, pilings, and boat size limitations in its Zoning and Planning Code. The ONDA owner / applicant is now seeking to construct boat docking facilities for the project. In July 2021 a building permit application was made to the Town for the docking facilities, but denied for Code noncompliance, as some features of the docking facilities failed to meet some minimum Town Code requirements. Conversations have occurred between the applicant's representatives (attorney / marine contractor) about the dock design, Town Code requirements, and Miami-Dade / other regulatory agency environmental issues. Based on those initial conversations dock design revisions were made, which have been preliminarily reviewed / approved by M-D DERM / others.

---

**Town of Bay Harbor Islands  
Zoning Variance Request - Docks  
ONDA Multifamily Residential Development (41 DU)  
1135 103<sup>rd</sup> Street  
January 28<sup>th</sup>, 2022  
Page 2**

On December 20<sup>th</sup>, 2021, the Town received a variance application requesting several variances from the Town Zoning Code in order to construct a series of docks that project out further into Biscayne Bay than the Town Code would normally allow, due mostly to environmental reasons analyzed by M-D DERM. The water adjoining this site (and most of the Town) are quite shallow due to high tidal fluctuations from Haulover Inlet and the connected Intracoastal Waterway / Biscayne Bay resulting in underwater silting-in over the years. In addition, due to the shallow water depths around the Town's islands, abundant seagrasses / other aquatic plants / living creatures have grown / occupied the areas. While the Town owns the waterways around the islands, Miami-Dade / other environmental regulatory agencies have review / permitting jurisdiction (M-D DERM Class 1 Permit required). As part of this docking facility design M-D DERM staff inspected the site, including underwater reviews, to determine the water depth and environmental features. Concerns were raised by M-D DERM about the existing shallow water depth and environmental conditions observed near the site's seawall, which was recently rebuilt and raised in anticipation of redevelopment. Docking facilities and boats, particularly larger boats with deeper hull drafts, can potentially damage the shallow underwater lands near the seawall (hulls / propellers). The applicant's design team worked with M-D DERM / Town staff to try to revise the original design plans to meet as many of the Town's Code requirements as reasonably possible, but also comply with M-D DERM environmental issues. The Town Code provisions limit docks from extending into adjoining waterways more than 25 feet from a seawall cap face in this area (asking for some portions up to 73.5'). Also, the Town Code provisions limit mooring pilings from extending into adjoining waterways more than 40 feet from a seawall cap in this area (asking for some piles up to 89.5'). Finally, the Town Code limits the width of docks extending more than 8 feet from the seawall to no more than 4 feet in width (asking for some sections up to 6 feet in width). The Town Code does not allow any obstructions on the narrow docks such as storage bins / benches / etc. The applicant is proposing to install eight (8) electrical outlets and three (3) fire hose cabinets – the Town Code is silent as these types of facilities; however, we are aware that some docking facilities in the Town have electrical services for boats.

The applicant is seeking to install a multiple vessel docking facility that could accommodate up to fifteen (15) larger boats (35' - 50') although smaller boats could easily be docked at the facility too. The plans show three (3) wider (6 feet width) dock extensions from the seawall out into the water connecting to narrower east / west cross docks (4 feet width), some of which extend out further into the water. A total of twenty-one (21) mooring piles are shown waterward of the docks. Accessory stairs at the ends of some docks and numerous mooring cleats are also proposed. A set of preliminary plans (include preliminary DERM stamp of approval) was included in the submittal package showing the proposed docks / boats locations. Despite the above Town Code criteria, the Code allows for docks / boat lifts / piles / etc. to project out further than the stated limitations if the Miami-Dade Department of Environmental Resource Management (DERM) requires alterations to the above limitations, based on underwater conditions, such as depth of the bay / canal bottom, existing seagrasses, etc. Although the County preliminarily approved their initial request, the Code states that the Town may approve the "minimum variance necessary" to address the unique characteristics of the site. MMPA notes that within the waterways surrounding the islands other variances have been granted over the years by the Town for similar reasons (Riva 2013 / Monarch Hotel 2017 / several single-family homes). A review of the latest design plans by MMPA reveals that all other Town Code requirements are being met (setbacks / etc.).

**Town of Bay Harbor Islands  
Zoning Variance Request - Docks  
ONDA Multifamily Residential Development (41 DU)  
1135 103<sup>rd</sup> Street  
January 28<sup>th</sup>, 2022  
Page 3**

Following is a summary of the applicable Code provisions:

**Applicant Requested Variances and Code Provisions:**

- Variance from Section 23-12(6)(a)(iii) limiting the projection of docks to no more than 25 feet from the face of the seawall cap at this location (BH Waterway locations are more restrictive). The applicant is requesting a tiered / graduated scale beginning with the side outermost docks starting at 26 feet – 30 feet from the seawall and extending out about 45+/- feet from the seawall with the farthest out docks starting about 53.5 feet from the seawall and extending out a maximum of 73.5 feet from the seawall.
- Variance from Section 23-12(8) limiting the projection of mooring piles to no more than 40 feet from the face of the seawall cap for this location (BH Waterway locations are more restrictive). The applicant is requesting a tiered / graduated scale beginning about 66 feet from the seawall with the farthest out pilings at about 89.5 feet from the seawall.
- Variance from Section 23-12(6)(a)(v) limiting the width of docks which extend more than 8 feet from the seawall cap to 4 feet in width. The applicant is requesting that some portions of the docks (the 3 main dock extensions from the seawall) to be 6 feet in width so as to accommodate fire hose boxes / fire personnel access.
- Complying with Section 23-12(6)(a)(x) allowing for further projections, through the use of a variance granted by the Town Council, if DERM / other review agency requires alterations to the above limitations due to environmental / other reasons. Approval shall be limited to the minimal variation of the criteria necessary to meet the unique environmental characteristics of the site.

**BACKGROUND**

The Town has had land development regulations governing seawalls, docks, mooring piles, boats and related structures for many years. A major Code rewrite was performed in 2007. Former Mayor Peter Lynch, a professional boat captain, led efforts to update the Code provisions to include modern standards. Another effort was undertaken in 2009-10 due primarily address to seawall heights but was never adopted. In August 2016, the Town adopted its last revisions to this Code section. The overall community goal is to have reasonable regulations for upland landowners (uniform taller seawall hgt.) and boaters, while safeguarding neighboring property owners (views / nuisances).

There are currently no docks at the site; however, one small dock / 2 mooring piles previously existed, but those have been removed. The seawall was recently rebuilt / upgraded prior to construction of the new multifamily building beginning (5.50' NGVD). MMPA notes that the vast majority of existing docks in this area appear to be parallel to the seawall with only a few extending into the waterways.

The applicant submitted a Town variance application form, a property survey, an M-D DERM underwater survey, a justification letter, a letter of no objection from an adjoining site (10301 EBHD) and preliminary plans reviewed by M-D DERM and other information showing the location of the proposed docks designed by a dock contractor (Ocean Consulting, LLC).

## **ANALYSIS**

As per the Town's request, MMPA has completed our review of the revised variance application and provide the following analysis and comments.

The subject property is located on the north side of 103<sup>rd</sup> Street near the roadway bend onto East Bay Harbor Drive and fronts on a portion of Biscayne Bay. The portion of Biscayne Bay in this area is quite large and connects to the Haulover Inlet to the northeast. A large sandbar frequented by boaters exists in the middle of Biscayne Bay to the north with deeper navigable channels around the sandbar. The community of Bal Harbour Village exists to the east across the 400'+/- wide Indian Creek. A private boat marina built in the 1940s serving the Bal Harbour Village single-family area exists directly east of the site across the Indian Creek. Per Town Code, docks in the Town, except those located in the Bay Harbor Waterway separating the East / West Islands (150' width waterway with more restrictive encroachment criteria) are limited from extending more than 25 feet into the water, unless M-D DERM requires alterations to the above limitations. In which case, the Town Council must grant a variance that is limited to the minimal variation of the stated criteria necessary to meet the unique environmental characteristics of the site.

The Miami-Dade DERM staff report states that normally 4-6 feet of water depth is required for docking larger vessels. The underwater land has silted in over the years and is about 3+/- feet in depth near the site seawall, according to the report. Therefore, DERM will not allow mooring within close proximity of the site's seawall and has determined the dock design must be altered as presented. The plans show only larger boat "shapes" moored perpendicular to the seawall in the bay, but other smaller boats could presumably moor at dock spaces too – but not near the seawall. Dredging of the shallow areas in this area is apparently prohibited and DERM. The county's EQCB may need to approve any variances to the M-D Code (triangles); however, DERM staff is not objecting to the current design.

MMPA notes that the design shows fifteen (15) dock slips; however, smaller boats could easily dock at the dock slips as well, but access to the "lagoon" interior to the dock would be difficult due to the low dock height (5.50' NGVD). The site plan drawing submitted with the Town variance application indicates that the docks would project (varies) up to seventy-three and one-half (73.5) feet into the Biscayne Bay and some mooring plies will project up to eighty-nine and one-half (89.5) feet into the bay. Again, Section 23-12(6)(a)(iii) of the Town Code limits the projection of docks for this property to 25 feet unless DERM requires alterations to the above limitation, in which case a variance is required and shall be limited to the minimal variation necessary. The DERM approval was based upon keeping boats at least 26 – 30 feet seaward to avoid the shallow water / grass beds. As some of the boat docks are expected to accommodate 50' boats this would make the "minimum" variation necessary to 50+/- feet for the western portion of the docks, 54+/- feet for the eastern portions of the docks, and 69+/- feet for the center most extended portion of the docks. The mooring piles are shown at about 66 feet out into the water for the closest pilings and about 89.5 feet for the furthest out pilings. Presumably the dock design could be different with the center section not as far out versus the shape submitted but the M-D DERM water depth data seems to show the water depth shallower in this area.

Again, as to the dock widths the applicant states the reason for the 6-foot width perpendicular docks versus the Code allowed 4' widths is so that fire hose cabinets can be built near the parallel cross dock connections for fire personnel / fire suppression if needed. The Town Code does not allow storage cabinets / benches / etc. on docks in general; however, this may be a Fire Code issue and they cabinets are not meant for general personal storage. The Town Code is also silent as to electrical service / potable water stands as well, but these have been commonly allowed by the Town.

The applicant states the dock facilities will be reserved solely for ONDA residents and not open to the public. This is important to note by the Town due to the location and should be a condition of approval. Also, no other types of docks (floating / jet skis / personal watercraft / etc.) should be allowed.

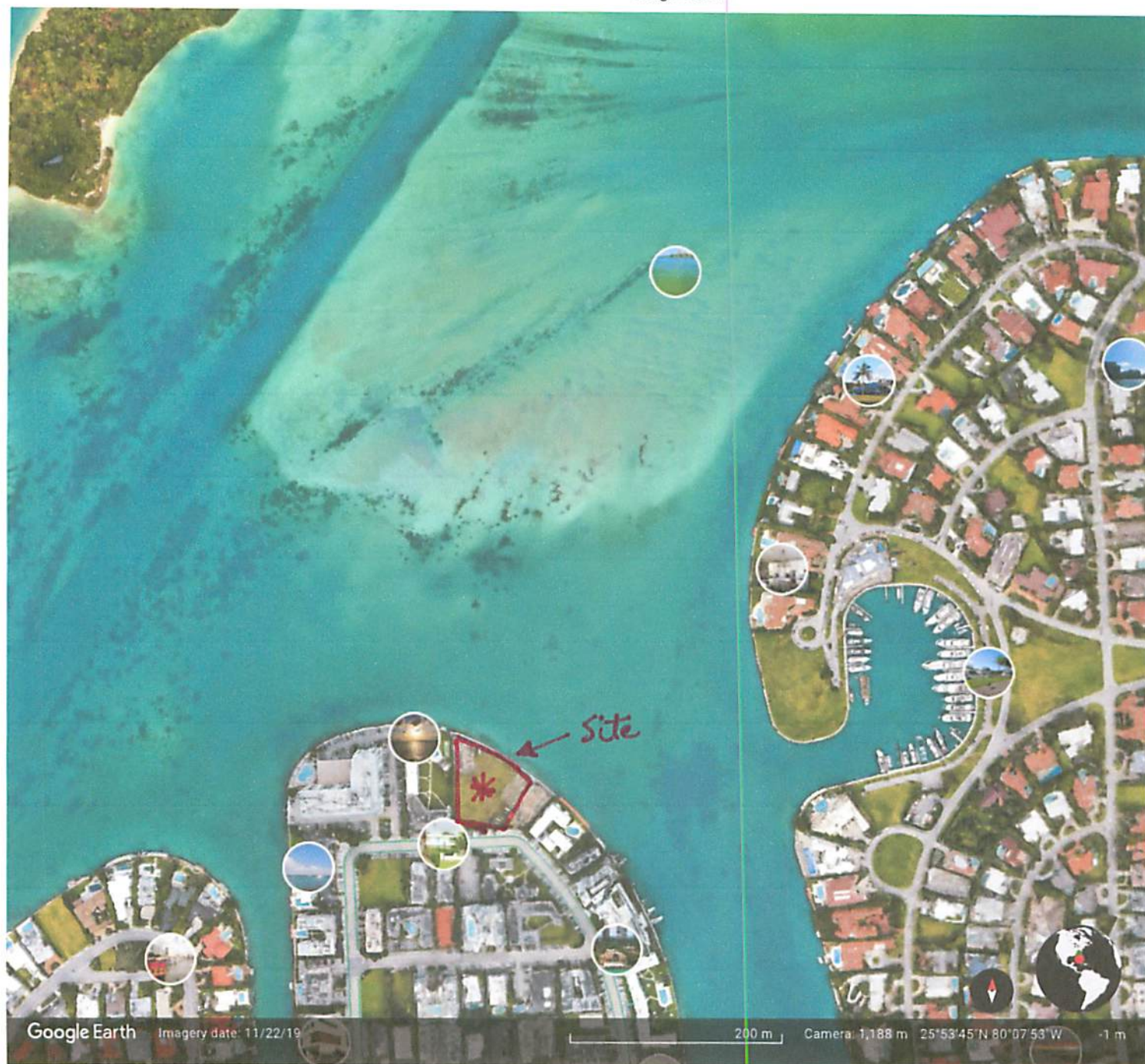
### **CONCLUSION AND RECOMMENDATION**

Based on the above analysis, MMPA recommends that the Town Council **APPROVE** the requested variances as is, or with revisions deemed appropriate. MMPA suggests the variance be subject to the conditions listed below.

MMPA recommends the following conditions:

- 1) This variance approval is based on the design plans submitted with the application dated December 8<sup>th</sup>, 2021 prepared by Ocean Consulting, LLC / Dynamic Engineering Solutions, Inc. which have been approved preliminarily by Miami-Dade DERM, subject to any changes required by the Town Council, which shall take precedence.
- 2) No dock may extend more than 73.5 feet into Biscayne Bay from the face of the seawall cap.
- 3) No vessel mooring piles may extend more than 89.5 feet into Biscayne Bay from the face of the seawall cap.
- 4) No vessels shall be allowed to dock within 25 feet of the seawall cap to help protect the environmental features (seagrasses / other) noted by Miami-Dade DERM in this area. Further no boats shall be allowed within the enclosed portion of the dock system.
- 5) Compliance with the conditions listed in the Miami-Dade DERM letter dated August 8<sup>th</sup>, 2021.
- 6) Only residents of the ONDA multifamily project are permitted to dock at the facility. No dock shall be leased out to 3<sup>rd</sup> parties. No commercial fishing vessels, no commercial food service or alcoholic beverage vessels, and no boat rental use is allowed or may dock at the facility. No live-aboard boat use shall occur. No overnight stays aboard any vessel shall occur.
- 7) No floating docks or boat / jet ski lifts, and no jet ski or personal watercraft use shall be permitted to operate from the docks nor mooring of such vessels at any of the docks.
- 8) No vessel docked / moored at the ONDA docking facilities shall exceed 35 feet in hull length.

- 9) The ONDA development owners and all vessel owners moored at the docking facilities shall be jointly responsible for maintaining the docking facilities and waters surrounding the docking facilities at all times. The docking facilities and surrounding waters shall be kept in a safe, clean, and orderly manner free from debris at all times.
- 10) No dumping of refuse or solid waste, the dumping of wastewater, or other pollutants shall be permitted into the water or left on the docks, nor shall any noise in excess of that permitted by the Town Code (Chapter 12 - Nuisances) be generated.
- 11) All required safety ladders shall be installed as shown, as well as additional supplemental ladders as agreed to by the Town Manager, or their designee, at other locations spaced around the entire docking facilities, as a safety measure for swimmers and those that may accidentally falling into the water.
- 12) The ONDA development owners and all vessel owners shall comply with all regulations of the Town governing marine facilities and nuisances. The Town reserves the right, as the owner of the waterways (Town Charter / SB 865) and local police jurisdiction, to institute Code Enforcement and legal / police actions to enforce the laws of the Town, to maintain order, peace and tranquility, and to address nuisances to the Town in general and neighboring sites.





## Onda brings a new 'wave' of luxury to Bay Harbor Islands

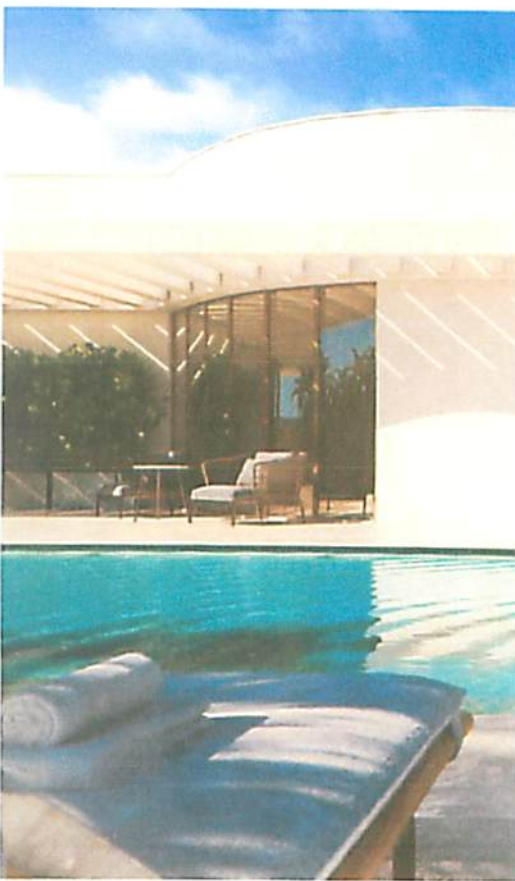
By Robyn A. Friedman

**V**eteran Miami developers Ugo Colombo, of CMC Group, and Valerio Morabito, of Morabito Properties, have broken ground on Onda Residences, a new boutique luxury condominium in Bay Harbor Islands, a town in Miami-Dade County. Designed by renowned architect Bernardo Fort-Brescia of Arquitectonica, the eight-story waterfront development, now under construction at 1135 103rd St., will have 41 two- to four-bedroom residences ranging from 1,809 to 3,535 square feet, with four penthouse units measuring up to 5,073 square feet. Two of the penthouses will have private rooftop pool decks. "Onda" means "wave" in Italian.

All residences will have an office/den, private or semi-private elevators, tiled terraces with private gardens, open floor plans, Snidero kitchens with Miele appliances, bathrooms with Italian marble and wood cabinetry, Italian flooring throughout and floor-to-ceiling sliding glass doors and windows. Building amenities include a rooftop pool deck and lounge area, a fitness center with yoga studio, a spa with massage treatment rooms, electric-vehicle charging stations and a digital concierge. There is also a private marina with boat slips ranging from 35 to 60 linear feet, 70 percent of which are already sold to future residents.

Construction is expected to be completed in 2023. Prices for available units – nearly 70 percent of which have been pre-sold – range from \$1.8 million to over \$9.5 million.

For information, call 305-344-1234 or visit [ondaresidences.com](http://ondaresidences.com).



# Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF  
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT  
COPY OF THE CERTIFICATE OF FORMATION OF "BH INVESTMENT LLC",  
FILED IN THIS OFFICE ON THE TWENTY-THIRD DAY OF OCTOBER, A.D.  
2017, AT 5:49 O`CLOCK P.M.*

  
Jeffrey W. Bullock, Secretary of State

6581190 8100  
SR# 20176747439

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 203447511  
Date: 10-24-17

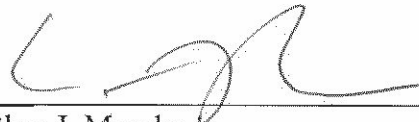
State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 05:49 PM 10/23/2017  
FILED 05:49 PM 10/23/2017  
SR 20176747439 - File Number 6588926

**CERTIFICATE OF FORMATION  
OF  
BH INVESTMENT LLC**

This Certificate of Formation of BH INVESTMENT LLC (the "Company") is being executed by the undersigned for the purpose of forming a limited liability company pursuant to the Delaware Limited Liability Company Act.

1. The name of the Company is BH INVESTMENT LLC.
2. The address of the registered office of the Company in Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.
3. The name and address of the registered agent for service of process on the Company in the State of Delaware are The Corporation Trust Company at Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the 23rd day of October, 2017.



Arthur J. Murphy  
Authorized Person

①  
Rec: 4498  
Doc: \$123,000  
Surtax: \$92,250  
Prepared by and return to:

Richard M. Bezold Esq.  
Akerman LLP,  
Three Brickell City Centre,  
98 SE 7 Street, Suite 1100  
Miami, Florida 33131

PARCEL IDENTIFICATION NO: 13-2227-001-6770

First American Title Ins. Co.  
National Commercial Services  
200 South Biscayne Blvd., Suite 2930  
Miami, FL 33131  
NCS File No. 859767

**SPECIAL WARRANTY DEED**

**THIS INDENTURE** is made this 13th day of November, 2017, by and between **P3 Investments I, LLC**, a Florida limited liability company (hereinafter called "**Grantor**"), whose address is 407 Lincoln Road, Penthouse NE, Miami Beach, Florida 33139 and **BH Investment LLC**, a Delaware limited liability company (hereinafter called "**Grantee**"), whose address is 1691 Michigan Avenue, Suite 440, Miami Beach, Florida 33139.

**WITNESSETH**

The Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), to it in hand paid by the Grantee, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained and sold and does hereby grant, bargain and sell to Grantee the following described real estate, situated, lying and being in the County of Miami-Dade, State of Florida, more particularly described on Exhibit A attached hereto and made a part hereof, together with all buildings, improvements and fixtures located thereon and owned by Grantor as of the date hereof and all right, title and interest, if any, that Grantor may have in and to all rights, privileges and appurtenances pertaining thereto including all of Grantor's right, title and interest, if any, in and to all rights-of-way, open or proposed streets, alleys, easements, strips or gores of land adjacent thereto (herein collectively called the "Real Property").

**SUBJECT TO** only those matters set forth on Exhibit B attached hereto and made a part hereof (the "Permitted Exceptions"), without reimposing same.

**TO HAVE AND TO HOLD** the aforesaid Real Property, together with all the improvements, licenses, tenements, hereditaments, easements and appurtenances thereto belonging or in anywise appertaining unto Grantee, its successors and assigns in fee simple forever.

Subject to the matters described above, Grantor specially warrants the title to the Real Property and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but against none other.

(When used herein the terms "Grantor" and "Grantee" shall be construed to include, masculine, feminine, singular or plural as the context permits or requires, and shall include heirs, personal representatives, successors or assigns.)

*[The remainder of the page is intentionally left blank]*

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be executed in its name and caused its seal to be affixed as of the day and year first above written.

Signed, sealed and delivered in the presence of:

**GRANTOR:**

**P3 INVESTMENTS I, LLC,**  
a Florida limited liability company

By: BH-X2 Management, LLC  
a Florida limited liability company,  
its Manager

By: [Signature]  
Name: CARLOS E. MALAGONI  
Title: Manager

[Signature]  
Witness #1 signature

IRMA SPOTO DURAN  
Witness #1 print name

[Signature]  
Witness #2 signature

RICHARD BEZOLD  
Witness #2 print name

THE STATE OF FLORIDA §

COUNTY OF MIAMI-DADE §

The foregoing instrument was acknowledged before me on November 13, 2017 by CARLOS E. MALAGONI, as Manager of BH-X2 Management, LLC, a Florida limited liability company, the Manager of P3 Investments I, LLC, a Florida limited liability company, on behalf of said entities. He is personally known to me or produced as identification.

My Commission Expires:

[Signature]  
Notary Public, State of Florida

Printed/Typed Name



Irma Spoto Duran  
COMMISSION #FF916781  
EXPIRES: September 9, 2019  
WWW.AARONNOTARY.COM

**EXHIBIT A**  
**REAL PROPERTY**

**Parcel I**

Tract "F" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

LESS AND EXCEPT, that portion conveyed to the Town of Bay Harbor Islands, a Florida municipality by that instrument recorded in Official Records Book 427, Page 281, of the Public Records of Miami-Dade County, Florida.

**Parcel II:**

The Southerly 11 feet of Tract "F" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

**EXHIBIT B****PERMITTED EXCEPTIONS**

1. Taxes and assessments for the year 2017 and subsequent years, which are not yet due and payable.
2. Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of BAY HARBOR ISLAND, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.
3. Terms, conditions and easements contained in that instrument in favor of Florida Power & Light Company, recorded in Official Records Book 9010, Page 551, of the Public Records of Miami-Dade County, Florida.
4. Terms, conditions and easements contained in that instrument in favor of the Town of Bay Harbor Islands, recorded in Official Records Book 30485, Page 1478, of the Pubic Records of Miami Dade County, Florida.
5. Survey prepared by Blanco Surveyors, Inc., dated August 25, 2014, under Job No. 14-257, shows the following: (a) concrete sidewalk, entry drive and asphalt parking area including 9 parking spaces all lie within the right of way along the South property line; (b) wood dock wholly within waterway.
6. Automatic reservation in an undivided 3/4 interest in all of the phosphate, minerals and metals and an undivided 1/2 interest in all the petroleum that is or may be in, on or under the land by virtue of conveyance from the Town of Bay Harbor Islands, a Florida municipal corporation, recorded in O.R. Book 30485, Page 1476. (As to The Southerly 11 feet of Tract "F" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida).[Per Section 270.11, Florida Statutes].

## **AGENDA ITEM REPORT**

February 15, 2022

### **ITEM NUMBER: 2.**

**ITEM: Approval or Denial** of a variance request for the property located at 1135 103 Street. In accordance to Section 2-22 of the Town Code, the Town Council shall determine whether to grant or deny the application for variance. An affirmative vote of five Council Members is necessary in order to grant the variance request. The decision of the Town Council is final. If the request is granted, the decision of the Town Council shall be recorded in a resolution to be prepared by the Town Attorney. It should be noted that any approval of the Town Council is subject to other requirements of the Town Code, Miami Dade County Code, Florida Building Code, FEMA or any other applicable governing agency.

### **DESCRIPTION:**

### **RECOMMENDED ACTION:**

Approval

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### **FINANCIAL ANALYSIS:**

### **BUDGET IMPACT:**

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Submitted By: Alba Chang, Town Clerk

### **ATTACHMENTS**

None