

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

LAUREL, INC.,

Petitioner,

vs.

File No. 50-0311160-001

FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,

Respondent.

---

**REQUEST FOR ENLARGEMENT OF TIME  
TO PETITION FOR ADMINISTRATIVE HEARING**

Petitioner, LAUREL, INC., pursuant to Rules 62-110.106(4) and 28-106.111, Florida Administrative Code, by and through its undersigned counsel, hereby requests the Florida Department of Environmental Protection ("FDEP") for an enlargement of time, through and including February 4, 2013, to file a Petition for an Administrative Hearing in connection with FDEP's Notice of Determination of Exemption (File No. 50-0311160-001) to Virginia Mortara ("Mortara") for the construction of a dock. In support of its request, LAUREL, INC. sets forth the following:

1. On May 2, 2012, FDEP issued a Notice of Determination of Exemption (File No. 50-0311160-001) to Virginia Mortara for the construction of a dock at 319 El Vedado Way, Palm Beach, FL 33480 (the "Subject Property"). (A copy of the Notice of Determination is attached hereto as Exhibit A).
2. Petitioner, LAUREL, INC. is the owner of the property immediately adjacent to, and north of the Subject Property.

3. LAUREL, INC.'s mailing address is: 9100 Havensight, Port of Sale, Ste 15-19, St. Thomas, VI 00802. (See attached Palm Beach County Property Appraiser information, attached hereto as Exhibit B).

4. The notice of rights of affected parties, including LAUREL, INC., provides that any petition for administrative hearing must be timely filed within twenty-one (21) days of receipt of written notice.

5. LAUREL, INC. did not receive any notice of the above-referenced agency action, nor was notice published in any newspaper of general circulation.

6. From a review of the FDEP Notice of Determination, it appears notice was sent to a Laurel, Inc. in care of Jutta Seeberg at 1414 Lake Erie Drive, Lake Worth, FL 33461, an entity which has no relationship to Petitioner, LAUREL, INC. (See attached copy of the Notice of Determination dated May 2, 2012, page 4 of 4, attached hereto as Exhibit A).

7. On December 14, 2013, LAUREL, INC. received a copy of a Zoning Application regarding a request for variance filed by Virginia L. Mortara. This Zoning Application seeks a variance from the Town of Palm Beach for construction of a dock, and in support thereof states that the, "proposed dock, . . . was approved by the Florida Department of Environmental Protection . . ." (Zoning Application attached hereto as Exhibit C).

8. Upon receipt of this Zoning Application on December 14, 2012, LAUREL, INC. discovered that on May 2, 2012, the Florida Department of Environmental Protection had issued a Notice of Determination of Exemption (File No. 50-0311160-001) to Virginia Mortara for the construction of a dock. (See Notice of Determination attached hereto as Exhibit A).

9. Therefore, LAUREL, INC. received notice of FDEP's Notice of Determination on or around December 14, 2012, and accordingly, any Petition challenging issuance of the Notice must be filed with FDEP on or before January 4, 2013.

10. On December 27, 2012, the undersigned firm was retained to represent LAUREL, INC., in regards to the dock permit.

11. An initial review of the FDEP Notice of Determination indicates the dock may adversely affect the adjacent property owner, LAUREL, INC., and requires further review and analysis.

12. Therefore, Counsel for LAUREL, INC. respectfully requests an additional thirty (30) days up to and including February 3, 2013, in order to allow for sufficient time to review the Notice of Determination, any relevant FDEP files, any relevant Army Corps of Engineers files, and to retain an engineer or other consultant to complete an analysis of the possible adverse impacts on LAUREL, INC.

13. LAUREL, INC. is requesting this enlargement of time to file a Petition for an Administrative Hearing in order to protect its rights to request an administrative hearing should it be necessary after fully reviewing the permitting file.

14. In accordance with Rules 28-106.111, Florida Administrative Code, counsel for LAUREL, INC. has contacted FDEP's Office of Counsel by telephone and been advised FDEP does not generally take any preliminary position on a Request for Enlargement of Time.

15. In accordance with Rule 28-106.111, Florida Administrative Code, counsel for LAUREL, INC. has attempted to contact Permittee, Mortara, and has been unable to determine if Permittee would oppose this request.

**WHEREFORE**, based on the foregoing, LAUREL, INC. asserts it has provided good cause for FDEP to grant an enlargement of time until February 3, 2013, for LAUREL, INC. to file a Petition for administrative hearing regarding the above referenced Notice of Determination regarding File No. 50-0311160-001.

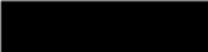
Respectfully Submitted,



Julia L. Jennison  
Florida Bar No. 019572  
Lewis, Longman & Walker, P.A.  
515 N. Flagler Dr., Suite 1500  
West Palm Beach, Florida 33401

  
*Attorneys for Petitioner*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by facsimile to *Lea Crandall*, Agency Clerk at the Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, (Facsimile: ) and that a true and correct copy was served via U.S. Mail to: **Virginia Mortara**, 414 Australian Avenue, Palm Beach, FL 33480 on this 27<sup>th</sup> day of December, 2012.



Julia L. Jennison  
Florida Bar No. 019572



# Florida Department of Environmental Protection

Southeast District Office  
400 N. Congress Avenue, Suite 200  
West Palm Beach, FL 33401  
561-681-6600

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

MAY 02 2012

Virginia Mortara  
414 Australian Avenue  
Palm Beach, FL 33480

Re: File No.: 50-0311160-001  
File Name: Mortara, Virginia

Dear Ms. Mortara:

On April 5, 2012, we received your application for an exemption to install a 6-foot by 30-foot (180 ft<sup>2</sup>) marginal dock. The project is located in the Lake Worth Lagoon, Class III Waters, adjacent to 319 El Vedado Road, Palm Beach (Section 27, Township 43 South, Range 43 East), in Palm Beach County (26° 41' 35.35" North Latitude, 80° 2' 20.54" West Longitude).

Your application has been reviewed to determine whether it qualifies for any of three kinds of authorization that may be necessary for work in wetlands or waters of the United States. The kinds of authorization are (1) regulatory authorization, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal authorization. The authority for review and the outcomes of the reviews are listed below. Please read each section carefully. Your project may not have qualified for all three forms of authorization. If your project did not qualify for one or more of the authorizations, refer to the specific section dealing with that authorization for advice on how to obtain it.

## 1. Regulatory Review. - VERIFIED

The Department has the authority to review your project under Part IV of Chapter 373, Florida Statutes (F.S.), Title 62, Florida Administrative Code (F.A.C.), and in accordance with operating agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C.

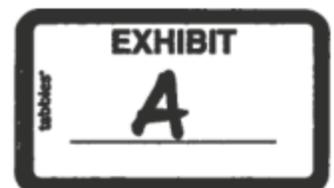
Based on the information you submitted, we have determined that your project to install a 6-foot by 30-foot (180 ft<sup>2</sup>) marginal dock is exempt from the need to obtain a DEP Environmental Resource Permit under Rule 40E-4.051(3)(b), F.A.C.

## 2. Proprietary Review. - GRANTED

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereignty submerged lands. The Department has the authority to review your project under Chapters 253 and 258, F.S., 18-18 and 18-21, F.A.C., and Section 62-343.075, F.A.C.

Your project will occur on sovereignty submerged land and will require authorization from the Board of Trustees to use public property. As staff to the Board of Trustees, we have reviewed the proposed project and have determined that, as long as it is located within the described boundaries and is consistent with the attached general consent conditions, the project qualifies for a consent by rule to use sovereignty submerged lands. Therefore, pursuant to Chapter 253.77, Florida Statutes, you may consider this letter as authorization from the Board of Trustees to perform the project.

[www.dep.state.fl.us](http://www.dep.state.fl.us)



EFTA01116657

**3. Federal Review (SPGP). - NOT GRANTED**

Federal authorization for the proposed project is reviewed by DEP pursuant to an agreement between the Department and the U.S. Army Corps of Engineers (Corps). The agreement is outlined in a document titled *Coordination Agreement Between the U.S. Army Corps of Engineers and the Florida Department of Environmental Protection State Programmatic General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.*

Your project has been reviewed for compliance with a State Programmatic General Permit (SPGP). As shown on the attached drawings, the proposed project is not consistent with the SPGP program. A copy of your application has been sent to the Corps who may require a separate permit. Failure to obtain their authorization prior to construction could subject you to enforcement action. For further information, contact the Corps directly at 561-472-3530.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification will expire after one year, and will not be valid at any other time if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. However, the activity may still be conducted without further notification to or verification from the Department after the one-year expiration of this verification, provided: 1) the project design does not change; 2) site conditions do not materially change; and 3) there are no changes to the statutes or rules governing the exempt activity. In the event you need to re-verify the exempt status for the activity after the one-year expiration of this verification, a new application and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required. Conditions of compliance with the regulatory exemption are contained in Attachment A.

This letter does not relieve you from the responsibility of obtaining other permits (federal, state, or local) that may be required for the project.

**NOTICE OF RIGHTS OF SUBSTANTIALLY AFFECTED PERSONS**

This letter acknowledges that the proposed activity is exempt from ERP permitting requirements under Rule 40E-4.051(3)(b), F.A.C. This determination is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. The procedures for petitioning for a hearing are set forth in the attached notice.

This determination is based on the information you provided the Department and the statutes and rules in effect when the application was submitted and is effective only for the specific activity proposed. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required. In any event, this determination shall expire after one year.

Be advised that your neighbors and other parties who may be substantially affected by the proposed activity allowed under this determination of exemption have a right to request an administrative hearing

on the Department's decision that the proposed activity qualifies for this exemption. Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a final determination that the proposed activity is not authorized under the exemption established under Rule 40E-4.051(3)(b), F.A.C.

The Department will not publish notice of this determination. Publication of this notice by you is optional and is not required for you to proceed. However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permit.

If you wish to limit the time within which all substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, the enclosed notice (Attachment A) in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place. A single publication will suffice.

If you wish to limit the time within which any specific person(s) may request an administrative hearing, you may provide such person(s), by certified mail, a copy of this determination, including Attachment A.

For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of sections 50.011 and 50.031 of the Florida Statutes. In the event you do publish this notice, within seven days of publication, you must provide to the following address proof of publication issued by the newspaper as provided in section 50.051 of the Florida Statutes. If you provide direct written notice to any person as noted above, you must provide to the following address a copy of the direct written notice.

Florida Department of Environmental Protection  
Southeast District  
Submerged Lands and Environmental Resources Program  
400 North Congress Avenue, Suite 200  
West Palm Beach, Florida 33401

If you have any questions, please contact Benny Luedike at (561) 681-6646 or by email at Benny.Luedike@dep.state.fl.us. When referring to your project, please use the FDEP file name and number listed above.

Sincerely,

 \_\_\_\_\_ 5/2/12  
Date

Jill King  
Environmental Manager  
Submerged Lands and Environmental Resources Program

Enclosures

File Name: Mortara, Virginia  
FDEP File No.: 50-0311160-001  
Page 4 of 4

cc: Samantha Rice, USACOE- Palm Beach Gardens, [Samantha.L.Rice@usace.army.mil](mailto:Samantha.L.Rice@usace.army.mil)  
Matthew Butler, Isiminger & Stubbs Engineering, Inc., [REDACTED]  
Diana Wister 335 El Vedado Road, Palm Beach, FL 33480  
Laurel, Inc., c/o Jutta Seeberg, 1414 Lake Erie Drive, Lake Worth, FL 33461

**FILING AND ACKNOWLEDGMENT**

FILED, on this date, pursuant to 120.52(9),  
Florida Statutes, with the designated Department  
Clerk, receipt of which is hereby acknowledged.

Rachel Osborne 5/2/12  
Clerk Date

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF DETERMINATION OF EXEMPTION

The Department of Environmental Protection gives notice that the project to install a 6-foot by 30-foot (180 ft<sup>2</sup>) marginal dock, located in the Lake Worth Lagoon, Class III Waters, adjacent to 319 El Vedado Road, Palm Beach (Section 27, Township 43 South, Range 43 East), in Palm Beach County (26° 41' 35.35" North Latitude, 80° 2' 20.54" West Longitude) has been determined to be exempt from requirements to obtain an environmental resource permit.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Mediation is not available.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with rule 62-110.106(3), F.A.C., petitions for an administrative hearing must be filed within 21 days of publication of the notice or receipt of written notice, whichever occurs first. Under rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 prior to the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. Upon motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect, the Department may also grant the requested extension of time.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that right.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301.

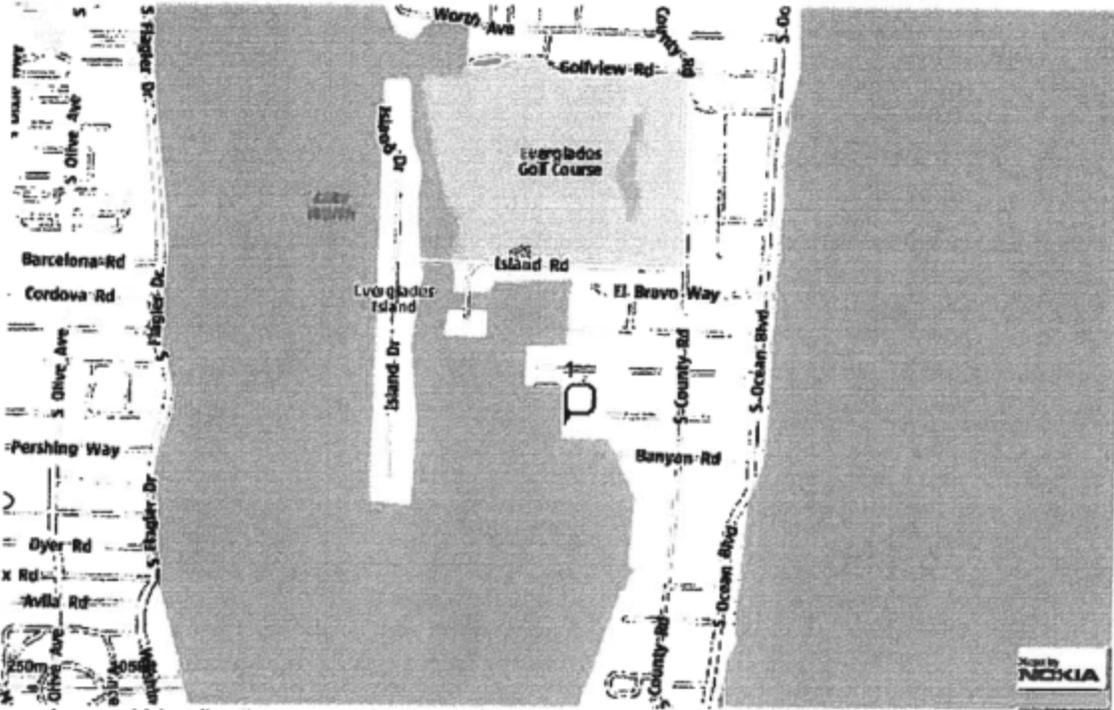
Under sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing shall be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

Complete copies of all documents relating to this determination of exemption are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, at the Southeast District office, 400 North Congress Avenue, West Palm Beach, Florida.

Print

# YAHOO! MAPS

319 El Vedado Rd, Palm Beach, FL 33480-4735



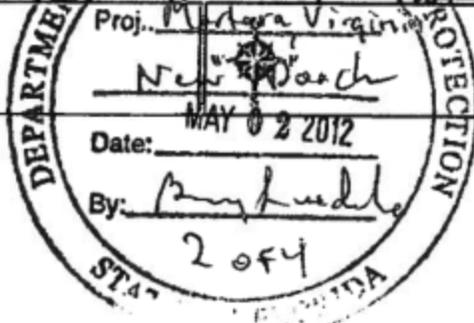
When using any driving directions or map, its a good idea to double check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning

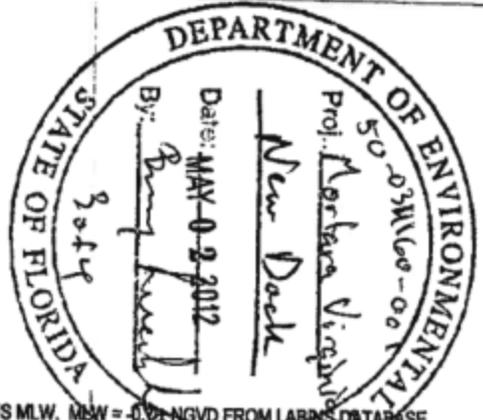
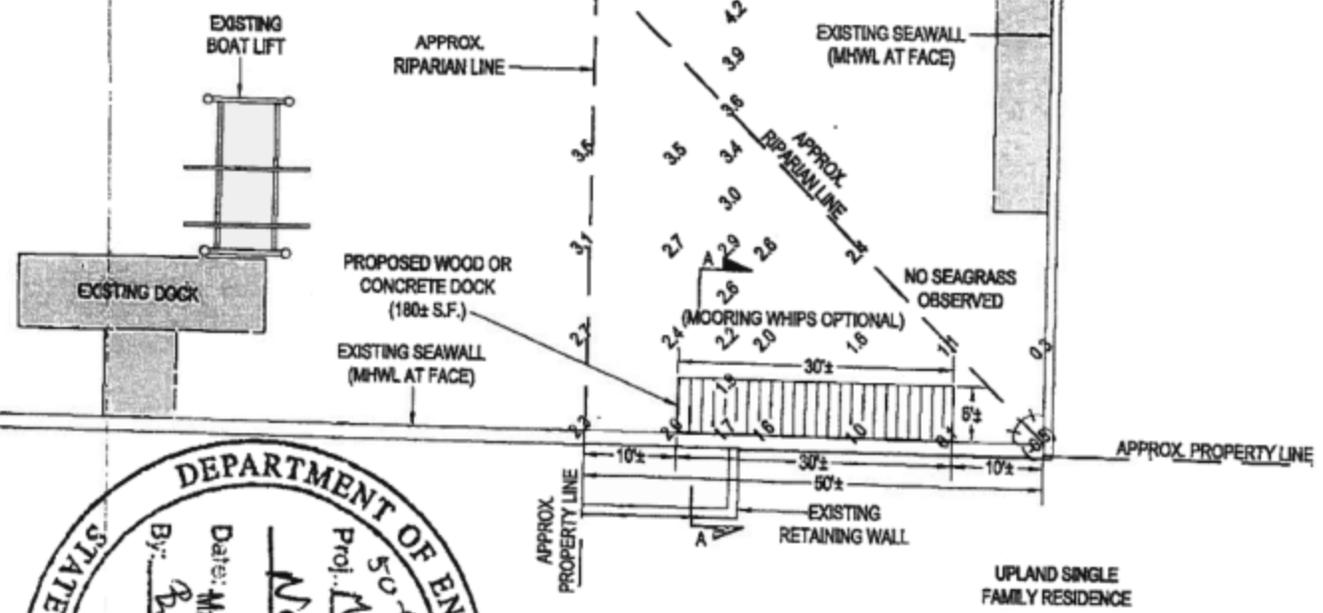
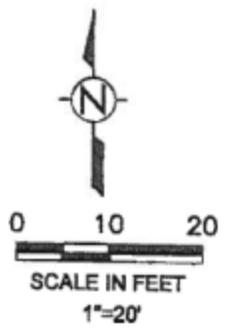




MORTARA VIRGINIA L

produced by: papagis





**NOTES:**

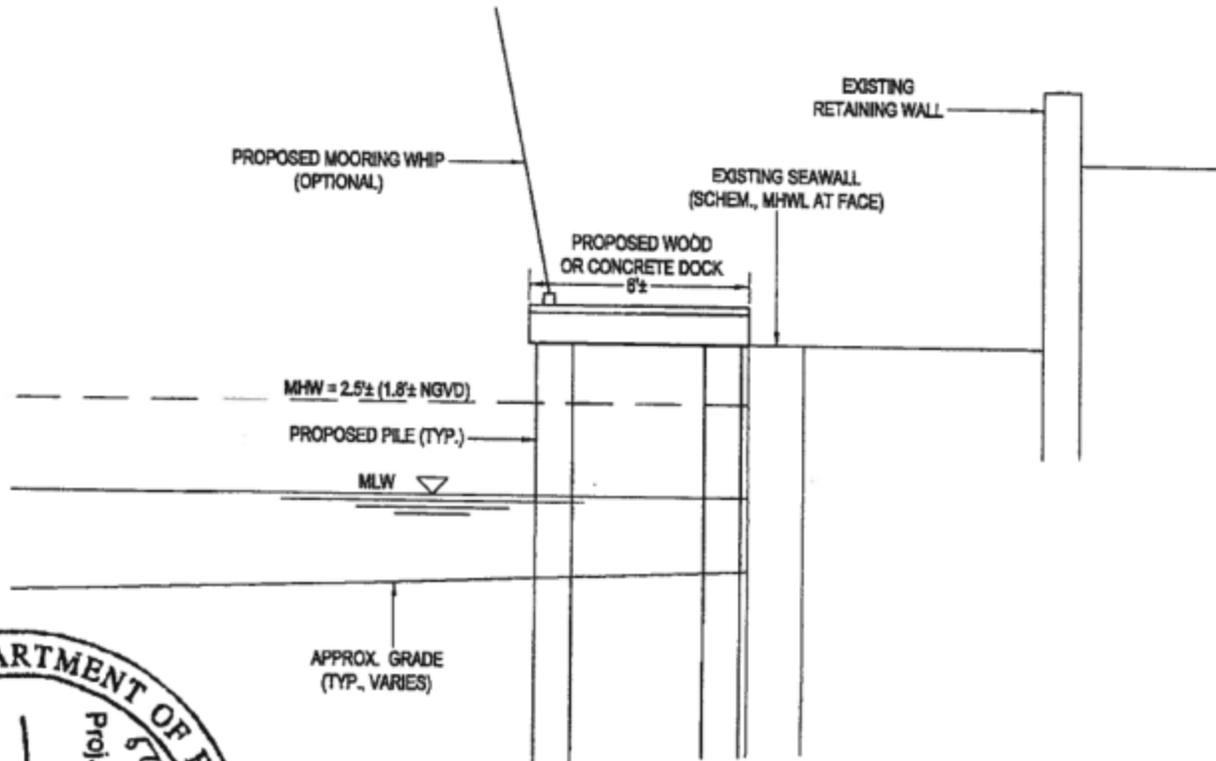
1. DATUM IS MLW. MLW = 0.01 NGVD FROM LABS DATABASE.
2. EXISTING LOCATIONS ARE APPROXIMATE BASED ON ON-SITE FIELD WORK, CONDUCTED 2/3/12 AND 2011 AERIAL FROM PBC.
3. SOUNDINGS AND SEAGRASS INFORMATION BY ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK CONDUCTED 2/3/12. SOUNDINGS REDUCED TO MLW BASED ON PREDICTED TIDES ONLY.

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.  
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

**MATTHEW D. BUTLER, P.E.**  
*Matthew D. Butler*  
4/3/2012  
LICENSE NO. 74039

**PLAN VIEW**

 <b>ISIMINGER &amp; STUBBS ENGINEERING, INC.</b> COASTAL • ENVIRONMENTAL • MARINE CERTIFICATE OF AUTHORIZATION NUMBER: 0114 BOX 14702 - NORTH PALM BEACH, FL 33404 • 561-681-0020					
<b>PROPOSED SINGLE FAMILY DOCK</b> <b>LAKE WORTH</b> 319 EL VEDADO ROAD TOWN OF PALM BEACH, PALM BEACH COUNTY, FL APPLICANT: VIRGINIA MORTARA					
DATE	3/12	DRAWN	MDB	CHKD	<i>CS</i> APPROVD
DWG NO.	12010D2				SHEET
COMPUTER FILE NO.	12010D				OF 3
					<b>2</b>



SECTION A-A  
 0 5 10  
 SCALE IN FEET  
 1"=10'



NOTES:

1. DATUM IS MLW. MLW = -0.7± NGVD FROM LABINS DATABASE.
2. EXISTING LOCATIONS ARE APPROXIMATE BASED ON ON-SITE FIELD WORK, CONDUCTED 2/3/12 AND 2011 AERIAL FROM PBC.
3. SOUNDINGS BY ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK CONDUCTED 2/3/12. SOUNDINGS REDUCED TO MLW BASED ON PREDICTED TIDES ONLY.

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.  
 NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

MATTHEW D. BUTLER, P.E.  
*Matthew D. Butler*  
 4/3/2012  
 LICENSE NO. 74039

SECTION VIEW

 <b>ISIMINGER &amp; STUBBS ENGINEERING, INC.</b> <small>COASTAL • ENVIRONMENTAL • MARINE          CERTIFICATE OF AUTHORIZATION NUMBER: 0114          P.O. BOX 14782 - NORTH PALM BEACH, FL 33408 - 991-991-9903</small>					
<b>PROPOSED SINGLE FAMILY DOCK</b> <b>LAKE WORTH</b> <b>319 EL VEDADO ROAD</b> <b>TOWN OF PALM BEACH, PALM BEACH COUNTY, FL</b> <b>APPLICANT: VIRGINIA MORTARA</b>					
DATE	3/12	DRAWN	MDB	CHKD	<i>[Signature]</i> APPRVD
DWG NO.	12010D3				SHEET
COMPUTER FILE NO.	12010D				OF 3
					<b>3</b>



Gary R. Nikolits, CFA  
**Property Appraiser**  
 Palm Beach County

Property Appraiser's Public Access **PAPA**



Location Address 358 EL BRILLO WAY  
 Municipality PALM BEACH  
 Parcel Control Number 50-43-43-27-06-000-0391  
 Subdivision EL BRAVO PARK SUPP PL IN  
 Official Records Book 24936 Page 222  
 Sale Date DEC-2011

**Legal Description** SUPPLMNTY PL OF EL BRAVO PARKW 24.30 FT OF LT 39 & LT 40 & TH PT OF FILLED SUBMRGED LAND AS IN OR4266P1926 ADJ TO LT 40

<b>Owners</b>	<b>Mailing address</b>
LAUREL INC	9100 HAVENSIGHT PORT OF SALE STE 15-19 ST THOMAS VI 00802

Sales Date	Price	OR Book/Page	Sale Type	Owner
DEC-2011	\$10	24936 / 0222	QUIT CLAIM	LAUREL INC
SEP-1990	\$2,500,000	06587 / 1099	WARRANTY DEED	
DEC-1988	\$100	05955 / 0610	QUIT CLAIM	
AUG-1985	\$1,585,000	04635 / 1192	WARRANTY DEED	
JUL-1985	\$100	04597 / 0777	QUIT CLAIM	

No Exemption Information Available.

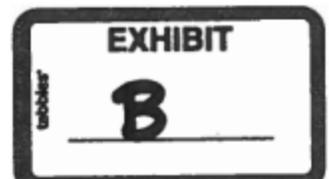
Number of Units 2 \*Total Square Feet 14223 Acres 0.77  
 Use Code 0100 - SINGLE FAMILY Zoning RA - ( 50-PALM BEACH )

Tax Year	2012	2011	2010
Improvement Value	\$1,198,705	\$1,114,216	\$1,131,388
Land Value	\$6,817,342	\$5,681,119	\$5,072,427
<b>Total Market Value</b>	<b>\$8,016,047</b>	<b>\$6,795,335</b>	<b>\$6,203,815</b>

All values are as of January 1st each year

Tax Year	2012	2011	2010
Assessed Value	\$8,016,047	\$6,795,335	\$6,203,815
Exemption Amount	\$0	\$0	\$0
<b>Taxable Value</b>	<b>\$8,016,047</b>	<b>\$6,795,335</b>	<b>\$6,203,815</b>

Tax Year	2012	2011	2010
Ad Valorem	\$146,973	\$127,528	\$117,600
Non Ad Valorem	\$522	\$522	\$498
<b>Total tax</b>	<b>\$147,495</b>	<b>\$128,050</b>	<b>\$118,098</b>





**Search**

Search Results Detail

[View Property Record](#)

**Owners**

LAUREL INC

**Property detail**

Location 358 EL BRILLO WAY

Municipality PALM BEACH

Parcel No. 50434327060000391

Subdivision EL BRAVO PARK SUPP PL IN

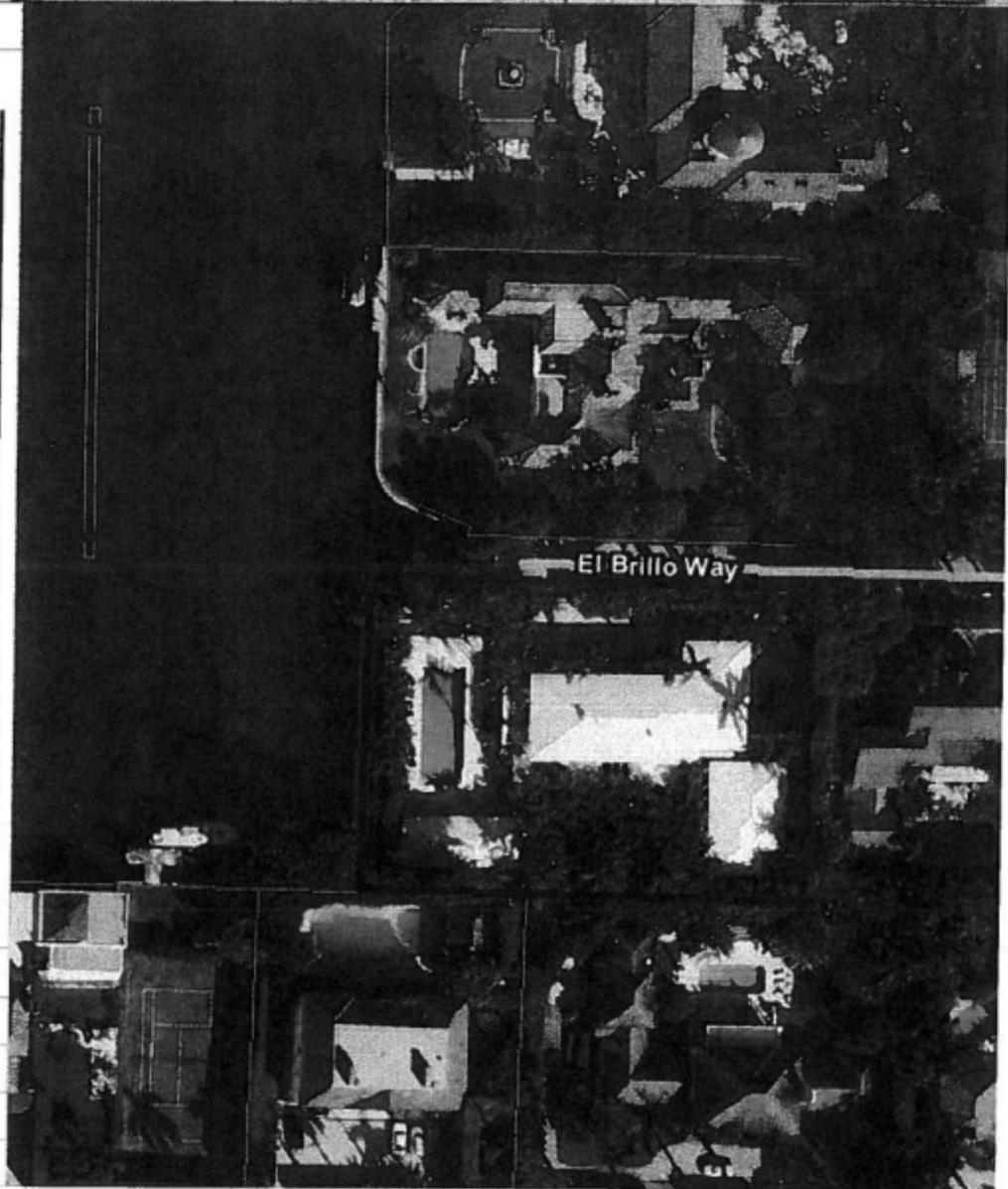
Book 24936 Page 7

Sale Date DEC-2011

Mailing Address 9100 HAVENSIGHT  
 PORT OF SALE STE 15-19  
 THOMAS VI 00802

Use Type 0100 - SINGLE FAMILY

Total Square Feet 14223



Tools

Layers

Print

Messages

Instructional Videos



**ZONING APPLICATION**  
**TOWN OF PALM BEACH**

Variance #4-2013

(Zoning Case Number)

This application includes requests for:

- Site Plan Review
- Special Exception
- Variance

**TO BE HEARD BY THE TOWN COUNCIL ON January 9, 2013 AFTER 9:30 AM IN THE TOWN OF PALM BEACH COUNCIL CHAMBERS LOCATED ON THE 2<sup>ND</sup> FLOOR, 360 SOUTH COUNTY ROAD, PALM BEACH.**

Pursuant to the Town Zoning Code of Ordinances, Sections 134-172 (Special Exceptions and Variances) and/or 134-328 (Site Plan Review), this application is being sent to all property owners within 300' of the location of the subject zoning application. A copy of this application along with all exhibits such as large drawings and other supporting documents that are not attached to this application are available for inspection at the Town's Planning, Zoning & Building Department, 360 S. County Rd., east entrance, weekdays between the hours of 8:30 AM and 4:30 PM.

All interested persons may appear and be heard at said Public Hearing and may likewise submit written statements prior to and at said Public Hearing. If any person decides to appeal any decision made by the Town Council with respect to this matter, he/she will need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

I. SUBJECT ADDRESS: 319 El Vedado Road, Town of Palm Beach Zoning District R-A

Fee Simple Property Owner's Name: Virginia L. Mortara

Legal Description: Lot 52 and the West 25 feet of Lot 53, REVISED PLAT OF JUNGLE POINT ADDITION TO THE TOWN OF PALM BEACH, according to the Plat thereof, as recorded in Plat Book 18, Page 21, of the Public Records of Palm Beach County, Florida.

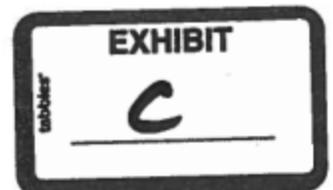
Name and address of person who can receive service of process for purposes of litigation in Palm Beach County: M. Daniel Logan, Esquire, Eavenson & Kairalla, LLC, 2000 PGA Boulevard, Suite 3200A, Palm Beach Gardens, FL 33408

Applicant Name: M. Daniel Logan, Esquire, Authorized Representative of Virginia L. Mortara  
Contact Phone (561) 626-1011

II. **DESCRIPTION OF THE REQUEST TO BE HEARD BY TOWN COUNCIL, citing applicable Town Zoning Code Section Number(s):**

A. Applicable Zoning Code Section Number(s):

1. Section 62-75 Construction Specifications, Subparagraph (h) Location and alignment



B. Description of request by Zoning Section Number(s):

1. The Applicant requests a Variance to allow her to construct a 30' by 6' marginal dock located 10' from the West side yard property line in lieu of the 25' minimum set back requirement set forth in Section 62-75(h).
2. The Applicant requests a Variance to allow her to construct a 30' by 6' marginal dock located 10' from the Northern neighbor's South side property line in lieu of the 25' minimum set back requirement set forth in Section 62-75(h).
3. The Applicant requests a Variance from Section 62-75(h) to allow her to dock a vessel at the proposed dock, which vessel would extend beyond the Applicant's North neighbor's side property line, but not the Applicant's side property line.

III. **APPLICATIONS CONTAINING SITE PLAN REVIEW (Not Applicable)**

If the application contains Site Plan Review, complete Exhibit B, and briefly describe below the reasons why such application should be approved. This explanation should be a summary of information provided in Exhibit B (Site Plan Review by Town Council as stated in the Town's Zoning Code at Section 134-329)

IV. **APPLICATIONS CONTAINING SPECIAL EXCEPTIONS (Not Applicable)**

If the application contains requests for Special Exceptions, complete Exhibit C, and briefly describe below the reasons why such application should be approved. This explanation should be a summary of information provided in Exhibit C (Requirements for granting Special exceptions by the Town Council as stated in the Town's Zoning Code at Section 134-229)

V. **APPLICATIONS CONTAINING VARIANCES**

If the application contains requests for variances, please respond to the questions below, and complete Exhibit D (Findings for authorizing a variance as stated in the Town's Zoning Code at Section 134-201).

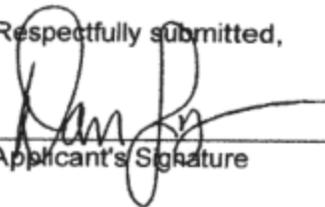
- a. Applicant should provide a brief description of the special conditions which when subjected to a literal enforcement of the provisions of the zoning ordinance will result in unnecessary and undue **HARDSHIP**. This explanation should be a summary of information provided in Exhibit D.
  1. The Applicant's lot is 125' wide. Only the West 50' of the rear 125' property line is waterfront. At the 50' mark, the Lake Worth Lagoon turns 90° to the North. Due to the lot configuration, it is impossible to build a functional dock in compliance with the 25' minimum set-back requirement absent the requested variance.
  2. The Applicant's lot is 125' wide. Only the West 50' of the rear 125' property line is waterfront. At the 50' mark, the Lake Worth Lagoon turns 90° to the North. Due to the lot configuration, it is impossible to build a functional dock in compliance with the 25' minimum set-back requirement absent the requested variance.
  3. It is impossible to dock any vessel behind the residence in compliance with the requirement that no vessel may extend beyond the side property line into the Lake Worth Lagoon, to the extent that the adjacent neighbor's side property line controls the application of this rule. Because of the 90° turn in the Lake Worth Lagoon, the Northern neighbor's side property line is common to the Applicant's rear property line.

- b. Applicant should address how granting of a variance for these special conditions will not be contrary to the public's interest.
1. Granting the requested Variance will not be contrary to the public's interest because the proposed dock, as designed, was approved by the Florida Department of Environmental Protection and Army Corps of Engineers, is minimalist and conservative in its design, the construction of the proposed dock is consistent with docks located on a majority of the Intracoastal-front properties in the Town of Palm Beach, the approval of the proposed variance does not interfere with the adjacent neighbors' use and enjoyment of their docks or their view and the approval of the proposed variance will not harm navigation in the intracoastal waterway.
  2. Granting the requested Variance will not be contrary to the public's interest because the proposed dock, as designed, was approved by the Florida Department of Environmental Protection and Army Corps of Engineers, is minimalist and conservative in its design, the construction of the proposed dock is consistent with docks located on a majority of the Intracoastal-front properties in the Town of Palm Beach, the approval of the proposed variance does not interfere with the adjacent neighbors' use and enjoyment of their docks or their view and the approval of the proposed variance will not harm navigation in the intracoastal waterway.
  3. Granting the requested Variance will not be contrary to the public's interest because the proposed dock, as designed, was approved by the Florida Department of Environmental Protection and Army Corps of Engineers, the docking of a vessel is consistent with dock usage on a majority of the Intracoastal-front properties in the Town of Palm Beach, the approval of the proposed variance does not interfere with the adjacent neighbors' use and enjoyment of their docks or their view and the approval of the proposed variance will not harm navigation in the intracoastal waterway.

**VI. SITE HISTORY**

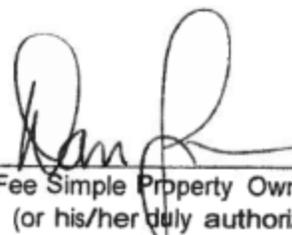
Please provide a detailed history in chronological order of all zoning-related requests processed on or after January 1, 1970 applicable to this property. This information should be attached as **Exhibit E - Site History**.

Respectfully submitted,

  
\_\_\_\_\_  
Applicant's Signature

M. Daniel Logan, Atty for Virginia L. Mortara

Typed name & telephone: (561) 626-1011

  
\_\_\_\_\_  
Fee Simple Property Owner's Signature  
(or his/her duly authorized attorney)

M. Daniel Logan, Atty for Virginia L. Mortara

Typed name & telephone: (561)626-1011

**EXHIBIT A - LEGAL DESCRIPTION**

Lot 52 and the West 25 Feet of Lot 53, REVISED PLAT OF JUNGLE POINT ADDITION TO THE TOWN OF PALM BEACH, according to the plat thereof, as recorded in Plat Book 18, Page(s) 21, of the Public Records of Palm Beach County, Florida.

**EXHIBIT D - REQUEST FOR VARIANCE**

**CRITERIA FOR AUTHORIZING A VARIANCE**

The Town Council must find the application in conformance with a number of criteria. Please address each of the criteria completely in order to provide the Council with sufficient information to make a determination on your application.

1. List the special conditions and circumstances peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district.
  1. The Applicant's lot is 125' wide. Only the West 50' of the rear 125' property line is waterfront. At the 50' mark, the Lake Worth Lagoon turns 90° to the North. Due to the lot configuration, it is impossible to build a functional dock in compliance with the 25' set-back requirement absent the approval of the requested variance.
  2. The Applicant's lot is 125' wide. Only the West 50' of the rear 125' property line is waterfront. At the 50' mark, the Lake Worth Lagoon turns 90° to the North. Due to the lot configuration, it is impossible to build a functional dock in compliance with the 25' set-back requirement absent the approval of the requested variance.
  3. It is impossible to dock a vessel behind the residence in compliance with the requirement that no vessel may extend beyond the side property line into the Lake Worth Lagoon, to the extent that the adjacent neighbor's side property line controls the application of this rule. Because of the 90° turn in the Lake Worth Lagoon, the Northern neighbor's side property line is common to the Applicant's rear property line.
2. Indicate how the special conditions and circumstances do not result from the actions of the applicant.
  1. The lot has historically maintained the same configuration. The hardship existed prior to the Applicant's acquisition of title.
  2. The lot has historically maintained the same configuration. The hardship existed prior to the Applicant's acquisition of title.
  3. The lot has historically maintained the same configuration. The hardship existed prior to the Applicant's acquisition of title.
3. Demonstrate that the granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.
  1. The configuration of the Applicant's water frontage is unique to the Town of Palm Beach. It is the only location where the Lake Worth Lagoon makes a 90° turn in a single-family residential area. There is no special privilege conferred upon the applicant that is denied to other lands because the Applicant's proposed dock is consistent with the existing docks built by her surrounding water-front neighbors. Other similarly situated property owners in the same zoning district with properties adjacent to the intracoastal are able to construct docks for their use and enjoyment of the waterway.
  2. The configuration of the Applicant's water frontage is unique to the Town of Palm Beach. It is the only location where the Lake Worth Lagoon makes a 90° turn in a single-family residential

#### VARIANCE #4-2013

area. There is no special privilege conferred upon the applicant that is denied to other lands because the Applicant's proposed dock is consistent with the existing docks built by her surrounding water-front neighbors. Other similarly situated property owners in the same zoning district with properties adjacent to the intracoastal are able to construct docks for their use and enjoyment of the waterway.

3. The configuration of the Applicant's water frontage is unique to the Town of Palm Beach. It is the only location where the Lake Worth Lagoon makes a 90° turn in a single-family residential area. There is no special privilege conferred upon the applicant that is denied to other lands because the Applicant's request to dock a vessel at her proposed dock is consistent with the existing vessels docked along her surrounding water-front neighbors' docks. Other similarly situated property owners in the same zoning district with properties adjacent to the intracoastal are able to dock vessels at their docks.
4. Demonstrate how literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.
  1. The literal interpretation of the 25' set-back requirement for the placement of a dock on the Applicant's lot would completely prevent the Applicant from building any dock on her property because her water-frontage is only 50'in width.
  2. The literal interpretation of the 25' set-back requirement for the placement of a dock on the Applicant's lot would completely prevent the Applicant from building any dock on her property because her water-frontage is only 50'in width.
  3. It is also impossible to dock any vessel behind the residence in compliance with the requirement that no vessel may extend beyond the side property line into the Lake Worth Lagoon, to the extent that the adjacent neighbor's side property line controls the application of this rule. The Northern neighbor's West side property line is common to the Applicant's rear property line. In essence, the Town of Palm Beach's zoning code precludes the Applicant's ability to enjoy her riparian rights absent granting the requested variances.
5. Demonstrate that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
  1. The proposed dock is 6' by 30', which is the minimum necessary for the safe enjoyment of the Applicant's waterfront. The conservative dock design was intentionally chosen to provide enough dock space to enjoy the Applicant's riparian rights, but simultaneously protect the neighbor's view.
  2. The proposed dock is 6' by 30', which is the minimum necessary for the safe enjoyment of the Applicant's waterfront. The conservative dock design was intentionally chosen to provide enough dock space to enjoy the Applicant's riparian rights, but simultaneously protect the neighbor's view.
  3. The requested variance is the minimum required to allow any vessel to be docked at the Applicant's property.
6. Show how the granting of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
  1. The approval of the requested variance will not adversely impact the health, safety or welfare of the Applicant's neighbors or the citizens of the Town of Palm Beach. The proposed dock

VARIANCE #4-2013

will not interfere with the use and enjoyment of neighboring docks or boat traffic in the Lake Worth Lagoon. The proposed dock will allow the Applicant to enjoy her waterfront, which is consistent with this Chapter and Florida law.

2. The approval of the requested variance will not adversely impact the health, safety or welfare of the Applicant's neighbors or the citizens of the Town of Palm Beach. The proposed dock will not interfere with the use and enjoyment of neighboring docks or boat traffic in the Lake Worth Lagoon. The proposed dock will allow the Applicant to enjoy her waterfront, which is consistent with this Chapter and Florida law.
3. The approval of the requested variance will not adversely impact the health, safety or welfare of the Applicant's neighbors or the citizens of the Town of Palm Beach. Allowing the Applicant to dock a vessel at her proposed dock will not interfere with the use and enjoyment of neighboring docks or boat traffic in the Lake Worth Lagoon. The proposed dock will allow the Applicant to enjoy her waterfront, which is consistent with this Chapter and Florida law.

VARIANCE #4-2013

**EXHIBIT E - SITE HISTORY**

Please provide a detailed history of all zoning-related requests applicable to this property processed on or after January 1, 1970, in chronological order, including but not limited to variances, special exceptions, site plan reviews, and existing agreements.

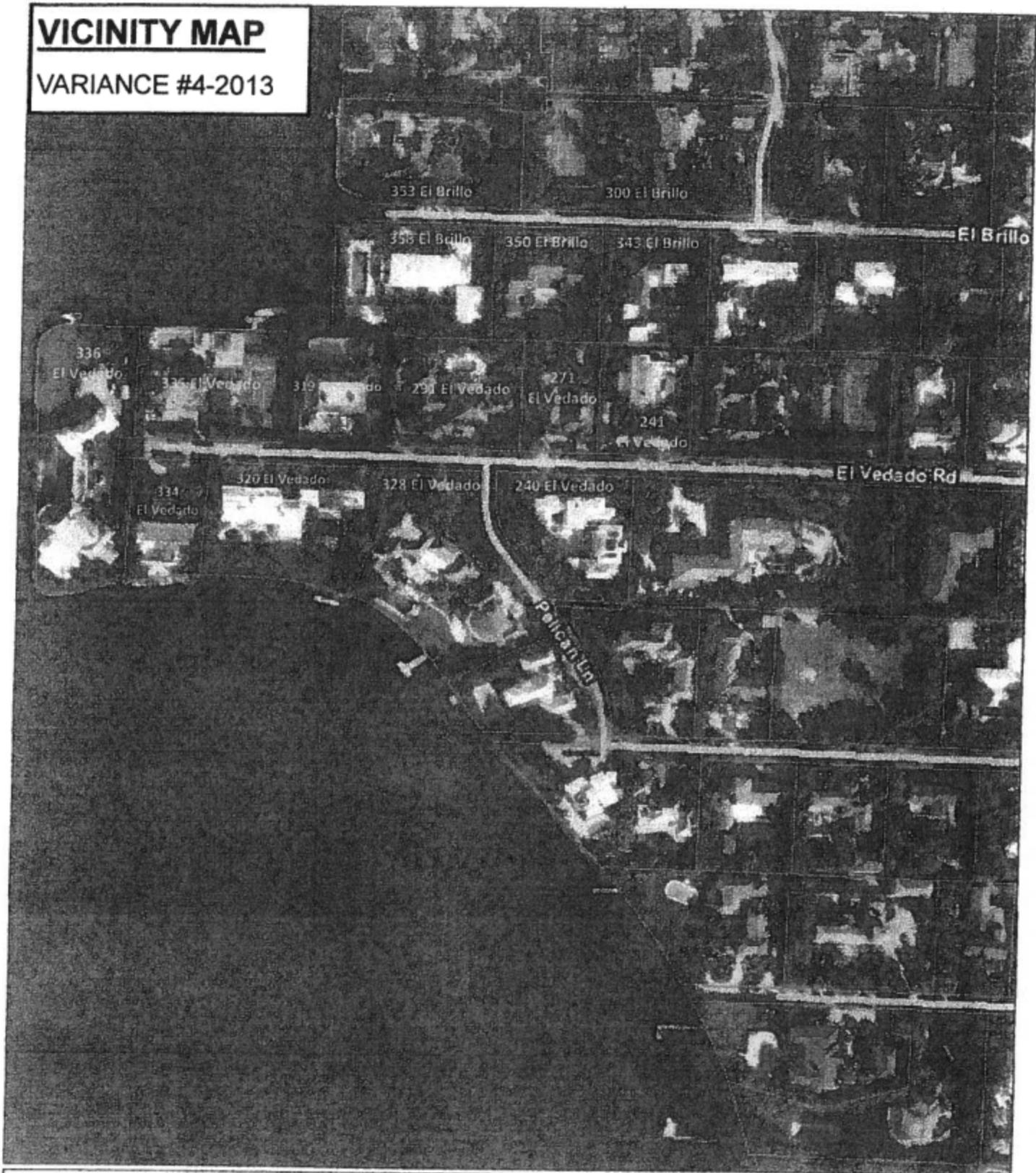
1. In October 1980, Town Council granted Variance 34-80 to allow gateposts of 4'8" in lieu of the 4' maximum allowed.
2. In December 1999, Town Council granted Variance 31-99 to allow the height of a wall to enclose a generator to be 9 feet in lieu of the 7 foot maximum allowed.
3. In September 2012, Town Council granted Special Exception No. 22-2012 to allow two sliding gates on El Vedado with a 8.1 foot setback in lieu of the 18 foot minimum required.

**EXHIBIT F - PARKING STATEMENT**

1. The proposed improvements to be added to the residence are a 6' x 30' marginal dock. No additional parking is necessitated by the proposed improvements. All vehicles will either park on the property or on available parking in the right of way as permitted by the Town of Palm Beach.

# VICINITY MAP

VARIANCE #4-2013



VARIANCE #4-2013 - 319 EL VEDADO RD.

produced by parags





LAKE WORTH

303 EL BILLO WAY

EL BILLO WAY

308 EL BILLO WAY

305 EL VEDADO ROAD

318 EL VEDADO ROAD

315 EL VEDADO ROAD

EL VEDADO ROAD

304 EL VEDADO ROAD

320 EL VEDADO ROAD

316 EL VEDADO ROAD

**NOTES:**

1. EXISTING LOCATIONS ARE APPROXIMATE BASED ON OLDS FELD WORK, CONDUCTED 2012 AND 2011 AERIAL, FROM FIG.
2. 2011 AERIAL, FROM PALM BEACH COUNTY.

SKETCH SUBMITTED FOR TOWN VARIANCE REVIEW PURPOSES ONLY. NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

PRELIMINARY

**ZOOMED OUT AERIAL EXHIBIT**

**ESCHINGER & SYLVESTER ENGINEERING, INC.**  
REGISTERED PROFESSIONAL ENGINEERS  
 STATE OF FLORIDA LICENSE NO. 12400  
 11101 S.W. 15TH AVENUE, SUITE 200, MIAMI, FL 33187  
 (305) 551-1100

PROPOSED SINGLE-FAMILY DOCK  
 LAKE WORTH  
 318 EL VEDADO ROAD  
 TOWN OF PALM BEACH, PALM BEACH COUNTY, FL  
 OWNER: VIRGINIA MORTGAGA, VARIANCE #4-2013

DATE	11/22	DRAWN	HEW	CHECKED	ES	PROJECT	LAKE WORTH
CALCULATED	11/22/13	DATE		BY		OF	3
COMPUTER FILE NO.	11/22/13	DATE		BY		OF	3

