

**MINUTES OF THE MARINE ADVISORY BOARD**  
**100 NORTH ANDREWS AVENUE**  
**1<sup>ST</sup> FLOOR MEETING ROOM**  
**FORT LAUDERDALE**  
**THURSDAY, NOVEMBER 20, 2008 – 7:00 P.M.**

<b><u>Board Members</u></b>	<b><u>Attendance</u></b>	<b>Cumulative Attendance</b>	
		<b><u>5/2008 through 4/2009</u></b>	
		<b><u>Present</u></b>	<b><u>Absent</u></b>
John Terrill, Chair	P	5	0
Barry Flanigan, Vice Chair	P	4	1
Rick Schulze	A	2	3
Mark Swenson	P	5	0
Randolph Adams	P	3	2
Norbert McLaughlin	A	2	1
Alec Anderson	P	5	0
John Baker	P	3	2
John Custer	P	4	1
Bob Ross	P	5	0
Lisa Scott-Founds	A	3	2
Stephen Tilbrook [7:08]	P	4	1
Michael Widoff	P	5	0
Eugene Zorovich	P	5	0
Herb Rassing	P	3	0

**Staff Present**

Jamie Hart, Supervisor of Marine Facilities  
Andrew Cuba, Marina Manager  
Matthew Domke, Downtown Facilities Dockmaster  
Cate McCaffrey, Director of Business Enterprises  
Sgt. Andy Pallen, Marine Police  
Brigitte Chiappetta, Recording Clerk, Prototype, Inc.

**I. Call to Order/Roll Call**

Chair Terrill called the meeting to order at 7:03 p.m. It was determined that a quorum was present.

**II. Approval of Minutes – September 4, 2008**

**Motion** made by Mr. Baker, seconded by Mr. Custer, to approve the minutes of the October 2, 2008 meeting of the Marine Advisory Board. In a voice vote, the motion was approved unanimously.

### **III. Waterway Crime & Boating Safety Report**

Sgt. Andy Pallen, from the Fort Lauderdale Police Marine Unit, reported that there were no major safety incidents or accidents on the waterways in Fort Lauderdale during the month of October. The Fort Lauderdale Police Marine Unit participated in the Boat Show for purposes of security during the set-up and break-down on the show. It was a very busy week, Sgt. Pallen said, but appeared to be a very successful week and a positive reflection upon the City. During that event, Sgt. Pallen advised, there were no major safety incidents, accidents or injuries on the waterways.

Sgt. Pallen advised that during October there were three unrelated minor boat burglaries which were "crimes of opportunity." Apparently, people had left out a computer, fishing rods and reels, which presented an opportunity for theft.

There were three minor boat accidents which were reported to the Police. These accidents did not involve injuries and only minor boat damage. One accident, however, involved five different vessels, when a boat's engine malfunctioned, got stuck in gear, and as a result, the boat hit four other boats that were docked nearby.

### **IV. Application – Waiver of Dock Distance Limitations – 709 Idlewyld Drive**

- **John C. Rebhan**

Tyler Chappell, on behalf of the Applicant, presented via PowerPoint an application for a waiver, requesting approval for the replacement of an existing two-slip dock at a single family residence, with a proposed one-slip, single family floating dock. The project consists of the replacement of an existing PVC platform, the removal of the southernmost platform, the installation of a ramp and floating platform and the installation of a floating marginal dock parallel to the shoreline.

An animation showed the existing conditions where there are two vessels moored stern to stern with a U-type configuration of a PVC fixed dock. It is proposed that the southern "L" of the dock will be removed and converted from PVC to concrete.

Mr. Chappell next showed an animation of the proposed dock and proposed vessel at the subject location. The existing dock and two boats are within the 5 ft. setback stipulated by the City Code for side yard setbacks. Mr. Chappell advised that the Applicant is required, pursuant to the Florida Department of Environmental Protection, under the provisions of Chapter 1821, to adhere to a 25-ft. setback for the proposed dock as well as the proposed vessel. There would then be a 25-ft. setback on the north and south sides of the property.

Mr. Chappell explained that there exists three mooring pile clusters. Mooring pile 2, which is located in the center of the property, will be removed. The requested waivers are for (1) the north mooring pile cluster to extend 26.2 feet beyond the 25 feet allowed under the City Code; and (2) the south mooring pile cluster to extend 27.9 feet beyond the 25 feet allowed under the City Code.

Mr. Chappell advised that the proposed floating marginal dock that will extend off of the existing concrete/PVC platform will be 36.2 feet from the property line, which is 16.2 feet in addition to the 20 feet required distance.

Because the dock and the piles are located beyond the distances of 20 feet for the dock and 25 feet for piles, the Applicant is requesting a waiver of limitations based on the ULDR, Sec. 47-19.3.d., which allows a waiver when a proposed project has an extraordinary circumstance.

Mr. Chappell stated that the property is zoned RS8, residential low density, which permits a dock as an accessory use. It is situated on the western side of the Intracoastal where the width of the waterway is 456-ft. on the north side and 451-ft. on the south side. The Applicant's proposal, based on these distances and the location of the proposed dock relating to channel markers and the channel itself, will not present a significant impact to navigation.

As is typical with most docking along Idlewyld Drive, it is very shallow from the seawall out to approximately 20 feet. Because of the waiver request to extend the dock off the platform for the floating dock, it will enable the Applicant to moor the vessel without proposing dredging, which will also eliminate the impact to sea grass habitat at this location.

Mr. Chappell referenced arials of existing waivers that have been authorized along Idlewyld Drive, which were included in the Board's backup materials. Also shown is the specific distance that has been granted for each of those properties along Idlewyld Drive.

All adjacent property owners within 300 feet of the subject property were noticed of this application, of which only one raised a concern about the proposed waiver. Mr. Chappell advised that he and Jamie Hart attended a meeting last Friday with the adjacent property owner at 701 Idlewyld, Nancy Weston, as to her concerns. Based upon that meeting, the proposed setbacks have been clarified. Mr. Chappell remarked that Ms. Weston believed the Applicant was placing the vessel up to her property and riparian line, however, in actuality, the Applicant is proposing a wider setback than that

required by the City. Mr. Chappell acknowledged that he had today received an email from Ms. Weston's attorney indicating that she had agreed with the proposal and would not be contesting the waiver tonight. This has also been supplied to the Board in their packet.

For purposes of granting the waiver, Mr. Chappell explained that the "extraordinary circumstances" are that there is insufficient depth for mooring of the proposed vessel. Therefore, by moving the dock out further, there will be sufficient depth (-8) for the proposed vessel. Also, there is an extraordinary width of the waterway (456-ft. and 451-ft.) at the location of the proposed dock. In addition, there are numerous previously issued waivers along Idlwyld Drive due to the depth locations and the known distances that have been previously approved by the City.

Mr. Chappell expressed that the Application requested a recommendation for approval by the Marine Advisory Board, including the conditions (1 through 6) as listed in the Board's back-up materials, however, condition no. 6 should state that it refers to Item 4 (not 5). Mr. Hart confirmed that this was a typographical error.

Mr. Chappell added that this approval is contingent upon the Department of Environmental Protection's permit and the lease which will require a 25-ft. setback, which is also stipulated as a condition of this application approval.

Mr. Rassing advised that he had visited the site and the neighbor had indicated to him that if they got a boat, they would only have access from the north and not from the south. Mr. Rassing asked how that issue will be resolved.

Mr. Chappell responded that the new dock configuration will actually give the neighbor more room to navigate from the south to her dock. She can also access her dock from the north side, which is a City right-of-way and provides no obstruction to her dock.

Chair Terrill, having noted no further questions of the Board, opened the matter to the public.

Dean Trantalis, Esquire, on behalf of Nancy Weston and her husband, who reside on the north side of the Applicant's property, appeared this evening to put some statements on the record. He admitted that his client was concerned that the requested setback was going to be much deeper into her area, but now fully understands that it will be a full 25-ft. setback both north and south and that his client is fine with that. In addition, his clients have no objection to the waiver coming out from the seawall, and it is believed this will enhance his client's ability to utilize her own dock.

Mr. Trantalis expressed that he had a few questions relating to existing pilings. There are two pilings which the Applicant has used consistently. His clients question whose responsibility they are going to be once they are not used by the Applicant. Mr. Chappell advised that those pilings will remain, but they do not indicate the limits of where the boat and the dock can be. He advised that those are the Applicant's piles.

Mr. Chappell advised that the pile that is being claimed as Ms. Weston's pile actually falls on the Applicant's property. The Applicant is not requesting that this pile be removed.

Mr. Trantalis asked for an explanation of how a piling in the setback can be utilized by the property owner. Mr. Chappell responded that this was taken into consideration after meeting with Ms. Weston. As such, the Applicant had the surveyor, McLaughlin Engineering, go out in the field and relocate those piles as well as the one pile which was questionable if it was Ms. Weston's or the Applicant's. Mr. Chappell stated that this survey was provided this evening as part of the back-up. Both pile clusters that are being used for mooring fall in the setback line (at 5 ft.) and Mrs. Weston's pile is located just inside the riparian rights line on the Applicant's property.

Mr. Trantalis asked for clarification as to whether it is authorized to have pilings constructed within a setback area now that the setback will 25-ft. instead of the existing 5-ft. He clarified that Ms. Weston did not want to be responsible for them. Mr. Chappell responded that the City Code allows structures up to the riparian rights line, but the boat cannot be within the setback.

Mr. Trantalis asked if a structure could exist within the setback if one is not permitted to use the setback area. Chair Terrill responded that it could. Mr. Chappell stated that his interpretation is that the structures that are proposed can be within the City setback up to the riparian line. No mooring of vessels can be allowed within that setback, but structures are allowed within the setback. Mr. Chappell claimed that the Applicant is proposing to keep the existing piles that remain at the site that are within the 5-ft. setback, which can actually go to the riparian lines.

Mr. Chappell advised that the Applicant is asking that the one pile that is not owned by the Applicant remain at the riparian line, even though it is in the riparian rights of the Applicant. He stated that the set of plans that were provided this evening show specifically which piles are being removed and which piles are remaining.

Chair Terrill indicated that his understanding has always been that improvements within the setback are allowed, as long as the boat does not intrude into the setback. Mr. Hart confirmed this was correct as to the City's setback, but that approval must be obtained

from the State. Therefore, Chair Terrill said, an improvement within the setback is legal, as long as the boat itself is not within the setback.

Mr. Trantalis' client, Nancy Weston, expressed confusion because she was advised that the pilings belonged to the Applicant. In fact, Ms. Weston said, in the five years she has resided at this property, the Applicant's boat has been 5-ft. from her dock.

Ms. Weston related that when Mr. Chappell met with her and explained that the setback was 25 feet, this seemed to be within the Applicant's entitlement and she did not have a problem with that. Ms. Weston expressed concern that Mr. McLaughlin went on her dock yesterday when she was not home and has now presented this Board with a new plan, and believes this to be not particularly above board.

Mr. Custer said that he agreed with Ms. Weston and asked why the pilings are being left, because it would seem to him that someone was planning on using them. Ms. Weston concurred that this was also her concern.

Mr. Chappell responded that the two pilings that will remain are to be used for the mooring of the vessel, however, there is a question of why those piles were not shown on the previous plan in that they were not being considered as part of the survey in that there was no question whether or not those piles were (1) requiring a waiver and (2) were on the Applicant's property until the meeting with Ms. Weston occurred, at which time she requested that they be removed. Mr. Chappell said that no one knew where those structures fell in relation to the riparian rights line. Because of this, a survey was conducted to locate those piles as well as Ms. Weston's pile, in order to see where they fall in reference to the riparian rights line. Upon conducting this survey, it was found that the two piles being used for mooring of the Applicant's vessel fall on the 5-ft. setback lines and that the one pile that is Ms. Weston's falls on the riparian rights line.

Ms. Weston claimed that the pilings were not discussed in the meeting with Mr. Chappell and Mr. Hart, and that this is the first time the pilings have come to her attention. She had assumed they belonged to the Applicant because he has been tied up to them, and he has insisted for years that it was his right to be tied up to them. Ms. Weston expressed that she feels blindsided by this and questions whether she should have had her attorney also have a survey done to protect her interests.

Chair Terrill stated that it has been brought to his attention that she may have been blindsided. The concern is that staff has not seen those pilings on its surveys. He recommended that at this point there were two options. This matter can be postponed for another month, a survey prepared, and proper notice given; or the pilings can be removed entirely.

Mr. Chappell clarified that the pilings were not shown on the previous survey because the surveyor did not put them on the survey. It was not realized until it was addressed by Ms. Weston. He denied that it was not part of the discussion with Ms. Weston. Mr. Chappell asked what distance would be an acceptable distance for the piles.

Mr. Trantalis indicated that so long as those pilings remained, his client had the following concerns:

- 1) Access in and out of her own dock area;
- 2) Because of how close it is to his client's property, with the boat then 20 feet away, is it going to be a safe maneuver to dock a boat that will be 25 feet away from the boundary line, rather than the original 5 feet, which is where it is today;
- 3) Why this was not originally presented to Ms. Weston and put on the original survey.

Mr. Trantalis said that Ms. Weston was fine with allowing the Applicant to have their new floating dock with their new boat. It is not their intention to create problems. Mr. Trantalis suggested that it may be best to have the piles removed as they will not be used by his client and the Applicant will not use them because his boat will be 20 feet away and he does not understand their significance.

Chair Terrill stated that the comments of Mr. Trantalis need the response of an expert and that he happened to be an expert, as a licensed captain and having operated boats for 20 years far in excess of the boat that is proposed for the dock. As far as maneuvering a boat with pilings such as these, Chair Terrill stated, the only individual that may not be able to do so is an unlicensed captain or someone not able to handle a boat with which they have been entrusted. As far as securing a vessel, it is a perfectly normal and safe way to do it and there are methods that are done every day in taking a line and securing it appropriately and then putting it back on the piling when the vessel gets underway. Chair Terrill expressed that there is probably not a licensed captain that cannot do that safely. The fact that a piling is out there does ensure that not only is the vessel moored in a more safe manner, but allows the vessel to be pulled off the dock by as much as 6 inches so that the vessel is not rubbing up against the fenders, causing chafing on the paint when other boats come by and throw a wake.

Ms. Weston asked if the Board would object to looking at the photographs that she took from her dock as opposed to the photograph that was professionally taken by the Applicant's photographer. Chair Terrill asked Ms. Weston to pass the photographs down.

Mr. Tilbrook asked Mr. Chappell how far the pilings are from the seawall, and Mr. Chappell responded that they were 52 feet from the seawall. Mr. Hart announced that the application that was submitted was based on two sets of pilings – one on the north and one on the south. The south was to remain and the one on the north was to be removed. Mr. Hart said that there is now a controversial third set of pilings that concerns have been raised about that were not included in the application that is not in the survey and does not have measurements. While Chair Terriil has pointed out that these pilings may be needed for navigational purposes, Mr. Hart said it was not noticed as part of this application to the neighbors and they have obvious concerns. Therefore, the pilings should be pulled out, or this process must be gone through again when the Applicant provides the correct set of plans to the Board and the neighbors can be renoticed.

Mr. Tilbrook said that he had trouble seeing where the three sets of pilings are shown on the plans. Mr. Chappell directed Mr. Tilbrook to the first sheet. Mr. Chappell confirmed for Mr. Tilbrook that the boat would be tied to the north and south piles as well as to the dock.

Mr. Chappell confirmed that it was found that the surveyor had not shown all the pilings in the first drawings. The surveyor was instructed to locate those piles to make sure that they are shown properly on the drawings, knowing that this would be discussed tonight.

Mr. Zorovich stated that he had an issue with the way the pilings are shown and questioned how the two northern pilings are going to benefit the boat very much. He suggests that this is a big home and this is a big expense, and cannot believe the pilings cannot be moved to a more appropriate place.

Randy Ives, representative of the Applicant, said that the pilings are needed in the winter to hold the boat off the proposed floating dock. Mr. Zorovich asked if Mr. Ives has an idea what size boat is being planned for the dock. Mr. Ives expressed that they see no need to move the pilings as they have been there for some time and they are needed for the boat. Mr. Ives said that he does not see a need to move them.

Mr. Chappell said that the question that has been unanswered is, "what is an acceptable distance for the pile for the adjacent property owner?" Without that, it is unknown how to move forward at this point. If there is a recommendation from staff to clarify those piles, the Applicant will do so, however, he would ask tonight for Ms. Weston to clarify what distance is acceptable.

Mr. Anderson asked where the boat has been moved, why it has been moved, and the background of the boat. Mr. Chappell responded that the boats that are there now are positioned in a way that they are up to the 5-ft. setback required by the City. That is based upon the current configuration of the dock. Because there is a proposed new dock that exceeds the State guidelines, which in turn requires a lease for the dock as well as the mooring area, the Applicant is required to have a 25-ft. setback from the boat to the dock to the riparian line. Mr. Chappell stated that currently, the Applicant is in compliance with City and State Codes and, therefore, it can be left at the 5-ft. setback.

The Applicant may leave the pile at the 5-ft. setback if he chooses. Thus, there is some confusion on the part of the Applicant as to why there is a need to make an issue out of the northern piles in that they are there now in compliance, they can remain there in compliance and the only reason there is a 25-ft. setback proposed is because there will be a lease required for the new dock. This is why it is important that if the piles need to be removed, the distance is specified.

Mr. Anderson stopped Mr. Chappell and told him that he was not concerned about the pilings, but as to the boat that was moved.

Mr. Chappell responded that the boat was moved as a concession to the adjacent property owner after meeting with her. She had asked that the boat be moved and it was done merely to appease Ms. Weston.

Mr. Anderson asked Mr. Trantalis to confirm whether that was an accurate history. Mr. Trantalis responded that it was. Mr. Anderson asked Mr. Hart if there was anything in the Code as to the line from the boat being within the setback, as long as the boat did not violate the setback. Mr. Hart said that the City Code does not allow a vessel or its appurtenances in the setback. He said the State Code includes structures and/or activities.

Mr. Hart said that all the pilings that exist out at 50 feet have not been approved under a waiver, as well as the dock, so the City has not permitted any of them.

Mr. Rassing said that he is also a U.S. Coast Guard Captain and is cognizant of the need to attach vessels to pilings. To expedite this discussion, he proposed that the Applicant volunteer to remove the pilings.

Mr. Tilbrook asked if the pilings adjacent to the neighbor are necessary for mooring the vessel. He asked Mr. Chappell if those could be moved 10 feet to the south and whether this would be an acceptable solution to his client. Mr. Chappell responded that

where the pilings are currently located is sufficient for the Applicant to moor the proposed 90-ft. vessel, based on the configuration of the dock.

Vice Chair Flanigan said that one of those pilings could be easily moved, and that it may be the only way to expedite this process.

Mr. Chappell responded that the Applicant has informed him that they would be agreeable to moving this agenda item to a later date in order to clarify the survey distances as well as to include as part of the noticing for the northern piles in question this evening. Mr. Chappell asked that the Board consider what is there now and what is proposed, and that when Staff, Applicant and the adjacent neighbor discuss these items that things are done in order to present the Board additional information to make a judgment on the waiver with all the facts and that everything before the Board is accurate and showing exactly what is being considered. Mr. Chappell wished to clarify that there was no intention of fooling anyone in any way. The surveyor simply did not show those piles and did not consider those piles to be an issue until they were raised as an issue. Therefore, in the interest of providing sufficient time for the Board to review the additional piles as well as discuss it with staff and the adjacent property owner, the Applicant would request a motion to defer this item to a later date.

Vice Chair Flanigan asked the Applicant and Mr. Hart if this can be done in timely fashion in order to have this item back next month. Mr. Chappell said that the main issue for the Applicant is that he would like to notice the neighbors properly and that those additional piles which were not listed in the table originally need to be noticed and included as part of the waiver and the resolution. Mr. Hart said he believed this to be the right thing to do.

Mr. Zorovich asked Mr. Hart for an official clarification of this 5-ft. limit. Mr. Hart responded that structures can go in the setback, but vessels cannot under the city Code. The State Code, which is more restrictive, does not allow the structure or the vessel.

**Motion** by Mr. Rassing, seconded by Mr. Tilbrook, that the Board approve the plans for the dock configuration and defer the issue of the pilings until the next meeting of the Marine Advisory Board.

Chair Terrill asked Mr. Hart if it was possible to approve a part of an application and still keep part of the application pending. Mr. Hart said that he believed it can be done this way. Chair Terrill stated that one application is being turned into two applications and asked if the City Commission was interested in hearing two applications regarding the same issue.

Mr. Tilbrook withdrew his second. Chair Terrill said that if there is no other second the motion would die.

**Motion** by Mr. Rassing, seconded by Mr. Adams, to defer this item until the December 4, 2008 meeting of the Marine Advisory Board. By roll call vote the motion was **granted** unanimously 12 – 0.

Chair Terrill asked if there could be proper notice in such a short time. Mr. Hart acknowledged that it was possible and that he would send the notice out right away.

**V. Update – Marine Facilities Rules and Regulations/Prohibiting Floating Homes at Municipal Docks**  
• **Marine Facilities Staff**

Mr. Hart recalled that the Board had requested at the last meeting that City Attorney input be obtained as to this issue. Mr. Hart referenced a memo provided to the Board which was sent to the City Commission with the definition of a floating home. This was done because of some of the safety issues and other issues that would allow someone to convert a floating home, in order to comply with the definition of a vessel, so that something that was felt to be a safety issue could be docked and thereby would skirt the City's policy. Mr. Hart stated that No. 3 is now the new definition and says that "the docking of a floating home as defined in the Code of Ordinances of the City of Fort Lauderdale, ULDR 47-19.6.a.1, is strictly prohibited. All municipal dock facilities protect the health, safety and welfare of the public. This prohibition applies to all forms of floating homes designed or used primarily as a dwelling and residence, including those that may be altered or converted with a mechanical means of self-propulsion, for the purpose of transforming the water craft to meet the minimum definition of a vessel, as defined in 47-19.6.a.2.

Mr. Hart confirmed that this did go to the Commission. Mr. Hart stated that he appreciated the Board's input on this item and that it is something that will be worthwhile.

**VI. Update – Intracoastal Bridge Opening Schedule / Sunrise Boulevard to Las Olas Boulevard**  
• **Marine Advisory Board**

Mr. Hart recalled that Mr. Rassing brought this matter before the Board. Mr. Hart advised that he had spoke with Mike Leburn, the representative from the Coast Guard that handles the promulgation of the rule making process for changes in the timing

schedule. Mr. Leburn did not feel it was necessary to attend this meeting as he is going to consider a rule change for the Las Olas Bridge, as they agree with some of the points made by Mr. Rassing. Sometimes the Coast Guard wants a resolution from the City, but in this case they are going to look at a rule change in the timing of the Las Olas Bridge.

Mr. Hart stated that Mr. Leburn noted this might affect the timing of the surrounding bridges (Sunrise and SE 17<sup>th</sup> bridges), and that this must also be considered. Thus, it could take three to six months before that rule is actually published for public comment. Mr. Hart expressed that he would try to have Mr. Leburn come before this Board before this is published.

Mr. Rassing advised that he invited some individuals that are sailors that also must pass under that very bridge to this meeting. He believes the issue on the table is the distance between Sunrise and Las Olas and the distance between Las Olas and 17<sup>th</sup> Street. He explained that these individuals have volunteered to come forward and talk about their experiences.

Chair Terrill voiced that he believed that anyone who comes down to a meeting should speak if they have a concern or an interest. However, Mr. Terrill is concerned that this Board at this time is not the people with which to be speaking. The Coast Guard does need to be encouraged to come here and to speak about their thoughts and ideas. Oftentimes they will start a new schedule and start a test phase, and then have public meetings before and after.

Chair Terrill welcomed those that came tonight to share their thoughts and experiences to speak on this matter.

Michael Dodds said that he sails up and down the Intracoastal quite frequently and that it is infuriating that with a sailboat from Las Olas to 17<sup>th</sup> Street with the wind and tide in one's favor, it can be done in about 15 to 16 minutes. If the wind or tide is against you, or if the bridge is a little late in opening, inevitably there is a 30 minute wait when reaching 17<sup>th</sup> Street. The same thing applies on the way back. Mr. Dodds said that this happens more than 50% of the time. This can be annoying, particularly if the weather is bad. He suggested that this could be addressed if the Las Olas bridge were to open on demand instead of on a time schedule, as it does right now.

Mr. Dodds did not wish to comment on Sunrise, as he does not often go through that area.

Mr. Dodd stated for the record that he did complain to the Coast Guard about 18 months ago and should have his complaint on record.

Michael Lyon commented that he lives aboard a Catamaran on Hendricks Isle. He concurred that the main issue was the timing of the Las Olas and 17<sup>th</sup> Street bridges. He said that quite often the Las Olas Bridge Tender will be two to three minutes late. If one has an adverse tide or current, one ends up being too late for 17<sup>th</sup> Street and must circle around for 25 minutes which is a waste of time and fuel. Mr. Lyon believes that if there was ½ hour between Las Olas and 17<sup>th</sup> Street, it would be much easier.

Mr. Tilbrook thanked Mr. Ressing for bringing up this issue and thanked the public for coming to this meeting.

Mr. Zorovich expressed that the signage on the Intracoastal needs to be standardized. In addition, he would like to ask the Coast Guard when they come why they cannot add the additional footage on the center of the bridge. He said that there are boats that will not go under the bridge when they have an opening, even though he realizes that they can make it under. Mr. Zorovich believed that if these boats knew the true height, they would not have to wait for an opening.

Mr. Ressing asked if he needed to make a motion to invite the Coast Guard to attend a Marine Advisory Board meeting. Chair Terrill stated that this Board provides recommendations to the City Commission, but does not recommend to any other bodies. Mr. Hart stated that the Minutes of the meeting can always be forwarded to the Coast Guard, as he has done so before. Chair Terrill expressed that he did not believe this to be appropriate. Chair Terrill felt a more appropriate option would be for Mr. Hart to make a phone call inviting the Coast Guard to attend.

Mr. Hart suggested that a recommendation be made by this Board to the City Commission to support a rule change by the Coast Guard for the Las Olas Bridge. Because this Board has not yet heard what the rule changes are, Chair Terrill advised that this Board cannot support anything at this time, and that it would be necessary to hear from the City's Marine Patrol, and have a discussion among the Board members first.

Mr. Tilbrook asked Chair Terrill to put this matter on the Agenda for a future meeting, so that staff obtain a copy of the proposed rule, so that Mr. Hart invite the Coast Guard to attend such meeting, at which time a proper discussion can be had, and then a recommendation can be made. Chair Terrill concurred.

**VII. Discussion – Dockage Rates**  
• **Marine Advisory Board**

Chair Terrill stated that historically when the dockage rates for the municipal marina come up annually for consideration, they come before the Marine Advisory Board. This Board's recommendations are then forwarded to the City Commission. This year, however, this matter went directly to the City Commission without consideration from the Marine Advisory Board.

Chair Terrill expressed that he asked that this come before this Board to discuss what has been proposed and how the Board feels about it. He asked Mr. Hart to share this information with the Board.

Mr. Hart apologized that this was not scheduled for Board review because of time constraints and due to getting a little behind schedule. He advised that normally a CPI increase is recommended, as was done for the past four or five years. A CPI increase has been recommended this year as well, which does not really cover most of the direct costs, such as trash removal and water service for the City's commercial leases.

Mr. Hart believes that the City charges \$.97 per foot for commercial leases, which does not include the lease fee which is charged back for the submerged land, which is another 6%.

Vice Chair Flanigan stated that had this issue come before this Board, he would have requested that the City "hold the line." He said that the boats which are affected by the current economic situation are hardly carrying anyone, noting that even the water taxi's traffic is down. Vice Chair Flanigan believed that by setting an example, a lot of press could have been received surrounding this, which would send out a signal. Vice Chair Flanigan believes that a signal was also sent out by the senior staff and management of the City when they agreed to freeze their rates rather than partake in the increase that was approved by the City Commission.

Mr. Tilbrook asked if the leases were approved by the Commission, and Mr. Hart acknowledged that they were. Mr. Tilbrook asked if an analysis was done as to the current market rate. Mr. Cuba responded that as to commercial leases, the traditional approach has been to use a CPI increase. With the transient rates, there is a competitive analysis which takes place, which is used to gauge the City's rates just below, or in some cases, well below. Mr. Tilbrook asked if this is the case with the commercial rates as well.

Mr. Tilbrook asked if any type of analysis has been done on what the commercial rates would be at a market rate. Mr. Cuba stated that several analyses were done in the past comparing other municipalities, but that it is a little different approach with commercial rates in that all of the commercial operations within the city would be looked at, as compared to the transient rates where multiple private entities versus public entities are looked at.

Mr. Tilbrook asked what would be a comparable commercial dock slip facility to the City's Riverwalk Marina. Mr. Cuba said that one needed to look outside of the City to find comparable arrangements. He expressed that he did not believe there was anything quite like the New River for comparison in places like Palm Beach County and Miami. Mr. Tilbrook asked if Bahia Mar should not be looked to as a comparable rate. Mr. Cuba responded that in this particular case, no.

Mr. Tilbrook questioned who should the City be looking to and whether the City has done so. He expressed that while an annual CPI increase may be done, it does not mean that the market is increasing at the same rate. If the City is providing a service where it is competing against other facilities, Mr. Tilbrook would not like to undercut private facilities that offer a similar service, and would also not want to harm the City's customers by charging them more than they would pay to dock at a private facility or another comparable facility. Mr. Tilbrook suggests that sometime over the next year, since the rates are set for this year, this type of an analysis would be appropriate.

Mr. Cuba pointed out that the City is priced less than the private facilities would charge for such services. Mr. Hart said that Mr. Cuba makes a good point and is the only fair way to do this, because most of the markets that have comparable services are not in competition with the City. Miami has Bayside and West Palm is now really strongly developing an area similar to Bayside.

Mr. Tilbrook said that he was in favor of being sympathetic on dock rates because of the challenging economy, but also believes that as a player in the market place and as custodians of the City's resources, it is important to get as much as possible for the dock rates, being a revenue source for the City of Fort Lauderdale, which in turn reduce the burden on taxpayers. Therefore, Mr. Tilbrook asked staff to consider performing a market analysis over the next year.

Vice Chair Flanigan said that he heard the Mayor and a former Mayor comment that if the marina is 65% full, too much money is being charged. If the marina is 95% full, then the correct price is being charged. He believes that the City's objective should be to be flexible enough to get the City's marina full, and would like to see the Marina be as

competitive as possible and keep the occupancy as high as possible. If this means fluctuating the rates, then that should be done.

Mr. Custer asked for an idea as to what the income stream is for the City's marina and dock rental. Mr. Hart said that it is \$2.5 Million, and that the Las Olas Marina is the largest revenue producer at about \$1.2 Million. About \$1 Million is generated from the River and about \$200,000 to \$300,000 at Cooley's Landing. Mr. Cuba explained that about 40% of the River's income comes from commercial.

Chair Terrill asked what the current occupancy is on the River. Mr. Hart said that it was 85%, but right now it is about 65% to 70%.

Mr. Rassing made a motion to give Mr. Hart flexible rates to keep the marina as full as possible. Mr. Cuba stated that they conduct a careful rate analysis twice a year – prior to the winter season and prior to the summer season. After careful analysis, the City does price itself in relation to the competition in the area, keeping in mind that many of the amenities offered by the private sector do not exist at the City's facilities. The City is able to remain competitive with certain segments as to the private sector, particularly the large boat segments and other segments where the economy has impacted. In some cases, the City has not increased rates at all since the previous year. All these factors are taken into consideration when performing these careful analyses.

Mr. Rassing asked if the City compares itself to Bahia Mar or Pier 66 as to occupancy levels. Mr. Cuba said that he does not compare the city to these entities as they have the flexibility to adjust their rates and to make deals, while the City must remain rigid and stick to a rate structure. Mr. Cuba expressed that this is the first year that the City has major challenges as far as attracting business is concerned. There have been discussions with the City Manager about changing rates with proper notification, and tentative approval has been given. Thereby, Mr. Rassing withdrew his Motion.

Chair Terrill encouraged the City to continue to consider these types of issues, especially with the current tough economic situation, as well as for the City Commission to take an equal amount of time to consider what would be appropriate. Chair Terrill believes that this Board wants to encourage the businesses on the River, and at the same time, this is the public's investment which must be protected, just like a business.

#### **VIII. Broward County Marine Advisory Committee**

Mr. Adams reported that the Broward County Boater Improvement Program was presented by Mr. Hart at the last meeting. The final presentation will be made on December 4, 2008, at which time voting will be conducted.

Vice Chair Flanigan asked if representatives from the Broward County Marine Advisory Committee could attend this Board's upcoming meeting with the Coast Guard. Mr. Adams suggested that a letter be sent to the Broward County Marine Advisory Committee to invite any that wish to attend. Chair Terrill agreed that this would be a great thing to do.

#### **IX. Old/New Business**

Mr. Adams addressed Mr. Hart and asked the status of the floating docks on the New River. He then asked how long this project has been going on and what is the current status of the project. Mr. Hart advised that they had received additional funding for capital improvement money because monies had been lost due to other priorities. He said that the project must be completed in 2009 because of the grant for half of the cost, and as such, will be done on schedule in 2009.

Mr. Adams said that he believed the project was supposed to be done in 2008. Mr. Hart said that he had explained previously that \$500,000 of capital improvement monies had been lost due to other project priorities. This amount was re-funded for the capital improvement year 2008-2009. This was the amount given to the City by Broward County. Mr. Adams said that he believed this money to be around for quite a while. Mr. Hart stated that this money got re-prioritized and that the money was not available in 2007-2008.

Mr. Hart explained that the project must be completed by the end of December, 2009 or the City will lose the Broward County grant.

Mr. Tilbrook said that he has been on this Board for five years now and has been hearing the same thing for five years. He expressed that he is disconcerted that the City received a grant a year ago and he did not know that the capital improvement funding had been lost for this project. Mr. Tilbrook stated that this Board had asked for a report on this every month and it appeared that it had gotten dropped off of the Agenda every month and it has to be asked for at the end of the meeting.

Mr. Tilbrook said that he believed the reason the capital improvement funding was lost was because there is not proper planning, not a proper schedule, there is not the appropriate staff assigned to administer this project, and that if this project is not completed by the end of next year, we will lose the funding for this project.

Mr. Tilbrook stated that he had asked this to be placed on the Agenda every month until this project is completed. He then asked to have a project schedule and project budget

presented to this Board next month, along with the identification of a project manager. He expressed that if this is not gotten under control, the docks will never be completed, and that this has been worked on for years, and has been funded for years.

Mr. Tilbrook acknowledged that this Board cannot direct staff, but does make recommendations to the City Commission. He stated that if this is not appropriately managed, next month he will make a motion that this Board recommend to the City Commission that an appropriate staff project manager be appointed or to perhaps outsource the entire project to get someone else to do it because it has not been done.

Mr. Hart explained that he did not have a project consultant to do the design services for this project due to lack of funding and lack of staff until less than a year ago. He said that this was not anyone's fault, but was a matter of priorities. Mr. Hart said that this Board was informed of the design consultant and had received schedules for this project. He did not understand why this was now "new news."

Chair Terrill said that this is not new news, but is the same thing that the Board has been hearing since he came on the Board, which is a long time. Mr. Hart said that he was frustrated as well. Chair Terrill stated that every time this comes up, these comments are repeated year after year, the Board is told the same story and then things quietly go away. He said that no one comes to the Board to advise that there is no staff and that it is not going to happen. Chair Terrill asked Mr. Hart if what he is hearing now is that 2009 is a pipe dream because there is no staff for this project.

Mr. Tilbrook said that the only way the Board knows is if they receive a report every month and are told when the priorities have changed and when Staff has been taken off the project and when a consultant has been reassigned to a different project. He stated that he expects a report every month. If the Board is not satisfied with a report, then a motion can be made to the City Commission that this project is not being managed properly. Mr. Tilbrook advised that this is the type of motion that he will make if this item is not on the Agenda and this Board is not provided with the proper answers.

#### **X. Adjournment**

There being no further business before the Board, the meeting was adjourned at 8:56 p.m.

POWERPOINT PRESENTATION  
TYLER CHAPPELL, THE CHAPPELL GROUP

Application – Waiver of Dock Distance  
Limitations – 709 Idlewyld Drive

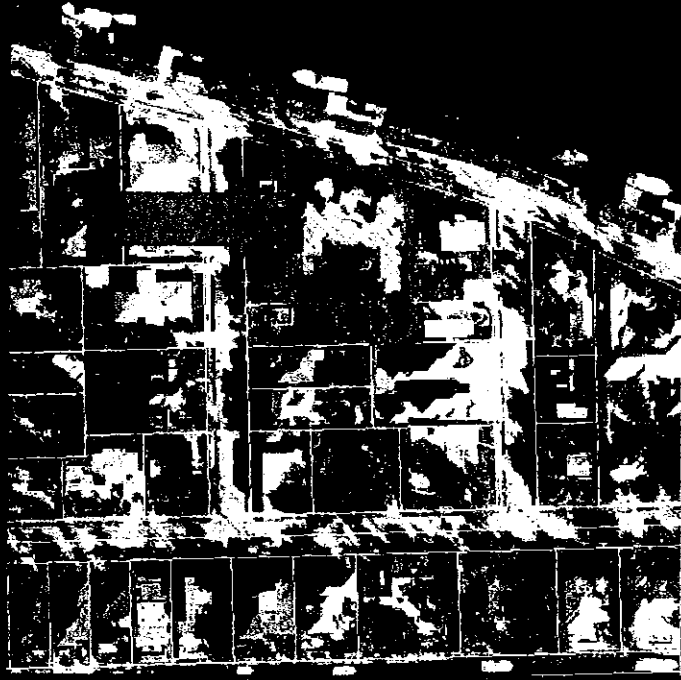
## **APPLICATION**

This application is requesting approval for the replacement of an existing two (2) slip fixed pier single family dock with a proposed one (1) slip single family floating dock.

# APPLICANT

The applicants and the  
address of the property:

Mr. John Rebhan  
709 Idlewyld Drive  
Fort Lauderdale, FL 33301



ICWW

# PROPOSAL

The project consists of the replacement of the existing platform, the removal of the southernmost platform, the installation of a ramp and floating platform, and the installation of a floating marginal dock parallel to the shoreline are shown in the following animation:

DISTANCE TO CENTERLINE OF RIPARIAN RIGHT

SURVEYORS INTERPRETATION OF RIPARIAN RIGHT

5' SETBACK LINE

NEW RIVER SOUND

DISTANCE TO CENTERLINE

DISTANCE TO CENTERLINE 281.42

SURVEYORS INTERPRETATION OF RIPARIAN RIGHTS LINE

5' SETBACK LINE

WETFACE 2.3' EAST

54.27' TO W/F  
25.00' 51/88'

25.00'

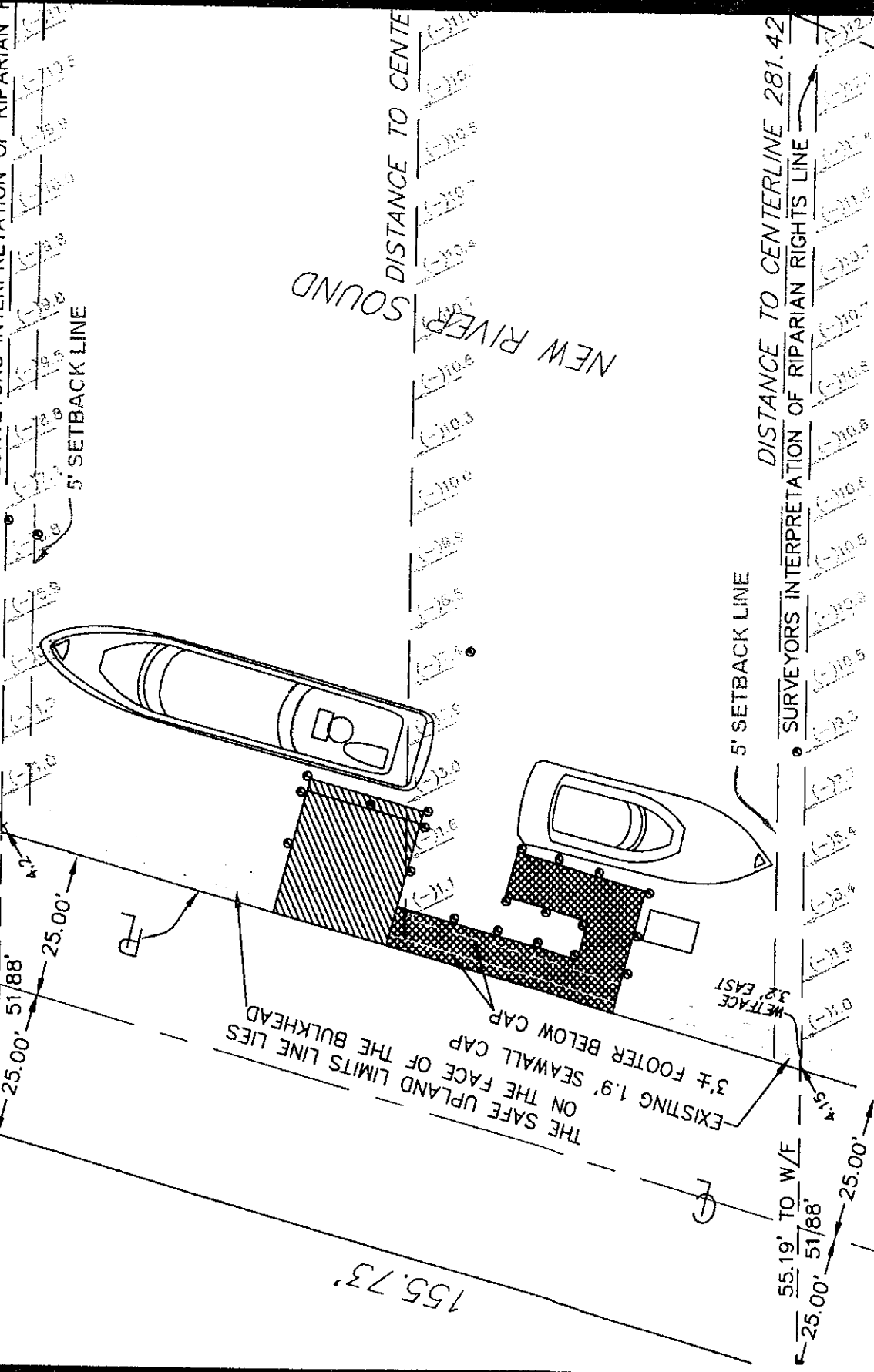
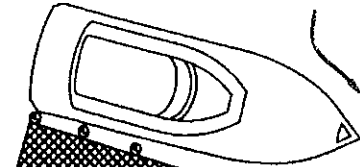
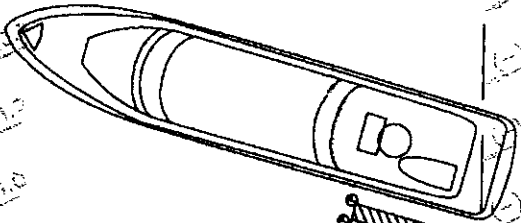
THE SAFE UPLAND LIMITS LINE LIES ON THE FACE OF THE BULKHEAD  
EXISTING 1.9' SEAWALL CAP  
3'± FOOTER BELOW CAP

WETFACE 3.2' EAST

55.19' TO W/F  
25.00' 51/88'

25.00'

155.73'



# **PROPOSAL (Concluded)**

**TABLE 1**

LOCATIONS OF STRUCTURES FROM NORTH TO SOUTH	SURVEYED DISTANCE OF STRUCTURE	PERMITTED DISTANCE WITHOUT WAIVER	AMOUNT OF DISTANCE REQUIRING WAIVER
EXISTING MOORING PILE #1 (NORTH) (TO REMAIN)	51.2'	25'	26.2'
EXISTING MOORING PILE #2 (MIDDLE) (TO BE REMOVED)	53.2'	25'	N/A
EXISTING MOORING PILE #3 (SOUTH) (TO REMAIN)	52.9'	25'	27.9'
PROPOSED FLOATING MARGINAL DOCK	36.2'	20'	16.2'

## **BACKGROUND INFORMATION**

The ULDR, Section 47-19.3.B, permits the construction of the finger piers to extend a maximum distance of 20'; Section 47-19.3.C of the code limits the mooring pilings to a maximum distance of 25' at this location, into the Middle River, respectively.

## **BACKGROUND INFORMATION (Concluded)**

ULDR, Section 47-19.3.D, allows the City Commission to waive the limitation based on its finding of extraordinary circumstance.

## ZONING

The property is in the RS-8 Residential/Low Density Category, which permits a dock as an accessory use.

## **NAVIGATION**

The applicants property is situated on the western side of the Intracoastal Waterway (ICWW) where the width is approximately 456' wide on the north property line and 451' from the south property line.

From the survey, this is shown in Table 2 that follows:

# **NAVIGATION**

## **(Continued)**

### **TABLE 2**

WATERWAY WIDTHS (FROM NORTH TO SOUTH)	MAXIMUM DISTANCE
North Boundary Line	456' +/-
South Boundary Line	451' +/-

# **NAVIGATION** **(Concluded)**

**The proposal presents no significant impact  
to navigation.**

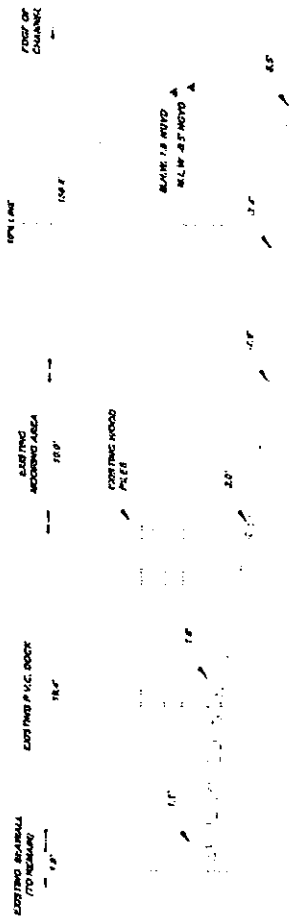
## **WATERWAY DEPTH TIDAL CONDITIONS**

**As shown on the cross-section (Sheet 5 of 6) of the distance of the project site extending into the ICWW from the bulkhead, the water depth is:**

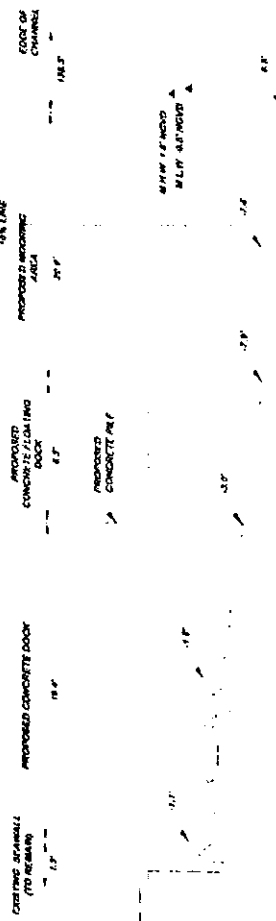
- -3.0' MLW to 20' +/-**
- -7.9' MLW at 30' +/-**

**And the dock extension will provide sufficient mooring without dredging and eliminates the need to impact seagrass habitat.**

**SECTION "A - A"**  
EXISTING CONDITIONS  
N.T.S.



**SECTION "A - A"**  
PROPOSED CONDITIONS  
N.T.S.



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• Marine & Wetland Permitting  
• Navigation Design & Maintenance  
• TACE Systems Survey  
• Phase I ESA

**709 IDLEWYLD DRIVE**  
PREPARED FOR  
JOHN REIFMAN

Date	Sheet	Page
	5	6

# **WATERWAY DEPTH TIDAL CONDITIONS (cont.)**

**Below is a list of street addresses along Idlewyld Drive with approved waivers, and showing the maximum distance of the waiver extending into the ICWW. See aerial handouts provided:**

**1986 - 801 Idlewyld Drive: Waiver Distance = 55.80'  
1994 - 407 Idlewyld Drive: Waiver Distance = 63.75'  
1995 - 517 Idlewyld Drive: Waiver Distance = 42.00'  
2000 - 629 Idlewyld Drive: Waiver Distance = 50.70'  
2001 - 606 Idlewyld Drive: Waiver Distance = 55.80'  
2005 - 413 Idlewyld Drive: Waiver Distance = 81.45'  
2007 - 649 Idlewyld Drive: Waiver Distance = 45.00'  
2007 - 375 Idlewyld Drive: Waiver Distance = 68.00'  
2008 - 674 Idlewyld Drive: Waiver Distance = 58.00'  
2008 - 709 Idlewyld Drive: Waiver Distance = 52.90'**

# **PUBLIC NOTIFICATION**

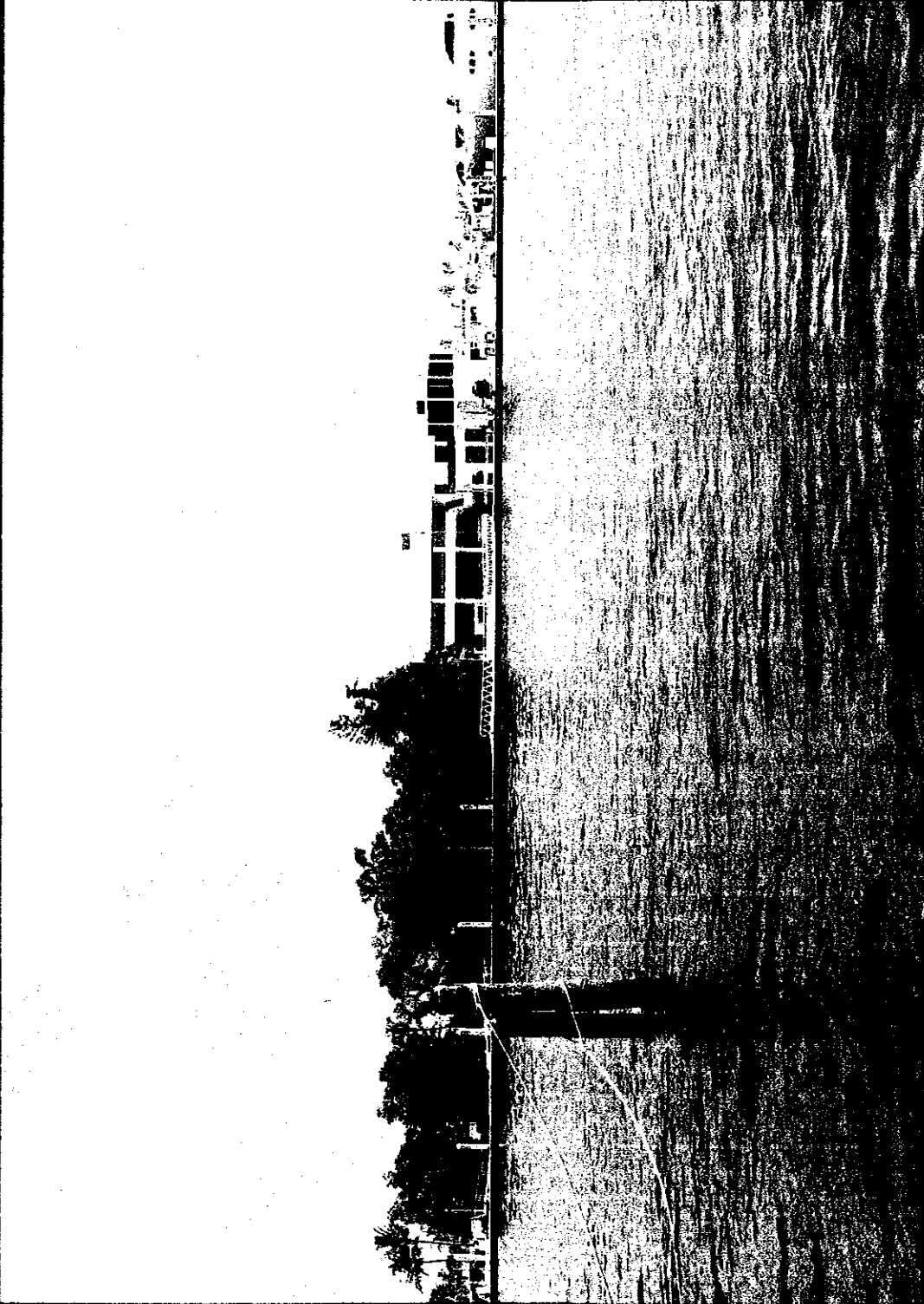
**Residents have been notified within 300' of the property .**

**One resident expressed concern on the location of the proposed boat in reference to the setback. The applicant met with the applicant and her attorney and have clarified that the current city setback is 5 feet and the proposed setback per FDEP is 25 feet providing an additional 20 feet of clearance between the proposed dock and boat from the adjacent property owners riparian rights line. We have received a letter from the attorney accepting the proposal and stating the property owner will not contest the waiver.**

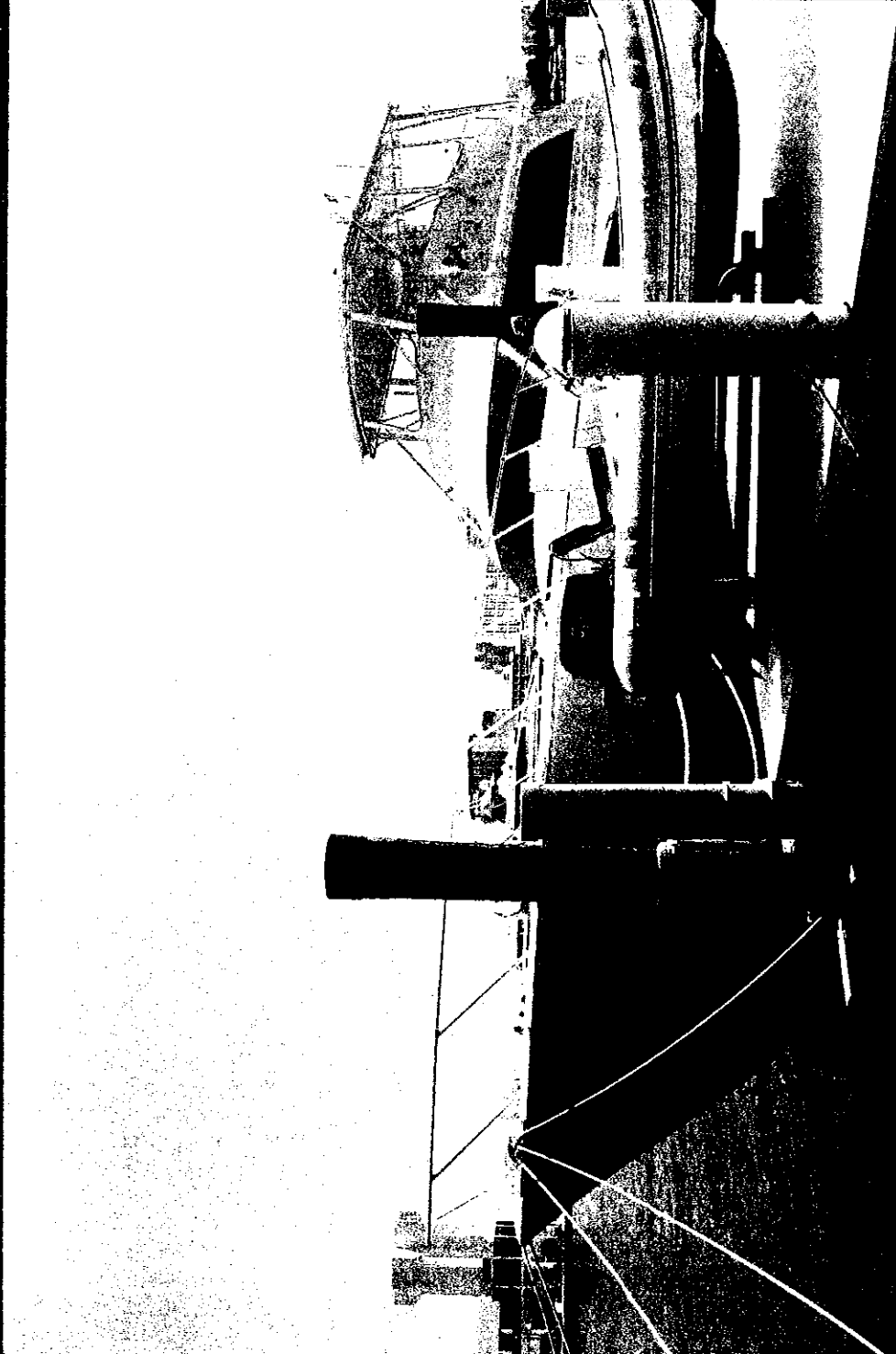
**FACING SOUTH FROM SOUTH PROPERTY LINE**



**FACING EAST FROM SOUTH PROPERTY LINE**



FACING SOUTHEAST FROM NORTH PROPERTY LINE



**FACING NORTH FROM CENTER OF PROPERTY**



**FACING NORTHEAST FROM NORTH SIDE OF  
PROPERTY**



## **EXTRAORDINARY CIRCUMSTANCES FOR JUSTIFICATION OF REQUEST FOR WAIVER**

- Insufficient depth for mooring of the proposed vessel.
- Extraordinary width of waterway at the property location.
- Waiver request is consistent with the previously approved waivers on Idlewyld Drive.
- Prevents seagrass habitat impact by eliminating the need for dredging at this location with the proposed extended floating dock.
- Waiver and proposed lease will provide the only 25' setback from the adjacent property owner on Idlewyld Drive. Other properties only require 5'.

## **RECOMMENDATION**

**A recommendation for approval by the City Commission from the Marine Advisory Board should include at least the following conditions:**

## **RECOMMENDATION (CONT.)**

- The applicant agrees to conditions 1-6 provided in the recommendations section of Memorandum MF No. 08-35