



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BLVD SUITE 310
FORT MYERS, FL 33919

REPLY TO

September 9, 2020

Regulatory Division
West Permits Branch
Fort Myers Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2013-00042 (IP-SJF)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) as described below:

APPLICANT: Harbour Pointe Condo
c/o Dave Maiser
4267 Bay Beach Lane
Fort Myers Beach, Florida 33931

WATERWAY AND LOCATION: The project would affect waters of the United States associated with a man-made canal adjacent to Estero Bay. The project site is located at 4267 Bay Beach Lane, Section 03, Township 47 South, Range 24 East, Fort Myers Beach, Lee County, Florida.

Directions to the site are as follows: Take I-75 to Exit 116 Bonita Beach Road, head west (right) off exit to Hickory Road. Make a right (north) onto Hickory Road. The subject property is on the right.

APPROXIMATE CENTRAL COORDINATES: Latitude: 26.16763°
Longitude: -81.69368°

PROJECT PURPOSE:

Basic: Multi-family residential docking facility re-configuration.

Overall: Re-configure an existing multi-family residential docking facility, within a man-made canal, adjacent to Estero Bay, in Fort Myers Beach, Lee County, Florida.

EXISTING CONDITIONS: The subject parcel consists of a multi-family residential development with 34 existing finger docks and 21 boat houses, which accommodate 67 slips up to 26-feet long. The shoreline consists of an existing concrete seawall. The bottom substrate is barren, consisting of silt-sand and muck. No submerged aquatic vegetation was observed in the area of the proposed boardwalk and platforms.

PROPOSED WORK: The Applicant seeks authorization to: 1) remove the existing 67 slips consisting of 34 finger piers and 21 boathouses along a newly replaced seawall; 2) maintenance dredge 722 cubic yards of material from a 17,039 square foot area to a depth of -5 feet mean low water (MLW); 3) install thirty-nine (39) 4' x 30'-5" finger piers with 55 optional boatlifts to accommodate vessels up to 28-feet in length; 4) construct eighteen (18) 30'-5" x 13.4' boathouses; and 5) install 57 cubic yards of riprap under each proposed finger pier. The proposed docks will total 11,328 square feet and provide a reduction from 67 to 55 total wet slips at the facility. Hydraulic dredging will take place via land and all spoil material placed at an upland staging area to be dewatered prior to being trucked to a designated disposal site.

CULTURAL RESOURCES:

The Corps has determined that the permit area has been extensively modified by previous work and there is little likelihood that an historic property may be affected.

ENDANGERED SPECIES:

The Corps made determinations on the following species: West Indian manatee (*Trichechus manatus*), sea turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*), Loggerhead sea turtle (*Caretta caretta*), Smalltooth sawfish (*Pristis pectinata*)

Basis for determination(s):

West Indian manatee: The project site is located in an Important Manatee (*Trichechus manatus*) area. The Corps has made the determination that the proposed project may affect, but is not likely to adversely affect (MANLAA), the West Indian manatee and its designated critical habitat. Since the proposal by the applicant is for in-water construction, potential impacts to the endangered manatee were evaluated using The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida (Manatee Key), dated April 2013. Use of the Manatee Key resulted in the following sequential determination: A>B>C>D>E>N>O>P>3 with further consultation necessary for MANLAA. The Corps will request Fish and Wildlife Service concurrence with this determination pursuant to Section 7 of the Endangered Species Act.

Smalltooth sawfish and sea turtles: The Corps evaluated the proposed work utilizing NMFS's Jacksonville District's Programmatic Biological Opinion (JAXBO) dated 20 November 2017. The JAXBO analyzes the effects from 10 categories of minor in-water activities occurring in Florida and the U.S. Caribbean on sea turtles (loggerhead, leatherback, Kemp's ridley, hawksbill, and green); smalltooth sawfish; Nassau grouper; scalloped hammerhead shark, Johnson's seagrass; sturgeon (Gulf, shortnose, and Atlantic); corals (elkhorn, staghorn, boulder star, mountainous star, lobed star, rough cactus, and pillar); whales (North Atlantic right whale, sei, blue, fin, and sperm); and designated critical habitat for Johnson's seagrass; smalltooth sawfish; sturgeon (Gulf

and Atlantic); sea turtles (green, hawksbill, leatherback, loggerhead); North Atlantic right whale; and elkhorn and staghorn corals in accordance with Section 7 of the Endangered Species Act. Based on past permitting practices of the Corps and review of consultations with similar in-water construction activities, Project Design Criteria (PDCs) were identified in the JAXBO that typically have been applied to permitted in-water construction activities. These PDCs ensure effects of in-water construction activities are minimal in nature and do not result in adverse effects to listed species or to essential features of designated CH. For this verification, the Corps conducted a project specific review to ensure that all of the PDCs were met. In accordance with the project-specific review process established in the JAXBO, a PDC checklist, certification that the activity meets the applicable PDCs, and supporting documentation for the proposed activity were emailed to nmfs.ser.statewideprogrammatic@noaa.gov and jaxbo@usace.army.mil on 08 September 2020 Activity 3: Maintenance Dredging. For Activity 2: Pile Supported Structure, on 08 September 2020 the Corps sent NMFS a request to supersede the standard JAXBO PDCs to allow the project to exceed the 50-slip minimum. Therefore, the Jacksonville District satisfied the project-specific review requirements stipulated in the JAXBO and satisfied its obligation under the ESA for the above-listed species and critical habitats within the NMFS purview.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. The proposal would impact approximately 17,039 square feet of estuarine or marine habitat utilized by various life stages of Penaeid Shrimp Complex, Red Drum (*Sciaenops ocellatus*), Reef fish (various spp.), Stone Crab (*Menippe mercenaria*), Spiny Lobster (*Panulirus argus*), Migratory/Pelagic fish (various spp.), Snapper/Grouper Complex. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the Estero Bay. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Fort Myers Permits Section, 1520 Royal Palm Square Blvd. Suite 310, Fort Myers, Florida within 21 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, Stephen Fleming, in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Blvd. Suite 310, Fort Myers, FL 33919; by electronic mail at Stephen.J.Fleming@usace.army.mil; by facsimile transmission at (239) 334-0797; or, by telephone at 239-334-1975 x0003.

IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

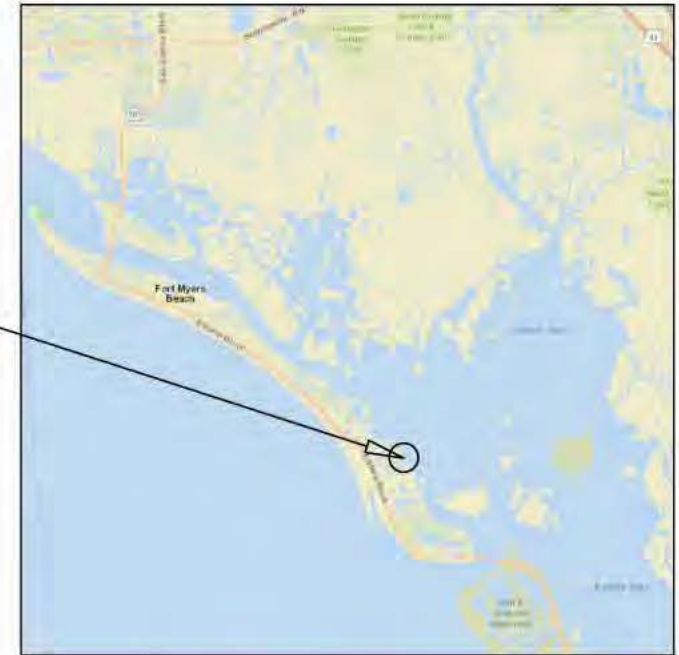
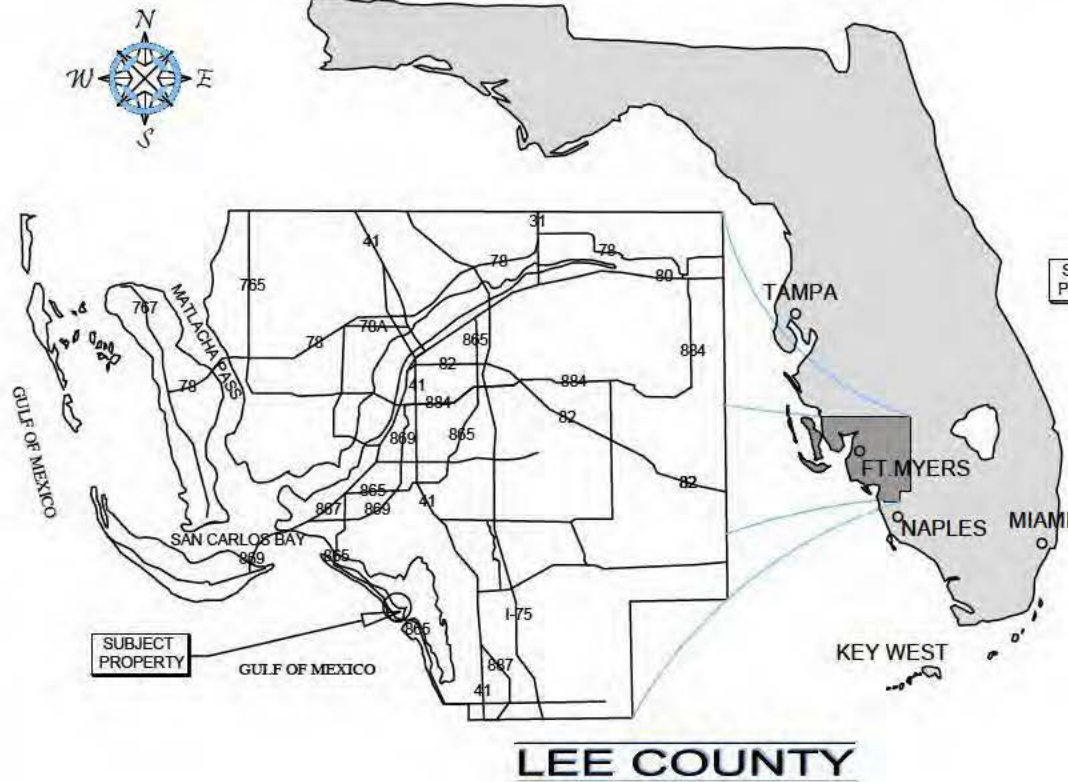
EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

STATE OF FLORIDA



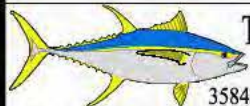
VICINITY MAP

SITE ADDRESS:
 <> 4267 BAY BEACH LN
 FT MYERS BEACH, FL 33931

NOTES:
 <> THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY
 AND ARE NOT INTENDED FOR CONSTRUCTION USE.
 <> LATITUDE: N 26.413274
 <> LONGITUDE: W 81.893331



COUNTY AERIAL



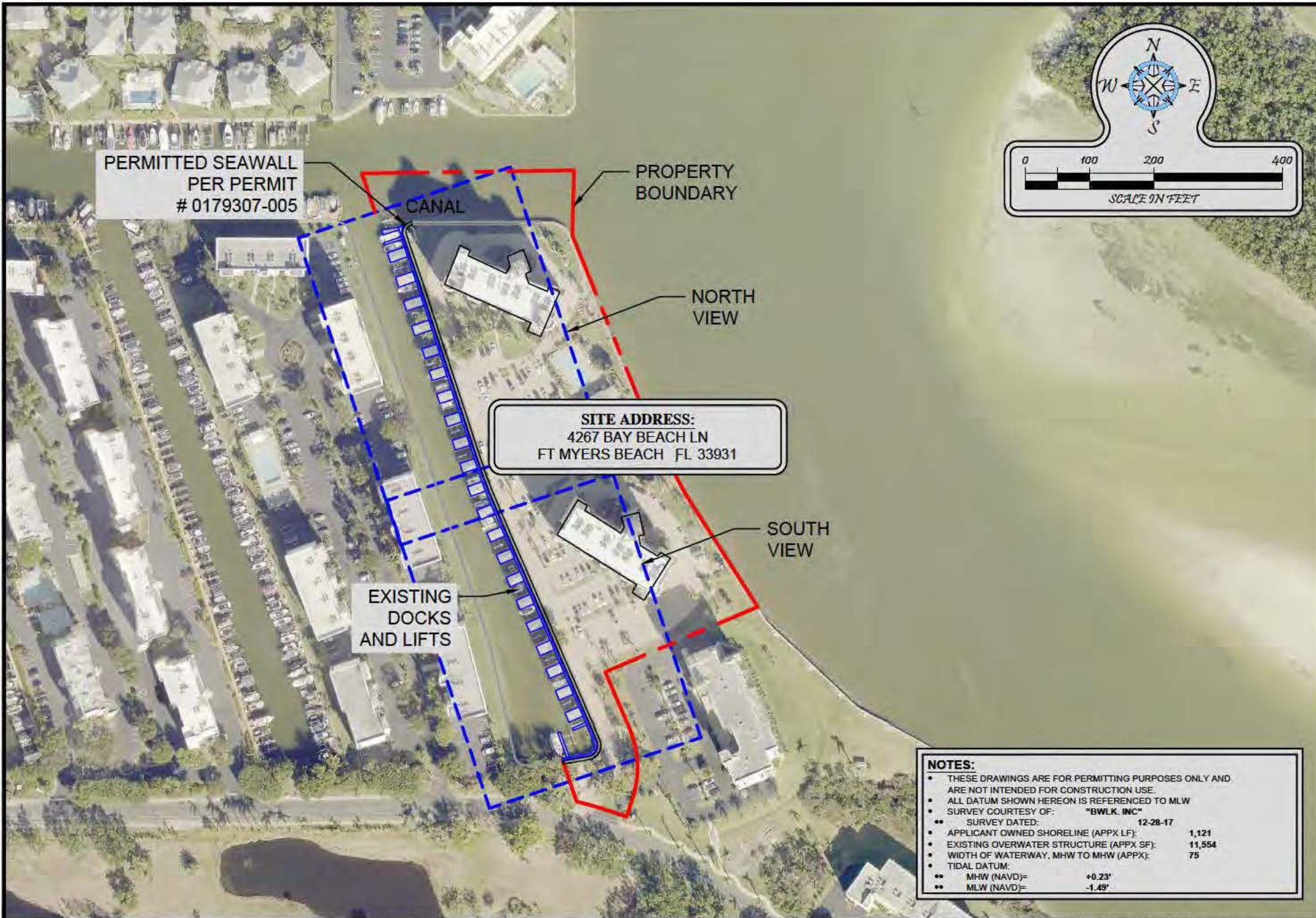
Turrell, Hall & Associates, Inc.
 Marine & Environmental Consulting
 3584 Exchange Ave. Naples, FL 34104-3732

Email: tuna@turrell-associates.com Phone: (239) 643-0166 Fax: (239) 643-6632

HARBOUR POINTE CONDO LOCATION MAP

THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.

DESIGNED:	JR	REVIEW	REVIEW BY	DATE	CHK BY	CHANGED
DRAWN BY:	RMJ	1.	-	-	-	-
CREATED:	02-27-20	2.	-	-	-	-
JOB NO.:	10025	3.	-	-	-	-
SHEET NO.:	01 OF 12	4.	-	-	-	-
		5.	-	-	-	-
SECTION-03		TOWNSHIP- 47 S		RANGE- 24 E		



NOTES:

- THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.
- ALL DATUM SHOWN HEREON IS REFERENCED TO MLW
- SURVEY COURTESY OF: "BWLK. INC"
- SURVEY DATED: 12-28-17
- APPLICANT OWNED SHORELINE (APPX LF): 1,121
- EXISTING OVERWATER STRUCTURE (APPX SF): 11,554
- WIDTH OF WATERWAY, MHW TO MHW (APPX): 75
- TIDAL DATUM:
 - MHW (NAVD)= +0.23'
 - MLW (NAVD)= -1.49'



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HARBOUR POINTE CONDO **EXISTING DOCKS ON AERIAL**

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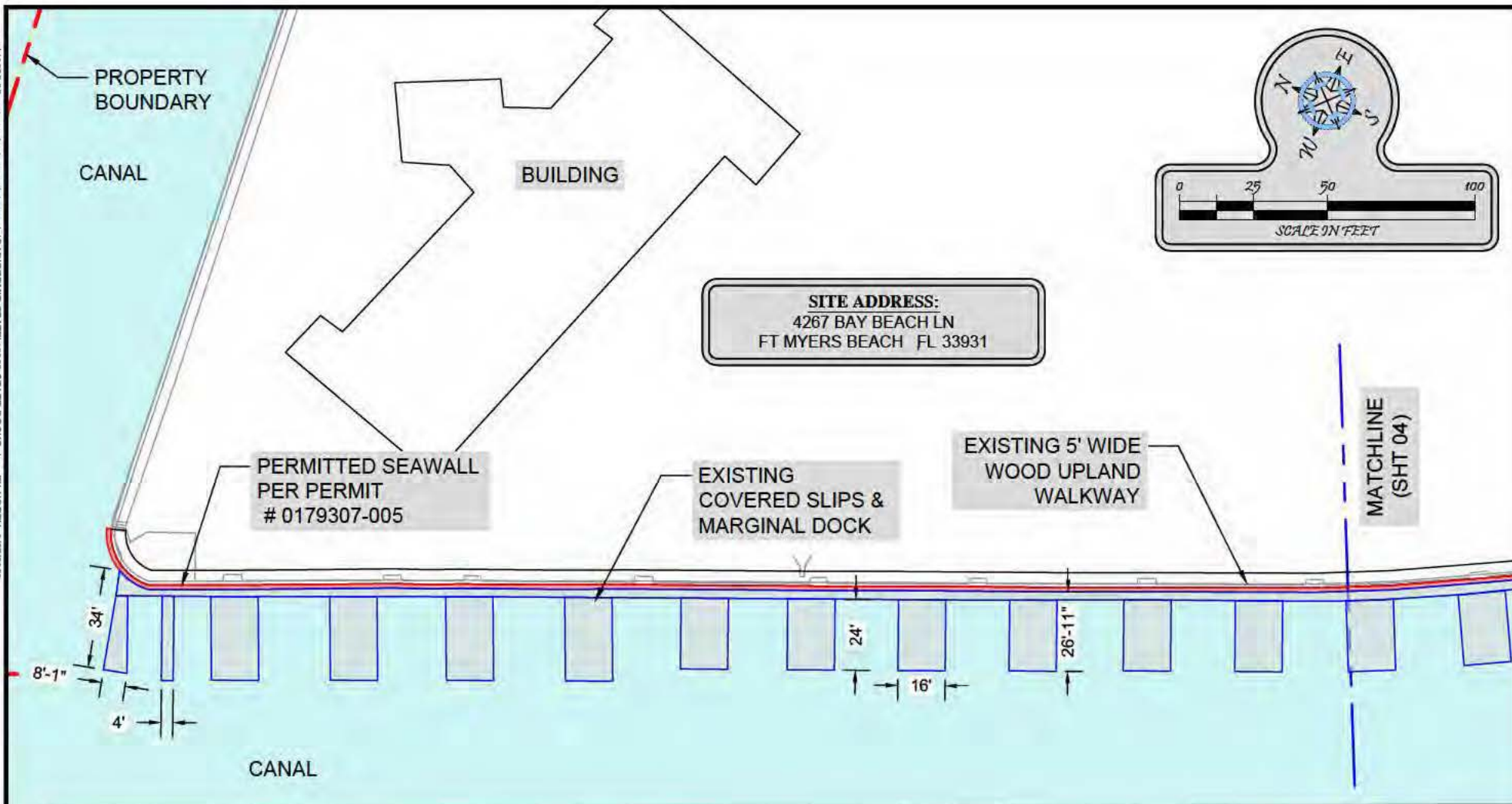
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JOB NO.:	19025	3.	-	-	-	-
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SECTION-03

TOWNSHIP- 47 S

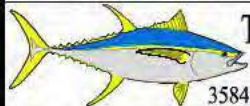
RANGE- 24 E

p:\19025 00 master - harbour pointe condo\CAD\PERMIT-STATE\19025-STATE-DOCKS.dwg EX NORTH 2/27/2020



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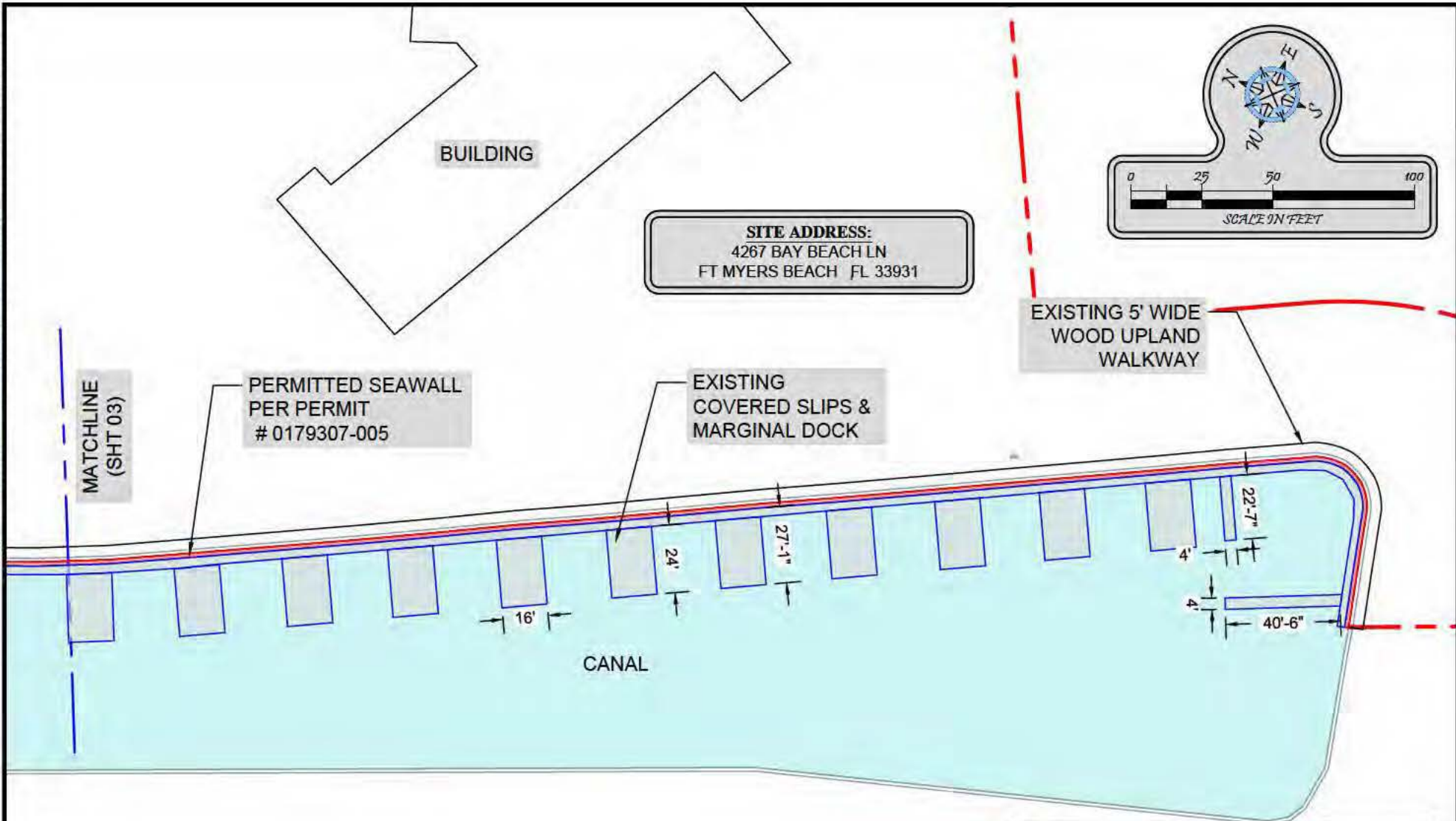
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HARBOUR POINTE CONDO EXISTING DOCKS - NORTH

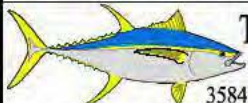
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SECTION-03 TOWNSHIP- 47 S RANGE- 24 E



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HARBOUR POINTE CONDO EXISTING DOCKS - SOUTH

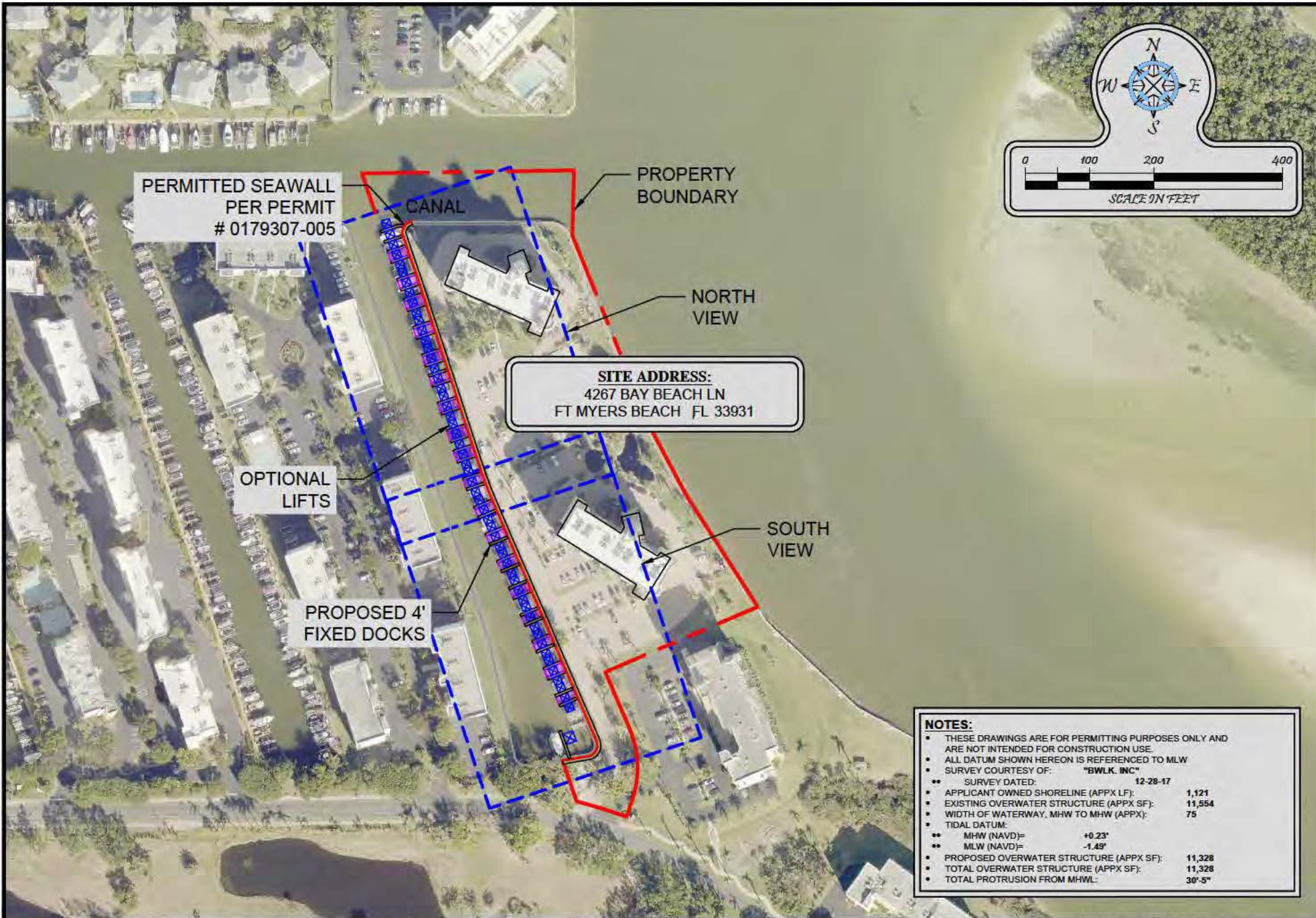
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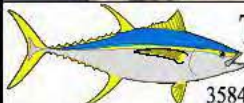
SECTION-03

TOWNSHIP- 47 S

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•	TOTAL OVERWATER STRUCTURE (APPX SF):	11,328	
•	TOTAL PROTRUSION FROM MHWL:	30'-5"	



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HARBOUR POINTE CONDO PROPOSED DOCK ON AERIAL

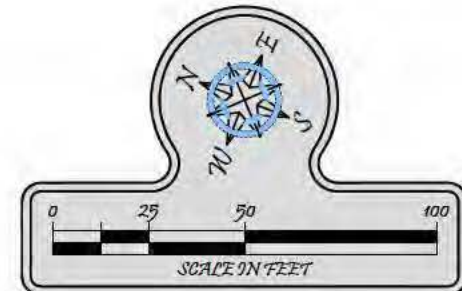
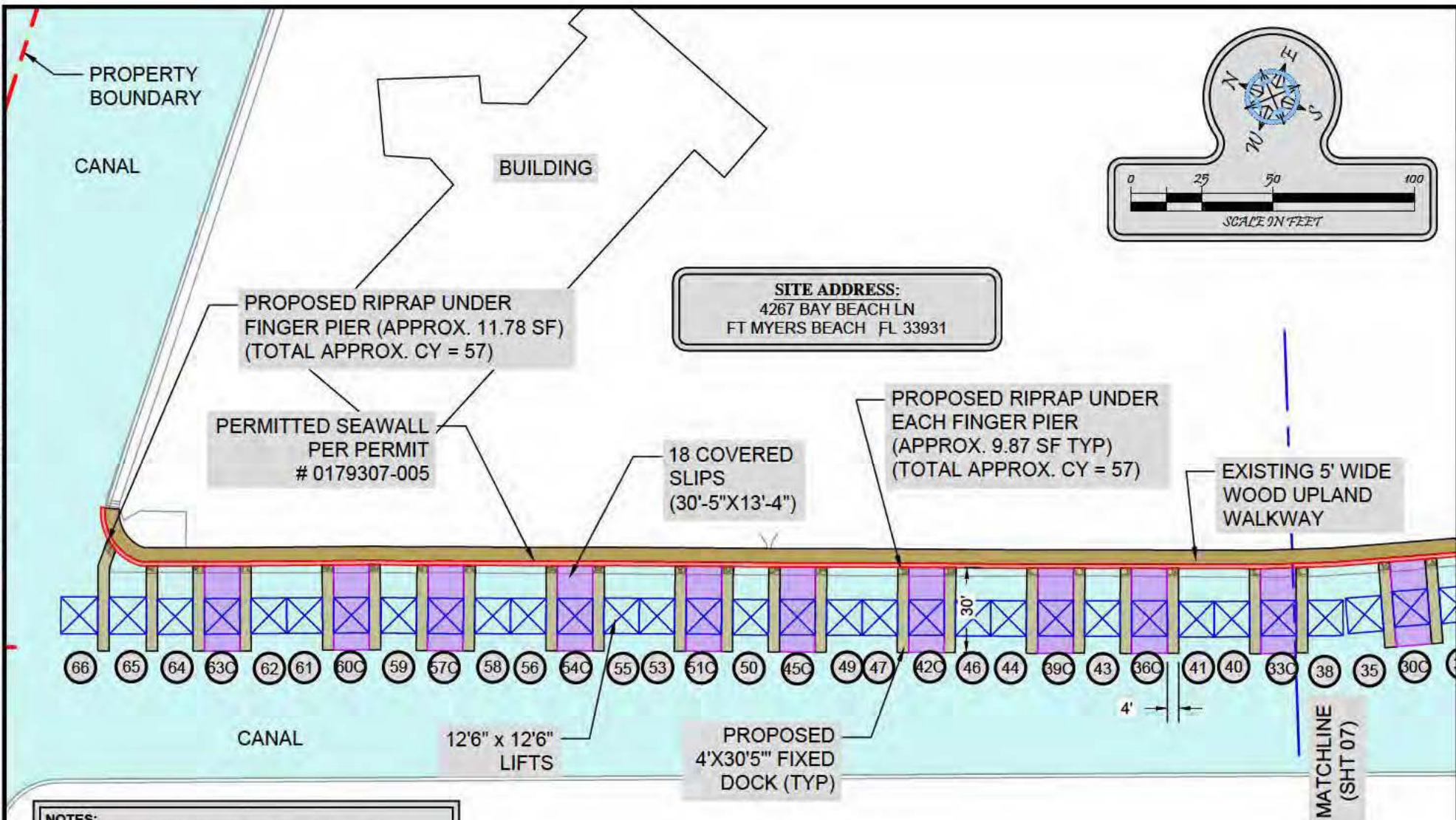
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SECTION-03

TOWNSHIP- 47 S

RANGE- 24 E

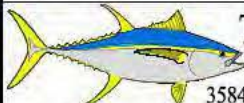


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LEGEND

COVERED SLIP (C)



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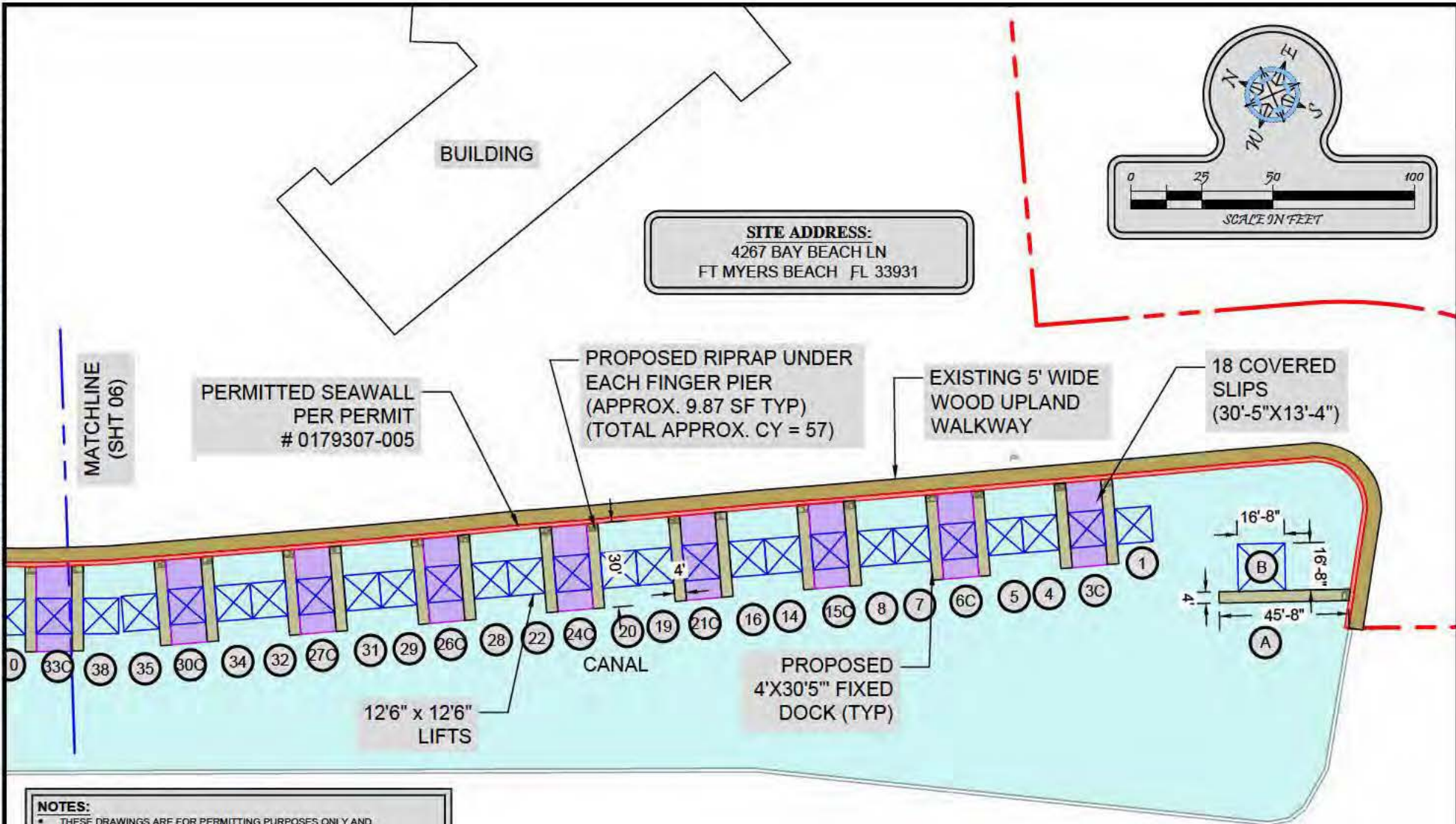
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HARBOUR POINTE CONDO
PROPOSED DOCK - NORTH

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SECTION-03 TOWNSHIP- 47 S RANGE- 24 E

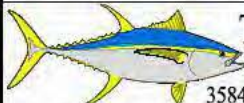


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LEGEND

COVERED SLIP (C)



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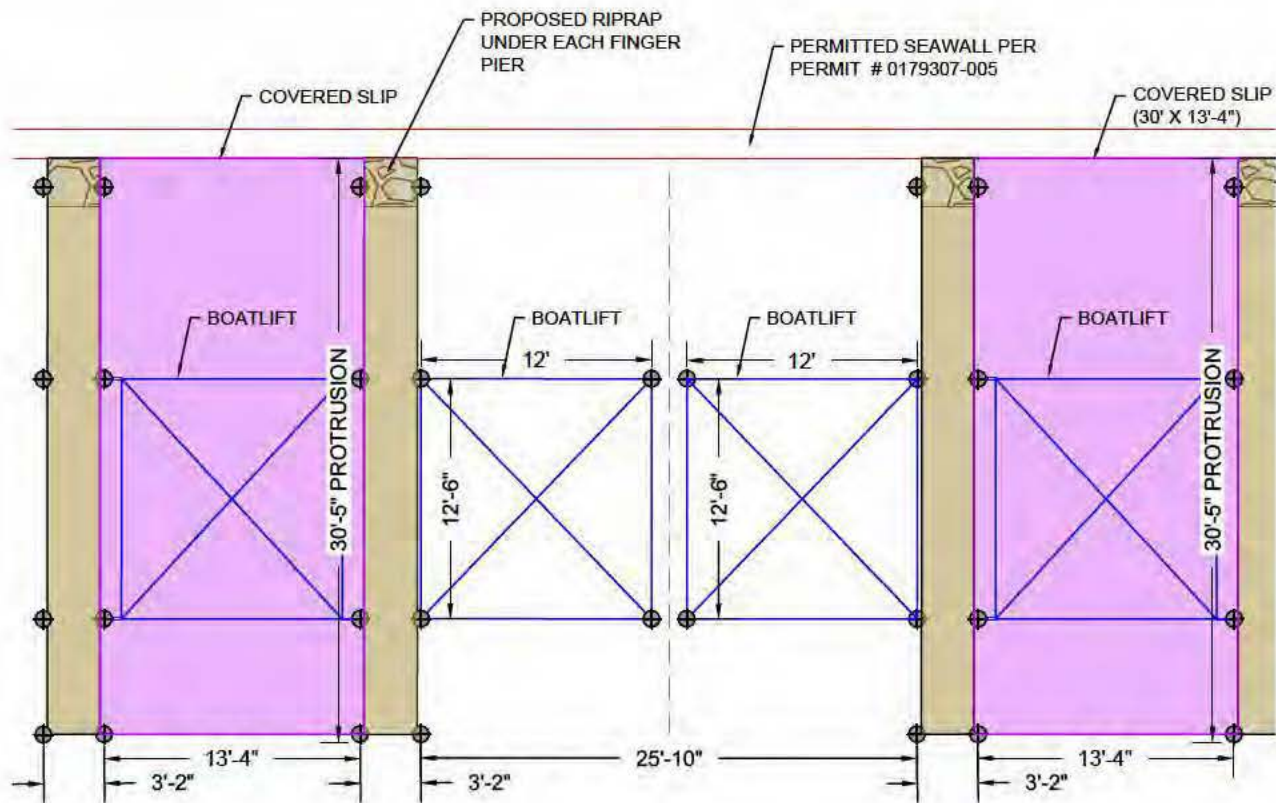
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HARBOUR POINTE CONDO PROPOSED DOCK - SOUTH

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		5.	-	-	-	-
SECTION-03	TOWNSHIP- 47 S					RANGE- 24 E



TYPICAL DOCK & LIFT LAYOUT

SCALE: 1" = 10'



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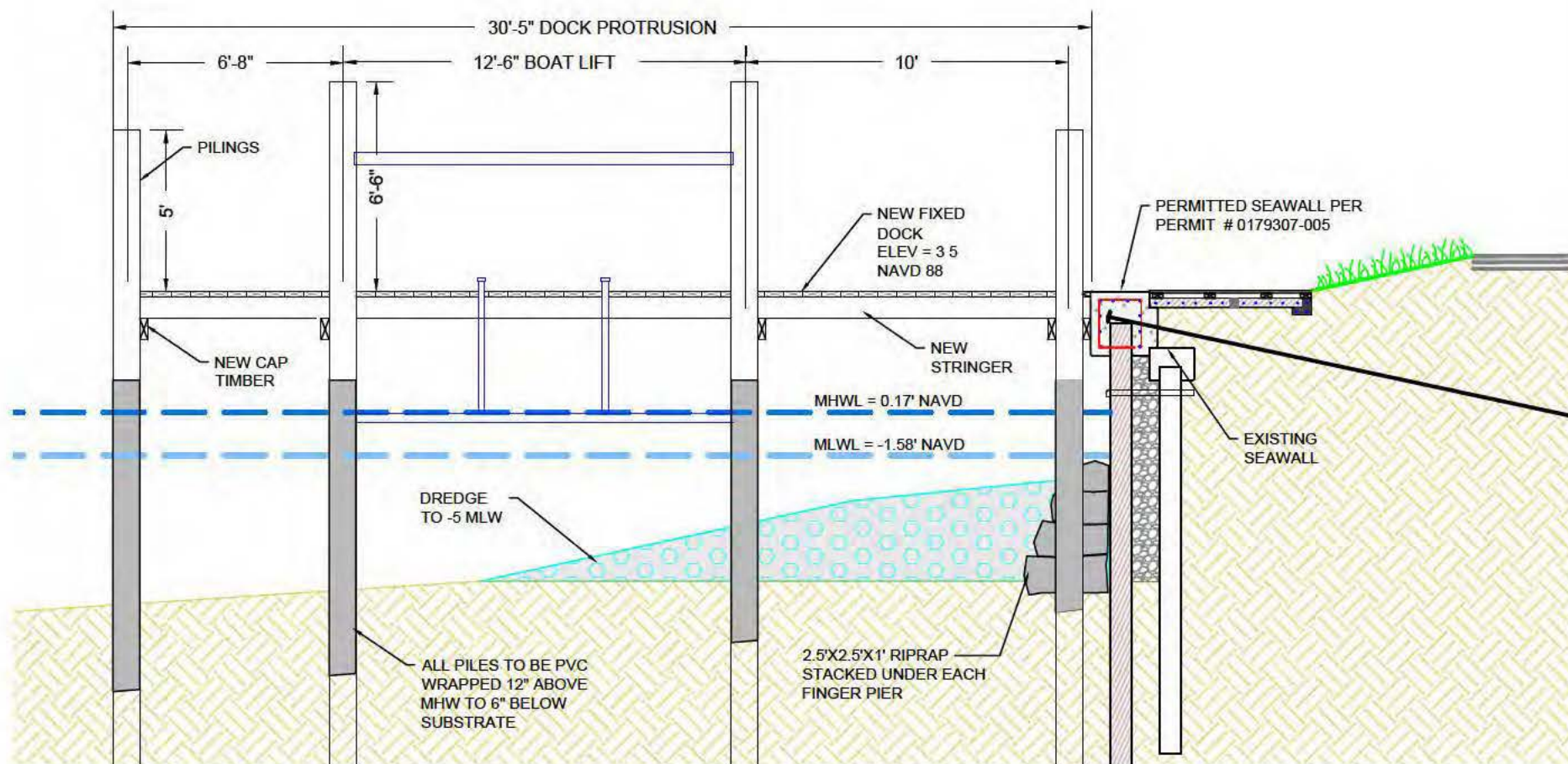
Email: tuna@turrell-associates.com Phone: (239) 643-0166 Fax: (239) 643-6632

HARBOUR POINTE CONDO DOCK DETAIL

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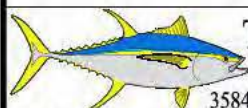
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JOB NO.:	19025	3.	-	-	-	-
SHEET NO.:	08 OF 12	4.	-	-	-	-
		5.	-	-	-	-
		6.	-	-	-	-

SECTION-03 TOWNSHIP-47S RANGE-24E



**TYPICAL DOCK & LIFT
CROSS SECTION**

SCALE: 1" = 5'



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HARBOUR POINTE CONDO CROSS SECTION - DOCK

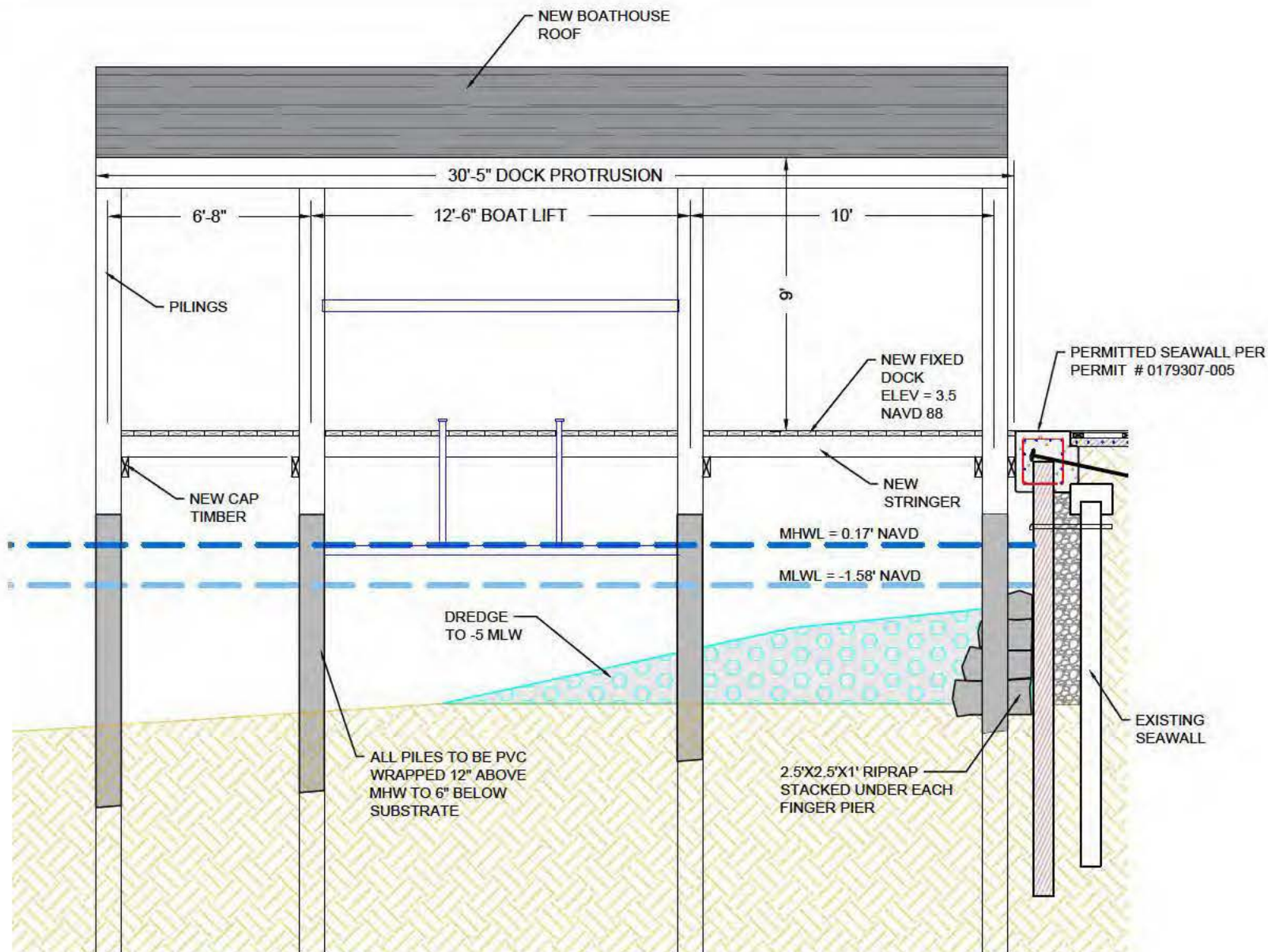
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		5.	-	-	-	-

SECTION-03

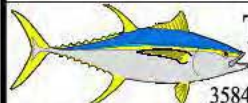
TOWNSHIP- 47 S

RANGE- 24 E



**COVERED DOCK & LIFT
CROSS SECTION**

SCALE: 1" = 5'



Turrell, Hall & Associates, Inc.
Marine & Environmental Consulting
3584 Exchange Ave. Naples, FL 34104-3732

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**HARBOUR POINTE CONDO
CROSS SECTION - COVERED SLIP**

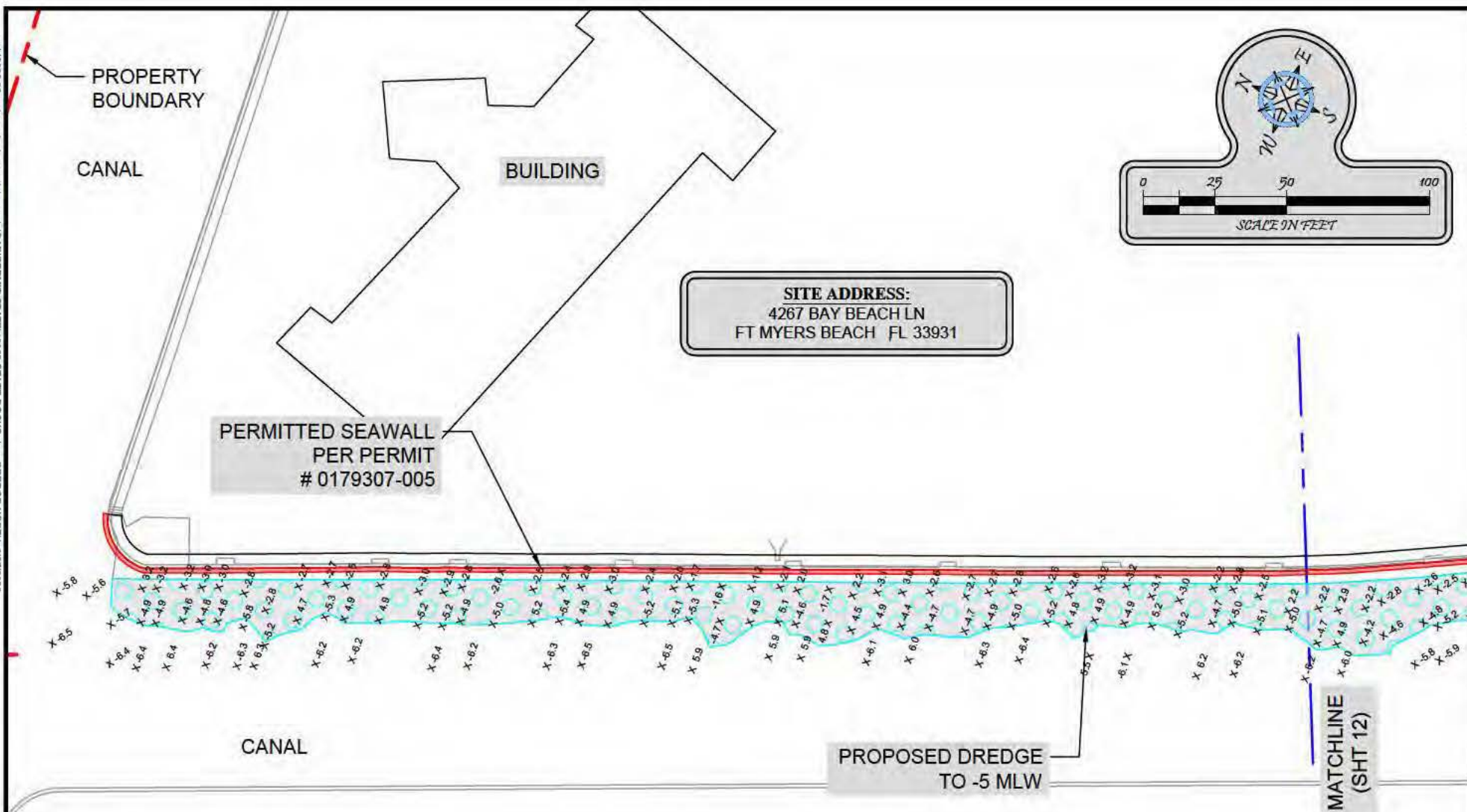
(THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE)

DESIGNED:	JR	REV	REV BY	DATE	CHK BY	CHANGED
DRAWN BY:	RMJ	1.	-	-	-	-
CREATED:	02-27-20	2.	-	-	-	-
JOB NO.:	19025	3.	-	-	-	-
SHEET NO.:	10 OF 12	4.	-	-	-	-
		5.	-	-	-	-

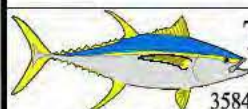
SECTION-03

TOWNSHIP- 47 S

RANGE- 24 E



LEGEND	
	DREDGE TO -5 (722 CY)



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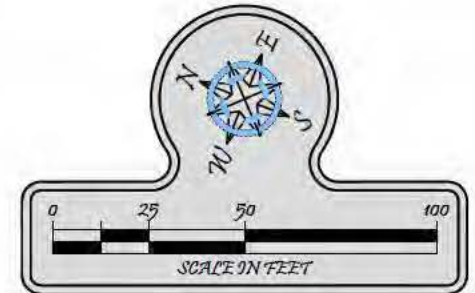
HARBOUR POINTE CONDO DREDGE PLAN - NORTH

THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.

DESIGNED:	JR	REVIEW BY:	DATE:	CHK BY:	CHANGED:
DRAWN BY:	RMJ	1.	-	-	-
CREATED:	02-27-20	2.	-	-	-
JOB NO.:	19025	3.	-	-	-
SHEET NO.:	11 OF 12	4.	-	-	-
		5.	-	-	-
SECTION-03		TOWNSHIP- 47 S		RANGE- 24 E	

BUILDING

SITE ADDRESS:
4267 BAY BEACH LN
FT MYERS BEACH FL 33931




MATCHLINE
(SHT 11)

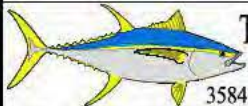
PERMITTED SEAWALL
PER PERMIT
0179307-005

CANAL

PROPOSED DREDGE
TO -5 MLW

LEGEND

 DREDGE TO -5 (722 CY)



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HARBOUR POINTE CONDO DREDGE PLAN - SOUTH

THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.

DESIGNED:	JR	REV#	REV BY	DATE	CHK BY	CHANGED
DRAWN BY:	RMJ	1.	-	-	-	-
CREATED:	02-27-20	2.	-	-	-	-
JOB NO.:	19025	3.	-	-	-	-
SHEET NO.:	12 OF 12	4.	-	-	-	-
		5.	-	-	-	-
SECTION-03	TOWNSHIP- 47 S					RANGE- 24 E